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## **PROSPECTS FOR THE U.S.-KOREA FTA ("KORUS FTA") IS KOREA REALLY CHANGING?.... ENOUGH?**

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## Launch of US-Korea FTA Negotiations: An Auspicious Start?

At long last and with great fanfare, the United States and Korea formally announced the launch of free trade agreement (FTA) negotiations in February. The official launch came as a surprise to many long-time Korea watchers who anticipated that Korea would prove either unable or unwilling to make the tough political decisions that would make an FTA launch happen. For those of us who had been working in the trenches of U.S.-Korea trade relations, however, the launch came as a welcome step forward and a reminder of how dramatically the U.S.-Korea trade relationship has changed over the past several years.

Indeed, earlier this year, the Korean Government actively moved forward on many key issues of interest to the United States – the infamous screen quota (under which Korean films had to be shown on every theater 146 days a year) was cut in half, a decision was made to reopen the Korean market to U.S. beef, progress was made on a thorny automotive standards issue, and Korea decided to retrench on certain problematic new policies related to pharmaceuticals. These steps forward are significant. The screen quota, for example, was a long-standing issue that had for some time symbolized the “old” Korea and its system of inappropriately propping up domestic industry. The decision to reduce the quota was made by President Roh himself – and to do it he had to go against the interests of some of his key political supporters. Resolving this issue was meant to show that a “new” Korea is establishing itself on the international scene. These efforts coupled with an earlier strong commitment from the Korean Government to negotiate a comprehensive agreement has now propelled Korea to the forefront on U.S. bilateral trade efforts – stealing the thunder from Japan and other U.S. FTA “wannabe” partners for some time to come.

While this should be viewed as an auspicious start to the FTA, there is no question that there will be significant hurdles on the road ahead. As U.S. and Korean negotiators roll up their sleeves to begin negotiations on what will be the most commercially significant U.S. FTA since NAFTA, a number of questions have come to the fore:

- What are the prospects for success? In the short timeframe available, will negotiators be able to conclude an agreement that is “commercially meaningful” enough to garner support among U.S. industry and the Congress but still be acceptable in Korea?
- Is Korea truly ready to undertake the necessary reforms? Will Korean leaders remain steadfast and public in their support for this agreement, even if protestors take the front stage?
- Is this agreement, indeed “too significant to fail” or is there a chance negotiations could stall as they have in the US-Thai and Korea-Japan FTAs?

## Prospects for Success

### **Key Elements on the U.S. Side**

On the U.S. side, there is widespread recognition that as an FTA partner, Korea represents something akin to “the perfect storm.” Korea is a key trading partner, an important geostrategic ally, and as a general matter enjoys a significant amount of political support from the United States, particularly the U.S. Congress. The commercial/economic benefits that will likely come out of the agreement have been widely reported. Korea is the world’s 10<sup>th</sup> largest economy and is the United States’ 7<sup>th</sup> largest trading partner and 5<sup>th</sup> largest agricultural export market. The FTA will focus on all commercially significant areas of the Korean economy. As such, an FTA with Korea provides a perfect answer to Congressional critics who have complained that the United States has not entered into FTAs with meaningful economic partners.

In the geostrategic arena, Korea cooperates with the United States on key foreign affairs’ priorities and plays an important role in supporting U.S. goals in the Asian region, including related to North Korea. Korea is also an important U.S. ally in the fight against terrorism and was, in fact, the third largest contributor of troops to Iraq after the United States and Great Britain. Clearly these factors came into play as the U.S. Government considered Korea as an FTA partner, and the larger importance of Korea to the United States will be an important factor playing in the background throughout the negotiations and could help propel them to a successful conclusion.

For all of the reasons noted above, there was clear, widespread high-level U.S. Government support for the KORUS FTA when it was launched. To signal that the President, himself, backs the idea of a US-Korea FTA, the White House issued a statement on the day of the launch in which President Bush stated that: “An FTA with Korea will provide important economic, political, and strategic benefits to both countries and build on America’s engagement in Asia.” At the launch ceremony itself – symbolically the first to be held in the U.S. Capitol Building – a large number of U.S. Senators and Congressmen from both political parties were on hand to show support. This kind of high-level involvement in and support for this agreement will be essential for its successful conclusion. However, as some U.S. Government officials have noted, there was significant support for the *launch* of an FTA with Korea, but it remains to be seen whether there will be equal support for the agreement’s *conclusion*.

