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## Policy Brief on the Proposed U.S.-Republic of Korea Free Trade Agreement

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## Summary<sup>1</sup>

The United States is the Republic of Korea's (South Korea) third-largest trading partner, after China and Japan, and its largest foreign direct investor, and the U.S. market is South Korea's second largest export destination. South Korea is the seventh-largest trading partner for the U.S. and its seventh-largest export market. South Korea ranks as the tenth-largest economy in the world. Major imports from the U.S. include semiconductor chips, manufacturing equipment, aircraft, agricultural products, and beef. Major imports from South Korea include cellular phones, semiconductor circuits, television and flat panel screens, cards, computer parts, and construction vehicles. U.S.-South Korean trade in 2004 topped \$70 billion.

In February of 2006, the two governments announced their intention to negotiate a bilateral free trade agreement (FTA). The first round of formal negotiations occurred during June of 2006 in Washington, DC, and a total of six rounds alternating between countries have taken place. The seventh round is scheduled for the week of February 12-16 near Washington, DC. Informal talks have been interspersed between the rounds. The FTA is being negotiated under "fast-track" authority granted to the Bush Administration shortly after 9/11. This authority allows the executive branch to present a completed agreement for a mandatory Congressional vote without possibility of amendments. The South Korean National Assembly must also pass the FTA for it to go into effect.

Although the proposed FTA would be the largest for the U.S. since the North American Free Trade Agreement in 1994, it is likely that the American public is largely unaware that negotiations are ongoing. There has been little American media attention to the talks, and while members of Congress often speak of trade issues, few have focused their attention on this specific FTA. There are no U.S. based public opinion polls on the proposed FTA. On the other hand, South Korean public engagement with the FTA has been continuous since the governments announced that talks would occur. Media coverage has been ubiquitous, and important sectors of South Korean civil society have mobilized to bring attention to the negotiations. Public opinion polls currently suggest that a slight majority of the South Korean public is against the FTA and that a large majority has serious concerns about the process that the talks have followed thus far.

The FTA talks are covering a range of controversial issues including agriculture, pharmaceuticals, automobiles, anti-dumping legislation, investor-state claim rules, intellectual property rights, U.S. visa policies toward South Korean nationals, and whether to include products made in the North-South joint industrial park at Kaeseong. Although beef is not formally part of the talks, it has become a major issue. This brief discusses several key areas of concern raised by the prospect of the FTA, including a discussion of how South Korean government actions have fueled public tension over the nature and process of the negotiations.

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## Introduction

On February 2, 2006, the United States and the Republic of Korea (South Korea) announced that they would open talks on a bilateral free trade agreement between the two governments that would remove protective trade measures such as tariffs and import quotas. The U.S. is South Korea's third-largest trading partner, after China and Japan, and its largest foreign direct investor, and the U.S. market is South Korea's second largest export destination. South Korea is the seventh-largest trading partner for the U.S. and its seventh-largest export market. South Korea ranks as the tenth-largest economy in the world. Major imports from the U.S. include semiconductor chips, manufacturing equipment, aircraft, agricultural products, and beef. Major imports from South Korea include cellular phones, semiconductor circuits, television and flat panel screens, cards, computer parts, and construction vehicles. Other major issues under discussion include pharmaceuticals, automobiles, investor-state claim rules, steel, intellectual property rights, U.S. visa policies toward South Korean nationals, and whether to include products made in the North-South joint industrial park at Kaeseong.

The FTA talks between the U.S. and South Korea come at the height of strained relations between the two countries, with anti-Americanism on the rise in South Korea.<sup>2</sup> The relationship between Washington and Seoul has declined considerably during the Bush Administration, with clear policy differences in their approaches to Korean reunification and the North Korean nuclear crisis. U.S. President George W. Bush is widely unpopular in South Korea, as is the U.S.-led war on Iraq. The deployment of South Korean troops to Iraq—the third-largest military contingent behind the U.S. and Great Britain—was and continues to be deeply unpopular in South Korea. South Korean political elites are generally cognizant that supporting the Iraq War failed in its apparent attempt to induce a more flexible Bush Administration posture toward North Korea.

Given the concerns over anti-Americanism in South Korea, some South Korean politicians are promoting the FTA talks as an opportunity to mend bridges between the U.S. and South Korea. Vice Finance Minister Kwon Tae-Shin, for instance, has argued that a successful FTA will help to ease tensions with the U.S. on differences in North Korea policy.<sup>3</sup> U.S. and South Korean negotiators initially declared it their goal to come to an agreement by the end of 2006, but conceded later that negotiations would continue well into 2007.<sup>4</sup> The relatively short time frame within which to negotiate such a massive and complex free trade agreement appears to be a function of political developments in both countries. On the U.S. side, under the Trade Act of 2002, the Bush Administration has what is known as “fast-track” authority to negotiate international trade agreements and submit them to Congress for a mandatory vote without possibility of amendment. This Presidential Trade Negotiating Authority expires on July 1, 2007; because the Trade Act requires that Congress be given at least 90 days for deliberation after any agreement is reached by negotiators behind closed doors, the effective deadline for coming to an agreement is April 2, 2007, less than 10 months from when negotiations began in June of 2006.<sup>5</sup> Pro-FTA interests in the U.S. and pro-FTA *chaebol* (corporate conglomerates) in South Korea have pressed their respective government officials to come to a quick agreement in order to take advantage of the authority afforded by the Trade Act to avoid Congressional intervention.<sup>6</sup>

On the South Korean side, there are suspicions that the South Korean government's effort to engage in trade talks with the U.S. is driven in part by the weakness of the South Korean government and specifically of the highly unpopular President Roh Moo-hyun. South Korean presidents are elected for a single 5-year term. As a lame duck president who cannot run for re-election in the fall of 2007, and whose approval rating has polled in the single digits, Roh may view the strategy of pursuing FTAs as a means to quickly achieve a political legacy through the insular strength of South Korean bureaucracy that would be impossible were popular democratic debate allowed.<sup>7</sup> It is worthwhile to note that South Korea took three years to conclude FTA negotiations with Chile despite the significantly lower trade volume between the two countries.

### Concerns over democratic process in South Korea

According to South Korean law, interested stakeholders and the public at large must have the opportunity to register their concerns about the possibility of an FTA before negotiations are launched.<sup>8</sup> The purpose is to facilitate democratic debate on the possible merits and defects of holding the talks as well as of the possible FTA itself. The Roh Administration scheduled this hearing for February 2, 2006, but had earlier announced that the decision to hold the talks had already been made, and that an official announcement would be made shortly. Representatives of various sectors of South Korean civil society, and especially farmers, expressed tremendous unhappiness that the decision to pursue talks had occurred before a hearing was held, and South Korean government officials abruptly suspended the hearing shortly after it began.<sup>9</sup> South Korean promises that greater effort would be made to seek public opinion have not come to fruition, suggesting that South Korean officials are both aware that the public's voice has not been heard and that the public's voice is not a priority for negotiators. South Korean negotiators also appear confident that it is unnecessary to consult meaningfully with National Assembly members. For example, legislators have had limited time to pore over complex English-language documents that require translation into Korean. An August 2006 survey of National Assembly Members revealed that a majority of them believed that the South Korean government should at least inform the National Assembly when the talks were concluded and that the outcome of negotiations should be made public. A majority of Assembly Members also acknowledged that they had failed to seek out public opinion, and admitted having neglected their duties as political representatives.<sup>10</sup>

Given the general unwillingness of the Roh Administration to allow and facilitate an open discussion of the proposed FTA, and the failure of the National Assembly to take the lead in a public conversation about the merits and weaknesses of a proposed FTA, it should come as no surprise that important sectors of South Korean civil society have organized and emerged in opposition to both the negotiations and the FTA itself. On March 28 of 2006, some 270 civic organizations representing millions of workers, farmers, intellectuals, artists, and citizens announced the formation of the Korean Alliance Against the Kor-US FTA, and shortly thereafter on April 16, thousands of trade unionists, farmers, students, and major celebrities marched in Seoul to demand that the

government both abandon talks and allow the public to view the earlier negotiation process.

