KOREA

TRADE SUMMARY

U.S. goods exports in 2013 were $41.6 billion, down 1.7 percent from the previous year. Corresponding U.S. imports from Korea were $62.2 billion, up 5.7 percent. The U.S. goods trade deficit with Korea was $20.7 billion in 2013, up $4.1 billion from 2012. Korea is currently the 10th largest export market for U.S. goods.

U.S. exports of private commercial services (*i.e.*, excluding military and government) to Korea were $18.1 billion in 2012 (latest data available), and U.S. imports were $9.4 billion. Sales of services in Korea by majority U.S.-owned affiliates were $12.1 billion in 2011 (latest data available), while sales of services in the United States by majority Korea-owned firms were $12.7 billion.

The stock of U.S. foreign direct investment (FDI) in Korea was $35.1 billion in 2012 (latest data available), up from $30.2 billion in 2011. U.S. FDI in Korea is led by the manufacturing and finance/insurance sectors.

United States-Korea Free Trade Agreement

On March 15, 2012, the United States-Korea Free Trade Agreement (KORUS or the Agreement) entered into force. In the two years that this landmark agreement has been in effect, Korea has become the sixth largest trading partner of the United States, and exports of U.S. manufactured goods, services, and agricultural products have seen significant gains. The Agreement has also improved Korea's investment environment through strong provisions on intellectual property rights, services, and investment, supporting U.S. exports, while helping to strengthen and expand ties with an important strategic partner in Asia.

The Agreement provides for the elimination of tariffs on over 95 percent of U.S. exports of industrial and consumer goods within 5 years. As of January 1, 2014, 3 rounds of tariff cuts have taken place under KORUS, and overall U.S. exports of overall manufactured goods increased over 3 percent in 2013 compared to 2011 (before KORUS). For agricultural products, through a combination of tariff elimination and expansion of tariff rate quotas, nearly two-thirds of U.S. agricultural exports have been enjoying duty-free status since the Agreement entered into force. For agricultural goods that benefited from tariff elimination or reduction, there have been dramatic increases in exports in 2013 compared to 2011, including tree nuts (51 percent), wine and beef (41 percent) and soybean oil (119 percent).

The Agreement also levels the playing field and enhances market access for U.S. exporters, including those in the automotive sector which saw an 80 percent increase in exports in 2013 compared to 2011. In addition, KORUS provides meaningful market access commitments across virtually all major services sectors, including improved access for telecommunications and express delivery services, and the opening up of the Korean market for foreign legal consulting services. The Agreement increases access to the Korean financial services market and ensures greater transparency and fair treatment for U.S. suppliers of insurance and other financial services. KORUS also addresses nontariff barriers in a wide range of sectors and includes strong provisions on intellectual property rights (IPR), competition policy, labor, environment, and regulatory transparency. The Agreement also levels the playing field and enhances market access for U.S. exporters of all sizes including small and medium businesses, and including those in the automotive sector.

IMPORT POLICIES

Origin Verification

KORUS permits both Party's customs services to undertake investigations to verify the origin of goods for which preferential tariff treatment was claimed and allows for customs authorities to exercise their authority to enforce the Agreement and prevent transshipment or false claims. The United States generally approaches verifications by targeting specific shipments, selected using a risk-based approach, and conducts verifications based on documents typically kept in the course of business.

During 2013, Korean customs authorities initiated a number of origin verifications on whether U.S. goods for which preferential tariffs were claimed under KORUS met the Agreement's rules of origin. Investigations were initiated with respect to many categories of U.S. export, including frozen concentrated orange juice, chemicals, automobiles, and other agricultural and industrial products, leading to some preliminary and final negative rulings on high value U.S. products. U.S. industries have raised concerns that the Korean Customs Service (KCS) has conducted these verifications in ways that may have posed undue difficulties in proving origin and thereby compromised the product's eligibility to receive benefits under the KORUS agreement.

