

8 April 2014

Mr Yoon Sang-jick
Minister of Trade, Industry and Energy
Seoul, Republic of Korea

Dear Minister Yoon

In connection with the signing on this date of the Korea-Australia Free Trade Agreement (the “Agreement”), I have the honour to confirm the following understandings reached between the delegations of the Republic of Korea and Australia during the course of negotiations regarding Chapters 7 (Cross-Border Trade in Services) and 11 (Investment) of the Agreement:

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:

- (a) the obligation to recycle products and packaging materials;
- (b) the submission of recycling performance plans and results;
- (c) the payment of applicable recycling levies;
- (d) the obligation to distribute a certain percentage of low-emission motor vehicles; and
- (e) the submission and approval of plans to distribute low-emission motor vehicles,

are not inconsistent with Article 11.9 (Performance Requirements).

During the negotiations, the Parties discussed regulations that prohibit an enterprise from concurrently holding two or more business licences to supply different services. The Parties shared the understanding that, for the purpose of the Agreement, such restrictions are not inconsistent with Article 7.4 (Market Access).

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. 11998, 6 August 2013). The Parties shared the understanding that such restrictions are not inconsistent with Article 7.4 (Market Access).

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 Article 7.2 (National Treatment) and Article 11.3 (National Treatment).

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

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 7.4 (Market Access).

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 7.4 (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 Agreement.

Yours sincerely

Andrew Robb

8 April 2014

The Hon Andrew Robb AO, MP
Minister for Trade and Investment
Parliament House
CANBERRA ACT 2600

Dear Minister Robb

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

In connection with the signing on this date of the Korea-Australia Free Trade Agreement (the “Agreement”), I have the honour to confirm the following understandings reached between the delegations of the Republic of Korea and Australia during the course of negotiations regarding Chapters 7 (Cross-Border Trade in Services) and 11 (Investment) of the Agreement:

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:

- (a) the obligation to recycle products and packaging materials;
- (b) the submission of recycling performance plans and results;
- (c) the payment of applicable recycling levies;
- (d) the obligation to distribute a certain percentage of low-emission motor vehicles; and
- (e) the submission and approval of plans to distribute low-emission motor vehicles,

are not inconsistent with Article 11.9 (Performance Requirements).

During the negotiations, the Parties discussed regulations that prohibit an enterprise from concurrently holding two or more business licences to supply different services. The Parties shared the understanding that, for the purpose of the Agreement, such restrictions are not inconsistent with Article 7.4 (Market Access).

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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 Article 7.2 (National Treatment) and Article 11.3 (National Treatment).

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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 7.4 (Market Access).

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 7.4 (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 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 Agreement.

Yours sincerely

Yoon Sang-jick