THE U.S.-KOREA FREE TRADE AGREEMENT NEGOTIATIONS

HEARING

BEFORE THE

SUBCOMMITTEE ON TRADE

OF THE

COMMITTEE ON WAYS AND MEANS
U.S. HOUSE OF REPRESENTATIVES

ONE HUNDRED TENTH CONGRESS

FIRST SESSION

MARCH 20, 2007

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CONTENTS

THE U.S.-KOREA FREE TRADE AGREEMENT NEGOTIATIONS

TUESDAY, MARCH 20, 2007

U.S. HOUSE OF REPRESENTATIVES,
COMMITTEE ON WAYS AND MEANS,
SUBCOMMITTEE ON TRADE,
Washington, DC.

The Subcommittee met, pursuant to notice, at 2:48 p.m., in room 1100, Longworth House Office Building, Hon. Sander M. Levin (Chairman of the Subcommittee), presiding.

[The advisory announcing the hearing follows:]

ADVISORY

FROM THE COMMITTEE ON WAYS AND MEANS

SUBCOMMITTEE ON TRADE

FOR IMMEDIATE RELEASE
March 13, 2007
TR–3

CONTACT: (202) 225–6649

Chairman Levin Announces a Hearing on the U.S.-Korea Free Trade Agreement Negotiations

Ways and Means Trade Subcommittee Chairman Sander M. Levin today announced a hearing on negotiations to complete a free trade agreement between South Korea and the United States. The hearing will take place on Tuesday, March 20, in the main Committee hearing room, 1100 Longworth House Office Building, beginning at 2:00 p.m.

Oral testimony at this hearing will be from invited and public witnesses. Any individual or organization not scheduled for an oral appearance may submit a written statement for consideration by the Committee and for inclusion in the printed record of the hearing.

FOCUS OF THE HEARING:

The purpose of the hearing is to examine ongoing negotiations to conclude a free trade agreement between South Korea and the United States and to assess the state of the negotiations going into their final week.

BACKGROUND:

The Republic of Korea has the tenth-largest economy in the world, with a GDP per capita of over $24,000. Korea is also the United States' seventh-largest trading partner, accounting for over $78 billion of bilateral trade in 2006. United States goods exports to Korea were $32 billion in 2006, while imports were $46 billion, resulting in a $13 billion U.S. goods trade deficit with Korea in 2006. Sixty percent of this deficit reflects the imbalance in U.S.-Korea automotive trade alone. Korea is a major destination for U.S. chemicals, petroleum products, and semiconductor machinery. Korea is a major exporter to the United States of automobiles, semiconductors, and steel. The United States is the largest source of foreign direct investment to Korea.

On February 2, 2006, United States Trade Representative (USTR) Robert Portman and South Korean Trade Minister Kim Hyun-chong announced the countries' intention to negotiate a free trade agreement (FTA). Negotiations began formally in May 2006. The eighth round of negotiations is scheduled to conclude today. Since May 2006, the two sides have reported progress in some areas such as some industrial tariffs, customs administration, some anti-corruption measures, and foreign investment; however, sharp differences remain over trade in autos, pharmaceuticals, and agricultural products and over Korean demands that the United States change its antidumping law. Both sides are still aiming to complete the negotiation before the end of March to comply with deadlines under the Trade Act of 2002.

A free trade agreement with Korea would be the second largest FTA in which the United States is a participant and the largest in which Korea is a participant.

The hearing will focus on the major outstanding issues in the negotiation. These include opening Korea's automotive market, which remains a sanctuary market essentially closed to any significant import competition almost 20 years after Korea lifted its formal ban on imports. Korea's successful import substitution policy, before 1988 and since, has resulted in a market with marginal import penetration of 3.6 percent, virtually all of it concentrated in one segment of the market—luxury sedans—for which there is essentially no competition in Korea. Korea's is the lowest level of import penetration of any major automotive producing economy in the world.

The hearing will also focus on key agricultural benefits of increasing market access for U.S. farmers and also lingering issues such as Korea's largely closed rice market and Korea's repeated efforts to close its market to exports of U.S. beef. Additional issues to be explored will be concerns raised on pharmaceuticals, services, and investment and how the FTA will address these concerns.

DETAILS FOR SUBMISSION OF REQUESTS TO BE HEARD:

Requests to be heard at the hearing must be made by telephone to Katherine Wang at (202) 226–7215 no later than the close of business ***Thursday, March 15, 2007***. The telephone request should be followed by a formal written request faxed to Janice Mays, Chief of Staff, the Committee on Ways and Means, U.S. House of Representatives, 1102 Longworth House Office Building, Washington, D.C. 20515, at (202) 226–0158. The staff of the Committee will notify by telephone those scheduled to appear as soon as possible after the filing deadline. Any questions concerning a scheduled appearance should be directed to the Committee staff at (202) 225–1721.

In view of the limited time available to hear witnesses, the Committee may not be able to accommodate all requests to be heard. Those persons and organizations not scheduled for an oral appearance are encouraged to submit written statements for the record of the hearing in lieu of a personal appearance. All persons requesting to be heard, whether they are scheduled for oral testimony or not, will be notified as soon as possible after the filing deadline.

Witnesses scheduled to present oral testimony are required to summarize briefly their written statements in no more than five minutes. **THE FIVE-MINUTE RULE WILL BE STRICTLY ENFORCED.** The full written statement of each witness will be included in the printed record, in accordance with House Rules.

In order to assure the most productive use of the limited amount of time available to question witnesses, all witnesses scheduled to appear before the Committee are required to submit 200 copies, along with a CD ROM of their prepared statement for review by Members prior to the hearing. **Testimony should arrive at the Subcommittee office, 1104 Longworth House Office Building, no later than close of business on Friday, March 16, 2007.** The 200 copies can be delivered to the Subcommittee staff in one of two ways: (1) Government agency employees can deliver their copies to 1104 Longworth House Office Building in an open and searchable box, but must carry with them their respective government issued identification to show the U.S. Capitol Police, or (2) for non-government officials, the copies must be sent to the new Congressional Courier Acceptance Site at the location of 2nd and D Streets, N.E., **at least 48 hours prior to the hearing date**. **Please ensure that you have the address of the Subcommittee, 1104 Longworth House Office Building, on your package, and contact the staff of the Subcommittee at (202) 225–6649 of its impending arrival.** *Due to new House mailing procedures, please avoid using mail couriers such as the U.S. Postal Service, UPS, and FedEx.* When a couriered item arrives at this facility, it will be opened, screened, and then delivered to the Committee office, within one of the following two time frames: (1) expected or confirmed deliveries will be delivered in approximately 2 to 3 hours, and (2) unexpected items, or items not approved by the Committee office, will be delivered the morning of the next business day. The U.S. Capitol Police will refuse all non-governmental courier deliveries to all House Office Buildings. For questions, or if you encounter technical problems, please call (202) 225–1721.

WRITTEN STATEMENTS IN LIEU OF PERSONAL APPEARANCE:

Please Note: Any person(s) and/or organization(s) wishing to submit for the hearing record must follow the appropriate link on the hearing page of the Committee website and complete the informational forms. From the Committee homepage, *http://waysandmeans.house.gov*, select "*110th Congress*" from the menu entitled, "*Hearing Archives*" (*http://waysandmeans.house.gov/Hearings.asp?congress=18*). Select the hearing for which you would like to submit, and click on the link entitled, "*Click here to provide a submission for the record*." Once you have followed the online instructions, completing all informational forms and clicking "submit" on the final page, an email will be sent to the address which you supply confirming your interest in providing a submission for the record. You ***MUST REPLY*** to the email and ***ATTACH*** your submission as a Word or WordPerfect document, in compliance with the formatting requirements listed below, by close of business **Tuesday, April 3, 2007**. **Finally**, please note that due to the change in House mail policy, the U.S. Capitol Police will refuse sealed-package deliveries to all House Office Buildings. Those filing written statements who wish to have their statements distributed to the press and interested public at the hearing can follow the same procedure listed above for those who are testifying and making an oral presentation. For questions, or if you encounter technical problems, please call (202) 225–1721.

FORMATTING REQUIREMENTS:

The Committee relies on electronic submissions for printing the official hearing record. As always, submissions will be included in the record according to the discretion of the Committee. The Committee will not alter the content of your submission, but we reserve the right to format it according to our guidelines. Any submission provided to the Committee by a witness, any supplementary materials submitted for the printed record, and any written comments in response to a request for written comments must conform to the guidelines listed below. Any submission or supplementary item not in compliance with these guidelines will not be printed, but will be maintained in the Committee files for review and use by the Committee.

1. All submissions and supplementary materials must be provided in Word or WordPerfect format and MUST NOT exceed a total of 10 pages, including attachments. Witnesses and submitters are advised that the Committee relies on electronic submissions for printing the official hearing record.

2. Copies of whole documents submitted as exhibit material will not be accepted for printing. Instead, exhibit material should be referenced and quoted or paraphrased. All exhibit material not meeting these specifications will be maintained in the Committee files for review and use by the Committee.

3. All submissions must include a list of all clients, persons, and/or organizations on whose behalf the witness appears. A supplemental sheet must accompany each submission listing the name, company, address, telephone and fax numbers of each witness.

Note: All Committee advisories and news releases are available on the World Wide Web at *http://waysandmeans.house.gov*.

The Committee seeks to make its facilities accessible to persons with disabilities. If you are in need of special accommodations, please call 202–225–1721 or 202–226–3411 TTD/TTY in advance of the event (four business days notice is requested). Questions with regard to special accommodation needs in general (including availability of Committee materials in alternative formats) may be directed to the Committee as noted above.

Chairman LEVIN. We'll begin. Let me briefly describe the structure of this hearing. We've tried to structure it—I felt strongly about this and I talked to the Ranking Member—to see if we could have a somewhat lively discussion that took on the outstanding issues—and there are a good number of them relating to the U.S.-Korea Free Trade Agreement.

Sometimes hearings tend to be kind of segmented, and I think as a result we don't have enough of a real discussion. So, here's what we're going to do this time. Ambassador Bhatia will go first and give us his opening remarks. We're going to ask everyone to try to keep to 5 minutes except maybe the Ambassador.

Then we'll have the second panel, which is going to focus in on one of the issues that's outstanding. Perhaps the most visible, but there are many—there are several other outstanding issues as well as automotive. This panel will be on automotive issues.

Then the Ambassador has agreed that he'll come back here, having heard that testimony, and be open to questions on what he heard from that panel but everything else, the other issues, the agricultural issues, the service issues, the industrial, the intellectual property issues, and so forth. Then we'll call the panel back, the three who testified on automotive to answer Q&A from the Members here.

Then we'll have the third panel, and if you've seen the list, it covers other outstanding issues. I mentioned them, and there are several others, and then we'll have the Q&A.

We have about 3 hours, I think, before the next vote; it's not sure. The Ambassador has to leave after perhaps an hour-and-a-half, so we'll try to adhere to the 5-minute rule.

So, I'll give an opening statement. Mr. Herger will. Then, Ambassador, if you will, take over.

The negotiation of the U.S.-Korea Free Trade Agreement (FTA) is indeed significant, and I want to underline that. Korea is the United States' seventh largest trading partner and the world's eleventh largest economy. The U.S.-Korea Free Trade Agreement would be the largest and most commercially significant bilateral FTA negotiated by this Administration.

As the Administration completes its eighth round of negotiations, several outstanding issues remain, including services, telecommunications, intellectual property and agriculture; including beef and rice.

That's a lot to chew on. Most challenging is Korea's massive Non-Tariff Barriers (NTBs), to America's industrial products in general and automotive products in particular. Since the outset, Korea has had an economic iron curtain against these products, using a combination of tariffs, taxes and regulations.

The U.S.-Korea Free Trade Agreement is a key test of the approach we take to trade policy. It's a test whether we need to shape the terms of expanded trade or assume, no matter how imbalanced, that leaving it alone to work it out on its own is the best approach. It is a test specifically of whether we will be active or passive in the face of longstanding harmful practices of the Korean government to discriminate against our products in their domestic market. It is also a test of our willingness to stand up for our domestic industry.

Today we will hear compelling testimony on the history of our trade relationship with Korea as I mentioned in the automotive sector. The facts tell a real life story. Korea is the fifth largest producer and the ninth largest consumer automotive market in the world. We now have in our country an $11 billion deficit in auto trade, which is 82 percent of the total deficit between our two countries.

Last year, Korea sold 700,000 vehicles in the United States The United States sold only 4,000 in Korea. The significance of Korea's non-tariff barriers—and I want to emphasize this—even goes beyond this important FTA. If U.S. Trade Representatives (USTR) fails to deal with it decisively it will reinforce the lack of active consideration of NTBs in the World Trade Organizations (WTO) Doha

Round negotiations, which have to date made no real progress on outstanding NTB issues in the entire global trading system.

We know through experience, two previous Korean commitments in Memorandum of Understanding (MOUs), that they were not worth the paper they were written on, what will not work to end these non-tarrif barriers to U.S. exports. We need a very new approach.

At the beginning of March a broad, bipartisan group of legislators, House and Senate, transmitted to the President the specific negotiating position that moves beyond previous negotiating strategies and embarks on such a new approach, the conditions Korea is obtaining addition access to the U.S. market on reciprocal opening of the Korean automotive market.

There are two key components to the bipartisan congressional proposal. The first part addresses the phase out of the 2.5 percent U.S. passenger vehicle tariff and creates a positive incentive for Korea to open its market to U.S. autos. The second part addresses Korea's current non-tariff barriers and creates a mechanism available to all industries for the United States to take action against future non-tariff barriers.

So, far there has been no meaningful movement by the Korean government. It clings to its persistent denial that there has been a government policy to shelter its market, a denial that flies in the face of facts on the ground over the decades. The response by USTR has included so far another form of denial, a denial that Korea cares very much about the 2.5 percent tariff, thereby undercutting U.S. leverage, and a denial that the one-way street will continue to be harmful because it's believed Korea will be shifting far more production to the United States

Since the Korean government has made it clear that the early elimination of the United States. 2.5 percent passenger vehicle tariff is a top priority, I have no idea why we would be conceding any leverage. As I have communicated, and the Ambassador knows, to USTR, a focus of future Korean increases in U.S.-based production is speculative and in any event misses the point.

Increased domestic production will not necessarily result in fewer exported autos from Korea. Just look at the Japanese experience. Over the last 10 years, as Japanese production in the United States has increased, their exports to the United States have doubled from 1.2 to 2.4 million. From 2005 to 2006, Japan exported an additional half a million cars to the United States. Eighty percent were Toyotas. Nearly half of all Toyotas sold in the United States last year were exported to the United States.

It also misses the point that a large portion of the content of Korean cars assembled in the United States comes from Korea, and it also misses the point that the FTA must be structured to assure that the Korean market becomes fully open to U.S. automotive and, I emphasize this, other industrial goods.

Congress cannot do the negotiating to end one-way streets in trade with Korea, but we can make it clear the type of agreement that we can support. My hope is that the message is becoming clear to USTR. We need a shift in negotiating strategy to an active, results-oriented approach that demands and measures commitments by the Korean government. To do less would be to do more of the same, and that should not and cannot result in an FTA acceptable to this Congress in my judgment and to the American people.

Mr. Herger, for your opening statement.

Mr. HERGER. Thank you, Chairman Levin. There's no doubt that the U.S.-Korea FTA negotiations that we are here this afternoon to discuss is a huge opportunity for both of our countries. Korea is the world's tenth largest economy and our seventh largest goods trading partner, with an annual Gross Domestic Product (GDP) rapidly approaching $1 trillion and a per capita income over $20,000.

Bilateral trade between our countries already tops $70 billion. An agreement will reduce trade barriers for export of U.S. services, agriculture and manufactured goods as well as increase IPR protection. Expanded commercial ties will strengthen our political partnership with this critical ally in Northeast Asia. Indeed, USTR has described this FTA as the most significant trade negotiation in the past 15 years.

As we approach the concluding days of these negotiations, Ambassador Bhatia, I know you will not rest unless this huge opportunity translates into a great deal for the United States. To that end, I will make four brief points.

First, Korea needs to put rice on the negotiating table so that our farmers can put their rice on Korean dinner tables. U.S. exports of rice are subject to a harsh quota system and industrial use restrictions in Korea. Of the small amount that even makes it into Korea, the overwhelming majority sits in the food processing warehouses not in retail stores.

This FTA must have comprehensive product coverage including meaningful access for rice. Anything less would be a terrible disappointment.

Second, the U.S. beef industry has worked tirelessly to implement Bovine Spongiform Encephalopathy (BSE) safeguards to ensure the safety of U.S. beef. We know that U.S. beef and beef products are safe regardless of age so long as specified risk materials have been removed, and we expect the international standard will be formally established shortly.

Reports that Korea does not plan to reopen its markets to bone and beef products, notwithstanding scientific evidence, are deeply troubling. Korean officials should commit to implementing the Operational Independent Evaluator (OIE) recommendation instead of using U.S. beef as a negotiating ploy.

Furthermore, I strongly urge USTR to reject out of hand any offer from Korea to allow beef access only in exchange for U.S. abandonment of its rice demands. The exclusion of either rice or beef from this important agreement will risk Congressional passage.

Third, the U.S.-Korea FTA should include a robust investor state dispute settlement mechanism, and I urge the Administration to resist any efforts to limit this vital tool. The model investment provisions that we have developed in prior agreements are essential to preserving the rights of U.S. investors abroad. At the same time, they are well balanced, so that they do not threaten the ability of our Federal or State governments from regulating.

Finally, I remain very concerned about the lack of market access for U.S. autos in Korea. Our market is open with no non-tariff barriers and minimal duty, however Korean duties, taxes and stealthy and pervasive non-tariff barriers created by an opaque and discriminatory regulatory process combine to effectively foreclose market access for our companies. I reject the claim that Koreans just don't like American cars. The very existence of the barriers proves that the Korean industry knows Korean consumers will buy our cars.

That said, we have to carefully consider the right approach to breaking down these barriers on autos. Managing trade through the establishment of market access quotas is not the answer and will create a dangerous precedent that we can't sustain. We must be able to show U.S. automakers and their workers that Korea won't establish disguised trade barriers and will instead utilize transparent regulations and standards. Korea's overtures on this issue thus far have been completely unsatisfactory.

Finally, I would like to welcome Mr. Berton Steir, representing Paramount Farms of California, which is seeking duty-free treatment on pistachios in Korea. Paramount's situation is a prime example of the benefits U.S. interests stand to gain with a robust and comprehensive agreement.

Mr. Bhatia, thank you for appearing before us today. I look forward to your testimony.

Chairman LEVIN. Ambassador, welcome. Take over.

We discussed your time limit is 4:30. I think we can accomplish your testimony, the testimony of the first panel and a chance for all of us to talk with you. Welcome.

STATEMENT OF KARAN K. BHATIA, DEPUTY U.S. REPRESENTATIVE, OFFICE OF THE U.S. TRADE REPRESENTATIVE

Mr. BHATIA. Thank you. Thank you very much Chairman Levin, Ranking Member Herger, distinguished Members of the Committee. I'm really delighted to be able to join you here today to discuss our FTA negotiations with South Korea.

Mr. Chairman, I appreciate your recognition of the time constraints that we're under. This week we have both the Koreans in town to continue the negotiations and obviously a short period of time, so I appreciate that.

However, I wouldn't want to suggest—leave anyone with the impression that, by virtue of the way this hearing has been structured of my being able to be here for the questions after the auto panel, that somehow we place less importance on the other outstanding issues that will be addressed in the third panel.

I want you to know that we will certainly have people here to witness that third panel, and I want you to know that I personally have met with many members of the third panel as well, and I just leave that out there.

It has been a little more than a year since our FTA negotiations were launched here on Capitol Hill with strong bipartisan support. Today, 13 months later, we are nearing the end of the negotiating process. While a number of critical issues remained outstanding, it's our hope that those issues can be resolved and that by the end of this month we will be in a position to notify Congress of our intent to sign the Korea-U.S. Free Trade Agreement.

Let me start with a brief word of background about South Korea for the panel. As many of you may know, 40 years ago Korea was among the poorest countries in Asia. It possessed a largely agricultural economy and a per capita GDP barely over $100. Politically, from the period following the Korean war until the late eighties, it was ruled by a string of authoritarian governments.

Today, after a period of extraordinary economic growth, Korea is the world's 11th largest national economy with approximately a trillion dollars in GDP. Its economy is diversified and dynamic. It is the world's 11th largest import market. It is our seventh largest trading partner and seventh largest export market, and it's also one of our faster growing major trading partners with U.S. goods exports to Korea growing by approximately 17 percent last year.

Korea today enjoys a vigorous, multi-party democracy, strong public participation in its political system, strong labor unions and an independent judiciary.

I would also note that we and Korea, the U.S. and Korea, enjoy a close military relationship. We have been strong partners in the war on terrorism and have been working closely together to promote a safe and secure Korean Peninsula.

Against that backdrop, let me briefly outline the benefits that I believe the U.S. potentially stands to reap from a high quality, comprehensive, free trade agreement with South Korea. From an economic perspective, the U.S.-Korea FTA offers us an opportunity to grow our already significant bilateral trade and investment relationship.

Just to place that relationship in perspective, the $78 billion in bilateral goods trade that we currently have with Korea is more than 70 percent of the total bilateral trade that we enjoy with all 10 trading partners with whom we have implemented FTAs since 2000 combined. That's the case even though Korea's current average tariff for industrial goods is approximately 7 percent and for agricultural products is approximately 52 percent.

So, when you think about the greater market access that would accrue under an FTA, under which U.S. exports would be expected to grow significantly, one can see the benefits that could potentially accrue from the U.S.-Korea FTA. Studies have estimated that the potential income gains to the U.S. economy from the FTA range from $17 billion to $43 billion.

However, the benefits for the United States would go beyond market access. The FTA would also eliminate trade distorting barriers to investment and increase the protections enjoyed by American investors in Korea, strengthen intellectual property rights of American innovators, address anti-competitive business conduct, reduce non-tariff barriers and enhance the transparency of the Korean regulatory system.

By establishing a stronger economic relationship, a KORUS FTA would also broaden and modernize our strategic alliance with Korea. It will help ensure that the U.S. partnership with Korea, which has been centered on defense ties for more than half a century, remains a vital force for stability at a time of change and challenge on the Korean Peninsula and in the broader Northeast Asia region.

Now it bears noting that the KORUS FTA would offer a unique preferential advantage to American companies doing business in the Korean market at a time when many of our global competitors are actively seeking to lock up East Asia's fast growing economies into economic relationships that exclude the United States and U.S. firms.

It's worth reflecting for a moment on that trend. Today there are 176 free trade agreements in existence in the Asia-Pacific region alone and many more either under consideration or negotiation. China, Japan, India and the European Union (EU), among others, have concluded or are actively pursuing FTAs with East Asian trading partners. A number of these FTAs unfortunately do not constitute high standard, comprehensive FTAs of the variety that the United States negotiates.

They do however afford preferential trading positions to the companies of those countries and do have the effect of placing U.S. businesses, workers and farmers at a relative disadvantage in accessing fast-growing East Asian markets. One potential effect of this web of arrangements is to encourage U.S. companies seeking to compete in these markets to relocate production to those countries.

Now against that backdrop, I would submit, the KORUS FTA takes on added significance. To date we have concluded two East Asian FTAs with Singapore and Australia, important but smaller economies in this important region. A successful FTA with Korea could provide an important boost to U.S. efforts to remain an active economic presence in a strategically vital region that accounted last year for over 37 percent of total world GDP, 26 percent of global trade flows and 29 percent of U.S. exports. It would establish a model that we believe could be replicated with other East Asian economies and could help us expand trade liberalization throughout the region.

Let me finally turn briefly to the status of the KORUS negotiations. As the Chairman mentioned, we have concluded eight rounds of negotiations. I am pleased to report that the most recent round in Seoul did result in good progress with the successful closing of competition, government procurement and customs chapters and important progress in areas including investment, market access, telecommunications, services generally and financial services in particular.

A group of Korean negotiators, as I mention, is in Washington this week to continue work toward resolution on the outstanding issues. Let me be clear. A final agreement has not yet been reached. Significant issues remain in a number of chapters, but I do believe that there is a strong commitment on both sides to work hard in the time remaining to conclude a high quality, comprehensive, balanced and ultimately successful FTA.

While I'd be happy to discuss the elements of a successful FTA in greater detail during the Q&A period, let me just identify a few elements up front, including the following. First, a unique and unprecedented array of strong, enforceable commitments designed to level the playingfield for American auto manufacturers seeking to access the Korean market, a strong agricultural market access package that affords America's farmers and ranchers greater access to Korea's agricultural markets, a strong industrial good market access package that affords America's manufacturers, consumers and industrial goods greater access to Korea's market, a strong investment chapter that contains key protections for American companies seeking to invest in Korea, a strong pharmaceutical chapter that ensures Korea's pricing and reimbursement system for drugs and devices is transparent, non-discriminatory and promotes access to innovation, a strong services chapter that ensures American services suppliers can compete in the Korean market on a level playingfield in a wide range of sectors, and strong chapters on labor and the environment.

In sum, Mr. Chairman, I believe this FTA offers us the opportunity to establish a unique relationship, a partnership with one of the world's fastest growing and most dynamic economies while solidifying our competitive presence in Asia. We are working hard in the time remaining to achieve this outcome by concluding a fair, comprehensive and strong agreement that will significantly benefit American workers, farmers, manufacturers and service providers.

Thank you.

[The prepared statement of Mr. Bhatia follows:]

Testimony of Deputy U.S. Trade Representative Karan Bhatia

House Ways and Means Trade Subcommittee

"U.S. – Korea Free Trade Negotiations"

March 20, 2007

Introduction

Chairman Levin, Ranking Member Herger and distinguished committee members, I am delighted to be able to join you today to discuss our Free Trade Agreement (FTA) negotiations with South Korea.

It has been a little more than a year since FTA negotiations were launched – here on Capitol Hill – with strong bipartisan support. Today, 13 months later, we are nearing the end of the negotiating process. While a number of critical issues remain outstanding, it is our hope that those issues can be resolved and, by the end of this month, we will be in a position to notify Congress of our intent to sign the Korea-United States ("KORUS") Free Trade Agreement.

Background on Korea

First, a word of background about South Korea and the extraordinary changes that country has witnessed over the past four decades. Forty years ago, Korea was among the poorest countries in Asia, possessing a largely agricultural economy and per capita GDP barely over $100. It ranked as the world's 46th largest import market. Politically, from the period following the Korean War until the late 1980s, Korea was ruled by a string of authoritarian governments.

Today, after an extraordinary period of economic growth, Korea is the world's 11th largest national economy, with $1 trillion GDP. Its economy is diversified and dynamic and has grown at an average rate of 4.6 percent over the past six years. With a population of nearly 49 million people, per capita GDP last year exceeded $24,000. South Korea is today the world's 11th largest import market, the United States' seventh largest trading partner, and our seventh largest export market. While Korea had a bilateral trade goods surplus of $13.4 billion and services trade deficit of $4 billion with the United States last year, it is also one of our faster growing major trading partners, with U.S. goods imports from Korea growing by 4.6 percent last year, and U.S. goods exports to Korea growing by almost 17 percent. It may also be worth noting that the United States has fallen from Korea's largest trading partner three years ago to its third largest partner today.

Korea today enjoys a vigorous multiparty democracy, strong public participation in its political system, strong labor unions, and an independent judiciary. While the transition to democracy has, in some ways, tested the U.S.-Korea political and strategic partnership, our alliance with Korea remains strong. Today, the U.S. and South Korea enjoy a close military relationship, have been strong partners in the war on terrorism, and have been working closely together to promote a safe and secure Korean Peninsula and Northeast Asia.

Benefits of KORUS FTA

Against that backdrop, let me briefly outline the benefits that the United States potentially stands to reap from a high-quality, comprehensive FTA with South Korea.

From an economic perspective, the U.S.-Korea FTA offers us an opportunity to grow our already significant bilateral trade and investment relationship. Just to place that relationship in perspective, the $78 billion in bilateral goods trade we currently have with Korea is more than 70 percent of the total bilateral trade that we enjoy with all 10 trading partners with whom we have implemented FTAs since 2000 ($110 billion). Annual U.S. exports to Korea are more than double the $35 billion in exports to our six CAFTA/DR partners. And that's the case even though Korea's current average tariff for industrial goods is 7 percent and for agricultural products is 52 percent.

With the greater market access that would accrue under an FTA, U.S. exports can be expected to grow significantly. So too would the benefits reaped by U.S. businesses and consumers with greater access to Korean products. Studies have estimated that the potential income gains to the U.S. economy from a KORUS FTA range from $17 billion to $43 billion.

However, the benefits for the United States would go beyond market access. The FTA would also eliminate trade-distorting barriers to investment and increase the protections enjoyed by American investors in Korea, strengthen the intellectual property rights of American innovators, address anti-competitive business conduct, reduce non-tariff barriers, and enhance the transparency of the Korean regulatory system. It would also result in improvements in the regulatory operating environment in Korea, and would establish institutions – ranging from sector-specific government-to-government committees to formal dispute settlement mechanisms – to head off and deal with problems that might arise in the future.

By establishing a stronger economic relationship, a KORUS FTA would also broaden and modernize our strategic alliance with Korea. It will help ensure that the U.S. partnership with Korea – which has been centered on defense ties for more than half a century -- remains a vital force for stability at a time of change and challenge on the Korean peninsula and in the broader Northeast Asia region.

The Importance of the KORUS FTA to the U.S. Position in East Asia

It bears noting that the KORUS FTA would offer a unique preferential advantage to American companies in the Korean market, at a time when many of our global competitors are actively seeking to "lock-up" East Asia's fast growing economies into economic relationships that exclude the United States and U.S. firms. It is worth reflecting on this trend.

Today, there are 176 free trade agreements in existence in the Asia Pacific region alone, and many more either under negotiation or consideration.

- China already has an FTA with ASEAN that covers goods, and a comprehensive services FTA between the two parties will enter in to force in July. In addition, the Chinese are actively negotiating or have proposed FTA discussions with, among others, Korea, Japan, India, Australia, New Zealand, the GCC, Pakistan, and the South African Customs Union.

- Japan has concluded FTAs with Singapore, Malaysia and the Philippines, and is considering engagement with the major players within Asia.

- India has implemented FTAs with Thailand, Singapore and Sri Lanka and, as the aforementioned facts indicate, is actively entertaining discussions with the region's larger economies.

- Demonstrating that the interest in establishing trade deals in Asia is not limited to the region itself, the EU is actively courting partners that include China, India and, yes, Korea.

- We are witnessing efforts to construct an exclusive Asia Pacific regional free trade bloc – so-called ASEAN +3 or +6 arrangements.

A number of these FTAs unfortunately do not constitute high standard, comprehensive FTAs of the variety that we have negotiated. However, they do afford preferential trading positions to the companies of these countries, and do have the effect of placing U.S. businesses, workers, and farmers at a relative disadvantage in accessing fast-growing East Asian markets. One potential effect of this web of agreements is to encourage U.S. companies seeking to compete in these markets to relocate production to those countries.

Against this backdrop, the KORUS FTA takes on added significance. To date, the United States has concluded two East Asian FTAs – with Singapore and Australia, important but smaller economies – in this critically important region. A successful FTA with Korea could provide an important boost to U.S. efforts to remain an active economic presence in a strategically vital region that accounted last year for over 37 percent of total world GDP, 26 percent of global trade flows, and 29 percent of U.S. exports. A KORUS FTA would establish a model that we believe could be replicated with other Asian economies, and could help us expand trade liberalization throughout the region.

By contrast, any let up in focus that results in our inability to complete agreements with major emerging-market economies like South Korea could have unfortunate consequences. It would likely result in a shift of the region's attention from strengthening their relationships with the United States to doing deals with other major trading partners.

Update on Negotiations

Let me finally turn briefly to the status of the KORUS negotiations. We have concluded eight rounds of negotiations. I am pleased to report that the most recent round in Seoul resulted in good progress, with successful closing of Competition, Government Procurement and Customs chapters, and important progress in areas including Investment, Market Access, Telecom, overall Services, and Financial Services.

A small group of Korean negotiators is in Washington this week to continue to work towards resolution of the outstanding issues.

To be clear: A final agreement has not been reached. Significant issues remain in a number of chapters. But I believe there is strong commitment on both sides to work hard in the time remaining to conclude on a high-quality, comprehensive, balanced and ultimately successful FTA.

While I would be happy to discuss the elements of a successful FTA in greater detail during the questions and answer period, let me identify just a few up front, including:

- A unique and unprecedented array of strong, enforceable commitments designed to level the playing field for American auto manufacturers seeking to access the Korean market;
- A strong agricultural market access package that affords America's farmers and ranchers greater access to Korea's agricultural markets;
- A strong industrial goods market access package that affords America's manufacturers of consumer and industrial goods greater access to Korea's market;
- A strong investment chapter that contains key protections for American companies seeking to invest in Korea;
- A strong services chapter that ensures American service suppliers can compete in the Korean market on a level playing field in wide range of sectors; and
- Strong chapters on labor and the environment.

Conclusion

The KORUS FTA offers us the opportunity to establish a unique relationship – a partnership – with one of the world's fastest growing and most dynamic economies, while solidifying our competitive presence in Asia. We are working hard in the time remaining to achieve this outcome by concluding a fair, comprehensive and strong agreement that will significantly benefit American workers, farmers, manufacturers, and service providers.

Thank you.

Mr. LEVIN. Thank you, Ambassador. All right. We'll now, according to the procedure outlined ask Steve Biegun, the vice president of international government affairs, Ford Motor Company; Steve Collins, president of the Automotive Policy Trade Council and Allen Reuther, the legislative director for the United Automobile Workers if you'll come forth. As is always true your full statement will be placed in the record, and if you could try to sum up your testimony within 5 minutes.

Welcome. Welcome. I guess we're going alphabetically. That's an advantage of Biegun starting with a B. Welcome, and please proceed.

STATEMENT OF STEPHEN E. BIEGUN, VICE PRESIDENT OF INTERNATIONAL GOVERNMENTAL AFFAIRS, FORD MOTOR COMPANY

Mr. BIEGUN. Thank you, Mr. Chairman. My name is Steve Biegun and I'm a vice president with Ford Motor Company. I'd like to thank you, Ranking Member Herger and the other Members of the Subcommittee for the opportunity to testify today on this crucially important issue. On behalf of the entire Ford Motor Company, I would also like to thank all of you for the close scrutiny you give to these trade issues, which are hugely consequential for the American automotive industry.

Ford Motor Company is a world leader in the manufacturing and sale of automotive products with 280,000 direct employees worldwide and over 100,000 employees here in the United States. We have a long and proud history. Founded in 1903, we actively compete in over 200 markets worldwide and our brand is among the most recognized and respected around the globe.

Ford has been operating in South Korea since 1995. Today we have one dealership. We have 14 showrooms and 24 service centers countrywide selling both the Ford and Lincoln models of our cars. The majority of the vehicles that we sell in South Korea are manufactured in the United States of America.

Unfortunately today, after 12 continuous years of effort and investment, Ford Motor Company sells less than 1,700 vehicles per year in South Korea. That's fewer vehicles than we sold a decade ago and the equivalent number of vehicles that we sell in a single year at an average dealership in northern Virginia.

Why is this the case? Is it the quality of the imported cars? We have done a comparison of quality among the imports and the Korean-made vehicles and found that case by case the quality of imports equals or exceed the Korean vehicles in the Korean market.

Is it the cost? Certainly the Korean tax and tariff structures are specifically designed to make imports more costly. Still this cost is not enough to explain the relative absence of imported vehicles.

Are Korean consumers so particular that they prefer a different mix or type of vehicle than U.S., European and Japanese customers? Again, we have done side by side comparison of the major volume vehicles sold in the South Korean market today, and we found that in every case there is a comparable and better non-Korean choice available on the global marketplace.

Or is there something more insidious occurring, something that keeps imports out of the market? Now let me be clear from the start. Ford Motor Company supports trade liberalization. We have supported every single free trade agreement negotiated by the United States Government since this process began in the sixties. In fact, our industry provided the original impetus for United States free trade policy. When joined by General Motors and Chrysler, we successfully pushed for the U.S.-Canada Auto Pact in 1965. This free trade agreement with our close ally and neighbor Canada became the foundation for the U.S.-Canada Free Trade Agreement, which itself soon expanded to become the North American Free Trade Agreement.

Mr. Chairman, as much as the United States automobile industry has supported open, global trade in our products, there are some competitors who are noteworthy exceptions to this rule. The government of Japan has, for decades, kept tight restrictions on those who sought to invest in the Japanese automotive industry and they virtually blocked the entry of imports for quite a long time.

While today with the Japanese industry so well developed that it is a market that is difficult to penetrate for other reasons, the Japanese government still provides large scale assistance to its automotive exporters by keeping the value of the yen deeply discounted to provide a price advantage over U.S.-built vehicles in our own market.

However, as bad as Japan's history has been on automotive trade issues, it does not hold a candle to the record of the Korean government. While I spoke earlier about Ford's lack of access into the Korean market, it's important to note that we are not alone. Let me emphasize this point. No manufacturer from any country can make significant sales into the Korean market, not Ford, not General Motors, not Toyota, not Volkswagen, nobody can get significant vehicles into this market.

While total import penetration into the Korean market remains low, Korean manufacturers today freely export 70 percent of their own production around the globe including into this market. In 2006 alone Korean auto producers exported 700,000 vehicles into the United States while we in turn exported 4,000 into Korea. As a result, and to no one's surprise, 80 percent of the $13 billion U.S. trade deficit with South Korea is automotive products.

Real market access for imported vehicles into Korea is prevented not by price, quality or consumer preference but by an elaborate layering and ever changing presence of non-tariff barriers that work effectively to block our products. The witness to my left, Mr. Collins, will get into a little bit more detail on that, so I won't repeat what he's going to say in a moment.

Mr. Chairman, I stated at the outset that Ford Motor Company supports free trade. I suppose we may be old fashioned though in one respect. When our government negotiates a free trade agreement we want the other party in the negotiation to support free trade too. Nothing in Korea's approach to this negotiation suggests to the automobile industry that the Korean government has the slightest intention to open the market to our products.

U.S. manufacturers proposed early on in these FTA negotiations a non-traditional approach to gain real, sustained and meaningful access to the Korean market. We are convinced a traditional approach simply will not work. The method we propose would place the burden on Korea to first open its market and identify the techniques it has used to block imports and then come up with the solutions.

In the past, it's felt a bit like the old arcade game Wac-A-Mole. New regulations pop up each time we whack one down. I would hope the United States Trade Representative has had enough of that game and will insist that the Korean government come up with solutions, remove the obstacles and allow consumers in Korea the same full range of choices that the American consumer has.

In short, the Koreans broke their market and it's their responsibility to fix it. Earlier this month, a letter from several Members of Congress was sent to the President, a bipartisan group of 15 Members proposed an innovative and thoughtful approach on dealing with the longstanding issue of lack of market access. We fully support this proposal.

While press accounts suggest that automotive trade issues have been put off virtually to the end of this negotiation, the possibility of finding an agreement on this vitally important issue does not appear to be promising. Korean government representatives deny that any steps are currently being taken to impede imports into their market, a statement that is on its very face ludicrous.

Mr. Chairman, the United States automobile industry is in the midst of a difficult restructuring. We have made painful decisions to shed jobs and idle plants in order to become more competitive and restore profitability to our business in the face of tough competition.

Yet you have not heard us ask for protectionist policies to close off opportunity for anyone in our market. To the contrary, all we ask is the same level of access to their market. The United States passenger car market is today the most free and open in the world. Anyone can do business here. As a company that operates and competes in 200 markets globally, Ford sees the real and tangible benefits of such policies.

Free trade lowers transaction costs. It improves efficiency and enables us to more effectively meet the demands of our customers here in the United States and abroad. However, free trade must truly be free, not encumbered by the layers of restrictions that are set up only to protect domestic industries. That is why we are hopeful that this negotiation, our last best chance, will result in real and meaningful market access for American automotive products in Korea. If it does not, then it is our view that it should not be approved.

Thank you, Mr. Chairman.

[The prepared statement of Mr. Biegun follows:]

March 20, 2007

Testimony before the Committee on Ways and Means, Subcommittee on Trade on the Status of Negotiations on the United States-Republic of Korea Free Trade Agreement

Stephen E Biegun
Vice President, International Governmental Affairs
Ford Motor Company

Chairman Levin, ranking member Herger, and members of the Subcommittee, thank you for the invitation to provide testimony today to discuss Ford Motor Company's views on the US-Korea Free Trade Agreement. On behalf of the entire Ford Motor Company I also thank you for the strong commitment you have shown on trade issues that are hugely consequential for the United States automotive industry.

Ford Motor Company is a world leader in the manufacturing and sale of automotive products with 280,000 employees worldwide and over 100,000 employees here in the United States. We have a long and proud history. Founded in 1903, we actively compete in over 200 markets worldwide and our brand is among the most recognized and respected around the globe.

Ford has been operating in South Korea since 1995 and today has 2 dealerships with 16 showrooms and 35 service centers countrywide selling both the Ford and Lincoln brands. The majority of vehicles sold by Ford in Korea are built in the United States. Our number one selling vehicle in Korea is the Ford 500 (soon to be known as the Taurus) assembled at our Chicago assembly plant. We also sell the Ford Explorer, Escape, Mondeo, Freestyle, Mustang and Lincoln models.

South Korea is an important automotive market with annual sales of over 1 million vehicles, ranking it 9^{th} in overall in size just behind Canada and India. For that reason, Ford Motor Company has dedicated sizable resources over the past 12 years to try to expand our presence in this market.

Unfortunately, today after 12 years of continuous effort and investment, Ford Motor Company sells less than 1,700 vehicles a year in South Korea. That is fewer vehicles than we sold a decade ago and equivalent to the number of vehicles we sell in single year in an average dealership in Northern Virginia.

Why is this the case? Is it the quality of imported cars? We have done a comparison of quality among imports and Korean made vehicles and found that most equal or far exceed Korean quality.

Is it the cost? Certainly the Korean tax and tariff structure are specifically designed to make imports more costly, but still this is not enough to explain the low level of imports.

Are Korean consumers so particular that they prefer a different mix or type of vehicle than US, European or Japanese customers? Again, we have done a side-by-side comparison of the major volume vehicles sold in the Korean market today and we found that in every case there is a comparable – and better – non-Korean choice available on the global market.

Or is there something more insidious that is occurring in the Korean market to keep exports out?

Understanding issues like this is one of my responsibilities at Ford. With the able assistance of an international team co-located with Ford's manufacturing presence around the world – and led from Washington, DC, -- my group monitors, analyzes and participates in negotiations involving multilateral, regional and bilateral free trade agreements, and trade preferences. We are closely engaged in negotiations around the world – many of which are between two or more third-party markets and do not involve the United States government.

Let me be clear from the start – Ford Motor Company supports trade liberalization. We have supported every free trade agreement negotiated by the United States government since this process began in the mid-1960s. In fact, our industry provided the original impetus for United States free trade policy when, joined by General Motors and Chrysler, we successfully pushed for the US-Canada Auto Pact in 1965. This free trade agreement, with our close ally and neighbor in Canada, became the foundation for the US-Canada Free Trade Agreement, which itself soon expanded to become the North American Free Trade Agreement. Contrary to popular belief, NAFTA has proven to be a success in expanding trade and investment in the auto sector in all three countries and bolstering the health of automobile manufacturers in Canada, Mexico and the United States.

Beyond NAFTA, it is worth noting that Ford – as well as General Motors and Daimler Chrysler – has endorsed every free trade agreement negotiated by the United States since then. As global companies, it is our confirmed belief that the very best business conditions exist when trade barriers and tariffs are removed – allowing for the free flow of goods and services. These conditions permit the development of a healthy and efficient business, and they are proven to produce a customer base that is gainfully employed, upwardly mobile and able to make rational choices about purchases such as the vehicle they will drive.

Mr. Chairman, as much as the United States automobile industry has supported open, global trade in our products, there are some competitors who are noteworthy exceptions to this rule. The government of Japan for decades kept tight restrictions on those who sought to invest in the Japanese industry, and virtually blocked the entry of imports. While today, with the Japanese industry so well developed that the market is difficult to penetrate for other reasons, the Japanese government still provides large scale assistance to its automotive exporters by keeping the value of the yen deeply discounted to provide price advantage over US built vehicles in our own market.

As bad as Japan's history has been on automotive trade issues however, it does not hold a candle to the record of the Korean government. While I earlier spoke about Ford's lack of market access into the Korea market, we are not alone. Today, Korea ranks 30th out of 30 among the largest automotive markets in terms of import market access. The average import market access among OECD countries is approximately 40%. In 2006, a total of approximately 40,000 import vehicles from manufacturers in all countries entered a Korean market of over one million new sales -- around 3.6% market share for the importers.

Let me emphasize this point. No manufacturer from any country can make significant sales into the Korean market. Not Ford, not General Motors, not Toyota, not Volkswagen – nobody.

And while total import penetration into Korea remains low, Korean manufacturers freely export 70% of their production around the globe including into the US market.

In 2006 alone, Korean auto producers exported 700,000 vehicles into the US while US auto companies exported 4,000 vehicles into South Korea. As a result, and to no surprise, over 80% of the $13 billion US trade deficit with South Korea is in automotive products.

The US government has not been disengaged from the issue of auto market access into Korea, in fact far from it. In 1995, in response to objections from the US auto industry about the problems with market access, the US government negotiated and signed a Bilateral Trade Agreement (MOU) with South Korea in an attempt to deal head on with the issue of non-tariff barriers (NTBs). A second auto agreement was negotiated and signed in 1998. The intent of both agreements was clear, to deal with the persistent nature of South Korean NTBs and substantially increase the market access for import vehicles. Unfortunately, despite great attention and effort, the real effects of the agreements were minimal and real market access into South Korea continued to be denied to importers.

Real market access for imported vehicles into Korea is prevented not by price, quality or consumer preference but rather by an elaborate layering and ever changing presence of non–tariff barriers (NTBs) that work to effectively set up barriers to imported products.

Non-tariff barriers in Korea take three forms, regulations and certification, tax structure and, anti-import bias. Korea's automotive safety and environmental regulations and certifications are often non-transparent and out of sync with international standards. Vehicle taxes, while burdensome, are also discriminatory in that they are structured in a way that disproportionately affects US vehicles. And finally, anti-import bias, actively supported by Korea's public and private sector, works to encourage consumers to embrace nationalism and shy away from import products.

Mr. Chairman, I stated at the outset that Ford Motor Company supports free trade, but I suppose we may be old fashioned in one important respect. When our government negotiates a free trade agreement we want the other party in the negotiation to support free trade too. Nothing in Korea's approach to this negotiation – nor to the negotiations in 1995 and 1998 – suggests to the automobile industry that the Korean government has the slightest intention to open their market.

Given Korea's status as a major global automotive player, its closed market to imports and the long history of unsuccessful US efforts to gain import access to the market, the US auto industry believes that these FTA negotiations are our last best chance to achieve real and meaningful results in Korea. At the same time, we will not be satisfied with yet another hollow promise for market access. We need a new approach.

US manufacturers proposed early on in these FTA negotiations, a non-traditional approach to gain real, sustained and meaningful access into the South Korean market. We are convinced that a traditional approach that attempts to negotiate around the edges of current NTBs -- as was the case in 1995 and 1998 -- will not have meaningful results for our industry. That method places the burden on Korea's trading partners to first identify the techniques used to block imports and then to come up with the solutions.

This is like the old arcade game of Wac-a-Mole – new regulations pop up each time we whack one down. I would hope the United States Trade Representative has had enough of that game, and will insist that the Korean government come up with solutions, remove the obstacles to imports, and allow the Korean consumer the same, full range of choices that the American consumer has. In short, the Koreans broke their market, and only they know how to fix it.

