

CHAPTER TWELVE  
CROSS-BORDER TRADE IN SERVICES

ARTICLE 12.1: 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. Such measures include 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 supply of a service.

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

- (a) central, regional, or local governments and authorities; and
- (b) non-governmental bodies in the exercise of powers delegated by central, regional, or local governments or authorities.

3. Notwithstanding paragraph 1:

- (a) Articles 12.4, 12.7, and 12.8 shall also apply to measures adopted or maintained by a Party affecting the supply of a service in its territory by a covered investment;<sup>1</sup> and
- (b) Annex 12-B shall apply to measures adopted or maintained by a Party affecting the supply of express delivery services, including by a covered investment.<sup>2</sup>

4. Notwithstanding paragraph 1, this Chapter does not apply to:

- (a) financial services as defined in Article 13.20 (Definitions), except that paragraph 3 shall apply where the financial service is supplied by a covered investment that is not a covered investment in a financial institution (as defined in Article 13.20) in the Party's territory;
- (b) government procurement;

<sup>1</sup> For greater certainty, the scope and coverage of application of Articles 12.4, 12.7, and 12.8 to measures adopted or maintained by a Party affecting the supply of a service in its territory by a covered investment is limited to the scope and coverage specified in Article 12.1 of this Chapter, subject to any applicable non-conforming measures and exceptions.

<sup>2</sup> For greater certainty, nothing in this Chapter, including paragraph 3 and Annex 12-B, is subject to investor-state dispute settlement under Section B (Investor-State Dispute Settlement) of Chapter Eleven (Investment).

第十二章 跨境服务贸易

第十二条第一款：范围与涵盖内容

1. 本章适用于一缔约方采取或维持的影响另一缔约方服务供应商跨境服务贸易的措施。此类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、使用或支付；(c) 与服务提供相关的分销、运输或电信网络及服务的接入和使用；(d) 另一缔约方服务供应商在其领土内的存在；以及(e) 作为服务提供条件而要求提供保证金或其他形式的财务担保。

2. 就本章而言，一缔约方采取或维持的措施指由以下主体采取或维持的措施：

- (a) 中央、地区或地方政府及当局；以及(b) 非政府机构在行使中央、地区或地方政府或当局授予的权力时采取的措施。

3. 尽管有第1款的规定：

- (a) 第12.4条、第12.7条和第12.8条也应适用于一缔约方采取或维持的影响涵盖投资在其领土内服务提供的措施；<sup>1</sup> 以及(b) 附件12-B应适用于一缔约方采取或维持的影响快递服务（包括通过涵盖投资提供）的措施。<sup>2</sup>

4. 尽管有第1款的规定，本章不适用于：

- (a) 金融服务，如第13.20条（定义）所定义，但第3款应适用于金融服务由非缔约方领土内金融机构（如第13.20条所定义）的涵盖投资提供的金融服务；(b) 政府采购；

<sup>1</sup> 为进一步明确，第12.4条、第12.7条和第12.8条对一缔约方采取或维持的影响涵盖投资在其领土内服务提供的措施的适用范围和覆盖范围，限于本章第12.1条规定的范围和覆盖范围，并受任何适用的不符措施和例外限制。<sup>2</sup> 为进一步明确，本章任何规定（包括第3款和附件12-B）均不受第十一章（投资）B节（投资者-国家争端解决）下的投资者-国家争端解决约束。

- (c) 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 during which an aircraft is withdrawn from service; and
  - (ii) specialty air services; or
- (d) subsidies or grants provided by a Party, including government-supported loans, guarantees, and insurance.

5. This Chapter does not impose any obligation on a Party with respect to a national of the other Party seeking access to its employment market, or employed on a permanent basis in its territory, and does not confer any right on that national 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. A **service supplied in the exercise of governmental authority** means any service which is supplied neither on a commercial basis, nor in competition with one or more service suppliers.

7. Nothing in this Chapter or any other provision of this Agreement shall be construed to impose any obligation on a Party regarding its immigration measures, including admission or conditions of admission for temporary entry.<sup>3</sup>

ARTICLE 12.2: NATIONAL TREATMENT

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

ARTICLE 12.3: MOST-FAVORED-NATION TREATMENT<sup>4</sup>

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

ARTICLE 12.4: MARKET ACCESS

Neither Party may adopt or maintain, either on the basis of a regional subdivision or on the basis of its entire territory, measures that:

<sup>3</sup> For greater certainty, paragraph 7 does not limit the application of this Agreement to measures other than immigration measures that affect the supply of a service by a national of a Party in the territory of the other Party. The Parties shall consult regarding paragraph 7 within two years of the date this Agreement enters into force, and at two-year intervals afterward, unless the Parties otherwise agree.

<sup>4</sup> For greater certainty, nothing in Article 12.3 shall be interpreted as extending the scope and coverage of this Chapter.

- (c) 航空服务，包括国内和国际航空运输服务，无论是定期或不定期，以及支持航空服务的相关服务，但不包括：
  - (i) 飞机维修和维护服务期间，飞机退出服务；及
  - (ii) 专业航空服务；或 (d) 缔约方提供的补贴或赠款，包括政府支持的贷款、担保和保险。

5. 本章不对缔约方施加任何义务，关于另一缔约方国民寻求进入其就业市场或在其领土内永久性就业，也不赋予该国民任何关于此类准入或就业的权利。

6. 本章不适用于在缔约方领土内行使政府职权时提供的服务。行使政府职权时提供的服务指既非在商业基础上提供，也非与一个或多个服务供应商竞争提供的任何服务。

7. 本章或本协定任何其他条款均不得解释为对缔约方施加任何关于其移民措施的义务，包括临时入境的准入或准入条件。<sup>3</sup>

第12.2条：国民待遇

- 1. 每一缔约方给予另一缔约方服务供应商的待遇，在类似情况下，不得低于其给予本国服务供应商的待遇。
- 2. 缔约方根据第1款给予的待遇，对于地区级政府而言，是指在类似情况下，该地区级政府给予其所属缔约方服务供应商的最优惠待遇。

第12.3条：最惠国待遇<sup>4</sup>

每一缔约方给予另一缔约方服务供应商的待遇，在类似情况下，不得低于其给予非缔约方服务供应商的待遇。

ARTICLE 12.4: MARKET ACCESS

任何一方不得基于区域细分或整个领土，采取或维持以下措施：

<sup>3</sup> 为进一步明确，第7款不限制本协定适用于移民措施以外的其他措施影响一方的国民在另一方领土内提供服务的措施。双方应在本协定生效之日起两年内，以及之后每两年间隔，就第7款进行磋商，除非双方另有约定。

<sup>4</sup> 为进一步明确，第12.3条中的任何内容均不得解释为扩大本章的范围和覆盖范围。

- (a) impose 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 services output expressed in terms of designated numerical units in the form of quotas or the requirement of an economic needs test;<sup>5</sup> 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 supply of a specific service in the form of numerical quotas or the requirement of an economic needs test; or
- (b) restrict or require specific types of legal entity or joint venture through which a service supplier may supply a service.

