

**MEMORANDUM OF UNDERSTANDING ON
CRIMINAL CARTEL ENFORCEMENT COOPERATION
BETWEEN
THE UNITED STATES DEPARTMENT OF JUSTICE
AND
THE KOREAN PROSECUTION SERVICE**

The United States Department of Justice (“DOJ”) and the Korean Prosecution Service (“KPS”),

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, and noting that sound and effective enforcement of their criminal cartel enforcement 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 criminal cartel enforcement activities between DOJ and KPS may result in more effective and efficient enforcement, and

Recognizing that good communication between the DOJ and the KPS on criminal cartel enforcement 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. DOJ and KPS recognize that it is in their common interest to cooperate in the detection of anticompetitive practices and the enforcement of criminal cartel laws in their respective jurisdictions. For purposes of this Memorandum, such laws are defined as (i) for DOJ, the Sherman Act (15 U.S.C. §§ 1-7), to the extent that it applies to unreasonable restraints of trade, as well as any amendments to this law; and (ii) for the KPS, the Criminal Act, the Criminal Procedure Act and the Monopoly Regulation and Fair Trade Act, as well as any amendments to these laws. DOJ and KPS intend, as appropriate, to share information that facilitates the effective application of those laws and promotes better understanding of each other’s criminal cartel enforcement policies and activities, to the extent compatible with their respective legal systems and important interests and within their reasonably available resources.
2. Where DOJ and KPS are both pursuing criminal enforcement activities with regard to related matters, each intends to consider coordination of their criminal enforcement activities as appropriate.
3. DOJ and KPS each intend, within the framework of their country’s respective laws, and to the extent compatible with their important interests, to give careful consideration to the enforcement objectives and important interests of the other country’s criminal cartel enforcement authority in conducting enforcement activities.

4. As appropriate and to the extent permitted under applicable domestic laws, and with regard to the needs and discretion of each agency, DOJ and KPS each intend to exert best efforts to promptly notify the other about criminal cartel investigations that involve conduct in the territory of the other.
5. It is understood that DOJ or KPS may also seek or provide assistance to one another pursuant to other agreements, treaties, arrangements, or practices applicable to them.
6. DOJ and KPS recognize that it is in their common interest to work together on technical assistance initiatives related to criminal cartel enforcement and policy. With regard to the agencies' reasonably available resources, these initiatives may include such forms of technical cooperation as the agencies decide are appropriate for purposes of this Memorandum.

SECTION II CONFIDENTIALITY

1. DOJ and KPS each understand that neither should 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 DOJ and KPS 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 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. DOJ and KPS intend to keep each other informed of significant criminal cartel policy and enforcement developments in their respective jurisdictions, with an opportunity to comment on these developments, including criminal policy changes proposed by each agency and significant legislative proposals.
2. As appropriate and subject to reasonably available resources, DOJ and KPS intend to exchange experience on the enforcement of their criminal cartel laws.
3. Each agency may request consultations with the other 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 agency intends to consult promptly when so requested, with a view to reaching a conclusion that is consistent with the purpose of this Memorandum.

4. DOJ and KPS 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 DOJ and KPS may meet periodically to exchange information on their current enforcement efforts and priorities in relation to their criminal cartel laws, as consistent with existing law or policy governing disclosure and confidentiality.

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 a framework for cooperation. DOJ and KPS reserve their full discretion in implementing this Memorandum, and nothing in it is intended to change existing laws, 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. DOJ and KPS intend to consult regarding any questions concerning the interpretation or implementation of this Memorandum.

Signed in the English and Korean languages, both texts being equally official.

FOR THE UNITED STATES
DEPARTMENT OF JUSTICE:

FOR THE REPUBLIC OF KOREA
KOREAN PROSECUTION SERVICE:

MAKAN DELRAHIM

YOON SEOK-YOUL

Place: Washington, D.C., United States

Place: Seoul, Republic of Korea

Date: November 17, 2020

Date: November 18, 2020