The Roh Administration's desire to achieve an FTA with the U.S. combined with its dearth of popular approval appears to have led it to embrace certain authoritarian trends that have been prominent in South Korea's history. State-sponsored efforts to prevent the political expression of democratic thought has been a staple feature of South Korea since its inception in 1948, and the Roh Administration has taken up this legacy in both formal-legal and more openly confrontational ways. For instance, the state-run Korean Advertising Review Board rejected an ad submitted for approval by representatives of South Korean farmers and filmmakers because the ad included images of farmers expressing their opposition to the FTA. KARB reasoned that the farmers' beliefs were unfairly one-sided against the South Korean government, and thus could not be aired. On the other hand, a \$3.8 million (US\$) ad by President Roh's *Committee to Support the Conclusion of the Korea-U.S. FTA* has aired several times in South Korea. The pro-FTA commercial was not reviewed by KARB on the basis that government beliefs need not be regulated. More explicitly, the Roh Administration has declared that it will cut off access to government subsidies for any organization that opposes the proposed FTA.

Consistent with South Korean history, there have also been a number of physical confrontations between sectors of civil society and the coercive authority of the state as embodied by police. Historically, these confrontations centered on the importance of political, economic, and social rights, and the recent clashes have been more of the same. Tensions have run especially high since a November 22, 2006 confrontation between farmers and police during a protest against the FTA. The Roh government took the opportunity afforded by events of the day to outlaw all public demonstrations. The resulting tactics of implementing this ban on public protest have been police deployment in the thousands and checkpoints set up on major roads leading to Seoul to prevent ordinary workers and farmers from exercising their freedom of assembly and travel. To stop the organizing of protests, the police issued summons and warrants for over 170 social movement leaders, raided local offices of civic organizations, detained 19 leaders of farmers' and workers' organizations, and according to social movement leaders, even made threatening phone calls to potential participants of public rallies. South Korea's National Human Rights Commission has suggested that the Roh Administration tactics are inconsistent with the South Korean constitution. It is worthwhile to note that if the South Korean public believes that such an important negotiation with the U.S. was held largely without meaningful input from civil society, this failure to adhere to reasonable democratic standards has the potential to become a serious political liability for pro-FTA legislators in the upcoming 2007 elections.<sup>11</sup> Thus, even legislators who intend to vote yes on any negotiated agreement are concerned about the increasing sense in South Korea that the Roh Administration has failed in a fundamental civic duty.

### Developing public opposition to the proposed FTA

Concern in South Korea about the FTA is driven both by worries about the undemocratic nature of the negotiations and by the possibility of negative policy consequences to

various sectors. South Koreans are not convinced by, and perhaps suspicious of, the financial projections being made by both the U.S. and South Korean governments as well as corporate and *chaebol* interests. For instance, former U.S. Trade Representative Rob Portman declared that, “this agreement will boost the incomes of both countries by several billions of dollars.”<sup>12</sup> South Korean Trade Minister Hyun-Chong Kim brought hard numbers to the table with the claim that the FTA will increase South Korea’s GDP by \$13.5 billion a year, trickling down to \$290 per individual per year, and that manufacturing employment will see a 6.5 percent increase.<sup>13</sup> The American Chamber of Commerce in Korea projects that U.S. imports will rise by 43 to 54 percent per year while exports to the United States will increase by 21 to 23 percent, translating into roughly \$12.2 billion in U.S. imports to South Korea and \$7.1 billion in South Korean imports to the U.S.<sup>14</sup>

Roh Administration rhetoric as well as the commentary of South Korean commercial mass media has been almost uniformly positive about the presumptive economic consequences of the FTA. However, South Koreans are perhaps the most internet savvy “netizens” in the world, and an extraordinarily high percentage of South Koreans in their 20s, 30s, and 40s get a significant portion of their news from independent internet rather than commercial news sources available on the street. Independent internet news sites are significantly less likely to profess faith in neoliberal economic policies than their commercial counterparts. Readers of independent internet news are more likely to learn that the proposed FTA will further concentrate the power of multinational corporations and erode the rights of governments to determine national policies to protect the rights of workers, farmers, the environment, and cultural institutions. They are perhaps more likely to read about scholarly analyses like the one offered by Lee Hae-Young, Professor of International Relations at the Hanshin University in Seoul, who argues that the economic benefits that South Korea will gain from the FTA will be shared almost exclusively by four major conglomerates that will accrue competitive advantages in areas including electronics, digital technology, automobile, and textile industries.<sup>15</sup>

Popular opposition to the FTA has developed quickly, and a general concern over the potential negative consequences of a free trade agreement is now openly expressed in Korean civil society. The disapproval rate of the FTA increased from 29.2 percent on June 7, 2006 to 42.6 percent on July 6 and broke the 50 percent barrier on July 22.<sup>16</sup> Popular opposition against the FTA has also been joined by some prominent political leaders. For instance, Chung Tae-In, Presidential Advisor and Minister for Economic Policy from 20002 to 2005, denounced Roh’s push for the free trade pact with the U.S. as a “grave blunder” that would endanger the entire South Korean economy. Chung compared the FTA to the infamous Eulsa Treaty of 1905 that led to the complete loss of Korean independence from Japan in 1910. Former Minister of Agriculture and Forestry Kim Sung-hoon told an independent, online news site that an FTA with the U.S. would “not only be political suicide, but also brand Roh as the most incompetent President in the country’s history...and his government as the one that sold out the country’s economy and culture.”<sup>17</sup>

On the U.S. side, concerns are being expressed by labor unions that fear a repeat of their past experiences with South Korean trade relations. The economic development of South Korea that began in earnest in the 1960s was accompanied by a decline of manufacturing jobs in the U.S. as corporate interests took their factories to Asia and other parts of the globe. Then military dictator Park Chung Hee maintained an iron fist over South Korea's economy, ensuring intense state and corporate-sponsored repression of workers who suffered in some of the worst working conditions in the world. The hyperexploitation of South Korean workers meant that American manufacturers in the early 1960s could calculate that the labor cost saving for firms willing to move to Korea was a factor of 25, since South Korean workers were paid one tenth of American wages but were 2.5 times more productive given, for example, the extraordinary number hours they put in per day, the lack of overtime, and the six day work week. Supported by South Korean government subsidies and U.S. willingness to open up key markets, light industries including textiles, footwear, radios, televisions, toys, and small appliances rapidly set up factories in South Korea, and beginning in the 1970s were joined by heavy industries including steel, cars, chemicals, defense, machine-tools, and semiconductors.

The loss of American jobs and the concomitant weakening of organized labor in the U.S. is thus inextricably linked to the historical and continuing labor exploitation in South Korea—and paradoxically to the rise of a highly organized working class that has emerged in South Korea. South Korean organized labor was particularly strong leading up to its key role in the democratization of South Korea in 1987; it was weakened by South Korea's economic freefall during the 1997 Asian financial crisis. This crisis afforded the South Korean state and the *chaebol* an opportunity to reverse the gains of the labor movement, and since then workers have been fighting off declining working conditions, wages, and benefits. According to a 2004 Korean National Statistical Office Report, "irregular workers," who possess fewer labor rights and benefits currently constitute over half of all South Korean workers.