ARTICLE 12.5: LOCAL PRESENCE

Neither Party may 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 12.6: NON-CONFORMING MEASURES

- 1. Articles 12.2 through 12.5 do not apply to:
  - (a) any existing non-conforming measure that is maintained by a Party at:
    - (i) the central level of government, as set out by that Party in its Schedule to Annex I;
    - (ii) a regional level of government, as set out by that Party in its Schedule to Annex I; or
    - (iii) a local level of government;<sup>6</sup>
  - (b) the continuation or prompt renewal of any non-conforming measure referred to in subparagraph (a); or
  - (c) an amendment to any 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 Article 12.2, 12.3, 12.4, or 12.5.

<sup>5</sup> Clause (iii) does not cover measures of a Party that limit inputs for the supply of services.

<sup>6</sup> For Korea, **local level of government** means a local government as defined in the *Local Autonomy Act*.

- (a) 对以下方面施加限制：
  - (i) 服务供应商的数量, 无论是通过数量配额、垄断、独家服务供应商的形式, 还是通过经济需求测试的要求; (ii) 以数量配额或经济需求测试要求的形式限制服务交易总额或资产总值; (iii) 以配额或经济需求测试要求的形式, 用指定的数量单位表示的服务运营总数或服务产出总量; <sup>5</sup> 或 (iv) 以数量配额或经济需求测试要求的形式, 限制可受雇于特定服务部门的自然人总数, 或限制服务供应商为提供特定服务所必需且直接相关的自然人雇佣数量; 或 (b) 限制或要求服务供应商通过特定类型的法律实体或合资企业提供服务。

第12.5条: 本地存在

任何一方不得要求另一缔约方的服务供应商在其领土内设立或维持代表处或任何形式的企业, 或要求其居民身份作为跨境服务提供的条件。

第12.6条: 不符措施

- 1. 第12.2条至第12.5条不适用于:
  - (a) 缔约方在以下层级维持的任何现行不符措施: (i) 中央政府层级, 如该缔约方在其附件一的附表中列明; (ii) 地区级政府, 如该缔约方在其附件一的附表中列明; 或 (iii) 地方政府层级; <sup>6</sup>(b) 延续或及时更新(a)项所述任何不符措施; 或(c) 对(a)项所述任何不符措施的修正, 只要该修正未降低该措施在修正前即刻与第12.2条、12.3条、12.4条或12.5条的相符程度。

<sup>5</sup> 第(iii)项不涵盖缔约方限制服务提供投入的措施。

<sup>6</sup> 对韩国而言, 地方政府层级指《地方自治法》所定义的地方政府。

2. Articles 12.2 through 12.5 do not apply to any measure that a Party adopts or maintains with respect to sectors, sub-sectors, or activities as set out in its Schedule to Annex II.

ARTICLE 12.7: DOMESTIC REGULATION

1. Where a Party requires authorization for the supply of a service, the Party’s competent authorities shall, within a reasonable 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’s competent authorities shall provide, without undue delay, information concerning the status of the application. This obligation shall not apply to authorization requirements that a Party adopts or maintains with respect to sectors, sub-sectors, or activities as set out in its Schedule to Annex II.

2. With a view to ensuring that measures relating to qualification requirements and procedures, technical standards, and licensing requirements do not constitute unnecessary barriers to trade in services, while recognizing the right to regulate and to introduce new regulations on the supply of services in order to meet national policy objectives, each Party shall endeavor to ensure, as appropriate for individual sectors, that such measures are:

- (a) based on objective and transparent criteria, such as competence and the ability to supply the service; and
- (b) in the case of licensing procedures, not in themselves a restriction on the supply of the service.

3. If the results of the negotiations related to Article VI:4 of the GATS (or the results of any similar negotiations undertaken in other multilateral fora in which both Parties participate) enter into effect, this Article shall be amended, as appropriate, after consultations between the Parties, to bring those results into effect under this Agreement.<sup>7</sup>

ARTICLE 12.8: TRANSPARENCY IN DEVELOPING AND APPLYING REGULATIONS<sup>8</sup>

Further to Chapter Twenty-One (Transparency):

- (a) Each Party shall establish or maintain appropriate mechanisms for responding to inquiries from interested persons regarding its regulations relating to the subject matter of this Chapter.
- (b) If, consistent with paragraphs 2 and 3 of Article 21.1 (Publication), a Party does not provide advance notice of and opportunity for comment on regulations it proposes to adopt relating to the subject matter of this Chapter, it shall, to the extent possible, address in writing the reasons for not doing so.
- (c) To the extent possible, each Party shall allow reasonable time between publication of final regulations relating to the subject matter of this Chapter and their effective date.

<sup>7</sup> For greater certainty, nothing in Article 12.7 prejudices either Party’s position in any other forum with regard to matters covered by Article 12.7.

<sup>8</sup> For greater certainty, “regulations” includes regulations establishing or applying to licensing authorization or criteria at the central, regional, and local levels of government.