In this vein, it is important to note that with all the fanfare that accompanied the KORUS FTA, virtually all Administration, Hill, and private sector representatives who have spoken publicly about the FTA have been very careful to include a caveat that, in order it to pass muster in the United States, the agreement must be “commercially meaningful.” It is clear that both U.S. industry and the U.S. Congress have a strong expectation that the KORUS FTA will bring down barriers that past trade agreements/talks have not succeeding in doing and finally resolve long-standing bilateral trade irritants between the two countries.

The U.S. Government has already indicated that it considering seeking commitments from Korea that go beyond U.S. FTA “model text” in areas such as regulatory transparency, pharmaceuticals, and auto and telecommunications standards. The extent to which this agreement is “commercially meaningful” will be directly related to how successful U.S. negotiators are at getting to the root of long-standing issues in these and other sectors. The fact that the

negotiations must be done in a condensed timeframe will significantly complicate negotiators' ability to do so.

An important question has been raised on the U.S. side of the equation is whether expectations are so high that they can never be met – that at the end of the day, Korea will be unable to make the kind of detailed commitments needed to quickly and comprehensively open its market in areas that have historically been closed. Achieving a balance between the ambitious desires of certain political and commercial interests in the United States and Korean officials' perception of what their political and economic limitations are, will be the key challenge of this agreement.

### **The Korean Side of the Equation**

This relates directly to the question of whether Korea is really changing, and if so, if it is changing enough. Yes, Korea is definitely changing. Whether Korea is changing enough to propel the US-Korea FTA to a successful conclusion remains to be seen. Many of the key challenges to this agreement will likely come from the Korean side, and it is important to examine a number of factors that will come into play during the negotiations.

### **Korea and FTAs**

Korea does not yet have a lot of experience negotiating comprehensive FTAs with large partners. To date, Korea has concluded FTAs with Chile, Singapore, and EFTA. The Chile FTA – Korea's first – was quite controversial, particularly within the Korean agricultural community. It took more than a year to negotiate and a very long time to make it through the National Assembly. The final vote still showed 71 out of 271 members not supportive of the pact. Yet despite the heat that the Roh Administration got for entering into this agreement, it not only launched immediately into other FTA negotiations, but also officially embraced the concept that trade liberalization will be good for the Korean economy and the country as a whole. Korea surprised many by setting out a very ambitious "FTA roadmap" plan and has not shied away from launching FTA negotiations with larger countries such as Canada and Japan (although the Korea-Japan FTA negotiations have stalled).

Anticipating that there will be "winners" and "losers" as a result of its FTA policy, Korea has already developed a large, long-term assistance package for its farmers, and is exploring what other kinds of trade adjustment assistance it needs to offer. Last month, the Korea Government announced that it may offer its farming community additional benefits related to pensions, education support, and public housing to help ameliorate the effects of the KORUS FTA. All of these policies and plans have set Korea on a more positive and ambitious trade liberalizing path than others in the region, most notably Japan, and bodes well for the KORUS FTA.

### **What Korea Wants from the Negotiations**

Korea has already noted its intention to put forward a number of controversial requests of the United States related to these negotiations: 1) To include rules related to anti-dumping and countervailing duties (AD/CVD) in the FTA; 2) To agree to consider goods made in the North Korean Kaesong industrial complex as "made in South Korea" for purposes of the agreement; and 3) To include Korea in the U.S. visa waiver program. Related to AD/CVD rules, the United States has never included any new disciplines in these areas in any FTA to date. Furthermore, the Trade Promotion Authority legislation clearly notes that USTR has no mandate to do so.

