

Technical Barriers to Trade

Chemicals – Act on the Registration and Evaluation of Chemicals

The Registration and Evaluation of Chemicals (K-REACH) Act entered into force on January 1, 2015. K-REACH requires manufacturers and importers of chemical substances to register and comply with annual reporting requirements. The United States has raised a number of concerns about K-REACH, centering on the lack of guidance on the ongoing implementation of this law, Korea's lack of transparency during the development of K-REACH's rules and requirements, the insufficient time for companies to implement K-REACH's requirements, and K-REACH's lack of protection for confidential business information. The United States has raised these concerns numerous times, including through KORUS and at WTO Committee on Technical Barriers to Trade (TBT) meetings.

In 2017, the Ministry of Environment (MOE) introduced an amendment to K-REACH that changed the registration and reporting requirements, and creating special provisions for small businesses. The amendment is currently pending at the National Assembly and is likely to be adopted in the second half of 2018. The United States continues to urge Korean ministries to base regulations on scientific evidence and will engage Korean authorities as implementation progresses.

Information Technology Equipment – Cybersecurity Testing Requirements

Korea launched the Network Verification Scheme (NVS) on October 1, 2014. NVS sets forth new Korea-specific requirements for network equipment such as routers or switches procured by Korean government entities and requires agencies to submit procured equipment to the National Intelligence Service (NIS) for mandatory testing. Although Korea is a member of the Common Criteria Recognition Arrangement (CCRA), which sets cybersecurity standards for government-procured information technology (IT) equipment, NIS does not consider CCRA-certified equipment as compliant with the NVS, absent additional in-country testing. U.S. stakeholders have raised concerns that the NVS ignores Korean commitments in the CCRA. The United States continues to press for greater transparency and acceptance of CCRA-certified equipment without further in-country testing.

Alcohol Labeling

On July 29, 2016, Korea notified to the WTO new health warning labels to be required on all alcoholic beverages sold in Korea. One of the labels contains the statement "alcohol is a carcinogen," thereby asserting a direct link between alcohol consumption and cancer. Korea is the first country in the world to require such a label. Although Korea's WTO notification purported to allow a 60-day comment period, the final requirements on warning labels were published halfway through the comment period with an immediate effective date and only a six-month grace period to comply. The United States has raised concerns with Korea's process for notifying this measure, which did not allow for meaningful consultation with trading partners, as well as the scientific basis for making the assertions printed on the labels.

Wood Products

In 2014, Korea's National Institute of Forest Service began publishing standards for 11 wood products without room for acceptance of North American standards widely used in the United States, Canada, Brazil, and Chile – which provide 75 percent of the Korean domestic consumption of these products. Although Korea has since accepted U.S. standards for structural plywood, the Korean standard for oriented strand board (OSB), which is based on an ISO quality standard for decorative wood (a less expensive wood product), does not include test procedures or analysis that would address engineering values appropriate for construction purposes. The United States continues to encourage Korea to recognize the U.S. standard for

structural OSB and to pass the Foreign Quality Inspection Institute Act, which would allow U.S. conformity assessment bodies to become accredited in the Korean market. This would reduce costly duplicative testing and port delays.

Sanitary and Phytosanitary Barriers

Agricultural Biotechnology

Korea's regulatory system for agricultural biotechnology continues to present challenges to U.S. agricultural exports. The approval process for new biotechnology crop varieties, or "events," is onerous and protracted due to inefficiencies that include redundant reviews and data requests. For example, approval of events, requires review by up to five different agencies. Korea has indicated a willingness to continue reviewing and considering adjustments to regulatory inefficiencies. The United States and private industry provided ideas on how to improve the process, and a pilot project is underway to test a streamlined process for biotech reviews. However, Korea's Living Modified Organisms Act mandates participation by five agencies, which limits the potential for improving the system without legislative changes. The United States will continue to engage with Korea on improving its approval process.

Beef and Beef Products

Prior to 2008, Korea restricted the importation of U.S. beef and beef products, citing bovine spongiform encephalopathy BSE-related concerns. In 2008 the United States and Korea reached a bilateral agreement to fully reopen Korea's market to U.S. beef and beef products. However, as a transitional measure, U.S. beef and beef products imported into Korea must be derived from animals less than 30 months of age. In 2017, the United States exported over \$1.2 billion in beef (including variety meats) to Korea, making Korea the second largest export market for U.S. beef by value and third by volume.

