

EXECUTIVE OFFICE OF THE PRESIDENT  
THE UNITED STATES TRADE REPRESENTATIVE  
WASHINGTON, D.C. 20508

The Honorable Ted Stevens  
President Pro Tempore  
United States Senate  
Washington, D.C. 20510

FEB - 2 2006

Dear Senator Stevens:

In accordance with section 2104(a)(1) of the Trade Act of 2002 (the Trade Act), and pursuant to authority delegated to me by the President, I am pleased to notify the Congress that the President intends to initiate negotiations for a free trade agreement (FTA) with the Republic of Korea. We expect these negotiations to commence in May 2006. We will be consulting closely with the Congress regarding these negotiations, as required by the Trade Act.

The Administration is committed to concluding trade agreements that benefit our farmers, workers, businesses, and families by opening markets around the world. With the continued help of Congress, we will continue to advance America's trade interests.

An FTA with Korea will help foster economic growth and create higher paying jobs in the United States by reducing and eliminating barriers to trade and investment between Korea and the United States. An FTA will enable American companies to increase their exports of goods and services to Korea. The FTA will require Korea to eliminate its tariffs on U.S. industrial and agricultural goods, remove any unjustified sanitary and phytosanitary (SPS) measures, improve the transparency of its regulatory and licensing procedures, and lower its barriers to U.S. service providers.

The United States has much to gain through an FTA with Korea. Korea already is our seventh largest trading partner with \$72.6 billion in total bilateral trade during 2004. An FTA promises to increase trade still further across a wide range of goods and services and thereby promote economic growth and the creation of better paying jobs in both countries. An FTA will also level the playing field for U.S. exports in Korea by providing U.S. products treatment comparable to that which Korea has offered its other FTA partners, such as Chile, Singapore, and the European Free Trade Association countries (Iceland, Norway, Switzerland, and Liechtenstein).

An FTA with Korea will provide benefits for U.S. agricultural producers. In 2005, based on eleven month annualized data, Korea was the sixth largest export market for U.S. farm and ranch products. Under an FTA, Korea will eliminate duties on U.S. agricultural goods and reduce other barriers in Korea's agricultural sector, thus creating new opportunities for U.S. farmers in this major market. U.S. negotiators will work hard to ensure that the FTA facilitates further market access for U.S. food and other agricultural exports to Korea and addresses the full range of trade barriers that U.S. agriculture exports currently face in Korea, including unjustified SPS measures. We will consult closely with Congress and the U.S. agriculture community in developing our positions on agricultural issues during the negotiations.

The FTA will also promote exports of U.S. industrial goods by eliminating Korea's tariffs on U.S. products and reducing its non-tariff barriers. U.S. industry groups have consistently cited

Korea as a potential FTA partner because of the significant opportunities an FTA will provide for new U.S. industrial goods exports. FTA negotiations will also provide an opportunity to reduce or eliminate restrictions that make it difficult for U.S. service providers to operate in the Korean market.

In recent years, U.S. industry has repeatedly pointed out deficiencies in Korea's efforts to protect intellectual property. The Administration has held extensive, detailed discussions on this subject with Korea since 2001, and Korea has made progress on important issues, including improved protection for sound recordings transmitted over the Internet and better enforcement against software and textbook piracy. FTA negotiations will provide a unique opportunity to improve further the protection that Korea affords to intellectual property, including strengthened measures in Korea against the illegal online distribution and transmission of copyrighted works.

We also recognize the concerns raised by U.S. industry about the close interaction between the Korean government and business in some sectors of the economy and the insufficient transparency in Korea's regulatory processes. In order to address these concerns, we will seek to ensure that the FTA provides for regulatory transparency in trade and investment matters, including a public comment period, the publication of general administrative actions, and other appropriate provisions.

An FTA with Korea will also promote bilateral investment. U.S. companies are already the largest source of foreign investment in Korea, while Korea is a growing source of investment in the United States. Additional bilateral investment holds the potential of adding to the many jobs that current high levels of bilateral investment support.

An FTA will also help strengthen Korea's cooperation with the United States in multilateral and regional trade fora. Korea is already a close partner in the Asia-Pacific Economic Cooperation (APEC) and in the Doha Round of negotiations in the World Trade Organization (WTO). As host country for the APEC Leaders Meeting in November 2005, Korea played a leadership role in securing a call by all 21 APEC Leaders for an ambitious conclusion to the WTO Doha Development Agenda. It similarly played a constructive role in the recent Hong Kong Ministerial meeting. Concluding an FTA will help ensure that there continues to be a commonality of interest and close cooperation between the United States and Korea in all international trade fora.

