KOREA

TRADE SUMMARY

The U.S. goods trade deficit with Korea was $10.6 billion in 2009, down $2.8 billion from 2008. U.S. goods exports in 2009 were $28.6 billion, down 17.4 percent from the previous year. Corresponding U.S. imports from Korea were $39.2 billion, down 18.4 percent. Korea is currently the 8th largest export market for U.S. goods.

U.S. exports of private commercial services (*i.e.*, excluding military and government) to Korea were $14.3 billion in 2008 (latest data available), and U.S. imports were $7.2 billion. Sales of services in Korea by majority U.S.-owned affiliates were $10.8 billion in 2007 (latest data available), while sales of services in the United States by majority Korea-owned firms were $5.3 billion.

The stock of U.S. foreign direct investment (FDI) in Korea was $27.7 billion in 2008 (latest data available), up from $26.9 billion in 2007. U.S. FDI in Korea is led by the manufacturing, finance/insurance, and wholesale trade sectors.

FREE TRADE AGREEMENT (FTA)

The United States and the Republic of Korea signed the United States-Korea Free Trade Agreement (KORUS FTA) on June 30, 2007. The KORUS FTA is the most commercially significant free trade agreement the United States has concluded in 17 years. If approved and implemented, the KORUS FTA would provide preferential access for U.S. businesses, farmers, ranchers, services providers, and workers to the United States' 8th largest export market, help solidify the two countries' long-standing alliance, and underscore the U.S. commitment to, and engagement in, the Asia-Pacific region. The Administration believes this FTA has the potential to bring significant economic and strategic benefits for the United States and is committed to working together with Korea to move the KORUS FTA forward. This will involve working through a number of outstanding issues, particularly related to autos and beef. Concerns have also been raised regarding nontariff measures more generally. In 2009, the United States Government initiated a thorough review of the FTA and is currently consulting closely with Congress and U.S. stakeholders to identify the most effective approaches for dealing with these concerns.

Under the FTA, nearly 95 percent of bilateral trade in consumer and industrial products would become duty free within three years of the date the FTA enters into force, and most remaining tariffs would be eliminated within 10 years. The U.S. International Trade Commission estimates that the reduction of Korean tariffs and tariff-rate quotas on goods alone would add $10 billion to $12 billion to annual U.S. Gross Domestic Product and around $10 billion to annual merchandise exports to Korea. For agricultural products, the FTA would immediately eliminate or phase out tariffs and quotas on a broad range of products, with almost two-thirds (by value) of Korea's agriculture imports from the United States becoming duty free upon entry into force. For services, the FTA would provide meaningful market access commitments that extend across virtually all major service sectors, including greater and more secure access for international delivery services and the opening up of the Korean market for foreign legal consulting services. In the area of financial services, the FTA would increase access to the Korean market and ensure greater transparency and fair treatment for U.S. suppliers of financial services.

The FTA would address nontariff barriers in a wide range of sectors and includes strong provisions on competition policy, labor and environment, and transparency and regulatory due process. The KORUS FTA would also provide U.S. suppliers with greater access to the Korean government procurement market.

IMPORT POLICIES

Tariffs and Taxes

According to data obtained through the WTO, Korea's average MFN applied tariff rate in 2008 was 12.2 percent for all products (49 percent for agricultural products and 6.6 percent for non-agricultural products) and Korea has bound 94.5 percent of its tariff lines.

Korea maintains particularly high tariffs on a number of high value agricultural and fishery products. Korea imposes tariff rates of 30 percent on most nuts and 35 percent and higher on most dairy products. Pears, table grapes, juices, starches and peanut butter are subject to tariffs from 45 to 54 percent. Peanuts and tea are subject to some of the highest tariffs ranging from 230 percent tariff for peanuts to 513 percent and 754 percent respectively for green tea and red ginseng tea. Korea also imposes high tariffs on other products of interest to U.S. industry despite having little or no domestic production, including cherries, certain distilled spirits, frozen corn, frozen French fries, pepperoni, and prepared or mashed potatoes.

