



5500 WEST 73RD STREET ♦ CHICAGO, ILLINOIS 60638 ♦ TELEPHONE (708) 496-6101
FAX (708) 496-1846

WILLIAM M. HICKEY, JR.
PRESIDENT

February 17, 2011

The Honorable Ron Kirk
United States Trade Representative
Executive Office of the President
600 17th Street, NW
Washington, DC 20508

Dear Ambassador Kirk:

Pursuant to Section 2104 (e) of the Trade Act of 2002 and Section 135 (E) of the Trade Act of 1974, as amended, I am pleased to transmit the addendum to the report of ITAC-12 on the proposed KORUS, reflecting consensus view of the majority and minority; on the proposed KORUS and accompanying agreement.

Sincerely,

William M. Hickey, Jr.
Chairman, Industry Trade Advisory
Committee on Steel (ITAC-12)

February 17, 2011

Industry Trade Advisory Committee on Steel (ITAC 12)

Advisory Committee Report to the President, the Congress and the United States Trade Representative on U.S.-Korea Free Trade Agreement (KORUS FTA)

ITAC 12 submitted comments dated April 27, 2007 concerning the KORUS FTA (the “prior comments”). In those comments, ITAC 12 recommended against approval of KORUS FTA in the form that it took at that time because of certain provisions it contained pertaining to the administration of antidumping and countervailing duty cases in the United States. In December 2010, the United States and the Republic of Korea ("Korea") negotiated an accompanying agreement that includes certain additional provisions and obligations regarding the KORUS FTA. (For the sake of clarity, this report refers to the KORUS FTA and the accompanying agreement collectively as the "currently proposed KORUS FTA.") The currently proposed KORUS FTA provides, *inter alia*, for greater opening of markets in Korea for automobiles manufactured in the United States, but the concerns expressed by ITAC 12 in the prior comments concerning the administration of antidumping and countervailing duty cases were not addressed.

The membership of ITAC 12 believes that the currently proposed KORUS FTA is improved over the version that was proposed in 2007 by virtue of the provisions that provide greater opening of markets in Korea for automobiles manufactured in the United States. The membership of ITAC-12 also believes that the Administration must aggressively and continuously ensure that South Korea fully complies with all of its market access commitments. The fact that the flawed provisions of the 2007 version of the KORUS FTA pertaining to the administration of antidumping and countervailing duty cases in the United States remain in the current version of the KORUS FTA is a weakness of the currently proposed agreement.

ITAC 12 is divided as to whether, on balance, the currently proposed KORUS FTA, containing the described improvements and the described flaws, should be approved. A portion of ITAC 12 believes that, while not perfect, the currently proposed KORUS FTA will benefit the United States and create jobs. The remainder of the membership believes that the long-term damage to be done by the inadvisable provisions regarding the administration of trade cases is not outweighed by the improvement of the market-opening provisions of the currently proposed KORUS FTA.

ITAC-12 unanimously believes that before any trade agreement is implemented, an agreement requiring market forces to determine currency exchange rates between the Korean Won and the United States Dollar must be reached.

As South Korea was the most recent country named to be a currency manipulator by the United States Treasury, ITAC-12 requests that the United States Trade Representative seeks clarification from the United States Treasury as to how it determines to name a country a currency manipulator.

Insofar as determining if South Korea is a currency manipulator, ITAC-12 must look at the information that is available in the public domain to determine if South Korea is allowing market forces to establish currency exchange rates. Attached to this report are two charts. Chart 1 is the Exchange Rate of the Korean Won to the United States Dollar from 2005-2010. Chart 2 is the South Korean Foreign Exchange Reserves from 2005-2010.