Specifically we have proposed that Korea immediately eliminate its 8% auto tariff and eliminate all of its NTB's. Furthermore, preferential tariff reductions into the US for Korean vehicles would occur only after meaningful and sustained market access was achieved in Korea. By tying US market preference to real market access into Korea, we are creating the right incentives for Korea to eliminate, and then not reinstitute, new NTBs.

Earlier this month a letter concerning the US-Korea FTA negotiations was sent to the President by a bipartisan group of 15 members of the House and Senate. Ford Motor Company believes that this letter contains an innovative and thoughtful approach to dealing with the longstanding issue of lack of market access for our products in the Korean market.

While press accounts suggest that automotive trade issues have been put off until the end of this negotiation, the possibility of finding agreement on this vitally important issue does not appear promising. Korean government representatives deny that any steps are taken to impede imports – a statement that on its very face is ludicrous.

Mr. Chairman, the United States automobile industry is in the midst of a difficult restructuring. We have made painful decisions to shed jobs and idle plants in order to become more competitive and restore profitability to our business in the face of tough competition. Yet, you have not heard us ask for protectionist policies to close off opportunity for importers in the US market. To the contrary, all we ask is the same level of access to their markets.

The United States passenger car market is today the most free and open in the world – and anyone can do business here. As a company that operates and competes in 200 markets globally Ford sees the real and tangible benefits of such policies. Free trade lowers transaction costs, improves efficiency and enables us to more cost effectively meet the demands of our customers here in the US and abroad. But free trade must truly be free, not encumbered by the layers of restrictions that are set up only to protect domestic industries. That is why we are hopeful that this negotiation, our last best chance, will result in real and meaningful market access for our products into Korea. If it does not, then it should not be approved.

Thank you

Chairman LEVIN. Thank you very much.
Mr. Collins.

STATEMENT OF STEPHEN J. COLLINS, PRESIDENT, AUTOMOTIVE TRADE POLICY COUNCIL

Mr. COLLINS. Thank you, Mr. Chairman. Mr. Chairman; Mr. Herger, Ranking Member; Members of the Committee, I am Stephen Collins, the president of the Automotive Trade Policy Council, and I appreciate the time to talk this afternoon about the importance also of automotive trade issues during the U.S.-Korea FTA.

I am testifying today on behalf of our member companies, General Motors Corporation, Ford Motor Company, and DaimlerChrysler, whose views I am representing here today. I want to make a few general comments in opening.

Number one, U.S. auto companies have supported U.S. trade liberalization initiatives by Republican and Democratic Administrations for decades. This includes all the bilateral FTAs that have been presented to this Congress and previous congresses since 2000. Association of Tin Producing Countries (ATPC) and our companies hope to see the U.S. reach a strong, solid and credible agreement with Korea that will eliminate all tariff and non-tariff barriers and allow U.S. auto companies to fully participate in that market.

Number two, as has been noted, and if you would look at the chart there, it's very clear. Auto trade is the huge factor in our trade relationships. It's 82 percent of the deficit with Korea. That's up from 35 percent 5 years ago. It's $11 billion. It's 30 percent of Korea's exports to the U.S. It is the biggest traded product. Therefore, by itself, that defines a major degree of attention. It's also now become a huge problem that is unresolved, one with a week and a half to go in this negotiation.

The Korean government however has created this problem, and it is the Korean government that has the responsibility and is the party that has to resolve this. The U.S. auto industry has earned a seat at this table for this discussion. In simple numbers, U.S.-Korean auto trade is so lopsided that it cannot be seriously justified by any credible, objective economic or market-based rationales.

I'd like to you look in your material there on chart number two. Chart number two shows that this is not just a U.S. issue, that—if you look at it, it will show—these are the sales—it's in your packet as well—of all foreign cars from Japan and Europe in Korea and the U.S. in Korea last year. It shows that nobody is doing well in Korea. There is no automaker that is selling in serious numbers in Korea.

Korea unacceptably and unjustifiably restricts sales of foreign automobiles across the board. Next, I want to say that U.S. auto companies have worked together with USTR for a decade. We have been at this for over 10 years to deal with this huge blot on our country's trade relationship, and we have not together been able to succeed in opening the Korean market.

All past efforts including two bilateral U.S.-Korea auto agreements in 1995 and 1998 have failed to open that market although negotiated in good faith. So, we have to try something different. I'd like to explain our position briefly.

The position of ATPC is—well, first I'd like to say we understand there have been some mischaracterizations both in Seoul and here in Washington about what we are asking for and seeking in this negotiation as a remedy to Korea's closed market. Let me be very clear. We are not seeking managed trade. We are not seeking guaranteed sales in Korea as some have suggested.

These are incorrect but quite quick and simple labels that have been used to gloss over the serious efforts by many trade practitioners to an innovative approach to deal with a unique and intractable problem that we have faced. We believe that the standard trade negotiating approach, which was reminiscent and which we pursued together with USTR in the 'nineties through two bilateral agreements, which is apparently being used now by U.S. negotiators, will result in a one-way, one-sided agreement that benefits only Korea.

ATPC has consistently recommended that opening the Korean auto market will require the willingness to take new approaches. Given Korea's dismal past record, we have recommended that preferential access to the U.S. auto market be provided when the Administration and the Congress can reasonably be satisfied that all trade barriers to auto imports have been removed and the Korean market is seen to be fully open to the sale of the U.S. and other imported cars.

Mr. Chairman, I have put in my statement a discussion of the multiplicity of non-tariff trade barriers that have been used by Korea for many years. You'll have a chart in your materials and one here. They range from some years back outright bans on imports of automobiles to the use of high tariffs, discriminatory taxation, the use of tax audits on people who purchased imported cars, a shifting maze of overlapping regulatory and endless regulatory barriers that have effected imports more than any other factor.

This is—we try to capture this in one chart here, but just to give you a sense of—there is a maze here of things that no one has been able to cut through, and it is not accidental.

My time is up. I want to summarize with just 30 seconds of comments on where we see the current status.

Where are we now 2 weeks before the deadline? ATPC, number one, has offered on behalf of the industry a comprehensive proposal for addressing the totality of the problem. The USTR appears not to have accepted our recommendations. Number two, the Korean government, to our knowledge has not, in a year, come forward with a proposal that addresses the closed automotive market.

Number three, as has been mentioned, a bipartisan group of Congress this month has offered a comprehensive auto proposal which we believe has been very helpful and constructive, and we commend those, including Chairman Levin, who have been instrumental in that. We appreciate the effort.

I want to just leave you with one thought, and then I'll stop. Last week it came to our attention—and I can't corroborate this personally, but others can—that the Korean government has indicated that its number one objective now from the United States in this negotiation is the immediate removal of U.S. automobile tariffs, its number one negotiating objective.

I find that rather fascinating and amazing as a negotiating strategy, but that's where we are. After all of this where we feel all of the impetuses on the Korean side, the Koreans are saying, our number one objective is that you, the United States, give us immediate access, preferential access to your market. We haven't seen anything offered back.

Thank you, Mr. Chairman.

[The prepared statement of Mr. Collins follows:]

Statement of Stephen J. Collins, President, Automotive Trade Policy Council

I. Introduction

Mr. Chairman/Members of the Committee:

Thank you for the time to discuss the importance of automotive trade issues in the ongoing U.S.-Korea FTA negotiations. I am testifying today on behalf of General Motors Corporation, Ford Motor Company and DaimlerChrysler Corporation—who are the members companies of the Automotive Trade Policy Council and whose views I am presenting today.

I want to begin with several comments relating to the current situation:

1. ***The U.S. auto companies have supported U.S. trade liberalization initiatives by Republican and Democratic Administrations for decades.*** This includes all the bilateral FTAs presented to the Congress since 2000. We have also offered extensive support to USTR in this Korean initiative from the beginning of this negotiation. These three companies have spent many years trying to open the Korean auto market. ATPC's hope is to see the U.S. reach a strong, solid and credible agreement with Korea that will eliminate all tariff and non-tariff barriers and allow U.S. auto companies to fully participate in that market.

2. ***Auto trade is a large portion of U.S.-Korea trade and has now become a big problem in this negotiation. But the Korean government created this problem and the Korean Government is the party that has to resolve it.*** The auto industry has earned a seat at this table. The U.S. now has an $11 billion deficit in auto trade with Korea, which is 82% of the total deficit between our two counties. In simple numbers, U.S.-Korean auto trade is so lopsided that it cannot be seriously justified by any credible economic or market—based rationales.

Last year, Korea exported about 700,000 cars, vans and SUVs to the United States. Our market is open and Korean competitors have been welcomed and given a fair shot a success here. On the other side, U.S. auto exports to Korea totaled just over 4,000 last year. Amazingly, auto imports from the entire world represented just 3.6% of the Korean market. This is not a picture of a healthy, mature, and mutually beneficial trading relationship

3. ***A Free Trade Agreement is primarily about trade.*** There have been changes in investment patterns in the auto business, both here and in Korea. Recently, Korea has opened up to foreign investment in its auto sector. In 2002, General Motors invested in Korea, acquiring certain assets of the bankrupt Daewoo Motors and creating a new company which produces cars there.

On the U.S. side, Hyundai/Kia has also made investments here, with one assembly plant operating and another under construction. But auto investment is not the topic of this FTA. It's all about trade and market access.

4. ***Korea's auto market is not just closed to the U.S. auto industry.*** European and Japanese automakers are doing no better in Korea and share the same view—that Korea unacceptably and unjustifiably restricts sales of foreign automobiles.

5. ***The U.S. auto companies have worked together with USTR for over a decade to deal with this serious and glaring blot on our countries' trade relationship and have not succeeded in opening the Korean auto market.*** However, all past efforts, including two bilateral auto trade (MOU) agreements negotiated in good faith by USTR in l995 and l998 using the strongest U.S. trade policy tools, have failed to open the Koran auto market. That is not the fault of past UTSR efforts, or the efforts of U.S., European or Japanese companies to get access to that market. The reason is the refusal of the Korean government to remedy and reverse these blatantly unfair and self-serving policies.

II. The Position of ATPC on the U.S. Korea FTA

We understand that there has been some mischaracterization in Seoul and in Washington about what we seek in this negotiation as a remedy to the closed Korean auto market. Let me be very clear: We are not seeking 'managed trade' or 'guaranteed sales in Korea', as some have suggested. These are incorrect, yet quick and simple labels that have been used to gloss over the serious efforts by many trade practitioners to an innovative approach to deal with a unique and intractable problem.

We believe that the standard trade approach, reminiscent of the old U.S.-Korea MOUs of the l990s, which is apparently being used by our U.S. negotiators, will result in a one—sided agreement that benefits only Korea. We believe that the U.S.-Korea FTA is the absolutely last chance for USTR, in close consultation with the Congress, to get this right. Otherwise one of the largest and most active auto markets in the world will remain closed to access by the U.S.

ATPC has consistently recommended opening the Korean auto market will require the their willingness to take new approaches. Given Korea's dismal past record, we have recommended that preferential access to the U.S. auto market be provided when the Administration and the Congress can be reasonably satisfied that all trade barriers to imported autos have been removed and the Korean market is seen to be fully open to the sale of U.S. and other imported cars.

III. Why is the Korean Auto Market Closed?

Let me summarize the major facts about this case, and explain how Korea?s system of tariffs, taxes, and particularly nontariff barriers that keep foreigners restricted in the market.

Chart #1 shows the sales by all foreign automakers in Korea last year. In a country that produced 3.8 million cars, and had domestic sales of 1 million last year, Korea imported a total of 40,000 cars and trucks from the rest of the world. I would draw your attention in Chart #1 to the fact that this is a grand total of a 3.6 % market share for all imported cars. In comparison, of the 30 OECD industrialized countries where the average level of imports for autos is over 40%, Korea ranks 30th out of 30.

Chart #2 shows the breakdown of the sale of imports in Korea by automaker. As you can see, no one is selling any respectable volume in Korea. The vast majority of those imported car sales are in the highest-end luxury segment. While our companies' sales in Korea were small, you will notice that high volume European automakers sales were also minimal while the Toyota, and Nissan brand, which are the number one and two automakers in Japan, did not sell a single car in Korea. This is not a picture of a normal, healthy, competitive automotive market.

So what is the problem?

IV. What Specifically Causes the Problem of Selling Imported Cars in Korea?

Chart #3 summarizes the story and the continuing problem. For a long time, Korea has very effectively used a whole arsenal of trade tools, starting with outright imports bans, high tariffs, discriminatory taxes and a stifling maze of overlapping and never ending regulatory nontariff barriers to keep placing hurdles for imported cars.

Bans on Imported Autos

Prior to l995, as this chart shows, the Korean government was quite clear about its policy:

- All imported cars were legally banned in Korea until 1989, while the country was furiously building its own auto industry
- Japanese cars remained banned until l999
- Very high tariffs (50%) were applied

Tax Audits on Purchasers of Imported Cars

After those outright bans were dropped, Korea switched to other NTBs that were very effective. Korea employed one of the most effective tools when it directed that all purchasers of imported cars would automatically have their taxes audited. After the U.S. repeatedly complained, these automatic tax audits stopped, but the perception and a lingering fear remains

Just last year in a highly publicized move, Korean tax authorities ordered all of the country's import car dealers to report to their federal tax agency the names, addresses and relevant personal information of the purchasers of all foreign cars. Now I ask, if you were thinking about buying a new car, wouldn't you find that intimidating?

High, Discriminatory Taxes on Imported Autos

Korea has also freely used its tax structure to make it far more expensive to purchase an imported car. Korea has nine different layers of tariffs and taxes on autos.

With an overall tax burden of over 70% for imports versus 56% for domestic autos, the effects of cascading taxes on top of the tariff puts imports at a 14% percentage point price disadvantage vis-&-vis domestic vehicles.

To make matters worse, many of the taxes are applied at a rate much higher for imported cars, based on engine size, configuration or other artificial means. The end result is that much higher taxes are added to imported cars, on top of the 8% import tariff.

The Web of Regulatory NTBs

When compared to other partners with whom the U.S. has engaged in Free Trade Agreements, Korea is unique in the both the scope and intensity of its use of Non Tariff Barriers to restrict imports. This pervasive use of NTBs in restricting trade calls for different kinds of solutions than U.S. trade negotiators have faced before.

This is the most complex and most difficult issue to summarize for those outside of the business. But all foreign automakers are in consensus that Korea pursues a rolling series of regulatory NTBs that, de facto, severely restrict the ability to market imported cars into Korea. These include regulations that are often trivial, imposed without warning and developed with no input from foreign automakers. They have the effect of knocking out or severely limiting the ability of foreign automakers to get cars to the market in Korea.

Every year, the issue is different—tinted windshields, frequencies for remote keyless entry systems, bumper configurations, power window requirements, and license plate sizes. Just last week, we were notified of a change in the auto insurance policies that arbitrarily placed imported vehicles are in the highest risk classification. The result is owners of imported vehicles will pay the highest premium possible for their auto insurance, (both Ford and DaimlerChrysler were placed in Class #1, the most expensive), as well as a totally unacceptable process foreign companies must use to certify compliance with these regulations.

The NTBs vary from one wave to another, but the result is the same: a revolving set of costly hurdles placed in front of any foreign automaker trying to sell in Korea.

I want to share with you the conclusion of the European Auto Manufacturers Association (ACEA) in their statement to European Governments and the EU Commission describing the situation:

"Korea has a number of nontariff barriers in place which prevent market access of European vehicles to the Korean market. In general, the import situation is characterized by a lack of transparency, little or no lead-time and adoption of unique standards and inadequate action of EU or U.S. standards in the fields of safety and environment—As a result no foreign automakers—E.U., U.S. or Japan—has been able to achieve a significant market share".

Over the past nine years, following the l998 U.S.-Korea bilateral auto MOU agreement, Korea has introduced more than 15 new auto technical regulations that have served as barrier to auto imports.

Here are three quick examples of a few of the past and current NTBs:

1. License Plate Size—The Korean government proposed a new regulation that would change the size and shape of a car's license plates, with little notice or opportunity to comment. License plates in Korea have traditionally been the same size as found in the United States.

At first blush, this may appear to be a minor nuisance with little impact on U.S. automakers. However, given the fact that the front and back bumpers of cars are designed around the size and shape of a license plate, this type of requirement would lead to almost a million dollars per model being spent to meet the new requirement. Domestic automakers that are selling hundreds of thousands per vehicle model can afford the cost spread over a large number of sales, but importers that are lucky to sell a few hundred of a particular model would not be able to justify the cost and would have necessitated pulling most U.S. models out of the Korean auto market, or taking a heavy loss on every vehicle sold.

The Korean authorities were forging forward with this regulation, despite the devastating impact it would have on imports, and that it would not have any societal benefit. Fortunately efforts were made, including the intervention by USTR Zoellick, to get the Korean government to drop the proposed regulation. Although successful, the fact that a U.S. cabinet official had to personally intervene with the highest levels of the Korean government to resolve a license plate issue demonstrates the level of the NTB problem.

2. Self-Certification Investigation Change—After the current FTA negotiations began, Korea proposed making a major change to its auto safety certification process that would reverse commitments and progress made in past agreements with the United States to "not take any new measures that directly or indirectly adversely affect market access for foreign passenger vehicles".

The proposed change would:

- adversely impact import automakers, but have no impact on Korean automakers;
- significantly increase the certification burden, with no societal benefit, and;
- withdraw commitments made under the two previous U.S.-Korea bilateral auto agreements.

This is a transparent effort to further thwart import automakers to the benefit of the Korean automakers, and should be permanently dropped as part of this FTA

3. Korea's new auto emissions regulations (K–ULEV)—now effective 2009.

While this proposed new rule is based on California's stringent emissions regulations, Korea made some significant changes in its implementation that results in a disproportionate burden being placed on importers, over domestic automakers. This is what is called "cherry picking" from regulations. The immediate result is while Korea's emissions regulations offers no higher level of emissions containment, some imported cars will be withdrawn from sale in the market and fewer new import models will be exported.

The California and Korean regulations achieve the same emissions outcome, but the Korean regulation does not provide the flexibility that was purposely designed into the California program. U.S. automakers meet the California regs, but will not be able to offer their vehicles for sale to consumers in Korea. The U.S. Government has tried to help U.S. automakers with this barrier, but to no avail.

In advance of the launching of the U.S.-Korea FTA negotiation, Korea agreed to delay full implementation of the K–ULEV regulation until 2009. Although somewhat helpful, the two-year delay only puts off the problem until a later date. It did not the fix the problem. Korea's K–ULEV regulations should be modified to allow vehicles that meet California regulations to meet the Korean regulations.

The importance of eliminating the current auto NTBs cannot be overstated. Full access will not be achieved unless this is accomplished. But equally important is getting a commitment from Korea that will avoid the implementation of future auto NTBs.

For more than a decade, the U.S. auto industry has worked with various USTRs and their staff who have spent many months negotiating with the Koreans to eliminate one after another unnecessary NTB. The persistence of USTR efforts to get rid of a single NTB—as minor as license plate sizes—has succeeded, but at a high cost in U.S. government resources, both politically and financially. Inevitably, within weeks of the resolution of one ?show stopper' NTB, another one pops up to replace it.

Korea's track record of using NTBs to protect its auto market is endless and has no equal in any other OECD country. And its does not deserve to be glossed over or tacitly accepted by the United States in formalizing an FTA with one of America's largest trading partners.

V. What has the U.S. done about this situation?

The seriousness of problems caused by Korea's closed auto market is not new. They were recognized as severe enough a decade ago that USTR filed a Section 301 unfair trade practices case against Korea's auto policies, one of the rare uses of that powerful tool in U.S. trade law. USTR then negotiated two specific auto trade MOU agreements with Korea (in l995 and l998) in which Korea clearly and formally committed to eliminate anti—import policies, as well as tax and regulatory NTBs that discriminated against U.S. auto products.

Chart #4 highlights just some of the still current goals and commitments of those l995 and l998 agreements that were not achieved. These were two solid, if traditional, trade agreements designed to reduce market barriers. They looked outstanding on paper. But they did not work, because Korea countered with a new strategy to implement a powerful mix of non-tariff barriers. The results: Despite two tough negotiations and auto trade agreement with Korea in l995 and l998, exports of U.S. autos to Korea barely moved from 4000 in 1995 to 4,500 in 2006. Imports from all countries are also dismal.

ATPC believes that Korea's obvious failure to meet its commitments and promises to the U.S. in these two formal trade agreements is both a loud warning and a legitimate basis for insisting that we not repeat the same mistake a third time. This is why we have urged that any FTA with Korea must be creative, assertive and reflect the reality of auto trade with Korea. We have urged USTR to look beyond the traditional negotiating strategy, not because our industry inherently deserves something better or special, but because there is such a clear, unquestionable trail of evidence of the failure of Korea to live up to previous agreements with the USG.

VI. The Current Status of the Negotiations

So where are we now, less than two weeks before the deadline for completing these negotiations?

1. Immediately after the launch of these talks, ATPC offered a comprehensive proposal to USTR for addressing the totality of barriers that have prevented access to the Korean market and the failure of two prior U.S. trade auto agreements. This proposal placed the responsibility fully on the Korean government to demonstrate that commitment by results and not just promises. The USTR appears not to have accepted this approach.

2. The Korean Government, to the best of our knowledge, has not come forward with a proposal that fully addresses the closed market issue.

3. Earlier this month, a bipartisan group of members of the House and the Senate, including Chairman Rangel and Chairman Levin, sent a letter to the President presenting a "Congressional Proposal to Open Korea Automotive Market". The members proposed "moving beyond previous negotiating strategies and embarking on a new approach that addresses the United States' legitimate concerns that Korea will not obtain additional access to the U.S. market unless there is reciprocal opening of the Korean auto market". The Congressional proposal deals with both the respective countries' automotive tariffs and a system for addressing both current and future NTBs in Korea auto market, and other sectors as well".

4. ATPC deeply appreciates this effort by Members to offer a constructive proposal to secure a fair trade deal for the U.S. auto industry in an FTA with Korea. ATPC said that this Congressional proposal "captured the industry's frustration with Korea's refusal to abide by past auto trade commitments by ensuring that the Korean government will have to provide U.S. automakers with real and meaningful access to Korea's auto market if they are to be given preferential access to our market". We are not aware of whether U.S. negotiators have accepted any or all of the recommendations contained in this Congressional proposal to resolve the auto issue.

5. The latest information we have received concerning the negotiations is most disturbing. It is now widely reported that the Korean Government has demanded the immediate elimination of the U.S. auto tariffs as their number one priority in this negotiation.

Finally, Mr. Chairman, ATPC does not know what will happen over the next two weeks. But we do know with certainty the record of Korea over the past two decades.

I would like to leave you, and the U.S. negotiating team, with what President Roh of Korea told his negotiators last week in his Cabinet meeting as they prepared for the final stretch of these talks, as publicly reported in the Korea Times on March 15:

President Roh told his team:

"I will give you some instructions in principle: Please consider real economic benefits—act just like merchants. And do not consider security or other non-economic factors."

Thank you

Chairman LEVIN. Thank you very much.

Mr. Reuther.

STATEMENT OF ALAN REUTHER, LEGISLATIVE DIRECTOR, INTERNATIONAL UNION, UNITED AUTOMOBILE, AEROSPACE AND AGRICULTURE IMPLEMENT WORKERS OF AMERICA

Mr. REUTHER. Mr. Chairman, my name is Alan Reuther. I am the legislative director of the UAW. We appreciate this opportunity to testify on the negotiations between the United States and Korea on a free trade agreement.

Korea is the fifth largest producer and third largest exporter of vehicles in the world. In 2006, the U.S. had an $11.6 billion automotive trade deficit with Korea. U.S. exports of automotive products to Korea represented just 6 percent of Korean imports into the U.S. of similar products. Historically, Korea has kept its market almost completely closed to U.S.-built automotive products. This has been accomplished through a combination of tariff and non-tariff barriers. Despite previous agreements and memoranda of understanding with Korea to eliminate its barriers to imports of automotive products, the Korean market remains essentially closed to any significant import competition. Meanwhile, the U.S. automotive trade deficit with Korea soared from $1.3 billion in 1994 to $11.6 billion last year.

At the outset of the U.S.-Korea negotiations, U.S. producers urged the Bush Administration to insist that Korea first meet concrete benchmarks for opening its auto market to imports before the U.S. allows any further access to our market. Regrettably, USTR flatly rejected this position.

Recently a broad bipartisan group of Members of Congress sent a comprehensive proposal to President Bush on how any Korea free trade deal should treat automotive trade between the two countries. This proposal contained incentives for Korea to open its market to U.S. autos, a mechanism to dismantle Korea's non-tariff barriers and safeguards against a surge in automotive imports from Korea. Most importantly, it stipulated that the U.S. tariff on imported pickup trucks should be left for resolution to multilateral WTO negotiations.

Unfortunately we understand USTR also has rejected this bipartisan auto proposal. Instead, USTR appears to be pursuing an agreement that would eliminate U.S. automotive tariffs, thereby giving imports from Korea even greater access to our auto market.

At the same time, USTR seems to be content with an agreement that would allow the Korean government once again to make meaningless promises about eliminating its non-tariff barriers with no guaranteed outcome. As a result, the agreement being negotiated by USTR is likely to exacerbate our auto trade deficit with Korea and jeopardize tens of thousands of additional automotive jobs in the U.S.

Since Korea is already a major global producer and exporter of automotive products, the elimination of our automotive tariffs could quickly lead to a ramping up of production capacity by traditional Korean companies for exports to our market. In addition, foreign auto companies would be encouraged to locate production in Korea to take advantage of the elimination of U.S. automotive tariffs.

Our fear of a surge in automotive imports from Korea is not alleviated by the fact that Korean companies will be sourcing some vehicles from facilities located in the U.S. Korean auto companies sold about 750,000 vehicles in the U.S. last year. 550,000 of these vehicles were imported. The U.S. market share of the Korean companies is expected to grow in the coming years. Thus notwithstanding any expected investments by Korean automakers in the U.S., most Korean vehicles will still be imported from Korea.

It is also important to recognize that vehicles assembled in the U.S. by Korean auto companies still have very high levels of parts imported from Korea. Production and employment at traditional, U.S. auto parts suppliers is threatened by these Korean parts imports.

The damage that would be done by a surge in Korean automotive imports cannot be offset by toothless promises by the Korean government to address non-tariff barriers that keep U.S.-built automotive products out of their market. There is every reason to expect that Korea will continue to use a variety of measures to keep its market closed to automotive imports notwithstanding any promises about the elimination of non-tariff barriers.

UAW believes the only way to ensure that this situation changes is to insist on results oriented auto provisions in any trade deal with Korea. Simply stated, we must insist that Korea make tangible progress in opening its automotive market before the U.S. allows additional access to our market.

For USTR to give away the economic benefit of access to our market without requiring the Korean government to first implement concrete changes necessary to alter our automotive trade imbalance is nothing more than continuing to conduct business as usual and irrationally expecting different results.

In conclusion, the UAW continues to be deeply concerned that the U.S.-Korea Free Trade Agreement being negotiated by USTR could have an extremely negative impact on U.S. automotive production and employment. We urge you and your colleagues in the House to reject any trade deal that fails to include at least the requirements in the bipartisan Congressional auto proposal. Thank you.

[The prepared statement of Mr. Reuther follows:]

Statement by

Alan Reuther

Legislative Director

International Union, United Automobile, Aerospace and Agricultural Implement Workers of America (UAW)

on the subject of

The United States-Korea Free Trade Agreement Negotiations

before the

Subcommittee on Trade

Committee on Ways and Means

U.S. House of Representatives

March 20, 2007

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Mr. Chairman and Members of the Subcommittee, my name is Alan Reuther. I am the Legislative Director for International Union, United Automobile, Aerospace and Agricultural Implement Workers of America (UAW). The UAW appreciates this opportunity to testify before this Subcommittee on the negotiations between the United States and South Korea on a free trade agreement.

The UAW represents over one million active and retired workers, many of whom are employed or receive retirement benefits from auto manufacturers and parts companies in this country. Our testimony will focus on the likely impact of a U.S.-Korea free trade deal on our nation's domestic automotive industry.

The UAW has repeatedly criticized the Bush administration's general approach to trade negotiations. Specifically, we have criticized the administration's failure to negotiate adequate protections for the rights of workers and the environment, adequate safeguards against import surges, adequate responsibilities and obligations for multinational corporations and investors, and adequate protections for the right of governments to defend antidumping laws and other rational rules of international trade and investment. The UAW fully supports efforts to negotiate international trade agreements that promote global economic development and establish fair and transparent rules of international trade. American autoworkers are very concerned, however, that the Bush administration lacks any real commitment to include such rules of fair trade in the U.S.-Korea Free Trade Agreement that is currently being negotiated.

Korea is the ninth largest economy in the world. It is the United States' seventh-largest trading partner, accounting for over $78 billion of bilateral trade in 2006. Overall, the U.S. had a $14 billion trade deficit with Korea last year.

Korea is also the fifth largest producer and third largest exporter of vehicles in the world. In 2006, U.S. imports of Korean automotive products into the United States were valued at $12.4 billion, while U.S. exports of similar products to Korea amounted to just $751 million. **The net result was an $11.6 billion U.S. automotive trade deficit with Korea**. U.S. exports of automotive products to Korea represent just **<u>six</u>** percent of Korean imports into the U.S. of similar products.

Historically, Korea has kept its market almost completely closed to U.S. built automotive products. This has been accomplished through a combination of tariff and non-tariff barriers. Despite previous agreements and memoranda of understanding with Korea to eliminate its barriers to imports of automotive products, the Korean market remains essentially closed to any significant import competition. As this Subcommittee has recognized, "Korea's market [has] the lowest level of import penetration of any major automotive producing economy in the world."

Despite reaching Memoranda of Understanding (MOUs) with Korea in 1995 and 1998 that were intended to eliminate Korea's barriers to competitive automotive imports, the U.S. automotive trade deficit with Korea soared from $1.3 billion in 1994 to $11.6 billion in 2006. The deficit grew particularly quickly after the 1998 MOU, during a period of regular consultations with the Korean government designed to make progress in opening the Korean market. U.S. exports of automotive products in 2006 stood at $751 million, about **half** the level of U.S. exports in 1996, while U.S. imports from Korea grew by more than **300 percent** during that same time period. The U.S. deficit in automotive trade now accounts for more than 85 percent of the total bilateral deficit with Korea, compared with less than one-third in 1998.

The UAW is deeply concerned that the current negotiations by the Bush administration will produce a free trade deal that only serves to make this dismal situation worse. Specifically, we are concerned that a free trade agreement will increase access by Korean automotive producers to the U.S. market, while still allowing Korea to keep its market closed to U.S. built vehicles and auto parts. The net result will be a surge of automotive imports from Korea and the loss of thousands of additional auto jobs in the U.S.

To prevent this from occurring, at the outset of the U.S.-Korea FTA negotiations U.S. producers urged the Bush administration to insist that Korea first meet concrete benchmarks for opening its auto market to imports, **before** the U.S. allows any further access to our market. Regrettably, the United States Trade Representative (USTR) flatly rejected this position.

More recently, the UAW was very pleased that a broad, bipartisan group of Members of Congress sent a comprehensive proposal to President Bush on how any Korean free trade deal should treat automotive trade between the two countries. This proposal was submitted by Representatives Rangel, Levin, Kildee, Upton, Dingell, Kind, Tauscher, Knollenberg, Candice Miller, Ehlers and McCotter, along with Senators Levin, Voinovich, Stabenow and Bayh. The proposal contained incentives for Korea to open its market to U.S. autos. It also included a mechanism to dismantle Korea's non-tariff barriers, as well as safeguards against a surge in automotive imports from Korea. Most importantly, it stipulated that the U.S. tariff on imported pickup trucks should be left for resolution through multilateral WTO negotiations.

The UAW commends this bipartisan group of Members for taking a firm, constructive stand on automotive trade with Korea. In our judgment, this proposal would help to ensure that Korea make concrete progress in opening its automotive market, before it is granted further access to the U.S. market.

Unfortunately, we understand that USTR has also flatly rejected this proposal. Instead, USTR appears to be pursuing an agreement that will eliminate U.S. automotive tariffs, thereby giving imports from Korea even greater access to our auto market. At the same time, USTR seems to be content with an agreement that would allow the Korean government, once again, to make meaningless "promises" about eliminating its non-tariff barriers, with no guaranteed outcome. As a result, the agreement being negotiated by USTR is likely to exacerbate our auto trade deficit with Korea and jeopardize tens of thousands of additional automotive jobs in the United States.

Some analysts have argued that elimination of the U.S. automotive tariffs - the 2.5% tariff on autos and auto parts and the 25% tariff on pickups - will not be problematic because they have not had a major impact on the scope of Korean imports. The UAW believes this view is based on neither logic nor empirical evidence. Because Korea is already a major global producer and exporter of automotive products, the elimination of our automotive tariffs could quickly lead to a ramping up of production capacity by traditional Korean companies for exports to our market. In addition, foreign auto companies would be encouraged to locate production in Korea to take advantage of the elimination of U.S. automotive tariffs. Indeed, the same companies that viewed the U.S.-Thailand FTA negotiations as an opportunity to use facilities in Thailand as a platform to export pickup trucks to the U.S. duty-free would have a similar incentive to establish pickup truck production in Korea in order to gain duty-free access to the U.S. market.

Our experience with NAFTA demonstrates that these concerns are not just idle speculation. When NAFTA was implemented, U.S. tariffs on cars and most auto parts were eliminated immediately and the tariff on pickup trucks initially fell from 25 to 10 percent, and was then phased out completely over a brief, five-year period. As a result, auto companies dramatically increased their production of vehicles and parts in Mexico, and U.S. imports of Mexican made automotive products soared. The UAW is deeply concerned that this same destructive scenario would occur if a Korean trade deal also eliminated U.S. automotive tariffs.

Some analysts have also argued that there is no reason to fear a surge of automotive imports from Korea because Korean companies will be sourcing their vehicles from facilities located in the United States. In our judgment, this argument is equally specious. The existence of the U.S. auto tariffs has created an incentive for Korean companies to locate production facilities in this country. If these tariffs are removed, we could very well see Korean companies abandoning plans for future automotive investment in the U.S.

Furthermore, Korean automakers currently operate only one assembly plant in the U.S., a Hyundai facility. Kia has announced plans to build another assembly plant, but it will not be fully operational until 2010. Korean auto companies sold about 750,000 vehicles in the U.S. in 2006, 554,000 of which were imported. The U.S. market share of the Korean companies is expected to grow in the coming years. Thus, it is abundantly clear that Korean companies will not be able to source most of their sales in the U.S. from production facilities in this country. Notwithstanding any expected investments by Korean automakers in the U.S., most Korean vehicles will still be imported from Korea. As a result, our automotive deficit with Korea will continue to grow.

Our experience with Japan reinforces this conclusion. Japanese auto companies have increased investment and production in U.S. facilities. But the U.S. automotive trade deficit with Japan has grown, because imports from Japan have also risen even as U.S. production by the Japanese automakers has grown. This same scenario is the likely result from the type of Korean trade deal being pursued by USTR.

It is also important to recognize that vehicles assembled in the U.S. by Korean auto companies still have very high levels of parts imported from Korea. Indeed, thirty percent of Korean automotive imports ($3.7 billion) came into this country classified as "auto parts." Production and employment at traditional U.S. auto parts suppliers is threatened by these Korean parts imports. Thus, the mere presence of some Korean assembly operations in this country does not outweigh the much greater negative production and employment consequences from imports of Korean vehicles and auto parts.

The damage that would be done by a surge in Korean automotive imports cannot be offset by toothless promises by the Korean government to address non-tariff barriers that keep U.S. built automotive products out of their market. The fact is, the U.S. automotive trade deficit with Korea has increased even though many of the so-called "commitments" by the Korean government in past MOUs were at least partially fulfilled. For example, as promised, the Korean government made public statements that it would not discriminate against citizens and taxpayers who purchased imported vehicles, made its motor vehicle registrations more transparent, provided better access to regulatory decision-making for foreign interests, and eased certification of imported vehicles and parts. Nevertheless, the 2005 Annual Report of the President on the Trade Agreements Program noted that the removal of some of Korea's barriers to imports of vehicles had no impact on the share of imported vehicle sales in the Korean market. Korea simply relied on other non-tariff barriers to continue to keep its market closed to U.S. automotive products.

Thus, there is every reason to expect that Korea will continue to use a variety of measures to keep its market closed to automotive imports, notwithstanding any "promises" about the elimination of non-tariff barriers. In light of the variety of past methods used by the Korean government to discourage its citizens from purchasing imported vehicles - from the threat of tax audits, to accusations of not being patriotic, to cascading tax penalties, to non-transparent procedures for complying with Korean product standards - it is apparent that Korea will simply find some new means of retaining a protected, closed market for Korean-made vehicles and parts.

The UAW believes the only way to ensure that this situation changes is to insist on results-oriented auto provisions in any trade deal with Korea. Simply stated, we must insist that Korea make tangible progress in opening its automotive market **<u>before</u>** the U.S. allows additional access to our market. For USTR to "give away" the economic benefit of access to our market without requiring the Korean government to first implement concrete changes necessary to alter our automotive trade imbalance is nothing more than continuing to conduct "business as usual" and irrationally expecting different results.

Even if U.S. automotive exports to Korea were to grow modestly as a result of a free trade deal with our country, it is the **balance** in automotive trade that will determine whether U.S. production and employment would benefit. Our experience with NAFTA shows that liberalizing trade with a country that has a well-developed infrastructure for automotive production and a desire to expand it, will lead to a rapidly expanding U.S. auto trade deficit. Given the number of automotive companies already producing in Korea, and the potential for new investments by those companies and others, the U.S. deficit in automotive trade with Korea will almost certainly grow quickly. The adverse impact on U.S. production and employment will be substantial.

Once a surge in automotive imports occurs and our overall auto trade balance deteriorates even further, the existence of a free trade deal with Korea would dramatically restrict the ability of the U.S. government to reverse or even alleviate the impact on workers and communities in this country. The rapid increase in imports from Korea in recent years demonstrates that re-imposition of current tariffs is not likely to be an effective remedy. Instead, at a minimum we would need the types of dispute settlement mechanisms and safeguards contained in the bipartisan Congressional proposal that has been rejected by USTR.

The UAW also has serious concerns about other issues in the U.S.-Korea FTA negotiations. Foremost among these concerns is the treatment of worker rights. We remain opposed to any Korean trade deal that does not include the internationally recognized set of core labor rights and parity of enforcement between the labor provisions and the commercial provisions of the agreement. The worker rights provisions should, at a minimum, conform to those included in the Fundamental Principles and Rights at Work of the International Labor Organization (ILO) and defined in its conventions. The status of labor rights must be the same as other provisions in the trade agreement. Worker rights language must be included in the core text of any U.S.-Korea trade agreement, prevent the reduction of worker rights and standards as a means to advance trade or investment interests, and be subject to the same dispute resolution procedures as other provisions.

Last month USTR Susan Schwab told Congress that when countries negotiate free trade deals with the U.S., "the situation on the ground for workers in these countries is vastly improved." Sadly, as was demonstrated by the article in the March 16th edition of <u>The Washington Post</u> entitled "Labor Rights in Guatemala Aided Little by Trade Deal," the reality "on the ground" does not reflect the rosy picture painted by the Bush administration. The fact is, by failing to insist on the inclusion of strong enforceable worker protections in trade agreements the administration's trade policies have helped to foster a race to the bottom that has weakened the rights and standard of living of workers in other countries.

The worker rights situation in Korea is very problematic. Korean workers who attempt to exercise core labor rights--freedom of association, freedom to organize and bargain collectively, freedom from child labor, freedom from forced or compulsory labor, and freedom from workplace discrimination -- are routinely thwarted. The U.S. Department of State's Country Reports on Human Rights Practices-2005 identified numerous areas of worker rights violations in Korea. There are restrictions on the right to freedom of association for public sector workers and other provisions in Korea's laws that limit the right to organize and bargain collectively. Auto workers in Korea have faced serious barriers to exercising the right to organize unions and bargain with employers without government interference. The president of the Korean Metal Workers' Federation (KMWF) was arrested last year for his participation in a protest against the government's effort to change Korea's labor laws to allow employers to use more temporary and non-regular workers. Already, employers are hiring temporary and non-regular workers, rather than permanent workers, as a way to stymie the right of their workers to organize a union.

The UAW also is concerned about the investment and government procurement provisions in any Korean trade deal. The investment provisions of recent agreements have placed too much weight on protecting corporations from legitimate actions by governments, and too little weight on the need for governments to retain the authority to enact laws and implement regulations that defend sustainable economic development, environmental protections, and public health and safety. We oppose any provisions that would enable foreign corporations to use an investor-state dispute resolution process to circumvent the judicial process that national investors must use. When foreign investors choose the investor-state process to resolve disputes with the government, they can avoid the protection of U.S citizens' rights that our courts provide through respect for due process and public access. This discrimination in favor of foreign investors conflicts with the U.S. negotiating objective for investment issues that was approved by Congress.

The UAW supports retaining the ability of governments to condition government procurement, including the treatment of foreign investors, on meeting democratically- determined criteria. This includes the right of governments to impose sanctions such as those used against firms that invested in South Africa during the apartheid regime, to implement "living wage" and other standards for procurement, and to choose to provide public services themselves, rather than to privatize these functions. When a mix of public and private providers is responsible for supplying public services, the determination of the appropriate mix by governments must not be undermined by a trade agreement that gives new rights to private companies to expand their role. In addition, governments must retain the right to determine how new services will be provided.

The UAW believes that exchange rates, foreign debt and related issues also should be addressed in any Korean trade deal, as well as measures to respond to the adverse impact of financial instability. Capital markets and exchange rates can play a major role in affecting international trade flows of goods and services. Korea's economy and its workers were seriously affected by the 1997-1998 financial crisis that hit many Asian countries. Korea's currency, the won, declined precipitously in value against the dollar, making U.S. goods more expensive to Korean consumers. Excluding exchange rates and the host of factors that contribute to determining them, such as the level of outstanding foreign debt, leaves open the possibility that changes in tariffs and non-tariff barriers will be overwhelmed by unanticipated shifts in the exchange rate in determining the size and balance of U.S.-Korea trade.

While the won appreciated against the dollar over the final nine months of 2006, it has depreciated during the first three months of 2007, possibly as a result of concerns raised within the Korean government over the competitive disadvantage created by the previous change in the value of its currency. In the past, there have been pressures to lower the value of the won resulting in actions by the Korean government. There is certainly the potential for similar actions in the future. Measures to counteract any such currency manipulation must be addressed in any U.S.-Korea free trade agreement.

In conclusion, the UAW continues to be deeply concerned about the negative consequences the U.S.-Korea free trade agreement being negotiated by USTR could have on U.S automotive production and employment. We urge you and your colleagues in the House to reject any trade deal that fails to include at least the requirements in the bipartisan Congressional auto proposal. We also urge you to insist on the inclusion of meaningful worker rights protections, as well as the other provisions discussed above.

The UAW appreciates this opportunity to present our views on the U.S.-Korea Free Trade Agreement negotiations. Thank you.

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Chairman LEVIN. Thank you very much. All right. If you would recess and the Ambassador will come forth, we have 55 minutes of his time. That means that if each of us, including myself and the Ambassador, if we take 5 minutes, we'll all have a chance. So, let's do that.

Ambassador, welcome back. Thank you. As you said, and I said the same, there are lots of issues that are going to be presented to you. We wanted the automotive panel to have a crack at this because of its importance and their other important issues, but also to try to have some meaningful back-and-forth and not kind of the sometimes very segmented and not always productive discussion.

Let me just say preliminarily, if I might, because we're going to be talking not only about automobiles but these other issues, as I heard you and listened to this panel and have gone over the materials, with only a week-and-a-half, we have 11 days before, if that's the decision, you would present to us a notification and an agreement itself under the present Trading Partners Agreement (TPA). It strikes me—I just want to say this more generally -that if there's any chance of success there's going to have to be a different approach than is usually employed, that there's going to have to be enough back and forth with this Congress as it's now constituted that there's basic agreement before rather than after notification, because otherwise, if there isn't and the determination of the Administration is to present something that it thinks that it knows has some very considerable difference of opinion, hoping to play one against another or to squeeze out a majority, I don't think, under present circumstances, as important as the U.S.-Korea FTA is, that it will work.

So, I want to say to you, if I might, that I hope that there will be a different approach than is usually employed. It means a much more intense back and forth because we can now probe with you each of these areas and try to get you publicly to commit to where you're going. I don't think that will work, but the question is whether between the Congress and the U.S. government there can be enough back and forth so that the content is not only well known but essentially basically agreed to before notification because—look, you laid out on page four what a successful FTA would be, what the elements are, and you talk about a strong Ag Marx-Ex agreement, a strong industrial goods market agreement, an enforceable commitment regarding automobiles, a strong investment chapter, a strong services chapter.

I don't think your testimony would ever say we're going to come forth with a weak industrial market access or a weak investment package or weak services, and so forth on Ag. So, essentially what you've done is to leave out the gist of the agreement in each of these critical areas, and here we are 10 days away.

So, let me just ask you, and I'll conclude—they didn't run the clock on me, but they should on the Chairman in this case anyway. Was there anything said before by the auto panel or by Mr. Herger or myself that you disagreed with?

Mr. BHATIA. Well, Mr. Chairman, there's been a lot said in the course of the various testimonies. Let me—maybe I could start out just by touching on the point that you just made and then talk a little bit about some of the auto panel testimony, which I listened to very carefully.

As you know, Mr. Chairman, we have been coordinating with the Congress on the Korea FTA since its outset. The FTA was launched here in a very bipartisan way with Members, both Republicans and Democrats, lending their support to the launch—and have been intimately involved in briefings with staffers, and that has continued.

Indeed just last week, or I guess it was the week before, I had the pleasure of coming and visiting with you. I've had the pleasure of visiting with other members of this Committee on automotive and other issues, and I will commit to you to continue to do that.

I think that is important. I think it is important that we bring home an FTA that is a strong FTA that all the Members of this Committee feel confident that we have negotiated as strong an agreement as possible. Let me, if I may——

Chairman LEVIN. Let me just ask you, will that mean—because I think we have to do differently than has been true under this Administration and sometimes previous. Are you going to show to us, discuss with us what you're tabling?

We have—there is a standard process, as you know, Mr. Chairman, whereby we show the Committee text before we table it and we give the Committee Members an opportunity to respond back. We have been doing that from the very beginning. I don't see the reason why that will change. Now there is a point here obviously where at the end of the negotiation we're going to have to figure out a method of coordinating, but I have, as a matter of fact, with the anticipation of negotiations potentially next week in Seoul, I have already asked our staff to make sure that we have telephone numbers for all of the key staff members on the Committee.

So, I don't anticipate an end to that coordination. Indeed, I look forward to it continuing. Perhaps, if I may spend a few moments just on the automobile subject because this is one that has from the very beginning, Mr. Chairman, been a singular focus of mine and of ours at USTR. We have paid a great deal of attention to many subjects in this FTA, but we've been aware from the very beginning that the automobile area is going to be an important one.

I can tell you that I have spent a substantial amount of time studying and researching both the Korean automotive market as well as the U.S. automotive market and penetration into that market. Let me, if I can, briefly describe what we're seeing and then why I believe the strategy that we are approaching makes sense.

On the Korean automotive market there is no question that you have seen, going back from the '70s and '80s up until certainly the beginning of the 2000 period, an array of problems for American companies and for foreign manufacturers, foreign Open Ended Markets (OEMs) generally accessing the Korean market.

You have seen that in terms of a number of factors. When we have spoken—I've spoken with independent analysts; I've spoken with investment bankers. I've spoken with management consultants to try and get the clearest picture possible, as well as our industry, I should point out, to try and get the clearest picture possible of what are the key impediments.

