

Rewriting Policy: Private Sector Influences in the KORUS FTA*

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At the conclusion of the Korean War, the U.S.-Korea alliance represented little more than a strategic alliance designed to protect the Republic of Korea from North Korean aggression and U.S. interests on the peninsula. The South Korea that emerged from the war was one of the poorest nations in the world, with a gross domestic product (GDP) per capita of around only \$100. At the time, few would have imagined the ties that have developed or how Korea has grown as a market economy and democracy over the last six decades.

When the United States and Korea signed the Mutual Defense Treaty in 1953, there seemed little prospect that Korea would become the world's 13th largest economy and take on a leading role in the emerging preeminent global economic institution of the day, the G20. While not the deciding factor, the peace and stability provided by the alliance helped to create the conditions necessary for Korea to undertake its democratic transition and develop into a vibrant market economy. At the same time, the peace and stability provided by the alliance created the environment necessary to develop the U.S.-Korea alliance, or relationship, into a broader and deeper partnership that encompasses regional security, economic, diplomatic, and cultural issues.

While the alliance has gone through rocky periods, in recent years it has been on solid ground as the two sides worked through a series of long-standing issues relating to the nature of the security alliance, visa waiver, and the Korea-U.S. free trade agreement (KORUS FTA). As a result, the United States and Korea have sought to expand the U.S.-ROK alliance beyond its initial core function of deterring aggression from North Korea. At the end of the Bush administration, the two presidents agreed to develop a 21st century strategic alliance that would "enlarge common interests on the basis of universal values and strong trust."¹ In the first meeting between Presidents Lee and Obama, the two agreed to continue that effort by noting that "... our security alliance has strengthened and our partnership has widened to encompass political, economic, social, and cultural cooperation. Together, on this solid foundation, we will build a comprehensive strategic alliance of bilateral, regional and global scope, based on common values and mutual trust."²

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¹ "Full Text of S. Korea-U.S. Summit Statement," April 20, 2008, <http://asiafoundation.org/resources/pdfs/ROKUSSummitFullTextApr08.pdf>.

² "Joint Vision for the Alliance of the United States of America and the Republic of Korea." June 16, 2009, http://www.whitehouse.gov/the_press_office/Joint-vision-for-the-alliance-of-the-United-States-of-America-and-the-Republic-of-Korea/.

This paper will look at the alliance beyond its traditional role as a provider of peace and security on the Korean Peninsula, with the KORUS FTA serving as a test case for the evolution of the U.S.-ROK alliance and the role of the private sector within the alliance.

Conceptualizing the Private Sector in the U.S.-Korea Alliance

As with most alliances, the U.S.-Korea alliance is most often viewed from the perspective of its original *raison d'être* to protect South Korea from North Korean aggression and serve as a source of peace and stability in Asia. In the eyes of many, this is the sole purpose of the alliance and once the threat from North Korea no longer exists the alliance will have lost its relevance. However, over time the security assurances provided by the alliance allowed for the economic development of South Korea and large-scale foreign investment. Over time, that became a mutually reinforcing process. The alliance provided the security needed for economic growth, but the economic growth reinforced the need for the security alliance, creating a new and self-sustaining relationship between the United States and Korea.

What began as a very narrow alliance grew into an extremely complex and diverse relationship. A nation once dependent upon U.S. aid for survival developed to become the United States' 7th largest trading partner. In 2008, more than 1 million Koreans visited the United States, making Korea the 8th largest source of foreign visitors, and more Koreans study abroad in the United States than students from any other country.

While this paper will mainly focus on the private sector, all of these interactions have a positive impact on the alliance as a whole. They increase connections and understanding between the two societies, making the relationship as a whole more resilient. They also build a stock of common norms and values among participants in the alliance.

The private sector is a rarely mentioned component of the alliance whose value and influence is frequently undervalued. Trade and commerce have long been a significant component of alliances for the United States and other nations, as U.S. efforts to rebuild Japan and Europe in the aftermath of World War II demonstrate. From a theoretical perspective, allies have long sought to liberalize trade between each other, as increased trade among the allies brings efficiency gains that can be harnessed as additional resources for the alliance's mutual defense.³

The U.S.-Korea alliance is a telling exemplar of this phenomenon. Since the end of the Korean War, the U.S.-Korea alliance has provided two key public goods: the peace and stability necessary for Korea's economic development and a primary export market for Korea's goods. As Korea's economy grew, it was able to convert these additional resources into the modern, high-tech military Korea possesses today. It is also worth noting that this process created a symbiotic relationship whereby the security alliance created the environment necessary to increase private sector interactions, and those interactions in turn reinforced the security alliance by building mutual commitments and giving the United States a greater stake in the alliance's success. The

³ E. D. Mansfield and R. Bronson, "Alliances, Preferential Trading Arrangements, and International Trade," *American Political Science Review* (1997), pp. 94-107.

private sector's continued commitment to Korea also sends a strong signal to North Korea of the United States' continued commitment to the alliance.

Conceptually speaking, the alliance is best seen as a series of policy choices along a spectrum that is influenced by each actor in the political process to a differing degree.⁴ As each actor pursues the policies that support its interests, the broader U.S. policy towards the alliance takes shape, reflecting those interests. The degree of influence an actor has over those policies diminishes as one moves further away from an actor's core competency.⁵

For example, the private sector had a high degree of influence over the policy choice to grant Korea entry into the visa waiver program. Korea's entrance into the program supported the private sector's interest in easing the ability of Koreans and Americans to travel freely between the two countries and was a low-level security matter through which the private sector could exert its influence in the political process. This ability would clearly diminish on the security side as one moved closer to tactical military decisions. It is also interesting to note, however, that the private sector was a strong proponent of Korea being designated as a "NATO+4" country, giving Korea greater access to U.S. arms.