In addition to complementing our cooperative efforts with Korea on global and regional trade issues, an FTA will further enhance the strong United States-Korea regional partnership, which is a force for stability and development in Asia. An FTA will reinforce the shared interests of the United States and Korea and promote common values, facilitating our efforts to work together on a wide range of issues. Korea is a key ally in the region on military and security matters. We are partners in the global war on terrorism, and the extensive ties between the U.S. and Korean armed forces bolster U.S. strategic interests in the region.

While we see substantial benefits in pursuing an FTA with Korea, we are also giving careful consideration to concerns that some members of Congress have raised regarding Korea's trade policies. We will continue to consult closely with Congress as we consider how to address these issues in the context of FTA negotiations.

Initial consultations with the Congressional Oversight Group (COG) on September 8, 2005 and with other Members of Congress regarding potential FTA negotiations with Korea have been positive, and our decision to move ahead with negotiations with Korea was strongly influenced by the bipartisan expressions of interest we have received from members of Congress and U.S. industry. The Administration will continue to consult closely with the Congress, including the COG, throughout the negotiation process on the full range of issues.

Our specific objectives for negotiations with Korea are as follows:

*Trade in Goods:*

- Seek to eliminate tariffs and other duties and charges on trade between Korea and the United States on the broadest possible basis, subject to reasonable adjustment periods for import-sensitive products.
- Seek to eliminate non-tariff barriers in Korea to U.S. exports, including permit and licensing barriers on agricultural and other products, restrictive administration of tariff-rate quotas, unjustified trade restrictions that affect new U.S. technologies, and other trade restrictive measures that U.S. exporters identify.
- Seek to eliminate government practices that adversely affect U.S. exports of perishable or cyclical agricultural products, while providing for improved U.S. import relief mechanisms as appropriate.
- Pursue a mechanism with Korea that will support achieving the U.S. objective in the WTO negotiations of eliminating all export subsidies on agricultural products, while maintaining the right to provide bona fide food aid and preserving U.S. agricultural market development and export credit programs.
- Pursue fully reciprocal access to the Korean market for U.S. textile and apparel products.

*Customs Matters, Rules of Origin, and Enforcement Cooperation:*

- Seek specific and trade facilitative customs commitments to ensure that Korea's customs operations are conducted with transparency, efficiency, and predictability, and that Korea's customs laws, regulations, decisions, and rulings are applied in a manner that facilitates the efficient and timely release of goods, and prevents unwarranted procedural obstacles to international trade.

- Seek rules of origin, procedures for applying these rules, and provisions to address circumvention matters that will ensure that preferential duty rates under an FTA with Korea apply only to goods eligible to receive such treatment, without creating unnecessary obstacles to trade.
- Seek terms for cooperative efforts with Korea regarding enforcement of customs and related issues, including in the area of trade in textiles and apparel.

*Sanitary and Phytosanitary (SPS) Measures:*

- Seek to have Korea reaffirm its WTO commitments on SPS measures and eliminate any unjustified SPS restrictions.
- Seek to strengthen cooperation between U.S. and Korean SPS authorities.
- Seek to strengthen collaboration with Korea in implementing the WTO SPS Agreement and to enhance cooperation with Korea in relevant international bodies on developing international SPS standards, guidelines, and recommendations.

*Technical Barriers to Trade (TBT):*

- Seek to have Korea reaffirm its WTO TBT commitments and eliminate any unjustified TBT measures.
- Seek to strengthen collaboration with Korea in implementing the WTO TBT Agreement and create a procedure for exchanging information with Korea on TBT-related issues.

*Intellectual Property Rights:*

- Seek to establish standards to be applied in Korea that build on the foundations established in the WTO Agreement on Trade-Related Aspects of Intellectual Property Rights and other international intellectual property agreements, such as the World Intellectual Property Organization (WIPO) Copyright Treaty, the WIPO Performances and Phonograms Treaty, and the Patent Cooperation Treaty.
- In areas such as patent protection and protection of undisclosed information, seek to have Korea apply levels of protection and practices more in line with U.S. law and practices, including appropriate flexibility.
- Seek to strengthen Korea's laws and procedures to enforce intellectual property rights, such as by ensuring that Korean authorities seize suspected pirated and counterfeit goods,

equipment used to make such goods or to transmit pirated goods, and documentary evidence.