The United States has raised this issue with Korea frequently, including at senior levels, and will continue to work closely with the Korean government to arrive at mutual understandings of verification procedures to facilitate legitimate trade under the KORUS agreement and ensure that importers and exporters receive the benefits to which they are entitled.

Tariffs and Taxes

Under KORUS, Korean tariffs on almost two-thirds of U.S. agricultural exports have been eliminated, including elimination of tariffs on wheat, corn, soybeans for crushing, whey for feed use, hides and skins, cotton, cherries, pistachios, almonds, orange juice, grape juice, and wine. Other agricultural products are receiving immediate duty-free access under new TRQs including skim and whole milk powder, whey for food use, cheese, dextrins and modified starches, barley, popcorn, oranges, soybeans for food use, dehydrated and table potatoes, honey, and hay.

Korea applies annual "adjustment tariffs" or a variable tariff on some agricultural, fishery, and plywood products. These adjustment tariffs do not exceed KORUS or WTO bound rates. To help offset the increasing cost of food, in 2013 Korea announced voluntary duty-free MFN TRQs on a wide range of agricultural commodities including raw sugar, wheat for milling, malting barley, malt for beer brewing, rape seeds for oil crushing, soybean oil, and over 30 other products.

Under KORUS, Korea will eliminate tariffs on over 95 percent of originating industrial and consumer goods by January 1, 2016.

Beef

Following a 2008 bilateral agreement to fully re-open Korea's market to U.S. beef and beef products, Korean beef importers and U.S. exporters have operated according to a voluntary, commercial understanding that imports of U.S. beef and beef products will be from animals less than 30 months of age, as a transitional measure, until Korean consumer confidence improves. This agreement has been operating smoothly, and in 2013 the United States exported $609 million worth of beef and beef products (including variety meats) to Korea (an increase of $27 million over last year), making Korea the fifth largest export market for U.S. beef. This issue is discussed in greater detail in USTR's 2014 Report on Sanitary and Phytosanitary Measures.

Rice

During the Uruguay Round of multilateral trade negotiations concluded in 1995, Korea negotiated a 10-year exception to "tariffication" (the WTO obligation to convert quantitative restrictions to tariffs) of rice imports in return for establishing a Minimum Market Access (MMA) quota that was set to expire at the end of 2004. Korea subsequently negotiated a 10-year extension of the MMA arrangement in April 2005 with Members of the WTO. The extension called for Korea to increase its total annual rice imports over the succeeding 10 years, from 225,575 metric tons in 2005 to 408,700 metric tons in 2014. The arrangement included country specific quota commitments to purchase minimum amounts of imports from China, Thailand, and Australia, and to purchase at least 50,076 metric tons annually from the United States through 2014.

This agreement has been operating smoothly and access to the Korean rice market for U.S. exports has improved significantly under this arrangement. In 2013, U.S. exports of rice totaled 174,071 metric tons, with an associated value of $121.3 million. The MMA arrangement is scheduled to expire at the end of 2014. The United States will work closely with Korea to discuss the next steps and to ensure continued market access for U.S. suppliers.

GOVERNMENT PROCUREMENT

Korea is a signatory to the WTO Agreement on Government Procurement (GPA). Under KORUS, U.S. suppliers now have the right to bid on the procurements of more than 50 Korean central government entities, nine more than are covered under the GPA. The Agreement also expands the scope of procurements to which U.S. suppliers will have access by reducing by more than one-half the threshold for eligible procurement contracts applied under the GPA, from a minimum of $203,000 to a minimum of $100,000. The KORUS does not cover procurement by Korean sub-central and government enterprises; however, such procurement is covered under the GPA. Under the GPA, for procurement of construction services, Korea applies a threshold of over $23 million, which is three times the threshold applied by the United States.

Encryption and Security Requirements for Public Procurement of Information and Communications Technology Equipment

Korea requires network equipment being procured by public sector agencies to incorporate encryption functionality certified by Korea's National Intelligence Service (NIS). NIS only certifies encryption modules based on the Korean ARIA and SEED encryption algorithms, rather than the internationally-standardized AES algorithm that is in widespread use worldwide. Some U.S. suppliers have been unable to sell virtual private network and firewall systems to Korean public sector agencies due to this restriction. The United States has urged Korea to ensure that equipment based on widely used international standards has full access to Korea's public sector market.