The private sector's broader policy influence in the U.S.-ROK alliance is a positive for both states. Historically, the alliance has been run on the U.S. side by policy elites in Washington. While this might have shielded the alliance from the level of public scrutiny it experiences in Korea, it also means that the alliance does not have the built-in level of public support in the United States that it does in Korea. This is where the private sector often plays a crucial role in the alliance. The long-term success of any policy choice requires domestic political support in a democratic society. While the public is often less attentive to all foreign policy questions, public support within the political process is still necessary. This is important because many elected officials have a low level of knowledge and awareness of U.S.-Korea relations. Without the private sector to serve as a political constituency for increased engagement with Korea, recent policies such as Korea's addition to the visa waiver program or its status as a NATO plus four country would have been either significantly more difficult to achieve or perhaps not possible. This might especially have been true on the issue of visa waiver in light of the heightened awareness and screening of those crossing U.S. borders since September 11. This will also become an issue in later discussions on the KORUS FTA's prospects.

Beyond its role in the policy process, the private sector plays an important role as an intermediary between the United States and Korea. Because of the private sector's deeper ties to Korean society, it often has a better understanding of the key political figures in Korean society

⁴ Thomas R. Kappen, "Public Opinion, Domestic Structure, and Foreign Policy in Liberal Democracies," *World Politics* (1991), pp. 497-512.

⁵ In his article "Public Opinion, Domestic Structure, and Foreign Policy in Liberal Democracies" (*World Politics*, Vol. 43, No. 4), Thomas Risse-Kappen demonstrates that foreign policy in the United States is neither solely elite driven or a reflection of public opinion. Instead, he argues that foreign policy development is reflective of a state's structures and coalition building, of which the United States structure is susceptible. To help conceptualize this, I utilize aspects of utilitarian liberal foreign policy theory which posits that actors in the foreign policy making process seek to maximize their utility and survival is their primary objective. In the case of the private sector the key goal is increasing profits, while for political actors the key goal is to be reelected. It should be noted for political actors that this also means there is a bias towards policy that ensure government cohesion and reflect partisan goals.

and the most culturally appropriate way to address an issue. The private sector helps to develop ties between U.S. Forces, Korea and Korean civil society through programs like the “Good Neighbor Program,” and helps to advise the military on how best to approach a situation through a civilian advisory council. In addition, the private sector’s outreach efforts to Korean civil society help foster a greater understanding of U.S. policies.

While driven by its interest in creating more business opportunities in Korea, the private sector broadly pursues policies that support greater openness and transparency in government decisions. In doing so, it also reinforces those norms across the broader policy spectrum of the alliance, another important factor in an alliance between two democracies.

The private sector has a number of ways to indicate its policy preferences to elected officials. These include the direct lobbying of the administration and members of Congress on its preferred policy preferences, grass roots campaigns to encourage the constituents of political actors to express their support for the private sector’s preferred policy preferences, and engaging in public promotion of a position through means such as op-eds or policy papers. More formal methods of indicating the private sector’s policy concerns include submitting comments for the record during comment periods on proposed legislation, and taking part in hearings before congressional committees.

However, much like the policy elites who have often shaped U.S. policy towards Korea, the private sector is not monolithic. Different actors within the private sector—the U.S. automobile industry and organized labor are prime examples—can and do see their interests as different from the vast majority of the private sector. As they do, they exert political influence on the process, seeking to shape, guide, or block a proposed policy. At the same time, both political and private sector actors prioritize a particular policy proposal within the alliance based on its relative perceived importance to the actors’ overall interests.

As will become clear later, the development and current status of the KORUS FTA is filled with actors influencing the shape of policy relative to their hierarchy of needs. One of the difficulties facing the agreement while under consideration in the United States relates directly to the agreement’s low level of priority for members of Congress in political terms, despite being one of the most significant FTAs ever negotiated. Passage of the agreement would have little direct impact on the electoral prospects of elected officials except for those few who represent districts with constituents perceived as losing from the agreement. Private and political actors who feel threatened because of the negative impact the FTA could have on their future express a stronger voice in the process than supporters who utilize their political capital on issues in the political system with more impact on their personal prospects. There has been a significant influx of additional issues in recent years as a result of the economic and financial crisis. A more holistic approach along these lines helps to give a broader view of policy interaction within the alliance.

The Private Sector and the Development of the KORUS FTA

There has always been a symbiotic relationship between the private sector and security interests in U.S. relations with Korea. The first U.S. naval contacts with Korea were part of an attempt to

open Korea to commerce with the United States. More formal security and commercial relations date back to the 1882 Treaty of Amity and Commerce, which first opened Korea to U.S. commercial activities and predates the modern alliance by more than 70 years. Shortly thereafter, Morse, Townsend, and Co. became the first U.S. business to set up shop in Korea in 1886, while Standard Oil became perhaps the first well known American corporation in Korea in 1897.⁶ While those early private sector interactions are the beginnings of U.S.-Korea relations, it is not until nearly a decade after the Korean War that we begin to see the development of the private sector interactions that exist today.

Despite the fact that the American Chamber of Commerce in Korea (AMCHAM Korea) was established in same year as the Mutual Defense Treaty to encourage the development of trade and commerce between the United States and Korea, much of the private sector interactions in the early years after the Korean War were tied to official U.S. aid. At the time, the won was kept artificially high, eliminating any competitive advantage Korea might have in exporting goods, creating a disincentive for private industry to invest in Korea and limiting Korea's appeal as a market for U.S. exports. This policy would not change until after the coup of Park Chung-hee, who adopted an export-oriented policy to develop the Korean economy.⁷ It was not until the late sixties that companies such as Motorola, Dow Chemical, and IBM began to show up in Korea.⁸

From those humble beginnings, the private sector has developed a robust relationship in Korea that has been extremely successful in fulfilling the mission set out for AMCHAM Korea. Korea has grown to become the United States 7th largest trading partner, with over \$100 billion in two-way trade in goods and services in 2008. Cumulatively, Korea has received over \$40 billion from the United States in foreign direct investment (FDI).

