REPUBLIC OF KOREA

TRADE SUMMARY

In 2001, the U.S. trade deficit with Korea in 2001 totaled $13 billion, an increase of $510 million over 2000. In 2001, Korea was the United States' 6th largest export market. During the 2001, two-way goods trade between the United States and Korea dropped off to $57.4 billion, compared with the record-level $68.1 billion for 2000. U.S. exports to Korea totaled $22.2 billion, a 20.2 percent decrease over 2000. U.S. imports from Korea also dropped in 2001 to $35.2 billion, a 12.7 percent decrease.

U.S. exports of private commercial services (i.e., excluding military and government) to Korea were $6.9 billion in 2000 (latest data available), and U.S. imports were $4.2 billion. Sales of services in Korea by majority U.S.-owned affiliates were $1.6 billion in 1999 (latest data available), while sales of services in the United States by majority Korea-owned firms were $381 million.

The stock of U.S. foreign direct investment in Korea in 2000 was $9.4 billion, an increase of 10.2 percent from 1999. U.S. foreign direct investment is mainly concentrated in manufacturing, banking, and petroleum. The United States is one of the leading foreign investors in Korea.

OVERVIEW

Korean global imports fell considerably in 2001, decreasing 12.1 percent to $141.1 billion. Likewise, exports declined 12.5 percent to $150.6 billion. Korea's global trade surplus narrowed from $12.1 billion in 2000 to $9.5 billion in 2001. In 2002, Korea's trade surplus is expected to be between $7 billion and $10 billion.

The Korean economy grew by 2.9 percent in 2001, much slower than the near double-digit growth of the previous two years, but better than most other economies in the region. Inflation and unemployment remained at moderate levels, despite the slowdown. Although the pace of economic reform has slowed, Korea continues to move toward a more open, market-oriented economy through reform and restructuring. Past linkages between government, banks, and *chaebol* (conglomerates) that resulted in excessive corporate debt, plant over-capacity and uneconomic investments are being reduced, which should result in less direct government influence in the economy and increased competition and market access in Korea. Nonetheless, the Korean Government's continued involvement in the financial sector through ownership of key commercial banks and the slow pace of corporate reform raises skepticism about ongoing structural reform efforts and impedes progress toward a more market-based economy.

IMPORT POLICIES

Tariffs and Taxes

Korea bound 91.7 percent of its tariff line items in the Uruguay Round negotiations, and in 2001, Korea's average tariff rate was 8.9 percent. Korea's tariffs on all agricultural products are bound. In the case of rice, Korea committed under Annex 5 of the WTO Agriculture Agreement to provide increasing market access for rice at a tariff rate of 5 percent. Tariffs on forestry and fishery products remain unbound. Between 1995 and 2004, Korea will lower duties on more than 30 agricultural products of primary interest to U.S. exporters. These products include bulk, intermediate- and high-value items, such as mixed feeds, feed corn, wheat, vegetable oils and meals, fruits, nuts, popcorn, processed potatoes, frozen french fries and breakfast cereals.

Under its Uruguay Round commitments, Korea also established tariff-rate quotas (TRQs) intended to either provide minimum access to a previously closed market or maintain pre-Uruguay Round access. (See also "Quantitative Restrictions, TRQs and Import Licensing.") In-quota tariff rates are zero or very low, but over-quota tariff rates on some products are prohibitive. Specifically, natural and artificial honey are assigned an over-quota tariff rate of 251.1 percent; skim and whole milk powder, 189.2 percent; barley, 334.8 percent; barley malt, 278 percent; potatoes and potato preparations, more than 314.2 percent; and popcorn, 651 percent.

Duties are still very high on many high-value agricultural and fishery products. Korea imposes tariff rates above 40 percent on many products of interest to U.S. suppliers, including shelled walnuts, table grapes, beef, canned peaches and fruit cocktail, distilled spirits, apples, pears and a variety of citrus fruits. Products subject to 30 percent or higher tariff rates include certain meats, most fruits and nuts, many fresh vegetables, starches, peanuts and peanut butter, soups, various vegetable oils, juices, jams, beer and some dairy products.

By 2004, Korea will reduce bound tariffs to zero on most or all products in the following sectors: paper, toys, steel, furniture, semiconductors and farm equipment. Korea is harmonizing its chemical tariffs to final rates of 0 percent, 5.5 percent or 6.5 percent, depending on the product. In addition, tariffs on scientific equipment are being reduced 65 percent from pre-Uruguay Round levels. On textile and apparel products, Korea has harmonized and bound most of its tariffs to the following levels: 13 percent for man-made fibers and yarns, 30 percent for fabrics and made-up goods and 35 percent for apparel.

Korea uses "adjustment tariffs" and compounding of taxes to boost the applied tariff rate in order to protect domestic producers, practices about which the U.S. Government has expressed concern to the Korean Government. In 1997, Korea agreed as a condition of its IMF stabilization package to reduce the number of products subject to tariff adjustments. In 2002, Korea renewed adjustment tariffs on 22 of 26 items that received adjustment tariffs in 2001 (reducing the tariff rates for 9 of these 22 items) and implemented a new adjustment tariff for one product, live croaker. Most of the 23 adjustment tariffs are imposed on agricultural products and seafood, including frozen croaker and skate.