Korea has established tariff-rate quotas (TRQs) intended to provide minimum access to previously closed markets or to maintain pre-Uruguay Round access. In-quota tariff rates may be very low or zero, but the over-quota tariff rates are often prohibitive. For example, natural and artificial honey are subject to an over-quota tariff rate of 243 percent; skim and whole milk powder - 176 percent; barley - 324 percent; malting barley - 513 percent; potatoes and potato preparations - more than 304 percent; and popcorn - 630 percent. In addition, for some agricultural products, such as corn grits, popcorn, and soy flakes, Korea aggregates raw and value added products under the same quota. Korean domestic industry groups, which administer the quotas, frequently allocate the more favorable in-quota tariff rate to their larger members that import raw ingredients

Korea uses "adjustment tariffs" and compounded taxes on some agricultural, fishery, and plywood products, which increase the applied tariff rates. Most of the adjustment tariffs are imposed on agricultural and seafood products, including frozen croaker, which are products of interest to U.S. exporters. In 2009, Korea renewed adjustment tariffs on 15 items and reduced the tariff rates for 6 of these 15 items.

Korea has eliminated tariffs on most or all products in the following sectors: paper, toys, steel, furniture, agricultural equipment, construction equipment, and information technology products (as defined by the WTO Information Technology Agreement). Korea has harmonized its chemical tariffs to rates of zero percent, 5.5 percent, or 6.5 percent, depending on the product. Bound tariffs, *i.e.*, the level that generally cannot be exceeded under WTO rules, on textile and apparel products remain relatively high: 30 percent on several man-made fibers and yarns; 30 percent on many fabrics and most made-up and miscellaneous goods (e.g., pillow cases and floor coverings); and 35 percent on most apparel items.

Rice

In the Uruguay Round, Korea negotiated a 10-year exception to "tariffication" 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 that was approved by its trading partners in April 2005. The extension called for Korea to increase its total rice imports over the next 10 years, from 225,575 metric tons in 2005 to 408,700 metric tons in 2014. Along with the country specific quota commitments to purchase minimum amounts of imports from China, Thailand, and Australia, Korea also agreed to purchase at least 50,076 metric tons annually from the United States until 2014. In addition, the quality of access has improved as rice marketed to consumers as table rice was for the first time included as a portion of the MMA quota. The table rice portion increases from 10 percent of the quota in 2005 to 30 percent in 2010.

Access to the Korean rice market for U.S. exports has improved significantly under this agreement. Under the 2009 MMA, the U.S. rice industry obtained 27 percent of Korea's total MMA imports by winning tenders for 81,000 metric tons (milled), valued at $64 million. This amount is 62 percent over the United States' baseline of 50,076 metric tons for the country specific quota. In addition, from the total U.S.-awarded amount, nearly 24,000 metric tons were sold as table rice in 2009.

Beef

Korea reopened its market for imports of U.S. beef in June 2008 and since then has provided reliable market access for U.S. beef and beef products. In 2009, U.S. exports of beef and beef products to Korea reached 55,540 metric tons, valued at $216 million, making Korea our fourth largest beef export market.

GOVERNMENT PROCUREMENT

Korea is a signatory to the WTO Agreement on Government Procurement (GPA). For procurement of construction services by sub-central and government enterprises covered under the GPA, Korea applies a threshold of over $23 million, which is three times the threshold applied by the United States.

Encryption Technology for Public Procurement of VoIP Equipment

In December 2008, the Korean government announced long term plans to switch its government wire line telephone systems from a standard circuit-switched system to an Internet protocol based system (Voice over Internet Protocol, or VoIP). To ensure that this transition does not result in diminished security, Korea also issued guidelines recommending that agencies procure and use encryption-capable systems. The Korean government's plans in this regard would place them out in front internationally in large-scale government adoption of VoIP systems.

As part of its VoIP plan, the Korean government considered mandating that government agencies purchase equipment that contains encryption technology based on a Korean encryption standard called "ARIA," despite the availability and wide use of international standards for encryption of VoIP.

Given the considerable time expense it would require for U.S. suppliers to comply with the proposed ARIA mandate, since their equipment and software are built to international standards and Korea is the only country to use ARIA for such systems, the U.S. Government raised these concerns with the Korean government. In May 2009, the Korean government announced it would limit mandatory use of ARIA to ten Korean government agencies responsible for foreign and national security affairs and would allow other public entities to use other encryption algorithms. Furthermore, the Korean government decided that in implementing the encryption policy, the ten national security agencies required to use ARIA for VoIP would be responsible for ensuring their ability to communicate with entities not using ARIA (i.e. there would be no need for other public agencies to obtain ARIA-based equipment in order to ensure interoperability with those nine agencies).