### Preconditions to the opening of FTA negotiations

In the preceding four months prior to the February 2006 announcement that FTA talks would occur, The Roh Administration unilaterally instituted several policy changes that the Bush Administration demanded prior to the opening of trade negotiations. In October 2005, South Korea suspended pharmaceutical price markdowns that had lowered drug costs. In November of 2005, it relaxed rules on automobile exhaust fume standards that sought to prevent the imports of larger, more polluting U.S. automobiles. Seoul settled sanctions over rice negotiations in December 2005, and followed this in January 2006 with the partial lifting of a ban on American beef imports that had been the result of South Korean consumer concerns about the effectiveness of U.S. beef regulatory policies. Finally, shortly before FTA negotiations were announced, on January 26 Seoul buckled on a longstanding American demand to reduce or halt protection of the South Korean film industry, lowering the mandatory film screen quota for domestic movies to be shown in theaters from 146 days to 73 days of the year.

While Washington has suggested that the aforementioned unilateral concessions by the South Korean government were important first steps to help ensure a successful and comprehensive free trade agreement, in South Korea these preconditions have already upset different interests in civil society and given a boost to social movement efforts that stand in opposition to the FTA negotiations. The South Korean government made these concessions without much public dialogue. It did not help the Roh Administration that the concessions were in the sensitive areas of health and public safety, the environment, and the protection (or lack thereof) of Korean culture. Because the concessions were seen as unilateral, public dissent also centered on the weakness of the Roh Administration. The concessions also represented visible targets upon which to manifest a more generalized anti-Americanism that has been building in South Korea and has rapidly accelerated during the Bush Administration. As the last and most visible policy shift before the formal announcement that FTA negotiations were in the offering, the screen quota concession on January 26, 2006 brought the proposed FTA into the immediate foreground. South Korea's leading directors and actors, many of them globally recognized for their work and religiously followed by their fans in South Korea and abroad, staged a succession of single-person protests against the lowering of the domestic film screen quota. Although the protests were unsuccessful in reversing the concession, the star quality of the single-person protests brought a great deal of mass media and popular attention to the upcoming FTA negotiations.<sup>18</sup>

### *Beef*

Not all the concessions have played out as the U.S. envisioned. In particular, the issue of American beef regulations has become so prominent that a failure to resolve this area may mean the demise of the FTA. In December of 2003, before the discovery of Bovine Spongiform Encephalopathy (BSE), (popularly known as "Mad Cow Disease") in a cow in Washington State, South Korea was the third largest export market for U.S. beef and beef products, valued at \$1.3 billion, and was the number one U.S. agricultural export item in Korea despite a 40 percent tariff. In June of 2005, South Korea's Ministry of Agriculture and Forestry (MAF) issued a request for findings concerning the safety of U.S. beef after a second animal in Texas also tested for BSE. South Korean investigations followed by joint discussions led to the relaxing of the ban, and in January of 2006, South Korea declared that it would allow boneless beef from cattle under the age of 30 months or less along with beef expert verification. The partial lifting of the ban appears to be an effort to minimize the likelihood of BSE infected beef and to build consumer confidence in U.S. beef.

Although it is not formally part of the FTA negotiations, the U.S. cattle industry is seeking through U.S. FTA negotiators to pressure South Korea to completely end the ban and remove its current 40 percent tariff on imported U.S. beef. Senator Max Baucus (D-MT), chair of the Senate's Finance Committee, stressed that he could not support any FTA with Korea until it allowed all of Montana's beef exports, whether boneless or not, regardless of cattle age. In December of 2006, eleven U.S. senators from beef-producing states issued an ultimatum that they would not support the FTA if the beef trade was not returned to the standards in force prior to the discovery of BSE in U.S. cows. Two principal objections of the Senators and U.S. negotiators are that the South Korean

government has overreacted to the discovery of BSE in the U.S. and that the South Koreans are looking for reasons to reject U.S. beef. The mood among some members of Congress is captured nicely by Senator Byron Dorgan's (D-ND) remark that the U.S. "should return all 700,000 imported Hyundai cars if any problem occurs during a safety test." Dorgan's comment was made in response to the South Korean refusal to admit three 9-ton shipments of boneless beef to Korea in late 2006 after inspectors found banned bone fragments.<sup>19</sup> On January 31 of 2007, Senator Ben Nelson (D-NE) issued a statement that the refusal of South Korean negotiators to adopt the U.S. position would lead to his active leadership in blocking the trade agreement should it come to the Senate.<sup>20</sup>

According to Choi Sei-Kyun, a senior director of the Korean Rural Economy Institute, if the 40 percent duty is removed, prices for [U.S.] beef will decrease around 8.7 percent and [Korean] production will drop 4.2 percent, resulting in losses of about 360 billion won (or \$373 million) a year.<sup>21</sup> However it is unclear how willing South Koreans will be to buy and consume American beef even if all barriers to U.S. imported beef are lifted. According to a Gallup Korea survey commissioned by the Ministry of Agriculture and Fisheries, 70.2 percent of housewives age 30-40 said they "won't buy" or "would not prefer to buy" U.S. beef compared with 10.6 percent who answered that they "have an intention to buy" it. 35 percent of respondents indicated that their image of U.S. beef was of cattle infected with BSE, and a majority described their image of U.S. beef as either infected with BSE, untrustworthy, or of poor quality.<sup>22</sup> (Many Japanese consumers, another important export market for U.S. beef, share these perceptions.) In short, the negative image of U.S. beef has made it a highly sensitive issue for ordinary South Koreans, and in the limited time frame before fast-track authority ends, it is very unlikely that their opinions will shift significantly. U.S. opposition to South Korean beef regulations stands in real conflict to the concerns of millions of average South Koreans, putting the Roh Administration in a difficult position. It cannot return to 2003 standards without upsetting the Korean population on a highly sensitive issue.

Because of the sensitivity of the issue, South Korean consumers are likely to be aware of American critics who have highlighted potential flaws in the system for vetting cows for BSE. For example, arguments for the safety of U.S. beef were not helped by the U.S. Government Accountability Office conclusion that "the Food and Drug Administration (FDA) is overstating [the cattle] industry's compliance with the animal feed ban and understating the potential risk of BSE for U.S. cattle in its reports to Congress and the American people."<sup>23</sup> The difficulties of the situation are exacerbated by the fact that U.S. testing for BSE follows different standards than that of the European Union. Broadly speaking, the latter has adopted the "precautionary principle" to regulating the health and safety of foods, drugs and chemicals, and intends to apply this principle to its FTA negotiations. This is likely to be more appealing to South Korean consumers of beef than U.S. regulations that apply the "sound science" principle. More extensive testing for BSE disease is widespread among EU states, but the U.S. Department of Agriculture (USDA) has not pushed this solution, believing that its focus on the highest risk animals is at least equally effective. Critics have charged that it is unclear by what methods USDA are identifying and testing "high-risk" targets, and that the USDA has a conflict of interest

due to its simultaneous responsibility for both consumer safety and the promotion of American beef. This conflict of interest suggests that the USDA is simultaneously responsible for testing for BSE at the same time that it inevitably recognizes that its discovery in American cows will lead to significant negative financial consequences for the cattle industry. It has not helped matters that Seoul has requested access to inspect the hygienic conditions of American slaughterhouses, but has had difficulty getting past U.S. officials.<sup>24</sup>

Whether or not the beef market is ultimately opened as a condition to the FTA talks, it is clear that controversy will continue in South Korea on this issue. In the long run, in order to successfully open the South Korean beef market, it appears that the U.S. beef industry will ultimately have to focus on changing the image of American beef among South Korean consumers. This will likely require both changes in the inspection and regulation of U.S. beef, and a concomitant publicity campaign to inform South Korean consumers of these changes. Until this occurs, South Koreans are likely to remain suspicious of American beef, especially if American critics of beef regulations continue to be vocal, Japanese consumers of beef share their negative perception, and the EU offers a more palatable alternative.

