Congress of the United States
Washington, DC 20515

September 15, 2009

The Honorable Ron Kirk
U.S. Trade Representative
600 17th Street NW
Washington, D.C. 20508

Dear Ambassador Kirk:

The Republic of Korea ("South Korea") is a long-time democratic ally of the United States. Our strategic partnership is critical to peace and stability in Northeast Asia. Moreover, bilateral trade and investment between South Korea and the United States is robust and comprises an important component of the international economy.

Given the importance of this relationship, the undersigned Members greatly appreciate the July 27, 2009 *Federal Register* request for comment on whether the U.S.-South Korea Free Trade Agreement ("KORUS") makes progress in achieving the applicable purposes, policies, priorities, and objectives of the Bipartisan Trade Promotion Authority Act of 2002 ("TPA") and carries out the provisions of the May 10, 2007 Bipartisan Congressional-Executive Agreement on Trade Policy ("May 10 Agreement").

We understand the political reality that Congress is not prepared to consider the agreement without more clarity and progress on certain outstanding issues. However, we stand united in urging the Administration to prioritize ripening KORUS for Congressional consideration.

KORUS Would Significantly Increase U.S. Export Opportunities:

There is no doubt that KORUS holds the promise to foster economic growth, raise living standards, promote employment in the United States, and enhance the global economy. The independent, nonpartisan U.S. International Trade Commission ("ITC") estimates that implementation of the agreement would increase U.S. exports of goods to Korea by $10 to 11 billion and increase U.S. GDP by $10 to 12 billion. Already, U.S. trade with South Korea—the 13th largest economy in the world and the 3rd largest market in East Asia—comprises a significant and important piece of America's trading profile. South Korea is the 7th largest U.S. trading partner, the 5th largest market for U.S. agriculture exports, and a top 10 market for U.S. manufactured goods. Two-way trade in goods

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and a top 10 market for U.S. manufactured goods. Two-way trade in goods between our two countries reached $83 billion last year. Furthermore, KORUS presents a golden opportunity for the United States to set an anchor in the fast-growing Asia-Pacific region. Implementation of the agreement would send a pro-reform, pro-rule of law message to other East Asian economies, particularly China. In addition, KORUS would provide a hub or operations base for U.S. companies to find and tap into important growing Asian markets.

KORUS Would Reduce Barriers and Distortions:

KORUS makes significant progress toward reducing or eliminating barriers and distortions that are directly related to trade and that decrease market opportunities for our exports or otherwise distort bilateral trade between the United States and South Korea. Under the agreement, nearly 95 percent of bilateral trade in consumer and industrial products would become duty free within three years of the date KORUS enters into force, and most remaining tariffs would be eliminated within 10 years. With respect to farm trade, two-thirds of South Korea's agricultural tariffs would go to zero immediately, and the agreement would commit South Korea to follow animal health, plant health, and food safety measures that are science-based and developed transparently, with full notice and comment. The agreement would also open for U.S. service providers one of the world's largest and most sophisticated markets, valued at nearly $500 billion. For example, the ITC estimates that KORUS would reduce barriers in the banking sector by 62%. In short, KORUS would create markets for U.S. goods and services at a time when American workers need it most.

A key point is that KORUS can provide United States manufacturers, farmers, and service companies with more *reciprocal* market access. Currently, the average South Korean tariff for U.S. exporters is more than four times the average tariff that South Korean products face in the U.S. market. The agreement can level the playing field for U.S. exports by quickly slashing South Korean tariffs on U.S. exports: 80% of South Korea's tariff lines would go to zero immediately upon implementation. The ITC says full implementation of the agreement would increase U.S. exports to South Korea by nearly 30% more than imports from South Korea would increase.

Resolution on Outstanding Issues Must Be Reached Quickly:

There are two areas, however, where substantive concerns in the U.S.-ROK trading relationship have been raised. The first relates to non-tariff barriers (NTBs) in South Korea, particularly in the auto market. The agreement takes several steps on this front. KORUS would immediately eliminate the tariff on American automobile exports to South Korea from 8 percent to zero. In addition,

KORUS would eliminate the two known key NTBs, establish a process for monitoring new NTBs in the future, and implement rules requiring regulatory transparency and administrative best practices when South Korea wants to implement new regulations. KORUS also contains a separate, expedited motor-vehicles dispute settlement procedure that includes a "snap-back" remedy that allows the United States to suspend ("snap-back") tariff concessions on South Korean passenger cars should South Korea not live up to its obligations under the agreement. While these are positive steps, some U.S. auto companies have asked for additional steps to open the Korean market to American automobile exports.

Second, South Korea has not yet fully implemented an April 2008 protocol that would have opened the South Korean beef market to all U.S. beef, regardless of age, consistent with international standards and sound science. While under-30 month beef is selling well in South Korea, which is now the largest export market for U.S. beef outside of North America, a pathway toward a full reopening of the South Korean beef market is vitally important.