Korea and the United States are both members of the Common Criteria Recognition Agreement (CCRA), under which products certified at any CCRA-accredited laboratory in any member country should be accepted as meeting the certification requirements in any other member country. However, U.S. industry has raised concerns that the Korean government is requiring products that obtained CCRA certification outside Korea to undergo additional verification in Korea by Korean government authorities before they can be eligible for procurement – an additional step that is not needed for domestic products, raising national treatment concerns. U.S. industry has also raised concerns that the scope of these requirements (including the additional verification) is being expanded to products not normally thought of as "security" products, such as routers, switches, and IP-PBXes. The U.S. Government has raised this issue with Korea in bilateral consultations and will continue to work with Korea, including within the CCRA, in 2014 to address concerns.

INDUSTRIAL SUBSIDY POLICY

Historically, the Korea Development Bank (KDB) has been one of the government's main sources of policy-directed lending to favored industries. Under the previous administration, Korea planned to privatize a wide range of state-owned enterprises, including the KDB, but recent statements by Korean policymakers suggest KDB privatization is being reevaluated, and draft legislation introduced by the majority party late in 2013 could reverse some privatization plans, including the privatization of KDB.

During the previous administration, Korea adopted a holding company system in 2009 and divided the Korean Development Bank (KDB) into two new companies: (1) the KDB, and (2) the Korea Finance Corporation (KFC). While still government-owned, the intention is for the KDB to operate as a commercial bank, and the KFC is to operate as a policy lending bank. However, if the legislation referenced above is passed, it would change this structure.

The U.S. Government will continue to monitor the lending policies of the KDB and other government-owned or affiliated financial institutions, as well as the plans for privatization.

INTELLECTUAL PROPERTY RIGHTS PROTECTION

Korean law generally provides for strong IPR protection. In addition, under KORUS Korea and the United States agreed to provide state-of-the-art protection for all types of intellectual property, *e.g.*, through requirements to join key multilateral IPR agreements and strong enforcement provisions.

The United States recognizes the importance the Korean government places on IPR protection, a development that has accompanied Korea's shift to becoming a significant creator of intellectual property. However, some concerns remain over new forms of online piracy, corporate end-user software piracy, unauthorized use of software in the public sector, book piracy in universities, and counterfeiting of consumer products. With respect to unauthorized use of software in the public sector, the U.S. Government worked closely with Korea and the affected stakeholder to resolve a specific case with one Korean government ministry in 2013. Nevertheless, the Korean government could take further steps to ensure, on a systematic, across-the-board basis, that all government agencies fully comply with the Korean Presidential Decree mandating that government agencies use only legitimate, fully licensed software. This includes taking action to investigate and ensure that a sufficient number of licenses have been acquired to cover all users of the software in the respective agency. The U.S. Government continues to work with Korea to seek improvements in this area.

SERVICES BARRIERS

Screen and Broadcast Quotas

Korea maintains a screen quota for films requiring that any movie screen show domestic films at least 73 days per year. Overall, foreign programs may not exceed 20 percent of terrestrial television or radio broadcast time or 50 percent of cable or satellite broadcast time determined on a semi-annual basis. Within those overall quotas, Korea maintains annual quotas that further limit broadcast time for foreign films to 75 percent of all films for terrestrial broadcasts and to 80 percent for cable and satellite broadcasts; foreign animation to 55 percent of all animation content for terrestrial broadcast and 70 percent of all animation content for cable and satellite broadcasts; and popular music to 40 percent of all music content. Another quota, applied on a quarterly basis, limits content from any one country to 80 percent of the quota available to foreign films, animation, or music. KORUS protects against increases in the amount of domestic content required and ensures that new platforms, such as online video, are not subject to these legacy restrictions.