### Selected controversial policy areas in the FTA negotiations

#### *Agriculture*

The South Korean agricultural sector is not export-oriented but instead strives to be self-sufficient in rice, horticultural products, and livestock production.<sup>25</sup> In the late 1980s, the U.S. threatened to impose sanctions against South Korea under Section 301, a U.S. trade law that sought action against countries protecting domestic industries through various trade barriers. Under pressure, the South Korean government opened its markets to U.S. tobacco, wine, beef, and rice. The government also came under pressure due to the U.S.-backed Agreement on Agriculture that came out of the Uruguay Round. Based on neoliberal economic principles, the agreement essentially forced less-developed countries to open their markets to agribusiness in wealthy nations on the basis that it would promote more efficiency in food production and lead to cheaper food for consumers. South Korea was forced to lower import barriers that protected their domestic food production, and this has made it difficult for the agricultural sector to measure up to its current goals of self-sufficiency and parity between farm and urban household incomes.

South Korea currently has roughly 3.5 million farmers, or about 7.5 percent of the population. All farming in South Korea is done by individual farmers with small to medium-size holdings. The United States has 176 million hectares under cultivation, compared with South Korea's 1.7 million hectares. The average American farm is 58 times larger than the average Korean farm. Like small family farmers in the United States, South Korea's farmers cannot compete with large U.S. agribusiness capable of producing low-priced goods with the aid of significant U.S. government subsidies. In order to protect agricultural industries, except for rice which works under a quota system, the average South Korean tariff on agricultural products approaches 66 percent (compared

with 7.5 percent tariffs on industrial products). South Korea already imports about 60-70 percent of its agricultural products, and South Korean consumers are among the U.S.'s largest markets for agricultural products and beef, representing over a fifth of imports.

This percentage is certain to rise under an FTA with the U.S., which is seeking to liberalize the trade of 235 items that are currently protected in varying degrees. South Korea's Trade Minister Hyun-Chong Kim estimates that the South Korean agricultural and livestock industry will suffer losses over \$50 million per year, while other analysts are estimating significantly higher annual losses. For example, the Korean Rural Economy Institute conducted an impact assessment study and found that an FTA that excluded rice would result in annual losses of \$1-2 billion dollars, and that the inclusion of rice would lead to a annual losses reaching \$7 billion.<sup>26</sup> Korean farmers who now earn on average \$10,000 per year stand to lose on average \$8,000 per year. For instance, Jeju Island citrus fruit growers, will not be able to compete with American fruit giants, and this is no doubt an important reason for why interested sectors on the island sought to reject being the host of the 4<sup>th</sup> round of FTA talks.<sup>27</sup> The price of Korean tangerines, Jeju's main fruit, is projected to drop 59 percent resulting in an annual loss of over \$200 million dollars. Bankruptcy will be inevitable for Jeju farmers, and farmers of other crops on the peninsula will face a similar situation. Projected losses include \$73 million for potatoes, \$5 to \$10 million for fish, and \$23-\$28 million for meat and dairy. U.S. statistics estimate that South Korean agricultural production will decrease by 45 percent after the FTA has been implemented.

Farming in South Korea has seen significant declines over the past 40 years due initially to South Korean government policies and later due to the aforementioned pressure from the U.S. government and the WTO. Beginning in the 1960s, then military dictator Park kept grain prices below market rates and thus artificially expanded the labor pool in industrial centers as farmers were driven off their land even when they had bumper harvests. South Korea experienced an extraordinarily rapid—and generally unwilling—population shift from rural areas to urban centers, with farmer-turned-worker's wages kept down as management rationalized that labor could be paid less since the market cost of food fell during this time due to the state's pricing policies.

The negotiation of free trade policies influencing family farms are socially and politically complicated by the fact that so many South Koreans living in cities, only one generation ago, were living on farms. Many South Koreans continue to have strong connections to their rural roots given how recently their personal lives diverged from decades if not centuries of family farming. South Koreans thus often experience the demise of South Korean agriculture as a loss of both national and family history and culture. Should the proposed FTA pass, this sense of loss is likely to be exacerbated by the recognition that the demise of South Korean family farms will come not at the hands of other family farmers, but rather by the entry of subsidized U.S. agribusiness. Inclusion of agriculture in the proposed FTA is likely to obliterate the indigenous base of family farmers. At least half of Korea's farmers are expected to lose their farms and to enter urban areas in search of work. Farmers and their advocates are adamant that more is at stake for them than a loss in profits, and that beyond cost-benefit calculations, the proposed FTA threatens the

fabric of Korea's rural communities, and will have severe social, cultural and environmental costs.

For many South Koreans, the relationship of low prices to the demise of farms is not the theoretical abstraction that it is for advocates of neoliberal policies who have not experienced personal consequences of these policies, including rapid social and geographical dislocation. The perception that an unthinking and relentless search for the lowest possible prices on food staples will actually result in highly negative consequences for South Korea has been enhanced by the rise of a middle-class environmental movement that has become increasingly powerful since the opening of civil society following the 1987 democratization movement. Together with the farmer's movement and other urban-based allies, they have been able to sway popular opinion in South Korea in decisive ways. In a particularly powerful example, the three largest department store chains in South Korea—Lotte, Hyundai, and Shinsegae—have each independently decided against purchasing imported rice and offering it to consumers for fear of a public backlash against their chains that will influence their ability to sell other products offered at their stores.<sup>28</sup>

### *Rice*

Under World Trade Organization (WTO) rules established during the Uruguay Round, South Korea designated rice as a sensitive product that required "special treatment." Instead of fully liberalizing its rice imports by establishing a tariff-rate quota, South Korea committed to import a specific level of rice imports for a period of 10 years. The WTO rules provided that South Korea's market access quota for rice could continue for an additional length of time, but only after individual WTO members had the opportunity to negotiate with South Korea. The ten-year period ended in 2004, but South Korea renegotiated its WTO commitment and received another 10-year extension on tariffs of rice imports after agreeing to double the percentage of foreign imports to 408,000 tons by the end of 2014. Additionally, until 2006 all imported rice was used by food processors to make secondary rice products such as rice crackers, but by 2010, imported rice will be marketed to consumers directly. Rice exported to Japan, South Korea and Taiwan generally comes from California. In 2003, U.S. rice comprised 28 percent of all imported rice.

From 1990-1997, the South Korean government bought an average of 26 percent of total Korean rice production, but external pressures imposed by the WTO cut government rice purchases to 17 percent in 2000. In 1995, South Korea imported 51,307 tons of rice and by 2004 it imported 205,228 tons of rice. South Korea has one of the most quality-conscious rice markets in the world, and rice holds a particularly powerful symbolic role in South Korean society. The government separates imported rice from domestic rice, controls the purchase and distribution of all imported rice, and currently imposes a quota system rather than a tariff system. Consumers pay more for domestic rice than they do for foreign rice.