Simply put, KORUS—the most commercially significant trade agreement the United States has negotiated in 16 years—has the potential to be the bedrock for our bilateral economic relationship with South Korea and a cornerstone of the global economy. When President Barack Obama and South Korean President Lee Myung-bak met in April 2009, the two leaders committed to work together to chart a way forward on approving the agreement. That same month, Senate Finance Chairman Max Baucus and Ranking Member Chuck Grassley urged the President to "begin the hard work of winning broad approval of the U.S.-Korea FTA without delay." We were pleased that you said in May 2009 that USTR plans to consult with Congress and U.S. stakeholders to determine how to move the agreement forward.

The *Federal Register* request for comments is a good start for those important consultations. We are gratified that USTR recognizes that its role is critical in breaking the current gridlock on KORUS. Understanding that a solution is necessary, however, is not the same thing as aggressively pursuing the resolution. Many in the United States and around the world have expressed their concern that when it comes to international trade, the United States and its new Administration have taken no action to open markets, and that delay has become the default.

Failure to Enact KORUS Risks U.S. Competitiveness in South Korea:

Moving ahead is essential because failure to enact KORUS comes at a high economic cost for the United States. While the United States was once South Korea's most important trading partner, that is no longer true. South Korea's

bilateral trade relationships with China, Japan, and the EU have each overtaken that with the United States. We are already losing ground in South Korea, and failing to implement KORUS further closes us out of this important foreign market. Thus, letting KORUS sit idle actually works against the TPA negotiating objectives.

Unfortunately, the shrinking slice of the South Korea pie held by the United States looks like it will be getting even smaller as South Korea liberalizes trade and investment with its other economic partners. Most recently, on August 7, 2009, South Korea and India signed a Comprehensive Economic Partnership Agreement (CEPA). Under the CEPA, South Korea will eliminate or reduce tariffs on 93 percent of Indian goods exports, which are mainly raw materials. These tariff eliminations and reductions will reduce costs for South Korean manufacturers, making them even more competitive, to the detriment of U.S. workers. The South Korea-India CEPA also will incorporate a high level of liberalization in the services and investment sectors. India is ready to implement the CEPA now, and the South Korea government reportedly plans to obtain National Assembly approval of the CEPA this month. Entry into force could come as early as January 1, 2010.

Furthermore, South Korea has essentially finished its trade agreement negotiations with the European Union, and the agreement is expected to be initialed this fall and signed early next year. This agreement will significantly disadvantage U.S. exporters. Specifically, U.S. workers could lose $1.1 billion in exports to South Korea once the EU-South Korea trade agreement is fully implemented, according to Ways & Means Committee Republican Staff with the assistance of the ITC. These lost sales will injure industries vital to the U.S. economy, including the machinery, auto parts, chemicals, plastics, food, meat, and dairy sectors.

Additionally, South Korea is pursuing trade agreements with additional countries whose exports compete head to head with U.S. exports in the South Korean market. To that end, Canada and South Korea are already negotiating, and China is seeking negotiations with South Korea as well. When South Korea implements these agreements, our competitors' access to the South Korean market will further improve, leaving U.S. workers and companies on the outside looking in if we have not implemented KORUS.

KORUS Reinforces our Commitment in the Korean Peninsula:

The United States and South Korea have an important bilateral trading relationship, but we also share a vital geopolitical strategic commitment. Not moving forward on KORUS demonstrates a failed commitment to South Korea

and sends a signal to North Korea, which has tried to drive a wedge between us and our longtime ally on the peninsula.

KORUS Would Strengthen the Status of Labor and Environmental Issues:

KORUS is an opportunity to display for the world U.S. leadership on harmonizing trade liberalization with labor and environmental considerations. KORUS contains provisions that would further strengthen the system of international trading disciplines and procedures, including dispute settlement for labor and environmental obligations.

Specifically, as a result of the bipartisan May 10, 2007 Agreement between Congress and the Administration, which we strongly support, KORUS promotes respect for worker rights consistent with core labor standards of the International Labor Organization ("ILO"). While TPA requires that our agreements not "weaken or reduce the protections afforded in domestic … labor laws as an encouragement for trade," KORUS goes farther by incorporating the May 10 Agreement. Specifically, the agreement requires that South Korea adopt and maintain in its own laws and practice the five fundamental labor rights, as stated in the 1998 ILO Declaration on Fundamental Principles and Rights at Work, including a prohibition on the worst forms of child labor. Under the terms, South Korea may not waive or otherwise derogate from these obligations in a manner affecting trade or investment. Moreover, when it comes to dispute settlement, these labor obligations have full parity with South Korea's commercial obligations under the agreement, and we have access to every enforcement tool set forth, including trade sanctions.