I come up with four, generally four areas of impediments you come up with. Indeed, these are reflected, I would note, in Steve

Collins's testimony and previous things that have been submitted to us by the auto companies. You see tariffs. You see taxes. There is a tax structure that applies to automobiles in Korea that through its application has effectively penalized large engines, large cars, which tend to be what we produce more. You have seen non-tariff technical regulations serve to impede market access, and last you've got sort of a catch-all that's described as everything from consumer preferences to anti-import preferences or biases.

So, that is the realm of things that we have seen, and we have seen, notwithstanding recent growth, fairly substantial recent percentage growth in the import penetration into Korea, you have seen it over a very low base. So, the total numbers remain low.

On the other side of the equation, in here into the United States, you've seen substantial Korean car penetration going in the neighborhood of 700,000 to 800,000 cars last year. An interesting feature of this is that you have seen the manufacturing—is the change that you are seeing take place in Korean sales in the United States.

So, right now, today, about 22 percent of Korean cars sold in the United States are made in the United States, principally in a factory in Alabama. Three years from now you are going to see probably 60 to 70 percent of Korean cars sold in the United States manufactured in the United States. So, we are seeing a strong shift in Korean production into the United States, and this is consistent with what we're seeing Hyundai and Kia doing globally.

Chairman LEVIN. Mr. Ambassador, I promised everybody——

Mr. BHATIA. I apologize.

Chairman LEVIN. No, no. I just want to say then to you because you mentioned that to me a week or so ago——

Mr. BHATIA. Yes.

Chairman LEVIN. Number one, when you say that, essentially you say that the problem is likely in part to solve itself.

Mr. BHATIA. No.

Chairman LEVIN. Also, I just want to tell you, those projections are pure speculation. Number two, they assume a stagnant amount of overall Korean production. As has been true of Japan, as it has increased production here there has continued to be a major flow of exports from there.

So, when you assume 60, 70 percent of the cars that Kia sells will be made here, I challenge that.

Mr. BHATIA. Mr. Chairman, I'm just going by the numbers that I'm seeing based on every independent survey that I've seen.

Chairman LEVIN. Well, talk to the U.S. auto industry.

Mr. BHATIA. Also, if I may, Mr. Chairman, if I could just sort of summarize here. So, our strategy with respect to the Korean automotive market has been to say, all those barriers and things that have been keeping our cars out, the tariffs, the eight percent tariffs, the tax differential, the non-tariff barriers and all of the other anti-import and other things, those need to be addressed in this FTA and those will be addressed in this FTA. We will have those addressed.

What we have not adopted, and I will be clear about this, what we have not adopted is an approach—and I use the term that Mr. Reuther from the UAW used is an approach that seeks "a guaranteed outcome" because——

Chairman LEVIN. Okay. Let me just interrupt so others—our proposal that was done on a nonpartisan basis doesn't include that. So, don't label a proposal for what it is not. It isn't, so you—and in these next 10 days we need to sit down—if you're going to have a chance of passing it, I think, as to any of these products, to have a much more active involvement of this Congress, otherwise I think you're headed for failure.

Mr. Herger.

Mr. HERGER. Thank you, Mr. Chairman. Mr. Bhatia, I would like to focus your attention on rice for a moment.

Mr. BHATIA. Yes.

Mr. HERGER. The U.S.-Korea FTA must be comprehensive and its product coverage such that provisions on rice are included in the agreement's final terms. I believe this is critical not only as a substantive issue but also from a procedural standpoint product exclusion and FTAs make bad policy.

To this end, I'm troubled by reports that the Koreans continue to be unwilling to engage with U.S. negotiators on rice issues. Do I have your commitment not to exclude rice from this FTA?

Mr. BHATIA. Mr. Chairman, we have been dealing with the rice issue from the very outset, and at the very launch of the negotiations, we made clear to the Korean government that this deal must be a comprehensive one and it must be comprehensive in the agricultural area.

We have maintained that position up to this point, and I can assure you that we are maintaining that position all the way to the very end, that we are pushing them for this to be a comprehensive agricultural deal.

Mr. HERGER. Thank you. I am also a strong supporter of the investment provisions in our prior agreements, including the investor-state dispute settlement mechanisms because they give U.S. investors access to substantive and procedural rights they might not otherwise have in the course of our trading partners.

Given the lack of transparency that pervades the Korean system, I believe it is especially important in this FTA to maintain the model provisions that we've used in prior agreements. I understand that Korea wants to protect it's ability to protect low income housing and real estate values, and I believe we can do so without loopholes and without undermining the core protections.

Mr. Bhatia, do I have your commitment to protect our investors abroad by utilizing these comprehensive model provisions and not straying from them?

Mr. BHATIA. Mr. Herger, this is another area where, from the very outset, we have been clear with the Koreans that we believe a principal benefit not only to the United States but also to Korea is greater investment flows that will flow from the FTA. However, those will only happen with very strong investment provisions, including investor-state dispute rights.

We have been pushing that steadfastly with the Koreans, and I can assure you that we are continuing to do so.

Mr. HERGER. Thank you. I also understand that you're using this potential agreement as leverage to push Korea on a parallel track on sanitary and phytosanitary issues such as beef.

As you know, Peru and Colombia, through a similar parallel track recently lifted their restrictions to allow imports of U.S. bone-in and boneless beef regardless of age and to recognize U.S. inspections as equivalent.

I would expect to see implementation of this international standard by Korea. Could you comment on whether there has been progress in these negotiations?

Mr. BHATIA. The beef issue and ensuring that the Korean market is open to beef consistent with international standards, OIE standards has been a consistent message that we have delivered to Korea.

We have made it very clear that we don't believe this Congress will approve any FTA that does not—in the event Korea were not employing those practices, was not open to American beef consistent with international standards. Thus far, I cannot tell you that there has been a resolution to this issue, but I can tell you our team, our Ag team is in Korea right now, as we speak, addressing this issue. It's my hope that there will be a satisfactory resolution.

Mr. HERGER. Thank you very much. Thank you, Mr. Chairman.

Chairman LEVIN. Thank you. Mr. Tanner.

Mr. TANNER. Thank you very much, Mr. Chairman. Ambassador, thank you for your time.

I guess I'm as big a believer in engagement and trade as anybody on the panel, but it's becoming harder to follow USTR's regimen with respect to some of the enforcement mechanisms as well as just the negotiation itself.

The regulatory excesses that we hear about in the Korean government with respect to automobiles is very troubling, and it makes it harder and harder for those of us who believe in trade to sell these agreements. Also there's, I'm told, an issue about telecommunications and ownership—49 percent versus virtually unfettered access here.

How close are you to resolving some of these so that we can truly represent to the American people that we have, one, a fair deal to America and second that it's enforceable? Thank you.

Mr. BHATIA. Thank you, Congressman. We're not done with the FTA yet, and one of the outstanding issues that remains to be resolved is this issue of foreign direct investment in telecommunications. We have been addressing with the Koreans this week, and we've got negotiations ongoing right now, but I can't—as of the beginning of this hearing I can't tell you that issue has been resolved, but we have made very clear to Korea that all of our FTAs here to date have contained liberalization, opening of the telecommunications sector. That's our expectation in this agreement as well.

So, this is in the process of negotiation, but we are pushing very hard. If I may make a point, just the point about regulator fairness and openness, because believe me, this is a key area for us across the board. It's not just automobiles; it's other areas as well. We recognize that there is concern about the transparency, about the fairness of the Korean regulatory process. We have been at the forefront of that.

We have been negotiating with the Koreans for many years. Also, the reason we believe in this FTA, Congressman, is we believe this offers us an opportunity through overriding commitments, commitments to make sure that, for instance the Korean government doesn't treat Korean firms through regulatory or other processes more favorably than foreign firms by making sure that there's transparency by setting up processes whereby there can't be private deals cut between the government and industry but rather there has to be regulations published and opportunity for people to comment, Committees for government and industry to work in a transparent way.

Those possibilities coming from this FTA, I believe, could radically benefit, dramatically benefit both our industry but also Korea as it's trying to move on a path of reform. So, the question at the end of the day is how do we move Korea and the bilateral U.S.-Korea relationship to a more successful place to address these kinds of regulatory issues?

I would submit to you that a strong FTA, a fair FTA, which is what you were talking about—and that is the only kind of FTA we will bring back—would be an FTA that did that and that ensured that we had not only strong commitments but also strong dispute settlements in the event that there was ever a problem.

Chairman LEVIN. Thank you very much. Mr. Lewis.

Mr. LEWIS. Thank you, Mr. Chairman. Mr. Ambassador, I've got a small but it's a very important issue for my state and my district specifically.

As you know, Korea is a leading importer of bourbon, and we have worked with USTR in the past to ensure that other FTAs include a provision recognizing bourbon as a distinctive product of the United States. This has been an important anti-counterfeiting tool. Do you anticipate in this FTA to include this provision?

Mr. BHATIA. Yes, Congressman, I do. We're very familiar with the issue. I think we've made clear to Korea that all of our FTAs to date have addressed that issue satisfactorily. Although I don't believe we're quite there yet, I'm optimistic that we will be.

Mr. LEWIS. Listen, I appreciate it. I yield back my time.

Mr. BHATIA. Thank you.

Chairman LEVIN. Thank you very much, Mr. Lewis.

Mr. Larson.

Mr. LARSON. Thank you, Mr. Chairman and thank you, Mr. Chairman for setting up this panel in the manner that you have to provide us with an opportunity to have our USTR respond to the panelists. Let me cut right to the chase.

As part of the FTA that you'll bring back, will that include as the—I believe the panelists were seeking and asking for—minimally the bipartisan congressional auto proposal?

Mr. BHATIA. Mr. Congressman, we have reflected carefully upon the bipartisan proposal that has been submitted and there are some elements of the bipartisan proposal that——

Mr. LARSON. Is that a "yes" or a "no"?

Mr. BHATIA. Well, I think it depends what you mean. I think there are some elements that we are pushing very hard for. For instance there is clearly a strong focus on a strong dispute settlement system. There is a strong focus on NTBs, but there are a couple of features that I think both—that we do not believe is the most effective way to address the problem of U.S. market access into

Korea nor would they frankly be—they would be deal-killers with Korea, I believe, nor at the end of the day do we believe they're necessary to be able to address the problems that we've talked about.

Mr. LARSON. Also, how about a deal-maker or-breaker with the U.S. Congress?

Mr. BHATIA. Congressman, I believe, and I would ask you to believe, to hope, that we will bring home a deal, including a deal on autos——

Mr. LARSON [continuing]. What you had to say to Mr. Tanner with respect to the FTA agreement, but then there seems to be a lot of ambiguity. Let me ask a second question, then. With regard to labor standards, where are we with respect to that, what kind of FTA agreement are we going to get with this?

Mr. BHATIA. I think you will have a very strong FTA with respect to labor standards with Korea, Congressman. Korea is perhaps a little different from some of the other trading partners we've negotiated FTAs with in that it is a developed or very close to being developed economy. It has vigorous labor unions, vigorous labor activity, strong industrial relations regime, strong labor laws.

Korean strikes and so forth are probably more commonplace in Korea than they are in the United States. I don't believe we have the same set of concerns there, and I'm confident that we'll bring back a very strong chapter on labor.

Mr. LARSON. Well, as Chairman Rangel often points out, sometimes we're taken aback in Congress because we think that the USTR should really be out there progressively advocating on our behalf. I don't doubt your sincerity, but there seems to be a lot of ambiguity in the negotiation process with respect to—especially as it relates to automobiles.

Mr. BHATIA. Congressman, a couple of things. First of all we're right in the midst of this negotiation. We have a lot still to go on. We have a public audience here, so there are certain things that I would probably not prefer get transferred to our negotiating partners who are doubtless watching this. So, but I will say that there is no ambiguity and there should be no ambiguity in terms of our commitment to make sure that the deal that we bring back on autos addresses what we believe are the key impediments that have prohibited and barred thus far—let's put it this way, that are the reason that you see far lower foreign OEM penetration into Korea than you do into other Organization for Economic Co-operation and Development economies.

Mr. LARSON. I just wanted you to know, as our representative, that there's no ambiguity up here either.

Mr. BHATIA. Thank you.

Chairman LEVIN. Thank you. Mr. Brady.

Mr. BRADY. Thank you, Mr. Chairman, Ambassador [continuing]. If you care about finding new customers for American products and services, and especially customers who can afford to buy our products and services, it's easy to get excited about the possibility of this agreement. The potential for a U.S.-Korean free trade agreement, it has potential to a blockbuster agreement, both from an economic standpoint because of the major market and from a strategic standpoint in our entry in competition in the Asian region.

I say potential, because clearly, 2 weeks from now I think if Korea doesn't come forward with strong positions in autos and rice and beef, and just as importantly, in other services areas where we are running a strong surplus today in Korea but we need regulations, investments and lifting of restrictions to allow us to be in there in telecommunications, for example. Clearly, this could be a missed opportunity, which would be a shame.

In the area beyond auto and rice and beef, as we look at telecommunications, which you addressed, in the area of biopharmaceuticals, where there's been real concerns about the regulatory process, not being able to really see the reimbursement and pricing mechanisms that are so important to that, we can compete. We've got the innovative health care or health products for Korea.

What is your approach, what is your plan to make sure we've got not only more market access in biopharmaceuticals but real commitment to transparency within the pricing and reimbursement structure?

Mr. BHATIA. Thank you, Congressman. The pharmaceutical area is one that, like automobiles, like some of the others, have been flagged from the very beginning as being an area of, that's going to be a major focus in this FTA. We have had a number of rounds of discussions with the Koreans now in the pharmaceuticals area. The agreement is not concluded in the pharmaceuticals area.

We have been basically approaching this on a—there are several core issues in the pharmaceuticals area. One is obviously the set of intellectual property rights and protections that our pharmaceutical companies value highly and that we believe are important not only for the U.S. to be able to compete effectively in those markets, but also for Korea to be able to step up with its own IPR regimes. That's an area that we have been pushing very hard on.

The second is an array of commitments that have to do with making sure that Korea's system for pricing and reimbursement is transparent, is fair, that it appropriately values innovation, that there is effectively a system that our companies feel confident in doing business, so they feel confident in doing business there. So, we have been pushing very hard on that leg as well.

At this point, I can't tell you we've got it resolved, but I can tell you that we have been pushing it very hard, and it's my hope that we'll have a satisfactory resolution in that area.

Mr. BRADY. I wish you well in the negotiations these next 10 days, because, some of the criticisms we've heard in this Committee has been that we need to pursue trade agreements in meaningful markets.

Mr. BHATIA. Absolutely.

Mr. BRADY. We need to pursue them with countries that have strong labor standards and enforcement. This agreement meets both those criterias if—if, again, Korea comes to the table in a substantial way. So, I wish you the best of luck.

Mr. BHATIA. Absolutely. Thank you very much.

Chairman LEVIN. Thank you. Thank you. Mr. Blumenauer.

Mr. BLUMENAUER. Thank you, Mr. Chairman. I do appreciate the special focus that has been made on the disparity in terms of treatment with the automobile industry. I look forward to some positive result that comes from that. I also—I've got another hearing I'm going to be slipping off to, so I'm not going to be able to be forward with the agricultural testimony that's coming, but I, too, am interested in that.

Two observations. One, I don't need an answer now, but just, the U.S.-Australia agreement only included government-to-government investor dispute resolution, not investor-state relations.

Mr. BHATIA. Yes.

Mr. BLUMENAUER. It seems, given that Korea is a functioning democracy now with a more mature legal system, it's much more comparable to what the Australian model was versus one in Latin America. I would hope that we are going to focus on the state-to-state investor protections that are much less likely to undercut environmental protections. At some point if you have some feedback there, I would be interested.

In addition, since my time is limited, I wanted to focus on one area, somewhat narrow perhaps, but we've watched the United States, your predecessors in the 'eighties in USTR be very aggressive in dealing with opening up the cigarette market to American tobacco products. There was a zeal in the Reagan Administration to do that, and they were quite successful. Also, in that time, we've seen an explosion in cancer-related deaths in South Korea. We've seen I think it was in 1988, just 1 year, we watched smoking rates of male teen Koreans increase more than 10 percent, and they quadrupled for young female smokers. Now we're looking at two-thirds of the males in Korea who are smoking.

I'm curious if you can talk about what specifically is the tobacco measures that are included here. Is this being pursued aggressively to undermine the ability of the Korean government to provide some protection to try and push back on what is their number one health problem?

Mr. BHATIA. Congressman, I apologize. I may have to get back to you with more specifics. My general understanding is that we are not treating, we certainly have not treated tobacco differently from other commodities in the agricultural negotiations. Also, if I may, because I'm just not up to speed with where we are.

Mr. BLUMENAUER. Well, we were pretty aggressive, and it was 301 provisions that were pursued. Also, this is one area where I think the world would suggest relax. Let's not undermine their ability to try and deal with something that is lethal, that with the explosion of American product, imported tobacco into Korea over the last 20 years, it has made a huge impact on the health of average Koreans and undermined their ability to perhaps be a little protectionist, but protectionist in a way that saves Korean lives. This is something that I would be keenly interested in. I think hopefully this Congress we've even taken away the ashtrays in the House of Representatives finally, so that the pages aren't subjected to second-hand smoke. Maybe we can cut the Koreans a little slack.

Mr. BHATIA. Again, if I may, perhaps I can get back to you——

Mr. BLUMENAUER. Great.

Mr. BHATIA [continuing]. On the subject of where we—what the posture is on tobacco.

Mr. BLUMENAUER. Great. I would really appreciate it.

Mr. BHATIA. Good. Thank you.

Mr. BLUMENAUER. Thank you very much, sir.

Mr. BHATIA. Thank you.

Mr. BLUMENAUER. Thank you, Mr. Chairman.

Chairman LEVIN. Thank you. Mr. Pascrell.

Mr. PASCRELL. Thank you, Mr. Chairman. I don't know really where to start, Mr. Bhatia. I was waiting for an answer, still waiting for an answer from the Chairman's question to you. You know what? I think it needs to be very clear, because we've gone through this ritual many times since 1996 or '97, and we need to commit, I think, ourselves to not finalizing one more job-killing trade agreement.

You know what we're doing? We're telling UAW workers—I want to talk about telecommunications and pharmaceuticals, but I've got to—I have to respond to this, if you don't mind. We're telling them that you're going to be laid off because of specific imports, but you will be rehired at a later time when we begin to manufacture those same cars here in the United States which will lay off Korean workers. You know, I feel like I'm in a dental chair, the dentist chair. There's Muzak in the background, beautiful music about globalization, as the dentist prepares to work on me. We need to come to the reality of what is happening.

No one is against trade, but no trade is free. It comes with a price. We want it therefore to be fair. I hope you'll eventually answer the Chairman's question sometime this century. Also, I want to talk about two things. I want to talk about telecommunications, and I want to talk about pharmaceuticals. Some real issues that are outstanding before I can come even remotely close to lending my support to the so-called Korea Free Trade Agreement.

From the Iron Curtain Korea has imposed on our automotive market, to the gaps in certain basic international labor organization standards that exist, there's some real problems here. There are many industries that feel that the USTR—Korea's not the problem. You're the problem. USTR is the problem. They haven't really taken our interests in mind, kept them in mind while we're negotiating.

Let's take a look at the telecommunications sector. An important objective of the Korea FTA should be to improve the market access to the telecommunications sector. Korea currently restricts foreign equity in that sector to 49 percent, open to—in contrast, the U.S. telecommunications market is totally open to Korean carriers. Totally open to Korean—that's got to matter for something. Korea's largest wire line carrier, Korea Telecom, already has an Federal Communications Commission (FCC) license as a facilities-based telecommunications carrier, as well as a capacity on the China-U.S. undersea cable that it can use end-to-end.

Korea's largest wireless carrier, SK, provides services in the United States in conjunction with Earthlink. U.S. carriers should have the same opportunities to provide their customers in Korea with the full range of products and services as Korea companies enjoy here in the United States. If this 49 percent equity restriction has not yet been removed, how will USTR make clear to the Korean government representatives that addressing this concern is critically important? Would you give me two sentences, three sentences in response to that very specific question?

Mr. BHATIA. We have done it. We have done it. I have met last week with the U.S. industry on this question. I have raised this issue directly at senior levels with the Korean government. We are pushing them on it on an almost-constant basis.

Mr. PASCRELL. Mr. Bhatia, would you put that in writing to my office this week?

Mr. BHATIA. Happy to do so.

Mr. PASCRELL. I would like to see it in writing. I want to get to the pharmaceuticals now if I may, Mr. Chairman.

Chairman LEVIN. Okay. There isn't much time because——

Mr. PASCRELL. I still have a few seconds left.

Chairman LEVIN. You do.

Mr. PASCRELL. According to the latest statistics from the Health Institute in New Jersey, a lot of pharmaceuticals in New Jersey. Sixty-five thousand people are employed. It's important to me. I should not have to ask whose ox is going to be gored next, from textiles to whatever to widgets. I'm concerned about everybody. I want to be concerned. You should be concerned. I would like your assistance that you're giving the pharmaceutical industry the same priority that is given to automobiles, cattle ranchers. Can you assure me that USTR is going to do that also?

Mr. BHATIA. Congressman, we have been in contact with the pharmaceutical industry from the outset of these negotiations. I have conducted—I can't count how many conference calls with senior executives from the pharmaceutical industry on this subject. I have been involved in negotiations directly with the trade minister on the subject of the pharmaceutical industry. I can assure you that it remains a high priority for us and will remain a high priority for us——

Mr. PASCRELL. Would you also put that in writing——

Mr. BHATIA. Absolutely.

Mr. PASCRELL [continuing]. With an explanation to my office?

Mr. BHATIA. Absolutely.

Mr. PASCRELL. Mr. Chairman, before I bow out here, can I have also from the representative today, sometime during this week, and to the entire Committee, I want him to explain to us the core labor rights that are being forwarded in this negotiation so that we have a good handle before they make this quote/unquote "deal." I want him to explain to us and address the issue of where it's taking place within the negotiations.

Chairman LEVIN. You should prepare a question and we'll send it to him. So, now Mr. Meek and Mr. Weller, you each have 5 minutes. I guess under the rules, Mr. Meek, you're next, because you were here.

Mr. MEEK. You can go to Mr. Weller.

Chairman LEVIN. Pardon?

Mr. MEEK. You can go to Mr. Weller if he wants.

Chairman LEVIN. Okay. Mr. Weller?

Mr. WELLER. Thank you, Mr. Chairman, and thank you, Mr. Meek. Appreciate the opportunity, Ambassador. Thank you for coming before the Committee today.

Mr. BHATIA. Thank you.

Mr. WELLER. I represent a very trade-dependent district. Exports are the reason we're seeing growth in the economy, the Joliet area that I'm representing. I would note that just this past year, there was about $35 million worth of manufactured goods that left my district were exported to Korea. We've seen in Illinois overall exports to Korea go up about 16 percent.

So, Korea is a very important market for Illinois, and particular for my district, in manufactured goods as well as agricultural goods. The International Trade Commission projects that if you're successful in negotiating a good, fair and balanced agreement, we could see about a 37-percent increase in exports coming from Illinois——

Mr. BHATIA. Yes.

Mr. WELLER [continuing]. To Korea. So, I encourage you to continue moving forward. I share the concerns that several colleagues have raised about telecommunications. Appreciate your working to address that. You know, when I talk with my manufacturers that serve the Korean market, they tell me that their chief competition in Korea is China. We always had a lot of debate in this Committee and in this Congress about whether or not there's any merit in having a free trade agreement with anyone.

We've seen with the, frankly, the failure of the Doha round of the WTO to make progress and increased effort by our competition, global competition, for various markets for bilateral agreements. Can you tell us where the Chinese and also where the Europeans are with—in the type of trade agreement, this framework that they currently have and where they are with any future bilaterals?

Mr. BHATIA. Yes, Congressman. This actually is the subject of some not insubstantial concern for us. I touched on this briefly in my opening remarks. We are seeing a very aggressive effort by China, increasing effort by the EU, increasing effort by Japan to conclude preferential trade agreements with trading partners in the region. Korea, for instance, has——

Mr. WELLER. Of course, we're seeing that here in Latin America——

Mr. BHATIA. Absolutely. Absolutely. The danger, needless to say, of this is that we will be late to the game or not in the game at all, that the template will have been set by another trading partner, or that we'll never be able to get into that market because the deal will have been struck between China and a trading partner or Japan and a trading partner.

In today's globalized world, needless to say, the competitive dynamic is so—it's so strong that not having the ability to compete in Korea on a level tariff basis or a level regulatory basis with a trading partner from another major—from another country, is a real, real disadvantage to our trading partners.

So, that's the reason why I believe, and I believe, we, the U.S. Trade Representative's Office, believes we need to be active out there. We need to have a major trading agreement with major—we need to have major trading agreements with major trading partners in Asia, because it is such a dynamic region. There are many people who have told me similar stories about the importance of Korea as an export market for their districts. It's important that we be able to secure that position in the future.

Mr. WELLER. Korea represents for us the first major Asian FTA for the United States in an Asian country. Is that correct?

Mr. BHATIA. Yes. We've concluded agreements with Singapore and Australia, but this would be the first major industrial——

Mr. WELLER. Economically, Korea is larger than Canada or Mexico combined?

Mr. BHATIA. Yes. It's larger than either Canada or Mexico in terms of GDP. That's right.

Mr. WELLER. Economically, it has huge potential. Just review for me again. China, does it currently have a bilateral agreement with Korea?

Mr. BHATIA. It's in the process of negotiating.

Mr. WELLER. They're negotiating one. Japan, do they have a bilateral agreement?

Mr. BHATIA. Again, in the process of negotiating one. The EU has indicated that they are about to.

Mr. WELLER. Have the Europeans begun, or they're——

Mr. BHATIA. They're about to this spring. I think a lot of—in Korea, there's a sense that if this doesn't come together, they would probably turn their attention to some of those other FTAs.

Mr. WELLER. Well, thank you, Mr. Chairman. Ambassador, I encourage you to continue pursuing this negotiation. It is very, very important in my district and the manufacturers and the farmers that——

Mr. BHATIA. Thank you very much, Congressman.

Mr. WELLER. Thank you.

Chairman LEVIN. Mr. Meek, thank you for your courtesy. You have the last 5 minutes.

Mr. MEEK. Thank you, Mr. Chairman. We're very friendly from Florida, so we're used to being nice to folks. Mr. Ambassador, it's a pleasure having you before the Committee, and as you know, many of us here have a lot of unanswered questions. We don't know exactly what we're going to get by the end of the month, but we hope it is a product that we can hopefully endorse.

I have two questions. One is automotive, one is telecommunications. I'm just hoping that you could give the Committee some sort of estimate on the potential of job creation and also economic impact if we were to open Korea's automotive market, what Korea's automotive market will have on the U.S. Can you give me a little insight of how many jobs and how will it impact our economy?

Mr. BHATIA. Congressman, it's difficult to do any predictions, because there are a number of different variables. Also, let me—maybe I could just point you to some examples from prior FTAs, what we've seen happen in the automotive industry in previous FTAs.

First of all, let me take the example of Chile, which was a partner that had a tariff roughly comparable, I think it was 6 percent rather than 8 percent. It also had taxes, a domestic tax structure that our industry felt was a barrier to effective entry into the Chilean market.

The FTA that we concluded in Chile came into effect in 2004. From 2004 to '06, exports have increased by more than 200 percent, from 46 million to 139 million dollars. Jordan is another example. Jordan-U.S. passenger car and truck exports have gone from really a de minimis amount, $4 million, to more than $100 million, $102 million since the FTA came into effect in '01. Australia has also been a positive example. Car and trucks exports went up 47 percent.

So, I think there is a history of FTAs being successful in opening markets. Now in this case, with Korea, we obviously have a more complex situation and have come up with a much more or are pursuing a much more complex, detailed answer to that.

Mr. MEEK. Well, Mr. Ambassador, that's the reason why I asked the question, because here we have a number of new Members that are Members of Congress, and they have to go back home, including myself, and explain to their constituents how this agreement will increase jobs. So, I guess a number of potential jobs that can be created will be helpful for us.

I know that you're in the middle of negotiating, but I think that using the numbers or potential of what could happen in other examples, we need some hard numbers. Apparently, you're not there yet.

Mr. BHATIA. Well, it just, in terms of increased exports, we can—how those exports translate into jobs is a complex equation, but we can work on that.

Mr. MEEK. Let me ask the second question. An important objective in the Korea FTA is improving market access for the telecommunications sector. Korea currently restricts foreign equity in that sector to 49 percent in contrast to the U.S. telecommunications market that is totally open to Korean carriers.

In a free trade agreement, the U.S. carriers could have the same opportunities that are provided to customers in Korea with a full range of products and services as Korean companies enjoy in the U.S. Again, dealing with the 49 percent issue I think is very, very important. I've been talking with my staff a lot about this. It's, again, we have these free trade agreements. Who are we representing? Are we representing Koreans, or are we representing the great U.S. of A? Can you talk to me a little bit about that and shed some light on it?

Mr. BHATIA. I can assure we are representing the great U.S. of A and not only those sectors but others, including others that have not gotten as much discussion today, but we are pursuing U.S. interests——

Mr. MEEK. Where are we on the 49 percent?

Mr. BHATIA. Well, this I had mentioned—the issue had come up with a few other questioners. We have been as clear as we can be with the Koreans that the model of our FTA is that there is an opening to allow for foreign, in this case U.S., ownership and control of telecommunication services, and we have made that point very clear to the Koreans, and we are pushing on it very hard.

Mr. MEEK. Are we going to get what they will get from us?

Mr. BHATIA. That's—the goal would be for—the same way the U.S. market is open to Koreans today, and the hope is through the FTA and the idea is through this FTA to be able to gain that same access into Korea.

Mr. MEEK. So, we would look for parity versus?

Mr. BHATIA. Yeah. We would look for our companies to be able to compete effectively in those markets through addressing the

FTA restriction among other practices. There are other issues in the telecommunications area.

Mr. MEEK. Thank you, Mr. Ambassador.

Mr. BHATIA. Thank you.

Mr. MEEK. Thank you, Mr. Chairman.

Chairman LEVIN. Well, Mr. Reynolds, I think you said you were going to pass? All right. The ambassador—do you want to ask a quick question? Please, go ahead.

Mr. REYNOLDS. Mr. Chairman, I'm just aware of the ambassador's time, and I just want to urge him that he just take into consideration many of the challenges we've heard today on agriculture, auto and some of the things that our Ranking Member has outlined in the original opening remarks.

Chairman LEVIN. Thank you. Thank you so much for being here. I think this has been important. As you leave, could I just reinforce what I referred to earlier, Ambassador? When you talk about bringing home an agreement, in part because of its importance, in part because of the time squeeze, though it's conceivable it could go beyond, and also because of the dynamic within this Congress, let me suggest the notion of bringing home won't work. Since that kind of assumes a distance and you're bringing it home when we need a much more collaborative effort.

You said it's to be—you warned the Koreans if there's no real breakthrough, which I think means no more restrictions—unless there's a clear health need, Congress won't approve. I hope you'll convey and feel the same thing is true in other areas. So, it isn't bringing home, and it's not briefing staff, as important as that is. It's revising the relationship, because what was true perhaps in previous years isn't true anymore. I hope that's clear.

We would like to see a successful negotiation. Congress needs to be a much more active, meaningful partner. When it comes to the crunch, if Congress isn't part of the crunch, I think crunch will lead to failure. So, let me leave it at that. I hope we convey that message from people who believe in expanded trade but who believe it has to have a shape and conditions that would allow this Congress to approve it, and we're far, far away.

Thank you very much.

Mr. BHATIA. Thank you very much, Mr. Chairman.

Chairman LEVIN. Now the other panel will join us. We'll see how many questions there are. Thanks again, Mr. Ambassador. Then is the next panel kind of revving up? It may not be very long.

Thank you for your patience, Mr. Biegun and Mr. Collins, Mr. Reuther. I think it was useful to do it this way. All right. Who would like to start? Mr. Larson? Mr. Tanner, do you want to start? Okay. Mr. Larson, go ahead. Then Mr. Herger and then myself and Mr. Meek and maybe I'll come last.

Mr. LARSON. Thank you very much, again, Mr. Chairman, and let me concur that I like the format, because more often than not when we have and conduct these hearings, there isn't a chance to have the panelists actually to respond themselves to what they just heard.

I had a couple of specific questions as it related to the ambassador. They had to deal with the bipartisan agreements, minimally embracing those bipartisan agreements, and then also living up to and presenting us with an FTA that has labor standards. Did you feel that the ambassador adequately answered those, and what's your sense of how the USTR is pursuing down those lines?

Chairman LEVIN. Mr. Biegun, do you want to?

Mr. BIEGUN. I'd be happy to speak to the bipartisan proposal for resolving this. Though we've been in close communication with USTR on what the industry wants, we've been passing each other like ships in the night.

We don't want guaranteed access to the Korean market. We want to see the Korean market look like a normal market, and that, in our view, will guarantee that we'll be able to have access to it. This is a subtle but important difference. We don't seek to sell X number of Fords or X number of U.S. cars, but it's our view that if the Korean market is even half the level that's the average import penetration for all the rest of the automotive markets in the world, then they won't have the temptation or the ability to use the tricks they've used to keep it closed.

You can't use nontariff barriers when there's a substantial import presence in the market. We could make the changes. We can afford to. We can shift with the domestic industry just as they do here when National Traffic Safety Administration (NTSA) or the Environmental Protection Agency (EPA) require new things in the U.S. market. Once you get a critical mass, you're impervious to these kind of maneuvers. So, we're not seeking guarantees. We're looking for a test to show that the market is the same.

Mr. LARSON. The ambassador kept on referring to the fact that they had—it's transparent, their negotiations are more transparent than ever, the regulations are more transparent. Has that been your experience?

Mr. BIEGUN. In 1995, the United States had a comprehensive agreement to eliminate all such measures. It failed. In 1998, the United States had another comprehensive negotiation to eliminate all such measures. It failed. We sell less cars today as an industry in Korea than we did in 1998 when the last agreement was negotiated.

Mr. REUTHER. Just to reinforce that, I think it was quite clear from the ambassador's response that they have no intention of meeting the minimum requirements that were set forth in the bipartisan Congressional proposal, and we deeply regret that. It looks like they're following the same path that they did in 1995 and 1998, and we think they're going to get exactly the same result.

On the issue of worker rights, other than saying it's going to be a strong proposal, they indicated absolutely nothing. So, far on Peru and Colombia, as well as Korea, it's been our impression that they're absolutely opposed to including the internationally recognized worker rights in the core text of the agreement, enforceable just like commercial provisions. So, we again expect the agreement to be totally inadequate in that area.

Mr. LARSON. Thank you.

Chairman LEVIN. All right. Thank you. Mr. Herger.

Mr. HERGER. Thank you, Mr. Chairman. It seems to me that the real problem that's faced by the auto industry is one that is encountered by many other U.S. interests seeking access to the Korean market, namely the complete lack of transparency in Korea for setting rules, regulations and standards.

The solution we employ must solve this problem not only for autos but for these other sectors as well. Maybe starting with you, Mr. Collins, what Office of Women's Health do we find a solution that addresses the unfair rulemaking process and the lack of transparency that systematically slams the Korean market shut for U.S. beef, rice, pharmaceuticals as well as autos, just to name a few?

Mr. COLLINS. A very good question, Mr. Herger, for many industries. We—and I'll speak with experience of the auto industry. I think when you're dealing with a country that has decided to use its regulatory system as a method of control, controlling trade, or a method of protection and has gotten used to that as an active governmental structure using multiple ministries, you start with transparency. I think that is a start. However, that is just the start. I think it gets you to the table. It gets you to at least a minimum of information. However, I think you have to go from there.

Based on our experience, because we've been going round and round for 15 years with this problem, what we found was that, for example, with Korea, we'd have a new, nontariff barrier that would stop us cold. We have one now sitting on the table that would shut out 40 percent of our cars in a year that happened to pop up this year.

However, there's one of these every year. Usually, without transparency, it comes up suddenly, but then even when it becomes transparent, it becomes raised—we have to go to USTR—it then becomes, one issue becomes a bilateral issue that gets raised higher and higher and higher till finally it's up to the cabinet level on, in our case, the placement of where you put a license plate. It has to go to the cabinet to be resolved. It uses huge amount of political capital and energy, and actually it's good Korean strategy, because it takes up a lot of our time and your time and the USTR's time. You finally get a resolution of it. You put that away, and six—three months later, there's another one, and you start the process all over again. I'm sure other industries can report the same thing.

It's more than—transparency is critically important, absolutely. However, it's the building blocks from which you say we've got to get a system, got to get a handle on looking at what's going on here in our industry and other industries and how to deal with that if we're having—talking about a mature, equal relationship, how we deal with that as a trade, the biggest trade barriers that we face in the country structurally and systemically, not just with what's up now, but what's coming in the future.

Mr. HERGER. Anyone else want to comment? Yes?

Mr. BIEGUN. Mr. Herger, I think you also need to get the incentive system right, and this is the part of the proposal which we as an industry early on engaged with USTR on. We propose to go ahead and support the tariff reductions but put them 15 years out, and they can come forward if the Korean market begins to resemble a normal market.

We cannot find every trick that they use to keep our products out, nor can we in one agreement block every barrier that they might propose the day the ink dries on that agreement. What we suggest is you get the incentives right; that they have an incentive to stop using these tricks, and then we have confidence to invest in the Korean market. The global industry, we can tell you first hand, is competitive. It's good. It's tough.

They'll get into the Korean market, and it will become a normal market, not through managed trade, not through guaranteed opportunity, but by the routine access that global automotive makers have in our own market where about 50 percent of the market will be owned by nondomestic brands by the end of this year.

Mr. HERGER. Would you like to distinguish between the controlled market and the other kind of market that you're?

Mr. BIEGUN. In what respect, sir?

Mr. HERGER. How you would do it. You know, we can say we're going to say that you have to sell X thousand number of cars, but that could be looked at as controlled market. How would you look at opening this market without having it actually setting——

Mr. BIEGUN. You see, it's not USTR's job to open the Korean market to Japanese cars. In addition, if the Koreans continue to block Japanese cars, then the same tools will block our cars. If they continue to block European cars, BMWs and Volkswagens and all the rest, they'll continue to block our cars.

We actually think that there does have to be an agreement, a comprehensive agreement on the Korean side, to completely open its market. Also, there has to be some sort of guarantee, some sort of incentive that they don't reinstitute those mechanisms the day after the agreement is signed. That's what we experienced in '95 and '98.

It's a little bit like Charlie Brown coming at Lucy while she's holding the football. We took a kick at it '95, and we fell flat our back. We took a kick at it in '98 and fell flat on our back. There's that football sitting out there on the field again, and Lucy's holding it, and we just don't want to be Charlie Brown again.

Mr. HERGER. Very good [continuing]. Thank you.

Chairman LEVIN. All right. I was going to ask about the USTR's notion that the Korean production was going to shift dramatically to the United States

There are other panelists waiting. I treated this in my opening statement. I think it is an excuse. It is an excuse for essentially ending up with nothing or a very weak agreement.

Mr. Biegun.

Mr. BIEGUN. I really did want to comment on that, Mr. Chairman. We do not want to stop them from manufacturing here. Do not get me wrong. It does not make our business easier when they manufacture here. We do not want to stop them.

We want access to their market. What possible bearing does their investment here have on our access to their market? I do not care if they make all their cars here. We still want to get in their market. That is all we ask in this negotiation.

We do not want to limit that. We think that is just a distraction.

Mr. REUTHER. Mr. Chairman, as you indicated in your opening statement, even with additional production facilities in this country, as the Korean share of the U.S. market rises, we are still likely to see increased imports from Korea.

On the top of that, if the pick-up truck tariff is eliminated, we will probably see foreign producers from other countries locating production capacity in Korea to take advantage of the duty free access to pick-up trucks.

We think the trade balance will get even worse between our two countries.

Chairman LEVIN. Mr. Collins, very briefly.

Mr. COLLINS. To follow on my two colleagues, yesterday in Automotive News, which is dated March 19, "Hyundai Plans Luxury Car for the United States in 2008." Hyundai Motor says it will launch a luxury car in the United States next year, built in Korea.

The point that you made in your statement and the others have made that this is not a static situation, that the Korean auto makers are going to grow and build on it, probably much like the Japanese model has verified by this.

Chairman LEVIN. We have urged that the 25 percent tariff should not be determined bilaterally but through the discussions.

Thanks very much. We appreciate your comments.

Now, let's have the next panel. Thank you all for your patience. Thanks again.

Thank you so much. Mr. Herger and I just had a brief chat. We are going to make sure that your testimony reaches everybody. The second panels always bump into this. We are going to send a note to all of the Members, not only of the Subcommittee, but the Full Committee, with your testimony.

Furthermore, you are going to raise some very important issues, we do not mean for a second these are secondary issues. We assure you of that. We are going to have a very active back and forth with USTR as to these issues, as well as the others.

When I commented about "bringing home," I do not like that figure of speech. I think it does not involve Congress or yourselves effectively enough.

I guess we will go with Ms. Overby with the American Chamber of Commerce in Korea, and Mr. Stallman, you are the President of the American Farm Bureau Federation.

Mr. Vastine, you are with the Coalition of Service Industries. Mr. Boyle, you are President and chief executive officer of the American Meat Institute.

Ms. Ritter, you are Vice President of International Affairs for the Pharmaceutical Research and Manufacturers of America. Mr. Steir, Executive Vice President of Paramount Films.

Mr. STEIR. Farms.

Chairman LEVIN. What did I say?

Mr. STEIR. Films.

Chairman LEVIN. Paramount Farms. You wish you were head of Paramount Films. It is Paramount Farms. That is pistachio's, is it not?

Mr. STEIR. Yes, sir.

Chairman LEVIN. We have a lot back in the room, by the way. We like pistachio's on this Committee.

Cal Cohen, we welcome you.

If each of you would take 5 minutes, and go forth. Thanks.

STATEMENT OF TAMI OVERBY, PRESIDENT AND CHIEF EXECUTIVE OFFICER, AMERICAN CHAMBER OF COMMERCE IN KOREA, ON BEHALF OF THE U.S. CHAMBER OF COMMERCE, THE U.S.-KOREA BUSINESS COUNCIL, AND THE U.S.-KOREA FTA BUSINESS COALITION

Ms. OVERBY. Thank you. Good afternoon. My name is Tami Overby. I am speaking on behalf of the U.S. Chamber of Commerce, the U.S.-Korea Business Council, the American Chamber of Commerce in Korea, and the U.S.-Korea Free Trade Association Business Coalition.

Due to of the shortness of time, we are submitting our more detailed FTA papers for the record.

Chairman LEVIN. It will be so introduced and the same will be true for all of you. Thank you.

Ms. OVERBY. Thank you. Our organization strongly support an FTA with Korea that is comprehensive in scope and fully consistent with the WTO's framework for liberalized trade.

We urge negotiators to ensure that the agreement eliminates tariff and non-tariff barriers in the Korean market as rapidly as possible.

We also call for an FTA that provides for transparent and predictable regulatory and rulemaking procedures across all sectors in the Korean economy.

We are now at a critical moment in the FTA negotiations with Korea. We call on leaders of both countries to make completion of these negotiations a top priority. A gold standard FTA with Korea would serve as a new model for future FTAs in the important Asia Pacific region, and would bring substantial and tangible benefits in a number of ways, create new access in a dynamic market.

Korea is already our seventh largest two way trading partner, our second largest market for U.S. services in Asia, our seventh largest market for U.S. agriculture goods, our ninth largest destination for U.S. Information and Communications Technology (ICT) exports.

Studies by several leading United States and Korean experts have indicated that a comprehensive FTA will stimulate U.S. exports to Korea to the benefit of U.S. businesses, farmers, and workers, and will create new opportunities for U.S. goods and services.

Enhancing regulatory transparency. The FTA provides a landmark opportunity to enhance regulatory transparency in Korea, one of the most significant market access barriers affecting U.S. companies in Korea in virtually all sectors.

Leveling the playingfield. There are numerous non-tariff barriers affecting U.S. companies across all sectors.

This FTA is an opportunity to obtain strong commitments by Korea to address these barriers in a meaningful way.

Promoting liberalization and regional trade leadership. A comprehensive FTA with Korea will be the United States' first FTA with the Northeast Asian economy. This deal gives the United States a preferential position with the world's tenth largest economy, one in which the United States has been losing market share to China and the EU in recent years, and would also provide an opportunity for the United States to shape the future trade agenda in Asia.

Outstanding FTA negotiation priorities. While progress has been made, a number of priority issues for our organizations remain to be fully addressed.

In the area of agriculture, an agreement must be comprehensive, and the Korean market must be fully re-opened to U.S. beef imports.

Automobiles. Korea remains the most closed auto market in the industrialized world, and our organizations have called for an FTA that addresses in a comprehensive manner the longstanding tariff and non-tariff barriers that have been effective in keeping the Korean auto market closed, and that includes special measures to ensure real and meaningful import market access.

Pharmaceuticals. Our organizations continue to view the FTA as an ideal means to address longstanding issues and to enhance the access of Korean patients to leading U.S. medical products, to further improve the transparency and accountability of Korea's national health insurance system, and to secure better and lasting recognition of the value of innovative U.S. biomedical discoveries.

Investment. We believe that an FTA with Korea must include strong investment protections and investor state dispute settlement procedures.

Further, the agreement should guard against investment caps and limitations on majority ownership by U.S. companies.

If an FTA with Korea is not concluded, not only would these and other critical issues remain, but resolving them could become even more challenging.

Moreover, if we miss this opportunity to complete an FTA with Korea, American manufacturers and farmers would lose the chance to gain new access in the Korean market, and also could lose market share as Korea concludes other bilateral trade agreements with other countries.

Korea is already negotiating FTAs with Japan and Canada, among others, and has announced its intention to launch negotiations with the EU in May, and is studying possible FTA talks with China.

In conclusion, while issues remain, we are optimistic that a commercially meaningful agreement can be concluded in time for Congress to consider it under the current TPA.

An agreement would bring real benefits for the U.S. and Korean workers and businesses, and will reinforce our two countries' economic leadership in the region.

Our organizations are firmly committed to working with Congress and the Administration to secure a successful U.S.-Korea free trade agreement.

Thank you very much for the opportunity to testify today.

[The prepared statement of Ms. Overby follows:]

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Hearing of the U.S. House of Representatives
Committee on Ways and Means
Trade Subcommittee

on

U.S.-Korea Free Trade Agreement Negotiations

Tuesday, March 20, 2007
2:00 p.m.
1100 Longworth House Office Building

Testimony by
Tami Overby
President and CEO
American Chamber of Commerce in Korea

on behalf of the

U.S. Chamber of Commerce
U.S.-Korea Business Council
American Chamber of Commerce in Korea
U.S.-Korea FTA Business Coalition

On behalf of the U.S. Chamber of Commerce, the U.S.-Korea Business Council, the American Chamber of Commerce in Korea (AMCHAM Korea), and the U.S.-Korea FTA Business Coalition, it is an honor for me to appear before the Trade Subcommittee of the U.S. House of Representatives Committee on Ways and Means to set out the views of our organizations on a potential U.S.-Korea Free Trade Agreement (FTA).

The U.S. Chamber of Commerce is the world's largest business federation, representing over three million businesses and organizations of every size, sector, and region. The U.S.-Korea Business Council and AMCHAM Korea are the premier broad-based organizations promoting the bilateral U.S.-Korea economic and commercial relationship. The launch of U.S.-Korea FTA negotiations was a long-standing priority for the Chamber, the Council, and AMCHAM Korea, and our organizations actively led efforts in both Washington and Seoul to promote the resolution of outstanding trade issues that were major barriers to moving forward with these negotiations. The Council is leading the U.S.-Korea FTA Business Coalition, a group of over 200 U.S. businesses, trade associations, and business organizations that support the negotiation of a comprehensive and commercially meaningful free trade agreement between the United States and Korea. AMCHAM Korea, as a key coalition steering committee member, is leading Coalition activities and outreach to the Korean government and business community in Korea.