Opponents of liberalizing rice in South Korea are likely to harbor concerns that should U.S. rice flood the South Korean market, that in the long run not only will Korean rice farmers lose out, but so will Korean consumers. A quick comparison to the case of Haiti is instructive in understanding South Korean anxieties. Haiti was largely self-sufficient in rice, a staple for its population. In 1986, under pressure Haiti was forced to lift trade barriers and rice flooded in from the U.S. Within a decade, Haiti was importing 196,000 tons of rice at \$100 million per year, and Haitian rice production essentially disappeared, after which import prices began to rise, creating a significant burden on Haiti's working poor.<sup>29</sup>

Taken together, the high degree of organization among rice farmers, the experiences of other countries that have dealt with U.S. rice imports, the cultural significance of the food, the relationship of many South Koreans to farmers and farm land, and the possibility of reunification with North Korea—which has experienced dramatic shortages of rice—have made rice perhaps the single issue where South Korea is least likely to move from its initial position during the FTA talks.<sup>30</sup> Indeed, the South Korean government has yet to budge from its position of excluding a discussion of rice markets in FTA talks. Kim Young Mo, director of the Ministry of Finance and Economy, indicated that, “given the sensitivity of the full liberalization of the rice market and the significant impact the rice market has on Korea as it is directly linked to the nation's food security and livelihood of Korea's farming community, we will endeavor to protect the local rice market to the end.”<sup>31</sup> U.S. rice producers through their advocates at the American Farm Bureau and the USDA are seeking the removal of South Korea's rice import quotas through the FTA negotiations. Richard Crowder, head of agricultural negotiations at the office of the U.S. Trade Representative (USTR), has reaffirmed that America's FTAs “are to be comprehensive...rice in Korea would be included in the FTA with Korea... our policy and philosophy is, ‘no exclusions.’” A comprehensive FTA would lift the quota system, establish a low tariff, and make rice generally available for direct sale to Korean consumers.

### **Comparison of U.S. rice farms with South Korean rice farms**

Key differences between U.S. rice farms and South Korean rice farms are in the scale of land cultivation, the importance of rice to domestic consumers, the production for domestic consumption versus export, and the likely impact of the FTA. Rice is typically ranked eighth among all U.S. crops in terms of value of production and planted area. According to the U.S. Census of Agriculture, in 2002, of the 2.1 million farms only 8,046 farms (0.4 percent) produced rice. In 2002, the average rice farm size was 397 acres. Comparatively, in 2002, 1.1 million of 1.8 million hectares (61 percent) of cultivated land in South Korea was allocated to rice farming. 787,451 of 1,383,468 farm households (56.9 percent) grow rice. Of these 787,451 households, 65 percent are full-time rice farmers.<sup>32</sup>

Most of South Korea's farmers are small family farmers, and over 60 percent of the family farms are smaller than one hectare.<sup>33</sup> Farmers make up 8 percent of the South Korean population, and their numbers equal the combined numbers of farmers in

Germany, France and Great Britain. Half of the South Korean farmers are now over 60 years old, which significantly circumscribes their possible professional options should their farms disappear. Many of these farmers have no other choice but to farm. Rice is overdetermined to be their agricultural product both because advances in labor saving technology in rice production have cut 70 percent of their labor needs and because Korean rice farmers are the repositories of centuries of knowledge accumulated in Korea about rice farming in ideal conditions. Unlike many developed countries where most farmers derive most of their income from off-farm jobs, most South Korean farmers still derive most of their income from farming. Half the rice production cost goes to rent in South Korea.

Although the South Korean government has pledged to allocate billions of dollars to initiate programs that will provide jobs to South Korea's farmers, the money that would finance these programs would be drawn from funds currently spent on farm subsidies and rural development, meaning that the government is not offering anything to farmers beyond what it already spends to support them. As many as 140,000 South Korean farmers are projected to lose their farms under the proposed FTA.

### **U.S. rice subsidies**

Rice is the most heavily subsidized American crop, and this allows the U.S. rice industry to offer rice at prices significantly lower than those offered by rice farmers around the world. From 1995 to 2005, the rice industry received \$10,502,000,000 in government subsidies.<sup>34</sup> From 1995-2004, subsidy payments averaged \$140,000 per farmer, more than the income of the average South Korean rice farmer.<sup>35</sup> In 2003, the U.S. government increased rice subsidies by \$200 million dollars from the previous year, handing over \$1.3 billion to rice growers, with the lion's share going to the largest agribusiness firms. From 1995-2004, 25 percent of all subsidies went to the largest one percent of rice producers while the bottom 80 percent received 16 percent of the subsidies. Farmers in 14 U.S. states receive rice subsidies, with 95 percent of the subsidies going to Arkansas, California, Louisiana, Texas and Mississippi. As suggested earlier, heavily subsidized California rice producers stand to gain significantly if South Korea opens up its rice market; huge rice farms supported by large federal subsidies are key reasons why the U.S. can sell lower cost rice to South Korea.<sup>36</sup>

The cost of U.S. rice production is very high compared with other row crops grown in the United States due to the high costs of fuel, fertilizer and irrigation expenses. In 2005, rice production costs for fuel, lubricants and electricity cost \$110 per acre, a significant increase from 2004 when they averaged \$78. However, most U.S. rice farms do not appear to need government subsidies. For example, a 2000 study showed that 78 percent of rice farms were able to cover their cost of production without the support of subsidies.<sup>37</sup> American-based critics of American farm policies have argued non-rice agricultural producers have moved into the crop in order to take advantage of the subsidies, and that this has in turn led to more rice on the market. The resultant overproduction of rice depresses market prices and perpetuates the cycle of increased government payments for rice producers, increased production, and increased costs to the

taxpayer.<sup>38</sup> The overproduction caused by heavy subsidies reproduces rice surpluses which then put pressure on the U.S. government to negotiate trade agreements to export rice not being consumed by the domestic market. U.S. rice farming depends on the global market for about half its annual sales.<sup>39</sup> The United States produces about 2 percent of the world's rice, but its exports account for 12-14 percent of the annual volume traded globally. Half of U.S. rice is exported annually, mostly to Mexico, Central America, Northeast Asia, and the Middle East. (The U.S. also imports rice, mostly from Thailand (75 percent of imports), India and Pakistan.)

The South Korean peninsula has maintained a domestic agrarian economy for (at least) centuries, and the significance of farming goes beyond the economic into every aspect of South Korean society and culture, and especially in ordinary South Koreans connection to the land. Because Korean society was—and continues to be—so intimately tied to agricultural society, much of Korean culture as a whole is intimately based upon customs that have emerged through the cultivation of land. Consequently, much of the South Korean population finds it appropriate to protect indigenous agriculture and support measures that they view as preserving South Korea's national heritage.

If what happened to rice farmers in Haiti stands as a warning to South Korea, the actions of the Swiss government are suggestive of a different approach that takes Korean concerns about their culture and land into account. In the mid-1990s, the Swiss government decided that planning its economy must incorporate the twin goals of preserving its countryside and maintaining the long-term sustainability of its natural ecosystems. The Swiss designed subsidies in order to protect and revitalize its agricultural communities, and later suspended FTA negotiations with the U.S.

South Korean farmers are heavily mobilized in opposition to neoliberal economic policies, and have taken center stage in dramatizing the potential negative consequences of free trade policies to indigenous small and mid-sized farms around the world. For example, at the 2003 WTO Ministerial in Cancun, Mexico, South Korean farmers captured international media and the world's attention when Lee Kyung Hae, a farmer and social movement leader, committed suicide while straddling a metal fence that had been erected to keep protestors away from talks of the WTO. Lee was caught on tape stabbing himself in the heart while wearing a sign that read, "WTO Kills Farmers," as he led the 300-member delegation of Korean farmers, peasants and trade unionists to the metal fence that kept civil society several miles away from the talks. His suicide contributed significantly to the global community's understanding of the agricultural crisis caused by the WTO and trade liberalization schemes, not just on Korean peasants, but on the world's farmers. Before his death, Lee circulated a statement that read "uncontrolled multinational corporations and a small number of big WTO Members are leading an undesirable globalization that is inhumane, environmentally degrading, farmer-killing, and undemocratic."