Despite the May 2009 announcement, U.S. equipment suppliers are continuing to face difficulties in selling VoIP equipment to Korean public sector entities, due in part to a continued widespread perception among procuring offices that ARIA is required. We will continue to work with Korea to ensure U.S. suppliers have fair, transparent access to the public sector market.

In July 2009, Korea also implemented a new regulation stipulating that encrypted network equipment must be certified by Korea's National Intelligence Service (NIS) in order to be procured by public sector agencies and that NIS will only certify encryption modules based on ARIA and SEED encryption algorithms, not the AES algorithm that is in most widespread use worldwide. Some U.S. suppliers have been unable to sell virtual private network and firewall systems due to this restriction. We will continue to urge Korea to ensure that widely used international standard-based equipment has full access to Korea's public sector market.

INDUSTRIAL SUBSIDY POLICY

Korea's past promotion and support for its semiconductor industry, which eventually resulted in the imposition of countervailing duties by the United States, the European Union, and Japan, is emblematic of concerns in this area.

Historically, the Korea Development Bank (KDB), which as a government-owned entity is not necessarily bound by the same constraints as commercial institutions, has been one of the government's main sources of policy-directed lending to favored industries. The Lee Myung-bak Administration plans to privatize a wide range of state-owned enterprises, including the KDB. As a first step, Korea adopted a holding company system in October 2009 and divided the Korean Development Bank (KDB) into two new companies: (1) KDB; and (2) the Korea Finance Corporation (KFC). While still government-owned, the KDB is to operate as a commercial bank under this restructuring plan and the KFC will operate as a policy lending bank. The Korean government plans to list the KDB on the Seoul bourse in 2011 and float stock in the foreign exchange in 2012. The U.S. Government will continue to monitor the lending policies of the KDB and other government-owned or affiliated financial institutions.

INTELLECTUAL PROPERTY RIGHTS (IPR) PROTECTION

Korea's progress on Intellectual Property Rights protection and enforcement led to its removal from the Special 301 Watch List in 2009. The importance the Korean government places on IPR protection has increased dramatically in recent years, a development that has accompanied Korea's shift to become a significant creator of intellectual property. Nevertheless, concerns remain with elevated levels of online piracy, corporate end-user software piracy, book piracy in universities, counterfeiting of consumer products, and a lack of coordination between Korean health and IPR authorities to prevent the issuance of marketing approvals for patent infringing products.

The digitization of Korea's economy has significantly enhanced the ability to produce and spread unauthorized reproductions of copyrighted materials. Korea's Ministry of Culture, Sports and Tourism (MCST) amended the Copyright Law in July 2009 to include a "Three Strikes" program against illegal file-sharing. Under the amended law, users who download illegally will be sent a warning letter, which counts as a "strike". According to the law, three "strikes" will lead to a suspension of that user's internet account by the Internet Service Provider. In December 2009, MCST reported that the Korea Copyright Commission has issued 19,800 corrective recommendations since the law was amended. No corrective orders to suspend a user's internet account have reportedly been issued.

In 2009, Korea's government, led by MCST, continued its progress on IPR enforcement in several areas. MCST has made efforts to ensure that all central and municipal government agencies are using properly licensed software and next year plans to carry out a similar review at the corporate level. Additionally, MCST held its second annual 100-day campaign against off-line pirated copyrighted material, known as the "100 Day Seoul Clean Project," from April until August of 2009. MCST noted it plans to continue this project on an annual basis. During the 100 Day Seoul Clean Project, MCST and Korean law enforcement raided street vendors and stores selling pirated DVDs, CDs, software, and books. According to MCST's statistics, seizures of pirated material increased 24 percent to 214,199 illegal items, and prosecutions increased 46 percent to 544 cases, compared to the numbers from last year's campaign.

Korea has also demonstrated a renewed commitment to investigating and prosecuting "topsites" (password-protected sites that are the initial depository of pirated material, where other pirates go to access the pirated material) and has indicated a commitment to carrying out additional enforcement activities against book piracy on Korean campuses.