2. 第12.2条至第12.5条不适用于缔约方就其附件二的附表中列明的部门、分部门或活动所采取或维持的任何措施。

ARTICLE 12.7: DOMESTIC REGULATION

1. 如一缔约方要求对服务提供进行授权，则该缔约方的主管机关应在依据其法律法规视为完整的申请提交后合理期限内，将关于申请的决定通知申请人。应申请人请求，该缔约方的主管机关应毫不迟延地提供有关申请状态的信息。此项义务不适用于一缔约方就其附件二的附表中列明的部门、分部门或活动所采取或维持的授权要求。

2. 为确保与资格要求和程序、技术标准及许可要求相关的措施不构成对服务贸易不必要的障碍，同时承认为实现国家政策目标而对服务提供进行监管和引入新法规的权利，每一缔约方应努力确保此类措施在具体部门中适当地：

- (a) 基于客观和透明的标准，如能力和服务提供的能力；以及(b) 在许可程序的情况下，其本身不构成对服务提供的限制。

3. 如果与《服务贸易总协定》第VI:4条相关的谈判结果（或双方参与的其他多边论坛中任何类似谈判的结果）生效，本条应在双方磋商后酌情修订，以使这些结果在本协定下生效。<sup>7</sup>

第12.8条：制定和适用法规的透明度<sup>8</sup>

进一步依据第二十一章（透明度）：

- (a) 每一缔约方应建立或维持适当机制，以回应利害关系人关于其涉及本章主题的法规的询问。(b) 如果一缔约方根据第21.1条(公布)第2款和第3款的规定，未就其拟通过的涉及本章主题的法规提供预先通知和评论机会，则该缔约方应尽可能书面说明未这样做的原因。(c) 每一缔约方应尽可能在涉及本章主题的最终法规公布与其生效日期之间留出合理时间。

<sup>7</sup> 为进一步明确，第12.7条中的任何内容均不影响任何一方在第12.7条所涵盖事项上在其他论坛中的立场。

<sup>8</sup>

为进一步明确，“法规”包括在中央、地区和地方政府层级制定或适用于许可授权或标准的法规。

ARTICLE 12.9: RECOGNITION

1. For purposes of the fulfilment, in whole or in part, of its standards or criteria for the authorization, licensing, or certification of services suppliers, and subject to the requirements of paragraph 5, a Party may recognize the education or experience obtained, requirements met, or licenses or certifications granted in a particular country. Such recognition, which may be achieved through harmonization or otherwise, may be based upon an agreement or arrangement with the country concerned or may be accorded autonomously.
2. Where a Party recognizes, 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, nothing in Article 12.3 shall 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 any recognition agreement or arrangement that the Party or relevant bodies in its territory has concluded.
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 its accession to such an agreement or arrangement or to negotiate a comparable one with it. Where 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 the other Party's territory should be recognized.
5. Neither Party may accord recognition in a manner that would constitute a means of discrimination between countries in the application of its standards or criteria for the authorization, licensing, or certification of services suppliers, or a disguised restriction on trade in services.
6. Annex 12-A applies to measures adopted or maintained by a Party relating to the licensing or certification of professional service suppliers as set out in that Annex.

ARTICLE 12.10: PAYMENTS AND TRANSFERS<sup>9</sup>

1. Each Party shall permit all transfers and payments 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 transfers and payments 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 transfer.
3. Notwithstanding paragraphs 1 and 2, a Party may prevent or delay a transfer or payment through the equitable, non-discriminatory, and good faith application of its laws relating to:
  - (a) bankruptcy, insolvency, or the protection of the rights of creditors;
  - (b) issuing, trading, or dealing in securities, futures, options, or derivatives;

<sup>9</sup> For greater certainty, Annex 11-G (Transfers) applies to Article 12.10.

第12.9条：承认

1. 为全部或部分满足其对服务供应商的授权、许可或认证的标准或标准，并在遵守第5款要求的前提下，一缔约方可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。此类承认可通过协调或其他方式实现，可基于与相关国家的协议或安排，也可自主给予。
2. 如一缔约方自主或通过协议或安排，承认在非缔约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，则不得将第12.3条解释为要求该缔约方对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给予此类承认。
3. 应另一方的请求，一缔约方应及时提供信息，包括适当的说明，涉及该缔约方或其领土内的相关机构已缔结的任何承认协议或安排。
4. 作为第1款所述类型协议或安排（无论是现有还是未来）缔约方的缔约方，如另一方感兴趣，应为其提供充分机会，以谈判加入此类协议或安排或与之谈判类似的协议或安排。如一缔约方自主给予承认，则应给予另一方充分机会，证明在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得到承认。
5. 任何一方不得在服务供应商的授权、许可或认证的标准或准则适用中构成国家间的歧视手段的方式给予承认，或构成对服务贸易的变相限制。
6. 附件12-A适用于一缔约方采用的与该附件所列专业服务供应商的许可或认证相关的措施。

第12.10条：支付和转移<sup>9</sup>

1. 每一缔约方应允许与跨境服务提供相关的所有转移和支付无迟延地自由汇入和汇出其领土。
2. 每一缔约方应允许此类与跨境服务提供相关的转移和支付以可自由使用的货币按转移时的市场汇率进行。
3. 尽管有第1款和第2款的规定，一缔约方可通过公平、非歧视和善意地适用其与下列事项相关的法律，阻止或延迟转移或支付：
  - (a) 破产、无力偿债或债权人权利的保护；
  - (b) 证券、期货、期权或衍生品的发行、交易或买卖；

<sup>9</sup> 为进一步明确，附件11-G（转移）适用于第12.10条。

- (c) financial reporting or record keeping of transfers when necessary to assist law enforcement or financial regulatory authorities;
- (d) criminal or penal offences; or
- (e) ensuring compliance with orders or judgments in judicial or administrative proceedings.

ARTICLE 12.11: 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:

- (a) does not maintain normal economic relations with the non-Party; or
- (b) 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. If, before denying the benefits of this Chapter, the denying Party knows that the enterprise has no substantial business activities in the territory of the other Party and that persons of a non-Party, or of the denying Party, own or control the enterprise, the denying Party shall, to the extent practicable, notify the other Party before denying the benefits. If the denying Party provides such notice, it shall consult with the other Party at the other Party's request.

ARTICLE 12.12: SPECIFIC COMMITMENTS

- 1. Annex 12-B sets out specific commitments with regard to the supply of express delivery services.
- 2. Annex 12-C sets out specific commitments with regard to consultations regarding non-conforming measures adopted or maintained by a regional level of government.