Restrictions on Voiceovers and Local Advertisements

The Korean Broadcasting Commission's guidelines for implementation of the Broadcasting Act contain restrictions on voiceovers (dubbing) and local advertising for foreign retransmission channels. These prohibitions continue to be of concern to U.S. industry, as they limit the accessibility of such channels in the Korean market.

Duplicative Censorship Screenings

The Korea Media Ratings Board requires separate censorship screenings and rating procedures for 2D and 3D versions of the same film, adding additional and unnecessary time, costs, and uncertainty into the audiovisual market.

Legal Services

Under KORUS, Korea is in the process of opening its legal services market. The first step, implemented in 2012, created a legal status for foreign legal consultants and allowed foreign law firms to open offices in Korea. The law allows foreign attorneys with a minimum of three years of work experience to provide consulting services on the law of the jurisdiction in which they are licensed. The second stage, implemented as of March 15, 2014, allows cooperative agreements between foreign and domestic firms. The third stage, to be implemented by March 15, 2017, will allow foreign-licensed lawyers and firms to establish joint ventures and hire Korean-licensed lawyers.

Insurance and Banking

The KORUS contains provisions to level the regulatory playing field for private insurers by requiring that certain activities of government-sanctioned insurance cooperatives be subject to the same regulatory regime as private insurers. Korea Post, the National Agricultural Cooperative Federation (NACF), and the National Federation of Fisheries Cooperatives are not yet regulated by the Korean Financial Services Commission (FSC) and therefore still operate under different rules that may advantage these entities, although the Korean government announced it would apply the same rules and regulations to these firms. However, under KORUS, Korea has committed to subject solvency matters related to the sale of insurance by these cooperatives to FSC regulation by March 15, 2015.

The U.S. Government will closely monitor the implementation of relevant laws and regulations to ensure that Korea complies with the KORUS financial services provisions. Under KORUS, implementation of improvements in notice and comment periods and with respect to the issuance of "administrative guidance" is enabling financial services suppliers to play a greater role in the regulatory process and is addressing the historic lack of transparency in the adoption of financial regulations.

Until relevant KORUS provisions entered into force on March 15, 2014, Korea's strict data privacy rules had required financial institutions to locate their servers physically in Korea and limit the transfer of data outside Korea, thus hampering foreign suppliers' ability to take advantage of economies of scale in the region to perform data processing in their daily business activity. Korea undertook commitments under both KORUS and the Korea-European Union Free Trade Agreement to substantially reduce these restrictions and to revise its system to allow financial institutions located in Korea to transfer data to affiliates outside Korea and to allow certain data processing and other functions to be performed in affiliates outside Korea. Korea revised regulations in June 2013 and issued administrative guidelines in December 2013 pursuant to these commitments to provide the legal framework for permitting such offshoring of information technology facilities and data processing. The United States will monitor closely Korea's implementation of the new system and engage actively with Korea to ensure that these commitments are fully implemented in practice, consistent with KORUS.

Credit and Debit Card Payment Services

Some U.S. industry stakeholders have raised concerns that Korea's financial services regulators, the Financial Services Commission (FSC) and the Financial Supervisory Service (FSS), may be exerting pressure on financial institutions to steer customers toward domestic brand cards rather than international brands, as well as pursuing other policies that may discriminate against international brand credit and debit card services. The United States Government will closely monitor developments in the credit and debit card services area and work with the Korean government to ensure there is no discrimination against U.S. service providers.

Telecommunications

Korea currently prohibits foreign satellite service providers from selling services (*e.g.*, transmission capacity) directly to end-users without going through a company established in Korea. Given the current investment restrictions in place and the fact that establishing a local presence may not be economically justified, this prohibition significantly restricts the ability of foreign satellite service suppliers to compete in the Korean market.

Under KORUS, as of March 15, 2014, Korea no longer limits facilities-based telecommunications suppliers operating within Korea to foreign-equity of no more than 49 percent, and such suppliers may now be wholly owned by foreign shareholders.