## *Pharmaceuticals*

Pharmaceuticals represent a major area of conflict in the FTA negotiations, and should be understood in the context of South Korea's nationalized health care system. Universal health coverage was established in 1987 and access to health care has been significantly expanded with the successful establishment of the National Health Insurance System (NHI). The Korean government followed a policy of low contributions, low benefits and high co-payments to ensure universal coverage at low cost. Care itself is largely administered by the private sector, with 90 percent of doctors and the majority of hospital beds being private. South Korea is the world's 15th largest pharmaceutical market and imports 30 percent of its needs.

The South Korean system faces large fiscal challenges, especially in its continued efforts to provide universal coverage. Managing the high cost of pharmaceuticals is an essential measure for dealing with the rising deficits in the health care system. South Korea has a very large pharmaceutical share of health expenditure (around 30 percent) compared with other OECD countries.<sup>40</sup> Specifically innovative new drug prices are comparable to average factory prices in the U.S., the United Kingdom, Germany, France, Italy, Japan, and Switzerland. The Korean government has enacted cost containment measures in the area of pharmaceuticals - lowering the reimbursement costs for drugs and supporting the production of domestically produced generic drugs. As a result, per capita spending on pharmaceuticals in Korea averages \$115 annually, less than half the OECD average. The Korean Health Insurance Review Agency has a goal of reducing pharmaceutical costs from more than 29 percent of the national insurance payments to less than 24 percent by 2011.<sup>41</sup> South Korea relies on the provision of generic drugs to control pharmaceutical costs in their public health care system.

Before the second round of talks, the South Korean government introduced plans to implement a "positive list" of reimbursable prescription drugs by the end of 2006.<sup>42</sup> A "positive list" system creates a list of drugs with proven efficacy and price-competitiveness that will be reimbursed within the national health care system. This would replace the existing "negative list" system that only lists drug exclusions. The positive list system is not a unique intervention by the South Korean government that is typically labeled an unfair trade practice. Indeed, it has been adopted in many OECD countries and is an effort towards keeping the high cost of health care expenditures down. Many U.S. states and HMOs are taking a similar approach of scrutinizing prescriptions drugs, encouraging the use of generics, and limiting reimbursements on brand name drugs.

U.S. negotiators came out strongly against the positive list system when it was announced by the Korean Ministry of Health and Welfare. Wendy Cutler, the Assistant U.S. Trade Representative and chief negotiator on the American side, stated that, "we don't believe this proposed change in the Korean system toward a 'positive list' will achieve the objective that Korea has stated for itself." Cutler claimed that, "the proposed system would end up discriminating against and limiting the access of Korean patients and doctors to most innovative drugs in the world."<sup>43</sup> The U.S. negotiation team contended

that the proposed system in South Korea would restrict multinational pharmaceuticals from bringing in newly invented drugs and discourage them from developing new drugs.<sup>44</sup> However, by the beginning of the fourth round of talks, the U.S. indicated its partial willingness to accept a positive list system, and linked their apparent concession on this issue to demands that South Korea extend the patent period for new drugs, increase drug prices, include certain expensive new drugs, and establish a review board to hear U.S. objections to the South Korean government's process of screening new drugs for the list.<sup>45</sup> The shifting U.S. demands confirmed the suspicions of civic groups in South Korea that the U.S. was using their disagreement with the "positive list" system as a bargaining chip to win more concessions from the South Korean government.<sup>46</sup>

U.S. negotiators continue to push for extending the expiration date for patents on new drug beyond what is currently allowed within the U.S., and South Korean negotiators have already conceded on a maximum five-year extension on drug patents as well as giving pharmaceutical companies exclusive rights to drug data. The latter is significant because without this data, South Korean drug companies will find it more difficult to produce generic drugs. Major U.S. pharmaceutical companies are far less threatened by the development of a positive list system than the development of generic drugs that become available when the patent period on a drug runs out. As long as a drug company holds the patent, they can keep drug prices as high as they want, a virtual monopoly on the drug. Lee In-suk, an official of the Korea Pharmaceuticals Manufacturers Association asserts that, "it's obvious that when the patent period of new drugs made by the United States is extended, prices of the drugs will soar, which will damage domestic clients' access to drugs."<sup>47</sup>

The U.S. pharmaceutical industry argues that the high costs of research demand that patent regulations allow them to turn a profit on the drugs they invent. Recent trends suggest this claim is not fully justified. Pharmaceutical companies report very high rates of profits in comparison to what they spend on research and development. Far from increasing the number of innovative drugs on the market, research and development has led to an increase in the development of variants of drugs already on the market. The increase in variants—and not an increase in genuinely innovative drugs—has been accompanied by massive promotion campaigns, including costly TV commercials, to attract the attention of potential consumers. Consequently, pharmaceutical multi-nationals spend two to three times as much on marketing and administration as they do on research and development.<sup>48</sup>

The high cost of drugs and excessive patent regulations that restrict the development of generic drugs are the key variables that limit the access of drugs for people all around the world. The impact of generic drug competition in driving down the high cost of drugs has been well documented and is widely recognized, particularly in the area of HIV/AIDS. It has widened the access of life saving medications to women, children, the elderly, and the poor all over the world. However, recent FTA agreements have contained several provisions designed to limit generic access, thus promoting drug monopolies by multinational pharmaceutical companies. For instance, in November 2004, the Guatemalan Congress repealed a law that gave brand-name prescription drugs protection from generic

competition by allowing drug companies to hide data that generic companies would use to bring their own versions to market. Four months later, in order to become a part of CAFTA, the Guatemalan Congress was forced to reverse its decision.<sup>49</sup> Peru's Health Ministry forecasts that their FTA agreement with the U.S. will more than double their medicine spending. The UN Special Rapporteur on the Right to Health is openly concerned that intellectual property provisions in the U.S. FTAs will result in unaffordable medicines.<sup>50</sup> If previous FTAs are any clue, then U.S. pharmaceutical industries will investigate how to file lawsuits against the Korea government through investor-government dispute and/or non-violations provisions in the FTA. Furthermore, it is not inconceivable that pharmaceutical companies will use the FTA provisions to seek the abolishment of the positive list system.

The high cost of health insurance is the primary factor limiting access to basic health care in the U.S. According to the U.S. Census Bureau, the number of Americans that go without health care coverage increased from 45.3 million people in 2004 to 46.6 million in 2005, and the number of Americans that are underinsured is comparable. This means that over 90 million Americans lack basic health care coverage, even as the U.S. spends the most money for health care per capita while reporting some of the worst health outcomes within the developed nations. Health care spending growth in the U.S. is the slowest in six years, and the greater reliance on generic drugs has been a key factor.<sup>51</sup> Similarly, bringing down the cost of drugs is critical to maintain South Korea's universal health care system. However, because the proposed FTA is poised to result in greater restrictions on generic drugs through extending its patent expiration and limiting drug information, the FTA is likely to drive up the cost of health care in South Korea, and thus provide a critical entryway for those who seek to privatize the entire South Korean health care system.

### *Anti-dumping Regulations*

The practice of an exporting country selling a product at a price below the cost of production in the importing country is referred to as dumping in international trade law. Some argue that below-cost imports may lead to depressed domestic prices, narrowed opportunities for affected industries, and, even, an elimination of certain markets. Others, however, argue that dumping is a peripheral issue in trade policy debates – international markets will adjust to price dynamics and consumers will benefit by paying a lower price for purchased goods.