During the early years of Korea's development, the barriers put in place to help Korea's industries develop were less of an issue within the alliance as Korea had not yet emerged as an attractive export market for U.S. goods. However, by the 1980s, U.S. firms began to view Korea as an attractive market for the export of U.S. goods and services. As U.S. companies began to expand their export efforts, the barriers that existed in the Korean market became a significant source of friction. Trade disputes between the two sides became so intense that the relationship of the 1980s and early 1990s was considered antagonistic and confrontational. Reflective of these tensions, up till the early 1990s AMCHAM Korea often referred to Korea as one of the most difficult places to do business.⁹

This began to change in 1998. The Asian Financial Crisis hit Korea harder than other nations. The Korean won fell from 800 to 1700 won to the dollar, the economy went into recession, and the Korean private sector experienced numerous corporate bankruptcies. To help right the ship, Korea sought a loan from the International Monetary Fund to stabilize the domestic economy

⁶ Andrew Salmon, *American Business and the Korean Miracle: U.S. Enterprise in Korea, 1866-Present*, Seoul: AMCHAM Korea, 2003, pp. 26-27.

⁷ Salmon, pp. 82-83.

⁸ Salmon, pp. 105-106.

⁹ Myron Brilliant, Sean Connell and Tami Overby, "U.S.-Korea Business Council/American Chamber Of Commerce: 2005 Policy Paper," AMCHAM Korea, http://www.amchamkorea.org/downloads/Resources/USKBC_AMCHAM%202005%20Policy%20Paper.pdf.

and the won. As part of the bailout package, Korea was obligated to undertake a series of economic reforms and market openings that helped alleviate some of the tensions in the economic relationship. This change was further aided by the introduction of quarterly government-to-government working level meetings in 2001 to help move the relationship to a more collaborative posture. The relationship improved so much that by 2005 AMCHAM Korea was recommending Korea as the best place to do business in Asia and serious discussions about the prospect of an FTA between Korea and the United States had begun.

The U.S.-Korea Business Council first began to call for an FTA with Korea shortly after the Asian Financial Crisis. Many within the business and policy community saw the conclusion of a Bilateral Investment Treaty (BIT) as a first step towards negotiating an FTA with Korea. However, progress towards concluding a BIT became stalled over a dispute related to Korea's screen quota, which limited the access of U.S. films in the Korean market.

Despite the failure to conclude a BIT, serious consideration of pursuing an FTA began shortly after Kim Hyun-chong became trade minister in 2004. Later that year on the sidelines of the Asia Pacific Economic Cooperation meeting, Korea and the United States agreed to explore the possibility of concluding an FTA and spent 2004 and 2005 conducting a review of the prospects.

Korea's decision to pursue an FTA with the United States was part of a shift in policy that moved from emphasizing multilateral trade negotiations to pursuing both multilateral and bilateral trade agreements at the same time. The shift by Korea was largely influenced by the lack of progress in the ongoing Doha round of World Trade Organization (WTO) trade negotiations and the growing proliferation of free trade agreements. In 2003, Korea and Mongolia were the only members of the WTO who did not have an FTA with other nations. Because of Korea's dependence upon trade for economic growth, Korea needed access to foreign markets for its continued economic growth and saw an opportunity to pursue economic reforms and liberalization through its FTA program.¹⁰

However, before FTA negotiations could be launched, the United States and Korea needed to make progress on long-standing irritants in the trade relationship. Issues such as the screen quota had gone unresolved for years, and if the two sides could not show progress on some of these issues they would not be able to build the support needed within the business community to create the political support for moving forward. In addition, because of the comprehensive nature of U.S. FTAs, the United States needed to know that Korea was willing to liberalize its agricultural market before proceeding with FTA negotiations.

In January of 2006, the two sides began to make headway on some of the issues standing in their way. Korea agreed to cut its screen quota in half to 73 days. Prior to the agreement, the screen quota limited the access of U.S. films to the Korean market by requiring that domestic cinemas show Korean films 40 percent of the time. They also reached an initial agreement to reopen the Korean market to imports of boneless U.S. beef from cattle aged 30 months or less. However,

¹⁰ Since Korea began to emphasize FTAs, it has concluded agreements with Chile, Singapore, the European Free Trade Association, ASEAN, the European Union, Peru, and India, in addition to the United States. It is currently negotiating FTAs with the Gulf Cooperation Council, Australia, and New Zealand, and is working to restart its stalled negotiations with Japan.

this was to be an abortive attempt to restart imports of U.S. beef as a series of shipment were discovered to have bone fragments, leading to a suspension of U.S. beef exports to Korea until a new agreement was reached in April of 2008.

Making progress on the beef issues was an important step in paving the way for FTA negotiations for two reasons. First, agriculture has historically been one of the most important constituencies for free trade in the United States. Without the support of the agricultural community, it would have been impossible to undertake the negotiations. Second, Senator Max Baucus, then the ranking member of the Senate Finance Committee and currently its chairman, had made clear that if Korea did not open its market to U.S. beef, any FTA between the United States and Korea would not be allowed to proceed in the Senate Finance Committee.

Economic Benefits of the KORUS FTA

The KORUS FTA as originally negotiated benefits both the United States and Korea. In aggregate terms, the study by the United States International Trade Commission (ITC) shows the United States experiencing slightly larger gains than Korea.¹¹ The ITC concludes that the United States would likely see its GDP increase by \$10.1-11.9 billion, with exports of goods to Korea increasing by \$9.7-10.9 billion and imports of goods from Korea increasing by \$6.4-6.9 billion. Prior studies of a potential FTA between the United States and Korea also had similar results and largely reflect the changes in trade flows from the removal of Korea's higher tariff levels on goods.