The combination of relatively high tariffs and value-added taxes continues to render a variety of products uncompetitive in Korea. One such product is motor vehicles, which are subject to a tariff rate of 8 percent – more than three times the U.S. tariff – as well as multiple taxes compounded on the tariff. Three of these taxes are based on engine size and have a disproportionate impact on imported vehicles. Although Korea eliminated or reduced some motor vehicle taxes based on commitments it made under the 1998 Memorandum of Understanding Regarding Foreign Motor Vehicles in the Republic of Korea, the combination of the tariff and remaining taxes levied on imported cars continues to severely impedes their price competitiveness. In November 2001, Korea temporarily reduced the special consumption tax on autos through June 2002. The United States has urged Korea to extend the duration of this tax reduction and to initiate reforms of its overall auto tax system.

Non-Tariff Measures

Internal Supports

Korea agreed as part of the Uruguay Round Agreement on Agriculture to reduce its domestic support (Aggregate Measurement of Support, or AMS) for agricultural products by 13 percent by 2004. The Korean Government substantially increased the level of domestic support it provided to its cattle industry during 1997 and 1998, thereby raising the overall level of support for agriculture as well. The issue of whether Korea had adequately confined domestic support within the constraints of its WTO reduction commitments on domestic subsidies was raised by the United States and Australia in WTO dispute settlement proceedings in 1999. The outcome of the dispute was inconclusive as the WTO Appellate Body was unable to make a specific finding on the consistency of Korea's subsidy level with the applicable obligations under the WTO Agreement on Agriculture. Nonetheless, the Appellate Body did conclude that Korea had not been computing the current level of domestic support in a manner compatible with the requirements of the Agreement. The United States will continue to monitor Korea's notification of its AMS to the Committee on Agriculture to ensure that the calculation is now in conformity with Korea's commitments.

Quantitative Restrictions, TRQs and Import Licensing

Quantitative Restrictions

Pursuant to a U.S.-Korea 1993 Record of Understanding (ROU) and Korea's Uruguay Round commitments, effective January 1, 2001, the Korean Government removed its eight remaining quantitative restrictions on items subject to balance-of-payments protection. These items consisted mainly of live cattle (dairy and beef) and beef products (HS 0201 and 0202). However, as a result of limits on the number and size of official port quarantine inspection facilities, Korea effectively placed quantitative restrictions on all live animals eligible to be imported under Korea's commitment to the WTO.

The U.S. Government, joined by the Government of Australia, initiated WTO dispute settlement procedures in 1999 to ensure that Korea would fulfill its obligation to remove these balance-of-payment restrictions and, more broadly, that Korea would adhere to WTO rules in the conduct of its beef import and distribution system. The WTO Panel found in favor of the United States and Australia, and, after considering an appeal by Korea, the Appellate Body report affirmed the key findings of the WTO Panel. (See also "Beef" under the TRQ section.) Korea's quantitative restrictions on rice expire in 2004.

Tariff-Rate Quotas (TRQs)

Most imported non-food goods no longer require government approval, but some products, mostly agricultural/fishery items, face import restrictions such as quotas or TRQs with prohibitive over-quota tariffs. Korea implements quantitative restrictions through its import licensing system which domestic producer groups or government buying agencies – the Agricultural Fishery Marketing Corporation (AFMC) and Public Procurement Services (PPS) – administer. A government export-import notice lists products that are restricted.

The U.S. Government has raised concerns about Korea's administration of quotas, specifically regarding rice, citrus, and unprocessed food grade and value-added soybean and corn products. In some cases, including for onions, potatoes, shelled nuts and garlic, the Ministry of Agriculture and Forestry (MAF) authorizes AFMC to auction in-quota quantity allocations. Such an allocation system adds costs to the permissible charges foreign firms face in entering the Korean market, raising questions about the WTO-consistency of the system. The U.S. Government also has raised concerns about MAF's delegation of authority to the Cheju Citrus Cooperative (CCC) to administer its citrus quota. The CCC attempts both to auction in-quota quantity allocations and to impose trade terms on the award winner. It also retains the revenue generated by the auctions. Moreover, the CCC restricts market access by delaying tender announcements and limiting import dates. The Korean Government condones the CCC's anti-import practices, which ultimately burden Korean consumers by limiting product availability and raising prices.

Korea also continues to restrict imports of value-added soybean and corn products. By aggregating raw and value-added products under the same quota, Korea restricts market access for value-added products, such as corn grits and soy flakes. Domestic producer groups, which administer the quotas, invariably allocate the more favorable in-quota rate to their major members, who use it to import raw ingredients.

Beef

Pursuant to a 1989 GATT panel ruling against Korea's measures on beef, Korea committed to phase out its balance-of-payment restrictions on beef. Subsequently, in 1990 and 1993, the United States and Korea concluded exchanges of letters and Records of Understanding (ROUs) under which Korea agreed to annual increases in minimum market access levels for beef imports through 2000. The 1993 ROU also guaranteed direct commercial relations between foreign suppliers and Korean retailers and distributors and provided that a growing volume of beef be sold through that channel instead of through a state trading organization. In 1994, the settlement of a U.S. Super 301 petition provided an additional guarantee of U.S. access to the Korean meat market. Australia and New Zealand – the other two major suppliers of beef to Korea – entered into identical agreements with Korea. The U.S. and Korean Governments met periodically to review Korea's implementation of the 1993 agreements. Korea failed to meet its minimum market access commitment on beef in 1997, 1998, and 1999. Senior U.S. Government officials repeatedly sought Korea's elimination of impediments to the entry and distribution of foreign beef and requested WTO dispute settlement consultations in February 1999. These consultations were unsuccessful and a WTO Dispute Settlement Panel on Korea's beef measures was formed in July 1999. Australia joined the U.S. complaint, and Canada and New Zealand participated as third parties.