Anti-dumping measures serve as a mechanism for those states aiming to protect their domestic industries from liberalized trade and, especially, an influx of cheap imports. States may file suit to the government to protect disaffected industries from foreign competition that they believe are engaged in price discrimination.<sup>52</sup> Protection may include duties, tariffs, or taxes placed on imported goods. Modern international trade law, however, promotes liberalized trade with limited barriers to entry. Anti-dumping regulations challenge those norms by placing restrictive duties on targeted 'unfair' trade practices.

The U.S. feels that certain South Korean imports threaten injury to domestic counterparts by selling at prices below the cost of U.S. production. Steel, for example, is the most heavily effected import from South Korea in the U.S. Steel related complaints were mainly filed after the Asian financial crisis, when demand for steel fell along with the Asian economies. Steel makers in South Korea, then, turned to the U.S., where demand continued to be strong and steel manufactures could earn more against the stronger U.S. dollar. The surge of imported South Korean steel had a chilling effect on many U.S. based steel companies. Since 1998, more than 20 U.S. steel companies have sought bankruptcy protection. In 1999, Curtis Barnett, CEO of U.S. steel manufacturer Bethlehem Steel, reported that steel imports caused considerable financial losses, forced Bethlehem to close plants, and led to 540 workers being laid off.<sup>53</sup> Due to these consequences, Congress will not accept South Korean demands to amend antidumping laws in a bilateral free trade agreement.

However, just as the U.S. advocates protectionist policies to prevent job-losses, South Korea would like to see anti-dumping provisions removed to promote natural competition and to protect the labor force in South Korea. If, for example, steel is restricted, the employees whose depend on steel for their livelihood will be jeopardized, including those that work in the steel industry (Posco alone, a Korean steel manufacture, has 28,853 employees<sup>54</sup>) and those that work in the industries that are steel dependent. Since 2003, for instance, there have been 23 U.S. antidumping orders against South Korean exporters. Moreover, the U.S. anti-dumping laws encourage South Korean companies to sell their products for higher prices or risk being hit with a dumping penalty. So, while the U.S. government is protecting domestic producers, they are doing so at the expense of South Korean workers as well as consumers who then pay higher prices.

The USTR has argued that anti-dumping measures are necessary to protect U.S. industries and, in essence, 'level the playing field.' However, U.S. anti-dumping laws come into direct conflict with what then-U.S. Trade Representative, Rob Portman, had laid out as the main purpose of a U.S.-South Korea FTA. According to Ambassador Portman, a U.S.-South Korea FTA aims to remove "trade and investment barriers between [the] two nations... [and] increase market access."<sup>55</sup> If a more open market system is desired, then restrictive policies placed on South Korean goods, particularly steel, textiles, and electronics, would be in contravention to this objective. Anti-dumping regulations, moreover, are inconsistent with WTO regulations, of which both South Korea and the U.S. are signatories. South Korea had approached the WTO in 1999 and 2000 over U.S. anti-dumping measures, and won both of the steel cases that were filed.<sup>56</sup> Given the outcome of the WTO cases and the intention behind a South Korea-U.S. Free Trade Agreement, U.S. negotiators should be willing to revise, if not entirely remove, inhibiting anti-dumping regulations if they truly wish to open markets and 'level the playing field.'

If the USTR acknowledges that anti-dumping measures are deemed necessary to create 'fair' trading practices, then the U.S. should accept safety valves that have been put in place by Korea. However, restrictions on the import and sale of goods in the auto sector, agriculture, and semiconductors in South Korea have given rise to a litany of complaints

in the U.S. The U.S. is eager to curb South Korean imports that threaten domestic markets, but is unwilling to consider lifting anti-dumping regulations that effect foreign industries. The contradiction between a free trade agreement and protectionist policies highlights the lack of objective measures that can determine the difference between ‘fair’ and ‘unfair’ trade.

### *Automobiles*

South Korea is the fourth-largest producer of automobiles in the world, and has enjoyed significant access to the U.S. market over the past twenty years, with manufacturers such as Hyundai and its subsidiary Kia exporting over 730,000 cars and light trucks to the U.S. in 2005, capturing 4.3 percent of the U.S. market. American automakers, on the other hand, exported about 5,800 vehicles in 2005, or a little over 3 percent of total car sales in the South Korean market. Detroit’s “Big Three” auto companies—Ford, General Motors, and Chrysler—have long complained of this imbalance and have cited Korea’s “discriminatory” use of tax, tariff, and non-tariff barriers to protect its automobile industry. Through FTA negotiations, the Big Three, along with most House Democrats and Congress Members from Michigan, are pushing the South Korean government to lower or eliminate its 8 percent tariff on imported cars and change from an engine displacement taxation to a value-based taxation system, thus allowing more large-sized vehicles to be imported. On the other hand, AFL-CIO and the United Auto Workers (UAW) are opposing the proposed FTA due to concerns about worker’s rights and benefits as well as labor conditions.

U.S. demands on autos are a continuation, and not the beginning, of an American effort to open the South Korean auto market. In 1998 the two countries signed a Memorandum of Understanding (MOU) on foreign access to South Korea’s auto market. Under the MOU, South Korea agreed to reduce tariffs on foreign vehicles from 80 percent to the present percentage, address anti-import activity, lower or eliminate many automobile taxes, create a new financing system to make it easier to purchase foreign cars, and streamline its standards and certification procedures. Many of these steps have already been implemented. The National Tax Service commented in February of 2006 that no penalties, official or otherwise, are imposed on Koreans who own or buy foreign cars. The Korea Automobile Importers and Distributors Association reported that March sales of foreign cars were up by 75 percent year-on-year.<sup>57</sup> Furthermore, GM purchased Daewoo Motor Company in 2002 in a controversial move that was met with heavy protests by striking Daewoo autoworkers. Two other smaller vehicle companies, Samsung and Ssangyong, are now under the control of foreign investors. The South Korean auto industry and market is clearly not insulated. As noted earlier, in order to start the FTA talks, in November of 2005 South Korea’s Ministry of Environment announced that it would relax rules on automobile exhaust fume standards that the Big Three saw as impediments to South Korean market share.

Ford, GM, and Chrysler ranked fourth, fifth, and sixth behind Toyota, Honda, and Nissan in the Union of Concerned Scientists’ 2004 report on the environmental performance of the six-largest automakers in the U.S. market. Ford had the worst heat-trapping gas

emission performance of all the Big Six automakers, and it publicly walked away from its commitment to improve the fuel economy of its SUVs, which are now at 2000 levels. Chrysler was noted to frequently abuse regulatory loopholes that allow its fleet to remain below federal fuel economy standards. And General Motors was the only company whose vehicles emitted more smog-forming and global warming pollution per vehicle in 2003 than in 2001. GM's trucks were also the worst among the Big Six in fuel economy, despite a public commitment to lead the Big Three in that area.<sup>58</sup> The ubiquitous use of Ford, Chrysler, and GM automobiles would undoubtedly increase both gas consumption and pollutants that would damage Korea's environment and create additional public health hazards.