ARTICLE 12.13: DEFINITIONS

For purposes of this Chapter:

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

- (a) from the territory of one Party into the territory of the other Party;
- (b) in the territory of one 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;

- (c) 财务报告或必要时为协助执法或金融监管机构而进行的转账记录保存；(
- d) 刑事或刑事犯罪；或(e) 确保遵守司法或行政诉讼中的命令或判决。

第12.11条：利益的拒绝给予

1. 缔约方可拒绝将本章利益给予另一方的服务供应商，若该服务供应商是由非缔约方人员拥有或控制的企业，且拒绝给予利益的缔约方：

- (a) 未与该非缔约方保持正常经济关系；或 (b) 对该非缔约方或非缔约方人员采取或维持措施，禁止与该企业进行交易，或若本章利益给予该企业将导致违反或规避上述措施。

2. 缔约方可拒绝将本章利益给予另一方的服务供应商，若该服务供应商是由非缔约方或拒绝给予利益的缔约方人员拥有或控制的企业，且该企业在另一方领土内无实质性商业活动。若拒绝给予利益的缔约方在拒绝前已知悉该企业在另一方领土内无实质性商业活动且由非缔约方或拒绝给予利益的缔约方人员拥有或控制，则拒绝给予利益的缔约方应在可行范围内事先通知另一方。若拒绝给予利益的缔约方提供此类通知，则应另一方请求与其进行磋商。

第12.12条：具体承诺

- 1. 附件12-B列明了关于快递服务供应的具体承诺。
- 2. 附件12-C列明了关于地区级政府采取或维持的不符措施磋商的具体承诺。

第12.13条：定义

就本章而言：

cross-border tr 服务贸易或跨境服务提供系指下列服务提供：

- (a) 自一缔约方领土向另一缔约方领土提供；(b) 在一缔约方领土内由该方人员向另一方人员提供；或(c) 由一缔约方的国民在另一方领土内提供；

但不包 不包括涵盖投资在缔约方领土内的服务提供 ；



**enterprise** means an “enterprise” as defined in Article 1.4 (Definitions), and a branch of an enterprise;

**enterprise of a Party** means an enterprise organized or constituted under the laws of a Party, and a branch located in the territory of a Party and carrying out business activities there;

**professional services** means services, the supply of which requires specialized 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 trades-persons or vessel and aircraft crew members;

**service supplier of a Party** means a person of that Party that seeks to supply or supplies a service;<sup>10</sup> and

**specialty air services** means any non-transportation air services, such as aerial fire-fighting, sightseeing, spraying, surveying, mapping, photography, parachute jumping, glider towing, and helicopter-lift for logging and construction, and other airborne agricultural, industrial, and inspection services.

企业指第1.4条（定义）中定义的“企业”及企业的分支机构；

一方的企业指根据一方法律组建或设立的企业，以及位于缔约方领土内并在该领土开展业务活动的分支机构；

专业服务指提供服务需要专门的大专以上教育，或同等培训、经验或考试，且其执业权由缔约方授予或限制的服务，但不包括由技工或船舶和飞机机组人员提供的服务；

一方的服务提供者指该方寻求提供或提供服务的人；<sup>10</sup>及

专业航空服务指任何非运输性质的航空服务，例如空中消防、观光游览、喷洒作业、测绘勘测、摄影摄像、跳伞运动、滑翔机牵引、以及伐木与建筑用直升机吊装服务，以及其他农业、工业用空中作业及检测服务。

<sup>10</sup> For purposes of Articles 12.2 and 12.3, “service suppliers” has the same meaning as “services and service suppliers” as used in Articles II and XVII of GATS.

<sup>10</sup> 就第十二条第二款和第三款而言，“服务供应商”与《服务贸易总协定》第二条和第十七条中使用的“服务和服务供应商”具有相同含义。

**ANNEX 12-A**  
**PROFESSIONAL SERVICES**

1. On request of the other Party, a Party shall provide information concerning standards and criteria for the licensing and certification of professional services suppliers, including information concerning the appropriate regulatory or other body to consult regarding these standards and criteria. These standards and criteria include requirements regarding education, examinations, experience, conduct and ethics, professional development and re-certification, scope of practice, local knowledge, and consumer protection.
2. Where the Parties agree, each Party shall encourage the relevant bodies in its territory to develop mutually acceptable standards and criteria for licensing and certification, to provide recommendations to the Joint Committee on mutual recognition, and to develop procedures for the temporary licensing arrangements of professional service suppliers of the other Party with respect to professional services sectors or subsectors mutually agreed by the Parties. These sectors or subsectors may include those listed in Appendix 12-A-1.
3. The Parties hereby establish a Professional Services Working Group, comprising representatives of each Party, to facilitate the activities set out in paragraphs 1 and 2. The Working Group shall meet within one year after the date this Agreement enters into force unless the Parties otherwise agree.
4. The Working Group should consider, for professional services generally and, as appropriate, for individual professional services, the following matters:
  - (a) procedures for fostering the development of mutual recognition arrangements between relevant professional bodies of the Parties;
  - (b) the feasibility of developing model procedures for the licensing and certification of professional services suppliers;
  - (c) measures inconsistent with Article 12.2 or 12.4 maintained at the regional level of government that would prevent the development of a mutual recognition arrangement or prevent a service supplier of a Party from receiving the benefits of such an arrangement; and
  - (d) other issues of mutual interest relating to the supply of professional services.
5. The Working Group shall consider, as appropriate, relevant bilateral, plurilateral, and multilateral agreements relating to professional services.
6. The Working Group shall report to the Joint Committee on its progress, including with respect to any recommendation for initiatives to promote mutual recognition of standards and criteria and temporary licensing, and on the further direction of its work, no later than two years after the date this Agreement enters into force.
7. On receipt of a recommendation referred to in paragraphs 2 and 6, the Joint Committee shall review the recommendation within a reasonable time to determine whether it is consistent with this Agreement. Based on the results of that review and as otherwise appropriate, each Party shall work