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 – a 50 percent cut from the quota of 146 days that existed until July 2006. Korea also maintains a variety of foreign content quotas for terrestrial, cable and satellite television, radio broadcasting, and Internet Protocol television. Overall, foreign programs may not exceed 20 percent of terrestrial television or radio broadcast time or 50 percent of cable or satellite broadcast time on a quarterly 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, cable, and satellite broadcasts; foreign animation to 55 percent of all animation content for terrestrial broadcast and 65 percent of all animation content for cable and satellite broadcasts; and popular music to 40 percent of all music content. Another quota, on a quarterly basis, limits content from any one country to 60 percent of the quota available to foreign films, animation, or music.

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 profitability of such channels in the Korean market.

Legal Services

On February 27, 2009, the Korea National Assembly passed the Foreign Legal Consultant Act (FLCA), creating a partial opening of the domestic legal services. Under the new law, law firms from countries that have a free trade agreement with South Korea will be able to start consultancy businesses in Korea. The laws allow 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. Before the FLCA, only Korean-licensed lawyers could provide any form of legal advice in Korea, including advice on foreign law.

The Korean government plans to open its legal services market in several stages. The first step created a legal status for foreign legal consultants and allowed foreign law firms to open offices in Korea. Subsequent liberalization stages would address the ability of foreign-licensed lawyers and firms to associate with, partner with, and hire Korean-licensed lawyers.

Insurance and Banking

Korea is the second largest insurance market in Asia and the seventh largest in the world. Korea's laws and regulations permit foreign financial service providers to establish subsidiaries or branches in Korea. Financial services providers see Korea's restrictions on cross-border financial services and unwillingness to liberalize this sector as hindering Korea's progress toward becoming a regional financial hub.

Insurance suppliers remain concerned that Korea Post (a government agency), the National Agricultural Cooperative Federation, and the National Federation of Fisheries Cooperative continue to operate at an advantage in the Korean insurance market because, unlike private insurers, they are not regulated by the Korean Financial Services Commission or the Financial Supervisory Service. This can provide these entities with a competitive advantage over private insurers.

Lack of transparency in the financial regulatory system is a widespread problem and continues to affect financial services suppliers. Improvement in notice and comment periods is necessary for foreign providers to have input into the regulations that will be imposed upon them. Financial services suppliers also remain concerned about regulatory oversight in the form of vague "administrative guidance." Although Korea made some changes in issuing administrative guidance in 2007, financial services suppliers seek additional transparency in the process. The National Assembly adopted the Investment Services and Capital Markets Act in June 2007 and most provisions of the Act entered into force on February 4, 2009. The Korean government responded to U.S. concerns and delayed implementation of some portions of the Act while launching a process intended to address potential barriers to cross-border financial transactions. The Act allows financial services companies to introduce new products unless explicitly prohibited by law and establishes a clear legal basis for newcomers to apply for commercial licenses. In the amendments to the Enforcement Decree of the Financial Investment Services and Capital Markets Act, the government relaxed its requirements regarding private equity funds and introduced a special purpose Acquisition Company in September 2009.

Korea's strict data privacy rules require financial services providers to locate their servers physically in 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.

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 investment restrictions in place (see below), and the fact that establishing a local presence may not make economic sense, this prohibition significantly restricts the ability of foreign satellite service providers to compete in the Korean market.

The National Assembly passed legislation in December 2007 to regulate the convergence technology Internet Protocol television (IPTV). In 2008, the newly-formed Korea Communications Commission (KCC) began issuing implementing regulations. The U.S. Government is closely monitoring this process with regard to transparency and due process. U.S. companies view some of the licensing requirements under discussion as market restricting, (*e.g.*, applying content quotas to real-time IPTV).

INVESTMENT BARRIERS

During his fall 2007 presidential election campaign, one of the key planks of President Lee Myung-bak's economic platform was to take steps to attract more foreign investment to Korea. Since President Lee assumed office in February 2008, foreign investors have noted a greater interest in addressing issues of concern and in removing barriers or disincentives to investment in Korea. The Korean government has maintained this policy despite the increasing global financial and economic turmoil that began in the second half of 2008 and continued into 2009.