- Seek to strengthen measures in Korea that provide for compensation of right holders for infringements of intellectual property rights and to provide for criminal penalties under Korean law that are sufficient to have a deterrent effect on piracy and counterfeiting.

*Trade in Services:*

- Pursue disciplines to address discriminatory and other barriers to trade in Korea's services market, and pursue a comprehensive approach to market access, including any necessary improvements in access to the telecommunications, financial services, professional services, or other sectors.
- Seek improved transparency and predictability of Korean regulatory procedures, specialized disciplines for financial services, and additional disciplines for telecommunications and other service sectors, as necessary.

*Investment:*

- Seek to establish rules that reduce or eliminate artificial or trade-distorting barriers to U.S. investment in Korea, while ensuring that Korean investors in the United States are not accorded greater substantive rights with respect to investment protections than U.S. investors in the United States, and to secure for U.S. investors in Korea important rights comparable to those that would be available under U.S. legal principles and practice.
- Seek to ensure that U.S. investors receive treatment as favorable as that accorded to domestic or other foreign investors in Korea and to address unjustified barriers to the establishment and operation of U.S. investments in Korea.
- Provide procedures to resolve disputes between U.S. investors and the Korean government that are in keeping with the Trade Promotion Authority goals of being expeditious, fair, and transparent.

*Electronic Commerce:*

- Seek to have Korea affirm that it will allow products and services to be delivered electronically and will not unjustifiably discriminate among those products and services.
- Seek to affirm that Korea does not apply customs duties to digital products that are delivered electronically.

- Seek to ensure that Korea determines the dutiable value of digital products contained on carrier media based on the value of the media, not their content.

*Government Procurement:*

- Seek to expand on Korea's commitments in the WTO Government Procurement Agreement (GPA), thus providing greater opportunities for U.S. firms to secure construction and supply contracts with the Korean government, particularly by allowing U.S. suppliers to compete for smaller contracts that are not currently open to U.S. bidders or goods.

*Transparency/Anti-Corruption/Regulatory Reform:*

- Seek to make Korea's administration of its trade and investment regime more transparent, and pursue rules that will permit timely and meaningful public comment before Korea adopts trade- and investment-related measures.
- Seek to eliminate Korean government regulation or other measures that discriminate against or deny full market access for U.S. exporters or investors.
- Seek to ensure that Korea applies high standards prohibiting corrupt practices affecting international trade and investment and enforces such prohibitions.

*Competition:*

- Address anticompetitive business conduct, designated monopolies, state enterprises, and other competition-related issues, as appropriate.
- Seek provisions that foster cooperation on competition law and policy and that provide for consultations on specific competition issues that may arise.

*Trade Remedies:*

- Provide a safeguard mechanism during the transition period to allow a temporary revocation of tariff preferences if increased imports from Korea are a substantial cause of serious injury or threat of serious injury to the domestic industry.
- Make no changes to U.S. antidumping and countervailing duty laws.

*Environment:*

- Seek to promote trade and environment policies that are mutually supportive.

- Seek an appropriate commitment by Korea to effectively enforce its environmental laws.
- Establish that Korea will strive to ensure that it will not, as an encouragement for trade or investment, weaken or reduce the protections provided for in its environmental laws.
- Seek to develop ways to work with Korea, including through consultative mechanisms, to promote sustainable development and address environmental issues of mutual interest.

*Labor:*

- Seek an appropriate commitment by Korea to effectively enforce its labor laws.
- Establish that Korea will strive to ensure that it will not, as an encouragement for trade or investment, weaken or reduce the protections provided for in its labor laws.
- Based upon review and analysis of Korea's labor law and practices, establish procedures for consultations and cooperative activities with Korea to strengthen its capacity to promote respect for core labor standards, including compliance with ILO Convention 182 on the worst forms of child labor.

*State-to-State Dispute Settlement:*

- Encourage the early identification and settlement of disputes through consultation.
- Seek to establish fair, transparent, timely, and effective procedures to settle disputes arising under the agreement.

In addition, the FTA with Korea will take into account other legitimate U.S. objectives including, but not limited to, the protection of health, safety, environment, essential security, and consumer interests.

We are committed to concluding these negotiations with timely and substantive results for U.S. workers, consumers, businesses, and farmers, and will pursue these specific objectives, keeping in mind the overall and principal U.S. negotiating objectives and priorities that the Congress has identified. We look forward to continuing to work with the Congress as negotiations with Korea begin, and we commit to work with you as we bring them to a successful conclusion.

Sincerely,



Rob Portman