However, for Korea, the benefits from the FTA do not come solely from the removal of tariff barriers in the United States. As one of the world's leading exporters, market access for Korean goods is necessary for the continued growth of the Korean economy. The KORUS FTA would lock in preferential access to the United States market and help to ensure access to an important export market at a time when the Korean economy is becoming more dependent on China. Perhaps more significantly, the FTA would aid Korea in enacting and solidifying economic reforms in its domestic market, primarily in the services sector, which Korea has hoped would improve economic efficiency and help to attract additional FDI. Reforming Korea's services will help Korea to remain internationally competitive as it faces additional competition from China and other emerging markets.

From an industry perspective, there are benefits for the United States in all of the key sectors of the agreement: manufacturing, agriculture, and services. In manufacturing, the United States should see increased exports of machinery, chemicals, and pharmaceuticals to Korea. Even the most controversial area of the agreement, trade in autos, would have seen benefits under the KORUS FTA as it was originally negotiated. The ITC's assessment of the FTA concludes that the United States would see a large percentage increase in auto sales from the FTA in the short run, but notes that the value would likely be small because of the low level of U.S. penetration in the Korean market. The long-term impact of the agreement would be dependent upon the "implementation of FTA provisions addressing NTMs, including burdensome standards and

¹¹ Nannette Christ et al., *U.S.-Korea Free Trade Agreement: Potential Economy-Wide and Selected Sectoral Effects*, Washington, DC: U.S. International Trade Commission, 2007.

certification requirements, taxes, and an opaque regulatory environment.”¹² In terms of Korea’s access to the U.S. market, the ITC found that 55-57 percent of the increase in Korea’s sales in the United States would be diverted from other foreign producers.

In terms of agriculture, Korea is already one of the largest export markets for the United States. Since 2006, Korea has been the United States 6th largest export market for agricultural goods. In 2008, the United States shipped more than \$5.5 billion worth of agricultural products to Korea, more than half of what the United States sends to the entire European Union, its 5th largest export market for agriculture.

The agricultural provisions of the agreement cover nearly all agricultural products, with the significant exception of rice, though some tariff eliminations have significant phase out periods. According to the American Farm Bureau Federation, “U.S. agriculture has much to gain from the Korea TPA with an estimated \$1.6 billion in increased farm exports by full implementation of the agreement in 2027. The Korea TPA will benefit the agriculture industry as a whole, including major grain, oilseed, fiber, fruit and vegetable and livestock sectors. The Korea FTA allows the U.S. to become a competitive supplier of agricultural products to South Korea by providing duty-free and reduced tariff access. This will allow the U.S. to better compete with South Korea’s other trading partners that are currently supplying a large percent of the South Korean food and fiber market.”¹³

The KORUS FTA also includes key provisions for the services sector. Under the agreement, Korea will improve the transparency and predictability of its regulatory and rulemaking procedures, as well as take steps to open itself to trade and investment in express delivery, financial services, and professional services. However, the most significant benefit of the FTA might be Korea’s decision to commit itself to a negative list for services. This means that Korea has agreed to allow access to all services other than those for which it has taken a specific reservation within the FTA.

While there has been significant discussion of the potential for decline in Korea’s agricultural sector, there has been less discussion regarding where the United States will potentially see declines in production from the FTA. Because of the relative size of the United States’ economy compared to Korea, the impact in many sectors, both positive and negative, will not be as large as it will be in Korea. However, this does not mean that the United States does not face the prospect of seeing a decline in output in certain sectors.

Both the ITC study and a study done before the conclusion of the FTA by Robert Stern and Kozo Kiyota indicate that textiles and wearing apparel are an area of potential decline for the United States. The textile and apparel sectors have long been in decline in the United States, and the sector is facing serious competition from China in both countries. The Stern and Kiyota study estimates declines of about a half a percentage point in both sectors with similar estimates for

¹² Christ et al., pp. 3-74.

¹³ American Farm Bureau Federation, "Statement by Bob Stallman, President, American Farm Bureau Federation, Regarding Support for South Korea TPA," July 11, 2007, <http://www.fb.org/index.php?fuseaction=newsroom.newsfocus&year=2007&file=nr0711.html>.

declines in employment.¹⁴ The ITC estimates declines in employment and output from 0.4 percent to 0.8 percent.

The Influence of the Private Sector on the KORUS FTA

Since the KORUS FTA was signed in June of 2007 there have been essentially three significant private sector opponents to the agreement: the beef industry, the auto industry, and organized labor. While organized labor has been a key opponent of the agreement, the real debate has been over beef and autos. The following section analyzes the concerns of each industry and how they have sought to influence the KORUS FTA.

The Auto Issue

Arguably no industry had more to gain from the KORUS FTA, and no industry secured more reforms dedicated to opening the Korean market than the U.S. auto industry. Of all of the trade disputes between the United States and Korea, perhaps none has been more frustrating as well. The difficulties in the auto industry began almost as soon as Korea opened its market to foreign autos in 1987 and have continued to this day.

Since Korea's market has been open to foreign competition, foreign auto producers have faced barriers dealing with an anti-import bias, the prospect of tax audits for the owners of foreign cars, and an array of standards and regulations that imposed a hardship on low volume sellers in the Korean market. To Korea's credit, it has taken steps to address the issue of an anti-import bias in Korea and has stopped its practice of auditing the owners of foreign cars. The United States and Korea also attempted to address these issues through two memoranda of understanding in the 1990s, but the United States continues to face a significant autos trade deficit with Korea.