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 about a lack of transparency in investment-related regulatory decisions, including by tax authorities, raising concerns about possible discrimination.

Korea maintains a 49 percent limit on foreign shareholdings of facilities-based telecommunications operators. Foreign investment is not permitted in terrestrial broadcast television operations and the Korean government also restricts foreign ownership of cable television-related system operators, network operators, and program providers to 49 percent. For satellite broadcasts, foreign participation is limited to 33 percent. Foreign satellite retransmission channels are limited to 20 percent of the total number of operating channels.

In addition to the numerous investment restrictions in key services sectors described above, as well as in the telecommunications sector, 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.

On July 31, 2009, the Finance Ministry announced plans to sell a number of state-owned companies, including the Korea Real Estate (KOREIT), Grand Korea Leisure Corporation, Farmland Improvement & Modernization, Korea Asset Investment Trust Co. Ltd., Korea District Heating Corp., and Korea Power Engineering Co. (*See the Industrial Subsidies section for further detail on developments related to the Korea Development Bank.).*

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, 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. In addition to its authority to conduct investigations and to impose penalties, including broad authority over corporate and financial restructuring, the KFTC can levy heavy administrative fines for violations or for failure to cooperate with investigations.

A number of U.S. companies have expressed concerns that respondents in KFTC investigations have not been afforded a sufficient opportunity to review and respond to the evidence against them, including an opportunity to cross examine those who testify in KFTC investigatory hearings. Concerns have also been raised that procedural rules for KFTC hearings have not been sufficiently transparent and that the KFTC lacks authority to enter into settlement agreements with respondents by mutual agreement.

The KFTC has taken some steps to address these concerns. In March 2009, the KFTC amended its regulations to expand the rights of respondents by allowing respondents to request a resumption of hearings to submit new evidentiary material or if the complexity of the case warrants additional hearings. Furthermore, the examiner's recommended sanction (including details of the surcharge calculation) is now as a rule provided to the respondent along with the examiner's report. The KFTC also amended regulations to increase its operational transparency, requiring examiners to inform claimants promptly of its conclusions and the grounds for those conclusions. To increase transparency for respondents, the KFTC began implementing new procedures in February 2007, requiring the KFTC to provide a respondent with an official notice of investigation in writing, to provide the respondent with detailed information on the purpose, scope, and length of the investigation, and to entitle the respondent to refuse aspects of the investigation it believes goes beyond the notified scope and report any misconduct on the part of examiners.

OTHER BARRIERS

Regulatory Reform and Transparency

Korea has made some improvements to its rulemaking and regulatory system over the past few years. However, there remains a lack of transparency that cuts across various issues affecting U.S. firms in many different sectors. This continues to be one of the principal problems cited by U.S. businesses seeking to compete in the Korean market.

Korea's Administrative Procedures Act (APA) stipulates that the public comment period for draft regulations subject to the APA shall be no less than 20 days. However, in many cases, the 20-day minimum is insufficient. In addition, in many instances the final versions of regulations do not reflect the comments provided and often offer no explanation for why they were rejected.

Motor Vehicles

Increased access to Korea's automotive market for U.S. suppliers remains a key priority for the U.S. Government. Korea maintains an eight percent tariff and a range of nontariff barriers, such as discriminatory taxes based on engine size, unique standards, inadequate regulatory transparency, and inadequate ability of stakeholders to provide input at an early stage into the development of regulations and standards.

In 2008, the Korean government implemented amendments to its system for certifying compliance with automotive emissions requirements. The amended regulation allows foreign automakers to certify that they meet Korean emissions requirements via submission of the manufacturers' own test data, eliminating the requirement for in-country testing or overseas tests witnessed by Korean regulators. The new certification process also applies to imports of off-road equipment.

The Korean government submitted the Low Carbon Green Growth Act to the National Assembly in early 2009. It was passed on December 29, 2009. Among other things, it requires the Korean government to begin regulating automotive CO_2 emissions. On July 6, 2009, in anticipation of eventual passage of the Act, the Presidential Green Growth Committee (GGC) proposed raising Korea's fuel efficiency standard and introducing a carbon dioxide emissions standard for automobiles in order to implement the Act. The GCC proposal introduces a national average auto emission standard of 140 g/km of CO_2 and an average fuel economy level of 17 km/l. Manufacturers and importers would be able to choose either standard to satisfy the requirement. Under the GGC recommendation, this new regime would be gradually phased in between 2012 and 2015.