Our organizations strongly support an FTA with Korea that is comprehensive in scope and fully consistent with the World Trade Organization's framework for liberalized trade. We urge that an agreement eliminate tariff and non-tariff barriers in the Korean market as rapidly as possible. We also call for an FTA that provides for transparent and predictable regulatory and rulemaking procedures across all sectors in the Korean economy and that contains specific commitments to address long-standing issues for U.S. companies in the agriculture, automotive, and pharmaceuticals sectors.

We are now at a critical moment in the FTA negotiations with Korea. We call on the leaders of both countries to make the near-term completion of these negotiations a top priority. We also urge negotiators to consider creative approaches and solutions to addressing the outstanding issues remaining in these talks.

Last week, U.S. and Korean negotiators concluded the eighth round of FTA negotiations. We understand that significant progress was made in these discussions. Press reports indicate that agreements were reached by negotiators in the areas of competition policy, government procurement, and customs and that negotiators are close to final agreements in several other chapters. A number of important issues within these negotiations remain to be resolved, particularly in agriculture, automobiles, pharmaceuticals, textiles, and investment. Negotiators are meeting this week both in Washington and Seoul to address these serious issues.

Our organizations remain focused on the broad benefits that a comprehensive agreement with Korea could have for U.S. workers, consumers, and businesses, including manufacturers, service providers, and farmers. A "gold standard" FTA with Korea that eliminates tariff and non-tariff market access barriers would serve as a new model for future FTAs around the world and would bring substantial and tangible benefits in the following ways.

Create New Access in a Dynamic Market: A comprehensive FTA will stimulate U.S. exports to Korea to the benefit of U.S. businesses and workers, and will create new opportunities for U.S.

goods and services to compete in one of the world's largest and most dynamic economies. Korea is our seventh-largest trading partner in terms of two-way trade and investment. Two-way trade in goods reached $78 billion last year, with U.S. exports to Korea totaling $32.4 billion, an increase of 17 percent from 2005. Korea is the second-largest market for U.S. services in Asia, and the most significant market for the U.S. banking, insurance, and securities industries among recent U.S. FTA partners. Korea was the ninth-largest destination for U.S. information and communications technology (ICT) exports and is considered an important potential growth market for this sector. It is important to note that U.S. small and medium enterprises play a significant role in bilateral trade with Korea, comprising over 88 percent of all U.S. companies exporting to Korea in 2004 and accounting for over 32 percent of total U.S. exports to Korea that year. The United States is also Korea's largest source of foreign direct investment.

A U.S.-Korea FTA would generate economic benefits for both countries. Studies by several leading U.S. and Korean experts have indicated that a comprehensive bilateral FTA would lead to greater economic growth and net welfare gains in both countries through increased trade and investment. A 2001 study by the Institute for International Economics (IIE) on the potential benefits of a U.S.-Korea FTA estimated that, under an agreement, U.S. exports to Korea could rise by 49 percent and U.S. imports from Korea could increase by 30 percent over the medium term. A 2001 study by the U.S. International Trade Commission forecast an increase of U.S. exports to Korea by up to 54 percent and of U.S. imports from Korea by 21 percent. Subsequent studies by the IIE and others have pointed to similar net gains for both the United States and Korea under an FTA, indicating that an agreement is clearly in both countries' interests.

A Key Opportunity for Agriculture: A comprehensive agreement with Korea promises important new access to the Korean market for U.S. farmers. U.S. agricultural exports to Korea reached $2.2 billion in 2005, making Korea the seventh-largest market for U.S. agricultural goods. Major U.S. agricultural exports to Korea include fruits and vegetables, soybeans, wheat, corn, meat and hides, and consumer-ready products. Although the United States has long been Korea's chief source of agricultural goods, competitors such as China, Australia, and the European Union have rapidly increased their market shares in this sector in recent years. An FTA that quickly reduces Korea's average applied tariff of 52 percent on U.S. farm goods, along with the full reopening of the Korean market to U.S. beef, will give U.S. farmers and food producers new export opportunities and ensure they can compete aggressively with other major exporters in the Korean market.

Improving Competitiveness of U.S. Goods and Services: A principal benefit of an FTA will be the elimination of Korean tariffs on U.S. goods and services. Korea's average applied tariff on imports is 11.2 percent, while the U.S. average applied tariff is 3.7 percent. Korea's average applied tariff on agricultural products is more than four times as high as the U.S. average of 12 percent. Through eight rounds of FTA talks, U.S. negotiators have succeeded in obtaining commitments by their Korean counterparts to reduce tariffs on U.S. agricultural and industrial goods, which will enable U.S. manufacturers, farmers, and services providers to more competitively offer their products to Korean consumers. Our organizations urge a final FTA that includes the earliest possible elimination of tariffs on goods and services across all sectors.

Enhancing Regulatory Transparency: A comprehensive FTA with Korea would eliminate significant and long-standing non-tariff barriers in the Korean market to U.S. goods and services. The lack of transparency in and lack of equal access to the regulatory process are arguably the most significant market access barriers affecting U.S. companies in Korea. Examples of these include

Korea's failure to seek public comment for new regulations; the inconsistent application of regulations by Korean supervisory bodies; the delegation of regulatory authority to non-governmental organizations in ways that creates possibilities for conflicts of interest; and concerns that Korean regulations disproportionately target outside investors over Korean companies. The current FTA negotiations are a landmark opportunity to enhance regulatory transparency in Korea The Korean government has made progress in regulatory reform in recent years, including througl promoting reforms in the financial services sector to streamline regulations and consolidating separate laws into a single law providing overarching regulation for the securities area. An FTA wi strong provisions on transparency would build additional momentum for this process across all business sectors in Korea.

Leveling the Playing Field: Other non-tariff barriers in Korea affect U.S. companies. Limitatioı on foreign investment in telecommunications, broadcasting, and in other key sectors can discourag foreign investment in these areas, undermining economic growth and competitive opportunities fo Korea. Standards-setting, testing, and certification procedures that are unique to Korea, that do nc follow the principle of "technology neutrality," and that are not science-based or in line with internationally accepted norms pose significant barriers to U.S. manufacturers, service providers, aı agricultural producers in the Korean market. Additional barriers that present challenges U.S. business in Korea include inadequate protection for intellectual property rights and enforcement, and customs classification and clearance procedures. These are outlined in detail in the *FTA Positi. Paper* released last June by the Council and the AMCHAM Korea.

Our organizations have urged U.S. negotiators to obtain strong commitments by Korea to address these non-tariff barriers in a meaningful way in an FTA. Accomplishing this would lead tc high-quality agreement establishing important new precedents for future trade deals, both bilateral and multilateral. We understand that U.S. negotiators have made important progress on transparency issues and in tackling many of these non-tariff barriers.

Promoting Liberalization and Regional Trade Leadership: A comprehensive FTA with Kore is an important opportunity for the United States to shape the future trade agenda in Asia. It woul give the United States a preferential position in the world's tenth largest economy and improve the ability of U.S. workers, farmers, and companies to compete in the dynamic Northeast Asia region. This agreement would be the largest bilateral trade agreement the United States has entered into since the North American Free Trade Agreement (NAFTA). It would also be the first U.S. agreement with a Northeast Asian economy, one in which the United States has been losing marke share to China and the European Union in recent years. By eliminating tariffs on U.S. exports and removing non-tariff barriers in Korea's lucrative market, an FTA will give U.S. exporters an important edge vis-à-vis our global competitors. The FTA under negotiation with Korea addresse: the full range of challenges U.S. businesses face in foreign markets. A strong FTA will offer a goo example for other bilateral and multilateral agreements.

Strengthen a Critical Regional Partnership: An FTA with Korea will reinforce our two countries' important political and security partnership. Korea is a long-standing and close ally of tl United States, and one of our strongest allies in advancing global security. The Korean people sha: our commitment to democracy and to promoting peace and prosperity in the Asia-Pacific region. The successful conclusion and ratification of an FTA between our two countries will bring our twc countries even closer together as partners and as leaders in the dynamic Northeast Asia region.

Outstanding FTA Negotiation Priorities: While there has been significant progress towards the completion of a comprehensive and commercially meaningful FTA with Korea, a number of priority issues for our organizations remain to be fully addressed in the negotiations. In agriculture, an agreement must be comprehensive and the Korean market must be fully reopened to U.S. beef imports.

Automobiles: An FTA with Korea has significant implications for the U.S. auto industry. Korea remains the most closed auto market in the industrialized world, and past bilateral auto agreements have been unsuccessful in opening the Korean auto market to international competition. For this reason, our organizations have called for an FTA that addresses in a comprehensive manner the long-standing tariff and non-tariff barriers that have been effective in keeping the Korean auto market closed to auto imports, and that includes special measures to ensure real and meaningful import market access into Korea.

Pharmaceuticals: Korea's operating environment has long presented U.S. pharmaceutical companies with numerous challenges, which an FTA provides an ideal means to address. Moreover, in May 2006 the Korean Ministry of Health and Welfare announced the introduction of a radically new pharmaceutical reimbursement scheme which contained numerous elements of concern to U.S. industry. The U.S. government and U.S. industry submitted concrete suggestions on ways Korea could improve this new system to ensure that it does not discriminate against foreign companies, that it encourages innovation, and that it facilitates patient access to new, life-saving medicines. However, the Korean government implemented the new system at the end of 2006 without incorporating any of these suggestions. Our organizations continue to view the FTA as an important opportunity to enhance the access of Korean patients to leading U.S. medical products, to further improve the transparency and accountability of Korea's National Health Insurance system, and to secure better and lasting recognition of the value of innovative U.S. biomedical discoveries.

Investment: An FTA with Korea must include strong investment protections and investor-state dispute settlement procedures following the model U.S. bilateral investment treaty (BIT), which is the basis for the investment chapters in other recent U.S. FTAs. Our members value the protection from discriminatory, arbitrary, direct and indirect expropriatory actions by governments, the market access, and the investor-state dispute settlement provisions that strong FTA investment chapters afford American investors overseas. An agreement that includes these provisions would further promote Korea as an attractive destination for U.S. investors. Further, the agreement should guard against investment caps and any limitations on majority ownership by U.S. companies.

If an FTA with Korea is not concluded, these and other critical issues would remain and resolving them could become even more challenging. Moreover, Korea is rapidly working to engage other leading economies in FTA negotiations. Korea has announced its intention to launch FTA talks with the European Union in May 2007 and is currently conducting a study on possible FTA talks with China. If we miss the current opportunity to complete an FTA with Korea, U.S. manufacturers and farmers would not only lose the chance to gain new access in the Korean market, but also could lose market share as Korea concludes other bilateral trade agreements with other countries. Moreover, the failure to conclude an agreement almost inevitably would affect the strategic partnership between our countries, which is important to ensuring stability and security in Northeast Asia.

On a separate issue, our organizations are pleased that there is support in Congress for reforms to the U.S. Visa Waiver Program that, while enhancing border security, would also enable Korea to qualify for inclusion in the Program. Although U.S. visa policy falls outside the scope of a bilateral FTA negotiation, we highlight the importance of a visa waiver for Korean travelers to the United States to our bilateral economic and political relationship. Korea plays an important role in sending visitors to the United States for business, tourism, and academic study, and in fact Korea was the largest source of foreign students studying in the United States last year. In 2006 the number of Korean travelers to the United States grew by six percent, and this total is forecast to increase by 26 percent over the next five years. Together with a free trade agreement, Korea's inclusion in the U.S. Visa Waiver Program will further promote flows of people and trade between our two countries.

Conclusion

Mr. Chairman, Mr. Ranking Member, members of the committee, we greatly appreciate this opportunity to testify before the Trade Subcommittee on the U.S.-Korea FTA negotiations. While many critical issues remain to be resolved in these negotiations, we are optimistic that a commercially meaningful agreement FTA can be successfully concluded in time for Congress to consider it under the current Trade Promotion Authority. An agreement would bring real benefits for U.S. and Korean workers and businesses, and will reinforce our two countries' economic leadership in the region by demonstrating that we are ready and willing to embrace new opportunities in an increasingly competitive global market environment. Our organizations are firmly committed to working with Congress and the Administration to secure a successful U.S.-Korea FTA. Thank you very much.

Chairman LEVIN. I want to thank you very much.
Mr. Stallman.

STATEMENT OF BOB STALLMAN, PRESIDENT, AMERICAN FARM BUREAU FEDERATION

Mr. STALLMAN. Mr. Chairman, Ranking Member Herger, Members of the Committee, I certainly appreciate the opportunity to address the U.S.-Korea negotiations today.

My name is Bob Stallman. I am a rice and beef producer from Texas and President of the American Farm Bureau Federation.

Overall, trade is important to U.S. farmers and ranchers. U.S. agriculture is dependant on trade for several reasons.

First, roughly 25 percent of total market cash receipts for agriculture comes from exports. In addition, 96 percent of our current or potential customers live outside the borders of the United States, and last, agricultural productivity is increasing nearly twice as fast as domestic demand for agricultural products.

It is critical for U.S. agriculture that industry, Congress and the Administration work together to further open and develop world markets.

USDA estimates that in 2007, the U.S. ag trade surplus will rise to $8 billion, but we will not be able to maintain this surplus unless action is taken to ensure our international competitiveness.

We believe South Korea is an important component of the current trade agenda this Congress will have to address. Other important components this Committee and Congress should support and vote on as soon as possible are the Peru, Columbian and Panama trade agreements.

We have estimated that these three agreements represent more than an additional $1.5 billion per year in U.S. agricultural exports after full implementation. We cannot let this opportunity slip away.

In addition, we urge you to support extension of trade promotion authority. Without this, our government will be locked out of any further trade negotiations allowing our competitors ample time and opportunity to increase their competitive advantage in markets that are important to us.

When USTR announced its intent to negotiate a bilateral free trade agreement with South Korea, we understood that the negotiations would not be easy, but we also recognized the potential for growth in this market.

Korea is a major global market for agricultural products and the United States is one of the key suppliers of that market.

South Korea was the fifth largest export market for agricultural products in 2004. Of the $10.5 billion in agricultural goods that South Korea imported, $2.5 billion of that came from the United States. In 2004, the United States had an agricultural trade surplus with South Korea of $2.3 billion.

Reflecting on the diversity of Korea's import demands, the United States supplied a wide range of agricultural products in 2004, including corn, soybeans, wheat, processed foods, cotton, fresh citrus, nuts, and fruit juices. In prior years, Korea was a major market for U.S. beef. U.S. exporters supplied nearly $790 million in beef and beef staples as recently as 2003.

While the United States is a significant supplier of the South Korean food and fiber market, our market share is decreasing. The United States' market share of South Korea's agricultural imports has fallen from nearly 45 percent in 1996 to less than 30 percent in 2004, a 30 plus percent drop.

Other countries are moving in and increasing their share of the South Korean agricultural market. Those are Australia, New Zealand, Canada, the EU, and China.

Korea maintains high import tariffs on many products ranging from just over 1 percent to nearly 500 percent, depending on the commodity.

An agreement will give U.S. exporters expanded access by removing restrictions due to Korea's tariffs, as well as providing a competitive advantage over other suppliers.

Eliminating or even significantly reducing these high tariff rates through this agreement could be extremely beneficial to the United States' agricultural sector.

Mr. Chairman, we understand there is not much time left in order to conclude these negotiations. We remain committed and hopeful that USTR and Korean negotiators can successfully complete negotiations under the terms and existing time line of TPA.

We commend USTR for their dedication to this agreement, and appreciate their diligence in working with us and others in the ag community.

There are some very significant issues that have not yet been resolved. Currently, Ambassador Crowder and the agriculture negotiating team are in Seoul to try to resolve these issues.

Farm Bureau representatives and others from the U.S. ag community are there also to convey the importance of these negotiations.

I am sure you are aware of some of the sensitive issues, including rice, citrus and beef. We must secure additional market access for all commodities, including rice and citrus.

The issue for beef is a little larger. While it does include market access, it also involves SPS issues.

We remain optimistic that with the recent preliminary OIE announcement that the United States is a controlled risk for BSE. The Koreans should begin to fully open their beef market to the United States.

Let me be clear. The Farm Bureau will not support passage of a Korea FTA without resolution of the beef issue.

In conclusion, assuming a successful end of the negotiations and resolution of the beef issue, the opportunity for U.S. agriculture under a U.S.-Korea trade agreement could prove as great as or greater than our previous bilateral or regional trade agreements.

Thank you. I look forward to your questions.

[The prepared statement of Mr. Stallman follows:]

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**STATEMENT OF THE
AMERICAN FARM BUREAU FEDERATION
TO THE
SUBCOMMITTEE ON TRADE
HOUSE WAYS AND MEANS COMMITTEE
REGARDING THE U.S.-KOREA TRADE NEGOTIATIONS**

March 20, 2007

Presented by:
Bob Stallman
President, American Farm Bureau Federation

My name is Bob Stallman. I am a rice and cattle producer and the president of the American Farm Bureau Federation.

Trade is important to U.S. farmers and ranchers. U.S. agriculture is dependent on trade for several reasons. Roughly 25 percent of total cash receipts for agriculture come from exports. In addition 96 percent of our current or potential customers live outside the borders of the U.S. or to put it another way, for every 25 consumers of food and agricultural products only one of them lives in the U.S. And lastly, agricultural productivity is increasing nearly twice as fast as domestic demand for agricultural products.

It is critical for U.S. agriculture that industry, Congress and the administration work together to further open and develop world markets. USDA estimates that in 2007 the U.S. agricultural trade surplus will rise to $8 billion, but we will not maintain this surplus unless action is taken to ensure our international competitiveness.

We also encourage you to make Korea an important part of Congress' Trade Agenda. On Feb. 2, 2006, the Office of the United States Trade Representative (USTR) announced its intent to negotiate a bilateral free trade agreement with South Korea, also known as the Republic of Korea. The American agricultural sector faces potential gains and challenges from a preferential trade agreement with South Korea. Some of these opportunities and concerns are addressed in this report. This committee and Congress should support and vote on the Peru, Colombia and Panama trade agreements. We have estimated that these three agreements represent more than an additional $1.5 billion per year in U.S. agricultural exports after full implementation. In addition we urge you to support extension of Trade Promotion Authority. Without Trade Promotion Authority the U.S. will be locked out of any further trade negotiations allowing our competitors an opportunity to increase their competitive advantage in markets that are important to us.

General Information

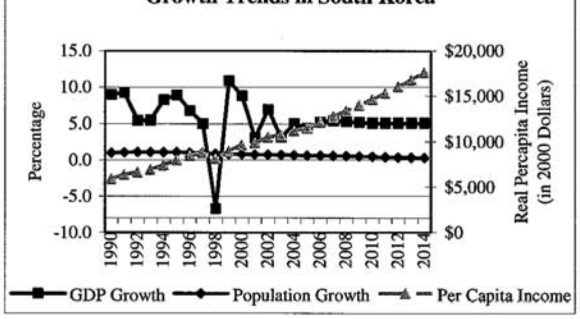
South Korea is a relatively small country, with a size only slightly larger than that of Indiana, with about 17 percent of that arable land. South Korea has a population of about 48 million people.

While still self-designated as a developing economy by the World Trade Organization (WTO), South Korea is actually the 10th largest economy in the world.[1] Four decades ago, its gross domestic product (GDP) per capita was comparable with levels in the poorer countries of Africa and Asia. High levels of economic growth during the 1980s and 1990s plunged to a negative 6.9 percent in 1998 due to the Asian financial crisis of 1997-1999. However, the South Korean economy then increased 9.5 percent in 1999 and 8.5 percent in 2000.[2]

South Korea has now fully recovered from the Asian financial crisis. In fact, in 2004, South Korea joined the trillion dollar club of world economies. Today, the South Korean GDP per capita is 14 times that of North Korea and is equal to the lesser economies of the European Union. "Moderate inflation, low unemployment, an export surplus, and fairly equal distribution of income characterize this solid economy," is how the CIA's *World Factbook* describes South Korea.

<u>Growth Trends in South Korea</u>

There are several growth trends that can be examined in an attempt to estimate what the South Korean market could represent in the future. These growth trends include the gross domestic product (GDP) growth rate, the population growth rate and the increase in per capita income. Each of these trends is shown in the graph below, which includes actual trends from 1990 to the present and future forecasts from the present to 2014.[3]



Growth Trends in South Korea

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[1] Office of the United States Trade Representative. *Trade Facts*, "FTA: United States and Republic of Korea Economic and Strategic Benefits." February 2, 2006.

[2] Central Intelligence Agency. *The World Factbook*. Washington, DC, February 2006.

[3] United States Department of Agriculture. "International Macroeconomic Data Set." Economic Research Service, Washington, DC, February 2006.

While the GDP in South Korea experienced a significant drop from 1997 to 1998, the country is now experiencing strong economic growth. This growth is forecasted to continue at about 5 percent per year to 2014.

The population growth rate for South Korea has been relatively stable at roughly 1 percent per year. However, that growth rate is expected to decline to less than 0.5 percent per year by 2014. This stagnating population could create challenges in the South Korean economy as labor sources decrease and the population ages.

As mentioned previously, South Korea is very advanced for a "developing" country. This point is only further illustrated by examining the country's per capita income and per capita income growth trends. The per capita income in South Korea is expected to grow significantly in the future. From a real per capita income (in 2000 dollars) of roughly $12,000 today, it is forecasted to grow to nearly $22,000 by 2016.

General Trade with South Korea

South Korea is the seventh largest trading partner of the United States.[4] Total trade between the United States and South Korea was $72.6 billion in 2004, up roughly 15 percent from the previous year and breaking the two-way trade record of $68.1 billion set in 2000. The export of American goods totaled $26.4 billion, an increase of roughly 9 percent since 2003. United States imports from South Korea totaled $46.2 billion, up $8.9 billion from 2003. The United States currently has a total trade deficit with South Korea of $19.8 billion.[5] The United States is one of the leading foreign investors in Korea. The stock of U.S. foreign direct investment in South Korea in 2003 (the latest year data is available) was $13.3 billion.[6]

Agricultural Information

At the start of the economic boom in 1963, the majority of South Koreans were farmers, and 63 percent of the population lived in rural areas. Over the next several decades, however, South Korea grew from a predominantly rural, agricultural nation into an urban, newly industrialized country and the agricultural workforce shrank to account for only 8 percent of the total workforce in 2004.

South Korea's agriculture has many inherent problems. South Korea is a mountainous country with only 17 percent arable land and less rainfall than most other neighboring rice-growing countries. In addition, the enormous growth of urban areas has led to a rapid decrease of available farmland, while at the same time population increases and bigger incomes mean that the demand for food has greatly outstripped supply. The result of these developments was that by the late 1980s, roughly half of South Korea's food and fiber needs, mainly wheat and animal feed, were imported.[7]

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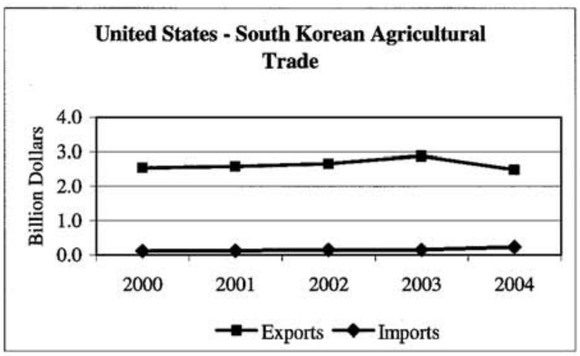
[4] Office of the United States Trade Representative. *Trade Facts*, "FTA: United States and Republic of Korea Economic and Strategic Benefits." February 2, 2006.
[5] United States Census Bureau. "Trade in Goods (Imports, Exports and Trade Balance with Korea, South." Foreign Trade Statistics. Washington, DC, January 2006.
[6] Office of the United States Trade Representative. *2005 National Trade Estimate Report on Foreign Trade Barriers*. March 2005.
[7] United States Department of Agriculture. "Briefing Room – South Korea." Economic Research Service. Washington, DC, June 2005.

Rice dominates crop production in South Korea and has long been the staple in the country. Other important cash crops include barley, millet, cotton, hemp, sesame, tobacco and ginseng. While production of fruits, vegetables and livestock has grown over the last three decades, South Korea has turned increasingly to food imports to satisfy consumers' demands.

Current agricultural and food consumption in South Korea are focused on the consumption of fruit and vegetable products, rather than meat products. This is best illustrated in the food balance sheet attached to this report as Appendix A. Most of the food consumption in South Korea is rice. As South Korean consumers continue to experience increased income and undergo the generational transformation, they will diversify their consumption to include more meats. This could provide a great opportunity for American agricultural exports.

Agricultural Trade Information

South Korea was the 5th largest export market for U.S. agricultural products in 2004. Of the $10.5 billion in agricultural goods South Korea imported in 2004, $2.5 billion came from the United States. Unlike the general economy, the United States has a trade surplus with South Korea in agricultural products. As the figure below shows, in 2004 the United States had an agricultural trade surplus with South Korea of $2.3 billion.[8]



Agricultural Exports

The United States supplies a range of products, with corn, beef, hides, soybeans, milling wheat and cotton the major items. From 2000 through 2004, the United States exported an average of $2.6 billion per year of agricultural products to South Korea. The majority of products being sent to South Korea were bulk commodities, such as corn, wheat and soybeans. The high-value products include cattle hides, fruits and vegetables. The table below shows the top ten exports, by value, sent to South Korea from the United States during 2000-2004.

[8] All trade data – United States Department of Agriculture. *U.S. Trade Data*. Foreign Agricultural Service, Washington, DC, February 2006.

Top 10 U.S. Exports to South Korea
(Values in $1,000)

Commodity	2000	2001	2002	2003	2004	5 Yr Avg
Whole Cattle Hides	398,502	474,074	381,441	365,440	329,264	389,744
Soybeans	265,805	219,205	247,150	282,430	284,594	259,837
Corn	202,718	276,292	79,251	42,128	542,034	228,485
Wheat	180,559	172,978	187,244	205,363	230,919	195,413
Cotton	123,516	103,562	149,778	155,163	174,523	141,308
Feed, Ingredients & Fodder	85,257	84,841	98,217	122,875	114,791	101,196
Miscellanous Horticultural Products	67,889	88,287	103,576	101,138	100,088	92,196
Fresh Fruits, Citrus	51,295	53,876	76,642	88,715	97,796	73,665
Vegetables, Prep or Pres	57,939	36,668	41,885	37,990	43,253	43,547
Pork	25,453	17,962	26,187	69,998	43,344	36,589

While the United States is a significant supplier of the South Korean food and fiber market, that market share is decreasing. The United States market share of South Korea's agricultural imports has fallen from nearly 45 percent in 1996 to less than 30 percent in 2004. Other countries are moving into and taking increased shares of the South Korean agricultural market. Examples of these other suppliers expanding in the South Korean market include Australia for wheat, beef, mutton, wool and sugar; Malaysia for rubber and palm oil; New Zealand for beef, kiwifruit and dairy products; Canada for feed grains and oilseeds; the European Union for pork, feed grains and processed meat; and China for a variety of agricultural products.

Agricultural Imports
From 2000 through 2004, the United States imported an average of $156 million per year of agricultural products from South Korea. The table below shows the top 10 imports, by value, sent to the United States from South Korea during 2000-2004. Most of these agricultural imports do not compete directly with domestically produced commodities (for example, off-season deciduous fruits) or processed products, such as miscellaneous grain and feed (which is mostly pasta) and prepared vegetables.

Top 10 U.S. Imports from South Korea
(Values in $1,000)

Commodity	2000	2001	2002	2003	2004	5 Yr Avg
Grain and Feed, Miscellaneous	26,528	31,051	36,741	42,541	50,111	37,394
Miscellaneous Horticultural Products	24,835	25,787	34,279	37,370	43,815	33,217
Fresh Fruits, Deciduous	9,861	13,390	15,091	12,166	14,668	13,035
Wheat Products	10,847	12,798	13,512	10,688	13,553	12,280
Other Meat Products	579	248	123	409	57,267	11,725
Vegetables, Dried and Dehydrated	5,127	6,351	5,007	5,424	5,410	5,464
Sugar & Related Products	5,005	3,927	4,526	3,416	4,530	4,281
Miscellaneous Dairy Quota	1,828	2,514	3,770	5,027	5,855	3,799
Vegetables, Prep or Pres	3,478	3,789	3,712	4,122	3,661	3,752
Miscellaneous, Industrial Use	1,815	2,428	2,709	3,457	3,973	2,876

Agricultural Tariff Rates

South Korea is known around the world for its high tariff rates. Several trade disputes in the WTO also reflect the country's strong tendencies toward protectionism. Under the WTO's Uruguay Round Agreement on Agriculture (URAA), South Korea has lowered the tariffs on more than 30 agricultural products of primary interest to the United States. These products include bulk, intermediate- and high-value items, such as mixed feeds, feed corn, wheat, vegetable oils and meals, fruits, nuts, popcorn, processed potatoes, frozen French fries and breakfast cereals. However, duties are still very high on many other high-value agricultural and fishery products. Korea imposes tariffs above 40 percent on many products of interest to U.S. exporters, including shelled walnuts, table grapes, beef, canned peaches and fruit cocktail, distilled spirits, apples, pears and a variety of citrus fruits.[9] The table below shows both the bound and applied tariff rates for some select agricultural commodities, both in the United States and in South Korea.

Tariff Rate Information

(Values in Percent)

	South Korea		United States	
Commodity	Bound	Applied	Bound	Applied
Barley	359.1	359.1	0.7	0.0
Beef	40.0	40.0	26.4	5.3
Butter	89.0	67.6	80.9	6.7
Cheese	36.0	36.0	36.4	9.8
Corn	403.5	403.5	0.6	0.0
Cotton	2.8	2.2	25.9	25.9
Milk	176.0	176.0	40.0	0.0
Skimmed Milk Powder	176.0	176.0	40.0	0.0
Pork	22.5	22.5	0.2	0.0
Poultry	19.5	19.5	17.4	6.9
Rice*	5.0	5.0	6.8	6.8
Sorghum	394.2	394.2	1.4	0.0
Soybeans	487.0	487.0	0.0	0.0
Soybean Meal	1.8	1.8	2.5	2.5
Soybean Oil	12.6	8.0	19.1	19.1
Sugar	18.0	13.5	195.0	195.0
Wheat	4.2	3.0	2.6	0.0
Aggregate Fruits	45.0	45.0	3.7	3.7
Aggregate Vegetables	45.0	45.0	6.8	6.8
Processed Products	51.5	51.5	11.4	11.4

*Represents in-quota tariff, only; see TRQ text below

As the table illustrates, agricultural tariff rates in South Korea range from just over 1 percent to nearly 500 percent, depending on the commodity. Eliminating, or even significantly reducing, these tariff rates through free trade agreement negotiations could be extremely beneficial to the

[9] Office of the United States Trade Representative. *2005 National Trade Estimate Report on Foreign Trade Barriers*. March 2005.

United States agricultural sector. The lower tariff rate on United States products will make us more competitive with Australia, China, Japan and other agricultural suppliers.

Other Concerns

In addition to tariff barriers South Korea also imposes several non-tariff barriers that must be strongly addressed in a trade agreement. These barriers range from internal supports, quantitative restrictions and sanitary and phytosanitary barriers.

Internal Supports

While generally not part of FTA negotiations, domestic agricultural support programs are a concern with South Korea. As part of the WTO's Uruguay Round Agreement on Agriculture, South Korea agreed to reduce its domestic support for agricultural products by 13 percent by 2004. However, the Korean government actually increased the level of domestic support it provided to the cattle industry during 1997 and 1998. The United States challenged South Korea's domestic support "reductions" through WTO dispute settlement proceedings in 1999, and the final ruling was in favor of the United States. However, the United States must continue to monitor South Korea's notification of domestic support spending on agriculture to ensure conformity with that country's WTO commitments.

Tariff Rate Quota Administration

A tariff rate quota (TRQ) is a two-level tariff, where the tariff rate charged on imports depends on the volume or quantity of imports. A lower tariff, an in-quota tariff, is charged on imports that fall within the quota volume. These tariffs are generally low and not very trade-distorting. A higher tariff, an over-quota tariff, is imposed on imports in excess of the quota volume.

South Korea utilizes TRQs in a manner that slows or halts agricultural trade. For example, the South Korean government exercises full control over the purchase, distribution and end-use of all imported rice. The tariff rate table indicates that rice entering the South Korean market faces a 5 percent duty. This is true for in-quota rice, only. In 2005, South Korea should import 225,575 metric tons of rice, 50,076 metric tons of that from the United States, which will face the 5 percent duty. South Korea does not have an over-quota tariff on rice because it has never imported more than its required quota since the signing of the URAA.

In addition to the rice TRQ, the South Korean government has delegated the administration of a citrus TRQ to the Cheju Citrus Cooperative, which is a South Korean producer group. Allowing a producer group to administer a TRQ raises questions about whether it is being administered in a non-discriminatory manner. In the past, the United States has raised concerns about South Korea's administration of quotas, specifically regarding beef, rice, citrus and soybean and corn products.

Sanitary and Phytosanitary Concerns

Sanitary and phytosanitary (SPS) standards are a major concern for the agricultural sector. SPS standards for certain agricultural products in South Korea are applied arbitrarily and without prior notification. U.S. citrus exports were halted due to an alleged detection of the fungal infection *septoria citri*.

South Korea also closed its border to American beef in December 2003 after it was announced that BSE was found for the first time in the United States. Prior to the beef ban, South Korea was the third largest market for U.S. beef exports, with annual exports averaging more than $1 billion per year. We remain optimistic that with the recent preliminary OIE announcement that the United States is "controlled risk" for BSE the Koreans will begin to fully open their beef market to the United States. The final OIE ruling is expected in May.

While some SPS issues have been addressed, other SPS concerns are arising. For example, South Korea recently ratified the Biosafety Protocol (BSP). As part of their proposed regulations to implement the Protocol, South Korea has gone far beyond the scope of the BSP requirements. This may result in a barrier to U.S. commodities derived from biotechnology. A free trade agreement could provide the United States with an opportunity to address unjustified sanitary and phytosanitary measures and to ensure that South Korea's SPS measures are based on science and developed in a transparent manner.

Conclusions

Currently, South Korea is a large market for United States agricultural exports, even with prohibitively high tariff rates. However, the United States has been losing market share in the South Korean market over the last decade. The United States market share of South Korea's agricultural imports has fallen from nearly 45 percent in 1996 to less than 30 percent in 2004, as China, Australia and the Association of Southeast Asian Nations have all increased their market shares. Eliminating or lowering South Korea's tariffs would put the United States at an advantage when competing with other suppliers in this large and growing food and agriculture market.

We understand that there is not much time left in order to conclude these negotiations. We remain committed and hopeful that USTR and Korean negotiators can successfully complete negotiations under the terms and existing timeline of TPA. We commend USTR for its dedication to this agreement and appreciate the diligence shown in working with us and others in the U.S. agriculture community.

Ambassador Crowder and the agriculture negotiating team are in Seoul. In addition Farm Bureau and others from the U.S. agriculture community are also there to convey the importance of these negotiations.

The opportunities are significant for U.S. agriculture under a U.S.-Korea trade agreement.

Food Balance Sheet
Population - 19,136,330
2002
All Values in 1,000 Metric Ton (Unless Otherwise Indicated)

	Domestic Supply					Domestic Utilization						Per Caput Supply			
Product	Production	Imports	Stock Chgs	Exports	Total	Feed	Seed	Processing	Waste	Other Uses	Food	KG/Year	Calories/Day	Protein/Day (in Grams)	Fat/Day (in Grams)
Grand Total	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	3,058.0	89.6	77.1
Vegetal Products	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	2,581.0	49.0	45.7
Animal Products	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	478.0	40.5	31.4
Cereals (Excluding Beer)	4,856,103	13,705,312	-128,907	189,329	18,243,180	8,324,161	40,508	1,923,966	699,530	57,737	7,197,161	151.7	1,423.0	29.0	4.2
Wheat	5,834	3,975,602	86,057	59,736	4,007,757	1,661,000	240	0	20,000	1,995	2,324,522	49.0	381.0	10.9	1.5
Rice (Milled Equivalent)	4,460,379	131,482	-138,032	4,659	4,449,170	0	33,350	26,896	466,900		3,921,908	82.7	897.0	15.8	2.0
Barley	304,628	240,909	0	3,001	542,535	8,000	5,850	283,539	23,400	821	220,924	4.7	41.0	1.3	0.3
Maize	73,223	9,181,463	-76,932	120,356	9,057,397	6,485,920	850	1,613,531	183,715	54,920	718,461	15.1	101.0	0.9	0.4
Rye	19	143,520	0	3	143,535	139,116	0	0	4,303	0	116	0.0	0.0	0.0	0.0
Oats	0	8,841	0	0	8,841	8,823	0	0	0	0	18	0.0	0.0	0.0	0.0
Millet	1,755	15,316	0	0	17,071	5,121	20	0	854	0	11,076	0.2	2.0	0.0	0.0
Sorghum	2,419	4,331	0	22	6,728	6,575	18	0	135	0	0	0.0	0.0	0.0	0.0
Cereals, Other	7,846	3,849	0	1,550	10,144	9,606	180	0	223	0	136	0.0	0.0	0.0	0.0
Starchy Roots	982,876	976,729	0	380	1,959,225	139,229	38,673	831,446	99,440	36,204	814,232	17.2	35.0	0.7	0.1
Cassava	0	526,426	0	0	526,426	0	·	489,906		36,204	316	0.0	0.0	0.0	0.0
Potatoes	666,173	424,780	0	362	1,090,591	74,000	24,673	341,540	67,748	0	582,630	12.3	23.0	0.5	0.0
Sweet Potatoes	316,703	221	0	3	316,921	65,229	14,000	0	31,692	0	206,000	4.3	12.0	0.1	0.0
Yams	0	0	0	0	0	0	0	0	0	0	0	0.0	0.0	0.0	0.0
Roots, Other	0	25,301	0	15	25,286	0	0	0	0	0	25,286	0.5	1.0	0.0	0.0
Sugarcrops	0	0	0	0	0	0	0	0	0	0	0	0.0	0.0	0.0	0.0
Sugar Cane	0	0	0		0	0	0	0	0	0	0	0.0	0.0	0.0	0.0
Sugar Beet	0	0	0	0	0	0	0	0	0	0	0	0.0	0.0	0.0	0.0
Sugar & Sweeteners	876,900	1,611,479	-59,866	450,744	1,977,769	0	0	0	0	201,200	1,789,155	37.7	342.0	0.1	0.0
Sugar, Non-Centrifugal	0	0	0	0	0	0	0	0	0	0	0	0.0	0.0	0.0	0.0
Sugar (Raw Equivalent)	0	1,551,288	-59,866	383,638	1,107,784	0	0	0	0	198,476	909,307	19.2	187.0	0.0	0.0
Sweeteners, Other	851,400	59,755	0	67,099	844,055	0	0	0	0	2,724	853,917	18.0	151.0	0.1	0.0
Honey	25,500	436	0	6	25,930	0	0	0	0	0	25,930	0.5	4.0	0.0	0.0
Pulses	29,272	55,764	0	14	85,022	0	1,318	0	2,529	0	81,180	1.7	16.0	1.0	0.1
Beans	19,768	51,439	0	7	71,200	0	920	0	2,136	0	68,143	1.4	13.0	0.8	0.0
Peas	0	3,455	0	0	3,455	0	0	0	104	0	3,351	0.1	1.0	0.0	0.0
Pulses, Other	9,504	870	0	7	10,367	0	398	0	289	0	9,686	0.2	2.0	0.1	0.0
Treenuts	85,917	33,763	0	15,178	104,502	0	0	0	3,897	127	100,479	2.1	15.0	0.4	0.9

	Domestic Supply					Domestic Utilization						Per Caput Supply			
Product	Production	Imports	Stock Chgs	Exports	Total	Feed	Seed	Processing	Waste	Other Uses	Food	KG/Year	Calories/Day	Protein/Day (in Grams)	Fat/Day (in Grams)
Oilcrops	168,184	1,843,056	20,000	2,466	2,028,775	27,000	5,031	1,469,203	13,080	0	514,449	10.8	83.0	6.4	4.5
Soyabeans	115,024	1,475,252	20,000	1,748	1,608,529	27,000	4,040	1,250,000	9,000	0	318,489	6.7	53.0	4.9	2.2
Groundnuts (Shelled Eq)	7,848	33,208	0	1	41,055	0	192	2,471	163	0	38,228	0.8	13.0	0.6	1.1
Sunflowerseed	0	1,168	0	0	1,168	0	0	0	0	0	1,168	0.0	0.0	0.0	0.0
Rape and Mustardseed	612	7,064	0	175	7,502	0	4	2,491	19	0	4,988	0.1	1.0	0.1	0.1
Cottonseed	0	121,745	0	0	121,745	0	0	121,745	0	0	0	0.0	0.0	0.0	0.0
Coconuts - Incl Copra	0	3,127	0	0	3,127	0	0	0	0	0	3,127	0.1	0.0	0.0	0.0
Sesameseed	23,818	63,093	0	2	86,909	0	265	57,537	2,607	0	26,500	0.6	9.0	0.3	0.8
Palmkernels	0	0	0	0	0	0	0	0	0	0	0	0.0	0.0	0.0	0.0
Olives	0	1,114	0	9	1,105	0	0	0	0	0	1,105	0.0	0.0	0.0	0.0
Oilcrops, Other	20,882	137,284	0	531	157,636	0	530	34,959	1,291	0	120,845	2.5	7.0	0.6	0.3
Vegetable Oils	303,431	645,974	-30,000	27,317	892,088	0	0	54	0	309,364	582,919	12.3	298.0	0.0	33.7
Soyabean Oil	223,000	177,601	-30,000	9,498	361,103	0	0	0	0	0	361,103	7.6	184.0	0.0	20.9
Groundnut Oil	1,285	1	0	0	1,286	0	0	0	0	0	1,286	0.0	1.0	0.0	0.1
Sunflowerseed Oil	0	1,612	0		1,612	0	0	0	0	0	1,612	0.0	1.0	0.0	0.1
Rape and Mustard Oil	778	15,515	0	3	16,290	0	0	0	0	0	16,290	0.3	8.0	0.0	0.9
Cottonseed Oil	21,914	9,233	0	86	31,061	0	0	0	0	0	31,061	0.7	16.0	0.0	1.8
Palmkernel Oil	0	8,765	0	9	8,756	0	0	0	0	0	8,756	0.2	4.0	0.0	0.5
Palm Oil	0	281,824	0	3,049	278,775	0	0	0	0	238,847	40,000	0.8	20.0	0.0	2.3
Coconut Oil	0	47,014	0	2	47,012	0	0	0	0	0	47,012	1.0	24.0	0.0	2.7
Sesameseed Oil	25,891	558	0	83	26,366	0	0	0	0	0	26,366	0.6	13.0	0.0	1.5
Olive Oil	0	3,413	0	20	3,393	0	0	0	0	0	3,393	0.1	2.0	0.0	0.2
Ricebran Oil	10,000	2,972	0	10	12,962	0	0	0	0	0	12,962	0.3	7.0	0.0	0.8
Maize Germ Oil	4,072	15,013	0	20	19,065	0	0	0	0	0	19,066	0.4	10.0	0.0	1.1
Oilcrops Oil, Other	16,491	82,453	0	14,537	84,407	0	0	54	0	70,516	14,012	0.3	7.0	0.0	0.8
Vegetables	11,157,628	405,349	0	72,917	11,490,060	0	0	0	1,565,420	0	9,924,553	209.2	161.0	8.4	1.6
Tomatoes	226,599	90,379	0	4,255	312,723	0	0		33,990	0	278,733	5.9	3.0	0.2	0.0
Onions	933,095	507	0	881	932,721	0	0		93,360	0	839,361	17.7	18.0	0.7	0.1
Vegetables, Other	9,997,934	314,463	0	67,781	10,244,616	0	0	0	1,438,070	0	8,806,459	185.7	139.0	7.5	1.4
Fruits (Excluding Wine)	2,725,576	767,574	0	55,576	3,437,574	0	0	4,332	261,084	3,624	3,168,562	66.8	72.0	0.8	0.3
Oranges, Mandarines	642,525	298,687	0	9,123	932,089	0	0	0	42,394	0	889,695	18.8	14.0	0.2	0.0
Lemons, Limes	0	6,647	0	640	6,007	0	0	0	192	0	5,815	0.1	0.0	0.0	0.0
Grapefruit	0	4,531	0	140	4,391	0	0	0	0	0	4,391	0.1	0.0	0.0	0.0
Citrus, Other	1,000	7	0	55	952	0	0	0	0	0	952	0.0	0.0	0.0	0.0
Bananas	0	187,169	0	732	186,437	0	0	0	9,358	0	177,079	3.7	6.0	0.1	0.0
Plantains	0	0	0		0	0	0	0	0	0	0	0.0	0.0	0.0	0.0
Apples	433,165	15,554	0	8,496	440,223	0	0	4,332	43,318	0	392,573	8.3	9.0	0.1	0.0
Pineapples	1,057	50,691	0	18	51,730	0	0	0	1,651	0	50,079	1.1	1.0	0.0	0.0
Dates	0	1	0	0	1	0	0	0	0	0	1	0.0	0.0	0.0	0.0
Grapes	422,036	41,496	0	517	463,015	0	0	0	42,860	0	420,155	8.9	10.0	0.1	0.0
Fruits, Other	1,225,793	162,790	0	35,855	1,352,729	0	0	0	121,311	3,624	1,227,822	25.9	31.0	0.4	0.2
Stimulants	1,477	130,974	0	33,888	98,563	0	0	144	0	0	98,419	2.1	3.0	0.4	0.1
Coffee	0	101,721	0	23,116	78,605	0	0	0	0	0	78,605	1.7	2.0	0.3	
Cocoa Beans	0	27,295	0	9,032	18,263	0	0	144	0	0	18,119	0.4	1.0	0.1	0.1
Tea	1,477	1,958	0	1,740	1,695	0	0	0	0	0	1,695	0.0	0.0	0.0	

	Domestic Supply					Domestic Utilization						Per Caput Supply			
Product	Production	Imports	Stock Chgs	Exports	Total	Feed	Seed	Processing	Waste	Other Uses	Food	KG/Year	Calories/Day	Protein/Day (in Grams)	Fat/Day (in Grams)
Pepper	0	3,378	0	117	3,261	0	0	0	0	0	3,261	0.1	1.0	0.0	0.0
Pimento	0	7,839	0	1,111	6,728	0	0	0	0	0	6,728	0.1	1.0	0.0	0.0
Cloves	0	90	0	0	90	0	0	0	0	0	90	0.0	0.0	0.0	0.0
Spices, Other	5,970	20,282	0	410	25,842	0	0	0	0	0	25,842	0.5	5.0	0.1	0.1
Alcoholic Beverages	3,374,211	252,131	0	158,511	3,467,831	0	0	0	0	198,934	3,268,897	68.9	126.0	1.8	0.2
Wine	0	11,550	0	17	11,533	0	0	0	0	0	11,533	0.2	0.0	0.0	0.0
Beer	1,822,365	20,073	0	52,863	1,789,575	0	0	0	0	18,424	1,771,151	37.3	44.0	0.5	0.0
Beverages, Fermented	1,259,809	1,473	0	16,703	1,244,579	0	0	0	0	190	1,244,389	26.2	50.0	1.2	0.2
Beverages, Alcoholic	292,037	37,971	0	87,854	242,154	0	0	0	0	330	241,824	5.1	32.0	0.1	0.0
Meat	1,661,723	704,460	3,141	37,227	2,332,098	0	0	-1	0	0	2,332,383	49.2	217.0	15.4	16.8
Bovine Meat	210,804	420,758	0	11,212	620,349	0	0	-1	0	0	620,350	13.1	59.0	4.7	4.4
Mutton & Goat Meat	2,628	3,085	0	0	5,713	0	0	0	0	0	5,713	0.1	1.0	0.0	0.0
Pigmeat	1,005,192	173,830	3,141	22,916	1,159,248	0	0	0	0	0	1,159,533	24.4	112.0	6.8	9.2
Poultry Meat	437,399	102,075	0	3,039	536,435	0	0	0	0	0	536,435	11.3	43.0	3.7	3.0
Meat, Other	5,700	4,712	0	59	10,353	0	0	0	0	0	10,353	0.2	1.0	0.1	0.1
Offals	123,749	47,459	0	1,799	169,409	0	0	0	0	0	169,471	3.6	11.0	1.8	0.4
Animal Fats	248,806	119,979	125	7,594	361,316	21,083	0	0	0	203,252	138,856	2.9	57.0	0.2	6.4
Butter, Ghee	61,250	1,081	0	13	62,318	0	0	0	0	623	61,695	1.3	26.0	0.0	2.9
Cream	0	1,620	0	20	1,600	0	0	0	0	0	1,600	0.0	0.0	0.0	0.0
Fats, Animals, Raw	184,264	109,049	125	4,623	288,815	12,500	0	0	0	202,629	75,560	1.6	32.0	0.2	3.4
Fish, Body Oil	3,192	7,770	0	2,396	8,566	8,566	0	0	0	0	0	0.0	0.0	0.0	0.0
Fish, Liver Oil	100	459	0	542	17	17	0	0	0	0	0	0.0	0.0	0.0	0.0
Milk (Excluding Butter)	2,541,400	344,718	0	12,875	2,873,243	1,356,668	0	0	50,960	78,972	1,394,346	29.4	42.0	2.9	1.9
Eggs	561,633	3,527	0	7	565,153	0	40,600	0	28,108	0	496,445	10.5	42.0	3.3	3.0
Fish, Seafood	2,243,840	1,481,394	0	647,320	3,077,914	292,738	0	-38,114	0	40,963	2,782,327	58.7	100.0	16.3	3.1
Freshwater Fish	26,073	53,271	0	13,066	66,278	0	0	0	0	20,962	45,316	1.0	2.0	0.3	0.1
Demersal Fish	494,863	494,956	0	98,141	891,678	0	0	-19,174	0	0	910,852	19.2	27.0	4.6	0.8
Pelagic Fish	815,968	643,971	0	187,561	1,272,378	257,385	0	-9,127	0	20,000	1,004,120	21.2	46.0	6.7	1.9
Marine Fish, Other	129,217	11,197	0	1,677	138,737	34,700	0	0	0	0	104,037	2.2	4.0	0.6	0.1
Crustaceans	80,478	104,029	0	118,236	66,271	653	0	-9,812	0	0	75,430	1.6	3.0	0.6	0.0
Cephalopods	412,513	114,544	0	129,507	397,551	0	0	0	0	0	397,551	8.4	16.0	3.1	0.2
Molluscs, Other	284,728	59,426	0	99,132	245,022	0	0	0	0	1	245,021	5.2	3.0	0.4	0.0
Aquatic Animals, Others	427,117	30,816	0	26,423	0	0	0	0	0	4,530	426,980	9.0	9.0	0.7	0.1
Meat, Aquatic Mammals	0	0	0	0	0	0	0	0	0	0	0	0.0	0.0	0.0	0.0
Aquatic Products, Other	38,646	18,688	0	5,354	51,980	0	0	0	0	0	51,980	1.1	1.0	0.1	0.0
Aquatic Plants	388,471	12,128	0	21,069	379,530	0	0	0	0	4,530	375,000	7.9	8.0	0.6	0.1
Miscellaneous	0	0	0	0	0	0	0	0	0	0	0	0.0	0.0	0.0	0.0

Chairman LEVIN. Thank you very much.
Mr. Vastine.