From the U.S. perspective the issue is fundamentally one of fairness. In its submission to the Trade Policy Staff Committee as the United States was preparing for the negotiations with Korea, the Automotive Trade Policy Council, which represented Ford, DaimlerChrysler, and General Motors at the time, stated that "Over the years, many of our international competitors have made huge profits in the United States while their domestic markets have stagnated due to auto policies that promote export oriented growth rather than stimulating domestic demand. Korea stands out as one of the most egregious examples of the dynamic."¹⁵

The difficulty mostly comes down to numbers and the current state of the U.S. automobile industry. Imports of foreign automobiles into Korea account for only about 5 percent of the Korean automobile market. At the same time, some 616,000 vehicles were exported from Korea to the United States with only 14,000 vehicles going from the United States to Korea in 2008,

¹⁴ Kozo Kiyota and Robert Stern, "Economic Effects of a Korea-U.S. Free Trade Agreement," Korea Economic Institute Special Studies Series: 4 (2007), <http://www.keia.org/Publications/SpecialStudies/07Kiyota-Stern.pdf>.

¹⁵ Automotive Trade Policy Council, *Testimony of Automotive Trade Policy Council on the United States - Republic of Korea FTA Negotiations*, Washington, DC: U.S. Trade Representative, 2006, p. 2.

and the trade deficit with Korea on autos represents the largest portion of the United States trade deficit with Korea.¹⁶

The difficulties the U.S. industry faced during the financial crisis have also been a significant factor, along with jobs. In their submission to the U.S. Trade Representative (USTR) during the request for comments on the concluded FTA in 2009, the American Federation of Labor and Congress of Industrial Organizations (AFL-CIO) states that “the auto provisions of the KORUS FTA put our domestic auto industry and thousands of U.S. auto jobs in jeopardy.”¹⁷ It also concludes that “The auto provisions of this agreement are unlikely to open the door for more than a handful of vehicles from U.S. auto companies. Even fewer of those vehicles are likely to be made in the United States, further undermining any potential benefits for American workers.”¹⁸

When the United States and Korea decided to move forward with the FTA, the results of the additional discussions showed that Ford and United Auto Workers (UAW) were successful in having the auto provisions of the KORUS FTA revised in an agreement reached in Columbia, Maryland on December 3, 2010. In the agreement, Korea agreed to take further steps to address U.S. concerns related to regulatory barriers and allow the United States to phase out its tariffs at a slower rate than in the original agreement.

Because of the need to secure political support for the KORUS FTA in the United States, the Obama administration took extra efforts to secure the support of the UAW and Ford. Public support for the agreement is lukewarm at the best. A recent survey on trade by the Pew Research Center found that only 45 percent of Americans thought increased trade with Korea was a good thing, while 41 percent thought it was not. In addition, general support for free trade agreements in the United States has waned to only 35 percent, with the strongest support interestingly among self-identifying Democrats at 40 percent.¹⁹ To make up for the lack of public support, the administration focused on developing elite support. This meant reaching a deal that could be supported by Ford, the UAW, and key members of Congress such as Sander Levin and David Camp. In the UAW’s case, it became one of the first unions to give its support to a free trade agreement since the heyday of union support for trade after World War II. In the case of Ford, it became such a key player in the talks that Bloomberg News reports that its CEO, Alan Mulally, came to DC for the talks and “was consulted nearly every step of the way.”²⁰

How did Ford and the UAW succeed in getting the KORUS FTA revised? They conducted an intensive domestic lobbying campaign to influence the final provisions of the KORUS FTA and

¹⁶ U.S. Department of Commerce, “U.S. Motor Vehicle Industry Domestic and International Trade Quick-Facts,” International Trade Administration, http://www.trade.gov/wcm/groups/internet/@trade/@mas/@man/@aai/documents/web_content/auto_stats_mv_qfacts_pdf.pdf.

¹⁷ AFL-CIO, *Comments Concerning the Free Trade Agreement with the Republic of Korea*, Washington DC: U.S. Trade Representative, 2009, pp. 31-32.

¹⁸ AFL-CIO, p. 3.

¹⁹ Pew Research Center for the People and the Press, “Public Support for Increased Trade, Except With South Korea and China,” November 9, 2010, <http://people-press.org/report/673/>.

²⁰ Hans Nichols and Mark Drajem, “Long Road to U.S.-Korea Trade Deal Ran Through Maryland Suburb,” *Bloomberg News*, December 9, 2010.

how the agreement's provisions and the auto issue in general was viewed publically. A review of the Senate Office of Public Record's database since the agreement was signed reveals that Ford Motor Company and the United Auto Workers have accounted for slightly less than 10 percent of the lobbying disclosures related the KORUS FTA since 2006.²¹ All of that lobbying succeeded in framing the debate as a question of fairness by marketing the contrast of "700,000 to 7,000." Though the numbers were never completely reflective of the auto situation,²² the auto industry and the UAW had successfully framed the debate and therefore forced the issue.

In making their case to the administration, a review of Ford's submission to USTR in response to the request for comments reveals that Ford was aggressive there as well. In its submission, Ford raised issues as barriers that had been already resolved in the original text of the FTA. The key example is Korea's auto tariff. In the original agreement, Korea would have eliminated its tariff on U.S. autos immediately, yet Ford in its submission listed Korea's 8 percent tariff as one of Korea's barriers. Interestingly, in the Columbia agreement, Korea was able to claw back its tariff phase out and will now only cut its tariff in half in the first year and then eliminate it in the fifth year.