ITAC-12 believes it is apparent from the information presented in the two charts attached to this report that the rapid increase in foreign exchange reserves by the Korean Central Bank prohibits the appreciation of the Korean Won against the United States Dollar. The lack of market forces setting the exchange rates distorts trade flows and continues to perpetuate the trade imbalances between South Korea and the United States. These trade distortions negatively impact the industries represented by ITAC-12.

| ITAC 12 is unanimous in its advice that the inadvisable provisions regarding the administration of trade cases found in the currently proposed KORUS FTA must not be repeated in future free trade agreements. Furthermore, the advice of ITAC 12 is that, if the currently proposed KORUS FTA is signed and implemented, the negative impact of the objectionable provisions can and should be mitigated to every extent possible in the legislative history and Statement of Administrative Action (“SAA”) that would accompany the implementing legislation. For this purpose, ITAC 12 proposes that the following provisions be placed in the SAA if the Administration proceeds with formally submitting the currently proposed KORUS FTA to Congress:

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Suggested SAA Language for the Trade Remedy Provisions in the KORUS

Chapter Ten (Provisions on Antidumping and Countervailing Duties and Committee on Trade Remedies)

A. SUMMARY OF PROVISIONS

The Articles in the Agreement relating to trade remedies do not diminish the level of protection afforded U.S. industries from unfairly traded imports from Korea. Moreover, as clearly set forth in Article 10.7(1) of the Agreement, the United States retains its rights to apply antidumping and countervailing duties. The Administration further notes that the trade remedy provisions of the Agreement are not subject to the dispute settlement provisions of the Agreement pursuant to Article 10.7(2).

1. Pre-Initiation Meeting

Article 10.7(3) of the Agreement establishes that Commerce will, prior to initiating an investigation; deliver a copy of the antidumping or countervailing duty petition to a representative of the Korean government. Under Article 10.7(3), Commerce will also afford the Korean government an opportunity for a meeting and consultations with respect to the petition. The Administration recognizes that the pre-initiation procedures set forth under the Agreement for both antidumping duty and countervailing duty investigations are the same as the requirements currently provided for in countervailing duty investigations pursuant to 19 U.S.C. § 1671a(b)(4)(A), which instructs Commerce to provide a copy of the petition and consult with members of the exporting country's government. Article 10.7(3) does not require a substantive change in U.S. law.

Consistent with longstanding practice, Commerce will not discuss the merits or substance of a petition at the consultations or otherwise accept substantive communications regarding a petition prior to making its initiation decision. Indeed, it would be inappropriate to allow ex parte statements or other substantive communications not on the record to affect Commerce's initial decision to initiate an investigation. More generally, the Administration intends that the pre-initiation processes will not be permitted to politicize or otherwise delay the initiation of an antidumping duty or countervailing duty investigation.

Rather, the Administration intends these pre-initiation processes to provide notice to the Korean government that a petition has been filed. In addition, the Administration intends that Commerce will limit consultations to discussions of the procedures and timetables for the up-coming investigation.

2. Suspension Agreements

Pursuant to Article 10.7(4)(a) of the Agreement, Commerce will supply written instructions to a representative of the Korean government regarding the procedures and time frame for requesting Commerce to consider a price or quantity undertaking (i.e., suspension agreement) in lieu of an antidumping or countervailing duty. Articles 10.7(4)(b) and (c) provide that Commerce will afford "due consideration" to a proposal to enter into a suspension agreement and will consult with the Korean government and Korea exporters. The Administration recognizes that these Articles do not constitute a change in current law or practice relating to either the procedures or legal requirements for suspension agreements.

Specifically, the Administration acknowledges that "due consideration" for a suspension agreement is not a new substantive standard. The Administration recognizes that this provision is not intended to change the current analysis as to whether a suspension agreement is warranted under U.S. law because Commerce already affords due consideration to proposals for suspension agreements. Moreover,

the Administration intends that Commerce will continue to apply the existing standards – e.g., whether the suspension agreement is in the public interest and whether the suspension agreement can be effectively monitored – before entering into any such agreement. The Administration further intends that Commerce continue its practice of generally not entering into suspension agreements absent the consent of the petitioner, without prejudice to the issue of whether such consent is legally required.

Rather than effect a change in U.S. law or agency practice, these Articles are meant to establish better communications as to the procedures for requesting a suspension agreement. In this vein, the consultation provisions of the Agreement are intended to establish awareness by the parties of the timetable and mechanism for requesting such an agreement.