The United States' complaint focused on Korea's: (1) requirements that imported beef be sold only in specialized imported beef stores; (2) laws and regulations restricting the resale and distribution of imported beef by super-groups, retailers, customers, and end-users; (3) discretionary import regime; (4) imposition of excessive duties on imported beef; and (5) failure to fulfill its reduction commitment for domestic support.

On July 31, 2000, the WTO released its panel report, which concluded that Korea's import regime for beef discriminates against imports from the United States and other foreign suppliers. The panel found that Korea's requirement that imported beef be sold in separate retail stores and the imposition of other restrictions only on imported beef are inconsistent with Korea's obligations under GATT Article III:4 because the requirements result in less favorable treatment for imported beef than is accorded to Korean beef. The panel also concluded that Korea provided domestic subsidies to its cattle industry at levels higher than permitted by its commitments under the WTO *Agreement on Agriculture.* The significant increases in domestic subsidies for Korea's cattle producers in both 1997 and 1998 resulted in Korean beef production at levels that would otherwise have been uneconomical, contributing to reduced opportunities for U.S. beef.

Korea appealed the Panel's finding that the dual store system and Korea's domestic support levels were inconsistent with its WTO obligations. However, on December 11, 2000, the WTO Appellate Body sustained the findings of the Panel regarding the discriminatory nature of Korea's retail distribution system for beef and affirmed the Panel's conclusion that Korea must compute the level of domestic support in accordance with the provisions of the Agreement on Agriculture. The Dispute Settlement Body adopted the findings and recommendations of the Appellate Body at its January 10, 2001 meeting. On September 10, 2001, Korea brought the measures in question related to its retail beef distribution system into compliance with its WTO obligations. The United States will continue monitoring the situation to ensure these measures are fully implemented.

In October 2000, the Ministry of Commerce, Industry and Energy (MOCIE) championed a MAF initiative to implement rule of origin (ROO) residency requirements for livestock, poultry and their products. The new ROO residency requirements were to go into effect at the beginning of 2001. The Korean Government stated that the new rule was not a public health or animal health requirement but simply an effort to move forward the international discussion on ROO that had stalled in Geneva. The U.S. Government raised strong concerns about the new requirement and its likely impact on U.S. beef exports to Korea, which total about $500 million. The Korean Government agreed to delay implementation for one year and to work with the U.S. Government to find a mutually satisfactory solution to this issue during that time. On December 22, 2001, the MOCIE formally rescinded the ROO provisions that pertained to residency requirements in the exporting country for beef, pork and poultry meats. It also slightly modified the ROO residency requirements in the exporting country for livestock and poultry.

Rice

The Korean Government continues to exercise full control over the purchase, distribution and end-use of imported rice. Korean law allows imported rice to be used only for industrial or processing purposes. The state trading enterprises that administer the WTO-mandated minimum access program typically purchase only low-quality rice on instruction from the buying ministry – MAF. In 2001, Korea imported for the first time high-quality U.S. rice under its Minimum Market Access (MMA) quota, after adjusting its tender specifications to target higher quality rice. The U.S. Government welcomed this development while raising concerns that the imported U.S. rice remains relegated to storage facilities as does most other rice imported under the 2000 and 2001 MMA quota programs. Korea repeatedly has stated that it will not allow imported table rice to be marketed directly to Korean consumers, raising questions about the consistency of Korea's actions with its WTO obligations.

The U.S. Government also remains concerned with continued Korean statements that its rice policies are non-negotiable in the new WTO agriculture negotiations. Such statements serve to undermine Korea's broader goals and initiatives for the new trade round initiated at Doha in November 2001. The United States will continue to actively engage Korea to ensure its full compliance with its WTO obligations on rice and to press for further liberalization of Korean rice policies.

Tobacco

The Korean Government is in the process of privatizing its 100 year-old national tobacco monopoly, Korea Tobacco and Ginseng Corporation (KT&G). On March 8, 2001, the

National Assembly passed amendments to the Tobacco Business Act that ended KT&G's legal "monopoly" status effective July 1, 2001 by allowing other companies to invest and manufacture in the tobacco sector, subject to licensing criteria. At the same time, the Korean Government reimposed import duties on manufactured cigarettes, starting at 10 percent and increasing to 40 percent over three years. Tariffs on cigarettes had been maintained at zero percent since 1988 per the terms of the U.S.-Korea Record of Understanding (ROU) Concerning Market Access for Cigarettes, which required that Korea maintain a zero percent tariff rate until such time as it began to allow foreign investment in the manufacture of cigarettes.

In 2000, the U.S. Government raised with Korea the discriminatory impact of its proposed regulatory requirements on foreign companies seeking to invest or manufacture in the tobacco sector. The Korean Government agreed to modify its regulations to address those aspects that could discriminate against foreign companies, and the new measures went into effect July 1, 2001. Actual privatization of KT&G through the sale of the Korean Government's 53 percent stake in the company will be forthcoming.

Oranges

Quotas on fresh oranges were liberalized in July 1997 to permit out-of-quota imports. The in-quota tariff rate is 50 percent, and the out-of-quota rate is 59.8 percent in 2002 and will be lowered to 50 percent in 2004. The in-quota quantity for 2002 is 45,052 metric tons and will be expanded at an annual growth rate of 12.5 percent through 2004.

