

June 30, 2007

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

Sung Jin Kim
Deputy Minister
Ministry of Finance and Economy
Gwacheon, Republic of Korea

Dear Minister Kim and Deputy Minister Kim:

We have the honor to confirm the following understanding reached between the delegations of the United States of America and the Republic of Korea during the course of negotiations regarding Chapter Thirteen (Financial Services) of the Free Trade Agreement between our two Governments signed this day:

Cross-Border Trade

The Parties confirm that, with respect to cross-border trade in financial services, and without prejudice to other means of prudential regulation, a Party may require the registration or authorization of cross-border financial services suppliers of the other Party and of financial instruments.

The Parties further confirm that a Party may require a cross-border financial service supplier of the other Party to provide information, solely for informational or statistical purposes, on the financial services it has supplied within the territory of the Party. The Party shall protect such business information that is confidential from any disclosure that would prejudice the competitive position of the supplier.

New Financial Services

The Parties recognize the importance of accommodating new financial services in their markets consistent with prudential requirements. The Parties confirm that Article 13.6 (New Financial Services) does not apply to (1) cross-border trade in financial services or (2) any new financial service that the Party would not permit its own financial institutions, in like circumstances, to supply.

The Parties further confirm that a Party may apply prudential regulations to new financial services.

The Honorable Hyun Chong Kim

Transparency

The Parties discussed the application and licensing requirements set forth in Article 13.11.9 (Transparency) and agree that each Party's current practices are consistent with that Article. Korea has confirmed that the 120-day period in Article 13.11.9 does not include periods during which the applicants are engaged in efforts to meet regulatory requirements for the relevant license. In the case of insurance, Korea's current practice is to make a preliminary decision on an application within 90 days and to make a final decision no later than 60 days after it receives the completed application. Korea expressed its intention not to extend the existing 90-day limitation for making a preliminary decision on an application to supply insurance services.

Self-Regulatory Organizations

The Parties confirm that the Korea Insurance Development Institute is a self-regulatory organization as defined in Chapter Thirteen (Financial Services) and is subject to the disciplines of Article 13.12 (Self Regulatory Organizations). This confirmation is without prejudice to the status of any other organization in this or any other financial services subsector.

For greater certainty, if the FSC or the Financial Supervisory Service (FSS) delegates a function related to insurance to a self-regulatory organization or other non-governmental body, the FSC or FSS shall take reasonable steps to ensure compliance with Article 13.11.3 (Transparency) and Article 21.4 (Review and Appeal) with regard to any actions taken by the organization or other non-governmental body pursuant to the delegated function.

Certain Government Entities

The Parties confirm that the following entities, as currently structured, are covered by Chapter Thirteen, but shall not be considered financial institutions for purposes of that Chapter: Korea Deposit Insurance Corporation (KDIC), Resolution and Finance Corporation, Export-Import Bank of Korea, Korea Export Insurance Corporation, Korea Technology Credit Guarantee Fund, Credit Guarantee Fund, Korea Asset Management Corporation (KAMCO), and Korea Investment Corporation (KIC).

Chief Executive Officer

For greater certainty, nothing in Article 13.8 (Senior Management and Board of Directors) limits a Party's ability to require the chief executive officer of a financial institution established under its laws to reside within its territory.

Transfer of Information

The Parties recognize the importance of the cross-border transfer of information by financial institutions, and the United States welcomes Korea's commitment in paragraph 6(b) of Annex

13-A and Section B of Annex 13-B to undertake modifications to its regulatory regime that will permit those institutions to transfer such information. Korea has expressed its intent that these modifications will result in its adoption of approaches that are similar to those of the United States with respect to such areas as the protection of sensitive information of consumers, prohibitions on unauthorized reuse of the sensitive information, the ability of financial regulators to have access to records of financial institutions relating to the handling of such information, and requirements for the location of technology facilities.

Financial Services Initiatives

Recognizing the positive steps Korea is taking as a part of its strategy to establish itself as a regional financial hub in East Asia, the United States welcomes three key regulatory initiatives of Korea currently underway:

- (a) the movement to a negative regulatory approach in the financial services sector;
- (b) implementation of Phase II of the Bancassurance regulations; and
- (c) further liberalization of foreign currency reserve requirements in the supply of insurance services.