STATEMENT OF ROBERT VASTINE, PRESIDENT, COALITION OF SERVICE INDUSTRIES

Mr. VASTINE. Thank you very much, Mr. Chairman, and Members of the Subcommittee, for this opportunity to testify on the U.S.-Korea FTA on behalf of U.S. services companies.

Services represent 80 percent of U.S. employment or 92 million American jobs, and 77 percent of economic output, and the United States is the world's largest services trader with a surplus of $73 billion last year, its 35th consecutive year of surplus.

In spite of this record of success, our service sector is restricted by a host of barriers that block our growth in foreign markets. That is why efforts to open up key markets such as Korea are so very important, and why CSI and its member companies very enthusiastically support this agreement.

Success for services in this FTA means that Korea will make it much easier for our firms to conduct cross border trade, and to establish their commercial presence there. That is, to invest in Korea.

On cross border trade, the United States exported $10 billion of U.S. services to Korea in 2005, a surplus of $4 billion over imports.

Separately, sales of services of U.S. affiliates operating in Korea were $4.3 billion, more than any other FTA partner except the North American Free Trade Agreement (NAFTA).

We also seek national treatment and domestic regulation. We seek the right for our firms to be treated the same as Korean firms in that market. Very considerable progress seems to have been made in this difficult negotiation to date.

On financial services other than insurance, Korea is expected to bind its already substantially open market so that U.S. firms can establish in Korea a direct home office branches or in any other legal form suitable to their operations there.

We believe Korea will commit to greater regulatory transparency, including the right to notice and comment, a right which we accept as almost proforma here in the United States, but which of course is not available to us in Korea.

We expect Korea to allow U.S. securities and fund management companies to perform basic managerial functions at their home offices, rather than be required to perform them in Korea at much greater expense, and we expect that foreign portfolio managers will be allowed to do their jobs from home or regional offices, not be required to do them in Korea.

On insurance, the FTA is expected to permit foreign firms to operate much more freely, to increase substantially their foreign currency reserves, to allow banks to distribute insurance products, to adopt a new approach to regulation that will allow firms to offer products in Korea unless explicitly prevented from doing so.

U.S. firms hope this FTA will go beyond other FTAs by embracing reforms that Japan and the United States bilaterally agreed to in the nineties. Those reforms resulted in quadrupling U.S. insurance firms' share of business in Japan.

There is at least one remaining issue here, however, and that is rules ensuring a level playingfield between Korea Post and private insurance companies have yet to be agreed. Also, of interest to all financial services providers are indications that Korea will lift its very onerous restrictions on cross border data flows, making it much easier for foreign firms to do business from Seoul with the rest of the world.

On express delivery, we expect the FTA to clarify that the Korean Postal Service Act, which could severely impair U.S. companies' operations, will ensure a level playingfield for our companies, FedEx and UPS, and their 600,000 U.S. employees.

On telecommunications, of course, a major unresolved issue is Korea's 49 percent limit on ownership by foreign telecom providers. Much has been said about that. It would be extremely unfortunate if the Koreans do not see their way to lifting that limit, and we hope and expect that can be accomplished.

On E-commerce, we expect this FTA to apply the same high standards set in other FTAs, to enable our very efficient and competitive E-commerce practitioners' businesses to continue to do business.

On audio-visual services, Korea applies many restrictions on U.S. suppliers of A/V services, but as a signal of its intent at the outset, Korea cut in half, to 73 days, its requirement that its movie theaters devote 146 days a year to showing Korean films. Much more needs to be accomplished here, and we hope that can be done as well.

To conclude, services negotiations seem to have made very considerable progress. More remains to be done. We hope and expect that the remaining issues will be resolved. Also, like the Farm Bureau, we support the implementation of the Peru, Columbia and Panama agreements, as well as passage of TPA.

Thank you very much, Mr. Chairman.

[The prepared statement of Mr. Vastine follows:]

Statement of Robert Vastine, President, Coalition of Service Industries

Mr. Chairman, I would like to thank you for the opportunity to testify before the Trade Subcommittee of the House Committee on Ways and Means on the U.S.-Korea Free Trade Agreement. My name is Bob Vastine, and I am the President of the Coalition of Service Industries (CSI). CSI is the leading business organization dedicated to the reduction of global barriers to U.S. services exports. Our overriding objective is to obtain commercially significant trade and investment liberalization in all forums for services trade: financial and payments services, express delivery and logistics, telecommunications, energy services, computer and related services, travel and tourism, audio-visual services, accounting, legal, and other professional services. We believe such liberalization is a vital U.S. national interest and will also contribute to economic modernization and growth in emerging markets and the developing world.

The services sector represents the largest part of U.S. employment and economic output, and the U.S. is the world's largest and most competitive services trader. However, the service sector is also the most restricted, with a host of market access barriers and other restrictions that hinder this dynamic sector's growth in foreign markets. That is why efforts to open up key markets such as Korea are so important to our sector.

Korea is a very important market for U.S. services, and CSI and its member companies enthusiastically support this negotiation. The size and potential of the Korean market, combined with the prevalence of barriers to U.S. services companies in that market, make this negotiation the most commercially significant of all recent FTAs. And in those FTAs, USTR has taken a comprehensive approach to market access, which gives us the opportunity to achieve new liberalization and lock in existing liberal practice across a wide range of service sectors in which U.S. companies are world leaders.

Korea has a population of more than 48 million, with a 2004 GDP of $680 billion. The services sector makes up about 55% of Korea's GDP, compared with 41% for industry, and 4% for agriculture.[1] Korea's total services exports worldwide were $41.4 billion in 2004, with total services imports reaching $50.1 billion the same year.[2]

U.S. crossborder exports of services to Korea were $10.2 billion in 2005, while imports were $6.3 billion, netting a U.S. services trade surplus of almost $4 billion. Leading U.S. crossborder services exports include travel and other transportation services, education, financial services, and a broad range of business, professional, and technical services, among others. Separately, sales of services by U.S. affiliates with a presence in the Korean market in 2004 were $4.3 billion.[3] U.S. services trade with Korea is well in excess of that with any other recent FTA partner, including Australia and Singapore, and is second in Asia only to Japan.

This has been a difficult and complex negotiation, and while much progress has been made, there are a number of issues yet to be resolved. In particular, investment restrictions in telecommunications, restrictions in the audiovisual sector, the discriminatory treatment of U.S. insurance providers vis-a-vis Korea Post, and other issues must be addressed. However, we are optimistic that they can be resolved successfully, and we support the continued efforts of our negotiators to do so. Successful resolution of the key outstanding issues will ensure very broad and active support from the service sector for the passage of this agreement by the Congress.

KEY SERVICE SECTORS

The following is a brief summation of objectives in this agreement for several major service industries.

Financial services (except insurance). We are encouraged by progress that has been made to date in the financial services portion of the negotiation. Due to Korea's strong desire to become a regional hub for financial services, we expect most U.S. negotiating objectives to be achieved and anticipate that certain areas of this agreement will go beyond previous model FTAs, thereby assuring U.S. financial services providers access to this important and growing market. We expect that existing liberal practices—such as the right of foreign banks to establish as branches or subsidiaries, will be bound in the agreement.

We anticipate that Korea will address the financial services industry's need for regulatory transparency, particularly with regard to having administrative guidance in writing and providing more than 20 days to comment upon proposed regulations, as is the case now. We expect that onerous restrictions on cross-border data flows will be lifted. Moreover, we are optimistic that restrictions prohibiting the performance of certain functions, such as legal, accounting, human resource, and other activities, by the U.S. parents of Korean subsidiaries will be lifted. In addition, we expect that portfolio managers will be permitted to manage their portfolios from their regional or head offices outside of Korea.

While remaining hopeful that the financial services chapter will be concluded in a timely manner, it is important to note that Korea has yet to indicate its willingness to accept the standard concept of most favored nation (MFN), whereby both trading partners agree that if either of them liberalizes further in the context of another FTA, then that liberalization is offered automatically to the other trading partner. We believe Korea should also accept the "Ratchet Clause," which means that if in the future it unilaterally liberalizes a measure which it had listed as an exception, then that liberalization automatically becomes bound in the Agreement; the benefit of that liberalization can never be taken away from the U.S.

Insurance. The life insurance sector is key to the economies of both South Korea and the United States, and a substantial outcome for life insurance sector in the FTA will be very beneficial for both economies. South Korea is the world's eighth largest insurance market with total premium volume of more than $65 billion. The South Korean insurance and retirement security market would be by far the largest insurance market to be included in a FTA with the United States. The financial sector reforms that South Korea would undertake as a result of the FTA would contribute to a stronger and more resilient economy and help it to deepen capital markets and investment for the long term.

There has been good progress on insurance issues to date. If concluded, the FTA will set a new standard for addressing regulatory and market access barriers. We are encouraged by progress on issues of importance to the insurance sector such as an increase in the allowance of foreign currency reserves, bancassurance reform,

[1] World Bank, World Development Indicators Database.
[2] OECD Indicators 2006.
[3] U.S. Bureau of Economic Analysis, Survey of Current Business, October 2006.

and adoption of a negative list approach to financial sector regulation. We are hopeful that the issues of importance to U.S. insurers that remain unresolved, including levelling the playing field between private insurance companies and the government-owned Korea Post, will be settled satisfactorily in the coming days.

Express delivery. We expect the U.S.-Korea FTA negotiations to result in improved conditions for U.S. express delivery companies operating in Korea. Currently, U.S. express delivery companies are subject to the Korean Postal Service Act, which, if implemented, could severely impair their market access in Korea. The agreement should clarify existing law and ensure a level playing field for U.S. express providers. UPS and FedEx, who together employ over 600,000 Americans, will continue to create U.S. jobs through the increased trade that liberalization of the Korean market will facilitate.

Telecom. A major outstanding issue in the negotiation is the onerous barrier to entry to its market that Korea imposes by limiting foreign direct investment (FDI) in facilities-based telecommunications service providers to 49%. U.S. free trade agreements with other countries do not have a similar restriction, nor do Korean companies face such a restriction in the United States. Failure to resolve this issue would enshrine Korea companies' ability to operate in the United States while maintaining an unacceptable barrier to entry for U.S. companies in Korea. A telecom chapter will be meaningful only if the FDI limit is lifted.

Korea is one of the world's most important markets for international telecommunications services. An FTA with a meaningful telecommunications chapter will increase investment and trade opportunities and will provide substantial benefits to both the United States and Korea. We support the continued efforts of our trade negotiators to eliminate this barrier.

E-Commerce. We anticipate that the E-Commerce language in the FTA will maintain the high standards set in previous agreements. In particular, we expect the agreement to ensure that duties on digital products delivered on physical media will be assessed on the basis of the value of the carrier medium, and that products delivered electronically will not be subject to customs duty. More broadly, we expect the agreement to ensure that no significant reservations will be taken that will impede the growth of Internet-delivered services.

Audiovisual services. The U.S. is a world leader in entertainment and audiovisual services, yet in many markets around the world, this industry is subject to excessive restrictions. Korea is no exception, and it is important that the FTA address the myriad restrictions that now hamper the industry's ability to compete in the Korean market.

An important step in this direction was taken prior to the formal launch of the negotiations, when Korea announced that its screen quota, which protected its domestic film industry by mandating that movie theaters devote 146 days per year to showing domestic films, would be halved. However, we continue to encourage USTR to address the many other barriers in the Korean market, including foreign equity limitations in pay TV and in related cable and satellite television infrastructure. Korea also imposes a variety of restrictions on foreign content in cable and satellite television broadcasting. In addition, Korea continues to impose quotas in free-over-the-air broadcasting, restrictions on language dubbing of foreign content, and advertising restrictions.

Korea too stands to gain tremendously from additional liberalization in the audiovisual sector; combined with its exceptionally high broadband penetration rates, further liberalization will support and complement Korea's emphasis on the development of its information technology sector.

In short, to date there has been substantial progress in the services provisions of the Korea-U.S. FTA. We look forward to further progress on the issues outlined above in order that we can fully support and advocate Congressional passage of this agreement. I would be pleased to answer any questions you might have.

Chairman LEVIN. Thank you.

Mr. Boyle.

STATEMENT OF J. PATRICK BOYLE, PRESIDENT AND CHIEF EXECUTIVE OFFICER, AMERICAN MEAT INSTITUTE

Mr. BOYLE. Good afternoon, Mr. Chairman, Ranking Member Herger, Congressman Larson and Brady. Thank you for the chance to appear before you today.

The American Meat Institute represents 250 of the Nation's most well known meat and poultry companies. Collectively, they produce 90 percent of our beef, pork, lamb and veal, and 70 percent of our turkey products in the United States. They employ 500,000 workers and contribute $100 billion to our Nation's economy.

From the U.S.-Israel free trade agreement, through NAFTA and Central American Free Trade Agreement (CAFTA), the U.S. meat and poultry industry has consistently supported FTAs, and has benefited from the resulting market access to new international customers.

Nearly 20 percent of our U.S. chicken production is exported; 17 percent of our pork, and prior to December 2003, more than 12 percent of our beef.

As the Committee knows, December 2003 was the time that we diagnosed our first case, of BSE the first of three, in the U.S. cattle herd. We found it in Washington State in an older cow imported from Canada. We immediately lost about 85 percent of our beef exports valued at about $7 billion, as trading partners such as Korea, banned U.S. beef.

Prior to the ban on beef trade, Korea was the beef industry's third largest market, with 2003 sales in excess of $750 million.

Beginning as long ago as 1989, the U.S. had implemented multiple controls and testing programs to minimize the introduction of BSE and to prevent its spread amongst the U.S. cattle herd. According to the World Organization for Animal Health data, the U.S. has the lowest rate of BSE per 100,000 head of cattle of any nation that has ever diagnosed BSE in its domestic herd.

Today we can say with great confidence that our cattle herd is healthy and our beef is safe. In fact, since December 2003, while countries such as Korea continue to prohibit U.S. beef imports, Americans have happily consumed 60 billion pounds of American beef.

Earlier this month, the World Organization for Animal Health's expert panel recommended a preliminary designation for the United States as a controlled risk country for BSE. This designation affirms the effectiveness of our BSE prevention and control programs. Under such a designation, U.S. cattle and all beef products can be safely traded in accordance with international guidelines, guidelines endorsed by countries such as the United States and Korea, and guidelines which are enforceable under the WTO dispute settlement process.

For the past 3 years, the U.S. government has been attempting to convince Korea to re-open its market to U.S. beef imports, and as a condition of commencing FTA negotiations a year ago, a preliminary agreement was reached with Korea in January of last year.

Specifically, the Koreans agreed to allow resumption of U.S. beef imports in a two phrased approach, first re-opening the market to boneless beef from animals less than 30 months of age, and second, permitting full restoration of trade for all beef and beef products from animals of all ages upon conclusion of these FTA negotiations.

This second condition is consistent with recently negotiated FTAs with Panama, Columbia and Peru, as well as with Russia, as part of its WTO accession talks.

U.S. beef has earned the trust of the international community, and we deserve the same response from Korea through these FTA negotiations.

Unfortunately, with Korea, 14 months later, the initial opening for boneless beef has yet to occur, because the Koreans refuse to accept commonly used commercial definitions for boneless product. Instead, they subject our imported shipments to x-ray screening searching for cartilage the size of my little pinky's fingernail.

Late last year, three relatively small initial shipments of beef from three different U.S. suppliers were x-rayed and rejected by the Koreans. The tenderloins that I buy at the local grocery store and thoroughly and confidently enjoy with my family, could not pass these extreme Korean inspection requirements.

Reports this week from our agricultural trade negotiations in Seoul are not particularly encouraging.

Mr. Chairman, the prolonged trade ban that Korea persists in maintaining on U.S. beef imports is both frustrating and unacceptable. Despite the overwhelming scientific evidence supporting the safety of U.S. beef, more than 17 years of domestic BSE controls and animal surveillance, an international expert panel's designation of the health of our herd and the safety of our beef, and a year old agreement with the Koreans to restore trade at least partially, the ban on all U.S. beef exports to Korea persists.

Regrettably, American Meat Institute (AMI) will not be able to support an FTA with a trading partner unwilling to abide by its bilateral commitments and permit trade under science based international guidelines.

For these reasons, we appreciate the support of this Committee, and would encourage you to communicate and continue to communicate to the Korean government that the resumption of full beef access, pursuant to international standards, must occur prior to the conclusion of these important negotiations.

Should this ban be resolved and full market access restored, AMI stands ready to be a strong supporter of the U.S.-Korean FTA, as we always have been in the past.

Thank you very much.

[The prepared statement of Mr. Boyle follows:]

Statement of J. Patrick Boyle, President and Chief Executive Officer, American Meat Institute

Good afternoon Mr. Chairman, Ranking Member, and Members of the Committee. Thank you for allowing me the opportunity to appear before this Subcommittee. My name is Patrick Boyle and I am president of the American Meat Institute (AMI). For more than 100 years, AMI has provided service to the nation's meat and poultry industry—an industry that employs nearly 800,000 individuals and contributes approximately $100 billion to the nation's economy.

AMI members include 250 of the nation's most well-known meat and poultry packers and processors. Collectively, they produce 90 percent of the beef, pork, veal and lamb food products and 75 percent of the turkey food products in the U.S. Among AMI's member companies, 60 percent are small, family-owned businesses employing fewer than 100 individuals and some are publicly traded and employ tens of thousands. These companies operate, compete, sometimes struggle and mostly thrive in what has become one of the toughest, most competitive and certainly the most scrutinized sectors of our economy: meat and poultry packing and processing.

The members of AMI have supported and benefited greatly from the existing free trade agreements (FTA). The economic well-being of meat and poultry packers and producers is closely tied to our competitiveness in accessing global markets. From the Israel FTA to CAFTA and NAFTA, the U.S. meat and poultry community has consistently benefited from the market access to new, international consumers. In fact, Mexico and Canada are currently two of the largest export destinations for beef and beef variety meats, accounting for more than 2/3 of all beef trade and more than $1 billion in sales. AMI pork packing members have also benefited from trade. Nearly 17 percent of U.S. pork production is exported and the value of pork exports has increased by more than 350 percent since NAFTA's passage. Korea is currently the fourth largest market for U.S. pork products. AMI is fully prepared to be a strong and vocal supporter of this agreement should this ban on beef end and full market access for beef is restored.

Prior to the ban on beef trade, South Korea was the beef industry's third largest market, with 2003 sales in excess of $750 million. Additionally, it was an attractive market because Korean consumers purchased a broad spectrum of products, from high value cuts to variety meats that tend to do better in international markets—thereby, increasing the overall return for packers and producers of beef. Particularly important was the fact that 40 percent of exports to the Korean market were what the industry calls "bone-in" product. In Korea's case, it was predominately short ribs.

The trade ban followed the December 2003 diagnosis of a single case of BSE in an imported Washington state cow born before feed restrictions were implemented.

The case was detected through the U.S.' routine and aggressive surveillance program, which began shortly after the UK's BSE crisis and long before BSE was ever diagnosed in the U.S. In fact, the United States was the first BSE-free nation ever to launch a surveillance program for the disease.

It was just one part of our nation's extraordinary, focused, and disciplined steps designed to prevent a disease that ravaged Europe. These measures also included import controls and careful feed restrictions.

After we detected the first of three total cases in the U.S., we enhanced our interlocking system of firewalls even further and today, we can say with great confidence that our herd is healthy and our beef is safe. According to World Organization for Animal Health (OIE) data, the U.S. has the lowest rate of BSE per 100,000 head of any nation that has ever had BSE in its herd. This is testament to the effectiveness of our preventive measures.

During the past two and half years, the U.S. and Korean governments had a number of negotiating sessions to resolve this ban. Very early in these negotiations, the beef industry conveyed to USDA and USTR that unless beef trade is normalized, the beef industry will not support and would actively oppose Congressional passage of a potential FTA. A preliminary agreement was reached in January 2006. As a condition of commencing FTA negotiations, the Koreans agreed to allow resumption of U.S. beef imports in a two phased approach: first, immediately allowing boneless beef from animals less than 30 months, and second, allow beef and beef products from animals of all ages upon conclusion of the FTA negotiations.

The slow opening of markets was accepted under the expectations that meaningful amounts of product would begin to move and government officials could resolve remaining sanitary and phytosanitary issues on the basis of internationally accepted scientific principles.

For the ensuing nine months, the U.S. and Korea were simultaneously negotiating the FTA and the technical terms and conditions relating to permitting boneless U.S. beef exports. In early September 2006, the two governments announced the reopening of trade under the first phase. However, the omission of a very common commercial bone tolerance has effectively precluded any meaningful resumption of trade and resulted in Korea rejecting three shipments of beef.

In December, three separate shipments from three different companies were rejected because bone fragments were found by the Korean government. Two of the three companies had performed their own x-ray testing to identify bones chips before shipping, and none were found.

On January 4, 2007, the beef industry informed USTR Ambassador Crowder that Korea needs to engage now—before progress is made in the FTA negotiations—on how the Korean government will fully restore beef trade. The industry is willing to have a Korean two-step process similar to the WTO Accession agreement with Russia, but Korea has refused to enter into theses discussions at this point in time. The current Korean import requirements for U.S. beef do not come close to a first stage of reopening trade. The beef industry is united and has informed USTR and USDA that they will not support an FTA with Korea if U.S. beef exports are not normalized.

On March 12, 2007, a World Organization for Animal Health (OIE) expert panel recommended a preliminary designation for the U.S. of a "Controlled Risk" country for BSE. This designation affirms the U.S.' proactive and effective commitment to preventing BSE and controlling it should it did occur. Under such a designation, U.S. cattle and products from cattle of all ages can be safely traded in accordance with international guidelines, due to our interlocking safeguards.

The facts are indisputable. No nation acted with as much forethought as the U.S. to prevent a disease, detect it if it existed and control and destroy it if it occurred. Using a surveillance system that far exceeds international guidelines, we have detected only three cases in a 100 million head herd. More importantly, no BSE-related human illness has even been associated with eating U.S. beef.

We have earned the right to trade in the international arena under international guidelines.

Mr. Chairman and Members of the Committee, our industry, workers and producers that supply us livestock have been significant beneficiaries of free trade agreements. Every billion dollars in meat exports adds 13,000 U.S. food manufacturing jobs. The USDA has reported that the income multiplier from meat exports is 54 percent greater than the income multiplier from bulk grain exports. Tallying in hides and related beef products, the U.S. is estimated to export $4 billion in 2007.

The prolonged trade ban Korea maintains on U.S. beef imports is frustrating to many of our members and cattle producers. For our members, it means fewer sales, less jobs, and a negative impact on the communities where we operate. For producers, the impacts are similar with less destinations and consumers to demand their product. Despite the overwhelming scientific evidence supporting the safety of U.S. beef, more than 17 years of controls, a preliminary expert panel designation, and an agreement to restore trade, the ban persists. Therefore, we urge you and your colleagues to communicate to the South Korean government that the resumption of full beef access must occur prior to the conclusion of the FTA negotiations. Should this ban be resolved and full market access restored, we stand ready to be strong, vocal supporters of this agreement and its Congressional passage.

Thank you for the opportunity to present these views before you today.

Chairman LEVIN. Thank you.

Ms. Ritter.

STATEMENT OF GERALYN S. RITTER, SENIOR VICE PRESIDENT OF INTERNATIONAL AFFAIRS, PHARMACEUTICAL RESEARCH AND MANUFACTURERS OF AMERICA

Ms. RITTER. On behalf of the Pharmaceutical Research and Manufacturers of America, I would like to thank you, Chairman Levin, Ranking Member Herger, and Subcommittee Members for holding today's hearing.

We appreciate the opportunity to address the most economically significant FTA in recent years. PhRMA views the U.S.-Korea FTA as an important opportunity to do three things, enhance the access of Korean patients to innovative medicines, improve the transparency and predictability of Korea's national health insurance system, and secure better recognition of the value of innovative American biomedical discoveries.

To put my testimony in a bit of context, I would like to start by giving you some quick background on the Korean system.

Korea has a single payer system, so access to the government health care system is access to the Korean market. There is no real private market outside the government system. The government system is it.

Innovative pharmaceutical products are mainly imported into Korea from United States and other international companies. Foreign producers only gained access to Korea's market at all in 1999, and then only after intense pressure from the U.S. government.

Korea's policies have long favored its domestic industry, which still holds a disproportionately large share of the market.

Adding to these longstanding concerns, on May 3, 2006, 1 week before the first round of the U.S.-Korea FTA negotiations started, the Korean government announced an entirely new reimbursement system for pharmaceuticals.

This was a major setback. The new system is very complicated. There is huge scope for bureaucratic manipulation in it, and it is much more restrictive toward patients' access to medicines. Worse, the infrastructure does not exist in Korea to implement the new system effectively.

I should also note that local generic producers are to be grandfathered into the new system, at least in the near term.

The end result is massive business uncertainty for U.S. companies, and reduced access to medicines for Korean patients.

Our industry is worse off today in Korea than before these FTA talks began. I am sorry to say that.

You basically have a black box. If you want to bring a new product to market in Korea, you have to reach into the black box and hope that you pull out a set of reasonable conditions for market access. That is what the core of this FTA is about for us, opening that black box.

We need some sunshine, but more than just transparency, we need real disciplines on what happens in that black box. We need rules that matter. So, far, unfortunately, and despite some strong efforts from USTR, Korea is resisting a very reasonable set of proposals.

There are two chapters in the agreement that are critical to our industry, the chapter on pharmaceuticals trade, of course, and the intellectual property rights chapter.

Within the pharmaceuticals chapter, we are extremely concerned about provisions regarding government reimbursement regulations. These regulations need to be developed and applied in a way that recognize the value of innovation. They should provide innovative products with some measure of predictability and guard against bureaucratic arbitrariness.

We are also concerned, as I mentioned, about the lack of transparency and accountability in Korea's reimbursement and listing decisions.

This has been a difficult issue for years in Korea, but it is particularly bad now under this new system. In order to ensure fairness and due process, the new system should include an independent appeals mechanism to serve as a check on what happens in that black box. That kind of appellate body has to have some teeth. It should have the authority to overturn reimbursement and listing decisions where appropriate.

The final issue I want to mention is intellectual property. The IP chapter of the FTA needs to contain strong commitments to protect confidential pharmaceutical test data.

The agreement also needs to require that Korea adopt a patent linkage system. A patent linkage system just ensures that the right hand of the Korean government knows what the left hand is doing. You cannot have a patent authority on the one hand giving you a patent with the exclusive right to market a product and the regulatory authority on the other approving infringing products for marketing. There has to be a coordination mechanism there.

In conclusion, I just want to reiterate the importance of this agreement to the American pharmaceutical industry. We know resolution of these issues will not be easy, but the U.S. positions are reasonable and they are achievable.

We are committed to working with USTR in the final days of these negotiations. We want to support the agreement, but it is going to be tough. We are pretty far from the finish line right now, and time is short.

Thank you.

[The prepared statement of Ms. Ritter follows:]

Statement of Geralyn S. Ritter, Vice President of International Affairs, Pharmaceutical Researchers and Manufacturers of America

On behalf of the Pharmaceutical Research and Manufacturers of America (PhRMA), I would like to thank Chairman Levin and the Subcommittee members for organizing today's hearing and for providing PhRMA the opportunity to speak on one of the most economically significant FTAs in recent years. Over the years, the Chairman and members of this committee have been very helpful in addressing pharmaceutical market access issues in Korea and other countries. PhRMA has viewed the U.S.-Korea FTA as a significant opportunity to enhance access of Korean patients to leading U.S. biomedical products; further improve the transparency and accountability of the National Health Insurance system; and secure better and lasting recognition of the value of innovative American biomedical discoveries for better healthcare outcomes. As the FTA negotiations head into the final stages, PhRMA believes it is critically important that any final agreement meaningfully address the pharmaceutical sector for it to be a success.

Impediments to Market Access: The operating environment in Korea has for many years presented numerous challenges for PhRMA's member companies. Innovative products, which are mainly imported into Korea by U.S. and other multinational producers, only gained access to Korea's national healthcare system in late 1999, after intense pressure from the U.S. Government. Given that Korea has a single payer system, access to the national healthcare system is critical to have any meaningful right to participate in the Korean market. Since 1999, U.S. and other multinationals have continued to face a range of market access impediments, including shifting standards of review for having new innovative products listed on the national reimbursement list and lax enforcement of intellectual property rights. Indeed, Korea's policies have long favored the domestic industry, which has disproportionately large share of the Korean market. While favoring domestic producers, Korea has maintained policies that disadvantage U.S. and other innovative companies, an approach that places Korean patients at a serious disadvantage as compared to their OECD counterparts. As an OECD member economy, Korea should instead establish policies that encourage research and development of innovative products which would lead to new cures that benefit patients worldwide.

While the U.S. Government has attempted to address these market access barriers through various bilateral agreements and ongoing consultations over the years, these efforts have yielded very few positive, concrete results. The FTA, therefore, provides an unparalleled opportunity to obtain government-level commitments from Korea that substantively address key issues of concern to the U.S. pharmaceutical industry.

Korea's New Reimbursement System: Adding to the existing market access issues, on May 3rd, 2006, the week before the first round of negotiations, the Korean Government proposed an entirely new reimbursement system for pharmaceuticals. This was a major setback for PhRMA's members. The new system will further discriminate against U.S. research-based pharmaceutical companies and increase market access barriers. Perhaps most significantly, innovative drugs will no longer be available under Korea's national healthcare system unless they can meet a number of complicated new requirements. These requirements have not been spelled out clearly, and the infrastructure is not in place to effectively administer the new system. At the same time, local generic products will be grandfathered into the new system, at least in the near term. Further, the new system will overturn longstanding commitments previously reached between the U.S. and Korea on how market access decisions would be made for innovative products. As a result, the new system will restrict U.S. pharmaceutical manufacturers' access to the Korean market and in turn Korean patients' access to new, innovative medicines. While the new system lowers the reimbursement level of generic producers—a step that has local producers up in arms—it does not go nearly far enough to address the imbalance in treatment between foreign innovative companies and local generic producers.

Over the strong objections of the U.S. Government and the innovative pharmaceutical industry, regulations implementing the new system were finalized on December 29, 2006. Despite a detailed submission made by the innovative industry and extensive comments from the U.S. Government, the Ministry of Health and Welfare (MOHW) did not address any industry or U.S. Government concerns in these final regulations.

PhRMA is committed to working with the U.S. Government through the remaining weeks of the FTA negotiations to address problems we have identified related to the Korean market and the new reimbursement system and to ensure that the outcome does not further restrict market access for U.S research-based pharmaceutical companies. However, we are concerned that to date, there has been very little movement by Korea on the priority issues that U.S. negotiators have put forward.

Pharmaceuticals Chapter: With regard to the pharmaceuticals chapter in the FTA, PhRMA member companies have three key priorities: (1) that Korea adopt an appropriate approach to reimbursement procedures so that U.S. research-based pharmaceutical manufacturers have fair and timely access to the market and Korean patients have timely access to life saving medicines; (2) that an independent appeals mechanism be put in place to resolve any disputes on reimbursement decisions; and (3) that the FTA address longstanding concerns regarding fair business practices in the Korean market.

1. *Government Reimbursement Regulations:* Government reimbursement regulations should be developed and applied in a way that adequately recognizes the value of innovation and provides predictability. The Government's reimbursement decisions should be based on published, clear and objective criteria which all stakeholders have participated in developing, as well as transparent processes and appropriate deadlines.

Through the new system, the Korean reimbursement authorities are also empowered to make decisions as to which drugs will be reimbursed under the national healthcare system based on cost-effectiveness analysis without adequate regard to medical need. Experience in other countries that have tried such an analysis shows that these methods can significantly limit patients' access to life saving medicines. Further, lessons learned from other countries show that without an adequate phase-in period, to allow for the development of adequate procedures, guidelines, data and administrative resources, patients have been inappropriately denied access to advanced medical treatments.

2. *Independent Appeals Mechanism and Transparency:* Lack of transparency in Korea's reimbursement and listing decisions has been a difficult long-standing issue U.S. pharmaceutical companies have had to face in Korea. In order to ensure fairness and due process, PhRMA believes that the new system should include an independent appeals process that would have the authority to overturn reimbursement and listing decisions. Ideally, this independent appeals process would include a panel of experts that would review reimbursement and listing decisions to determine if the decision is in line with the regulations and guidelines for the system. To be effective, this appeals mechanism will also require improved transparency throughout the reimbursement and listing process.

3. *Fair Business Practices:* Certain business practices in Korea also continue to impede market access for PhRMA member companies. A major Korean Government report released in 2005 identified a number of private sector practices currently seen in the Korean market that must be effectively resolved, including payment to hospitals by companies for formulary access and to physicians for prescribing medicines. PhRMA and its member companies fully support the Korean Government's ongoing efforts to ensure appropriate practices and believe that this issue should be addressed in the context of the FTA. Korea should take concrete steps to ensure fair business practices in the private market and to provide the opportunity to monitor and address the development of these efforts.

Intelectual Property Rights Chapter: As in previous FTAs with developed countries, the intellectual property rights chapter of the FTA should require that: (1) Korea agree to implement at least 5 years of data exclusivity; and (2) Korea adopt a patent linkage system.

1. *Data Exclusivity:* The U.S. research-based pharmaceutical industry remains hopeful that through the FTA negotiations Korea will agree to implement at least 5 years of data exclusivity.

2. *Patent Linkage:* Unlike the United States, Korea does not currently have a patent linkage system and the FTA should require Korea to enact one. In the absence of a linkage system, PhRMA member companies have encountered instances of generic products being registered and brought to market while patents are in force. An effective patent linkage system prevents the registration of a generic form of a patented medicine while a patent is still in force, thereby preventing unnecessary litigation and confusion.

Conclusion: In conclusion, we realize that substantive resolution of our priority, long-standing issues in Korea will not be easy. However, the purpose of entering into a Free Trade Agreement is to lower barriers and create a better operating environment for companies operating in the partner country. As such, what PhRMA seeks from this FTA is to address long-standing barriers to U.S. pharmaceutical companies in a commercially meaningful way—in other words, we seek to ensure that with Korea's implementation of its new system that we do not end up worse off than before the FTA negotiations began. Our priority asks are reasonable and achievable, and we remain committed to working with the U.S. Government to resolve these critical areas in the FTA.

Chairman LEVIN. Thank you very much.
Mr. Steir.

STATEMENT OF BERTON STEIR, EXECUTIVE VICE PRESIDENT, PARAMOUNT FARMS, LOS ANGELES, CALIFORNIA

Mr. STEIR. Chairman Levin, Ranking Member Herger, Congressman Brady, Congressman Larson, I am pleased to testify today on behalf of Paramount Farms, and many U.S. pistachios growers.

Paramount Farms is America's largest producer of pistachios. The pistachio industry farming operations are located throughout the State of California. Pistachios are also grown in New Mexico, Nevada, Arizona, and plantings are now taking place in Texas.

The United States is the second largest producer and exporter of pistachios in the world, the world's largest is Iran. By contrast, South Korea does not grow any pistachios and has no domestic pistachio industry to protect.

However, the South Korean market represents tens of millions of dollars annually for U.S. pistachio growers. That is, of course, contingent on the elimination of South Korea's tariff on U.S. pistachios.

The latest information on the negotiations that are going on is that pistachios are bundled together with various other tree nuts, for which the U.S. Trade Representative is trying to negotiate an across the board reduction of tariffs.

Pistachios are not a controversial line item in these talks, and deserves to be separated out for immediate duty free treatment. That is why the pistachio industry is closely monitoring the Korea trade agreements and negotiations, and that is why I am here today.

The U.S. industry produces an average of 250 million pounds of pistachios a year, and employs thousands of people. The industry has grown more than three times in value in the past ten years to over $500 million in annual sales. We expect the industry will grow to over $1 billion in the years to come.

Exports are fundamental to this growth, and we see South Korea as a huge market. Unfortunately, South Korea applies a 30 percent tariff on raw pistachios and a 45 percent tariff on packaged pistachios. This is in comparison to only 8 percent for almonds and hazelnuts. This limits our exports seriously and severely.

The U.S. pistachio industry's experience in Europe provides a model, the type of model we envision for South Korea. Actually, Europe does grow some pistachios. However, nevertheless, it has created an entire industry in roasting, packaging and marketing imported U.S. pistachios.

The value added by this industry is considerable. In 2005, Europe sold approximately $1 billion worth. It imported pistachios at a cost of $500 million creating an additional $500 million in domestic value added business.

Several European brands proudly promote their products as being pistachios from California U.S.A. and America. It is important to note that low tariffs made all this possible.

The current duties in the European Union are 1.6 percent for raw pistachios, compared to 30 percent in South Korea. This is 20 times higher.

South Korea could, like the EU, have the potential to create a domestic pistachio industry using U.S. pistachios, by importing not only for its domestic market, but also for value added resale in neighboring countries. This will not only benefit South Korean roasters and packages, but also South Korean retailers and exporters.

At current prices, South Korea could expect to sell as much as $100 million worth at retail. However, the current tariffs severely limits U.S. pistachio imports and prohibits this market from being realized.

Pistachios are not a controversial line item in the Korean-U.S. free trade agreement talks, because South Korea does not grow any pistachios and has no pistachio industry. As a result, U.S. pistachios do not compete with any domestic South Korean product, and do not pose a threat to the South Korean market.

I submit to you that in this case, pistachios are a definition of a line item that deserves immediate duty free treatment. This is why the U.S. pistachio industry has been pressing for the immediate duty free treatment for pistachios in the Korea-U.S. free trade agreement.

This position is strongly endorsed by many of your colleagues in the California Congregation Congressional Delegation.

I have attached a testimony of a November 2006 letter signed by 17 members of the California Delegation, including both U.S. Senators.

In closing, California pistachio growers, as well as those in New Mexico, Nevada, Arizona and Texas, need your help. There is absolutely no justification for any import duty to apply to U.S. pistachio imports to South Korea.

On behalf of the U.S. pistachio industry, I ask you to encourage our negotiators not to settle for anything less than immediate duty free treatment so U.S. pistachio growers can increase their exports and also provide South Korea with a new domestic and export industry.

This is a win-win situation for both sides.

I thank you, and thank you, Mr. Herger, for complimenting me, and hope you will be able to have some influence.

[The prepared statement of Mr. Steir follows:]

Statement of Berton Steir, Executive Vice President, Paramount Farms, Los Angeles, California

Mr. Chairman and Members of the Committee:

I am pleased to testify today on behalf of Paramount Farms and the U.S. pistachio industry. Paramount Farms is America's largest producer of pistachio nuts. The pistachio industry's farming operations are located throughout the State of California. Pistachios are also grown in New Mexico, Nevada, Arizona, and Texas.

The U.S. is the second largest producer and exporter of pistachios in the world; the world's largest producer is Iran. By contrast, South Korea does not grow any pistachios and has no domestic pistachio industry. Nevertheless, the potential South Korea market represents tens of millions of dollars annually for the California pistachio industry. However, this is contingent on the elimination of South Korea's tariffs on U.S. pistachios.

Our latest information is that pistachios are bundled together with various other tree nuts for which USTR is trying to negotiate an across-the-board reduction in tariffs. Pistachios are not a controversial line item in these talks and deserve to be separated out for *immediate duty free treatment.* That is why the pistachio industry is closely monitoring the Korea-U.S. Free Trade Agreement (KORUS FTA) negotiations and that is why I sit before you today.

The U.S. Pistachio Industry and the South Korean Market

California is home to approximately 98 percent of U.S. pistachio production. The industry produces an average of 250 million pounds of pistachios a year and employs thousands of Californians. The industry has grown more than three times in value in the past ten years to over $500 million in annual sales today. We expect industry sales will grow to over $1 billion in the coming years. Exports are fundamental to this growth, and we see South Korea as a huge market.

Unfortunately, South Korea applies a 30 percent tariff on raw pistachios and 45 percent tariff on packaged pistachios, compared to 8 percent for raw almonds and hazelnuts. This limits our exports severely. Iranian exports can also be found in South Korea. We understand the Iranians have a history of not playing by the rules in order to avoid tariffs and saturate various markets with their product. The U.S. pistachio industry cannot—and will not—compete under such conditions. We prefer to compete in a free trade environment where our product can thrive.

Value to South Korea

The U.S. pistachio industry's experience in the European pistachio market provides a model for what we envision in South Korea. Europe grows modest amounts of pistachios but has created an entire industry in roasting, packaging, and marketing nuts including pistachios from the U.S. The value-added generated by this industry in considerable. In 2005, Europe sold approximately $1 billion in imported pistachios at an import cost of $500 million, creating $500 million in domestic value-added business. Several domestic European brands have even been established which market their products as featuring pistachios from "California, U.S.A." It is important to note that low tariffs made this market possible: Current duties in the European Union (EU) are 1.6 percent for raw pistachios.

Like the EU, South Korea has the potential to create a domestic pistachio industry using U.S. pistachios. This will not only benefit South Korean roasters and packagers, but South Korean retailers as well. At current prices, South Korea can expect to sell as much as $100 million at retail, resulting in $50 million in domestic value-added business. However, the current tariff severely limits U.S. pistachio exports and prohibits this market from being realized.

A Superior, Cost-Competitive U.S. Product

Where there is a level playing field, the differentiators between the U.S. and Iran become the product itself, and cost. U.S. pistachios are higher quality and healthier than pistachios from Iran, and in markets where free trade is permitted, U.S. pistachio producers out-compete Iranian producers.

Iranian pistachios are frequently contaminated with high levels of aflatoxin, a naturally occurring carcinogen. Their pistachios are also lower quality and are treated with bleach to mask imperfections. [HOLD UP BAG OF IRANIAN PISTACHIOS.] These are Iranian pistachios. You can tell they are Iranian pistachios because they are unnaturally white due to the bleaching process. [HOLD UP BAG OF U.S. PISTACHIOS.] These are U.S. pistachios. They are naturally clean. Because of our highly technical processing we do not need to bleach our pistachios, and I assure you they taste much better.

The U.S. pistachio industry has made significant investments to incorporate aflatoxin preventative measures into its farming and processing operations. The results of these safeguards are considerable: Shipments of Iranian pistachios to the EU are frequently rejected due to high aflatoxin levels. This is reflected in Iran's share of the EU market. In 2003, Iranian producers commanded a 73.8 percent share of the EU's pistachio market. In 2005, the Iranian share had shrunk to 43.5 percent, while the U.S. increased its market share to 56.5 percent.

The bottom line? Where free trade is permitted, the U.S. simply out-competes its Iranian counterparts by providing a healthier, cost competitive product. If tariffs are eliminated, we expect the same results in South Korea.

No Threat to the South Korean Market

Pistachios are not a controversial line item in the KORUS FTA talks because South Korea *does not grow any pistachios and has no pistachio industry.* As a result, U.S. pistachios do not compete with any domestic South Korean product and do not pose a threat to the Korean market.

It is understandable that some tariffs—tariffs on U.S. products that compete with same or similar South Korean products—must to be phased out over 3, 5 or even 10 years to allow the domestic market time to adjust to increased foreign imports. However, where no domestic market exists— such as for pistachios—there is no justification for any tariff to apply to a product for any period of time.

In fact, I submit to you that in the immediate case, *pistachios are the definition of a line item that deserves immediate duty free treatment.* This is why the U.S. pistachio industry has been pressing for immediate duty free treatment for pistachios in the KORUS FTA. This position is strongly endorsed by many of your colleagues in the California Congressional Delegation. I have attached to my testimony a November 2006 letter signed by 17 Members of the California Delegation including both Senators.

Closing

In closing, California pistachio growers—as well as those in New Mexico, Nevada, Arizona, and Texas—*need your help.* There is absolutely no justification for any import duty to apply to U.S. pistachio imports to South Korea. On behalf of the U.S. pistachio industry, I ask you to encourage our negotiators not to settle for anything less than immediate duty free treatment so that U.S. pistachio growers can increase their exports and provide South Korea with U.S. pistachios, the best pistachios in the world.