The Ministry of Agriculture and Forestry (MAF) delegated administration of Korea’s citrus tariff-rate quota (TRQ) regime to the Cheju Citrus Cooperative (CCC), a Korean producer group. Allowing the CCC to administer the TRQ raises questions about whether it is being administered in a non-discriminatory manner. While the CCC has purchased the majority of its imports from the United States, it failed to exercise the full amount of the TRQ in 1999, 2000, and 2001. Moreover, in 1999 and 2001, Korea auctioned a portion of the quota, despite U.S. protests that such an allocation system adds costs to the permissible border charges facing foreign firms entering the Korean market. Korea likewise ignored U.S. Government and industry requests for the issuance of a viable, market-based tender schedule for the unfilled quota amount. In 2002, the CCC again is expected to auction the quota allocation, but the auction is expected to be delayed until after the June 2002 provincial government elections and full utilization of the TRQ once again appears unlikely. The United States will continue to actively engage Korea to ensure its full compliance with its WTO obligations.

Import Clearance Procedures

U.S. suppliers of food and agricultural products, including products for which market access was liberalized under bilateral or multilateral trade agreements, continue to encounter market access barriers in Korean ports despite the steps the Korean Government has taken in this area over the past few years. After WTO dispute settlement consultations with the United States between 1995 and 1999, the Korean Government revised its import clearance procedures by: (1) expediting clearance for fresh fruits and vegetables; (2) instituting a new sampling, testing and inspection regime; (3) eliminating some non-science-based phytosanitary requirements; (4) revising the Korean Food and Food Additives Codes, for example, to bring Korean pesticide residue level standards for citrus into conformity with CODEX Alimentarius standards; and (5) requiring food ingredient listings by percentage for major, rather than for all, ingredients.

In 2001, the Korea Food and Drug Administration (KFDA) revised the Food Code and the Food Additives Codes, addressing many of U.S. industry's concerns, such as establishing allowances for subsidiary colors in select food coloring and the easing of overly-burdensome restrictions on food. However, other changes in 2001 raise concerns about whether KFDA procedures are overly burdensome. KFDA's requirements for extensive documentation for mandatory pre-market approval of each new-to-market product, its determination that a product is new if formula ratios are changed or if substitute ingredients are used, and its non-recognition of "good manufacturing practices" in the production process of imported food products set its procedures apart from those of other OECD food safety agencies. More work is needed to bring Korea's food code standards up to international standards, specifically those standards related to food additives *(e.g.*, Korea has not effectively adopted the "generally recognized as safe" standard).

Beginning in the Fall of 2000, the U.S. Government has worked closely with the KFDA and MAF to provide assurances that the U.S. Government is helping to minimize the risk of importing U.S.-origin food-grade corn and corn-based food products that tested positive for the "Starlink" protein. KFDA guidance to field inspectors in late December 2000 helped ease, although not eliminate, port clearance delays caused by confusion over Korea's import requirements regarding Starlink. Since the first quarter 2001, Starlink corn has not been detected in any U.S. food-grade corn exported to Korea. Nonetheless, KFDA continues to require a separate import certification with food-grade corn, in addition to the U.S. grain export certificate, that the product does not include Starlink corn.

Import clearance of agricultural products at Korean ports remains generally slow and procedures continue to be somewhat arbitrary, despite the steps the Korean Government has taken in this area over the past couple of years. Surveys of U.S. trading partners in Asia indicate that import clearance for most agricultural products requires less than three to four days. In Korea, import clearance for new products still typically takes 10 to 18 days, and four to six months if a food additive is not specifically recognized in Korea's Food Additive Code for use in that product. (Any unauthorized additive must go through a formal approval process before it can be approved for use in a particular food).

MAF and its agencies responsible for administering plant, animal and animal product inspection, including the National Plant Quarantine Service and National Veterinary Research and Quarantine Service, account for the greatest delays in import clearance. MAF imposes numerous requirements that restrict access or delay import clearance, such as incubation testing for non-quarantine pests and product detention based on administrative errors on export certificates, which add costs for importers and, ultimately, for consumers. Improvements in expedited clearance of fruits and vegetables are slowly being eroded through various new testing and documentation requirements, extension of detention periods for pest identification, and registration of every conceivable insect as a potential pest subject to quarantine measures.

The United States will continue its dialogue with the Korean Government on import clearance procedures until clearance times in Korean ports are comparable to those in other Asian ports and Korean procedures are based on science and consistent with international trade rules and norms. (See also "Standards and Conformity Assessment Procedures.")

Customs Procedures

The Korea Customs Service (KCS) frequently classifies "blended products" under the Harmonized System (HS) heading for the major ingredient of that product rather than the HS heading for the blended product, which usually has a lower tariff rate. Changes in classification often are based on arbitrary standards (*e.g.*, for dehydrated potato flakes to be classified as blended products, they must include at least 10 percent non-potato ingredients) and are at odds with practices observed by other OECD members. "Blended products" disadvantaged by this practice include potato flakes, soybean flakes, flavored popcorn and peanut butter chips.

KCS's misclassification of potato preparations under the HS heading 1105 has restricted U.S. exports of these products to Korea. Korea should import dehydrated potato products under the unrestricted HS 2005 heading, with an applied tariff rate of 20 percent and a bound rate of no more than 31.5 percent in 2004. Instead, KCS has classified preparations of potato flour, flakes, granules or pellets under HS 1105, which is subject to a tariff-rate quota (TRQ) with an in-quota quantity of 60 metric tons and an over-quota tariff of 304 percent. Although the situation has improved somewhat in the past year, the U.S. Government will continue to seek to address this issue.