附件12-A 专业服务

1. 应另一缔约方请求，一缔约方应提供关于专业服务供应商许可和认证的标准及要求的信息，包括可就此等标准及要求进行磋商的相关监管机构或其他机构的信息。此类标准及要求涵盖教育、考试、经验、行为和道德、专业发展及重新认证、执业范围、本地知识和消费者保护等方面的规定。
2. 如双方同意，每一缔约方应鼓励其境内的相关机构制定双方可接受的标准和许可和认证标准，就相互承认向联合委员会提供建议，并为双方共同商定的专业服务部门或子部门的另一方专业服务供应商制定临时许可安排的程序。这些部门或子部门可包括附录12-A-1所列的部门或子部门。
3. 双方特此设立一个专业服务工作小组，由每一缔约方的代表组成，以促进第1款和第2款所述的活动。除非双方另有约定，工作小组应在本协定生效之日起一年内召开会议。
4. 工作小组应考虑以下事项，包括一般专业服务及酌情针对个别专业服务的事项：
  - (a) 促进双方相关专业机构之间发展相互承认安排的程序；(b) 制定专业服务供应商许可和认证示范程序的可行性；(c) 地区级政府维持的与第12.2条或第12.4条不一致的措施，这些措施会阻碍相互承认安排的发展或阻碍一方的服务提供者从此类安排中获益；以及(d) 与专业服务供应相关的其他共同关心的问题。
5. 工作组应酌情考虑与专业服务相关的双边、诸边和多边协定。
6. 工作组应在本协定生效之日起两年内向联合委员会报告其进展，包括关于促进标准和资格的相互承认及临时许可的任何倡议建议，以及其工作的进一步方向。
7. 在收到第2款和第6款所述建议后，联合委员会应在合理时间内审议该建议，以确定其是否符合本协定。根据审议结果并在其他适当情况下，每一缔约方应



with and encourage its respective relevant bodies to implement the recommendation within a mutually agreed time.

8. The Joint Committee shall review the implementation of this Annex at least once every three years.

与其各自相关机构合作并鼓励其在相互商定的时间内实施该建议。

8. 联合委员会应至少每三年审查一次本附件的实施情况。

**APPENDIX 12-A-1**  
**SECTORS FOR MUTUAL RECOGNITION AND TEMPORARY LICENSING**

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

附录12-A-1 互认和临时许可的行业

- 1. 工程服务 2. 建筑服
- 务 3. 兽医服务

ANNEX 12-B  
EXPRESS DELIVERY SERVICES

1. For purposes of this Agreement, **express delivery services** means the collection, transport, and delivery, of documents, printed matter, parcels, goods, or other items on an expedited basis while tracking and maintaining control of these items throughout the supply of the service.<sup>11</sup>
2. The Parties confirm their desire to maintain at least the level of market openness for express delivery services that is in existence on the date this Agreement is signed. If a Party considers that the other Party is not maintaining such level of access, it may request consultations. The other Party shall afford adequate opportunity for consultations and, to the extent possible, shall provide information in response to inquiries regarding the level of access and any related matter.
3. Each Party shall ensure that, where a Party’s monopoly supplier of postal services competes, either directly or through an affiliated company, in the supply of express delivery services outside the scope of its monopoly rights, that supplier does not abuse its monopoly position to act in the territory of the Party in a manner inconsistent with the Party’s obligations under Article 11.3 (National Treatment), Article 11.4 (Most-Favored-Nation Treatment), Article 12.2, 12.3, or 12.4, or Article 16.2 (Designated Monopolies). Further to Article 1.2 (Relation to Other Agreements), the Parties also reaffirm their rights and obligations under Article VIII of GATS with respect to express delivery services.<sup>12</sup>
4. Each Party confirms its intention to prevent revenues derived from monopoly postal services from being directed to confer an advantage to its own or any other competitive supplier’s express delivery services.<sup>13</sup>
- 5 For greater certainty, this Annex does not limit a Party’s right to adopt or maintain a measure outside the scope of this Chapter or a measure regarding transportation services as set out in a Party’s Schedule to Annex I or II.

<sup>11</sup> For greater certainty, “express delivery services” does not include:

(a) for the United States, delivery of letters subject to the *Private Express Statutes* (18 U.S.C. 1693 *et seq.*, 39 U.S.C. 601 *et seq.*), but does include delivery of letters subject to the exceptions to, or suspensions promulgated under, those statutes, which permit private delivery of extremely urgent letters; and

(b) for Korea, collecting, processing, and delivering letters for which exclusive rights are reserved for the Korean Postal Authority (KPA) under the *Postal Service Act*, but does include collecting, processing, and delivering commercial documents subject to Article 3 of the *Enforcement Decree of the Postal Services Act*.

<sup>12</sup> Neither paragraph 3 nor Article 16.2.1(d) (Designated Monopolies) shall be construed to require a Party to afford a private express delivery service supplier rights of access to the postal network of its monopoly supplier of postal services.

<sup>13</sup> For greater certainty, paragraph 4 shall not be construed to require a Party to amend relevant existing laws and regulations or to prevent KPA or the U.S. Postal Service from supplying any services.

附件12-B 快递服务

1. 就本协定而言，快递服务指在服务提供过程中对文件、印刷品、包裹、货物或其他物品进行跟踪并保持控制的同时，以加急方式进行的收集、运输和递送。<sup>11</sup>
2. 双方确认其希望维持至少在本协定签署之日存在的快递服务市场开放水平。如一缔约方认为另一缔约方未维持此种准入水平，可请求磋商。另一缔约方应提供充分的磋商机会，并尽可能应要求提供有关准入水平及任何相关事项的信息。
3. 每一缔约方应确保，如一缔约方的邮政服务垄断供应商在其垄断权利范围之外直接或通过附属公司参与快递服务提供竞争时，该供应商不得滥用其垄断地位，以不符合该缔约方在第11.3条（国民待遇）、第11.4条（最惠国待遇）、第12.2条、第12.3条或第12.4条或第16.2条（指定垄断）项下义务的方式在该缔约方领土内行事。根据第1.2条（与其他协定的关系），双方还重申其在《服务贸易总协定》第八条项下关于快递服务的权利和义务。<sup>12</sup>
4. 每一缔约方确认其意图是防止来自垄断邮政服务的收入被用于为其自身或任何其他竞争性供应商的快递服务提供优势。<sup>13</sup>
- 5 为进一步明确，本附件不限制缔约方在本章范围之外采取或维持措施的权利，也不限制缔约方根据其附件一或附件二减让表中规定的运输服务相关措施的权利。

<sup>11</sup> 为进一步明确，“快递服务”不包括：(a) 对美国而言，受《私人快递法规》（《美国法典》第18卷第1693条及以下、《美国法典》第39卷第601条及以下）约束的信件递送，但包括根据这些法规的例外或暂停规定允许私人递送极其紧急信件的信件递送；以及(b) 对韩国而言，根据《邮政服务法》为韩国邮政局(KPA)保留专有权的信件收集、处理和递送，但包括受《邮政服务法实施法令》第三条约束的商业文件的收集、处理和递送。