Mr. Chairman, I thank you for the opportunity to testify before you today. I am happy to answer any questions you may have.

Chairman LEVIN. I thank you very much.

Mr. Cohen.

STATEMENT OF CALMAN J. COHEN, PRESIDENT, EMERGENCY COMMITTEE FOR AMERICA TRADE

Ms. COHEN. Thank you, Mr. Chairman, Ranking Member Herger, and Congressman Brady, for the opportunity to appear before the Subcommittee this afternoon.

I am testifying today on behalf of Emergency Committee For American Trade (ECAT) an association of chief executive officers of leading U.S. business enterprises with global operations that was founded some four decades ago to promote economic growth through expansionary trade and investment policies.

As a cross-sectoral group, ECAT strongly supports the conclusion of a comprehensive, high standard, and commercially meaningful FTA with Korea that creates concrete new trade and investment opportunities for U.S. companies, farmers, workers, and their families.

Given the detailed testimony provided today by my colleagues in many sectors, I will focus my oral testimony today on the very important and cross cutting investment issues that are critical to the successful conclusion of these negotiations.

Foreign investment by U.S. companies, supported by core investment access and protections, is a key driver of U.S. economic growth, productivity, and exports. Indeed, the largest market for U.S. exports is foreign based subsidiaries of U.S. companies. More broadly, U.S. investment abroad is important for broader national U.S. interests, such as developing stable sources of energy supplies, continuing U.S. leadership in creating new and advanced technologies, and promoting stability, economic development, and the rule of law.

Three primary issues are being discussed by U.S. and Korean negotiators: access for investment, commitments to core investment protections, and investor-state—dispute settlement.

First, investment access. ECAT members seek the reduction and binding elimination of foreign equity limitations in all major sectors, from telecommunications and broadcasting operations to distribution of agricultural and manufactured goods. Such access, I emphasize, is critical to ensure that the market access commitments that we receive from Korea in other chapters are actually meaningful.

Second, investment protections. The objective of the investment negotiations is to ensure that U.S. investors in Korea have the same levels of protection for their investments that Korean investors already have in the United States, including protections related to national treatment, most favored nation treatment, expropriation, fair and equitable treatment, full coverage of investment agreements, and the free transfer of capital.

It is critical, therefore, to U.S. competitiveness that the United States in the negotiations reject proposals to limit investment protections against discriminatory, arbitrary or expropriatory government activity; restrict the transfer of capital; or create exceptions from the key protections. Such diminutions to the high standard model U.S. text would deny U.S. investors precisely the protections that are needed to address the barriers that have long pervaded the Korean economy.

In short, not to have these protections would provide a safe harbor to Korean regulators to block U.S. participation in the Korean economy.

It also would put U.S. investors at a competitive disadvantage, since Korea already has provided strong investment protections to competitors in the United Kingdom, Germany, the Netherlands, as well as others.

For financial institution investors, in particular, the expropriation protections are absolutely vital, since the United States has not sought to ensure rights of such investors to bring claims with respect to discrimination.

Third, investor-state dispute settlement. Investor state provisions are in thousands of international instruments, including the investment treaties and free trade agreements that Korea has concluded with other governments.

Investor-state dispute settlement is vital for all U.S. industries to be able to address barriers and government actions that would deny effective access to the Korean economy. The ability to bring such cases must apply fully to investors in each of these sectors and for all breaches of the FTA, as well as breaches of a special type of investment agreements that govern much of U.S. investment abroad in natural resources, infrastructure, and other major areas.

Several issues remain outstanding. We understand the Korean negotiators are pushing back on core protections, are seeking major exceptions, and are continuing to resist opening their investment market in key areas. ECAT urges U.S. negotiators to reject the weakening of investment protections and the denial of investment access.

In sum, ECAT urges U.S. negotiators to continue to work to conclude a comprehensive and commercially meaningful FTA that protects and promotes investment.

Such an outcome will receive ECAT's strong support. Thank you for the opportunity to testify.

[The prepared statement of Mr. Cohen follows:]

EMERGENCY COMMITTEE FOR AMERICAN TRADE

TESTIMONY OF

CALMAN J. COHEN, PRESIDENT,
EMERGENCY COMMITTEE FOR AMERICAN TRADE

ON THE U.S.-KOREA FREE TRADE AGREEMENT NEGOTIATIONS

BEFORE

THE SUBCOMMITEE ON TRADE
OF THE COMMITTEE ON WAYS AND MEANS

March 20, 2007

Thank you for the opportunity to testify at today's hearing on the progress of the Korean-U.S. (KORUS) free trade agreement (FTA) negotiations. I am testifying today on behalf of the Emergency Committee for American Trade – ECAT – an association of the chief executives of leading U.S. business enterprises with global operations. ECAT was founded four decades ago to promote economic growth through expansionary trade and investment policies. Today, ECAT's members represent all the principal sectors of the U.S. economy – agriculture, financial, high technology, manufacturing, merchandising, processing, publishing and services. The combined exports of ECAT companies run into the tens of billions of dollars. The jobs they provide for American men and women – including the jobs accounted for by suppliers, dealers, and subcontractors – are located in every state and cover skills of all levels. Their collective annual worldwide sales total $2 trillion, and they employ approximately five and one-half million persons. ECAT companies are strong supporters of negotiations to eliminate tariffs, remove non-tariff barriers and promote trade liberalization and investment worldwide.

ECAT strongly supports the conclusion of a comprehensive, high-standard and commercially meaningful KORUS FTA that creates concrete new trade and investment opportunities for U.S. companies, farmers, workers and their families. Such an agreement should promote liberalization throughout all key economic sectors, including through the elimination of tariff, regulatory and other barriers; high-standard protections for investment and intellectual property rights; broad transparency obligations; efficient dispute resolution procedures; and effective implementation.

The importance of concluding a comprehensive and commercially meaningful KORUS FTA is amplified by the strength of the existing trade and investment relationship. Korea is the United States' seventh largest trading partner, with two-way goods trade in 2006 of $88.3 billion. U.S. goods exports to Korea totaled $32.5 billion in 2006, with significant exports in machinery, agricultural products, aircraft and chemicals. U.S. goods imports from Korea totaled $45.8 billion in 2006, with significant imports of automobiles, telecommunications and electrical equipment and machinery. U.S. cross-border services exports to Korea totaled $10.3 billion, and U.S. imports of services from Korea totaled $6.3 billion in 2005. U.S. foreign direct investment in Korea in 2005

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reached approximately $18.6 billion, and Korean investment in the United States equaled $6.2 billion.

KEY ISSUES IN THE NEGOTIATIONS

Investment. Foreign investment by U.S. companies, supported by the core investment access and protections discussed below, is a critically important driver of economic growth and productivity and strongly supports broader U.S. national interests.

Economically, U.S. foreign direct investment spurs U.S. productivity, economic growth and U.S. exports. Indeed, the largest market for U.S. exports is foreign-based subsidiaries of U.S. companies. As examined in depth in ECAT's *Global Investments, American Returns* (*GIAR*) (1998) and the *1999 Update*, as well as other major studies, foreign direct investment of American companies has *complemented,* rather than substituted for, economic activity in the United States in areas determinative of productivity, such as research and development and capital investments. In addition, over 70 percent of the total income earned by the foreign affiliates of U.S. firms is repatriated. In short, U.S. foreign investment complements U.S. business activity, supporting higher paying U.S. jobs, greater productivity, a higher standard of living and economic growth in the United States.

More broadly, U.S. investment abroad is critical not only for the competitiveness of U.S. companies, but for broader national U.S. interests, such as developing stable sources of energy supplies, continuing the United States' leadership in creating new and advanced technologies and promoting stability, economic development and the rule of law.

Investment, therefore, has figured prominently in U.S. trade agreement negotiating objectives from 1984 onward and investment is one of the primary negotiating groups in the KORUS FTA negotiations. Three primary issues are being discussed by U.S. and Korean negotiators: access for investment (such as foreign equity limits), commitments to core investment protections that are based on protections already found in the United States, and the provision of investor-state dispute settlement.

Investment Access. As in the services negotiations, the KORUS investment negotiations are taking place on a so-called negative list basis where full access to investment is the norm, and exceptions are taken.

ECAT continues to support the reduction and binding elimination of foreign equity limitations in all major sectors, from telecommunications and broadcasting operations to distribution of agricultural and manufactured goods. Given the strong relationship between U.S. exports and U.S. investment abroad, ensuring strong and sustained access is critical for consumer and industrial goods and agricultural products. Access for U.S. investment in distribution services, including brokerage and wholesaling for agricultural and manufactured goods, must be a minimum. For services, some of the primary restrictions are in the investment area and their substantial reduction and elimination will determine whether U.S. companies can compete on a level playing field in key services sectors.

Investment Protections. The investment protections contained in U.S. bilateral investment treaties (BITs) and FTA investment chapters are critical to ensure that U.S. investors abroad are treated equally with foreign and domestic investors in the United States, who benefit from a strong set of core protections, based on the U.S. constitution, federal and state laws and common law. Following the guidance on investment protections provided in the Trade Act of 2002, the U.S. model investment text contains very detailed rules on core issues, derived directly from U.S. jurisprudence.

The objective of the KORUS investment negotiations is to ensure that U.S. investors in Korea have the same levels of protection for their investments that are already available for U.S. and Korean investors in the United States, including protections related to national treatment and most-favored-nation treatment, expropriation, fair and equitable treatment, full coverage of investment agreements, full protection and security, the free transfer of capital, and no performance requirements.

Negotiations on these issues have intensified in recent weeks, although we understand several issues remain outstanding. In this regard, it is critical to U.S. competitiveness that the United States reject proposals to limit protections against discriminatory, arbitrary or expropriatory government activity, to permit restrictions on the transfer of capital, or to create exceptions from the key protections. Such diminutions to the high-standard model U.S. text would deny U.S. investors precisely the type of protections that are needed to address the barriers that have long pervaded the Korean economy, undermining the ability of U.S. companies to compete on a level playing field across all major sectors. For financial institution investors, in particular, the expropriation protections are absolutely vital since the United States has not sought to ensure rights of such investors to bring claims with respect to discrimination, which are available to every other major sector. It is perplexing that at the same time the United States seeks to take steps to increase the competitiveness of its capital markets and financial service firms, our understanding is that some provisions in the agreement would do exactly the opposite. Similarly, the type of capital control provisions incorporated in the Singapore FTA are simply not appropriate in the Korean context and could undermine the very investment access provisions being negotiated.

It is notable that many of the United States' major competitors in the Korean market already have broad investment protections through their own bilateral agreements with Korea. If U.S. negotiators do not insist on protections equal to those provided by Korea to the United Kingdom, the Netherlands, and Germany, to name just a few, U.S. companies and workers will be the losers. Lower protections will mean that U.S. investors would be put at a competitive disadvantage with many of their major competitors and will lose significant economic opportunities. Indeed, a diminution of investment protections would essentially provide Korean investors in the United States with greater rights than U.S. investors would have in Korea. The final outcome of these negotiations, therefore, must be to put U.S. companies and their workers on a level playing field with high-standard protections across the board.

Investor-State Dispute Settlement. Investor-state dispute settlement is critical to ensure that U.S. investors have access to the same type of objective, rules-based and fulsome review of complaints that U.S. and foreign investors already have in the United States. These investor-state provisions are in thousands of international instruments, including the investment treaties and free trade agreements that Korea has concluded with other major trading partners.

Investor-state dispute settlement is required for all U.S. industries, from agriculture to manufacturing to services, to be able to address barriers and government actions that would deny effective access in the Korean economy. The ability to bring such cases must apply fully to investors in each of these sectors and for all breaches of the FTA, as well as breaches of investment authorizations and of the special type of investment agreements that govern much of U.S. investment abroad in natural resources, infrastructure and other major areas. Proposals to limit such rights must be rejected.

As noted above, given the strong protections and investor-state rights provided by Korea to many of the United States' major economic competitors, any diminution in rights for U.S. investors would put the United States at a competitive disadvantage.

Several issues, with both respect to the text of the investment chapter and the levels of access for particular sectors, remain outstanding in the KORUS FTA negotiations. ECAT urges U.S. negotiators to reject the weakening of investment protections and the denial of investment access. Rather, it is essential for U.S. negotiators to secure market access and strong protections for U.S. investors and to ensure that U.S. investors are not accorded lesser rights than investors from Korea's major trading partners. An investment chapter that ensures significant access and high-standard protections and investor-state dispute settlement will receive ECAT's strong support.

Services. Services represent a vital portion of the U.S. economy, representing the largest portion of U.S. employment and output. U.S. service providers in a wide range of areas are among the most competitive in the world, providing services through cross-border activity and investment activity abroad. There is a very strong interest in the successful completion of the KORUS FTA by U.S. services companies that see very important new market opportunities as barriers are eliminated.

As noted with investment, the KORUS FTA negotiations are proceeding on a negative list basis, with services presumed open, except where an explicit exception is taken. While Korea has made important strides in opening its services market, there are several major sectors that remain restricted. Dismantling barriers in such areas will have positive economic effects on the U.S. services sector, helping to stimulate growth in one of our most vibrant sectors and enhancing U.S. competitiveness and opportunities for U.S. companies and their workers.

Negotiations in many services areas are progressing well, but several service access issues remain outstanding. Key ECAT objectives of these negotiations include:

- Increased transparency;
- Development of a more positive and pro-competitive regulatory environment;
- Elimination of barriers to all key sectors, including audio-visual, financial services, broadcasting, distribution, information technology and telecommunications.

Market Access for Consumer and Industrial Goods. The KORUS FTA should eliminate all tariff and non-tariff barriers that impede access of U.S. consumer and industrial goods into the Korean market that are very important for the U.S. manufacturing sector. A comprehensive elimination of tariffs would set an important example for future FTA partners, as well as the global Doha Development Agenda negotiations. Progress on tariff elimination has been made, and like the other major negotiating groups, this chapter too must be completed.

Of equal or even greater importance is the need to eliminate non-tariff barriers to trade in the Korean economy, which can take many forms, including monopolies, licenses, labeling and certification requirements, lack of regulatory harmonization and consistency, anti-competitive pricing and reimbursement policies, costly customs valuation policies and cumbersome customs procedures -- all of which can limit full participation in Korea's economy. Such barriers distort efficient trade flows of goods to the detriment of the United States. Their elimination would help spur U.S. exports and increase efficiency and rationality in the global marketplace. Sectoral frameworks, particularly in the automotive and the pharmaceutical sectors, are extremely important to address comprehensively the barriers these industries face in Korea. At present, it is clear that more work needs to be done to address these barriers.

With respect to automotive trade it is important to recognize that automotive trade alone accounts for 80 percent of the U.S. trade deficit with Korea. Given the closed nature of the Korean auto market, with foreign imports from the world representing just 3.6 percent of the market, there needs to be a comprehensive dismantling of Korea's automotive tariff and non-tariff measures. The United States should utilize all means possible to achieve real and meaningful access to the Korean auto market. Given that this FTA is likely the last opportunity that the United States will have in leveling the auto trade playing field with Korea, the United States must obtain commitments that provide commercial value for America's automakers and workers.

On pharmaceutical issues, Korea's price reimbursement scheme has long represented a barrier to innovative pharmaceutical products from the United States. On March 3, 2006, before starting the KORUS FTA negotiations last year, Korea proposed a new pharmaceutical price reimbursement scheme which would result in further discrimination against U.S. pharmaceutical products. It is important for the innovative U.S. pharmaceutical sector that Korea adopt a more appropriate reimbursement model that recognizes the value of innovative pharmaceutical products and an independent appeals mechanism to resolve any disputes on reimbursement decisions, while also addressing longstanding concerns regarding fair business practices in the Korean market.

Agricultural Market Access. Access for U.S. agricultural products in foreign markets is very important to U.S. farmers and the broader agricultural and food processing industry in the United States.

Korea maintains significant barriers, from tariffs to import restrictions such as quotas and tariff rate quotas, as well as existing and potential investment restrictions that could impede the distribution of U.S. agricultural products. The final KORUS FTA should, therefore, eliminate such barriers and provide concrete and continuing market access for U.S. agricultural and food products, such as beef, pork, grains and others. Sanitary and phytosanitary issues must be fully resolved and investment access and distribution rights provided for U.S. agricultural products.

We understand that there are significant issues still to resolve regarding agricultural market access and investment and distribution rights in this sector and look forward to working with U.S. negotiators in support of a strong final agreement.

Competition. Another area in which non-tariff barriers threaten to frustrate fair access to the Korean market by U.S. suppliers is competition law. While Korea's competition law is not discriminatory on its face, it is at times interpreted and enforced in a non-transparent manner and in ways that effectively act as a trade barrier to U.S. products. ECAT has strongly, therefore, urged U.S. negotiators to include a robust competition chapter that improves transparency and prevents trade-distorting uses of competition law. Building upon the competition commitments set forth in recent FTAs (*e.g.*, with Australia), the Korea FTA should strengthen obligations for national authorities not to apply competition rules in a manner that unnecessarily distorts trade or that nullifies the benefits otherwise accruing to exporters under other provisions of the FTA.

We understand that U.S. and Korean negotiators concluded the competition chapter during the eighth round of negotiations, and we look forward to reviewing the language when it becomes available.

Intellectual Property Rights. ECAT strongly supports the negotiation, implementation and enforcement of strong protections for intellectual property rights (IPRs) to build upon and strengthen existing protections and commitments. Such provisions are critical in order to promote innovation and new research in the information technology, pharmaceutical and chemical sectors, to name just a few, and to stimulate a rich and diverse marketplace for the development and publishing of business information and literary, musical and other artistic and creative works. Strong intellectual property rules and effective enforcement are critical to eliminate pirating, counterfeiting and other activities that undermine U.S. research and development, and artistic and other activities.

In particular, the KORUS FTA should provide for intellectual-property protections similar to those found in U.S. law and recent U.S. FTAs, as directed by the Trade Act of 2002, and to ensure conformity with global standards, including the WTO Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS), the WIPO Copyright Treaty (WCT), the WIPO Performances and Phonograms Treaty (WPPT) and the Berne Convention. The KORUS FTA should also ensure transparent and consistent intellectual-property enforcement procedures.

While negotiators appear to have resolved several issues in this area, is very important that the following issues be addressed in the final agreement:

- Concrete commitments to address high levels of counterfeiting and copyright piracy, due in part to non-deterrent penalties and lack of sufficient enforcement; and Korea's failure to comply with the 1996 WIPO Internet Treaties standard.
- Korea should eliminate its pre-registration regime for new products and ingredients, which currently undermines IPR protection.
- Korea should reform its Customs procedures, which require the disclosure of sensitive intellectual property in key areas. Korean customs authorities currently require very extensive product descriptions on imported ingredients for beverage production, which force companies to report the specific ingredient components thereby revealing sensitive intellectual property.
- Korea should commit to patent linkage to prevent the approval of generic forms of patented pharmaceutical products while the patent is still in force. Korea should commit to reform its patent specification requirements, which provide an unnecessarily restrictive burden on patentees.

Electronic Commerce/Information Technology. Electronic commerce (e-commerce) is an increasingly important venue for international trade that is now used in all sectors of the economy and will become increasingly important in the next decade. As a result, it is important to ensure that trade and investment rules promote and do not inhibit the growth of e-commerce and information technology products and services. We understand that U.S. and Korean negotiators were able to conclude this chapter, and we look forward to reviewing the details when the chapter is available.

<u>Trade Facilitation and Customs Procedures</u>. Furthermore, for all U.S. exporters, transparent and predictable Customs processes and procedures are important. U.S. negotiators have sought a strong chapter on Customs Administration and Trade Facilitation similar to that included in other FTAs. As we had indicated to U.S. negotiators at the outset of the negotiations, the KORUS FTA should also address longstanding problems in the operation of the Korean Customs Authority, including misclassifications.

We understand that negotiators were able to conclude that chapter during the eighth round and we look forward to reviewing the details when they are available.

<u>CONCLUSION</u>

ECAT urges U.S. negotiators to continue to work to conclude a comprehensive and commercially meaningful KORUS FTA that protects and promotes investment, intellectual property rights and digital trade and information technology, while eliminating tariffs and non-tariff barriers and liberalizing trade in agricultural and manufactured goods and services. Such an outcome will receive ECAT's strong support.

Chairman LEVIN. I want to thank you and to all of you. This has really been an informative panel.

Let me just ask a few questions and turn it over to Mr. Herger and to Kevin. Mr. Boyle, you at the end of your testimony, and you repeated it or said it here, “We urge you and your colleagues to communicate to the South Korean government that the resumption of full beef access must occur prior to the conclusion of the FTA negotiations.”

I think that is a good idea.

Mr. BOYLE. I appreciate that, Mr. Chairman.

Chairman LEVIN. It is interesting. I would simply ask my colleagues that we think about that. Also, ask all of us to ask ourselves do we not need something, if not identical, comparable in other fields.

The problem is that if we say kind of over time reduce your regulations, or in this case, abide by some decent standards, it may or may not happen. That is one of the dilemmas we have with a regulatory system that is so opaque, and that has truly been used in many cases to shelter a local market.

I have to think that was true of beef. Essentially, what you are saying is tear down that wall before, and to the extent we can do that, I think we should.

Let me just say a few words to you, Ms. Ritter, and then my colleagues will take over and maybe have questions of others.

What I said about beef is a bit of a puzzle as to pharmaceuticals, because with this new system, it is really hard to see how we set up a structure so there is any assurance, not only they grandfathered in certain entities, I do not quite know what is meant by an independent appeals system, so how do we approach this FTA with any assurance that there will be a major relaxation and in the end, not only diminution but end of a regulatory structure that essentially has a very un-level playing field for American pharmaceuticals?

As you know, it is no surprise. We at times have leaned on the pharmaceutical industry in FTA negotiations thinking that some of the provisions were perhaps too stringent in terms of access to medicines where they are really needed.

Here, we are dealing with essentially an industrialized society with a substantial pharmaceutical industry; right?

How do we frame this so that we really have any assurance? I do not quite see even with your recommendations how we are sure over a reasonable period of time we get there.

Ms. RITTER. This is a very complex and complicated set of issues in Korea. Our approach, and we have worked closely with USTR, and I think the approach the USTR has been advocating with Korea, is to tackle it on several levels.

Transparency is important. Transparency does matter. I think it can make a difference here, and an appeals mechanism is part of that, that regulatory decisions need to be subject to some kind of independent review, and you need to know the basis on which those decisions were made.

Transparency alone is not enough. You really have to get to the core of how these reimbursement and listing decisions are made, and we need to have some assurances as to what the rules are going to be, and some level of predictability.

We have worked, I think USTR has worked, to engage Korea on the regulations that they have put in place around this new system, and to date, Korea has taken into account not a single one of the recommendations either that the industry has made or that the U.S. Government has made to make those rules clearer, more predictable, so that business knows what to expect when it reaches into the black box.

Chairman LEVIN. Send us whatever you would like to. How we handle this challenge has some relevance, I think, to how we handle others.

With beef, essentially you are saying change before. That is, pardon the pun, clear cut; right? A good cut of beef.

Ms. RITTER. Right.

Chairman LEVIN. I do not quite see—there seems to me there is a lot of work to do with there being assurance that the tangle of regulation does not end up more or less where we are today.

Ms. RITTER. I think that is right. We would be happy to follow up and provide more of the technical details.

Chairman LEVIN. Do that.

Ms. RITTER. That is one of the reasons it is also important that this FTA put in place ongoing mechanisms to review and continue the consultations to ensure that real market access opening happens.

Chairman LEVIN. Mr. Herger?

Mr. HERGER. Thank you, Mr. Chairman. I want to thank each of our members on this panel.

Mr. Stallman, back to rice again. I am not naive. I am very much aware of the very sensitive and tough issue that rice is to the Koreans. That said, U.S. rice farmers do not get anything close to a fair shake when it comes to selling into the Korean market. I am aware of tariffs, quotas, and use restrictions that require U.S. rice to be processed instead of sold in the retail stores where Korean consumers shop.

Can you elaborate on the various mechanisms that Korea maintains to block U.S. rice from competing in the Korean market, and are there others that I have not mentioned?

Mr. STALLMAN. I am not aware of all. You have to look at what we have access to now. They have a 5 percent in quota tariff. They do not even have an over quota tariff because they do not import any rice over the quota, and the quota was established in the Uruguay Round agricultural agreement. That was a demand, that they had to have some opening of their market, which at least indicates they are willing to do that, if they are pushed.

There are quota's of about 225,000 metric tons in the Uruguay round agreement. The United States has about 50,000 tons of that.

As you said, once the rice gets into Korea, then their consumers do not have the opportunity to see if they even like it or not because they use mechanisms, and frankly, Japan has been guilty of some of the same thing, used mechanisms to keep it out of the consumer market.

Once again, we knew rice was going to be a very sensitive issue in these negotiations. We recognized that. It is going to be one of those 11th hour issues that are resolved at the very end.

Our policy is very clear, that trade agreements need to be comprehensive and there should be no exclusions, and we expect the Koreans, if they want an agreement that U.S. agriculture can support, to do something in terms of granting more access into their rice market through this FTA.

Mr. HERGER. Thank you. Again, as a point of precedence, we certainly cannot allow this one area to be out and others in.

Mr. Cohen, we have heard today that Korea has in the past used domestic regulations, non-transparency, to favor domestic concerns and inhibit trade.

Given this history, is it not important that USTR continue to press its model investment chapter, which is written carefully, for the purpose of protecting countries' legitimate regulatory actions while at the same time allowing foreign investors the right to obtain arbitration in cases of illegitimate takings by the host country?

Ms. COHEN. Absolutely. I think that it is critical that the Administration continue to press in this area. Indeed, the argument that American business is making with regard to investment is for the key investment protections to be available to U.S. investors, just as they are available to investors from other countries around the world.

As I mentioned, Korea has agreements with countries such as Germany and the United Kingdom which provide for just such protections.

Failure to provide our investors with similar protections would put them at a competitive disadvantage. Right now, Korean investors in the United States have access to fair, non-discriminatory dispute settlement arise. All we are asking for is similar treatment in Korea.

Mr. HERGER. Thank you. Ms. Overby, would you want to comment on that?

Ms. OVERBY. Yes. I would also like to make one additional point, that there are two very clearly different groups of officials operating in the Korean government today—those who genuinely want and embrace the change in real competition that an open market will bring and those that are still clinging to the past protective practices.

We cannot miss this key opportunity to strengthen the hand of the reformers in Korea. If we let the closed market team gain the upper hand, the United States is going to lose out on our best chance to resolve a very large number of market access problems that we have in Korea, and put in place binding disciplines and ongoing consultations that will help us address issues that we are unable to address in the context of this agreement.

Perhaps even more importantly, if this deal falls apart, we believe the United States will lose its ability to lead in shaping the trade agenda in Asia, possibly for decades. Our competitors are not standing idly by while we debate how or where we want to assert our economic presence in Asia.

Rather, Korea and the EU are going to launch their FTA negotiations in May. Japan has asked the Koreans to re-start their stalled FTA. Korea has already launched a study group with China.

If we miss this chance, we run the risk that others are going to decide the rules for the future while we are left out on the side lines.

Mr. HERGER. Thank you.

Chairman LEVIN. Mr. Brady?

Mr. BRADY. Thank you, Mr. Chairman. This has been a great panel, although I find myself suddenly craving cheeseburgers with rice and pistachio ice cream. I think as a show of bipartisanship, if you would order that in for everyone in the room, Mr. Chairman, that would be very helpful, I think.

Let me continue on a serious note.

Chairman LEVIN. I agree with that, by the way.

Mr. BRADY. I hope the Korean negotiators are listening carefully to this panel because the positions you have outlined on market access, regulatory reforms, are just critical to this agreement. It has tremendous potential because of its size and strategic interest, but these issues have to be addressed.

They are real deal killers at this panel right now. I hope the Korean negotiators are listening carefully, because it reflects the opinion of much of us in Congress today.

Let me ask you this. Each of you represents members in export oriented industries that can both improve our trade deficit, create jobs. We are not just buying America here at home. We are selling America around the world.

As you look at Korea and you look at the growing Asia market for customers, if this is a good solid trade agreement we can all support, do you see this as a model or a foot hold for new customers in that growing region?

I will leave it to you to comment.

Ms. OVERBY. Absolutely. I represent 1,100 American companies living and working in Korea every day. I will tell you that this deal is a wonderful chance for us to expand that market and grow that market into China. Absolutely, without a doubt.

Mr. BRADY. Thank you.

Mr. STALLMAN. Absolutely, too. We always said that we need to focus on those markets for agriculture that hold some real promise, given the economic status of South Korea, even though they designate themselves as a developing country, they have a high per capita income. They have very little arable land relative to their population. They are an outstanding market given those two facts for U.S. agricultural products.

We need to break down the barriers to get our products in there. This is a real opportunity and probably the first one really under free trade agreements or bilateral agreements where we believe we have the opportunity to get into a real high value market.

Mr. BRADY. Thank you.

Mr. VASTINE. Congressman, we feel, of course, the same way. The Korean market is an extremely important one. We are doing well there. We could do very much better.

The irony of this is that the people who will do best are the Koreans by embracing the most modern types of infrastructure services, like telecommunications and financial services, and the other services we mentioned.

The Koreans will put themselves in a position of being a much more dynamic successful economy.

It is a known disadvantage that they resist modernizing and opening up their telecommunications market. They will benefit much more than we actually from that.

Mr. BRADY. Thank you, sir.

Mr. BOYLE. Congressman, to the extent there are lower tariffs that translate into greater market access for our poultry and pork processors within the American Meat Institute, that will be a potential growth opportunity for them.

The beef issue is somewhat distinct. We are not asking for a precedent setting breakthrough in market access. We want a restoration of the status quo ante. We lost that almost $800 million a year market overnight. We obviously have not got it back overnight. We think the decision day is coming closely.

Just like my colleague here who says that the Koreans will be the beneficiary of the restoration of our beef export opportunities, it is evident when one goes grocery shopping in Korea.

I was in Seoul two or three weeks ago. I am going back this coming week. The price of beef in Korea, while already high before the U.S. product was banned, is double what it was back then.

In 2003, a pound of ground chuck beef cost $16 in Korea. Could you imagine that? Today, it is $35 for ground chuck. That is an expensive cheeseburger to go with your pistachio ice cream, Congressman.

The Koreans will benefit. It is not going to adversely affect to a significant extent the Korean beef industry. We coexisted with them as we grew that market over the last 20 years. They are enjoying what I may characterize as windfall profits near term, but the restoration of the status quo is what the beef industry seeks.

Mr. BRADY. You bet. Great point.

Ms. RITTER. Absolutely. Korea is an extremely important market for the American pharmaceutical industry. I think a good strong agreement here very much could potentially do a lot to strengthen that market, not only for the U.S. industry but also for Koreans themselves.

Mr. BRADY. You bet.

Mr. STEIR. The EU, European Union, had a small domestic industry to protect, and when they dropped the tariff to 1.5 percent, which is practically no tariff at all, the market exploded. The domestic industry thrived and benefited from that.

Ms. COHEN. Congressman Brady, for the members of ECAT, the Korean market is extremely important. We recognize that Korea is the seventh-largest trading partner of the United States, with tremendous additional economic potential.

We want to see the investment provisions in the FTA done right, and we recognize, as has been corroborated many times in many studies, that U.S. exports follow U.S. investment overseas.

If the investment provisions are written in the right way in the U.S.: Korea FTA to be non-discriminatory and, there by, support U.S. investment, you will see much further U.S. investment, and as a result, significant additional exports of U.S. services and products to Korea.

We see a good, solid, trade agreement as my colleagues have just suggested, as a potential win-win, a win for the United States and a win for Korea, for opening markets in Korea. Thank you.

Mr. BRADY. Right. Thank you, sir. I thank the Chairman.

Chairman LEVIN. Thank you, Mr. Brady.

This has been an excellent panel, an excellent hearing. I have a letter from the Governors of the State of Michigan and the State of Ohio, and without objection, I would like to enter them into the record. So, ordered.

[The information referred to follows:]

STATE OF MICHIGAN **STATE OF OHIO**

March 19, 2007

The Honorable Sander M. Levin
Chairman
House Ways and Means Committee
Subcommittee on Trade
U.S. House of Representatives
Washington, DC 20515

Dear Mr. Chairman:

As you conduct a hearing on the efforts of the United States Trade Representative (USTR) to complete a free trade agreement (FTA) with the Republic of Korea, we write to express our deep concern that America's national economic and security interests would be damaged if the agreement weakens the competitive position of our domestic automotive manufacturing sector.

The expiration of the President's existing trade promotion authority this summer has greatly accelerated bilateral FTA negotiations. We are aware of the potential benefits a US-Korea FTA could provide American workers and consumers, but only if that agreement levels the competitive playing field and eliminates Korea's persistent tariff and non-tariff barriers to our domestic automobile exporters, which are among the most aggressive barriers of any developed nation.

During the winter meeting of the National Governors Association (NGA) Ambassador Susan Schwab stated emphatically to us, "It is a prerequisite for having that deal close, that the automotive sector be open." Our trading history with Korea has not exhibited openness or transparency, and so we urge you and

The Honorable Sander M. Levin
Page 2

your Congressional colleagues to insist that our negotiators' actions match their words. It is imperative that the Bush Administration stand up for our auto workers and manufacturers by opening Korea's auto markets in any new FTA, and not bargain away our auto sector and hundreds of thousands of good-paying manufacturing jobs. If the Bush Administration cannot successfully open Korea's markets to all American goods and services, Congress must say no.

Any meaningful FTA must recognize that the auto sector accounts for 82 percent of Korea's trade surplus with the U.S., and address the reality of Korea's poor compliance with previous automotive trade commitments. Amazingly, Korea continues erecting barriers to American auto sales even as it seeks immediate elimination of U.S. tariffs on Korean auto imports. It would be unfortunate if our senior trade officials sought to gain overall agreement at the expense of challenging Korea's anti-competitive acts. Simply put, any FTA must guarantee American manufacturers the opportunity to truly compete in an open market, and require measurable progress to greatly narrow the current auto sales gap favoring Korea by nearly 200 to 1.

Ambassador Schwab personally assured us that she will not close a trade agreement with Korea without making sure the automotive playing field is level. We appreciated hearing her assurance, but remain concerned by Korea's continued refusal to offer any tariff or non-tariff reforms, its continued anti-competitive behavior, and USTR's failure to call for meaningful measurable commitments to pry open the Korean marketplace to our automotive products.

America's trade negotiators must be our representatives who stand up for our businesses and workers. They have the responsibility to search for innovative and enforceable solutions to address persistent and harmful problems. These negotiations must move beyond the rhetoric of the past to find formulas that will assure long-term results to make certain that all economic sectors have a fair opportunity to compete under any new trade agreement.

Sincerely,

Ted Strickland

Jennifer M. Granholm
Governor
State of Michigan

Ted Strickland
Governor
State of Ohio

cc: Hon. Wally Herger, Ranking Member

Chairman LEVIN. Thank you very much. Thank you for your patience. I hope it has been worth your time. It has been worth ours. Thank you very much.

We are now adjourned.

[Whereupon, at 5:44 p.m., the hearing was adjourned.]

[Submissions for the Record follow:]

Statement of American Council of Life Insurers

The American Council of Life Insurers, the American Insurance Association and the Insurance Committee of the Coalition for Service Industries would like to express strong support for conclusion of a commercially meaningful free trade agreement with South Korea. Collectively, these groups represent over 800 U.S. insurance companies and millions of employees.

The life insurance sector is key to both the economies of South Korea and the United States, and a good outcome for the life insurance sector under the KORUS FTA will be beneficial for both economies. In the United States, for example, life insurers provide the products that protect against life's uncertainties. Our industry helps individuals and families manage the financial risks of premature death, disability, and long-term care. We enable employers to provide employees with critical retirement savings programs such as pensions and 401(k) plans. And through annuities, life insurers guarantee retirees an income for life, no matter how long they live.

With nearly $4 trillion invested in the U.S., we help fuel our nation's economic growth. We're the largest holder of corporate bonds in the country, and with our long-term focus, life insurers provide businesses and governments the long-term capital they need to invest in roads, schools, and homes, and in the plants and equipment that create jobs. We fuel economic growth, help families secure their future, and guarantee a retirement income that lasts a lifetime. Our industry can serve similar functions in South Korea—and provide important means for enhancing the quality of life for families, households and workers in South Korea.

Property and casualty insurers, many of which are represented by the American Insurance Association, likewise support economic development, provide security and compensation in the event of injury and property loss and help prevent losses through public safety advocacy and loss control services. For example, property and casualty insurers have invested more than $305 billion in municipal bonds, which provide critical infrastructure, including roads, bridges, schools, affordable housing and emergency services facilities. We can, if allowed, play a similar constructive role in Korea.

We support the FTA with Korea because of its economic and commercial significance. South Korea is the world's eighth largest insurance market with total premium volume of more than $65 billion. The South Korean insurance and retirement security market would be by far the largest insurance market to be included in a FTA with the United States. The financial sector reforms that South Korea would undertake as a result of the FTA would contribute to a stronger and more resilient economy for the country and help it to deepen capital markets and investment for the long term.

The United States and South Korea have now completed eight rounds of negotiations and we are pleased with the progress on insurance issues to date. This agreement is important to the U.S. insurance industry because, if concluded, it will set a new standard for addressing regulatory, as well as market access, barriers. Given the nature of the insurance business, regulatory hurdles and the need for a level playing field are often as critical as our ability to enter the market.

We are encouraged by progress in the FTA negotiations on issues of importance to the insurance sector such as an increase in the allowance of foreign currency reserves, bancassurance reform, more regularized and transparent regulatory procedures, more fair and equal treatment for foreign insurers, adoption of a negative list approach to financial sector regulation and regional integration of data processing. We are hopeful that the issues of importance to U.S. insurers that remain unresolved, including leveling the playing field and other issues between private insurance companies and the government-owned Korea Post, will be settled satisfactorily in the coming days. We are in regular consultation with the outstanding and highly professional U.S. negotiating team as they continue their efforts to conclude these negotiations positively.

From a strategic vantage point, South Korea is an important ally with whom the United States must work closely in order to continue advancing global security. From a trade standpoint, the consumers of both countries stand to gain significantly from the broad benefits of a comprehensive agreement, as well as from the expanded and more stable financial development in the Northeast Asian regional economy that such an agreement will bring. In addition, an agreement of this high quality will help set the standard for future bilateral and multilateral progress, including at the WTO.

Our industry is aware that a number of critical issues still need to be resolved in order for the United States to achieve its goal of concluding a strong and comprehensive agreement that will bring benefits across the board to the U.S. economy. However, we would like to share our optimism with regard to the current negotiations as they affect the insurance industry, as well as to emphasize the importance of the near-term conclusion of the agreement to our companies. We believe that the results achieved for the insurance sector to date in the KORUS FTA negotiations merit the Trade Subcommittee's considered examination and strong support. We are hopeful that the other outstanding issues will be resolved in the days ahead, thereby allowing for timely consideration of such an important potential free trade agreement between two longstanding allies.

Statement of American Iron and Steel Institute

The American Iron and Steel Institute (AISI), Steel Manufacturers Association (SMA) and Specialty Steel Industry of North America (SSINA), on behalf of our U.S. member companies, are pleased to submit written comments to the House Committee on Ways and Means regarding the proposed Republic of Korea-U.S. Free Trade Agreement (KORUS).

Because the KORUS negotiation is now approaching the 11th hour, we will focus our statement on two issues of great importance to the American steel industry: (1) trade remedies and (2) steel rules of origin.

Trade Remedies: Agree to No Weakening of the Statute—or the Process

America's steel industry is extremely concerned about reports that Korea has, as one of its top priorities in this free trade agreement (FTA) negotiation, the goal of achieving weakening changes to United States trade laws, particularly our antidumping (AD) and countervailing duty (CVD) laws. In this regard, we are equally concerned about reports of possible efforts to negotiate changes to the legal process by which AD/CVD actions are investigated and remedied.

While we recognize that U.S. negotiators have thus far resisted agreeing to any changes to our AD/CVD laws, it is essential to stress that: (1) the United States must maintain the full integrity of its laws against unfair trade in this and all other trade negotiations; and (2) U.S. negotiators, therefore, need to continue to resist the inclusion, in the KORUS, of any changes to the AD/CVD laws or to the related legal process.

The widely reported Korean desire to achieve "something" in the AD/CVD trade remedies area (i.e., some form of trade law weakening) is extremely troubling to America's steel industry for two principal reasons.

- First, steel producers in South Korea have had a long history of using market-distorting practices in their exports of a variety of steel products to the United States. Our AD and CVD laws have been reasonably effective in addressing these practices, resulting in the imposition of specific trade case orders where appropriate. In view of this history, the United States should not agree to any FTA provisions that would weaken these vital laws or the related legal process in any way.
- Second, the Korea FTA would be a very significant bilateral agreement, and any such weakening would set an extremely disturbing precedent for other future bilateral and multilateral negotiations.

In sum, we believe that, at this critical time in the KORUS negotiation, it is important that the House Committee on Ways and Means make its views known in this area by urging our U.S. negotiators to agree to nothing in the AD/CVD area—whether in substantive law or the legal process—that could have the effect of trade law weakening in any way.

For many years, domestic steel producers have supported trade liberalization as long as it does not weaken U.S. trade laws. We would now like to make it clear that, if any trade law weakening is included in the final FTA with Korea, it will force us to oppose the KORUS.

Steel Rules of Origin (ROO): Go Back to the NAFTA Rules

We are also concerned that, as things stand now in the KORUS negotiation, the U.S. government is once again prepared to accept steel ROO in an FTA that are less effective than those in the NAFTA. Our position is that we continue to support the steel ROO in the NAFTA and, regarding steel ROO in the KORUS, do not wish to see any departure from the sound and effective NAFTA ROO.

Unfortunately—in the Central American Free Trade Agreement (CAFTA) and in the U.S.-Peru and U.S.-Colombia FTAs—the U.S. government agreed to accept more lenient and less effective steel ROO than exist in the NAFTA. In the KORUS negotiation, the U.S. government has continued a basic willingness to accept looser steel ROO than exist in the NAFTA—over the strong objection of domestic steel producers.

For the record, America's steel producers continue to support, for the KORUS and for all future U.S. efforts to negotiate FTAs:

- The NAFTA ROO for steel products—so as to avoid conferring origin based merely on rolling or minor processing operations in an FTA country; and
- Strict ROO across-the-board on manufactured products—so as to (1) avoid conferring FTA benefits based on a relatively lesser amount of processing in an FTA country, (2) ensure that the benefits go where they are intended and (3) ensure that the FTA not serve to incentivize and benefit products where value is added largely or substantially in third countries.

Conclusions

First and foremost, the United States should accept nothing in the KORUS that weakens U.S. AD/CVD laws, whether by change in statute or by change in process (e.g., accept no trade case "consultative mechanism").

Second, at a time of growing and record trade deficits and the loss of millions of U.S. manufacturing jobs, the United States should rethink its willingness to accept looser rules of origin in the KORUS (and in future FTAs) than exist in the NAFTA.

AISI, SMA and SSINA appreciate the opportunity to comment on this important issue.

Statement of Automotive Trade Policy Council, Inc.

I. Introduction

Thank you for the time to discuss the importance of automotive trade issues in the ongoing U.S.-Korea FTA negotiations. I am testifying today on behalf of General Motors Corporation, Ford Motor Company and DaimlerChrysler Corporation—who are the members companies of the Automotive Trade Policy Council and whose views I am presenting today.

I want to begin with several comments relating to the current situation:

1. ***The U.S. auto companies have supported U.S. trade liberalization initiatives by Republican and Democratic Administrations for decades.*** This includes all the bilateral FTAs presented to the Congress since 2000. We have also offered extensive support to USTR in this Korean initiative from the beginning of this negotiation. These three companies have spent many years trying to open the Korean auto market. ATPC's hope is to see the U.S. reach a strong, solid and credible agreement with Korea that will eliminate all tariff and non-tariff barriers and allow U.S. auto companies to fully participate in that market.

2. ***Auto trade is a large portion of U.S.-Korea trade and has now become a big problem in this negotiation. But the Korean government created this problem and the Korean Government is the party that has to resolve it.*** The auto industry has earned a seat at this table. The U.S. now has an $11 billion deficit in auto trade with Korea, which is 82% of the total deficit between our two counties. In simple numbers, U.S.-Korean auto trade is so lopsided that it cannot be seriously justified by any credible economic or market—based rationales.

Last year, Korea exported about 700,000 cars, vans and SUVs to the United States. Our market is open and Korean competitors have been welcomed and given a fair shot a success here. On the other side, U.S. auto exports to Korea totaled just over 4,000 last year. Amazingly, auto imports from the entire world represented just 3.6% of the Korean market. This is not a picture of a healthy, mature, and mutually beneficial trading relationship

3. ***A Free Trade Agreement is primarily about trade.*** There have been changes in investment patterns in the auto business, both here and in Korea. Recently, Korea has opened up to foreign investment in its auto sector. In 2002, Gen-

eral Motors invested in Korea, acquiring certain assets of the bankrupt Daewoo Motors and creating a new company which produces cars there.

On the U.S. side, Hyundai/Kia has also made investments here, with one assembly plant operating and another under construction. But auto investment is not the topic of this FTA. It's all about trade and market access.

4. ***Korea's auto market is not just closed to the U.S. auto industry.*** European and Japanese automakers are doing no better in Korea and share the same view—that Korea unacceptably and unjustifiably restricts sales of foreign automobiles.

5. ***The U.S. auto companies have worked together with USTR for over a decade to deal with this serious and glaring blot on our countries' trade relationship and have not succeeded in opening the Korean auto market.*** However, all past efforts, including two bilateral auto trade (MOU) agreements negotiated in good faith by USTR in l995 and l998 using the strongest U.S. trade policy tools, have failed to open the Koran auto market. That is not the fault of past UTSR efforts, or the efforts of U.S., European or Japanese companies to get access to that market. The reason is the refusal of the Korean government to remedy and reverse these blatantly unfair and self-serving policies.

II. The Position of ATPC on the U.S. Korea FTA

We understand that there has been some mischaracterization in Seoul and in Washington about what we seek in this negotiation as a remedy to the closed Korean auto market. Let me be very clear: We are not seeking 'managed trade' or 'guaranteed sales in Korea', as some have suggested. These are incorrect, yet quick and simple labels that have been used to gloss over the serious efforts by many trade practitioners to an innovative approach to deal with a unique and intractable problem.

We believe that the standard trade approach, reminiscent of the old U.S.-Korea MOUs of the l990s, which is apparently being used by our U.S. negotiators, will result in a one—sided agreement that benefits only Korea. We believe that the U.S.-Korea FTA is the absolutely last chance for USTR, in close consultation with the Congress, to get this right. Otherwise one of the largest and most active auto markets in the world will remain closed to access by the U.S.

ATPC has consistently recommended opening the Korean auto market will require the their willingness to take new approaches. Given Korea's dismal past record, we have recommended that preferential access to the U.S. auto market be provided when the Administration and the Congress can be reasonably satisfied that all trade barriers to imported autos have been removed and the Korean market is seen to be fully open to the sale of U.S. and other imported cars.

III. Why is the Korean Auto Market Closed?

Let me summarize the major facts about this case, and explain how Korea?s system of tariffs, taxes, and particularly nontariff barriers that keep foreigners restricted in the market.

Chart #1 shows the sales by all foreign automakers in Korea last year. In a country that produced 3.8 million cars, and had domestic sales of 1 million last year, Korea imported a total of 40,000 cars and trucks from the rest of the world. I would draw your attention in Chart #1 to the fact that this is a grand total of a 3.6 % market share for all imported cars. In comparison, of the 30 OECD industrialized countries where the average level of imports for autos is over 40%, Korea ranks 30th out of 30.