U.S. exporters have faced classification issues on other products as well. Since 2000, KCS has automatically classified all imported skate and ray as skate, unless the import is accompanied by a government-issued inspection certificate that identifies the ray by its scientific name. Skate is subject to a 50 percent adjustment tariff; ray is subject to a 10 percent general tariff. Purportedly, this action was taken to help prevent fraudulent mislabeling of ray, but similar actions have not been pursued with other fish or food products subject to fraudulent labeling.

U.S. exports of soda ash also have been misclassified, resulting in a higher tariff.

In addition, KCS routinely rejects customs clearance applications on administrative grounds (wrong print, font size, erasure marks on application, etc.), thereby delaying the official start of the customs clearance process. Finally, Korean regulations often require local trade associations to certify or approve import documentation. In addition to requiring the importer to pay a processing fee, which is used to help fund the association, this rule requires importers to submit proprietary business information, to which their local competitors often appear to have access.

STANDARDS, TESTING, LABELING AND CERTIFICATION

Standards and Conformity Assessment Procedures (Sampling, Inspection, Testing and Certification)

Korea maintains standards and conformity assessment procedures, such as sampling, inspection, testing and certification, that appear to be overly burdensome and appear to have a disproportionate impact on imports.

Korea implemented mandatory biotechnology labeling requirements for corn and soybean commodities in March 2001 and in July 2001 for processed foods containing biotech-enhanced corn, soybeans or soybean sprouts. It intends to extend the mandatory labeling requirements to biotech-enhanced bulk potato shipments on March 1, 2002 and to processed potato products on July 13, 2002. Korea provided only vague and limited information on the new labeling requirements, however, which hampered companies' ability to properly comply with the requirements. Moreover, the new requirements appear far more burdensome than necessary to achieve its stated goal of providing Korean consumers clear information and appear to raise national treatment concerns as well. As a result, U.S. exports of several products have declined substantially. The U.S. and Korean Governments have held several constructive discussions on this issue, both agreeing that this is not a health and safety issue. The United States will continue to work with the Korean Government to resolve this issue in a manner that ensures consumer information requirements are satisfied and is no more burdensome than necessary to achieve these goals.

In July 2000, the United States and other meat exporting countries submitted comments on Korean standards regarding the unscientific restraint on handling and storage of meats. The U.S. Government has also sought changes to Korean regulations prohibiting the freezing of meat originally distributed as "fresh" or "chilled" or the thawing of meats originally distributed as "frozen." Freezing of fresh or chilled meat is commonly practiced in the United States and many other markets to ensure product wholesomeness, especially when the meat must be transported lengthy distances, and U.S. regulations allow for freezing of fresh or chilled beef as long as the meat is properly labeled and appropriately handled. MAF expects to complete a scientific review of this issue by mid-2002.

In 2000 and 2001, the Korea Food and Drug Administration (KFDA) revised the Food Code, Food Additive Code, and Labeling Standards to make them more consistent with international standards. However, KFDA requires that products be classified according to a narrowly defined product category, which is then further restricted by limits on ingredients or additives not approved for that product category. Manufacturers using products with ingredients or additives not already approved for that product category must seek KFDA approval, which can take six months to one year. KFDA will not initiate the review process until all data/documentation is submitted, further extending the process and cost. In addition, KFDA approves each product on a company basis, institutionalizing redundancy in examination and increasing costs, while providing no additional benefit or level of product safety to the consumer. The United States has continually expressed concerns about these practices and prohibitions under the Food Code and Food Additive Code, particularly those relating to the many ingredients, classes of ingredients, food colors and dyes, and food and food manufacturing processes that are generally recognized as safe by international standards (*i.e.*, CODEX, JEFCA, etc.). (See also "Import Clearance Procedures").

The U.S. Government has expressed concern over Korea's phytosanitary and sanitary certification requirements that continue to limit market access for a variety of products. In January 2002, MAF issued a proposal that should address the key concerns of U.S. industry regarding the extensive pre-clearance inspection requirements for imported in-shell walnuts, and the U.S. Government is hopeful that this issue will be resolved shortly. However, delays in Korea's review of documentation on pest mitigation provided by the United States continue to effectively preclude market access for cherries and apples.

In an effort to prevent imports of products including BSE-tainted ingredients, in Spring 2001 Korean enacted requirements that the U.S. Government certify ruminant and ruminant product exports as BSE-free. These requirements proved overly restrictive. However, the issue was resolved when the Korean Government, after extensive legal review, decided to accept BSE-free certifications by governments, relevant legal entities (associations, etc.), or manufacturers (if notarized).

Korean Government agencies also require pre-approval for pharmaceuticals, chemicals, computers, telecommunications equipment, other products and all food additives. While many other countries require pre-approval for some products, the range of affected products is exceptionally broad in Korea, and companies must submit documentation that is extraordinarily detailed. In the past, information provided by importers as part of the pre-approval/certification process often was not adequately protected. The Korean Government revised the Pharmaceuticals Affairs Act in July 2000 to allow data submitted for approval/certification to be protected upon written request, with disclosure punishable by fine and imprisonment. However, these revisions do not require the Korean Government to protect data when such protection is deemed contrary to the "public interest," and the U.S. and Korean Governments are working together to address this issue. (See also "Intellectual Property Rights Protection").

