

## *The U.S.-Korea Free Trade Agreement: Will It Happen? Will It Matter?*

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In June 2007, after ten months of negotiation and effort, the United States and Korea signed the pathbreaking U.S.-Korea Free Trade Agreement ("**KorUS FTA**"), which would extend to South Korea the benefits of FTA status that 20 other countries now enjoy in bilateral trade with the U.S.

The KorUS FTA is, in our view, the most commercially significant bilateral free trade agreement the United States has concluded in the 15 years since the adoption of the North American Free Trade Agreement ("**NAFTA**"). But prospects for ratification of the KorUS FTA are diminishing on the U.S. side as debate over the U.S. approach toward trade agreements moves to the center of the 2008 Presidential election cycle.

There are a number of sensitive bilateral issues raised by the KorUS FTA. Were the agreement standing alone, however, it would be likely to be approved notwithstanding political resistance from a few quarters. But because it is in line with other FTAs for Congressional approval, and because the entire approach of the last three U.S. administrations – George H.W. Bush, Bill Clinton, and George W. Bush – is now under concentrated attack in the 2008 U.S. elections, the prospects for ratification this year are shrinking.

If that is the result, it will be unfortunate. The KorUS FTA would open a growing market of 49 million consumers in Korea to a full range of U.S. goods and services, from autos to telecommunications. More important, it would add the weight of FTA obligations to the efforts of U.S. companies to penetrate the Korean market, an objective that has been impeded by transparency and open access concerns. The U.S. International Trade Commission has estimated that the reduction of Korean tariffs and tariff-rate quota provisions on goods market access alone would add \$10-12 billion to annual U.S. GDP; delay in the adoption of the agreement will mean those benefits will not be realized.

### **U.S. Ratification Prospects: Third in Line**

Before the KorUS FTA can take effect, it must first be ratified by both the U.S. and Korean legislatures. South Korea submitted the agreement for deliberations to the National Assembly last September and again in February this year to an extraordinary session of the legislature. The Seoul government was working toward completing ratification by the end of May, when the current legislature steps down, until the recently-struck beef deal with the U.S. caused the United Democratic Party ("**UDP**") to shift its attention.

On the U.S. side, the KorUS FTA is the last of the three agreements slated for congressional consideration, to follow after the Colombia and Panama deals, because of the order in which they were signed. Earlier this year, the Bush White House began the effort to get all three pending agreements – Colombia, Panama, and Korea – approved by the Congress. In the wake of the Venezuela-Ecuador hostilities with Colombia, the Bush administration launched a concerted effort to move the Colombia agreement forward as a symbol of support for the regime in Bogata and of opposition to the Chavez-led destabilization of the northern South America region. In early April of this year, the President sent the Colombia agreement to Congress over the objections of senior Democrats, and House speaker Nancy Pelosi changed the rule allowing the House to indefinitely delay an action on it instead of following the “fast-track” procedures that places a deadline of 90 days for a yes-or-no vote. Since then, Speaker Pelosi has insisted that the administration consider an economic stimulus package to assist those who may lose jobs as a result of businesses moving operations overseas before the House considers a vote on the Colombia agreement.

Both national leaders – President Bush in the U.S., and new South Korean President Lee Myung-bak – have reiterated their commitment to press for KorUS FTA approval before the Bush term ends in January 2009. That normally would require a congressional vote of approval no later than July or August, since both houses of Congress will adjourn for the election season by early October. Accordingly, the next few months are likely to determine whether KorUS FTA will take effect or will be left aside for handling by the successor to the Bush administration

With this timing in mind, U.S. Trade Representative Susan Schwab, the leading U.S. trade official, indicated in late February that she will pursue ratification around July of this year. Ambassador Schwab has also hinted recently that the order of deliberations on the three FTAs

may be changed. The thinking underlying such a change would be that passage of the Korea agreement may be possible even in the intensified U.S. political climate, because of the range and depth of bilateral U.S.-Korea relations, while passage of agreements for Colombia and Panama will run into the teeth of the organized labor and environmental complaints about the impact of NAFTA on U.S. jobs.

President Lee, during his U.S. visit in April 2008, appealed to the U.S. Democrats to push for early ratification of the KorUS FTA, but was met with some resistance. Speaker Pelosi did not comment on President Lee’s appeal. Instead, members of the House hinted that Congress will urge Ambassador Schwab to request renegotiations in the automobile sector. Ambassador Schwab this month indicated in a speech to a Washington trade group that a side deal on trade in automobiles would not be necessary to secure passage of the KorUS FTA because the agreement itself provides strong provisions.

The recent efforts notwithstanding, the prospects for consideration of the KorUS FTA before Congress leaves Washington for the election have diminished to near zero. At a recent forum held with Korean-American community leaders, a Democratic leader, Rep. Jim Moran (D-Virginia), said the KorUS FTA has no chance of approval this year for political reasons and because the U.S. economic recession will cause support for free trade initiatives to evaporate.

