

**PROTOCOL BETWEEN
THE GOVERNMENT OF THE REPUBLIC OF KOREA AND
THE GOVERNMENT OF THE UNITED STATES OF AMERICA
AMENDING THE FEBRUARY 10, 2011
EXCHANGE OF LETTERS**

The Government of the Republic of Korea and the Government of the United States of America (the Parties), pursuant to the modification and amendment negotiations held under the auspices of the Joint Committee of the *Korea – United States Free Trade Agreement* (KORUS), have agreed to amend the letters the Parties exchanged on February 10, 2011 (2011 Letters) regarding issues related to the KORUS by:

(1) in Section A, deleting paragraph 1(c), adding an “and” after “year five;” in paragraph 1(a), and replacing “; and” in paragraph 1(b) with “.”;

(2) replacing the entire Section B with what follows:

“Section B: Safety Standards

1. In lieu of paragraphs 2(a) and 2(b) of the self-certification provisions of the letters the Parties exchanged on June 30, 2007 regarding Chapter Nine of the KORUS, Korea shall provide that an originating motor vehicle²⁾ produced by a manufacturer that sold no more than 50,000 originating motor vehicles in the territory of Korea during the previous calendar year shall be deemed to comply with Korean Motor Vehicle Safety Standards (KMVSS) if the manufacturer certifies that the motor vehicle complies with U.S. Federal Motor Vehicle Safety Standards (FMVSS).³⁾⁴⁾

2. Korea shall provide that a motor vehicle replacement part shall be deemed to comply with KMVSS if the part complies with U.S. FMVSS and is designed to be installed on an originating motor vehicle that was deemed, pursuant to paragraph 1, to comply with KMVSS. If the part is regulated under KMVSS but not regulated under U.S. FMVSS, Korea shall provide that the part shall be deemed to comply with KMVSS if:

(a) it meets the same specifications and performance as the part originally installed on the motor vehicle at the time of its initial import; or

/ (b) it

2) “Originating motor vehicle” means a motor vehicle that qualifies as an originating good of the United States for purposes of the KORUS.

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

4) For greater certainty, nothing in this paragraph shall prevent Korea from applying relevant provisions of Korea’s Automobile Management Act, as amended, relating to post-market verification and associated regulations pertaining to witnessing of tests and comments on the results of the compliance investigation, to verify the compliance of the originating motor vehicles with U.S. FMVSS. For that purpose, the United States shall, upon request, provide Korea with relevant scientific and technical information related to U.S. FMVSS without undue delay.

(b) it exceeds the specifications and performance of the part originally installed on the motor vehicle at the time of its initial import.⁵⁾

3. Notwithstanding paragraphs 1 and 2, commercial vehicles⁶⁾ shall comply with the KMVSS items identified in the attached Annex. On request of either Party, the Automotive Working Group as established by Annex 9-B of the KORUS shall discuss modification of the Annex, including its coverage.

4. (a) In exceptional circumstances, where the operation of paragraph 1 or 2 creates a serious risk for road safety, human health, or the environment based on substantiated scientific or technical information, Korea may take measures necessary to address the risk, provided that the measures are not applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination against the products of the other Party or a disguised restriction on trade.

(b) Before it implements any such temporary emergency measure, and as soon as practicable, Korea shall notify the United States and the importer, and provide an objective, reasoned and sufficiently detailed explanation of the motivation of the measure. Korea should in most cases provide interested persons and the United States a reasonable opportunity to comment on the measure.

5. (a) Neither Party shall prevent or unduly delay the placing on its market of a motor vehicle product on the ground that the product incorporates a new technology or a new feature which has not yet been regulated unless the Party can demonstrate,
/ based on

⁵⁾ For greater certainty, nothing in this paragraph shall prevent Korea from applying relevant provisions of Korea's Automobile Management Act, as amended, relating to post-market verification and associated regulations pertaining to witnessing of tests and comments on the results of the compliance investigation, to verify if the replacement parts are installed only on originating motor vehicles, to verify the compliance of the replacement parts with U.S. FMVSS, to verify if the parts meet the same specifications and performance as the parts originally installed on the motor vehicle at the time of its initial import, or to verify if the parts exceed the specifications and performance of the parts originally installed on the motor vehicle at the time of its initial import. For that purpose, the United States shall, upon request, provide Korea with relevant scientific and technical information related to U.S. FMVSS without undue delay.

⁶⁾ "Commercial vehicles" does not include pickup trucks with a gross vehicle weight of 4.5 metric tons or less that comply with all U.S. FMVSS relevant for that vehicle type and are produced for general consumers rather than custom-built to a specific order.

based on scientific or technical information, that this new technology or new feature creates a risk for human health, safety, or the environment.

- (b) When a Party decides to refuse the placing on its market or require the withdrawal from its market of a motor vehicle product on the ground that the product incorporates a new technology or a new feature creating a risk for human health, safety, or the environment, the Party shall immediately notify the other Party and the importer of the product of its decision. The notification shall include all relevant scientific or technical information.”; and

(3) making consequential adjustments to the footnote numbering so that footnote 6 of the 2011 Letters becomes footnote 7; footnote 7 of the 2011 Letters becomes footnote 8; footnote 8 of the 2011 Letters becomes footnote 9; and footnote 9 of the 2011 Letters becomes footnote 10.

Each Party shall notify the other Party of the completion of its legal requirements and procedures required for the entry into force of this Protocol. This Protocol shall enter into force on the date on which the Parties exchange written notifications that they have completed their respective applicable legal requirements and procedures, and shall terminate on the date that the KORUS terminates.

IN WITNESS WHEREOF the undersigned, being duly authorized by their respective Governments, have signed this Protocol.

DONE at the City of New York, this 24th day of September 2018, in duplicate in the Korean and English languages.

FOR THE GOVERNMENT OF
THE REPUBLIC OF KOREA

FOR THE GOVERNMENT OF
THE UNITED STATES OF AMERICA