For pharmaceuticals, recent regulatory changes should reduce somewhat the delays companies have typically experienced in obtaining approval from KFDA for the local sale of drugs developed outside of Korea. Specifically, KFDA now permits firms to begin local clinical trials on development stage compounds. However, local testing is still slow and difficult compared to other countries. KFDA has made assurances that regulations released in December 1999 would comport with the spirit of the International Conference on Harmonization (ICH) guidelines and, therefore, would render Korea's rules on foreign data and testing more science-based. Contrary to the ICH, however, the regulations fail to include Koreans as members of the general Asian population for drug testing and presume that drugs are more narrowly ethnically sensitive unless proven otherwise.

Finally, Korea has impeded market access for foreign pharmaceuticals by requiring redundant local test data for three lots of imported pharmaceuticals, vaccines and biologics for purposes of product registration. Moreover, once registered, each shipment of the a drug imported into Korea for commercial purposes must be tested. This is expensive, inefficient and scientifically unsound. The United States will continue to emphasize the need for the Korean Government to implement appropriate international guidelines on the acceptance of foreign clinical test data, to make the drug approval process for new drugs more science-based, and to shorten the overall drug approval process in Korea (see also "Intellectual Property Rights Protection" and "Pharmaceuticals").

The United States and Korea have worked together cooperatively over the past few years to resolve a range of motor vehicle standards issues. Consistent with the 1998 U.S.-Korea Memorandum of Understanding (MOU) Regarding Motor Vehicles market access for foreign motor vehicles, Korea has taken steps to simplify and streamline its safety and environmental standards and certification procedures. In October 2000, Korea joined the Global Agreement, an agreement intended to encourage the international harmonization of motor vehicle standards. In 2001, the United States and Korea resolved standards issues related to auto pass-by noise testing as well as fuel economy labeling procedures. In addition, the United States and Korea established a new working group to improve the dialogue between the two sides on complex standards and certification issues. The first meetings of this group have proved highly productive and the U.S. Government believes that this forum offers the potential to build a stronger cooperative relationship on standards and certification issues as the work of this group continues. The U.S. Government is closely consulting with the Korean Government's development of a self-certification system, which Korea committed to implementing by January 2003. The establishment of this system will be a key agenda item of the working group over the next year. Finally, with member governments working to develop a new global standard on side impact crash tests under the Global Agreement, the Korean Government committed to the U.S. Government in January 2002 that it would continue to accept both the U.S. and European side impact standard. Nonetheless, the U.S. Government continues to be concerned about a variety of other auto standards issues, which serve as serious market access barriers to U.S. automakers, and will continue to work with Korea to expeditiously address these matters.

Labeling Requirements

U.S. exporters cite Korea's non-transparent and burdensome labeling requirements as barriers to entry, despite various recent changes by the Korea Government to these requirements. The U.S. Government will continue to express concerns to the Korean Government regarding these issues.

In July 2000, KFDA revised its food labeling standards to bring Korea's labeling standards more in line with international standards. For example, mandatory Korean-language labeling of product type for most products was eliminated and foreign languages may be used on the label. The new labeling standards were implemented in January 2002 after an 18-month grace period. On January 1, 2001, the Ministry of Environment's (MOE) new packaging and labeling standards for food went into effect. Aimed at protecting the environment by minimizing land-fill material, the standards prohibited the use of PVC-shrink-wraps and promotional packaging that included more than 20 percent "dead space" in the container. MOE addressed U.S. Government concerns about the restricted use of PVC-shrink-wrap on some products, including frozen products, on food safety grounds. However, the U.S. Government continues to question Korea's rationale for restricting package size based on gross dead space to minimize landfill material. Net space displaced by such containers, once collapsed and measured (MOE does not allow this), is minimal and well within the objective of the standard. The U.S. Government will monitor implementation of these standards.

In 1999, the Korean National Assembly passed legislation authorizing the Ministry of Agriculture and Forestry (MAF) and the KFDA to require the labeling of biotechnology-enhanced (genetically modified, or GM) food products. MAF has authority for labeling requirements covering unprocessed GM-commodities, while KFDA has authority for the conduct of safety assessments on processed GM-foods. MAF labeling standards became effective March 1, 2001 and currently apply only to unprocessed corn, soybeans and soybean sprouts, but as of March 1, 2002, will also apply to potatoes. KFDA's labeling standards for 27 categories of processed products made from corn, soybeans or soybean sprouts became effective July 13, 2001, and will apply to products using potato ingredients as of July 13, 2002. The U.S. Government has raised serious concerns with the Korean Government about these new requirements, which appear to be more burdensome than necessary to achieve the Korea Government's objective of providing full consumer information. The regulations also appear to raise national treatment concerns.

President Bush raised this issue with President Kim during his February 2002 visit to Seoul and senior U.S. and Korean officials have met several times to discuss this issue over the past few months. The U.S. Government will continue to seek an expeditious resolution to its concerns about these regulations.

GOVERNMENT PROCUREMENT

Korea joined the WTO Agreement on Government Procurement (GPA) on January 1, 1997 and agreed to cover procurement of goods and services over specific thresholds by numerous Korean central government agencies, provincial and municipal governments and some two dozen government-invested companies. In accordance with its commitments under the GPA, procurement of satellites is included in Korea's coverage as of January 1, 2002.

EXPORT SUBSIDIES

Korea has aggressively promoted exports through a variety of policy tools, including export subsidies. It has committed to phasing out export subsidy programs that are not permitted under the WTO Agreement on Subsidies and Countervailing Measures. Under its IMF economic stabilization package, Korea eliminated, earlier than originally planned, four WTO-prohibited export subsidies. Korea is rationalizing its overall subsidy regime, including through the notification of 19 programs to the WTO, as required by reporting obligations, and the elimination or reduction of the benefits available in 68 others. The U.S. Government has strongly urged Korea to ensure that its government support programs comply with its WTO obligations.

