



# Trade Facts

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## Free Trade with Korea Brief Summary of the Agreement

The United States concluded historic free trade agreement negotiations with Korea on April 1, 2007. The KORUS FTA will be the United States' most commercially significant FTA in 15 years. This comprehensive trade agreement will eliminate tariffs and non-tariff barriers to trade in goods and services, promote economic growth, and enhance trade between the United States and Korea.

Korea is a trillion dollar economy and is the United States' 7th largest trading partner. In 2006, U.S. goods exports to Korea were \$32.5 billion, an increase of 16.9 percent from the previous year. In 2005, U.S. foreign direct investment in Korea totaled roughly \$18.8 billion and was concentrated largely in the manufacturing, banking, and wholesale trade sectors. Korea currently enjoys broad access to the U.S. market, and the United States is Korea's third largest market, importing 17 percent of Korea's worldwide exported goods.

**New Market Access for U.S. Consumer and Industrial Products** – Under the agreement, nearly 95 percent of bilateral trade in consumer and industrial products becomes duty-free within three years of entry into force of the agreement, including many key U.S. exports such as industrial and consumer electronic machinery and parts, auto parts, power generation equipment, the majority of chemicals, medical and scientific equipment, motorcycles, and certain wood products. Most remaining tariffs will be eliminated within 10 years. Korea has also agreed to allow trade in remanufactured goods under the agreement. This will provide significant export and investment opportunities for U.S. firms involved in remanufactured products such as medical equipment, machinery, and auto parts.

**Expanded Markets for U.S. Farmers and Ranchers** – More than half (or \$1.6 billion) of current U.S. farm exports to Korea will become duty-free immediately, including wheat, corn for feed, soybeans for crushing, hides and skins, and cotton, plus a broad range of high value agricultural products such as almonds, pistachios, bourbon whiskey, wine, raisins, grape juice, orange juice, fresh cherries, frozen french fries, frozen orange juice concentrate, and pet food.

U.S. farm products benefiting from expanded market opportunities with two-year tariff phase-outs include avocados, lemons, dried prunes, and sunflower seeds. In addition, U.S. farm products benefiting from expanded market opportunities with five-year tariff phase-outs include food preparations, chocolate and chocolate confectionary, sweet corn, sauces and preparations, other fodder and forage (alfalfa), breads and pastry, grapefruit, and dried mushrooms.

Other U.S. farm products that will benefit from expanded market access opportunities through tariff rate quotas include skim and whole milk powder, whey for food use, cheese, dextrans and modified starches,

barley, popcorn, and soybeans for food use. Market access was also expanded for beef and pork products, pears, apples, grapes and oranges.

**Increased Access for U.S. Autos** – The U.S.-Korea FTA contains an unprecedented package of provisions designed to ensure that U.S. automobiles can compete in Korea on a level playing field. Part of that package is an immediate elimination of Korean tariffs on most U.S. priority passenger vehicles and trucks. Korea has also agreed to overhaul its system for taxing cars based on “engine displacement”, including the Special Consumption Tax, the Annual Vehicle Tax, and the Subway/Regional Development Bond. In addition, under the FTA, Korea has committed to address specific auto non-tariff barriers, including current standards, to ensure they do not impede the market access of U.S. autos, and to create an Autos Working Group to serve as an early warning system to address regulatory issues that may develop in the future. Finally, the agreement contains an innovative expedited dispute settlement process for auto-related measures that violate the FTA, with a full snapback of MFN car tariffs in the case of a violation.

**Textiles and Apparel: Promoting Cooperation and Benefits** – Apparel products made in South Korea will qualify for preferential treatment under the agreement if they use U.S. or Korean fabric and yarn, thereby supporting U.S. fabric and yarn exports and jobs. Customs cooperation commitments between the U.S. and South Korea will allow for verification of claims of origin or preferential treatment, and denial of preferential treatment or entry if claims cannot be verified. A special textile safeguard will provide for temporary tariff relief, if imports under the agreement prove to be damaging to domestic producers.