根据《邮政服务法》，韩国邮政局（KPA）虽不涵盖此业务，但包括依据《邮政服务法实施法令》第三条对商业文件进行收集、处理和递送。

<sup>12</sup> 第三款或第十六条第二款第一项(d)目（指定垄断）均不得解释为要求一缔约方向私营快递服务供应商接入其邮政服务垄断供应商邮政网络的权利。

<sup>13</sup> 为进一步明确，第4款不得解释为要求一缔约方修改现行相关法律法规，或阻止KPA或美国邮政服务提供任何服务。

**ANNEX 12-C**  
**CONSULTATIONS REGARDING NON-CONFORMING MEASURES**  
**MAINTAINED BY A REGIONAL LEVEL OF GOVERNMENT**

If a Party considers that an Annex I non-conforming measure applied by a regional level of 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. 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12-C 关于地区级政府维持的不符措施的磋商

如一缔约方认为另一缔约方地区级政府实施的附件一不符措施对该缔约方的服务供应商、投资者或涵盖投资构成实质性障碍，可请求就该措施进行磋商。双方应进行磋商，以期交换关于该措施实施情况的信息，并考虑是否需要及采取何种进一步措施。

[TRANSLATION]

June 30, 2007

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

Dear Ambassador Schwab:

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

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

[翻译]

2007年6月30日

尊敬的苏珊·C·施瓦布 美国贸易  
代表 华盛顿特区

尊敬的施瓦布大使：

我荣幸地确认，大韩民国与美利坚合众国代表团在就双方政府今日签署的自由贸易协定第十一章（投资）和第十二章（跨境服务贸易）进行谈判过程中达成如下谅解：

- (1) 谈判期间，双方讨论了与资源回收及鼓励低排放机动车推广政策相关的若干措施。双方达成共识，认为以下措施不违反第11.8条（业绩要求）：(i) 回收产品及包装材料的义务；(ii) 提交回收绩效计划及结果的义务；(iii) 缴纳适用回收税的义务；(iv) 推广特定比例低排放机动车的义务；以及(v) 提交并获准低排放机动车推广计划的义务。
- (2) 谈判期间，双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。双方达成共识，就本协议而言，此类限制与第12.4条（市场准入）并无不一致之处。
- (3) 谈判期间，双方讨论了根据《首都圈整备规划法》（第7308号法律，2004年12月31日）适用于在特定地理区域内设立、扩展或转让教育机构的现行法规。双方达成共识，此类限制与第12.4条（市场准入）并无不一致之处。
- (4) 谈判期间，双方讨论了一项措施，该措施允许本地高等教育机构仅与根据韩国法律组织的高等教育机构，或已获得外国政府或授权的外国认证机构认证的外国高等教育机构联合运营课程。双方达成共识，此类措施与第11.3条（国民待遇）和第12.2条（国民待遇）并无不一致之处。
- (5) 谈判期间，双方讨论了一项可能根据《酒类法》（法律编号7841，2005年12月31日）及其附属法规对生产酒类所用原材料类型和数量提出要求的措施。双方达成共识，认为此类措施只要以符合《与贸易有关的投资措施协定》的方式实施，便不违反第11.8条（业绩

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

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

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

Sincerely,  
  
[SGN/]  
Hyun Chong Kim

要求），前提是其适用方式符合《与贸易有关的投资措施协定》。

- (6) 在谈判过程中，双方讨论了关于控制铁路运输公司停止提供服务的法规，包括公司的关闭或清算。双方达成共识，认为此类限制与第12.4条（市场准入）并不矛盾。
- (7) 在谈判过程中，双方讨论了关于分区和土地使用的法规。  
双方达成共识，认为有关分区和土地使用的措施与第12.4条（市场准入）并不矛盾。

我谨提议，本函及贵方确认贵国政府认同这些理解的复函应构成自由贸易协定的组成部分。

此致, [SGN/]金  
铉宗



June 30, 2007

2007年6月30日

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

Dear Minister Kim:

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

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

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

尊敬的玄軫顯閣下 贸易部长  
首尔, 大韩民国

尊敬的金部长:

我荣幸地确认收到您今日的来信, 内容如下:

我荣幸地确认大韩民国与美利坚合众国代表团在谈判过程中就双方政府今日签署的《自由贸易协定》第十一章(投资)和第十二章(跨境服务贸易)达成的以下谅解:

- (1) 谈判期间, 双方讨论了与资源回收及鼓励低排放机动车推广政策相关的若干措施。双方达成共识, 认为以下措施不违反第11.8条(业绩要求): (i) 回收产品及包装材料的义务; (ii) 提交回收绩效计划及结果的义务; (iii) 缴纳适用回收税的义务; (iv) 推广一定比例低排放机动车的义务; 以及(v) 提交并获批低排放机动车推广计划的义务。
- (2) 谈判期间, 双方讨论了禁止企业同时持有两个或多个提供不同服务的营业执照的法规。双方达成共识, 认为就本协议而言, 此类限制与第12.4条(市场准入)并无不一致之处。
- (3) 谈判期间, 双方讨论了根据《首都圈整備规划法》(第7308号法律, 2004年12月31日)适用于在特定地理区域内设立、扩建或迁移教育机构的现行法规。双方达成共识, 认为此类限制与第12.4条(市场准入)并无不一致之处。
- (4) 在谈判期间, 双方讨论了一项措施, 该措施允许本地高等教育机构仅与根据韩国法律组织的高等教育机构, 或已获得外国政府或授权的外国认证机构认证的外国高等教育机构联合运营课程。双方达成共识, 认为

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

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

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

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

Sincerely,

Susan C. Schwab

此类措施与第11.3条（国民待遇）并不矛盾，且第12.2条（国民待遇）。

- (5) 在谈判期间，双方讨论了一项可能制定的措施，该措施涉及根据《酒类法》（法律编号7841，2005年12月31日）及其附属法规对生产酒类所用原材料的种类和数量提出要求。双方达成共识，认为只要该措施的实施方式符合《与贸易有关的投资措施协定》，即不与第11.8条（业绩要求）相抵触。
- (6) 在谈判期间，双方讨论了相关法规，这些法规对铁路运输公司停止提供服务的能力进行管控，包括公司的关闭或清算。双方达成共识，认为此类限制不与第12.4条（市场准入）相抵触。
- (7) 谈判期间，双方讨论了有关分区和土地使用的法规。双方达成共识，认为有关分区和土地使用的措施与第12.4条（市场准入）并无不一致之处。

我荣幸地提议，本函及贵方复函确认贵国政府认同上述理解，应构成自由贸易协定的组成部分。我国政府认同上述理解，贵方来函与本复函应构成自由贸易协定的组成部分，特此确认。

我进一步荣幸地确认，我国政府认同上述理解，且贵方来函与本复函应构成自由贸易协定的组成部分。

此致，

Susan C. Schwab



[TRANSLATION]

June 30, 2007

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

Dear Ambassador Schwab:

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

Notwithstanding Article 11.1 (Scope and Coverage) or Article 12.1 (Scope and Coverage), the cross-border trade in gambling and betting services<sup>1</sup> is not subject to Chapter Twelve (Cross-Border Trade in Services) and investment in gambling and betting services is not subject to Chapter Eleven (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 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.