Regarding goods made in Kaesong, there will be a more-or-less standard “rules of origin” chapter in the KORUS FTA that will dictate what goods will qualify as “made in South Korea” under the agreement. However, voices from the Administration and the Hill have already loudly proclaimed that the Korean Government’s request related to Kaesong is a non-starter, and it is clear that this issue will be decided at a political level. Further complicating what is already a hot issue is that fact that the AFL-CIO has raised labor issues related to Kaesong. In addition, the goods that will be produced in Kaesong in the future include auto parts, textiles, and shoes. It is hard to believe that U.S. industry groups would agree to simplified access to the U.S. market for these goods, particularly given that the disciplines of the KORUS FTA will remain in place long into the future. In sum, the AD/CVD and Kaesong requests from Korea – which have not traditionally been “FTA issues” for the United States – are politically charged and highly sensitive on the U.S. side. Korea’s insistence on their inclusion will cause major problems in the negotiations.

There may be better prospects for Korea getting what it wants related to the visa waiver program. In fact, Korea is already close to meeting the visa waiver program requirements, and when he was in Busan for the APEC summit last fall, President Bush announced that the U.S. Government would work with Korea to develop a “roadmap” to help Korea make the cut. While the United States is unlikely to agree to inclusion of visa issues in the KORUS FTA, chances are good that U.S. negotiators will work to facilitate a parallel process to discuss it. There is, of course, no guarantee that Korea will in the end be able to enter the visa waiver program, but at least there will be joint work started soon with this goal in mind.

What Korean industry wants remains a big question mark in the context of these negotiations. Korea does not yet have a well-established, transparent mechanism for government negotiators to seek input from the Korean private sector on trade agreements. Furthermore, while U.S. industry can freely speak out publicly about its economic goals and comfortably air differences between their desires and those of other stakeholders in the process, there is no such tradition of “going public” in Korea. However, if Korean companies do not focus on what they want out of the agreement and do not come out in public support of it, there will be a significant void in the negotiations. A group of five leading Korean industry organizations, led by the Korea International Trade Association (KITA) has recently come together to develop an outreach strategy related to the FTA, and many are hopeful that this group will get active quickly. If Korean industry comes forward with a list of tariff and non-tariff barriers that it wants to see reduced in the context of the KORUS FTA, that will help take pressure off of Korean negotiators to “get something” on the political front – particularly related to the difficult issues discussed above.

### **Korean “Civil Society”**

There are several other “wild cards” on the Korea side that could significantly affect the outcome of the KORUS FTA negotiations. One is the Korean public – in particular Korean “civil society.” Over the past several months, the Korean Government has repeatedly pointed to public opinion polls that show overwhelming support for a US-Korea FTA. However, in the self-proclaimed “fledgling democracy” of South Korea, pro-reformers are very often silent – even as economic policies resulting in significant harm to their businesses and livelihoods are promulgated – and protestors are given a significant amount of latitude. In my four years working directly with the Korean Government, I noticed a distinct lack of infrastructure for

dealing with dissenting views in Korean policy-making practices. Korean protestors are infamous in their vehemence, and reports of Korean farmers' activism at WTO negotiations were carried throughout the world. If, during the course of the KORUS FTA negotiations, these groups manage to get and maintain center stage in public opinion, overall support for this agreement may significantly drop and the government (especially in light of the fact that there will be a Presidential election at the end of 2007) may be forced to review its stance on the agreement or the more sensitive elements of it.

As expected, protests began before the FTA was even launched, with the Korean screen actors guild and its supporters taking to the streets in protest of the reduction in the screen quota. Notably, a small group of anti-FTA Korean NGOs was the only organization on the Korean side to submit public comments to the U.S. Government related to the KORUS FTA. There are reports that a Korean union group recently tried to flood the White House and Pentagon computer systems by sending in simultaneously timed email messages and that they intend to continue to do so throughout the negotiations.

While these kind of protests came as no surprise, the late March announcement of an anti-FTA coalition of 270 Korean civic groups, including the Korean Confederation of Trade Unions and the Federation of Korean Trade Unions, seems to have raised some alarm bells. Declaring the situation "an emergency," the coalition plans to launch a national campaign against the KORUS FTA – this got front page news in Korea and seems to have had an effect on the discussion of this FTA in Korea Government circles. Certainly, the anti-FTA elements of Korean society are being spurred on by recent nasty public statements against the FTA and President Roh by his former presidential economic advisor as well as the former minister of agriculture. While some of this anti-FTA rhetoric is clearly meant to influence the local elections at the end of May, this may be the start of something that will gain momentum during the negotiations. This is of serious concern.