Recognizing the positive steps the United States has made in the product approval system, Korea welcomes efficiencies introduced in the area of electronic product approval filing procedures for insurance; in particular:

- (a) all regional governments of the United States use the National Association of Insurance Commissioners' System for Electronic Rate & Form Filing, which by the end of 2005 had logged approximately 185,000 electronic filings; and
- (b) twenty-nine states have adopted the Interstate Insurance Compact, which permits the Product Regulation Commission to be the sole authority for approval of products in the following areas: life, annuities, long-term care, and disability income.

Korea welcomes progress by the National Association of Insurance Commissioners on its review of collateral requirements for suppliers of reinsurance. The NAIC will consider adopting changes to its Model Law in 2007. The United States will provide updates to Korea on this process in the FSC.

Supply of Insurance by the Postal Services to the Public

1. The United States and Korea recognize that Korea Post is currently a government agency that is not regulated as a financial institution.

2. The FSC shall:
 - (a) nominate at least half of the members of the Postal Finance Risk Management Committee and the Reserve Operation Deliberation Committee responsible for oversight of Korea Post's supply of insurance services;
 - (b) review any financial statements, settlement documents, or other information submitted to it by Korea Post with regard to insurance services supplied by Korea Post and, to the extent this review reveals any deficiencies, issue an opinion to that effect to Korea Post; and
 - (c) review the basic documents submitted to it by Korea Post related to insurance products supplied by Korea Post, including business operation manuals, terms and conditions of insurance, insurance premium and policy reserves calculation guidelines, and, if it identifies any deficiencies, issue recommendations with regard to necessary improvements.
3. Korea Post shall:
 - (a) submit to the FSC any financial statements, settlement documents and basic documents regarding insurance services supplied by Korea Post;
 - (b) conform its supply of insurance services with any opinion issued by the FSC in accordance with paragraph 2(b);
 - (c) take action on any recommendations regarding basic documents issued by the FSC in accordance with paragraph 2(c);
 - (d) with respect to matters covered by Articles 61(4) and 67(1) of the Standards, obtain confirmation from KIDI or an actuarial firm registered with the FSC in accordance with Article 183 of the *Insurance Business Act*;
 - (e) in the event that the FSC issues an opinion or recommendation under paragraph 2(b) or 2(c), include the nature of the deficiency in a public notice as provided for in Article 64 of the Standards; and
 - (f) appoint the persons nominated by the FSC in accordance with paragraph 2(a) to be members of the committees for which the FSC nominates them.
4. In the event that Korea Post issues product-specific advertisements related to its insurance services, such advertisements shall be subject to the same approval requirements applicable to private suppliers of insurance services.

5. Korea Post shall not issue new products, including variable life insurance, non-life insurance, and retirement insurance. Korea Post may modify¹ existing products. In the event that it does so, the FSC shall issue its recommendation under paragraph 2(c) within the period provided under Section 8 of the *Regulation on Supervision of Insurance Business*. Before increasing the value limitation on the sale of an insurance product, Korea Post shall consult with the FSC, which shall provide public notice of the proposed increase and an opportunity for public comment. The FSC shall issue an opinion with regard to the proposed increase, which shall be favorable only if the increase is no more than the amount necessary to reflect inflation, and otherwise necessary and appropriate. Korea Post shall conform its actions to that opinion.
6. At the request of either Party, the Insurance Working Group established in Annex 13-C (Financial Services Committee) shall discuss issues related to insurance services supplied by Korea Post, including additional steps that may be necessary to achieve the objectives of Annex 13-D (Supply of Insurance by the Postal Services to the Public) and this letter.
7. For purposes of this letter:
 - (a) **FSC** means the Financial Supervisory Commission or any successor agency;
 - (b) **KIDI** means the Korea Insurance Development Institute or any successor institution; and
 - (c) **Standards** means Korea Post's Notification No. 2006-18, entitled "Standards for Sound Management of Postal Savings and Insurance."
8. Paragraphs 2, 3, and 4 shall become effective two years after the date this Agreement enters into force. If Korea Post ceases to supply insurance services to the public as a government agency, the Parties shall consult as to how to modify paragraphs 1 through 7.

We 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,

Susan C. Schwab
United States Trade Representative

Clay Lowery
Acting Under Secretary for International Affairs
U.S. Department of Treasure

¹ For purposes of paragraph 5, modify includes to change terms and conditions as necessary to conform to insurance industry best practices or to conform to opinions or recommendations of the FSC. Modify does not include adding supplemental coverage in a manner equivalent to the creation of a new product line. New product line means insurance products covering risks other than those currently covered. Modify also does not include changing terms and conditions in a manner equivalent to the creation of a new product.