3. Committee on Trade Remedies

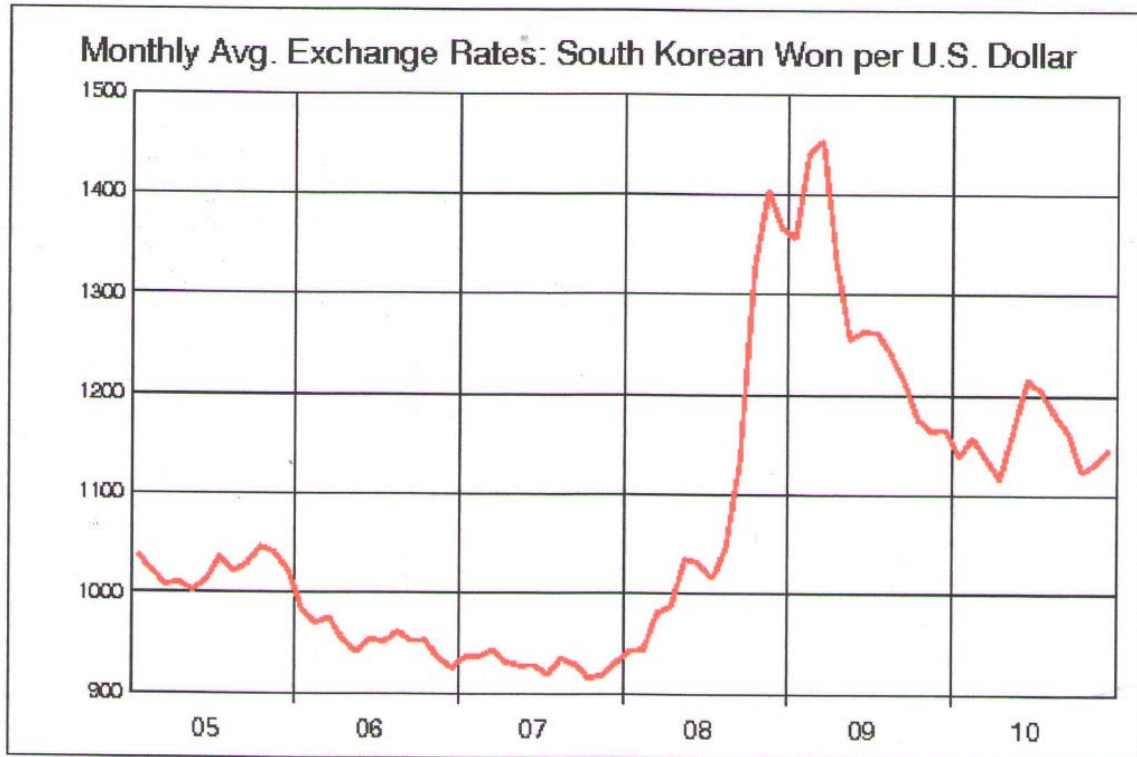
Article 10.8 of the Agreement establishes the Committee on Trade Remedies. This Committee will, for example, serve as a source of bilateral information sharing on the parties' trade remedy laws, policies, and practices. The Committee will further provide the opportunity for educational exchanges related to the administration of trade remedy laws. The Committee will also provide a forum for the discussion of Korean industrial subsidies.

The Committee will not serve as a vehicle for attacks on the trade remedy laws of the United States or otherwise lead to the weakening of such laws. Moreover, the Committee is not intended to serve as a forum to discuss specific trade remedy proceedings in the United States. Rather, the Administration intends to use this Committee as a mechanism to discuss and foster cooperation on rules-based trade with Korea as well as encourage Korea's support for rules-based trade initiatives in multi-lateral forums such as the WTO.

B. ACTION REQUIRED OR APPROPRIATE TO IMPLEMENT THE AGREEMENT

Consistent with the implementing legislation of previous free trade agreements, section ___ of the implementing bill makes it clear that those provisions of U.S. law, including trade remedy laws that are not addressed by the bill are left unchanged. Section ___ of the bill clarifies that no provision of the Agreement will be given effect under domestic law if it is inconsistent with federal law, including provisions of federal law enacted or amended by the bill. Lastly, section ___ of the implementing bill precludes any private right of action or remedy -- including an action or remedy sought by the Korean government -- based on the trade remedy (or any other) provisions of the Agreement.

PACIFIC Exchange Rate Service



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Time period shown in diagram: 1/Jan/2005 - 31/Dec/2010

South Korea Foreign Exchange Reserves



Source: IMF