**Promoting the Competitive Process** – Korea will take measures to ensure that anticompetitive practices by private parties and activities by government established monopolies or state enterprises do not undermine the benefits of the FTA, while ensuring strengthened due process protections for subjects of competition law enforcement actions, such as providing an opportunity to present evidence and to be heard, to review and rebut information, and to cross examine any persons who testify in administrative hearings of antitrust agencies. In addition, under the agreement, antitrust agencies must have the authority to enter into settlement agreements with respondents in administrative and civil enforcement actions.

**Strong Protections for U.S. Investors** – The agreement establishes a stable legal framework for U.S. investors operating in Korea. All forms of investment are protected under the agreement. U.S. investors will enjoy in almost all circumstances the right to establish, acquire, and operate investments in Korea on an equal footing with local investors. Investor protections will be backed by a transparent, binding international arbitration mechanism. The investment protections in this FTA are as strong as in any U.S. FTA to date.

**Open Services Markets** – Korea vastly improved upon its WTO commitments in services, providing meaningful market access commitments that extend across virtually all major service sectors. Significant progress was made in the area of express delivery services, where Korea provided greater and more secure access to international delivery services and charted a course for future reform on domestic services. Korea also made great strides on legal services, opening up for the first time to foreign legal consulting services.

Other areas where Korea offered improved access include the following sectors: research and development, legal, accounting, maintenance and repair of equipment, education, health, environmental, telecommunications, audio-visual, and services incidental to mining.

For financial services, Korea will accord substantial market access and adopt a negative list approach to financial services regulation, as well as regulatory reform in important areas such as transparency and regional integration of data processing. In addition, the FTA contains commitments by Korea to begin the process to ensure that the same rules and regulations apply equally to cooperatives selling insurance and Korea Post and private insurers.

**A More Open Broadcast Market for U.S. Audio-Visual Products** – Korea agreed to make significant improvements concerning treatment of broadcasting and audiovisual services, including by allowing within three years 100% foreign ownership of program providers by U.S. firms, reducing quotas on animation and film, increasing allowable content from a single country, and locking in current content quotas in other areas.

**An Open and Competitive Telecommunications Market** – Korea committed to permit U.S. controlled companies to own 100 percent of Korean phone companies, up from a current cap of 49 percent, within two years. The agreement requires the parties to ensure access to telecommunications services. In addition, the agreement requires the parties to ensure that dominate phone companies provide cost-based interconnection and access to essential facilities, including submarine cable landing stations. The agreement also establishes groundbreaking provisions to safeguard operators' technology choices, particularly in wireless technologies, where U.S. service and equipment suppliers have strong competitive advantages.

**E-Commerce: Free Trade in the Digital Age** – Korea and the United States agreed to non-discriminatory and duty-free treatment of all digital products (e.g., software and audio-visual products), whether imported in physical form or over the Internet, and to principles promoting access to the Internet to conduct electronic commerce.

**Pharmaceutical and Medical Devices** – The agreement contains provisions on pharmaceutical and medical device market access issues that go far beyond those in other U.S. FTAs. The agreement includes commitments to improve access to innovative products and to ensure the transparent, predictable, and non-discriminatory pricing and reimbursement of innovative and generic pharmaceutical products and medical devices. In addition, the agreement contains provisions to enhance ethical business practices, improve the predictability and transparency of the pricing and reimbursement system, and to establish a Medicines and Medical Devices Committee to monitor implementation of commitments in this area. The agreement also requires Korea to create an independent mechanism to review pricing and reimbursement decisions.

**Greater Protection for Intellectual Property Rights** - The agreement provides standards for protection and enforcement of a broad range of intellectual property rights, including trademarks, copyrights and patents, which are consistent with U.S. standards and will provide effective protection and enforcement for emerging technologies.