Sincerely,

[SGN/]  
Hyun Chong Kim

<sup>1</sup> 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.

[翻译]

2007年6月30日

尊敬的苏珊·C·施瓦布 美国贸易  
代表 华盛顿特区

尊敬的施瓦布大使：

我荣幸地确认，大韩民国与美利坚合众国代表团在关于今日签署的两国政府间《自由贸易协定》第十一章（投资）和第十二章（跨境服务贸易）的谈判过程中达成如下谅解：

尽管有第11.1条（范围和覆盖）或第12.1条（范围和覆盖）的规定，赌博和博彩服务的跨境贸易<sup>1</sup> 不适用第十二章（跨境服务贸易）， 且对赌博和博彩服务的投资不适用第十一章（投资）。

为进一步明确，每一缔约方保留根据其各自法律法规，就博彩和赌博服务采取或维持任何措施的权利。

我谨提议，本函及贵方复函确认贵国政府认同此理解，应构成《自由贸易协定》的组成部分。

此致，

[SGN/]金铉宗

<sup>1</sup> 为进一步明确，“赌博和博彩服务”包括通过电子传输提供的此类服务及使用射幸性游戏物的服务。根据《韩国游戏产业促进法》第二条的定义，“射幸性游戏物”尤其包括通过投注或偶然性导致财务损失或收益的游戏工具。

June 30, 2007

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

Dear Minister Kim:

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

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

Notwithstanding Article 11.1 (Scope and Coverage) or Article 12.1 (Scope and Coverage), the cross-border trade in gambling and betting services<sup>1</sup> is not subject to Chapter Twelve (Cross-Border Trade in Services) and investment in gambling and betting services is not subject to Chapter Eleven (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 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.

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.

Sincerely,

Susan C. Schwab

<sup>1</sup> 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.

2007年6月30日

尊敬的玄軫顯閣下 贸易部长  
首尔, 大韩民国

尊敬的金部长:

我荣幸地确认收到您今日的来信, 内容如下:

我荣幸地确认大韩民国与美利坚合众国代表团在关于我们两国政府今日签署的自由贸易协定第十一章(投资)和第十二章(跨境服务贸易)的谈判过程中达成的以下谅解:

尽管有第11.1条(范围和覆盖)或第12.1条(范围和覆盖)的规定, 赌博和博彩服务的跨境贸易<sup>1</sup> 不适用第十二章(跨境服务贸易), 且对赌博和博彩服务的投资不适用第十一章(投资)。

为进一步明确, 每一缔约方保留根据其各自法律法规采取或维持任何与投注和赌博服务相关措施的权利。

我谨提议, 本函及贵方复函确认贵国政府认同此理解, 应构成《自由贸易协定》的组成部分。

我进一步荣幸地确认, 我国政府认同此理解, 且贵方来函与本复函应构成《自由贸易协定》的组成部分。

此致,

苏珊·C·施瓦布

<sup>1</sup> 为进一步明确, “赌博和博彩服务”包括通过电子传输提供的此类服务及使用射幸性游戏物的服务。根据《韩国游戏产业促进法》第二条的定义, “射幸性游戏物”尤其包括通过投注或偶然性导致财务损失或收益的游戏工具。

[TRANSLATION]

June 30, 2007

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

Dear Ambassador Schwab:

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

By the date the Free Trade Agreement enters into force, Korea will amend Article 3 of the *Enforcement Decree of the Postal Service Act* to expand the exceptions to the Korean Postal Authority's monopoly to include all international document delivery services.

Both delegations also understand that international and domestic express delivery services of all documents and correspondence are not subject to the U.S. Postal Service monopoly.

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

Sincerely,

[SGN/]  
Hyun Chong Kim

[翻译]

2007年6月30日

尊敬的苏珊·C·施瓦布 美国贸易  
代表 华盛顿特区

尊敬的施瓦布大使：

谨此确认，大韩民国与美利坚合众国代表团在今日签署的两国政府间《自由贸易协定》第十二章（跨境服务贸易）谈判过程中达成如下共识：

在《自由贸易协定》生效之日，韩国将修订《邮政服务法实施令》第三条，以扩大韩国邮政总局的垄断例外范围，使其涵盖所有国际文件递送服务。

双方代表团还理解，所有文件和信件的国际及国内快递服务不受美国邮政服务的垄断限制。

我荣幸地提议，本函及贵方复函确认贵国政府认同上述谅解，应构成《自由贸易协定》的组成部分。

此致

[SGN/]金铉宗

June 30, 2007

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

Dear Minister Kim:

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

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

By the date the Free Trade Agreement enters into force, Korea will amend Article 3 of the *Enforcement Decree of the Postal Service Act* to expand the exceptions to the Korean Postal Authority's monopoly to include all international document delivery services.

Both delegations also understand that international and domestic express delivery services of all documents and correspondence are not subject to the U.S. Postal Service monopoly.

