U.S. International Trade Commission Finds FTA Would Substantially Affect U.S.-Korea Trade and Investment, Korea Pushes Ahead

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On September 20, the U.S. International Trade Commission (ITC) released its report on the KORUS FTA. The ITC study is a required analysis under Trade Promotion Authority that explores the economic impact of a proposed trade agreement on the United States. Overall the study found that, if fully implemented, the FTA would substantially impact U.S.-Korea trade and investment. The study, which is available on the ICT's website at www.usitc.gov, also provides detailed analysis of selected sectoral effects.

The ITC utilizes a constructed baseline for the U.S. economy in 2008 to analyze the marginal effect[1] on the U .S. economy from the removal of the tariff and tariff-rate quotas in the FTA on the U.S. economy. It found that from its 2008 baseline:

- U.S. GDP would likely increase by $10.1–11.9 billion
- U.S. exports of goods to Korea would likely increase by an estimated $9.7–10.9 billion
- Korean exports of goods to the United States would likely increase by $6.4–6.9 billion
- U.S. consumers would benefit by $1.8–2.1 billion

Selected Sectoral Effects from the ITC Study

Meats: The United States is likely to see an increase in exports of meat to Korea. Beef exports to Korea are expected to increase by $0.6–1.8 billion, while exports of other meats, including pork and poultry, could increase by $456–763 million. The meats sector is expected to see an increase in employment by a half a percent to two percent. According to the National Pork Producers Council, the FTA could mean an additional 11,000 jobs in the pork industry alone. Korea is unlikely in the foreseeable future to export meat to the United States as it is currently a net importer of meat products.

Pharmaceuticals: U.S. pharmaceutical companies would likely benefit from the FTA as it addresses three areas that U.S. industry has identified as hindering pharmaceutical exports: lack of intellectual property protections, lack of transparency, and unethical business practices. The protection of intellectual property is addressed in the agreement by requiring measures to prevent the marketing approval of a generic drug while the original patent is in effect. It precludes third parties from utilizing safety or efficacy data for five years for new products and three years for previously approved chemicals when obtaining marketing approval. The agreement allows for patent extensions for pharmaceuticals that experience delays in marketing approval. The agreement promotes greater transparency in the marketing approval and pricing of pharmaceuticals, while requiring measures to prohibit improper inducements by manufactures for the sales of pharmaceuticals. The FTA would also reduce tariffs for pharmaceutical products.

Automobiles: The export of automobiles to Korea is likely to increase substantially under the FTA, but would represent only a small increase in absolute value due to the current low level of sales. The changes to the tax system required under the FTA would essentially equalize the tax burden for similar domestic and foreign vehicles. The impact from changes in technical barriers (TBT) to trade is expected to be positive but minimal, though the low-volume seller exceptions for two TBTs could serve as a disincentive to sell beyond the exempt limits. For Korean producers, the ITC estimated that there would be an increase of $1.3–1.7 billion in exports to the United States, but that 55 to 57 percent of the increase would be diverted from other U.S. import sources. The report also noted that current trends show Korean producers continuing to gain U.S. market share regardless of the FTA.

Financial Services: The FTA will provide more assured access to the Korean market for U.S. firms by binding Korean liberalization of cross-border insurance and asset management services, providing full establishment rights for U.S. firms, and assuring the ability to transfer customer data into and out of Korea. The introduction of a negative list system is beneficial to U.S. producers who compete through the introduction of innovative products. The ITC's study also notes that the tariff equivalent on banking services for Korea would be reduced from its current 76 percent under the GATS to 29 percent for banking.

Navigating the Political Minefield Ahead

While a significant amount of attention has been paid to the political difficulties the KORUS FTA faces in the United States, the challenges of gaining approval in Korea have received less attention. Presidential and legislative elections loom just over the horizon for Korea, well before those in the United States. For Korea, the process of ratifying the FTA started in September when the Korean government formally submitted the KORUS FTA to the National Assembly for ratification.

The Process in Korea

Unlike the U.S. Congress, the National Assembly does not have authority for trade negotiations. While the U.S. Constitution grants Congress the power to "regulate commerce with foreign nations," in Korea the Government Organization Act stipulates that the Minister of Foreign Affairs and Trade shall exercise general supervision over trade negotiations with foreign countries. Under the Korean constitution, it is ultimately the president who is granted the power to conclude and ratify a treaty.

Nevertheless, the National Assembly plays an important role in both the negotiation and ratification process. Article 60 of Korea's Constitution grants the National Assembly the right to consent to the conclusion and ratification of treaties relating to trade. For the FTA to be approved by the National Assembly, only a majority vote in favor is required. Though the National Assembly was granted no formal role during the negotiating process, the Roh Administration consulted consistently with the National Assembly to help facilitate consent to the agreement. Once the National Assembly has consented to the FTA and the president has ratified it, the FTA is automatically incorporated into the Korean domestic legal system. No implementation legislation is required for it to become enforceable domestically, but some elements may require the revision of current domestic laws.

The Political Season Ahead

The U.S. automobile industry and labor unions have been quite vocal in their opposition to the FTA. In Korea, labor unions have been vigorous opponents of the agreement, as have agricultural interests. Nevertheless, as early as June of 2006, fifty-six percent of Koreans supported FTA negotiations with the United States, with polls after the agreement was concluded showing about sixty percent approval for the FTA. Though general public sentiment seems to favor the agreement, Korea is heading into an extended election period. With a presidential election scheduled for December 19, to be followed by elections for the National Assembly on April 9 of next year, the potential exists for Korea to hold off on ratification until after its elections are concluded in the spring of next year.

In conclusion, the KORUS FTA faces a series of hurdles in Korea as well as in the United States. Until lingering issues relating to the export to U.S. beef have been resolved, and forthcoming political changes in both Korea and the United States have begun to work themselves out, ratification of the agreement could take a longer path than many would have anticipated when the agreement was signed on June 30.