Chart #2 shows the breakdown of the sale of imports in Korea by automaker. As you can see, no one is selling any respectable volume in Korea. The vast majority of those imported car sales are in the highest-end luxury segment. While our companies' sales in Korea were small, you will notice that high volume European automakers sales were also minimal while the Toyota, and Nissan brand, which are the number one and two automakers in Japan, did not sell a single car in Korea. This is not a picture of a normal, healthy, competitive automotive market.

So what is the problem?

IV. What Specifically Causes the Problem of Selling Imported Cars in Korea

Chart #3 summarizes the story and the continuing problem. For a long time, Korea has very effectively used a whole arsenal of trade tools, starting with outright imports bans, high tariffs, discriminatory taxes and a stifling maze of overlapping and never ending regulatory nontariff barriers to keep placing hurdles for imported cars.

Bans on Imported Autos

Prior to l995, as this chart shows, the Korean government was quite clear about its policy:

- All imported cars were legally banned in Korea until 1989, while the country was furiously building its own auto industry
- Japanese cars remained banned until l999
- Very high tariffs (50%) were applied

Tax Audits on Purchasers of Imported Cars

After those outright bans were dropped, Korea switched to other NTBs that were very effective. Korea employed one of the most effective tools when it directed that all purchasers of imported cars would automatically have their taxes audited. After the U.S. repeatedly complained, these automatic tax audits stopped, but the perception and a lingering fear remains

Just last year in a highly publicized move, Korean tax authorities ordered all of the country's import car dealers to report to their federal tax agency the names, addresses and relevant personal information of the purchasers of all foreign cars. Now I ask, if you were thinking about buying a new car, wouldn't you find that intimidating?

High, Discriminatory Taxes on Imported Autos

Korea has also freely used its tax structure to make it far more expensive to purchase an imported car. Korea has nine different layers of tariffs and taxes on autos. With an overall tax burden of over 70% for imports versus 56% for domestic autos, the effects of cascading taxes on top of the tariff puts imports at a 14% percentage point price disadvantage vis-&-vis domestic vehicles. To make matters worse, many of the taxes are applied at a rate much higher for imported cars, based on engine size, configuration or other artificial means. The end result is that much higher taxes are added to imported cars, on top of the 8% import tariff.

The Web of Regulatory NTBs

When compared to other partners with whom the U.S. has engaged in Free Trade Agreements, Korea is unique in the both the scope and intensity of its use of Non Tariff Barriers to restrict imports. This pervasive use of NTBs in restricting trade calls for different kinds of solutions than U.S. trade negotiators have faced before.

This is the most complex and most difficult issue to summarize for those outside of the business. But all foreign automakers are in consensus that Korea pursues a rolling series of regulatory NTBs that, de facto, severely restrict the ability to market imported cars into Korea. These include regulations that are often trivial, imposed without warning and developed with no input from foreign automakers. They have the effect of knocking out or severely limiting the ability of foreign automakers to get cars to the market in Korea.

Every year, the issue is different—tinted windshields, frequencies for remote keyless entry systems, bumper configurations, power window requirements, and license plate sizes. Just last week, we were notified of a change in the auto insurance policies that arbitrarily placed imported vehicles are in the highest risk classification. The result is owners of imported vehicles will pay the highest premium possible for their auto insurance, (both Ford and DaimlerChrysler were placed in Class #1, the most expensive), as well as a totally unacceptable process foreign companies must use to certify compliance with these regulations.

The NTBs vary from one wave to another, but the result is the same: a revolving set of costly hurdles placed in front of any foreign automaker trying to sell in Korea.

I want to share with you the conclusion of the European Auto Manufacturers Association (ACEA) in their statement to European Governments and the EU Commission describing the situation:

"Korea has a number of nontariff barriers in place which prevent market access of European vehicles to the Korean market. In general, the import situation is characterized by a lack of transparency, little or no lead-time and adoption of unique standards and inadequate action of EU or U.S. standards in the fields of safety and environment—As a result no foreign automakers—E.U., U.S. or Japan—has been able to achieve a significant market share".

Over the past nine years, following the l998 U.S.-Korea bilateral auto MOU agreement, Korea has introduced more than 15 new auto technical regulations that have served as barrier to auto imports.

Here are three quick examples of a few of the past and current NTBs:

1. License Plate Size— The Korean government proposed a new regulation that would change the size and shape of a car's license plates, with little notice or opportunity to comment. License plates in Korea have traditionally been the same size as found in the United States.

At first blush, this may appear to be a minor nuisance with little impact on U.S. automakers. However, given the fact that the front and back bumpers of cars are designed around the size and shape of a license plate, this type of requirement would lead to almost a million dollars per model being spent to meet the new requirement. Domestic automakers that are selling hundreds of thousands per vehicle model can afford the cost spread over a large number of sales, but importers that are lucky to sell a few hundred of a particular model would not be able to justify the cost and would have necessitated pulling most U.S. models out of the Korean auto market, or taking a heavy loss on every vehicle sold.

The Korean authorities were forging forward with this regulation, despite the devastating impact it would have on imports, and that it would not have any societal benefit. Fortunately efforts were made, including the intervention by USTR Zoellick, to get the Korean government to drop the proposed regulation. Although successful, the fact that a U.S. cabinet official had to personally intervene with the highest levels of the Korean government to resolve a license plate issue demonstrates the level of the NTB problem.

2. Self-Certification Investigation Change—After the current FTA negotiations began, Korea proposed making a major change to its auto safety certification process that would reverse commitments and progress made in past agreements with the United States to "not take any new measures that directly or indirectly adversely affect market access for foreign passenger vehicles".

The proposed change would:

- adversely impact import automakers, but have no impact on Korean automakers;
- significantly increase the certification burden, with no societal benefit, and;
- withdraw commitments made under the two previous U.S.-Korea bilateral auto agreements.

This is a transparent effort to further thwart import automakers to the benefit of the Korean automakers, and should be permanently dropped as part of this FTA

3. Korea's new auto emissions regulations (K–ULEV)—now effective 2009.

While this proposed new rule is based on California's stringent emissions regulations, Korea made some significant changes in its implementation that results in a disproportionate burden being placed on importers, over domestic automakers. This is what is called "cherry picking" from regulations. The immediate result is while Korea's emissions regulations offers no higher level of emissions containment, some imported cars will be withdrawn from sale in the market and fewer new import models will be exported.

The California and Korean regulations achieve the same emissions outcome, but the Korean regulation does not provide the flexibility that was purposely designed into the California program. U.S. automakers meet the California regs, but will not be able to offer their vehicles for sale to consumers in Korea. The U.S. Government has tried to help U.S. automakers with this barrier, but to no avail.

In advance of the launching of the U.S.-Korea FTA negotiation, Korea agreed to delay full implementation of the K–ULEV regulation until 2009. Although somewhat helpful, the two-year delay only puts off the problem until a later date. It did not the fix the problem. Korea's K–ULEV regulations should be modified to allow vehicles that meet California regulations to meet the Korean regulations.

The importance of eliminating the current auto NTBs cannot be overstated. Full access will not be achieved unless this is accomplished. But equally important is getting a commitment from Korea that will avoid the implementation of future auto NTBs.

For more than a decade, the U.S. auto industry has worked with various USTRs and their staff who have spent many months negotiating with the Koreans to eliminate one after another unnecessary NTB. The persistence of USTR efforts to get rid of a single NTB—as minor as license plate sizes—has succeeded, but at a high cost in U.S. government resources, both politically and financially. Inevitably, within weeks of the resolution of one ?show stopper' NTB, another one pops up to replace it.

Korea's track record of using NTBs to protect its auto market is endless and has no equal in any other OECD country. And its does not deserve to be glossed over or tacitly accepted by the United States in formalizing an FTA with one of America's largest trading partners.

V. What has the U.S. done about this situation?

The seriousness of problems caused by Korea's closed auto market is not new. They were recognized as severe enough a decade ago that USTR filed a Section 301 unfair trade practices case against Korea's auto policies, one of the rare uses of that powerful tool in U.S. trade law. USTR then negotiated two specific auto trade MOU agreements with Korea (in l995 and l998) in which Korea clearly and formally committed to eliminate anti—import policies, as well as tax and regulatory NTBs that discriminated against U.S. auto products.

Chart #4 highlights just some of the still current goals and commitments of those l995 and l998 agreements that were not achieved. These were two solid, if traditional, trade agreements designed to reduce market barriers. They looked outstanding on paper. But they did not work, because Korea countered with a new strategy to implement a powerful mix of non-tariff barriers. The results: Despite two tough negotiations and auto trade agreement with Korea in l995 and l998, exports of U.S. autos to Korea barely moved from 4000 in 1995 to 4,500 in 2006. Imports from all countries are also dismal.

ATPC believes that Korea's obvious failure to meet its commitments and promises to the U.S. in these two formal trade agreements is both a loud warning and a legitimate basis for insisting that we not repeat the same mistake a third time. This is why we have urged that any FTA with Korea must be creative, assertive and reflect the reality of auto trade with Korea. We have urged USTR to look beyond the traditional negotiating strategy, not because our industry inherently deserves something better or special, but because there is such a clear, unquestionable trail of evidence of the failure of Korea to live up to previous agreements with the USG.

VI. The Current Status of the Negotiations

So where are we now, less than two weeks before the deadline for completing these negotiations?

1. Immediately after the launch of these talks, ATPC offered a comprehensive proposal to USTR for addressing the totality of barriers that have prevented access to the Korean market and the failure of two prior U.S. trade auto agreements. This proposal placed the responsibility fully on the Korean government to demonstrate that commitment by results and not just promises. The USTR appears not to have accepted this approach.
2. The Korean Government, to the best of our knowledge, has not come forward with a proposal that fully addresses the closed market issue.
3. Earlier this month, a bipartisan group of members of the House and the Senate, including Chairman Rangel and Chairman Levin, sent a letter to the President presenting a "Congressional Proposal to Open Korea Automotive Market". The members proposed "moving beyond previous negotiating strategies and embarking on a new approach that addresses the United States' legitimate concerns that Korea will not obtain additional access to the U.S. market unless there is reciprocal opening of the Korean auto market". The Congressional proposal deals with both the respective countries' automotive tariffs and a system for addressing both current and future NTBs in Korea auto market, and other sectors as well".
4. ATPC deeply appreciates this effort by Members to offer a constructive proposal to secure a fair trade deal for the U.S. auto industry in an FTA with Korea. ATPC said that this Congressional proposal "captured the industry's frustration with Korea's refusal to abide by past auto trade commitments by ensuring that the Korean government will have to provide U.S. automakers with real and meaningful access to Korea's auto market if they are to be given preferential access to our market". We are not aware of whether U.S. negotiators have accepted any or all of the recommendations contained in this Congressional proposal to resolve the auto issue.
5. The latest information we have received concerning the negotiations is most disturbing. It is now widely reported that the Korean Government has demanded the immediate elimination of the U.S. auto tariffs as their number one priority in this negotiation.

Finally, Mr. Chairman, ATPC does not know what will happen over the next two weeks. But we do know with certainty the record of Korea over the past two decades.

I would like to leave you, and the U.S. negotiating team, with what President Roh of Korea told his negotiators last week in his Cabinet meeting as they prepared for the final stretch of these talks, as publicly reported in the Korea Times on March 15:

President Roh told his team:

"I will give you some instructions in principle: Please consider real economic benefits—act just like merchants. And do not consider security or other non—economic factors."

Statement of California Farm Bureau Federation

California Farm Bureau Federation (CFBF) is writing you in response to the Ways and Means Committee hearing on U.S.-Korea Free Trade Agreement Negotiations.

The California Farm Bureau Federation (CFBF) is the largest agricultural organization in the state, representing more than 91,500 members. In 2005, California agriculture received over $31.71 billion in farm revenue. Of that, more than $9 billion was exported.

A U.S.-Korea FTA offers a great opportunity for expanding California's agricultural exports to Korea. In 2005, Korea accounted for $278 million in California's agricultural exports. As shown in the table below, California's top agricultural exports to the region included oranges (fresh and juice), almonds, cotton, walnuts and hay.

In order for this agreement to have the greatest long-term success it must include reducing tariffs and establishing a protocol for resolving new, and outstanding, non-tariff barriers. We have recently released a report titled *"U.S.-Korea Free Trade Agreement, What it would mean for California Agriculture"* that you can access at http://www.cfbf.com/issues/pdf/KoreaFTA07.pdf. This report looks at the market opportunities for California agriculture in Korea and at its impact on Korean agriculture.

Exports of California Agricultural Products to Korea, 1999–2005

	Value $000						
Commodity	1999 [1]	2000 [1]	2001	2002	2003	2004	2005p
Oranges, fresh[2]	14,512	41,000	51,152	70,877	81,101	88,846	96,670
Almonds	11,326	11,000	13,903	17,409	21,382	25,781	34,608
Cotton	69,656	88,000	99,969	37,626	29,328	28,034	33,214
Walnuts		4,000	4,566	6,712	7,434	13,890	17,522
Hay	4,189	13,000	14,961	17,600	17,745	17,120	14,282
Hides & Skins[3]			17,167	16,390	18,721	15,113	13,878
Tomatoes (processed)	9,276	8,000	9,710	11,364	10,938	11,387	12,300
Wine	2,358	3,000	4,915	3,347	5,927	6,992	9,535
Grapefruit (incl. juice)			1,004	2,028	4,001	5,107	8,914
Rice			3,988	10,979	25,340	17,447	6,619
Grape Juice	6,115	3,000	6,348	7,878	8,169	5,180	5,249
Dairy and Products	12,096	28,000	16,816	17,938	11,419	4,200	6,279
Raisins	2,444		2,568	2,669	2,631	3,653	4,159
Table Grapes			451	0	2,202	2,273	2,955
Lemons			2,443	3,398	2,542	2,749	2,950
Orange Juice			3,295	3,779	2,976	2,955	2,392

Exports of California Agricultural Products to Korea, 1999–2005—Continued

	Value $000						
Commodity	1999 [1]	2000 [1]	2001	2002	2003	2004	2005 [p]
Cherries			352	9	1,439	1,459	1,180
Pistachios			587	475	434	532	914
Kiwi fruit			57	0	1,438	1,924	859
Lettuce			51	45	420	649	777
Flowers			704	187	308	112	437
Olives			9	161	382	834	382
Beef (and products)[4]	37,795	51,000	21,022	39,781	52,956	114	243
Total CA Export to Korea	178,000	262,000	279,415	274,000	312,010	259,000	278,556

[1] Data provided for commodities with exports of more than $2 million in 1999 and 2000.
[2] Includes fresh oranges and orange juice from 1999 and 2000.
[3] Included in beef and products for 1999 and 2000.
[4] Includes beef and hides and skins from 1999 and 2000.
[p] Preliminary figures
Source: U.C. Agricultural Issues Center, Annual California International Agricultural Export estimates, 2001–2005.

Market Access

Fresh fruits and vegetab les

Our primary objective is to improve global market access for California agriculture. California's fruit and vegetables are faced with excessive export tariffs that are four times greater than U.S. agricultural tariffs. Tariffs on California fresh citrus exports to Korea range from 40—144%. The Korean government views citrus as a sensitive product and has advocated that there be no reduction in tariffs, especially during its "in season." Korea is California citrus growers' largest export market. A free trade agreement with Korea must lower the tariffs being applied to California citrus products. Overall, the average applied tariff on California fruit and vegetable products is 53.6%, while, the United States imposes an average 6% applied tariff on fruits and vegetables, respectively.[1] There must be fairness under this agreement.

As we have advocated in the World Trade Organization negotiations, this free trade agreement must reduce tariffs for fresh fruit and vegetables in the Harmonized Tariff Schedule (HTS) Chapters 7 and 8. We recognize that because of the sensitivity of these negotiations there will have to be differing phase-outs of tariff schedules for each commodity.

Beef products

Prior to the beef ban in December 2003, the Korean market was an important market for our beef cuts and organs that are not primarily consumed in the U.S.. U.S. beef and offal products face an applied tariff of 8–40%.[2] In addition to market access, a clear protocol, or timeline, for the acceptance of U.S. beef into Korea must be established prior to final acceptance of the agreement. We have relied too many times on agreements making promises of resolving phytosanitary issues only to continue negotiating after the finalization of an agreement, without results.

non-tariff barriers

In many cases, non-tariff barriers become the biggest issues that hold up the progress and success of an FTA. Similar to the Australian FTA, and others, this agreement must establish a protocol for both countries to effectively address on going phytosanitary issues.

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[1] Office of the United States Trade Representative, "FTA: United States & Republic of Korea Economic and Strategic Benefits," February 2, 2006.
[2] Office of the United States Trade Representative, "*Trade Facts* FTA: United States & Republic of Korea Opportunities for Agriculture." February 2006.

We not only want expanded access for those commodities that currently export to Korea but those that have the potential to meet the needs of a growing and changing marketplace.

Conclusion

CFBF appreciates this opportunity to comment on the U.S.-Korea free trade agreement. Of all the agreements being negotiated this one has the most potential for the greatest gain for California producers. For more details on the opportunities and impacts of this agreement please refer to our *"U.S.-Korea Free Trade Agreement, What it would mean for California Agriculture"* that you can access at http://www.cfbf.com/issues/pdf/KoreaFTA07.pdf. Please feel free to contact Rayne Thompson, in my office, with any questions.

Statement of Center For Policy Analysis on Trade and Health

Tobacco Control

According to the Pan American Health Organization and the World Health Organization, "Transnational tobacco companies—have been among the strongest proponents of tariff reduction and open markets. Trade openness is linked to tobacco consumption." [1]

It is not clear what The U.S Trade Representative has indicated that tobacco measures in the Korea-U.S. Trade Promotion Agreement will be similar to all recent U.S. trade agreements, which have included reductions in tariff and nontariff barriers to trade in tobacco products. These provisions are intended to increase consumption of tobacco products, which are lethal. Reducing tobacco consumption is a key public health goal of particular consequence for South Korea, where 67% of males smoke presently.

Korea currently attributes the majority of its deaths to cancer. Cancer-related deaths rose from 13.8% to 21.4% of all deaths between 1980 and 1994—with cancer-related mortality for men changing from 49.5 to 134.2/100,000, and for women from 32.6 to 76.1/100,000. Since 1980, lung cancer has increased the most rapidly, and liver and lung cancer in men accounted for 65% of all cancer deaths from 1984–1998.[2]

There is a lag period of between 20 and 30 years between tobacco consumption and tobacco-related deaths such as lung cancer. Mortality due to lung cancer is sure to increase and present significant problems for suffering individuals, for the national health care system, and in the loss of economic productivity due to premature deaths.

Tobacco control measures appear to be achieving a slow decline in tobacco consumption in South Korea. In 1995, Korea passed the National Health Promotion Act (NHPA), which states that all public areas and facilities must assign smoking and non-smoking areas. The NHPA also restricts cigarette vending machines and selling to those under the age of 19. It requires health warnings on tobacco packaging and advertising. Annual per capita consumption declined from 130 in 1990 to 116 in 2000. One goal of the NHPA is to reduce male smoking from 67% to 30%, and female smoking from 6.7% to 5%, by 2010.

Korea has a 40% tariff on imported tobacco products. Korea originally planned to levy a 40 percent tariff on imported tobacco as its lifting of the state monopoly on cigarettes became effective in July 1, 2001. But, driven by pressure from the U.S. government and multinational cigarette producers, the Korean government reluctantly consented to phase in the tariff by 10 percent a year, gradually raising it to 40 percent by 2004. This tariff will likely be eliminated by the agreement, which will likely increase consumption particularly among youth.

The proposed liberalization of tobacco markets under the KORUS FTA has the potential to significantly hinder this progress. Korea had import tariffs on foreign cigarettes, until the 1980s, when the U.S. exerted pressure to liberalize the tobacco industry under the Special 301 provisions. In 1988 smoking rates among male Korean teens rose from 18.4% to 29.8% in a single year. The rates among female teens more

[1] D. Woodward, N. Drager, R. Beaglehole, D. Lipson. Globalization, global public goods, and health. In: Trade in Health Services: Global, Regional and Country Perspectives. N. Drager and C. Vieira, Eds. Washington, DC: PAHO, 2002. pp 6–7.

[2] Sun Ha Jee, II Soon Kim, II Suh, Dongchun Shin and Lawrence J Appel (1998). Projected Mortality from lung cancer in South Korea, 1980–2004. *International Journal of Epidemiology; 27;365–69.*

than quintupled—from 1.6% to 8.7%.[3] These rises were due to decreased prices and increased advertising.

This FTA includes NAFTA-like provisions that give investors, including tobacco companies, standing to challenge governmental regulations at the local, state, and national levels directly and seek compensation for profits lost due to rules that do not comply with strict investment obligations.

Trade agreements enable the tobacco industry to challenge a wide range of tobacco control measures, unless tobacco products are specifically excluded from trade agreements:[4]

- *Tobacco tariffs*—Tariffs can also be challenged as discriminatory and restrictive trade barriers.
- *Reducing exposure to secondhand smoke*—Clean indoor air rules, including banning smoking in restaurants and bars, could face challenge as barriers to trade since these policies decrease cigarette consumption, and company profits.
- *Ingredient disclosure and warning labels*—Under investor rights provisions, private corporations could sue for "expropriation" of property as a result of regulations on ingredient disclosure and warning labels.
- *Controlling sale and distribution of tobacco products*—Wholesale and retail licensing, controls on vending machines, and restrictions on sales to children could be subject to challenge under rules governing distribution services in trade agreements.
- *Cigarette content regulation*—Laws and regulations to enact tobacco control affecting cigarette content regulation, including fire-safe cigarettes, are subject to potential challenge trade rules. Consumer warnings could be required as a substitute for product regulation as they are less restrictive to trade, but they are also less effective tobacco control measures.
- Advertising, promotion, sponsorship, and marketing restrictions—Partial bans of cigarette advertising could be challenged as trade violations under FTA trade rules affecting advertising.

The investor-state provision in the Korea agreement makes tobacco control measures particularly vulnerable to challenge.

CPATH recommends the following:

1. Tariff and Nontariff Provisions:

Exclude tobacco products from all trade rules and in each relevant Schedule and Annex, including but not limited to Market Access, Most Favored Nation, National Treatment, Services, Intellectual Property, Investment and Dispute Settlement and tariff reduction schedules.

2. Insert the following:

Notwithstanding any language to the contrary, nothing in this agreement shall block, impede, restrict, or modify the ability of any party to take or maintain any action, relating to manufactured tobacco products that is intended or expected, according to the party, to prevent or reduce tobacco use or its harms and costs or that is reasonably likely to prevent or reduce tobacco use or its harms, including tariffs and restrictions on the marketing of tobacco or tobacco products.

3. Add: Provisions of the Framework Convention on Tobacco Control shall govern, in the event of any conflict with this Agreement.

4. Eliminate the investor-state provision that gives foreign corporations greater rights than domestic investors to file trade challenges against tobacco control measures.

Intellectual Property and Access to Affordable Medicines

The U.S. persists in pressing for changes in Korea's drug pricing system that are strongly opposed in Korea. Because several U.S. federal programs use reference pricing systems similar to Korea's to provide affordable drugs, the U.S. is trading off our ability to provide affordable medicines at home in exchange for other economic benefits to the transnational pharmaceutical industry from this agreement. We are also trading off our ability to concentrate on other, more important objectives, such as opening up automobile markets, in return for questionable benefits to the transnational pharmaceutical industry and even fewer clear benefits to the American public.

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[3] Callard, Chitanondh, and Weissman. Why trade and investment liberalization may threaten effective tobacco control efforts. Tobacco Control, 2001; 10:68–70

[4] Shaffer ER, Brenner JE and Houston TP, International trade agreements: a threat to tobacco control policy.

The agreement proposes expanded protection of drug company monopoly rights. It is important to be clear about what this means for the people of Korea and the people of the U.S.: higher prices for people and delayed fair competition from generic competitors which would lower prices. On March 28, Korean trade negotiators reportedly capitulated to U.S. demands to implement new data exclusivity rules, patent extensions, and linkage between patent and drug marketing offices. These provisions, if implemented, will depress generic production and increase prices. Korea's universal National Health Insurance system relies on generic medicines to control drug costs. Drugs already account for 30% of Korea's health expenditures, more than other OECD countries. The average annual income in Korea is $16,000 a year.

According to the Korea Policy Institute, "new drug prices are comparable to average factory prices in the U.S., the United Kingdom, Germany, France, Italy, Japan, and Switzerland. The Korean government has enacted cost containment measures in the area of pharmaceuticals—lowering the reimbursement costs for drugs and supporting the production of domestically produced generic drugs. The Korean Health Insurance Review Agency has a goal of reducing pharmaceutical costs from more than 29 percent of the national insurance payments to less than 24 percent by 2011. South Korea relies on the provision of generic drugs to control pharmaceutical costs in their public health care system."

The Korean Alliance Against KorUS FTA reports that people in Korea already suffer as a result. Han-ki Yoon, diagnosed with AIDS nine years ago, needs second-line treatments which are unavailable or unaffordable there. He reported that Roche has rights to sell Fuzeon in Korea, but refuses to do so, demanding a price of $20,000 a year per patient.

Jung-ha Kim, whose bother died of leukemia in October, 2006, noted that the national health program now pays over $31 million a year to treat leukemia patients with Gleevec.

The pharmaceutical industry has stated in its published remarks on trade advisory committees that trade negotiations have become the principal process through which it is able to ensure new standards of protection and enforcement. Some of these provisions, on reviews for government purchasing decisions, would be new to the U.S., and would not likely be independently approved here if proposed independently. Others, such as data exclusivity, are being imposed out of context of finely balanced U.S. rules. The drug industry is due reasonable compensation based on evidence that it is producing innovations and that these innovations are available to and benefiting populations who need them. To the contrary, however, stronger IP rules have coincided with diminished innovation, and reduced access to needed drugs. Drug company rights should be fairly balanced against people's human right to medical care. The Korea agreement does not meet this test.

A statement by majority Ways and Means Committee members on March 27, 2007, indicates an intention to establish a fair balance between access to medicines and protecting pharmaceutical innovation in developing countries. However, it also calls for opening up Korea's "closed markets" for pharmaceuticals and automobiles. We suggest the Committee reconsider important respects in which life-saving medicines and automobiles are not similar products.

Restrictions on government purchasing

The Korea Policy Institute reports: "Before the second round of talks, the South Korean government introduced plans to implement a "positive list" of reimbursable prescription drugs by the end of 2006. A "positive list" system creates a list of drugs with proven efficacy and price-competitiveness that will be reimbursed within the national health care system. This would replace the existing "negative list" system that only lists drug exclusions. The positive list system is not a unique intervention by the South Korean government. Indeed, it has been adopted in many OECD countries and is an effort towards keeping the high cost of health care expenditures down. Many U.S. states and HMOs are taking a similar approach of scrutinizing prescriptions drugs, encouraging the use of generics, and limiting reimbursements on brand name drugs."

The U.S. proposal calls for Korea to install an independent review board on government pricing and drug selection decisions, as Korea establishes a "positive list" program for selecting and pricing drugs in Korea. This provision would also subject to trade challenges several U.S. programs that use formularies and reference pricing (negotiated rates for a limited number of drugs in each therapeutic category). These U.S. programs include Medicare hospital drug purchases, Medicaid, Department of Defense, and Veterans Affairs, and federally authorized drug discount programs for other providers. These provisions were controversial in the Australia agreement. (see attached from CPATH.)

The U.S. has also required that Korea charge the average price for G7 countries (referred to as the A7 price) for each listed drug.

The U.S. is trading off our ability to provide affordable medicines at home in exchange for other economic benefits to the pharmaceutical industry from this agreement. We are building a track record, with Australia and now with Korea, of using trade negotiations to establish policies that will prop up high drug prices at home and abroad. These policies would be unlikely to pass an independent vote in Congress, and do not balance Congress' objectives in the Trade Act to assure affordable medicines while promoting intellectual property rights.

CPATH recommends the following:

1. Exclude TRIPS-plus provisions including data exclusivity, patent extensions and linkage, from the Korea agreement.
2. Exclude provisions calling for outside review of government drug purchasing determinations in Korea and in the U.S.

Attachment

CPATH w Center for Policy Analysis on Trade and Health

Bringing a Public Health Voice to Trade and Sustainable Development

The U.S.-Australia Free Trade Agreement Can Challenge VA and Medicaid Drug Prices

Summary

The Australia Free Trade Agreement can expose U.S. drug discounts for programs including Veterans Affairs, Medicare and Medicaid, to greater leverage by the pharmaceutical industry through independent review processes that vary from current practices.

U.S. health care consumers and professionals are not represented in trade negotiations. Trade agreements, which frequently lead to unintended consequences, increasingly address important issues of health and social policy. Congress can take steps now to assure that the U.S.-Australia FTA protects affordable drug prices, and to include the public health community in a transparent trade policy process.

Australia FTA and Department of Veterans Affairs:

The FTA gives drug companies the right to challenge drug listing and pricing decisions by the Department of Veterans Affairs. Independent reviews can delay procurement decisions, and allow companies to pressure agencies for higher prices.

The VA system effectively achieves very low prices for medicines. Under the U.S.-Australia FTA, "suppliers," defined as businesses, are authorized to challenge VA procurement decisions, including listing and pricing pharmaceuticals, through "at least one impartial administrative or judicial authority that is independent of its procuring entities"(15.11.2).

The FTA process described is different from the current domestic U.S. bid challenge system. The independent review body must have the power to overrule VA decisions promptly (Article 15.11.4) The General Accounting Office, presently the first line of review, can recommend but not override VA decisions. Court appeals, the second step, might not be considered prompt. A system that does meet these requirements could jeopardize the VA's successful drug pricing system.

The process is different from the World Trade Organization's Government Procurement Agreement, Article XX: 1. The WTO requires only that interim corrective measures preserve commercial opportunities generally; U.S.-Australia gives specific rights to the complaining supplier to participate in the procurement opportunity at hand. 2. The WTO calls for procedures that can provide for interim measures (such as delaying a procurement decision). U.S.-Australia gives that power to the independent review authority, which is separate from the procuring entity. 3. The WTO has an exception for the public interest; U.S.-Australia has no such exception

Grounds for filing a complaint do not need to include a charge of discrimination based on national origin. A supplier can assert failure to comply with the Federal Acquisition Regulations, in the case of the U.S.. The FTA requires that decisions do not have the "purpose or effect of creating unnecessary obstacles to trade." A drug company with an office in Austalia could initiate a challenge.

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The U.S. Trade Representative, and the General Counsel for the VA, have provided the following assurances:

1. The VA is not covered by the FTA's Annex 2–C on pharmaceuticals. This is true. However, VA drug listing and pricing decisions are covered in another FTA section, Chapter 15 on Government Procurement.

2. VA non-contracting measures will be protected by the "Exceptions" article of the FTA, which exempts measures necessary to protect human life or health. This is an extraordinarily sunny interpretation of the exception, which also requires countries to demonstrate that the measure in question does not provide a "disguised restriction on international trade," and has failed in past cases to prevent arguably graver threats to life.

3. The Australia FTA gives rights to drug companies to challenge drug purchasing and reimbursement decisions by Medicare and Medicaid, which could lead to higher prices.

Annex 2–C on Pharmaceuticals applies to "federal healthcare authorities [that] operate or maintain procedures for listing new pharmaceuticals or indications for reimbursement purposes, or for setting the amount of reimbursement for pharmaceuticals, under its federal healthcare programs." These programs are distinguished from those like the VA that procure drugs directly, and are covered by Chapter 15 on Government Procurement.

The USTR has stated that parts of Medicare would be covered by this provision. Annex 2–C would also apply to Australia's Pharmaceutical Benefits Scheme, which negotiates low drug prices for Australians.

The USTR has asserted that Medicaid would not be affected because it is a state program. However, These are strong grounds for disputing the USTR's view. A federal authority, HHS, maintains the federal statute on drug price rebates for Medicaid programs. (Many states then proceed to seek further discounts.) Medicaid was created by federal law.

Annex 2–C requires affected agencies to "make available an independent review process that may be invoked at the request of an applicant directly affected by a recommendation or determination." The USTR has stated that "applicants" refers to program beneficiaries. A May, 2004, request to the Department of Health and Human Services to clarify this point has not been answered. Assuming that "applicants" includes drug companies, the California Senate Office of Research (SOR) has commented regarding Medicaid: "The . . . requirements that would appear to conflict with California current practice would be the independent review process, implemented at the request of an applicant, and the requirement that written justification for any decision be given to the applicant. In very general terms, the agreement would make drug pricing and regulation more difficult by expanding the basis for an applicant to challenge an administrative decision." The SOR analyst agrees that failure to reach agreement on price could in this case be grounds for a request for independent review, a right that drug companies do not currently enjoy.

Congress can take steps now to change the U.S.-Australia FTA and to protect U.S. consumers.

VA drug procurement, Medicare and Medicaid could be excluded from the Agreement. Many procurement decisions are already excluded from the Australia FTA including motor vehicles and dredging at construction sites. The VA Counsel claims that Chapter 15 gives new access to U.S. contracts for Australian firms; however the USTR also claims that Australian drug companies have no such interest. Important government programs that provide benefits to millions, including vulnerable populations, can legitimately be excluded from this Agreement.

Statement of Korea International Trade Association

The Korea International Trade Association (KITA), 460 Park Avenue, Suite 1101, New York, NY 10022, is registered with the U.S. Department of Justice, Washington, D.C. under the Foreign Agents Registration Act as an agent of KITA, Trade Tower Gangnam-gu, Seoul 135–729, Republic of Korea. This material is filed with the United States Department of Justice where the required registration statement is available for public inspection.

I. Introduction

The Korea International Trade Association ("KITA") is an association of more than 60,000 Korean companies with diverse trading interests in the United States and globally. Our association is actively involved in monitoring developments related to the Korea-U.S. free trade agreement ("KORUS FTA") negotiations. Given the breadth of interests KITA represents, the long-standing trade relationship between both countries, and our member companies' significant investment in the United States, I believe our perspective on the FTA concluded between Korea and the United States would be of significant value to the House Ways and Means Subcommittee on Trade.

KITA has strongly supported the KORUS FTA negotiations since they were launched last February, recognizing that a balanced final agreement would offer many benefits and opportunities for both countries. However, KITA also understands that such an agreement poses many challenges and raises concerns on both sides of the bilateral trade relationship. KITA would like to balance the discussion on the impact of a KORUS FTA in both countries, and wishes to express our strong hope that U.S. and Korean businesses will work together in a final push to facilitate the implementation of the agreement. An expansion of trade between our two countries will only serve to benefit the U.S. and Korean economies in the long term.

II. A KORUS FTA Will Benefit Both Countries

The Korean government and business community recognize the need to further open Korea's economy to remain competitive in the global economy. It is for this reason the Korean government has crafted a new trade policy that embraces the pursuit of FTAs on a multi-track basis. KITA believes that FTAs, especially one with the United States, will help Korea lock in needed economic reforms and further liberalize the Korean economy. Further, the KORUS FTA will benefit both countries because it will create meaningful new trade flows for goods, services and investment.

Apprehension over market liberalization is not new or unique to the United States. For example, many KITA member companies in the agriculture and services sectors share concerns similar to those expressed by U.S. business interests. For perspective, however, it is worth noting the magnitude of the challenges faced by Korean industry and agriculture. When U.S. interests express concern about the impact of an FTA with Korea because Korea is the United States' 7th largest trading partner, we must remind those interests that the U.S. economy is much larger in scale than Korea's—U.S. GDP is 15 times larger than that of Korea—and is in fact Korea's 3rd largest trading partner.

What interests in both the United States and Korea need to realize is that the bilateral trading relationship is more complementary than competitive. Recent economic studies demonstrate that a KORUS FTA will lead to greater intra-industry trade that is beneficial to both economies, and show the deeper the liberalization of the Korean market, the greater the effect on overall GDP. This includes liberalization in sensitive Korean sectors.

Studies undertaken by the Korea Institute for International Economic Policy (KIEP) estimate the benefits to Korea of a KORUS FTA to include \$5.4—\$8.2 billion in increased exports, and over \$35 billion in income growth. Studies have also revealed that market liberalization frees up resources and can also strengthen the long term competitiveness of Korean industries. This is true for Korea, as KIEP has shown, *but it is also true for the United States.*

KITA is pleased that both sides have worked through concerns over tough sectoral issues such as autos, pharmaceuticals and investment in order to conclude the KORUS FTA. All realized that there is too much to gain and too much to lose.

III. A KORUS FTA is Necessary to Ensure the Continued Strength of the Bilateral Economic Relationship

The close economic relationship between Korea and the United States makes an FTA between our two countries not simply important, but imperative. The following statistics are worth emphasizing here: Korea is the United States' 7th largest trading partner and 6th largest export market for agricultural products. The United States is the number one source of foreign direct investment in Korea, the 2nd largest export market for Korean goods, and the 2nd largest investment destination for Korean companies. The KORUS FTA has significant commercial implications for trade in manufactured goods, as well as the service sectors.

However, our strong economic relationship is not self-sustainable; we must continue to reinforce it. This fact is illustrated by considering the situation if the concluded FTA is not implemented. Though bilateral trade volume is increasing, each country's share of trade in the other country is decreasing compared to third countries. For example, Korea's share in the U.S. import market has continuously decreased over the past decade. In 1998, it was as high as 4.6%, but, the share was only 2.5% in 2006. Likewise, the U.S. share of Korea's import market also has declined during the same time period. In 1998, U.S. goods enjoyed 24.6% of Korean market, but the share dropped to 10.9% last year.

A similar trend can be observed with respect to foreign direct investment—our respective share of FDI in each other's country is also declining. While the United States remains the largest investor in Korea, its share of FDI has dropped from 37% of total FDI in Korea in 2004 to just over 15% in 2006. In the meantime, investment from the European Union in Korea is on the rise. If Korea concludes an FTA with the EU, this investment trend is sure to deepen. Likewise, Korean investors are turning away from the United States and putting their money into other destinations like China, Europe, Central America and Southeast Asia.

The KORUS FTA will reverse these trends. In past FTA agreements the effect on trade has been clear: *trade between the FTA countries increases dramatically.* Indeed, Free trade agreements (FTAs) have proven to be one of the best ways to open up foreign markets to U.S. exporters. Today, the United States has FTAs with 13 countries. According to the latest edition of the U.S. Commerce Department's *International Trade Update,* last year U.S. trade with these FTA countries was significantly greater than their relative share of the global economy. Although comprising only 7.3 percent of global GDP (not including the United States), those FTA countries accounted for 42 percent of U.S. exports.

U.S. trade with Chile provides a great example of the benefits of an FTA. Before the agreement with Chile in 2003, U.S. exports were $2.7 billion. Liberalizing trade in the intervening years has had a dramatic effect on trade volumes. By 2006, Chile became one of the top 30 U.S. export destinations, with nearly $6.8 billion in exports, a 30 percent increase over 2005 and a 150.1 percent increase since the FTA went into force.

Not only has the volume of exports to Chile increased, but so has the U.S. share of Chile overall import market, which has risen from 14.5 percent in 2003 to 16.0 percent in 2006. Several U.S. industries have benefited from the trade growth with Chile, including high-tech, commodity, and finished goods, such as surgical equipment, airplanes, petroleum derivatives, and earthmoving equipment.

Implementing the concluded KORUS FTA will provide even greater benefits for U.S. exporters.

IV. A KORUS FTA Gives the United States Strategic Advantages

To conclude, I would like to point out several strategic advantages the United States would capture by implementing the KORUS FTA. First, the United States will be able to tap into Korea's world-class information technology (IT) infrastructure, creating unparalleled business opportunities for U.S. service providers and related industries. Korea is an ideal place for the United States to test new technologies, and will provide a competitive edge for companies that do business in Korea.

A second strategic advantage is Korea's geographical location. The KORUS FTA will allow the United States to establish a bridgehead in Northeast Asia. Closer economic ties to Korea will translate into more efficient access for the United States to Japan, China and the ASEAN region. These markets, combined with Korea, represent one-third of the world's population, and include some of the fastest growing economies in the world.

Finally, the political and diplomatic advantages of the KORUS FTA cannot be downplayed. In addition to strengthening our economic relationship, the KORUS FTA will help to solidify the two countries' longstanding diplomatic ties, and will serve to support our bilateral relationship in the years ahead.

Promoting understanding about the benefits of the KORUS FTA is essential. KITA has been fully engaged in this objective both in Korea and with its counterparts in the United States. Most recently, KITA held a conference with business leaders from 7 Southeastern states in Alabama, during which an agreement on the benefits of a KORUS FTA was reached. On March 14, I was pleased to represent KITA and join representatives of the National Association of Manufacturers and the U.S. Business Coalition for the KORUS FTA in a roundtable hosted by the U.S. Chamber of Commerce to reaffirm the common goal of concluding this important agreement.

KITA remains committed to supporting the vital trade relationship between Korea and the United States. Implementing the recently concluded KORUS FTA will ensure the continued strength of our vibrant bilateral economic relationship, create new opportunities for economic growth and job creation in both countries, and increase U.S. and Korean competitiveness in the world.

Statement of Korea Policy Institute

I would like to thank Congressman Sander Levin for this opportunity to speak on the current U.S. trade agenda. The focus of this statement is the proposed U.S.-Republic of Korea (South Korea) Free Trade Agreement currently being negotiated by representatives of the two governments. After a brief background on the proposed FTA, my statement will discuss the historical relationship between U.S. labor and South Korean economic development and its lessons for the proposed FTA, the linkage of South Korean agriculture with national culture and its relationship to anti-Americanism, and concerns about the lack of appropriate democratic process in South Korea.

Background

On February 2, 2006, the United States and the Republic of Korea (South Korea) announced that they would open talks on a bilateral free trade agreement between the two governments that would remove protective trade measures such as tariffs and import quotas. The U.S. is South Korea's third-largest trading partner, after China and Japan, and its largest foreign direct investor, and the U.S. market is South Korea's second largest export destination. South Korea is the seventh-largest trading partner for the U.S. and its seventh-largest export market. South Korea ranks as the tenth-largest economy in the world. Major imports from the U.S. include semiconductor chips, manufacturing equipment, aircraft, agricultural products, and beef. Major imports from South Korea include cellular phones, semiconductor circuits, television and flat panel screens, cards, computer parts, and construction vehicles. Other major issues under discussion include pharmaceuticals, automobiles, investor-state claim rules, steel, intellectual property rights, U.S. visa policies toward South Korean nationals, and whether to include products made in the North-South joint industrial park at Kaeseong.

The first round of formal negotiations occurred during June of 2006 in Washington, DC, and a total of seven rounds alternating between countries have thus far taken place. Informal talks have been interspersed between the rounds. The FTA is being negotiated under "fast-track" authority granted to the Bush Administration shortly after 9/11. This authority allows the executive branch to present a completed agreement for a mandatory Congressional vote without possibility of amendments. The South Korean National Assembly must also pass the FTA for it to go into effect.

Labor rights, wages, and lessons from the past

Understanding how South Korean products began to be shipped to the U.S. in the 1960s suggests much of what might be the consequences of the proposed FTA, and why concerns are being expressed by labor unions that fear a repeat of their past experiences with South Korean trade relations.[1] The loss of jobs and the concomitant weakening of organized labor in the U.S. is inextricably linked to the historical and continuing labor exploitation in South Korea. The economic development of South Korea that began in earnest in the 1960s was accompanied by a decline of manufacturing jobs in the U.S. as corporate interests took their factories to Asia and other parts of the globe. Then military dictator Park Chung Hee maintained an iron fist over South Korea's economy, ensuring intense state and corporate-sponsored repression of workers who suffered in some of the worst working conditions in the world. The hyperexploitation of South Korean workers meant that American manufacturers in the early 1960s could calculate that the labor cost saving for firms willing to move to Korea was a factor of 25, since South Korean workers were paid one tenth of American wages but were 2.5 times more productive given, for example, the extraordinary number hours they put in per day, the lack of overtime, and the six day work week.[2] Good jobs in the U.S. turned into bad jobs in South Korea. Supported by South Korean policies and U.S. willingness to open up key markets, light industries including textiles, footwear, radios, televisions, toys, and small appliances rapidly set up factories in South Korea, and beginning in the 1970s were joined by heavy industries including steel, cars, chemicals, defense, machine-tools, and semiconductors.

Similar to the reversal of earlier gains made by U.S. organized labor, rights and benefits accrued by South Korean organized labor through struggles over three decades have been lost. In particular, South Korean unions were weakened by South Korea's economic freefall during the 1997 Asian financial crisis. This crisis afforded the South Korean state and the *chaebol* an opportunity to reverse the gains of the

[1] See, for example, Thea Lea,policy director of the AFL–CIO, "Testimony on the Proposed U.S.-South Korea Free Trade Agreement. March 24, 2006.

[2] See discussion in Bruce Cumings, *Korea's Place in the Sun,* W.W. Norton & Co., 2005, p. 313.

labor movement, and since then workers have been fighting off declining working conditions, wages, and benefits.[3] South Korea has been moving with rapidity toward the "casualization" of its labor force. "Irregular workers," who possess fewer labor rights and benefits currently constitute over half of all South Korean workers.[4]

Widespread state efforts to prevent the rise of independent unions have been a staple feature of South Korea since right-wing groups created the Federation of Korean Trade Unions (FKTU) in 1946. Lacking a grassroots base, the FKTU's *raison d'etre* was to compete with and destroy independent labor organizations.[5] Today, the South Korean government continues to demonstrate a willingness to intervene in the internal affairs of independent unions that emerged despite state and corporate-sponsored violence against workers. Labor demonstrations and protests were regularly broken up in the 1960s by violent (public and private) police actions, and this continues to be true. Key deficiencies for worker's rights include the prohibition of multiple unions at the enterprise level, continuing restrictions on government employee rights to organize, an overly broad definition of "essential public services" where the right to strike is repressed or prohibited, the prohibition for unemployed or dismissed workers to become or remain trade union workers, and the requirement for notification of third parties to industrial disputes. In short, South Korean labor laws and enforcement have not reached internationally recognized standards of freedom of association and the right to organize and bargain collectively.

In order to avoid repeating the failures of the past, the FTA should be accompanied by significant changes to South Korean labor laws that enhance worker's rights and benefits, and reverse the casualization of work that has gone virtually unimpeded over the last decade. The proposed FTA could be an opportunity to promote sustainable and equitable development between historical allies, but this is not possible given the current conditions for labor in South Korea. An enacted FTA that fails to ensure the maintenance and enforcement of labor rights and conditions in South Korea should be unacceptable to anyone concerned about the plight of workers and organized labor in the U.S.

Agriculture as Korean culture and its relevance to the proposed FTA

The rapid rise of industrial development in South Korea whereby good jobs in the U.S. turned into bad jobs in South Korea also saw a migration of agricultural workers from South Korea's countryside into the urban core. In order to generate the labor force necessary to generate such rapid industrial development in urban areas during the 1960s and 1970s, then military dictator Park kept grain prices below market rates and thus artificially expanded the labor pool in industrial centers as farmers were driven off their land even when they had bumper harvests. South Korea experienced an extraordinarily rapid—and generally unwilling—population shift from rural areas to urban centers, with farmer-turned-worker's wages kept down as management rationalized that labor could be paid less since the market cost of food fell during this time due to the state's pricing policies.

This migration is relevant to current talks because the negotiation of free trade policies influencing family farms are socially and politically complicated by the fact that so many South Koreans living in cities, only one generation ago, were living on farms. Many South Koreans continue to have strong connections to their rural roots given how recently their personal lives diverged from decades if not centuries of family farming. The Korean peninsula has maintained a domestic agrarian economy for millennia, and the significance of farming goes beyond the economic into every aspect of South Korean society and culture, and especially in ordinary South Koreans connection to the land. Because Korean society was—and continues to be—so intimately tied to agricultural society, much of Korean culture as a whole is intimately based upon customs that have emerged through the cultivation of land.