Similarly, KORUS is the paradigm when it comes to ensuring that trade and environmental policies are mutually supportive. The agreement goes beyond preserving the status quo; it will actually strengthen environmental protection, if entered into force. Pursuant to the May 10 Agreement modifications to KORUS, South Korea must adopt, maintain, and implement laws, regulations, and all other measures necessary to fulfill its obligations under covered multilateral environmental agreements ("MEAs"). Like its labor obligations, South Korea may not derogate from these provisions in a manner affecting trade and investment. Moreover, the dispute settlement provisions covering South Korea's environmental obligations are subject to the same stringent enforcement and remedy that apply to all other KORUS obligations.

In protecting and preserving fundamental labor rights and environmental principles according to the bipartisan May 10 agreement, KORUS will enhance the international means of doing so. South Korea's recent CEPA with India does not contain labor or environment chapters. Similarly, it is our understanding that

South Korea's agreement with the EU lacks these important chapters as well. The United States is the leader in this area. Unless we implement KORUS, we cannot set an example for the rest of the world.

KORUS Provides New Opportunities for Enforcement:

This Administration has made trade enforcement a point of emphasis. The undersigned fully agree that the enforcement of bilateral and multilateral trade agreements is critically important. The United States must be vigilant, proactive, and progressive. However, it is simply not enough to enforce the current, existing rules. Entering into new agreements actually enhances enforcement because it provides the United States with *new rules to enforce*.

Conclusion:

In closing, let us take this opportunity to be clear about our position. The outstanding controversy with KORUS must be addressed so that the agreement may be implemented and American exporters and workers can have open access to this important market. We recall the words you offered at your speech at Georgetown University earlier this year: "Now is not the time to be timid." We respectfully request that the Administration back that sentiment up with immediate action. Time is not on our side. You have our full commitment that we are ready to assist wherever and whenever we are called upon to do so.

Sincerely,

cc: Ambassador Demetrios Marantis
Deputy U. S. Trade Representative

Wendy Cutler
Assistant U.S. Trade Representative for Japan & Korea

Daniel Sepulveda
Assistant U.S. Trade Representative for Congressional Affairs

Bryant Trick
Deputy Assistant U.S. Trade Representative for Korea

Gloria Blue
Executive Secretary
Trade Policy Staff Committee

America Falling Behind:
As Other Countries Complete Trade Agreements, American Exporters and Workers Get Left Behind
Results for U.S. Export Sectors that Experience a Decline of at Least 5% /1/

Impact of EU - South Korea Trade Agreement on U.S. Exports to South Korea

Sector	Percent Decline	Dollar Decline ($ thousands)
Machinery & equipment:	-7%	(447,510)
Chemical, rubber, and plastic products:	-5%	(273,250)
Food products:	-31%	(223,820)
Meat products:	-62%	(51,460)
Motor vehicles and parts:	-5%	(27,900)
Cereal grains:	-5%	(27,650)
Dairy products:	-57%	(17,670)
Crops:	-11%	(13,750)
Leather products:	-12%	(12,480)
Apparel:	-9%	(5,400)
Beverages & tobacco products:	-10%	(4,800)
Vegetable oils:	-10%	(1,500)
Cattle, sheep, and goats:	-5%	(350)
Sugar:	-6%	(120)
Subtotal selected sectors:	-8%	(1,107,660)

Impact of EU - Colombia Agreement on U.S. Exports to Colombia

Sector	Percent Decline	Dollar Decline ($
Machinery and equipment:	-15%	(154,950)
Chemical, rubber, and plastic products:	-9%	(118,710)
Electronic equipment:	-6%	(37,800)
Paper products:	-14%	(20,160)
Textiles:	-11%	(15,730)
Motor vehicles and parts:	-13%	(14,040)
Manufactured products:	-13%	(7,280)
Metal products	-14%	(6,160)
Apparel:	-21%	(5,460)
Mineral products:	-9%	(2,790)
Iron and steel:	-6%	(1,680)
Wood products:	-13%	(1,300)
Leather products:	-7%	(350)
Dairy products:	-10%	(300)
Beverages and tobacco products:	-7%	(140)
Processed rice:	-7%	(11)
Wool:	-50%	(30)
Subtotal selected sectors:	-11%	(386,891)

Impact of Canada - Colombia Agreement on U.S. Exports to Colombia

Sector	Percent Decline	Dollar Decline ($ thousands)
Wheat:	-38%	(50,920)
Cattle, sheep, and goats:	-27%	(4,590)
Meat products:	-10%	(900)
Dairy products:	-8%	(240)
Subtotal selected sectors:	-35%	(56,650)

/1/ Analysis of the impact of implementation of FTAs between the EU and Korea, the EU and Colombia, and Canada and Colombia and no U.S. FTAs implemented.

Source: Committee on Ways & Means, Republican Staff from technical assistance provided by the U.S. International Trade Commission.