These standards include state-of-the-art protections for digital products such as U.S. software, music, text, and videos. Additionally, the agreement provides for stronger, more comprehensive protection for patents, trademarks and test data, as well as rules on civil, criminal and customs enforcement, and a commitment to establish a patent linkage system to ensure adequate enforcement of pharmaceutical patent rights.

**Commitments and Cooperation to Protect the Environment** – The Agreement commits the parties to effectively enforce their own domestic environmental laws and adopt, maintain, and implement laws, regulations, and all other measures to fulfill obligations under the seven covered multilateral environmental agreements (MEAs). All obligations under the Environment Chapter are subject to the same dispute settlement procedures and enforcement mechanisms as commercial obligations. In addition, the agreement also requires both parties to implement a process for public submissions to ensure consideration of civil society views on the implementation of the Chapter. The agreement is complemented by an environmental cooperation agreement that provides a framework for undertaking cooperative activities on a bilateral, regional, and multilateral basis.

**Internationally-recognized Labor Rights** – The Agreement includes an enforceable reciprocal obligation for the countries to adopt and maintain in their laws and practice the fundamental labor rights as stated in the 1998 ILO Declaration on Fundamental Principles and Rights at Work, including a prohibition on the worst forms of child labor. Neither Party may waive or derogate from laws implementing this obligation in a manner affecting trade or investment. There is also an enforceable obligation to effectively enforce labor laws related to those rights and to working conditions. These labor obligations are subject to the same dispute settlement procedures and enforcement mechanisms as commercial obligations. The Agreement also establishes a Cooperative Mechanism for the governments to develop cooperative activities aimed at promoting and advancing fundamental labor rights.

**Open and Fair Government Procurement** – The government procurement obligations build and expand on the two countries' obligations under the plurilateral WTO Agreement on Government Procurement (GPA). Under the FTA, Korea will provide U.S. firms with non-discriminatory access to nine Korean central government entities that are not covered under the GPA. The FTA will also expand procurement open to U.S. suppliers by setting a threshold (contract values above which procurement is opened) that is nearly half the GPA threshold. The FTA also includes improvements in procurement practices, including reductions in tendering periods for purchasing commercial goods and services, and improvements in making procurement notices and other information available electronically. The FTA provides for a working group on government procurement to take up any issues, in particular, those related to information technology.

**Increased Transparency** – The parties have committed to strong transparency obligations including commitments by their respective national governments to publish proposed regulations in advance, allow a reasonable opportunity to comment on the proposed regulations, address significant substantive comments received, and publish final regulations in an official journal of national circulation. Additional transparency obligations are included in a wide range of chapters, including National Treatment and Market Access for Goods, Customs Administration and Trade Facilitation, TBT, Cross-Border Trade in Services, Financial Services, Telecommunications, Labor, Environment, Competition-Related Matters, and Pharmaceuticals and Medical Devices.

The agreement's dispute settlement mechanisms provide for open public hearings, public access to documents, and the opportunity for third parties to submit views.

**Strengthened Protection against Technical Barriers to Trade** – The Chapter on Technical Barriers to Trade builds upon and reinforces Korea's commitments in the WTO Agreement on Technical Barriers to Trade. Notably, the Chapter goes beyond other TBT chapters in recent U.S. FTAs through disciplines to promote transparency in the way governments develop and apply technical regulations and related conformity assessment procedures (e.g., testing and certification). The agreement also

contains commitments by the Korean government to address concerns relating to specific emissions and safety standards issues. Further, the agreement provides for the establishment of an Autos Working Group to address regulatory issues that may arise in the future. Finally, the Chapter establishes a committee mechanism to allow for quick resolution of problems as they arise, backed by FTA dispute settlement provisions if needed.

**Customs Administration and Rules of Origin** – The United States and Korea have agreed on significant commitments on customs administration, rules of origin, and origin procedures that will ensure that the U.S. and Korean private sector stakeholders lock-in and maximize the benefits of the FTA, including provisions on transparency and publication, efficient release of goods, automation, express shipments, advance rulings, importer focused origin procedures, and comprehensive product-specific rules of origin.