Internet Services

Prohibitions against storing high resolution imagery and related mapping data outside Korea – which Korea justifies on security grounds – have led to a competitive disadvantage for international online map services, since their locally-based competitors are able to provide several services (such as turn-by-turn driving/walking instructions, live traffic updates, interior building maps) that international service providers cannot. Since map data supplied by such competitors is visible outside of Korea, it is unclear how a prohibition on foreign storage furthers security goals. The United States is highly sensitive to Korea's national security concerns and is working with Korea to explore possible ways to update its mapping data-related system in a manner that reflects the globalized nature of the Internet.

Cloud Computing Services

The United States and U.S. industry have also raised concerns with proposed legislation submitted to the National Assembly by the Ministry of Science, Information and Communications Technology, and Future Planning (MSIP), which would provide a jurisdictional basis for regulating cloud computing services. Following engagement by the United States and extensive comments from U.S. and other foreign industry groups, MSIP made some changes to its original draft to reflect many industry concerns before submitting the bill to the National Assembly. However, the U.S. Government and industry remain concerned about this draft legislation, which could impose additional Korea-specific regulations on what is a dynamic, global technology. The United States will continue to monitor this issue closely.

Express Delivery Services

According to KORUS, "under normal circumstances" formal entry documents are not required for express shipments valued at $200 or less. However, U.S. express shippers have raised concerns that the Korean Customs Service (KCS) has unduly limited the availability of *de minimis* treatment for certain express shipments, such as some online purchases. The United States has raised this issue with Korea in the KORUS Committee on Trade in Goods and will continue to urge Korea to adopt more trade facilitative practices in this area.

Retail Services

U.S. industry has raised concerns in 2013 about the activities of the National Commission on Corporate Partnership (NCCP), which have imposed restrictions on the expansion of some U.S.-owned restaurant chains. The NCCP is a partially government-funded organization, created by Korea's National Assembly in 2010, with a mandate to mediate complaints of unfair or unequal competition between large and small businesses. NCCP's mission, according to its government-appointed chairman, is to level the playing field between large businesses and small and medium enterprises (SMEs) in two ways. First, it annually issues a "win-win scorecard" on how large businesses co-exist with SMEs. Second, and of most concern for U.S. businesses, NCCP can "designate suitable industries for SMEs."

In 2013, NCCP designated the family restaurant sector as reserved for SMEs, imposing restrictions that affected U.S. companies in the sector by forcing them to choose between significant geographic restrictions on where they could open new stores or a limit of only five new stores a year nationwide for the next three years, a major reduction in the expansion plans of at least one U.S. firm. Although NCCP claims to be an entirely independent body, its government funding and the fact that criminal and civil penalties can be assessed on firms and individual executives who fail to comply with its guidelines suggest that NCCP has a strong connection to the government. The United States has raised concerns about this organization's, activities, urging Korea to consider carefully the effect that NCCP has on Korea's business climate and on foreign investors. The United States will continue to monitor its activities closely in 2014.

ELECTRONIC COMMERCE

Restrictions on storing customer information outside of Korea have posed barriers to the provision of some Internet-based services, in particular online vending and payment processing. Under the Regulation on Supervision of Credit-Specialized Financial Business, electronic commerce firms selling goods in Korean won are prohibited from storing Korean customers' credit card numbers in company information systems (U.S. electronic commerce firms continue to sell legally into the Korean market from abroad, setting prices in dollars, but are being prevented from accepting Korean branded credit cards). As a result, U.S. electronic commerce firms that are unwilling to develop Korea-specific payment systems have been prevented from entering the Korean market. The United States has raised the issue with Korea on multiple occasions, urging it to lift what appear to be unreasonable and unnecessary restrictions. On November 27, 2013, the Korean Financial Services Commission amended regulations to partially address this issue, enabling online digital content stores operating in more than five countries and headquartered abroad to receive "payment gateway" registrations, locate information technology (IT) facilities offshore, store customer credit card numbers, and allow one-click purchases from mobile devices. This amendment is a positive step that gradually moves Korean regulation in this area in line with global norms. The United States will continue to raise restrictions on foreign electronic commerce firms with Korea in 2014.