In 2002, the Korean Government plans to revise the "Act for the Export-Import Bank of Korea" (KEXIM) to enable KEXIM to become more active in undertaking risks and extending credit lines to exporters. Under the new regulations, KEXIM will be able to undertake risks that commercial banks are reluctant to assume. In addition, KEXIM's financing sources will be expanded to include non-bank guarantee fees, thereby boosting exports from Korean companies. The U.S. Government will continue to monitor modifications made to the Act to ensure that they are consistent with Korea's WTO obligations, including that financing provided under this Act does not take the form of a prohibited subsidy.

Government Corporate Refinancing Program

The U.S. Government continued to express strong concerns about instances of possible Korean subsidization of semiconductor production and export that could adversely affect U.S. trade interests. In particular, the U.S. Government raised concerns about the support by the Korean Government of Hynix Semiconductor, Inc., Korea's second largest and the world's third largest semiconductor manufacturer.

In early 2001, the state-run Korea Development Bank (KDB) issued a special one-year bond obligation aimed at helping several large companies that were encountering severe cash flow problems meet their "short-term" needs. Most of the seven firms that received benefits under the program have been Hyundai affiliates. The Korean Government insisted that only "viable" companies would benefit from this KDB support, and that Hynix and the other beneficiaries would have to complete financial restructuring and become financially viable by 2002. For ailing Hynix, however, additional aid was provided and/or arranged by its state-owned or state-controlled creditors on several occasions throughout 2001 in complex refinancing agreements involving debt rollovers, partial debt forgiveness, interest rate reductions, new lending and other forms of assistance. These interventions were designed to provide Hynix the opportunity to restructure and wait out the semiconductor market downturn. However, these measures also perpetuated the problems affecting the global semiconductor market by helping to maintain uneconomic capacity and excess supply, thereby keeping prices depressed.

The U.S. Government repeatedly expressed concerns about the negative implications of Korean Government-directed lending of this type for Korea's restructuring efforts and the Korean economy. To the extent that these measures represent government-directed or government-engineered financial interventions that would not otherwise have been undertaken by parties operating according to normal commercial considerations, they may also conflict with Korea's obligations under the WTO Agreement on Subsidies and Countervailing Measures. The United States has voiced these concerns both directly to the Korean Government and in relevant multilateral fora, including the WTO.

By the end of 2001, Hynix also had entered into merger or alliance negotiations with two different international semiconductor manufacturers. The U.S. Government will continue to monitor the situation closely to determine what additional action is appropriate.

INTELLECTUAL PROPERTY RIGHTS (IPR) PROTECTION

In Spring 2001, Korea was maintained on the Special 301 "Priority Watch List" as a result of continuing concerns regarding inadequate IPR enforcement, shortcomings in amendments to Korea's Copyright Act and Computer Program Protection Act (CPPA), questions about the protection extended to clinical drug test data, lack of full retroactive protection for pre-existing copyrighted works and pharmaceutical patents, lack of coordination between Korean health and IPR authorities on drug product approvals for marketing, and continued counterfeiting of consumer products. The U.S. and Korean Governments held several consultations on these issues during 2001, but the United States continues to have serious concerns related to the consistency, transparency and effectiveness of Korean IPR enforcement efforts regarding software, books, and other products in the Korean market, as well as regarding specific provisions in Korea's IPR laws. Moreover, the U.S. Government has urged Korea to reconcile differences between key provisions in the CPPA and the Copyright Act, which the Korean Government has stated it is studying.

IPR enforcement continues to be an issue of serious concern, despite the actions taken by the Korean Government in this area over the past year. In February 2001, Korean President Kim publicly ordered the Ministry of Information and Communications (MOIC) and the Ministry of Justice to launch a three-month nationwide crackdown against pirated software. President Kim explicitly tied the success of Korea's domestic software industry to a strong regime for the protection of intellectual property rights. The U.S. Government was encouraged by these actions and by their initial results. However, during the latter half of 2001, U.S. companies again began reporting an increase in enforcement-related problems, particularly related to pirated software and books. The United States and Korea discussed these concerns, and the U.S. Government proposed other specific enforcement measures that would ensure that Korea's IPR enforcement is non-discriminatory, transparent, and sustained. The United States welcomed the establishment in January 2002 of an IPR enforcement task force in MOIC and the inclusion of foreign participants in this unit, and has recommended that this unit be provided the legal authority necessary to initiate enforcement raids on its own. While the

Korean Government passed amendments to the patent, trademark and utility model laws in January 2001 that increased fines and terms of imprisonment for infringement cases, the United States has urged Korea to further review the penalties for IPR violations so that they will serve as a more effective deterrent to piracy.

In December 2000, the Korean National Assembly passed revisions to the Computer Programs Protection Act (CPPA). The amendments addressed various U.S. Government concerns. In 2001, the Korean Government revised a draft version of a Presidential Decree pursuant to the CPPA to address U.S. concerns about the potential creation of "good company certification." In addition, the Korean Government retained in that Decree a flawed system for notice and takedown of infringing material from a service provider's system. U.S. concerns about this system were lessened by an amendment to the Decree, which allows all rightholders to employ the superior notice and takedown system found in the Copyright Act, although the U.S. Government would recommend a complete elimination of the unsatisfactory system outlined in the Presidential Decree.

