

MEMORANDUM OF UNDERSTANDING ON ANTITRUST COOPERATION
BETWEEN
THE UNITED STATES DEPARTMENT OF JUSTICE AND
THE UNITED STATES FEDERAL TRADE COMMISSION, OF THE ONE PART,
AND
THE KOREA FAIR TRADE COMMISSION, OF THE OTHER PART

The United States Federal Trade Commission and the United States Department of Justice (together the “U.S. antitrust agencies”), of the one part, and the Korea Fair Trade Commission (“KFTC”) of the other part (each referred to as a “competition authority”),

Having regard for the close economic relations and cooperation between the Government of the United States of America and the Government of the Republic of Korea, including as reflected in the Free Trade Agreement Between the United States of America and the Republic of Korea (KORUS), and noting that sound and effective enforcement of their competition laws is a matter of crucial importance to the efficient operation of markets and to the economic welfare of the citizens of their respective countries,

Recognizing that cooperation and coordination in competition law enforcement activities between the U.S. antitrust agencies and the KFTC may result in more effective resolution of their respective concerns than through independent action, and

Recognizing that good communication between the U.S. antitrust agencies and the KFTC on competition law and policy contributes to improving and strengthening their relationship,

Intend to cooperate under this Memorandum of Understanding (“Memorandum”) as follows:

SECTION I
COOPERATION AND COORDINATION

1. The U.S. antitrust agencies and the KFTC recognize that it is in their common interest to cooperate in the detection of anticompetitive practices and the enforcement of competition laws in their respective jurisdictions. For purposes of this Memorandum, such laws are defined as (i) for the U.S. antitrust agencies, the Sherman Act (15 U.S.C. §§ 1-7), the Clayton Act (15 U.S.C. §§ 12-27), the Wilson Tariff Act (15 U.S.C. §§ 8-11) and the Federal Trade Commission Act (15 U.S.C. §§ 41-58), to the extent that it applies to unfair methods of competition, as well as any amendments to these laws; and (ii) for the KFTC, the Monopoly Regulation and Fair Trade Act (Law No. 3320, 1980) as well as any amendments to this law. The competition authorities intend, as appropriate, to share information that facilitates the effective application of those laws and promotes better understanding of each other’s competition enforcement policies and activities, to the extent compatible with their respective legal systems and important interests and within their reasonably available resources.

2. Where one of the U.S. antitrust agencies and the KFTC are both pursuing enforcement activities with regard to related matters, each intends to consider coordination of their enforcement activities as appropriate.
3. Each competition authority intends, within the framework of its laws and to the extent compatible with its important interests, to give careful consideration to the enforcement objectives and important interests of the other country's competition authority or authorities in conducting its enforcement activities.
4. It is understood that the U.S. antitrust agencies or the KFTC may also seek or provide assistance to one another pursuant to other agreements, treaties, arrangements, or practices applicable to them.

SECTION II

CONFIDENTIALITY

1. Notwithstanding any other provision of this Memorandum, the U.S. antitrust agencies and the KFTC commit not to communicate information to the other if such communication is prohibited by the laws governing the agency possessing the information or would be incompatible with that agency's interest.
2. Insofar as information is communicated between competition authorities pursuant to this Memorandum, the recipient should, to the extent consistent with any applicable domestic laws, maintain the confidentiality of any such information communicated to it in confidence. Each competition agency should oppose, to the fullest extent possible consistent with applicable domestic laws, any application by a third party for disclosure of such information.

SECTION III

COMMUNICATIONS

1. The U.S. antitrust agencies and the KFTC intend to keep each other informed of significant competition policy and enforcement developments in their respective jurisdictions, including policy changes proposed by each competition authority and significant legislative proposals.
2. As appropriate and subject to reasonably available resources, the U.S. antitrust agencies and the KFTC intend to exchange experience on the enforcement of their competition laws.
3. Each competition authority may request consultations with the other country's competition authority or authorities regarding any matter relating to this Memorandum. A request for consultations should indicate the reasons for the request and whether any procedural time limits or other constraints require that consultations be expedited. Each competition authority intends to consult promptly when so requested, with a view to reaching a conclusion that is consistent with the purpose of this Memorandum.

4. The U.S. antitrust agencies and the KFTC each plan to designate a liaison officer for the purpose of facilitating contact in furtherance of this Memorandum.
5. Communications pursuant to this Memorandum may be carried out through informal means (telephone, email, videoconference, or other methods) at the working or senior level.
6. Officials of the U.S. antitrust agencies and the KFTC may meet periodically to exchange information on their current enforcement efforts and priorities in relation to their competition laws.

SECTION IV

GENERAL PROVISIONS

1. Cooperation under this Memorandum is effective as of the date of its signature.
2. This Memorandum is intended to set forth an advisory framework for cooperation. The U.S. antitrust agencies and the KFTC reserve their full discretion in implementing the Memorandum, and nothing in it is intended to change existing law, agreements, or treaties, or to create rights or obligations under international law or the domestic laws of the United States of America or the Republic of Korea.
3. The U.S. antitrust agencies and the KFTC intend to consult regarding any questions concerning the understanding or implementation of this Memorandum.

Signed at Washington, on the 8th of September 2015, in the English and Korean languages, each in triplicate, both texts being equally official.

FOR THE UNITED STATES
FEDERAL TRADE COMMISSION:

/s/ Edith Ramirez

FOR THE UNITED STATES
DEPARTMENT OF JUSTICE:

/s/ William J. Baer

FOR THE KOREA FAIR TRADE COMMISSION:

/s/ Jeong Jaechan