INVESTMENT BARRIERS

Capital market reforms have eliminated or raised ceilings on aggregate foreign equity ownership, individual foreign ownership, and foreign investment in the government, corporate, and special bond markets. These reforms have also liberalized foreign purchases of short-term financial instruments issued by corporate and financial institutions. Some U.S. investors have raised concerns, however, about a lack of transparency in investment-related regulatory decisions, including by tax authorities, highlighting concerns about possible discrimination.

Korea maintained a 49 percent limit on foreign shareholdings of facilities-based telecommunications operators. This restriction was lifted in March 2014 when, under KORUS and Korea now permits U.S. companies to own up to 100 percent of a telecommunications operator in Korea. Foreign investment is not permitted in terrestrial broadcast television operations. Korea also restricts foreign ownership of cable television-related system operators, network operators, and program providers to 49 percent, but this restriction will be lifted under KORUS as of March 15, 2015. In 2011, foreign equity restrictions on previously closed areas were relaxed to 20 percent for program providers of channels that carry a range of programs and 10 percent for specialized news channels. For satellite broadcasts, foreign participation is limited to 49 percent. Foreign satellite retransmission channels are limited to 20 percent of the total number of operating channels. For multi-genre or news-focused Internet multimedia content operators and signal transmission network business operators, foreign investment is limited to 20 percent.

In addition to the investment restrictions in telecommunications and key services sectors described above, Korea maintains other important restrictions on foreign investment. Specifically, Korea prohibits foreign investment in rice and barley farming and imposes a 50 percent foreign equity limitation on meat wholesaling. Moreover, Korea limits foreign investment in electric power generation, distribution, and sales to 50 percent. It also restricts foreign investment in the areas of news agency services and publishing and printing where it has foreign equity limitations of 30 percent for enterprises publishing newspapers and 50 percent for enterprises publishing other types of periodicals.

The Korean government also operates several Free Economic Zones (FEZs) and has provided a range of investment incentives including tax breaks, tariff-free importation, relaxed labor rules (primarily exemptions from workforce quotas for disabled and older workers, and mandatory paid leave), and improved living conditions for expatriates in areas such as housing, education, and medical services. The Korean government has promoted these zones as an important step in making Korea’s business environment more open, liberal, and responsive to economic needs.

ANTICOMPETITIVE PRACTICES

The Korea Fair Trade Commission (KFTC) has played an increasingly active role in enforcing Korea’s competition law and in advocating for regulatory reform and corporate restructuring. The KFTC has a broad mandate that includes promoting competition, strengthening consumers' rights, creating a competitive environment for small and medium-sized enterprises, and restraining the concentration of economic power. In addition to its authority to conduct investigations and to impose penalties, including broad authority over corporate and financial restructuring and patent right abuses, the KFTC can levy heavy administrative fines for violations or for failure to cooperate with investigators. In April 2012, the KFTC began monitoring and publicizing the prices of select imports from the United States to ensure pricing structures reflected the tariff reductions under KORUS. The United States has raised concerns over this practice noting that market mechanisms will lead to reductions in consumer prices in the wake of tariff reductions under the FTA but that individual pricing practices are subject to numerous factors.

OTHER BARRIERS

Regulatory Reform and Transparency

Reflecting the strong concerns of U.S. stakeholders, KORUS includes a wide range of provisions across all chapters to improve regulatory transparency in Korea. Korea's Administrative Procedures Act (APA) was revised in October 2012 to increase the public comment period for draft regulations subject to the APA from a minimum of 20 days to a minimum of 40 days. In addition, Korea enacted other legal reforms pursuant to KORUS increasing notice and comment periods related to pharmaceuticals, medical devices, as well as measures in other sectors. The United States will monitor compliance with transparency-related KORUS commitments, including the obligation to address significant, substantive comments received and to explain substantive revisions made in any final regulation.