Korean trade officials have stated that they are spending a significant amount of time in Korea meeting with the public and explaining the benefits of an FTA with the United States. In addition, the Korean Government is considering setting up a special public relations office to deal with opposition to the FTA. The Korean Government as well as Korean industry and other pro-FTA elements of Korean society will need to come out of their shells and become experts of public diplomacy to ensure that protests remain "manageable" and that forward momentum on the KORUS FTA is maintained.

### **Korean Leadership**

One other important question to consider is whether Korea is committed to this FTA at the highest levels, and if so, whether Korean leaders will remain committed throughout what is likely to be a grueling process under heated spotlights. There is no question that Korean leaders, particularly President Roh, will have to take a prominent role during the negotiations — to make tough political decisions to further open the Korean market in areas that will certainly lead to "losers" in certain sectors, to keep protestors under control, and to convince the Korean public that this FTA is in the nation's best interest.

Korean Trade Minister Kim has done an excellent job of helping facilitate the FTA launch on both sides of the Pacific. However, there is no way he will be able to ensure the agreement's

successful conclusion on his own. Already at a recent National Assembly meeting, members criticized the Roh Administration for taking a “hasty approach” to the KORUS FTA. Clearly the President himself is going to need to roll up his sleeves and work to keep passage of this agreement high on his country’s political and economic agenda.

As a matter of course, prior to any FTA launch, the U.S. Government seeks assurances from a potential FTA partner’s head-of-state to ensure that he or she is a strong supporter of the agreement. This was a policy formalized by USTR Robert Zoellick, and given prospects that these negotiations could become very political within Korea, was especially important related to the KORUS FTA. Not only did Roh give U.S. Government officials the assurances they needed, but after being notably quiet about the possibility of a US-Korea FTA, including during the APEC summit held in Korea last year, he has issued a number of surprisingly forward-leaning press statements over the past several months.

Like Bush, Roh has emphasized the geostrategic importance of this agreement stating that one key goal of the agreement from the Korean perspective is to strengthen the alliance with the United States. It is clear that Roh has also decided to link this FTA with some of his Administration’s key domestic goals including spurring economic growth, taming the chaebols, and fighting domestic corruption. Roh has stated that “it is essential that we conclude an FTA with the United States for the future of our economy”... “the Korea-US FTA is a matter of pride for the Korean people.” Further, in a public recognition of the domestic challenges that he is likely to face during the negotiations, Roh has stated that he will not let any one narrow interest group scuttle negotiations of an agreement that will be, in general, of benefit to the country as a whole. President Roh’s continued steadfast commitment to further reform and market opening in Korea, even in the face of growing protests from his own supporters, will be one of the primary factors ensuring short and long-term success of the KORUS FTA.

## **Conclusion**

As is the case with all FTAs, there are many hurdles that must be overcome before the KORUS FTA can be successfully concluded. However, there are several unique challenges that the United States and Korea FTA will have to face. Key of these will be: 1) Whether negotiators can come up with a “commercially meaningful” FTA that is acceptable to both sides; 2) Whether either side will push so hard in sensitive areas that negotiations are brought to a halt; and 3) Whether Korean protestors are going to become the official mouthpiece for this FTA and achieve their ultimate aim of interrupting or even ending negotiations. Negotiations will get difficult and will put a short-term strain on U.S.-Korean relations. That said, the importance of the U.S.-Korea relationship – as trading partners and as political and military allies – should not be underestimated. That will be an important factor in pushing the negotiations forward.

All-in-all, I am cautiously optimistic that negotiators will be able to maneuver these challenges successfully and conclude a commercially meaningful agreement acceptable and beneficial to both sides. I certainly will be one of the ones cheering them on from the sidelines as negotiations begin on June 5.