For many South Koreans, the relationship of low prices to the demise of farms is not the theoretical abstraction that it is for advocates of neoliberal policies who have not experienced personal consequences of these policies, including rapid social and geographical dislocation. South Koreans often experience the demise of South Korean agriculture as a loss of both national and family history and culture. Consequently, much of the South Korean population finds it not just appropriate but necessary to protect indigenous agriculture and support measures that they view as preserving South Korea's national heritage as well as their own family's agricultural

[3] See, e.g., Hagen Koo, *Korean Workers: The Culture and Politics of Class Formation,* Cornell University Press, 2001.

[4] Lim Hyun-Chin and Jang Jin-Ho, "Neo-liberalism in Post-Crisis South Korea: Social Conditions and Outcomes," *Journal of Contemporary Asia,* October 2006.

[5] The FKTU has since evolved into a more mainstream and legitimately recognized organization.

history. This belief in the importance of protecting agriculture not simply as an industry but as Korea's history, culture, and land, has been reinforced by the rise of a middle-class environmental movement, the farmer and peasants movement, and urban-based allies. In a particularly powerful example of the importance of agriculture to the average South Koreans, the three largest department store chains in South Korea—Lotte, Hyundai, and Shinsegae—each independently decided against purchasing cheaper imported rice and offering it to consumers for fear of a public backlash against their chains that will influence their ability to sell other products offered at their stores.[6]

The average American farm is 58 times larger than the average Korean farm. Like small family farmers in the United States, South Korea's farmers cannot compete with large U.S. agribusiness capable of producing low-priced goods with the aid of significant U.S. government subsidies. In order to protect agricultural industries, except for rice which works under a quota system, the average South Korean tariff on agricultural products approaches 50 percent (compared with 7.5 percent tariffs on industrial products).[7] South Korea already imports about 60–70 percent of its agricultural products, and South Korean consumers are among the U.S.'s largest markets for agricultural products and beef, representing over a fifth of imports.[8] This percentage is certain to rise under an FTA with the U.S., which is seeking to liberalize the trade of 235 items that are currently protected in varying degrees.

The South Korean agricultural sector is not export-oriented but instead strives to be self-sufficient in rice, horticultural products, and livestock production.[9] South Korea currently has roughly 3.5 million farmers, or about 7.5 percent of the population. All farming in South Korea is done by individual farmers with small to medium-size holdings. Half of the South Korean farmers are now over 60 years old, which significantly circumscribes their possible professional options should their farms disappear. Many of these farmers have no other choice but to farm. Inclusion of agriculture in the proposed FTA is likely to obliterate this indigenous base of family farmers, with at least half of Korea's farmers expected to lose their farms and enter urban areas in search of work. Farmers and their advocates are adamant that more is at stake for them than a loss in profits, and that beyond cost-benefit calculations, the proposed FTA threatens the fabric of Korea's rural communities, and will have severe social, cultural, and environmental costs.

Should the proposed FTA pass, the sense of cultural loss is likely to be exacerbated by the recognition that the demise of South Korean family farms will come not at the hands of other family farmers, but rather by the entry of subsidized U.S. agribusiness. Because we are not talking about simply about dollars and cents and Korean won, but rather, about Korea's concern over the preservation of its cultural and familial heritage (and for some South Koreans, their sovereignty as a food secure nation), the rise of American agribusiness and the concomitant decline of South Korean family farmers are likely to result in intensified anti-Americanism not only in the agricultural sector, but through much of a sympathetic civil society. Rather than improve U.S.-South Korean relations, inclusion of agriculture in the proposed FTA is poised to create greater tension in the historical alliance between the two countries.

Concerns over democratic process in South Korea

This alliance, of course, has been heavily strained during the Bush Administration. The FTA talks between the U.S. and South Korea come at the height of strained relations between the two countries, with anti-Americanism on the rise in South Korea.[10] The relationship between Washington and Seoul has declined considerably during the Bush Administration, with clear policy differences in their approaches to Korean reunification and the North Korean nuclear crisis. The deployment of South Korean troops to Iraq—the third-largest military contingent behind the U.S. and Great Britain—was and continues to be divisive and unpopular in South Korea, and South Korea's attempt to link their support of the war in order to induce a more flexible Bush Administration posture toward North Korea clearly

[6] Song Meeyoung and Kim Kyoungwha, "Lotte, Hyundai Spurn U.S. Rice as South Korea Ends Retail Ban," *Bloomberg News,* April 4, 2006.

[7] Center for International Development, Harvard University, http://www.cid.harvard.edu/cidtrade/gov/southkoreagov.html.

[8] Economic Research Service, U.S. Department of Agriculture, http://www.ers.usda.gov/Briefing/SouthKorea/policy.htm

[9] USDA Economic Research Service, http://www.ers.usda.gov/Briefing/SouthKorea/basicinformation.htm

[10] For a discussion of recent anti-Americanism and a broader discussion of South Korean popular opinion, see Seung-Hwan Kim's "Anti-Americanism in Korea," *The Washington Quarterly* 26.1 (2002–03) 109–122.

failed.[11] U.S. President George W. Bush is widely unpopular in South Korea, as is the U.S.-led war on Iraq, and more South Koreans see the U.S. as a threat to their safety than they do North Korea.[12]

Given the rising anti-Americanism in South Korea, some South Korean politicians are mistakenly promoting the FTA talks as an opportunity to mend bridges between the U.S. and South Korea. Vice Finance Minister Kwon Tae-Shin, for instance, has argued that a successful FTA will help to ease tensions with the U.S. on differences in North Korea policy.[13] However, developments in South Korea suggest that the undemocratic process by which the FTA has been negotiated will ensure that an enacted FTA will not improve relations with the U.S., but instead, lead to the further rise of anti-Americanism.

The South Korean government's effort to engage in trade talks with the U.S. is driven in part by the weakness of the South Korean government and specifically of the highly unpopular President Roh Moo-hyun. South Korean presidents are elected for a single 5-year term.[14] As a lame duck president who cannot run for re-election in the fall of 2007, and whose approval rating has recently polled in the single digits, Roh appears to view the strategy of pursuing FTAs as a means to quickly achieve a political legacy through the insular strength of South Korean bureaucracy that would be impossible were popular democratic debate allowed.

According to South Korean law, interested stakeholders and the public at large must have the opportunity to register their concerns about the possibility of an FTA before negotiations are launched.[15] The purpose is to facilitate democratic debate on the possible merits and defects of holding the talks as well as of the possible FTA itself. The Roh Administration scheduled this hearing for February 2, 2006, but had earlier announced that the decision to hold the talks had already been made, and that an official announcement would be made shortly. Representatives of various sectors of South Korean civil society, and especially farmers, expressed tremendous unhappiness that the decision to pursue talks had occurred before a hearing was held, and South Korean government officials abruptly suspended the hearing shortly after it began.[16] South Korean promises that greater effort would be made to seek public opinion have not come to fruition, suggesting that South Korean officials are both aware that the public's voice has not been heard and that the public's voice is not a priority for negotiators. South Korean negotiators also appear confident that is unnecessary to consult meaningfully with National Assembly members. For example, legislators have had limited time to pore over complex English-language documents that require translation into Korean. An August 2006 survey of National Assembly Members revealed that a majority of them believed that the South Korean government should at least inform the National Assembly when the talks were concluded and that the outcome of negotiations should be made public. A majority of Assembly Members also acknowledged that they had failed to seek out public opinion, and admitted having neglected their duties as political representatives.[17]

Given the general unwillingness of the Roh Administration to allow and facilitate an open discussion of the proposed FTA, and the failure of the National Assembly to take the lead in a public conversation about the merits and weaknesses of a proposed FTA, it should come as no surprise that important sectors of South Korean civil society have organized and emerged in opposition to both the negotiations and the FTA itself. On March 28 of 2006, some 270 civic organizations representing millions of workers, farmers, intellectuals, artists, and citizens announced the formation of the Korean Alliance Against the Kor-U.S. FTA, and shortly thereafter on April 16, thousands of trade unionists, farmers, students, and major celebrities marched in Seoul to demand that the government both abandon talks and allow the public to view the earlier negotiation process.[18] Popular opposition to the FTA has

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[11] Samuel Len, "Seoul ties question of troops for Iraq to nuclear progress," International Herald Tribune, October 2, 2003.

[12] For example, in January of 2004, Seoul-based Research & Research and Gallup Korea carried out a survey to find out which country is the key enemy of Korea. South Koreans under 50 years of age picked the U.S. as Korea's key enemy, while those over 50 said North Korea was the key enemy. "For Young Koreans, U.S. ?Main Enemy,'" *Chosun Ilbo,* June 30, 2004.

[13] "FTA to Ease NK Nuclear Concern," Yonhap, February 7, 2006.

[14] "Government Faces Revolt Over Free-Trade Deal With U.S.," *Chosun Ilbo,* April 10, 2006.

[15] Article 12 of the Stipulations on the Procedures for Concluding a Free Trade Agreement (Presidential Directive 121).

[16] "Security guards scuffle with protesters during a public hearing on FTA talks in Seoul," *Reuters,* February 2, 2006.

[17] Cho Chung-un, "Korea unprepared for FTA talks," Korea Herald, August 11, 2006.

[18] The website (in Korean) for the Korean Alliance Against the Kor-U.S. FTA is http://nofta.co.kr.

developed quickly, and a general concern over the potential negative consequences of a free trade agreement is now openly expressed in Korean civil society. The disapproval rate of the FTA increased from 29.2 percent on June 7, 2006 to 42.6 percent on July 6 and broke the 50 percent barrier on July 22.[19]

The Roh Administration's desire to achieve an FTA with the U.S. combined with its dearth of popular approval appears to have led it to embrace certain authoritarian trends that have been prominent in South Korea's history. State-sponsored efforts to prevent the political expression of democratic thought has been a staple feature of South Korea since its inception in 1948, and the Roh Administration has taken up this legacy in both formal-legal and more openly confrontational ways. For instance, the state-run Korean Advertising Review Board rejected an ad submitted for approval by representatives of South Korean farmers and filmmakers because the ad included images of farmers expressing their opposition to the FTA. KARB reasoned that the farmers' beliefs were unfairly one-sided against the South Korean government, and thus could not be aired. On the other hand, a $3.8 million (US$) ad by President Roh's *Committee to Support the Conclusion of the Korea-U.S. FTA* has aired daily in South Korea. The pro-FTA commercial was not reviewed by KARB on the basis that government beliefs need not be regulated.[20] More explicitly, the Roh Administration has declared that it will cut off access to government subsidies for any organization that opposes the proposed FTA.[21]

Consistent with South Korean history, there have also been a number of physical confrontations between sectors of civil society and the coercive authority of the state as embodied by police. Historically, these confrontations centered on the importance of political, economic, and social rights, and the recent clashes have been more of the same. Tensions have run especially high since a November 22, 2006 confrontation between farmers and police during a protest against the FTA. The Roh government took the opportunity afforded by events of the day to outlaw all FTA-related public demonstrations.[22] The resulting tactics of implementing this ban on public protest have been police deployment in the thousands and checkpoints set up on major roads leading to Seoul to prevent ordinary workers and farmers from exercising their freedom of assembly and travel.[23] To stop the organizing of protests, the police issued summons and warrants for over 170 social movement leaders, raided local offices of civic organizations, detained 19 leaders of farmers' and workers' organizations, and according to social movement leaders, even made threatening phone calls to potential participants of public rallies.[24] South Korea's National Human Rights Commission has suggested that the Roh Administration tactics are inconsistent with the South Korean constitution, and urged that the anti-FTA rallies be allowed to take place.[25] It is worthwhile to note that if the South Korean public believes that such an important negotiation with the U.S. was held largely without meaningful input from civil society, this failure to adhere to reasonable democratic standards has the potential to become a serious political liability for pro-FTA legislators in the upcoming 2007 elections.[26] Thus, even legislators who intend to vote yes on any negotiated agreement are concerned about the increasing sense in South Korea that the Roh Administration has failed in a fundamental civic duty.

The passage of an FTA amidst widespread concerns about the failure of the democratic process in South Korea is also likely to enhance negative opinion toward the U.S. South Korea's historical alliance with the U.S. extends through the civilian dictatorship of Syngman Rhee and the military dictatorships of Park Chung Hee, and Chun Doo Hwan. Much of the South Korean population is undecided as to whether to see the U.S. government as a principled advocate for democracy in South Korea or willing to tolerate a lack of democracy so long as U.S. interests are protected. Differences in opinion are especially acute between older, more conservative South Koreans who lived through the Korean War and younger, more progressive South Koreans who increasingly dominate South Korean electoral politics. Should the U.S.-South Korea FTA be enacted after what ordinary South Koreans perceive to be a hasty 10-month negotiation without appropriate and necessary democratic

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[19] Park Song-wu, "Half of Koreans Oppose U.S.–SK FTA," *Hankook Ilbo,* July, 31, 2006. See also polls reported in *Financial News,* July 23, 2006 and *Hankyoreh,* July 12, 2006, where over half of the respondents (N=1000) believed the costs of the proposed FTA would be larger than the benefits.

[20] Bae Ji-sook, "Dispute Arise(s) on Anti-FTA Advertisement, *Korea Times,* January 11, 2007.

[21] "Anti-FTA Groups Denied State Subsidies," Korea Times, November 12, 2006.

[22] "Rights Commission Urges End to FTA Protest Ban," *Chosun Ilbo,* Dec. 6, 2006.

[23] "Police counter anti-FTA protests," *Korea Herald,* December 7, 2006.

[24] Shin Hae-In, "Anti-FTA protesters defy police ban," *Korea Herald,* November 30, 2006.

[25] "Rights Commission Urges End to FTA Protest Ban," *Chosun Ilbo,* Dec. 6, 2006.

[26] Hoon Jaung, "2002 vs. 2006, The Rise and Fall of Anti-Americanism in South Korea," Chung-Ang University.

measures, its passage will give credence to South Koreans who argue that the U.S. government is willing to tolerate the failures of South Korean democracy so long as U.S. interests are served. It is worthwhile to note that despite significantly lower trade volume, South Korea's FTA with Chile took over three years to negotiate.

Conclusion

The passage of the North American Free Trade Agreement (NAFTA) saw the loss of good jobs in the U.S. while workers in Mexico found themselves driven toward jobs with low wages and difficult working conditions, many of them in border towns or across the border. If NAFTA is any indication, passage of the proposed U.S.-South Korea FTA is likely to result in similar dynamics. South Korea would be the largest FTA partner for the U.S. in 15 years and there is little doubt that the proposed FTA will translate into a widening economic and social rift between the rich and the poor in both countries. On the American side, poised to profit are major corporate interests including pharmaceutical giants and agribusiness. On the South Korean side, the corporate conglomerations known as the *chaebol,* dominated by a handful of South Korean families, stand to gain the most. Losses in different South Korean sectors are likely to be framed as the result of an anti-democratic process with an American partner more concerned about corporate interests than labor rights and benefits in both countries, willing to place corporate profit over the threat to South Korean democracy, and unconcerned about Korea's loss of its national heritage. The historical alliance between the U.S. and South Korea is likely to undergo further stress as anti-Americanism becomes tied not just to the Bush Administration policies in Iraq and toward North Korea, but also to the negative consequences of an FTA that will significantly change the landscape—both literally and figuratively—of South Korea. The U.S. needs to seriously consider whether an FTA with South Korea at this time is really in America's best interests, or if the FTA will end up spurring anti-Americanism in an important historical ally while making the lives of ordinary American and South Korean workers and families that much harder.

Statement of Korean Alliance against Korea-U.S. FTA, Seoul, Korea [by Permission of the Chairman]

Greetings from the Korean Alliance against Korea-U.S. FTA (KOA), a coalition composed of over 300 trade unions, farmers' organizations and NGOs. As a representative of Korean people and civil society, we feel it is our duty to inform you of several concerns related to the Korea-U.S. Free Trade Agreement, which are shared by a large section of the Korean population. This FTA will be the largest agreement of its kind since NAFTA and will have tremendous impact on the economy and society of both countries. We sincerely hope that you will consider these views seriously.

First, we wish to take note of the undemocratic manner in which the FTA negotiations have been carried out, in particular the lack of effort on the part of the Roh Moo-hyun administration to solicit the opinions of stake-holders (interested parties) and the Korean public. One example of this is the fact that the administration planned only one public hearing related to the Korea-U.S. FTA, which was held just hours before the formal announcement of the opening of negotiations was made in Washington, D.C. on February 3 (in the middle of the night Korean time). The timing of the hearing attests to the fact that the decision to pursue an FTA had already been made without discussion with interested parties; the hearing itself was a pure formality and, as such an abuse of the presidential directive concerning the pursuit of free trade agreements, which require adequate hearings and discussion with the public beforehand.

In addition, the Roh administration has moved forward with the negotiations process in a closed and secretive manner; information related to important points of contention and matters requiring the consent of the Korean people have not been made public. It is understandably not possible to make public all information related to the FTA. However, it can surely be said that information concerning issues that are of great public interest and which require understanding at all levels of society must be made transparent and that concerned persons must be sufficiently consulted. The Roh administration has not upheld either of these principles.

Second, the Korea-U.S. FTA seriously endangers the Korean people's access to healthcare and pharmaceuticals. We believe that trade between the two countries can and must proceed fairly. However we are very concerned about the way in which the public system and policies of one country have come under discussion at the current negotiations. For example, the effectiveness of the positive list system, introduced last December as part of South Korea's new drug-pricing policy as a means to ensure the sustained development of national health insurance, is being severely minimized in the negotiations process. Guaranteeing people's access to necessary pharmaceuticals at an affordable price is a constitutional responsibility of the state and government. However, the Korea-U.S. FTA stands to undermine this ability and with it people's right to access, through provisions such as those that guarantee the minimum price for innovative drugs, extend patents, and call for the installation of an independent review board for drug pricing. We would like to emphasize that these measures are not consistent with the principle of promoting the mutual benefit of the people of both countries through the FTA.

Third, we are concerned that the Korea-U.S. FTA will make the lives of Korean farmers and the sustained development of South Korea's farming communities much more difficult. When the South Korean market was first opened as a result of the WTO Uruguay Rounds, Korea's farmers suffered greatly. The situation has now reached the point that the future of Korean agriculture as whole is in question. Given the current conditions, we face the prospects of the disappearance of South Korean agriculture if our market is further opened through the Korea-U.S. FTA. Statistics show that if the Korea-U.S. FTA is concluded roughly half of Korean farmers will loose their livelihoods. Domestic agriculture is necessary for sustainable development and food security. For this reason countries around the world, including the United States, have agricultural subsidy policies. We would like to point out that in South Korea farming communities play the part of preserving our history, culture and the rural environment and ecosystems. Further, if these communities are destroyed, the resultant influx from the countryside to the cities will seriously exacerbate already increasing urban poverty, un—and underemployment. We must emphasize that the Korea-U.S. FTA is inviting the destruction of agriculture and agricultural life and with it, these social problems.

Fourth, the Korea-U.S. FTA is predicted to violate the government's constitutional duty to protect public services and, therefore, public interest. The negotiators for both countries have stated that public services will not be included in the negotiations; however, at the 5th round of talks in Montana the U.S. side asked for the inclusion of energy design and maintenance, which could be included in a wide definition of public services. At the same time, in the area of education, the U.S. has also asked for the opening of the internet testing market, which has the potential to negatively impact Korea's public education system by increasing the necessity for students to seek private tutoring and after-school programs. We are concerned that in this way the FTA will lead to the overall devaluation of the public education system, ultimately undermining the right to equal education which it represents.

Fifth, the Korea-U.S. FTA closely follows the NAFTA model, which has already shown to bring many problems to U.S. society. In particular, the "investor-state claims clause," while on the one hand greatly expanding the authority of big business, has shown to greatly infringe on the government's power to protect public interest and labor and environmental standards. Therefore, this clause has met strong criticism from global civil society, including organizations in the United States. In fact, the U.S.-Australia FTA was concluded without the inclusion of this clause which we believe attests to its negative quality. However, the Korea-U.S. FTA includes the clause without any revisions.

The investor-state claims clause goes against the government's ability to protect public interest. This is very significant for common Korean people. For example, real estate policy is an acute issue in Korea, especially now as real estate prices are soaring. The investor-state claims clause lays the groundwork for a weakening of real estate policy because regulation policy, which designated areas for speculation, can become a target of claims; the result would be a great infringement on the people's rights to housing.

Lastly, while you will see a separate testimony regarding this subject from the Korean Confederation of Trade Unions, which is our partner, we also cannot help but take note of the problem of the Roh administration's repression of labor. The Roh administration has not protected the right of public-sector workers, construction workers, and irregular workers to organize and collectively bargain. It forcibly closed the branch office of the Korean Government Employees' Union. In addition, last December, the Labor-Business Relations Road Map extended the ban on union pluralism at the enterprise level for an additional three years and expanded the scope of essential services against the ILO recommendations.

As of January 2007, 62 union members were imprisoned for reasons related to labor union activities.

We would like to point out that at the ILO Committee on Freedom of Association, South Korea ranked lower than Colombia in terms of countries which have not fulfilled this duty over a long period. This demonstrates how seriously the conditions of labor in South Korea fail to meet international standards.

We hope the members of the Committee of Ways and Means Subcommittee on Trade will consider with all seriousness the concerns of the Korean people which are laid out above. We hope that this will cause you to reconsider whether the Korea-U.S. FTA does in fact present a desirable direction for the promotion of fair trade and economic relations between our two countries.

Statement of Korean Confederation of Trade Unions, Seoul, Korea [by Permission of the Chairman]

On behalf of more than 15 million workers and their families in South Korea, we would here like to express our concerns about the Korea-U.S. FTA. Although there are a number of provisions within the agreement which are harmful to the workers in the United States, we focus here on the lack of legitimacy of the Roh Moo-hyun administration in representing the interest of South Korean workers in negotiating this agreement. The main impetus for this statement lies in the fact that the Roh administration has in the past and continues in the present to repress the rights of workers in South Korea.

Although the current President Roh Moo Hyun was formerly a democratic labor lawyer, in the past four years of his administration, his policy has been to repress trade union rights. Despite rhetorical claims to advancing industrial relations and eliminating discrimination faced by South Korean workers, his administration has introduced several pieces of legislation that further erode the economic benefits that South Korean workers had briefly enjoyed after struggling for nearly two decades. Rather than reaping the benefits of their hard work, South Korean workers, like U.S. workers, are now faced with an uncertain economic future which is made more precarious by the introduction of several laws that restrict South Korean workers' right to a voice in the workplace.

In the past, several members of the U.S. Congress have been staunch supporters of the struggle for democracy, human rights, and labor rights in South Korea. In fact Congress members have courageously and eloquently spoken against the labor rights violations committed by previous administrations, calling for the release of several trade unionists such as Kwon Young Gil, and Dan Byung Ho, two former Presidents of the KCTU and current members of the South Korean National Assembly. We ask you to continue in this tradition by once again supporting the rights of trade unionists in South Korea. We also urge you to go further by calling for the end of the negotiations of the Korea-U.S. Free Trade Agreement, in light of the failure of the current administration to ensure the basic fundamental rights of workers and their families. We believe this long and standing history of Congress members supporting trade union rights in South Korea will be endangered unless the negotiation of the agreement is halted.

The policy of the Roh administration has created a situation in South Korea where workers face insecure futures and no longer have the right to political voice. We strongly believe this is sufficient justification for calling to an end to the Korea-U.S. Free Trade negotiations. Please note that workers in the United States share many of our concerns with the Korea-U.S. FTA. As you grapple with the burden of taking a position on this agreement, we ask you also to listen to the voices of workers in the United States.

Statement of National Corn Growers Association

The National Corn Growers Association (NCGA) is a national organization founded in 1957 and represents more than 32,000 members in 48 states, 47 affiliated state organizations and more than 300,000 corn farmers who contribute to state checkoff programs for the purpose of creating new opportunities and markets for corn growers.

NCGA commends the Administration for its interest in pursuing a Free Trade Agreement (FTA) with the Republic of Korea. Korea is one of the United States' larger corn markets, importing 5.58 million metric tons in marketing year 2005/2006. Additionally, it is an extremely important market for corn's value-added products, and NCGA is hopeful that negotiators from both countries can work together at this late date to provide an outcome that addresses the market access issues raised by our protein partners.

Korea provides low duty access for corn through an autonomous tariff rate quota (TRQ) system with volume levels well in excess of its World Trade Organization (WTO) commitments. For 2007, South Korea set an in-quota temporary volume for feed corn at 8 million metric tons and 2.15 million metric tons for industrial corn, compared to the 6.1 million metric ton TRQ for corn that it committed to in the Uruguay Round of the WTO. The applied tariff on in-quota feed corn is zero; the applied tariff on in-quota industrial corn runs from one to two percent. Korea's WTO obligation for in-quota feed corn tariff rate is bound at 1.8 percent and the WTO bound rate for in-quota industrial corn is three percent. Over-quota corn is bound at 328 percent. As Korea maintains a TRQ in excess of its current commitments, we support an elimination of the tariff and quota.

In 2006, Korea imported about 30,000 metric tons of distiller's dried grains (DDGS) mostly from the United States and China. While relatively small in volume, imports are growing and there is significant potential for increased use in feed rations. In 2007, it is estimated that imports of DDGS might reach up to 100,000 metric tons. Korea's WTO bound rate for DDGS is 6.6 percent, however, it applies a rate of 5 percent. NCGA estimates that U.S. DDGS production will reach over 30 million tons by Marketing Year 2010/2011. We support an elimination of the tariff.

NCGA is also concerned about the impact of several proposed Korean regulations related to products derived from biotechnology could seriously inhibit trade. It is important that these issues be resolved before the negotiation is finalized to help ensure that U.S. food and agriculture industries can truly benefit from an FTA with Korea.

Specifically, U.S. trade officials and Korean industry representatives have indicated that the Korean government is currently considering regulations to require that shipments of commodities derived from biotechnology be accompanied by documentation that states the shipment "does contain" a specific list of products by biotech event. The Korean government has indicated this language is necessary for compliance with the Biosafety Protocol (BSP). Such onerous documentation goes beyond BSP requirements for trade between parties and non-parties and is more trade restrictive than necessary. No other Party to the BSP requires this type of trait specific documentation.

The United States should seek assurances from Korea that it will not impose requirements that will unnecessarily disrupt the trade of U.S. biotechnology agricultural and food exports. The United States should also insist that clear, written, interpretive guidance be issued to alleviate any uncertainty among exporters regarding the regulation.

In addition to the proposed regulations, Korea continues to maintain mandatory "GM food" labeling requirements that are not based on health safety concerns. Mandatory, process-based labeling requirements that are not scientifically justified inhibit the ability of food producers and manufacturers to sell products produced from biotech crops. Existing requirements should be addressed and any effort to expand the scope of labeling regulations should be strongly opposed.

Removing trade barriers between the U.S. and the Republic of Korea will create important new export opportunities for corn growers. We encourage the Administration to use the FTA negotiations as an opportunity to ensure that Korean regulations affecting food, feed and seed products derived from biotechnology are transparent, science-based and non-discriminatory. NCGA is hopeful that the U.S.-Korea FTA will provide an ambitious and comprehensive outcome for America's farmers, ranchers and processors.

Statement of National Pork Producers Council

The National Pork Producers Council is a national association representing 44 affiliated states that annually generate approximately $15 billion in farm gate sales. The U.S. pork industry supports an estimated 550,200 domestic jobs and generates more than $97.4 billion annually in total U.S. economic activity and contributes $34.5 billion to the U.S. gross national product.

Pork is the world's meat of choice. Pork represents 40 percent of total world meat consumption. (Beef and poultry each represent less than 30 percent of global meat protein intake.) As the world moves from grain based diets to meat based diets, U.S. exports of safe, high-quality and affordable pork will increase because economic and environmental factors dictate that pork be produced largely in grain surplus areas and, for the most part, imported in grain deficit areas. However, the extent of the increase in global pork trade—and the lower consumer prices in importing nations and the higher quality products associated with such trade—will depend substantially on continued agricultural trade liberalization.

PORK PRODUCERS ARE BENEFITING FROM PAST TRADE AGREEMENT

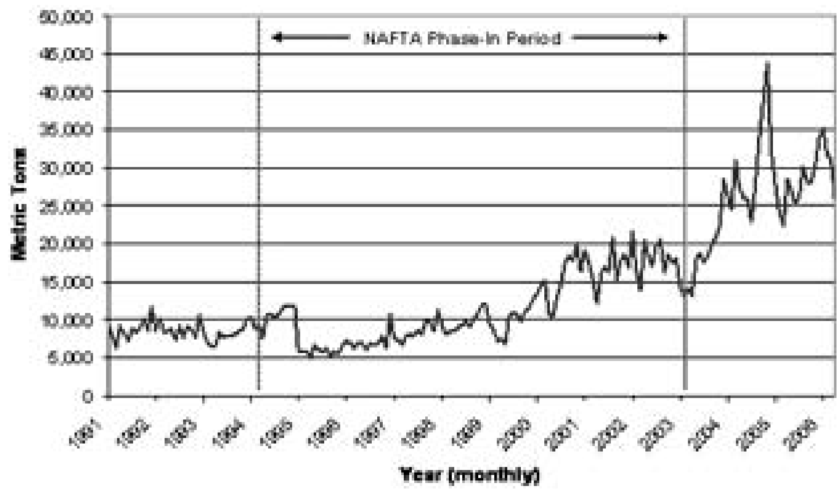
In 2006, the United States exported 1,262,499 metric tons of pork valued at $2.864 billion. This is a 9 percent increase over 2005 exports in volume terms and 8.7 percent in value terms. 2006 was the15th straight year of record pork exports. U.S. exports of pork and pork products have increased by more than 433 percent in volume terms and more than 401 percent in value terms since the implementation of the NAFTA in 1994 and the Uruguay Round Agreement in 1995.

The following 7 export markets in 2005 are all markets in which pork exports have soared because of recent trade agreements.

Mexico

In 2006 U.S. pork exports to Mexico totaled 356,418 metric tons valued at $557,857 million. This is an increase of 8 percent in volume terms and 9 percent in value terms over pork exports to Mexico in 2005. Without the NAFTA, there is no way that U.S. exports of pork and pork products to Mexico could have reached such heights. In 2006, Mexico was the number one volume market and number two value market for U.S. pork exports. U.S. pork exports to Mexico have increased by 274 percent in volume terms and 398 percent in value terms since the implementation of the NAFTA growing from 1993 (the last year before the NAFTA was implemented), when exports to Mexico totaled 95,345 metric tons valued at $112 million.

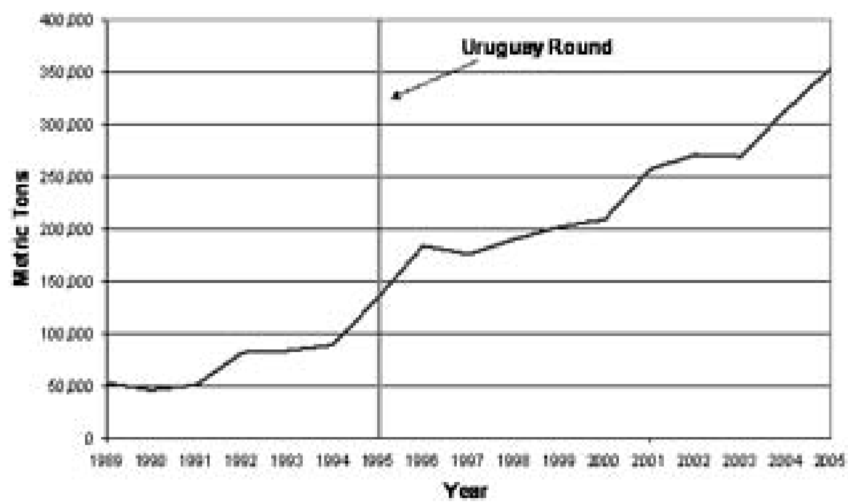
U.S. Pork Exports to Mexico



Japan

Thanks to a bilateral agreement with Japan on pork that became part of the Uruguay Round, U.S. pork exports to Japan have soared. In 2006, U.S. pork exports to Japan reached 337,373 metric tons valued at just over $1 billion. Japan remains the top value foreign market for U.S. pork. U.S. pork exports to Japan have increased by 279 percent in volume terms and by 178 percent in value terms since the implementation of the Uruguay Round.

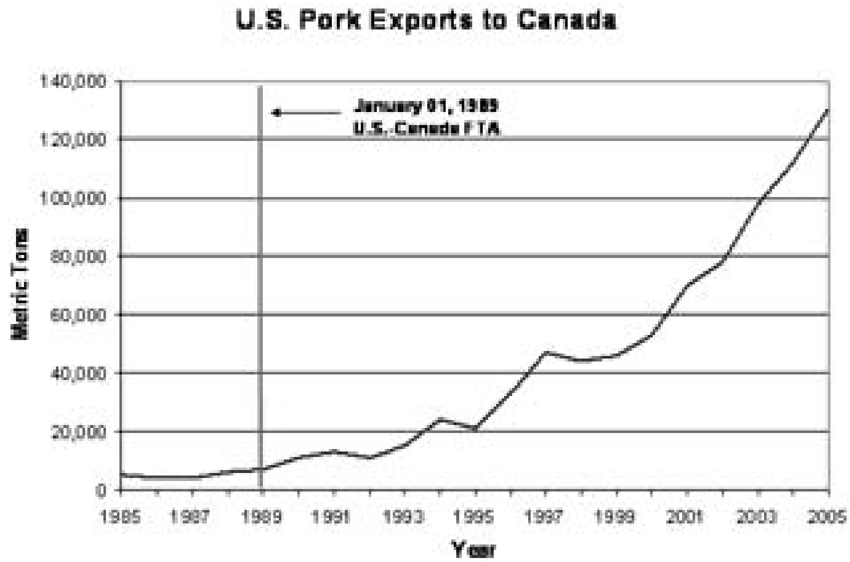
U.S. Pork Exports to Japan



Canada

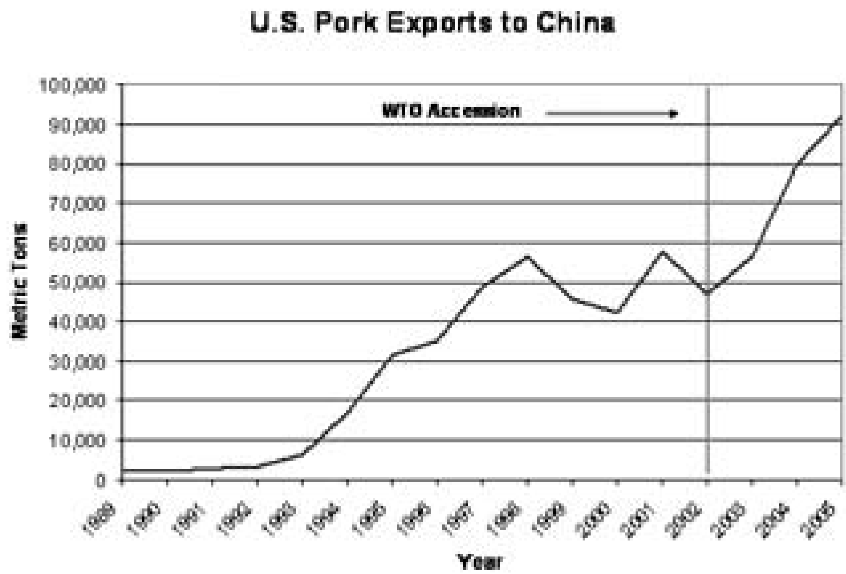
U.S. pork exports to Canada have increased by 1,933 percent in volume terms and by 2,689 percent in value terms since the implementation of the U.S.—Canada Free

Trade Agreement in 1989. In 2006 U.S. pork exports to Canada increased to 138,564 metric tons valued at $437 million—a 6 percent increase by volume and an 11 percent increase by value over 2005 exports.



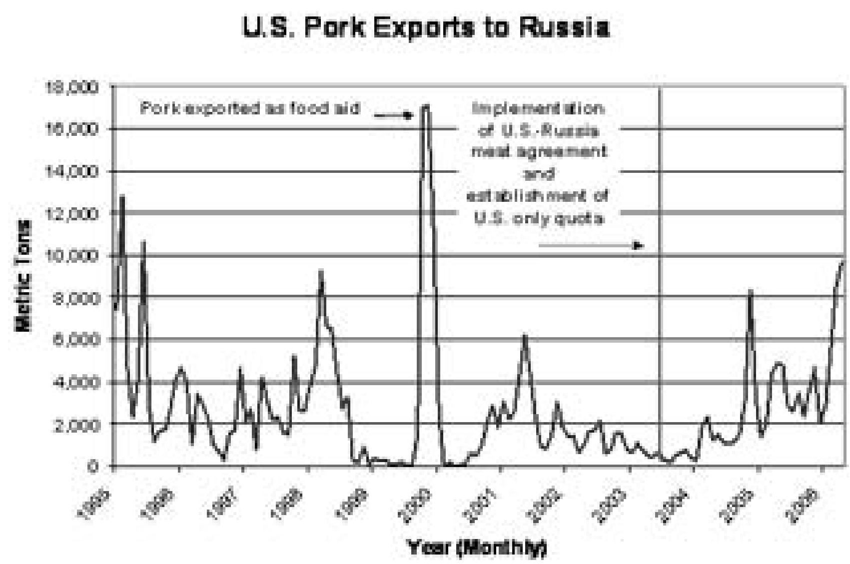
China

From 2005 to 2006, U.S. exports of pork and pork products to China increased 13 percent in volume terms, totaling 88,439 metric tons valued at $126 million. U.S. pork exports have exploded because of the increased access resulting from China's accession to the World Trade Organization. Since China implemented its WTO commitments on pork, U.S. pork exports have increased 53 percent in volume terms and 90 percent in value terms.



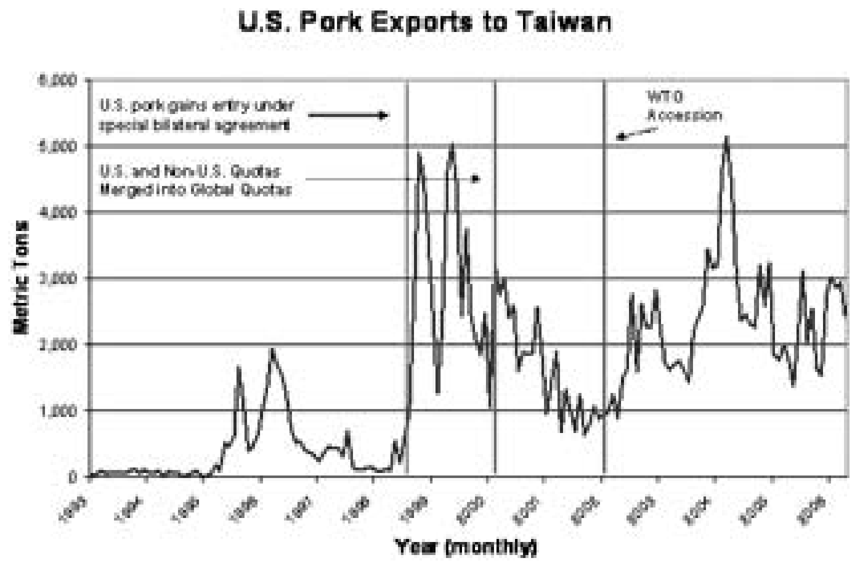
Russia

In 2006 U.S. exports of pork and pork products to Russia totaled 82,677 metric tons valued at $164 million—a 105 percent increase in volume terms and 127 percent increase in value terms over 2005 exports. U.S. pork exports to Russia have increased largely due to U.S.-only pork quotas established by Russia as part of its preparation to join the World Trade Organization. The spike in U.S. pork export to Russia in the late 1990s was due to pork shipped as food aid.



Taiwan

In 2006, U.S. exports of pork and pork products to Taiwan totaled 25,198 metric tons valued at $38 million. U.S. pork exports to Taiwan have grown sharply because of the increased access resulting from Taiwan's accession to the World Trade Organization. Since Taiwan implemented its WTO commitments on pork, U.S. pork exports have increased 99 percent in volume terms and 103 percent in value terms.



Australia

The U.S. pork industry did not gain access to Australia until recently, thanks to the U.S.—Australia FTA. U.S. pork exports to Australia exploded in 2005 making Australia one of the top export destinations for U.S. pork. Even with the disruption caused by a legal case over Australia's risk assessment of pork imports, U.S. pork exports to Australia in 2006 totaled $62 million—a 480 percent increase over 2004 exports.

Australia graphic not available at the time of printing.

Benefits of Expanding U.S. Pork Exports

Prices—The Center for Agriculture and Rural Development (CARD) at Iowa State University has calculated that in 2004, U.S. pork prices were $33.60 per head higher than they would have been in the absence of exports.

Jobs—The USDA has reported that U.S. meat exports have generated 200,000 additional jobs and that this number has increased by 20,000 to 30,000 jobs per year as exports have grown.

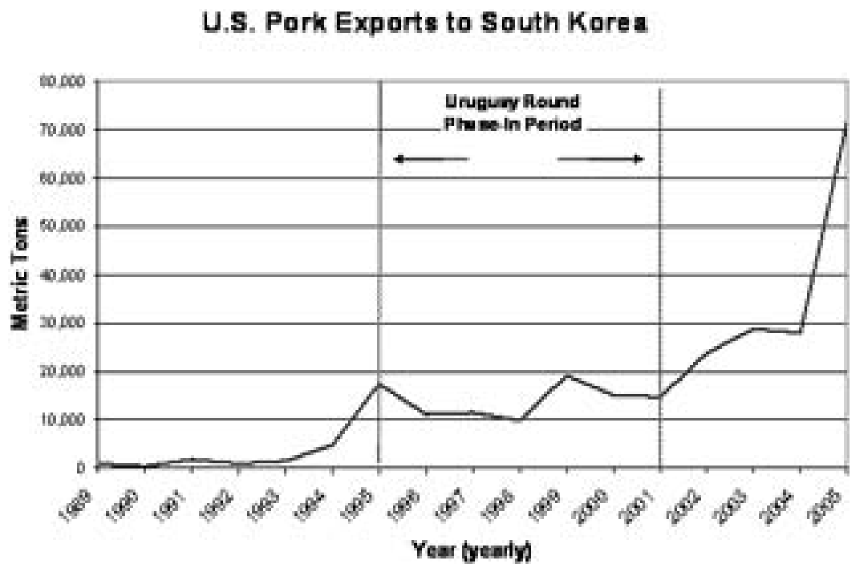
Income Multiplier—The USDA has reported that the income multiplier from meat exports is 54 percent greater than the income multiplier from bulk grain exports.

Feed Grain and Soybean Industries—Each hog that is marketed in the United States consumes 12.82 bushels of corn and 183 pounds of soybean meal. With an annual commercial slaughter of 105.3 million animals in 2006, this corresponds to 1.34 billion bushels of corn and 9.63 million tons of soybean meal. Approximately 16 percent of this production is exported, and these exports account for approximately 216 million bushels of corn and 1.54 million tons of soybean meal.

However, as the benefits from the Uruguay Round and NAFTA begin to diminish because the agreements are now fully phased-in, the creation of new export opportunities becomes increasingly important.

Pork Producers Support the Proposed U.S.-Republic of Korea FTA

The Republic of Korea is an important export market for U.S. pork producers. U.S. pork exports to Korea have increased as a result of concessions made by Korea in the Uruguay Round. In 2006 exports climbed to 109,198 metric tons valued at $232 million, an increase of 2,217 percent by volume and 2,606 percent by value since implementation of the Uruguay Round. Exports to the Republic of Korea in 2006 grew aggressively over 2005 exports—52 percent increased in volume terms and a 50 percent increase in value terms. South Korea currently is the 4th largest export market for U.S. pork.



The United States-Republic of Korea free trade negotiations provides U.S. pork producers the opportunity to significantly increase market access in the very lucrative Korean market. U.S. pork and pork products currently face significant tariffs in South Korea. For example, the current South Korean duty on bellies, a high demand pork product, is 25 percent.

On April 1, 2004 the Korea—Chile Free Trade Agreement went into effect. As a result, Chile—a major pork exporter and competitor to the United States—will have duty free access to the Korean pork market by 2014. In 2006, Chile exported 31,203 metric tons of pork valued at $77 million to South Korea. This is an increase of 88 percent in volume terms and 148 percent in value terms over exports in 2003, the year before the Chile—South Korea FTA went into effect. U.S. pork is becoming increasingly disadvantaged as the tariff on Chilean pork is being reduced and will be significantly prejudiced unless there is an ambitious outcome in the U.S.-Korea free trade negotiations. Upon the implementation of a United States-Republic of Korea Free Trade Agreement, all tariffs on U.S. pork and pork products should immediately be zero.

The Republic of Korea should agree in writing to maintain a transparent system for issuing import permits, to recognize the U.S. pork inspection system, and to accept pork from all USDA-approved facilities.

Additionally, the Republic of Korea needs to show flexibility in the country of origin labeling demands it is making of the United States meat industry. The new South Korean country of origin labeling rules require U.S. exporters to include in all packaging material a country of origin label that includes the use of the term "USA" or "U.S.A.". It would apply to all individually packaged products being exported to South Korea. South Korea has to this point insisted, for no justifiable reason, that it will not accept the "bug" that currently appears on many U.S. packaged meat products which says "U.S. Inspected and Passed by Department of Agriculture", as an acceptable indication of country of origin. If the new Korean labeling requirements for pork and beef from the United States are implemented unabated, it will raise the cost of doing business and present a bad precedent that could be copied by other trading partners.

Statement of The Honorable William J. Jefferson

Jefferson statement not available at the time of printing.

Statement of Walter B. McCormick, Jr., United States Telecom Association

I am Walter McCormick, president and CEO of the United States Telecom Association (USTelecom). USTelecom represents innovative companies ranging from the smallest rural telecoms in the nation to some of the largest corporations in the U.S. economy. Our member companies offer a wide variety of services across the communications landscape, including voice, video and data over local exchange, long distance, Internet and cable networks.

Like many others around the world, members of USTelecom are watching very closely the results of the discussions between the United States and Korea toward a Free Trade Agreement (FTA). As negotiations proceed, our member companies remain particularly concerned over the continued reluctance of the Korean government to take an important step to a fully liberalized telecommunications services market by removing the 49% cap on foreign direct investment in facilities-based telecommunications service providers.

Korea is one of the world's most important markets for international telecommunications services. An FTA will increase investment and trade opportunities in electronic communications services including telecommunications. However, Korea's insistence on maintaining its 49% foreign direct investment limitation creates a very high barrier for foreign providers seeking to enter into this market. This ownership and licensing barrier creates an acute market inefficiency for U.S. telecom companies that have ownership interests in the multiple submarine cable systems that land in Korea.

Our member companies have urged the Bush Administration to ask the Korean government to remove foreign direct investment restrictions applicable to facilities-based telecommunication service providers. Elimination of the foreign direct investment limitation would stimulate overseas investment in Korea, drive domestic growth in the telecommunications and key related sectors, and further the development of Korea's information society. It is also worth noting that other Asian economies, including Singapore, Hong Kong, and Japan, have removed all foreign investment restrictions in these services sectors, making Korea's foreign direct investment restriction inconsistent with the global trend of enhancing foreign direct investment in the telecommunications sector.

We recognize and appreciate the efforts of the USTR in attempting to address the important issue of foreign direct investment and continue to support a commercially meaningful U.S.-Korea FTA. However, we believe permitting U.S. entities to have 100% investments as facilities-based telecommunications service providers is fundamental to the trade agreement with Korea.

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