U.S. automobile manufacturers have raised concerns with the GCC proposals. They have noted that at 17 km/l, the proposed new Korean fuel economy standard would be more stringent than the new proposed U.S. combined car and truck standard of 15.1 km/liter and that the GCC proposal's four year phase in period is shorter than the five year phase in period foreseen under the proposed U.S. regulation.

The Korean government is still at the initial stages of developing the regulations that would implement the Low Carbon Green Growth Act and the GGC’s recommendations. While the U.S. Government supports Korea’s efforts to respond effectively to the challenge of global climate change and energy conservation, it held several discussions with the Korean government in 2009, including at senior levels, to ensure that the specific implementing regulations are developed transparently, with full participation of U.S. and other foreign automakers, and include sufficient flexibility mechanisms to ensure that the final regulations are realistic, achievable, and fair. The Korean government has assured us that it will work closely with the U.S. government, as well as with U.S. and other foreign stakeholders, as it develops the implementing regulations.

Motorcycles

Although progress has been made over the past several years to resolve U.S. concerns over Korea’s noise standard on motorcycles, several market access issues remain, including a highway ban on motorcycles, tariff and tax levels, and the inability of motorcycle owners to obtain ownership titles and obtain financing for a motorcycle purchase that uses the motorcycle as collateral. The Korean National Police have commissioned a study on the safety of motorcycles on highways and results are expected in 2010. The U.S. Government continues to press Korea to eliminate the ban on riding large motorcycles on highways and to urge Korea to complete the study expeditiously and objectively.

Pharmaceuticals

Cost containment measures under the Drug Expenditure Rationalization Plan (DERP), enacted in December 2006, continue to subject pharmaceutical products to downward price revisions. This affects not only drugs that have entered the market since DERP was adopted, but also products that were approved for reimbursement prior to DERP's adoption. The U.S. Government continues to urge Korea to refrain from implementing reimbursement policies that hinder the development and introduction of innovative pharmaceutical products and medical devices. Such policies not only discourage companies from efficiently introducing advanced medical products to the Korean market, but may also serve as a disincentive to investment in research and development.

In 2009, Korea’s Ministry for Health, Welfare and Family Affairs (MHWFA) launched a Task Force on Drug Pricing and Distribution, and in February 2010, the Task Force announced its proposed measures to eliminate unethical business practices and to reduce reimbursement prices for drugs. While these proposals have not yet been implemented, U.S. industry has raised concerns regarding transparency of the Task Force.

Medical Devices

U.S. companies have continued to express concern that the lack of adequate transparency in the pricing and reimbursement decision making and regulatory processes has been an impediment to efficiently bringing medical devices to the Korean market.

In 2009, MHWFA announced its intention to replace the current reimbursement system for medical devices (which reimburses a new medical device at 90 percent of the present market price of the most similar product already in the domestic market) with a new re-evaluation system based on a single price for each “functional category” of products, with the stated goal of allowing premium pricing to reward innovation and improvement. To date, MHWFA has not yet released a final proposal. The U.S. Government has urged that MHWFA to develop and implement the new system in a transparent manner, with meaningful opportunities for affected stakeholders to provide input.

In July 2008 Korea adopted a healthcare technology assessment system for determining reimbursement eligibility for new medical devices. U.S. industry has raised concerns regarding the lack of adequate transparency regarding the criteria and methodology of the system and limited opportunities for stakeholder participation in developing and refining the system.

Distilled Spirits

On July 1, 2008, Korea’s Liquor Tax Law was revised to provide a 50 percent tax reduction for certain "traditional liquors" including some forms of distilled and diluted spirits. This amendment raised concerns in U.S. industry because of its potential impact on trade by disadvantaging imported competing liquors that do not fall under the narrow category of "traditional liquors." The Korean government provided assurances that the tax reductions apply only to small-volume producers of designated traditional liquors, that the total of potentially qualifying liquors amounts to less than 2 percent of Korea’s beverage alcohol market, and that there are no plans to expand the categories of beverage alcohol that would qualify for such tax reductions. The U.S. Government will continue to monitor Korean actions in this area.