All hope is not lost, however. In recent weeks, an alternative strategy has begun to be discussed in the back-channels of Washington: calling a special post-election session of Congress after the November presidential election is completed, at which a handful of sensitive legislative proposals would be addressed without the heat of election season politics. One item for that special December agenda would be the three pending FTAs. From a political standpoint, it would be far easier to

adopt implementing bills for those agreements after the election spotlight is shut down. We expect opponents of the FTAs to attempt to obtain campaign pledges from the presidential nominees and from House and Senate members seeking reelection that they will not use a post-election session as a means of sidestepping political opposition to further FTA commitments.

### **Changes in the U.S. Political Climate Make Approval Unlikely**

The developing U.S. election debate appears likely to make approval of the KorUS FTA impossible in the next several months. Both Democratic candidates, Sens. Barack Obama and Hillary Clinton, have escalated attacks on President Bush's record of pursuing free trade agreements, and both have pledged to demand renegotiation of the granddaddy of FTAs, NAFTA, to address particularly complaints that NAFTA favors Mexico unduly without imposing sufficient obligations on Mexico to balance the trade benefits given.

Both Sens. Obama and Clinton would be likely to move back toward a more centrist position on FTAs after the nominating process is completed, but their latitude has been constricted by the campaign undertakings they have made in the Ohio and Pennsylvania primaries. The Republican nominee, Sen. John McCain, is a traditional supporter of free trade agreements and, coming from Arizona, has seen first-hand the benefits that NAFTA's elimination of border duties created. But much of the fall election battle will be over disaffected working-class voters in swing states such as Michigan, Pennsylvania, and Ohio, where the loss of industrial manufacturing jobs is considered a product of weak U.S. trade agreements.

### **KorUS FTA Issues Affecting Ratification**

Apart from the generally inhospitable environment that is developing for passage of any FTA in 2008, the KorUS FTA faces additional roadblocks that could jeopardize Congressional passage of trade liberalization with Korea. These problems involve:

- **Auto industry:** In June 2007, the day before the signing of the agreement, House speaker Nancy Pelosi declared that Democrats will not support the Korean FTA in its present form because of significant non-tariff barriers retarding U.S. access to the Korean market, particularly in the automotive sector.
- **Environment and labor provisions:** Also on the day before the agreement was signed, Korea acceded to new U.S. guidelines demanded by Democratic lawmakers calling for stricter labor and environmental standards. Korea's actions in implementing these guidelines over the past 12 months will be a focus of attention if and when Congress takes up the agreement. On the other hand, because Korea is not regarded as benefiting from relaxed environmental or labor rules to the same extent that other FTA partners (such as Mexico or other Latin American countries) do, negotiating heavied-up labor and environmental accords might not be as difficult with Korea as for other FTA countries.
- **Beef:** The beef issue had been the biggest roadblock facing the passage of the KorUS FTA at the moment: Korea imposed a ban on import of American beef in December 2003 after the discovery of mad cow disease at a U.S. cattle farm, and although Seoul reopened beef trade in 2006, it limited acceptance to boneless meat shipments. Using the World Organization for Animal Health ruling in May 2007 categorizing

U.S. beef as a "controlled risk" and therefore safe for exports, U.S. legislators have pressed Korea to remove all restrictions on U.S. beef imports. Korea's response has been that the beef issue should be dealt separately from the FTA. Last month, the two governments struck a deal by which South Korea will fully lift the ban on U.S. beef. That deal, if implemented, will remove the beef obstacles to passage of the FTA – but first the South Korean National Assembly will have to overcome opposition from the UDP and its efforts to nullify the deal.

**Korean Prospects for Passage**

On the Korean side, proponents of the agreement, including major Korean business associations, are lobbying the National Assembly to pass the agreement, arguing that the political and economic stakes are high. Successful passage by the National Assembly would be a useful prerequisite to U.S. Congressional approval.

The April 2008 beef deal backlash from the public and within the UDP, however, has

jeopardized prospects in Korea for adoption. The UDP has suspended efforts to move forward with FTA ratification, and the leader of the party has indicated that it is now impossible to ratify the agreement before the end of the term because attention must focus on trying to nullify the beef deal. If the KorUS FTA is pushed back to the next regular session of the National Assembly which will open in June, 2008, the implementing bill submitted in September, 2007 will become null and void and the entire ratification process would have to restart from the scratch.

That means, as a practical matter, that neither legislature – the U.S. Congress or the Korean National Assembly – is likely to take up the FTA until late in 2008. There may be a short window in December, after the U.S. elections, in which assertive trade diplomacy and mollification of legislative dissenters on both sides may create a climate in which ratification is possible. That window will not be open long. If it slips into 2009, it will be difficult to align the many new political factors, including a new occupant of the White House and a U.S. Congress likely to be more tilted toward firm Democratic control, in a manner that will facilitate KorUS FTA approval.



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