

DRAFT
Subject to Legal Review for Accuracy, Clarity, and Consistency

[Date]

Dear Minister Kim:

I have the honor to confirm the following understanding reached between the delegations of the United States and the Republic of Korea in the course of negotiations regarding Article 19.4.3 of the United States – Korea Free Trade Agreement, for greater certainty:

Each Party may establish appropriate procedures, consistent with Article 19.4.3, for reviewing communications from persons of a Party on matters related to the Chapter. Article 19.4.3 does not require a Party to establish procedures that duplicate existing channels for reviewing such communications. A Party may limit the scope of any new procedures it establishes to comply with Article 19.4.3 to communications on labor matters in the other Party's territory, provided that the Party has other procedures in place for reviewing communications on other matters related to the Chapter.

The Parties recognize that it is in their mutual interest not to pursue frivolous or meritless communications and to take into account in reviewing any communication whether: (1) the person submitting the communication or any other person has sought relief regarding the matter under pertinent domestic laws of the other Party; (2) the matter is pending before an international body; and (3) the communication is substantially similar to another recent communication regarding the matter.

I would be grateful if you would confirm that your Government shares this understanding.

Sincerely,

Susan C. Schwab

[Reply Letter Forthcoming]