Motor Vehicles

Increased access to Korea's automotive market for U.S. automakers remains a key priority for the U.S. Government. Upon entry into force of KORUS on March 15, 2012, Korea immediately reduced the tariff on passenger vehicles from 8 percent to 4 percent and eliminated the 10 percent tariff on trucks. In addition, KORUS contains provisions designed to address nontariff barriers, including Korean acceptance of U.S. automotive safety standards for motor vehicles built in the United States and regulatory transparency provisions, which are contributing to leveling the playing field for U.S. automobiles in the Korean market. U.S. exports of passenger cars and trucks to Korea have increased by 80 percent since 2011, the year before KORUS went into effect.

Pursuant to a law passed by the National Assembly in March 2013, throughout the year, the Ministry of Environment continued to develop regulations to implement an incentive/penalty ("bonus/malus") system based on automotive greenhouse gas emissions under which a buyer of a new vehicle would receive either a rebate or an additional charge depending on that car's emission profile. U.S. automakers have raised concerns with the proposed system. Under the authorizing law, this "bonus/malus" system should go into effect in January 2015. The United States has urged the Korean government to consult fully with U.S. stakeholders and with the U.S. Government on its plans in this area, particularly with respect to different types of vehicles will be classified under the system and what levels of penalties they may be subject to, as well as how, and by whom, the incentive or penalty is administered (*i.e.* by the government itself or by the automotive dealers). The United States will continue to engage with Korea to ensure that its automotive emissions policies are implemented in a fair, transparent, predictable manner, consistent with the KORUS.

A separate report issued in conjunction with the National Trade Estimate Report, the Report on Technical Barriers to Trade, contains further information on Korean measures affecting U.S. automotive exports.

Motorcycles

Although progress has been made over the past several years to resolve U.S. concerns over Korea's noise standard on motorcycles, a highway ban on motorcycles continues, which constrains potential market access. A 2011 study on the safety of motorcycles on highways commissioned by the Korean National Police highlighted inadequacies in Korea's regulatory and safety practices surrounding the licensing of motorcycle drivers and the proliferation of young, untrained motorcycle riders driving dangerously on city streets. The United States maintains that heavy motorcycles riding on highways do not pose the same safety concerns as smaller, lighter motorcycles and continues to urge Korea to allow large motorcycles on highways.

Pharmaceuticals and Medical Devices

Under KORUS, any new Korean regulations affecting general pricing and reimbursement of pharmaceuticals and medical devices must be published in advance for notice and comment, and the Korean government is required to respond to public comments in writing and explain any substantive revisions made to proposed regulations. The KORUS also contains provisions designed to appropriately recognize the value of patented pharmaceuticals and medical devices. The United States continues to urge Korea to refrain from implementing reimbursement policies that not only discourage companies from introducing advanced medical products to the Korean market but that also serve as a disincentive to innovation and investment in research and development.

Korea's Ministry of Health and Welfare (MOHW) continues to announce and implement policies aimed at reducing reimbursement prices of drugs with disproportionately larger impact on innovative, patented drugs. In September 2013, MOHW announced a new set of drug reimbursement pricing policies, including an expanded price-volume agreement which would reduce reimbursement prices of the most successful and high-volume drugs, putting further downward pressure on drug prices. The United States has urged Korea to seriously consider stakeholders' concerns and ensure that pharmaceutical reimbursement pricing is conducted in a fair, transparent, and non-discriminatory manner that recognizes the value of innovation, as set forth in KORUS. The United States will continue to monitor the situation closely in 2014.

U.S. companies have also continued to express concern that a legacy of insufficient transparency in the regulation of pricing and reimbursements has impeded efficient introduction of medical devices to the Korean market. In October 2013, MOHW began phasing in a reimbursement pricing plan for medical devices based on import price or manufacturing cost that would further lower the prices of U.S. medical device exports in Korea. U.S. industry maintains that an import price is not an accurate reflection of the value of a product, and that prices should reflect safety and efficacy as well as innovation. The United States has expressed its concern that the reimbursement pricing of medical devices should be determined in a fair, non-discriminatory, and transparent manner and urged MOHW to engage directly with stakeholders to address their concerns.