Additionally, in the closing days of the recent FTA discussions, Ford also launched a significant public relations campaign to make its case for changes to the FTA. On November 4, 2010 Ford purchased full-page ads in the *Washington Post* and papers in all of the major auto-producing states, as well as establishing a multipage website at fordmotorcompany.com/freetrade. In the ad, Ford says that "We believe in free trade, and this isn't it. In fact, Ford has supported every trade agreement approved by Congress since 1965 – until this one."²³

The lobbying effort of Ford and the UAW, which resulted in the Columbia, Maryland agreement, proved effective for four reasons. First, trade in autos consisted of the largest portion of the U.S. trade deficit with Korea. Second, Sander Levin and David Camp, both from Michigan, have served as the chairman of Ways and Means, the ranking member, or the chairman/ranking member of the trade subcommittee from the beginning of the negotiations. Without their support, which would require the support of industry and to a lesser extent the unions, it would be difficult to build support for the agreement more broadly. Third, the auto industry could tap into suspicion about trade in the U.S. rust belt where the job losses to outsourcing have been greatest. Lastly, the UAW, and organized labor more generally, have strong ties to the Democratic Party, which has controlled both the House and Senate since 2007²⁴.

²¹ This data was compiled by the author from the Senate Office of Public Records Lobbying Disclosure Act Database accessed on December 27, 2010 at: <http://soprweb.senate.gov/index.cfm?event=selectfields>. However, it should be noted that the disclosures provided do not indicate how many offices were lobbied or how often. Based on the author's own experience in meeting with staff on Capitol Hill on this issue, it is likely that in terms of overall meetings on this issue, Ford and organized labor account for a larger share of the overall lobbying effort than the share that their disclosure forms indicate. In meetings with staff after the FTA was concluded, the author would often be informed that only Ford and organized labor had met with the particular office on KORUS FTA, though this did begin to change in later years.

²² Troy Stangarone, "Moving the KORUS FTA Forward in a Time of Economic Uncertainty," December 2008, Korea Economic Institute, <http://www.keia.org/Publications/Exchange/01Exchange08.pdf>.

²³ Ford Motor Company, "Ford KORUS FTA Advertisement," *Washington Post*, November 4, 2010.

²⁴ While the Democrats will continue to control the Senate in 2011, control of the House will revert to the Republican Party.

The Beef Issue

In the case of beef, which also predates the FTA, the only issue addressed by the KORUS FTA is the elimination of Korea's 40 percent tariff on beef over 15 years. The larger issue of access to Korea's market has been handled separately, but considered a prerequisite to a successful vote on Capitol Hill. However, while the auto industry conducted an intensive lobbying campaign, the supporters of beef have largely taken a lower profile. The decision to not include beef in the Columbia agreement was one that was largely supported by the beef industry, but opposed by Senator Max Baucus.

Prior to the ban of U.S. beef in 2003, Korea had been one of the United States' top export markets. The ban in Korea largely stayed in place, despite efforts by both sides to resolve the issue, until after the negotiations were concluded. In May of 2007, the World Organization for Animal Health (OIE) classified the United States as a "controlled risk" country, opening the way for the United States and Korea to finally resolve the issue. In line with Korea's obligations as a member of the OIE, the United States and Korea proceeded to negotiate a new import protocol that would open the Korean market to all ages and cuts of U.S. beef, with the exception of specified risk materials. It was also hoped by many in Congress and industry that achieving a full opening in Korea would help to open other recalcitrant markets in China, Hong Kong, Taiwan, and Japan, all of which have guidelines for the importation of U.S. beef that are stricter than Korea's.²⁵

However, the decision by Korea to resume imports of U.S. beef served as a catalyst for mass protests that engulfed Seoul for much of the summer of 2008. Though at their core the protests were more focused on domestic frustrations with the early months of the Lee administration, they did ultimately lead to the United States and Korea negotiating a commercial agreement to limit imports of U.S. beef to cuts that are 30 months of age or younger. That commercial agreement is still in effect today and Senator Baucus has called for the full implementation of the original beef protocol before Congress votes on the FTA.

The situation with beef, however, has developed differently than autos. In political terms, agriculture historically has been one of the strongest supporters of free trade in Congress. When the beef issue was not resolved by the time of the original conclusion of the KORUS FTA, the American Farm Bureau Federation decided that it could only support the agreement when Korea had fully complied with the OIE's guidelines. Without the agricultural industry and key members such as Senator Max Baucus, the FTA would not pass Congress. This position reduced the need for lobbying as extensively on the issue, and as a result the beef industry and the American Farm Bureau Federation do not have much of a presence in the lobbying disclosure forms.

However, with the re-opening of the Korean market to U.S. beef products under the age of 30 months, the political calculus changed. U.S. exports of beef increased by 175 percent in 2010

²⁵ "Fourth of July BBQ or More Fireworks in Seoul?" July 1, 2008, Korea Economic Institute, <http://newsmanager.commpartners.com/kei/issues/2008-07-01/2.html>.

through August,²⁶ and much of the industry is reluctant to jeopardize growth in what is once again one of the United States' top export markets for beef. As such, the American Meat Institute, the National Cattlemen's Beef Association, and the American Farm Bureau Federation have all moved towards supporting the FTA without the full opening of the Korean market to U.S. beef.

If the beef industry has largely moved in support of the KORUS FTA, why has Senator Baucus continued to push for Korea to open its market to U.S. beef over the age of 30 months, the most significant category of U.S. beef still excluded from the Korean market? The answer likely rests in local politics. A review of campaign contributions over the last two election cycles clearly shows that Senator Baucus receives campaign contributions primarily from financial institutions and legal firms which largely support the FTA as it is, while agricultural interests are not among the top five industries he has received donations from since the FTA discussions commenced.²⁷ However, he has been praised by the Montana Stock Growers Association for his efforts to "to ensure more access for U.S. and Montana beef into South Korea's marketplace as a condition to ratifying a Free Trade Agreement between the two countries."²⁸

Other Factors Influencing the KORUS FTA

While beef and autos have been the two proximate causes for the delay in consideration of the KORUS FTA, they should not be viewed as the only factors over the last three and a half years. In many ways the FTA's delay has been a function of alternate political choices and significant political changes since the negotiations first commenced.