In short, South Korea has made several concessions on automobiles, including cutting taxes and imposing regulations meant to accommodate the U.S. auto industry. Assuming these concessions lead to more American cars on South Korean roads, the FTA's provisions on U.S. autos will add to environmental degradation and health problems in South Korea. U.S. regulators are likely to achieve most of their goals in this area, but in return, the South Korean side hopes if not expects that American car and truck tariffs will receive similar treatment, and that the 2.5 percent U.S. tariff on imported cars will be eliminated along with the 25 percent tariff on light trucks and SUVs. This may be a significant stumbling block because the Big Three's "opposition to the FTA is grounded in fears of further inroads into the U.S. market," and not in their hopes of expanding into the South Korean market.<sup>59</sup> More importantly, the U.S. auto industry, while foundering economically, remains politically potent in the U.S. Congress and may have the ability to block the FTA.

### *Public Services*

The FTA negotiations are following a "negative list" rule that allows both governments to exclude specific public services for protection. The South Korean side has listed electricity, water, education, and healthcare. Consequently, the public service sector of South Korea is not officially included in the FTA negotiations, but there is little doubt that the proposed FTA will have a significant impact in this area given the overall trend in South Korea toward privatizing the generation and distribution of energy and gas distribution. Within the context of FTA negotiations, investment clauses that eliminate "discrimination" against foreign investors in competition with public utilities and enterprises, rules of competition that outlaw state monopolies, requirements to reduce government procurement contracts, and other related clauses are the some of the most likely ways that the public provision of energy and water will be influenced, or perhaps even controlled, by private entities.

Although the negative list rule is in effect with regard to public services, the U.S. side requested during the 5<sup>th</sup> round of negotiations that South Korea allow private competition from U.S. corporations seeking to design and maintain public services in South Korea. This is a sensitive issue given that South Korea's hefty investment in its energy industry over the past thirty years has been enormously successful in building a public service that is globally respected for its operational efficiency. Should the South Korean side make

this concession, energy production costs are likely to fall, but the South Koreans are unlikely to believe that an energy industry that is not broken should be fixed.

Similar to the provision and maintenance of education, South Korea has also seen attempts to liberalize its educational system. South Korea is rife with private after-school and tutoring programs geared toward an intensely competitive college admissions process that ordinary South Koreans agree is heavily determinative of one's structure of career opportunities. Not surprisingly, the result has been growing inequality in access to higher education and job opportunities that correlate closely with who can afford these private services and who cannot.

U.S. negotiators are seeking the introduction of private, American-based testing services to the South Korean admissions process, and there is concern among critics of the existing system that an American-based test will further entrench or even exacerbate this economic bias by driving more parents to private school programs while poor students remain left behind. Because of the importance of the college admissions test, critics argue that the American basis of the test will lead wealthy parents to send their children to the U.S. for an American education appropriate to an American test. The FTA is also poised to open university and adult education to private corporations, and several institutions of higher education based in rural areas are expected to close.

#### *Protection and promotion of cultural diversity*

In theory, the proposed FTA can be seen as an opportunity to consider new thinking about cultural trade policies such as how to support creativity and cultural diversity through copyrights, patents, and related intellectual property. The outcome of talks could set an example of how to achieve a bi-national balance in considering what are essential cultural rights, as well as how to ensure that knowledge and cultural goods are available for the broadest possible public.

However, maintaining the stability of any bi-national agreement between the U.S. and South Korea is unlikely given the ability of the U.S. to stand virtually alone in its approach to the trading of cultural expression. Consider, for example, the U.S. ability to withstand international pressure stemming from the United Nations Educational, Scientific and Cultural Organization (UNESCO) Convention on the protection and promotion of the diversity of cultural expressions. Passed in 2005 by 148 countries, the convention generally proposes that cultural and trade policies should be developed and implemented as a limited exception, underscoring the importance of the freedom to use and share knowledge, the cultivation of diversity of cultural expressions, and preserving conditions respecting basic human rights and fundamental freedoms. The U.S. was one of two governments along with Israel that objected to the convention. All 28 amendments proposed by the U.S. were rejected by UNESCO's member nations.<sup>60</sup> The South Korean film industry was hopeful that the UNESCO Convention would help prevent the reduction or elimination of the film quota.<sup>61</sup> However, the U.S. has not ratified the convention and thus is not bound by it. In applying political pressure on the South Korean

government to reduce or abolish the film quota, the U.S. side essentially ignored the convention.

The reduction of South Korea's quota on domestic films was a clear economic gain achieved by the U.S. side; South Korean opponents of the concession estimate that a single day's reduction equaled the loss of \$1.6 million, and project a minimum loss of about 20 percent of South Korea's gross film market. Hollywood films with significantly larger production and marketing budgets are expected to make significant gains over South Korea's smaller film industry. Opening up the South Korean market any further will likely lead to similar gains and losses for the respective national industries, and thus the incentives to revisit the film quota are simultaneously clear and not going away. Finally, perhaps of greater concern to those genuinely interested in the preservation and protection of cultural diversity is that the reduction of the screen quota will not impact all South Korean film production companies equally. Larger commercial companies are more likely to survive, especially because of the global competitiveness of South Korean films. On the other hand, the change in the screen quota is likely to devastate smaller, independent film producers.

Whether or not the FTA passes, it appears unlikely that the film quota concession will be reversed. This does not mean that the proposed FTA is irrelevant to the South Korean film and television industry. Workers in these sectors are already vulnerable, beset by persistent worry over lay-offs, frequent overdue payments, no collective agreement on insurance and worker security, no overtime pay for extended shooting, no guarantee of appropriate rest for workers, and no pay during pre-production. The economic pressure that the FTA is likely to bring on the film and television industry is likely to negatively impact its labor standards given the already difficult environment for the industry's rank-and-file. While it is relatively clear that Hollywood production companies have made significant gains, it is undetermined as to whether their gains will trickle down to rank-and-file American workers in the industry.

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<sup>1</sup> Christine Ahn, Christine Chai, Cheehyung Kim, Haeyoung Kim, Myung-chul Kim, Sunhyung Lee, Wol-san Liem, Terry Park, and Tammy Ko Robinson made significant contributions to the analysis in this policy brief. Joyce Kim provided research materials.

<sup>2</sup> For a discussion of recent anti-Americanism and a broader discussion of South Korean popular opinion, see Seung-Hwan Kim's "Anti-Americanism in Korea," *The Washington Quarterly* 26.1 (2002-03) 109-122.

<sup>3</sup> "FTA to Ease NK Nuclear Concern," *Yonhap*, February 7, 2006.

<sup>4</sup> Tyne Morgan, "U.S. has new South Korea FTA goal," *Brownfield Ag News for America*, December 28, 2006.

<sup>5</sup> It is possible that the Democratic majority in Congress will accede to the Bush Administration's request to extend fast-track.

<sup>6</sup> See, for example, Sean Connell, "U.S.-Korea Free Trade Agreement Position Paper," U.S.-Korea Business Council/American Chamber of Commerce in Korea. 2006.

<sup>7</sup> "Government Faces Revolt Over Free-Trade Deal With U.S.," *Chosun Ilbo*, April 10, 2006.

<sup>8</sup> Article 12 of the Stipulations on the Procedures for Concluding a Free Trade Agreement (Presidential Directive 121).

<sup>9</sup> "Security guards scuffle with protesters during a public hearing on FTA talks in Seoul," *Reuters*, February 2, 2006.

<sup>10</sup> Cho Chung-un, "Korea unprepared for FTA talks," *Korea Herald*, August 11, 2006.

<sup>11</sup> Hoon Jaung, "2002 vs. 2006, The Rise and Fall of Anti-Americanism in South Korea," Chung-Ang

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- <sup>12</sup> Remarks by U.S. Ambassador Rob Portman, Washington, DC, February 2, 2006.
- <sup>13</sup> Remarks by South Korean Trade Minister Hyun-Chong Kim, Washington, DC, February 2, 2006.
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