Fruit Market Access

The United States has a number of market access requests pending with Korea's Ministry of Agriculture, Food and Rural Affairs' (MAFRA) Animal and Plant Quarantine Agency ("QIA"), including U.S. access for blueberries from States beyond Oregon; improvement in the cherry export program; and access for apples and pears, which are currently banned. The two governments discussed these issues at the 2017 APHIS plant bilateral meetings and at the USTR-led KORUS Sanitary and Phytosanitary Committee meeting held in November 2017. The United States continues to press Korea to allow imports of these fruits from the United States.

Maximum Residue Limits

Korea is in the process of shifting to a new "positive list" system for agrochemical residues and veterinary drugs. Under the new system, Korea will no longer allow imports of food containing agrochemical residues unless the substance has been approved for the commodity in question, and a maximum residue level (MRL) has been established. Korea implemented the positive list in December 2016 for tropical fruits, oil seeds, and tree nuts and plans to do so in December 2018 for all other plant products and in December 2020 for meat, poultry, and other animal products.

Korea is requiring the establishment of new import tolerances for agrochemicals and veterinary drugs previously registered for use in Korea, as well as for new substances not yet registered for use in Korea. In order to minimize disruption to trade, Korea delayed the elimination of existing MRLs for substances not registered for use in Korea until the end of 2021. The United States will continue to work with Korea to ensure a smooth transition to the positive list.

Potatoes

In 2012, Korea imposed a prohibition on the importation of fresh table-stock potatoes from U.S. States in the Pacific Northwest due to concerns over “zebra chip” in the region. However, in September 2017, the two countries reached a final agreement to resume exports from the Pacific Northwest in the 2018 shipping season. Potatoes from several other U.S. States still do not have market access due to Korea’s requirements related to potato spindle tuber viroid (PSTVd), a disease that is not present in commercial U.S. potato production areas. The United States continues to press Korea on the PSTVd issue.

IMPORT POLICIES

Origin Verification

U.S. exporters and producers have raised serious concerns that the Korea Customs Service (KCS) continues to conduct unduly onerous verifications for claims of preferential tariff treatment under the KORUS FTA. For a number of agricultural and industrial products, KCS has reportedly required excessive and unnecessary documentation during the verification process, costing U.S. exporters considerable time and money and jeopardizing preferential treatment for some U.S. exports. U.S. exporters also have identified a lack of coordination and inconsistent application of documentation and other verification standards among KCS offices as challenges. U.S. exporters in addition report that KCS has rejected KORUS certifications of origin for minor errors and limited the ability of companies to make corrections to certifications, further jeopardizing preferential tariff treatment for U.S. products.

Since 2013, the United States has worked closely with Korea to resolve such issues and ensure that U.S. exporters and producers receive the benefits provided for under KORUS. U.S. Customs and Border Protection and KCS meet regularly to share best practices, exchange views on verification processes, and better align Korean and U.S. customs procedures. Through discussions in the KORUS Committee and related discussions, the United States has pressed for the resolution of the verification challenges faced by U.S. exporters. One outcome from the Administration’s KORUS talks is a commitment from Korea to follow proper verification principles and to cooperate in a working group dedicated to resolving these issues. The United States will continue to seek substantial improvements as well as monitor developments in this area in 2018, including addressing both specific cases as they arise and broader issues relating to proper verification under KORUS.

Tariffs and Taxes

Korea’s simple average MFN tariff rate is 13.9 percent. Under KORUS, Korea has eliminated tariffs on more than 95 percent of U.S. manufactured goods. Korea also has eliminated tariffs on almost two-thirds of U.S. agricultural exports. U.S. products now entering Korea duty free include wheat, corn, soybeans for crushing, whey for feed use, hides and skins, cotton, cherries, pistachios, almonds, orange juice, grape juice, and wine. Other agricultural products receive duty-free access under TRQs, including skim and whole milk powder, whey for food use, cheese, dextrins and modified starches, barley, popcorn, oranges, soybeans for food use, dehydrated and table potatoes, honey, and hay. To increase the competitiveness of the domestic agricultural and livestock industries, in 2017 Korea announced voluntary, duty free, MFN TRQs for the feed grain complex (19 commodities), including maize, soymeal, barley, and oats.

Rice

During the Uruguay Round of multilateral trade negotiations, Korea negotiated a ten-year exception to “tariffication” (the WTO obligation to convert quantitative restrictions to tariffs) for rice in return for establishing a minimum market access (MMA) quota that was set to expire at the end of 2004. In 2005,