Before the ink was even dry on the KORUS FTA, the political dynamics had begun to change in the United States and the negotiators found themselves having to consider changes to the agreement. In the November 2006 mid-term elections, the Democratic Party retook control of the House of Representatives and the U.S. Senate. One of the consequences of the shift of the legislative branch from Republican to Democratic control was the May 10 agreement of 2007.

Ever since President Bill Clinton pushed the North American Free Trade Agreement through Congress, trade has become a progressively more unpopular issue among Democratic members of Congress and key constituent groups, especially organized labor. By the time Democrats came to power in 2007, support for trade had fallen to abysmal levels and many freshman Democrats had campaigned on anti-trade platforms. According to a poll done by the Pew Research Center in December of 2006, only 42 percent of self-identifying Democrats thought trade was good for the

²⁶ American Meat Institute, "AMI Registers Disappointment About Failure to Resolve Outstanding Issues in Korean Free Trade Agreement, Institute Expresses Concerns Over Potential Missed Opportunities for U.S. Industry," November 12, 2010, American Meat Institute, <http://www.meatami.com/ht/display/ReleaseDetails/i/64212>.

²⁷ "Max Baucus: Campaign Finance/Money - Summary," Opensecrets.org, <http://www.opensecrets.org/politicians/summary.php?cid=N00004643&cycle=2010>.

²⁸ Montana Stock Growers Association, "MSGGA Statement on Senator Baucus' Efforts in U.S.-Korea Beef Negotiations," November 10, 2010, Montana Stockgrower Blog, <http://mtstockgrower.blogspot.com/2010/11/msgga-statement-on-senator-baucus.html>.

United States, while only 10 percent thought trade created jobs, and only 25 percent thought it brought economic growth.²⁹

The May 10 agreement was an attempt by the Congressional leadership and the administration to find a way to make trade policy possible when a significant core of the Democratic Party had lost its faith in the ability of trade policy to function. To bridge this gap the May 10 agreement called for each of the pending FTAs at the time—Peru, Panama, Korea, and Colombia—to be revised to include new and enforceable labor and environmental provisions, key demands of party supporters in organized labor. The agreement also called for revisions to be made to specific parts of each agreement before they would be considered by Congress—beef and autos in the case of Korea. The hope was that the change would create support for the agreements among labor organizations and therefore provide the support needed for Democrats to vote for the pending FTAs.

While the 2006 mid-term elections began the process of delay for the KORUS FTA, elections in Korea would soon be taking the issue off the table as well. In December of 2007, Korea was set to have a presidential election and then elections for the National Assembly shortly after. This prevented Korea from taking steps to resume imports of U.S. beef until after its election cycle had passed to prevent beef and the FTA from becoming election issues.

By the time an agreement was reached in April of 2008 to resume imports of U.S. beef, two other factors were already at play that severely impacted the KORUS FTA's ability to be considered in 2008. First, President Bush had decided that his priority was the passage of the Colombia FTA, not the KORUS FTA or the Panama FTA. This led to a miscalculation on the part of the Bush administration when it sent the Colombia FTA to Congress, a move that poisoned the political environment for trade for the remainder of President Bush's term.

As 2008 came to a close, the KORUS FTA was caught up in larger global events. The financial crisis completely altered the priority of politicians. The political necessities of dealing with the financial and economic crisis meant that the KORUS FTA was moved down the priority list as the Bush and Obama administrations sought to forestall a second coming of the Great Depression.

Lastly, the KORUS FTA was also strongly opposed by key Democratic constituents within the labor movement. Anyone who doubts that organized labor's opposition to the agreement remained even after the May 10 agreement need only read the AFL-CIO's 33-page response to USTR's request for comments on the KORUS FTA in the fall of 2009. The AFL-CIO's submission details labor's concerns over the labor, automotive, investment, services, dispute settlement, outward processing zone, and other provisions. The AFL-CIO's submission concludes by stating that "It is obvious that the Bush Administration USTR, tasked with negotiating the most significant trade agreement in over a decade, failed."³⁰

²⁹ Pew Research Center for the Public and the Press, "Free Trade Agreements Get a Mixed Review," December 19, 2006, <http://people-press.org/report/299/free-trade-agreements-get-a-mixed-review>.

³⁰ AFL-CIO, p. 33.

It is unlikely that any president, Republican or Democrat, would have sent the KORUS FTA to Congress during the crisis in 2008-2009. While beef and autos have been the commercial issues most discussed, the influence of organized labor, the domestic political situation in both countries, and the economic crisis cannot be discounted in explaining why the KORUS FTA has not been passed and implemented by both countries as of yet.

Status of the KORUS FTA

If beef and autos alone were not holding the KORUS FTA back, what changed to make the recent progress on autos possible? In short, North Korea. The security situation on the Korean peninsula changed significantly with the March 2010 sinking of the South Korean warship Cheonan. In this new security dynamic, the White House decided to push forward with the FTA for security-related reasons. This culminated with the decision to try to resolve the differences between the United States and Korea on the FTA by the time of the Seoul G-20 summit in November.

Though the two sides failed to conclude their discussions by the time of the Seoul G-20 summit, they did reach an agreement a short time later on December 3, 2010 in Columbia, Maryland. The Columbia agreement, coupled with the recent change in political control of the House of Representatives in the United States, may make 2011 the best opportunity since the agreement was signed to see it passed and implemented. If all goes well, the Obama administration will likely send the agreement to Capitol Hill for consideration in March or April for a vote sometime before the July 4 Congressional recess. This would place it on track to come into force by January 1, 2012, only six months after the EU-Korea FTA enters into force.