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

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

Sincerely,

Susan C. Schwab

2007年6月30日

尊敬的玄軫顯閣下 贸易部长  
首尔, 大韩民国

尊敬的金部长:

我荣幸地确认收到您今日的来信, 内容如下:

我荣幸地确认大韩民国与美利坚合众国代表团在关于我们两国政府今日签署的自由贸易协定第十二章(跨境服务贸易)的谈判过程中达成的以下谅解:

在自由贸易协定生效之日, 韩国将修订邮政服务法实施令第三条, 以扩大韩国邮政总局垄断的例外范围, 使其包括所有国际文件递送服务。

两国代表团还理解, 所有文件和信件的国际及国内快递服务不受美国邮政服务垄断的限制。

我荣幸地提议, 本函及贵方复函确认贵国政府认同上述谅解, 应构成《自由贸易协定》的组成部分。

我亦荣幸地确认, 我国政府认同上述谅解, 且贵方来函与本复函应构成《自由贸易协定》的组成部分。

此致,

苏珊·C·施瓦布

[TRANSLATION]

June 30, 2007

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

Dear Ambassador Schwab:

In the course of negotiations regarding Chapter Twelve (Cross-Border Trade in Services) of the Free Trade Agreement between our two Governments signed this day, the delegations of the Republic of Korea and the United States of America discussed the regulatory reform processes that their respective governments are contemplating or currently undertaking with regard to postal services and how those processes might affect competitive express delivery services.

In the context of those discussions, Korea indicated the following aspects, among others, of its postal reform plan:

Korea intends to expand gradually the exceptions to the Korean Postal Authority's monopoly to increase the scope of private delivery services that are permitted and to establish a scheme ensuring the independence of Korea's postal regulatory system. This will be done through amendments to the *Postal Service Act*, related laws, or their subordinate regulations.

(a) After these amendments are enacted, the items that private delivery service suppliers may handle will be classified based on objective standards such as weight, price, or a combination thereof. In determining the nature and extent of such amendments, Korea will consider various factors, including domestic market conditions, experiences of other countries with postal liberalization, and the need to ensure universal service. Korea plans to implement these amendments within the next five years.

(b) Over time, Korea also will address the issue of independence of its regulatory system for postal and express delivery services. The regulator of express delivery services will be separate from, and not accountable to, any supplier of postal or other delivery services after such reform. The decisions of, and the procedures used by, regulators should be impartial and transparent with respect to all market participants.

In applying these reformed criteria and regulatory system, Korea will provide non-discriminatory opportunities to all postal and express delivery service suppliers in Korea.

Sincerely,

[SGN/]  
Hyun Chong Kim

[翻译]

2007年6月30日

尊敬的苏珊·C·施瓦布 美国贸易  
代表 华盛顿特区

尊敬的施瓦布大使：

在我们两国政府今日签署的《自由贸易协定》第十二章（跨境服务贸易）谈判过程中，大韩民国与美利坚合众国代表团就各自政府正在考虑或当前实施的邮政服务监管改革进程，以及这些进程可能如何影响竞争性快递服务进行了讨论。

在此讨论背景下，韩国特别阐述了其邮政改革计划的以下方面：

韩国计划通过修订《邮政服务法》、相关法律或其附属法规，逐步扩大对韩国邮政总局垄断的例外范围，以增加允许的私营快递服务范围，并建立确保韩国邮政监管体系独立性的机制。

(a) 这些修正案颁布后，私营快递服务供应商可处理的物品将根据重量、价格或其组合等客观标准进行分类。在确定此类修正案的性质和范围时，韩国将考虑多种因素，包括国内市场状况、其他国家邮政自由化的经验以及确保普遍服务的必要性。韩国计划在未来五年内实施这些修正案。

(b) 随着时间的推移，韩国还将解决其邮政和快递服务监管体系独立性的问题。改革后，快递服务的监管机构将独立于任何邮政或其他快递服务供应商，并不对其负责。监管机构的决策和程序应对所有市场参与者公正透明。

在适用这些改革后的标准和监管体系时，韩国将为国内所有邮政和快递服务供应商提供非歧视性机会。

此致，

[SGN/]金铉宗

[TRANSLATION]

June 30, 2007

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

Dear Ambassador Schwab:

I have the honor to confirm the following understanding reached between the delegations of the Republic of Korea and the United States of America during the course of negotiations regarding each Party’s Annex I entry on telecommunications services in the Free Trade Agreement between our two Governments signed this day:

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 14.20 (Transparency).

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.

Sincerely,

[SGN/]  
Hyun Chong Kim

[翻译]

2007年6月30日

尊敬的苏珊·C·施瓦布 美国贸易  
代表 华盛顿特区

尊敬的施瓦布大使：

我荣幸地确认，大韩民国与美利坚合众国代表团在关于今日签署的两国政府间《自由贸易协定》中电信服务附件一的谈判过程中达成如下谅解：

若一缔约方以认定某项服务符合公共利益为条件，向该缔约方境内由另一缔约方人士持有股权权益的实体授予提供公共电信服务的许可，则该缔约方应确保：（i）此类认定及其程序均基于客观和透明的标准；（ii）采用有利于认定向该缔约方境内由另一缔约方人士持有股权权益的实体授予许可符合公共利益的推定原则；且（iii）此类程序的制定须符合第14.20条（透明度）规定的规则制定流程。

我荣幸地提议，本函及贵方复函确认贵国政府认同此理解，应构成《自由贸易协定》的组成部分。

此致

[SGN/]金铉宗



June 30, 2007

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

Dear Minister Kim:

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

I have the honor to confirm the following understanding reached between the delegations of the Republic of Korea and the United States of America during the course of negotiations regarding each Party’s Annex I entry on telecommunications services in the Free Trade Agreement between our two Governments signed this day:

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 14.20 (Transparency).

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.

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.

Sincerely,

Susan C. Schwab

2007年6月30日

尊敬的玄軫顯閣下 贸易部长  
首尔, 大韩民国

尊敬的金部长:

我荣幸地确认收到您今日的来信, 内容如下:

我荣幸地确认大韩民国与美利坚合众国代表团在谈判过程中就双方政府今日签署的《自由贸易协定》中电信服务附件一所达成的以下谅解:

如一缔约方以认定某项服务符合公共利益为条件, 向另一缔约方人士持有股权权益的本缔约方人士颁发提供公共电信服务的许可证, 则该缔约方应确保: (i) 此类认定及认定程序基于客观和透明的标准; (ii) 采用有利于认定向另一缔约方人士持有股权权益的本缔约方人士颁发许可证符合公共利益的推定; 且 (iii) 根据第14.20条 (透明度) 的规定, 通过规则制定程序制定此类程序。

我荣幸地提议, 本函及贵方复函确认贵国政府认同此理解, 将构成《自由贸易协定》的组成部分。

我进一步荣幸地确认, 我国政府认同此理解, 且贵方来函及本复函将构成《自由贸易协定》的组成部分。

此致

苏珊·C·施瓦布