However, recent developments should not be seen as ensuring the FTA's passage in 2011, as potential obstacles still remain. While the Republican victory in the November elections should create a more favorable environment for trade on the Hill, much will depend on the Republican leadership's ability to work with the Obama administration. The recent tax deal is a positive sign of both sides' ability to work together. However, if push back from Tea Party supporters³¹ undermines cooperation with the administration and Republican attempts to rollback Obama's healthcare reforms lead to a legislative standoff, it could prevent the passage of the KORUS FTA.³²

One additional issue is the KORUS FTA's protection under Trade Promotion Authority. This protection allows the agreement to receive a vote in a specified time period and without the possibility of amendment. However, because of the changes reached in Columbia, Maryland,

³¹ While there has been concern that Tea Party candidates are anti-trade, the evidence does not seem to support this supposition. Based on a review of Tea Party candidates positions on trade during the election, the candidates who won are nearly evenly divided between pro- and anti-trade when a position could be determined, and of all Tea Party candidates 64 percent were pro-trade (See Troy Stangarone, "Does the Republican Victory in the House Open the Door for the KORUS FTA?" Center for U.S.-Korea Policy Newsletter, Vol. 2, No. 11 (November 2010), The Asia Foundation). A more likely outcome would be a hard-line Tea Party position against working with the administration and granting it the types of victories seen in the recent lame duck session, imperiling a legislative agenda that included the KORUS FTA.

³² Stangarone, "Does the Republican Victory in the House Open the Door for the KORUS FTA?"

opponents may attempt to seek a ruling from the parliamentarian that the agreement is substantively different than the original agreement and have these protections removed. While such a ruling by the House or Senate parliamentarian is unlikely, it would significantly hinder consideration of the agreement in 2011.

Prospects for Future Cooperation

The implementation of the KORUS FTA would bolster the private sector within the alliance and promote increased cooperation between the United States and Korea. By increasing protections for intellectual property, investment, and creating greater transparency in the regulatory process, the FTA will enhance the ability of U.S. and Korean firms to expand current areas of collaboration. As such, there are three levels on which the private sectors in the United States and Korea could utilize the enhanced economic partnership fostered by the KORUS FTA to spur greater cooperation: (1) strengthening bilateral cooperation between private sector actors; (2) encouraging issue specific cooperation; or, (3) pushing for greater cooperation on multilateral and regional trade agreements.

One interesting area for potential future cooperation between U.S. and Korean private sector actors is low carbon growth and the environment. Korea is making a strong push to become a global leader in the area of green technology, an area that is also important for the future growth of the United States. Because the development of new green technologies will require strong intellectual property rights protection to spur innovation, the FTA's provisions would make Korea a more attractive partner in this area. By working collaboratively, it would also create an incentive for the United States and Korea to work closely on global policy issues related to the environment and emerging technologies.

A specific offshoot of this could be cooperation on electric and hybrid vehicles. This might seem unlikely given the history of contention in the industry from Korea's history of domestic barriers, but both countries' auto producers are late to the next generation of automotive production. With Korea's experience in producing low cost, small vehicles, and the United States initial technological attempts in this area, the two sides might be ideally suited to take on the Japanese auto makers who are more advanced in this growing field.

When it comes to multilateral or regional trade issues, a potentially fruitful area of cooperation for the United States and Korea is the Trans-Pacific Partnership (TPP). The goal of the TPP negotiations is to create a high-quality 21st century trade agreement that in time could expand to include all of the nations of the Asia-Pacific. The current negotiations do not include Korea, but should the KORUS FTA be implemented, Korea would be a key member. For the TPP to be successful, it will need scale to draw in other nations. Korea could be an essential component to the agreement's success. Additionally, with Korea developing an extensive network of FTAs, Korea seems a natural partner for any venture designed to expand trade liberalization in the Asia-Pacific region.

Conclusion

In the second half of 2010, the United States worked with its allies to place additional sanctions on Iran in response to its nuclear program. This left Korea in a difficult position because of its economic ties to Iran and alliance with the United States. The solution for Korea was to implement additional sanctions on Iran that met the United States' request, but that did not risk harming its economic interests in Iran. As anyone familiar with the history of U.S. sanctions on Iran would recognize, Korea was faced with a need to balance its security interests and economic interests, which in the United States is often reflected in the give and take between industry and the legislature on such matters.

In the case of the KORUS FTA, the security interests of the United States on the Korean peninsula and the U.S.-ROK alliance necessitated moving forward with the KORUS FTA. However, as much as in the case of sanctions on Iran, certain parts of the private sector felt that their interests would be harmed by the agreement as it was concluded in 2007. For the administration to move the agreement towards passage, it would have to address the concerns of the private sector. Because trade is a controversial policy that lacks large-scale public support in the United States, Ford, the UAW, and various beef interests were able to utilize the political process in the United States to effect changes in the FTA that better reflect their interests. Having addressed those concerns, the administration has likely been able to build the political coalition needed to pass the agreement in 2011.

The issue of Iran sanctions helps to further draw out this point as it pertains to a U.S.-ROK alliance that has grown beyond the issue of North Korea to cover a wide range of issues. In some cases, private sector actors will find their core interests impacted by those issues, as Ford and the UAW did, and seek to influence the policy through the domestic political process. In other cases, political actors, such as Senator Baucus, will seek to influence the policy even when the industry impacted does not support a change because of local political factors. As many of the issues dealt with by the alliance are in more diffuse policy areas, such as economics, human rights, and global policies such as climate change, rather than military matters, understanding how private sector actors can influence the policy process is an important element in better understanding how policy is made in the U.S.-Korea alliance.