The United States continues to believe that additional changes to the CPPA are needed. The U.S. Government has urged Korea to amend the CPPA (and the Copyright Act) to clarify that the copyright owner has the exclusive right to make copies, temporary or permanent, of a work or phonogram.

In July 2000 and again in December 2001, Korea revised its Copyright Act. The revisions in 2001 addressed U.S. concerns about exceptions relating to reproduction in libraries. However, the U.S. Government remains concerned about several provisions and is continuing to urge Korea to clarify or amend them. Specifically, the provision relating to technical protection measures (TPMs) includes exceptions that serve to undermine its purpose and the U.S. Government has urged Korea to amend the language to prohibit technologies, services, products, or devices that have a limited commercially significant purpose or use other than to circumvent TPMs. The Korean Government has responded that it is studying the issue. Korea also should clarify that although Article 92-2 of the Copyright Act provides that trafficking in circumvention devices and services is "considered to be infringement," the various exceptions and defenses to infringement do not apply in this context. The article on Online Service Provider liability is vague regarding establishment of liability, and the United States has suggested ways in which the Korean Government could clarify the obligations in this provision and/or the implementing decree associated with the Copyright Act amendments.

The United States also has recommended that the Korean Government clarify the availability of injunctive and *ex parte* relief in civil enforcement actions, as required under the TRIPS Agreement. In addition, the U.S. Government has urged Korea to delete the reciprocity provision relating to data protection in the Copyright Act, which serves to discourage the introduction of databases by other countries without such legislation. The United States also has expressed concerns about the failure of the Korean Government to address a number of other issues in its most recent amendments to the Copyright Act, including provision of exclusive transmission rights for sounding recordings and provision of the full, 50-years of protection for pre-existing sound recordings.

Changes to the Patent Act both strengthened and streamlined the patent application process. The revisions also gave the Korean Industrial Property Office (KIPO) more power to protect technologies exchanged through the Internet. In 2000, KIPO increased the number of examiners on duty, thus shortening the examination and registration period substantially from 1-2 years to 10 months. Overall, while the patent law is fairly comprehensive and offers protection to most products and technologies, U.S. industry still believes that deficiencies remain in the interpretation of claims and in the treatment of dominant and subservient patents.

Trademark Act changes were made to bring Korea into compliance with the Madrid Protocol on International Registration of Marks as it prepares for membership in 2002 and to the Trademark Law Treaty. The revisions simplified application procedures for international applications and introduced a retroactive damage compensation system for registrants. However, the successful pursuit of claims under this system has continued to be difficult, particularly in cases involving agricultural entities.

The Trademark Act also contains provisions prohibiting the registration of trademarks filed without authorization of the foreign trademark holder by allowing examiners to refuse registration of applications made in "bad faith." Despite this change, the legal procedures that U.S. companies must pursue in order to seek cancellation proceedings reportedly acts as a barrier to effective enforcement by discouraging U.S. companies from pursuing legal remedies to address infringement in Korea. As such, problems still arise with respect to "sleeper" trademark registrations. These are registrations that – although infringing of the rights of legitimate mark owners – are not challenged and removed. The MOIC established in January 2002 a Domain Name Dispute Resolution Committee to accelerate the resolution of disputes over this issue, and the U.S. Government has recommended that Korea include foreign participants on this committee.

Korea has long been a source of exports of infringing goods. Textile designs in the past generally only received protection under the Korean design law, not copyright law. However, additional protection for textile designs was afforded in the July 1, 2000, revision to the Copyright Act. Protection remains problematic largely because of the lack of enforcement, however, and some Korean companies allegedly pirate U.S.-copyrighted textile designs and export them to third countries, where they compete with genuine U.S.-produced goods.

Although Korean laws on unfair competition and trade secrets provide some trade secret protection, these statutes remain deficient. For example, U.S. firms, particularly some manufacturers of chemicals, candy and chocolate, face continuing problems with government regulations requiring submission of very detailed product information, *i.e.*, formulae or blueprints, as part of registration or certification procedures. U.S. firms report that although Korean law forbids the release of business confidential information, they have experienced instances where information submitted has not been given sufficient protection by government officials and, in some cases, has been made available to Korean competitors or to their trade associations.

The Korean Government has taken steps over the years to remedy data or patent protection problems that affect pharmaceuticals, but problems remain, including the lack of coordination between Korean health and safety (KFDA) and intellectual property (KIPO) officials. This lack of coordination results in the granting of marketing approval for products that may infringe existing patents. However, in March 2002, the United States and Korea resolved questions related to Korea's commitment to provide full protection against unfair commercial use of test data submitted for marketing approval, as required by Article 39.3 of the TRIPS Agreement.

SERVICES BARRIERS

Korea continues to maintain restrictions on some service sectors through a “negative list.” In these sectors, foreign investment is prohibited or severely circumscribed through equity or other restrictions. (See also “Investment Barriers”).

Construction

The construction and engineering markets in Korea were first opened to foreign competition in 1996. Foreign companies may bid on public projects, including the massive capital projects designed to improve basic infrastructure in Korea. Foreign firms still report problems with attempts to renegotiate accepted bid prices, as well as with registration and bonding procedures, which are excessively burdensome.

Advertising

Korea is among the world's top twelve largest advertising markets; however, it remains a highly restricted market. Since broadcast advertising time is still sold exclusively through the state-sponsored Korea Broadcast Advertising Corporation (KOBACO), advertisers and their agencies must work through KOBACO to advertise on broadcast television. Legislation was passed in 1999 to end KOBACO’s monopoly, but implementation of these laws has been delayed. As a result, advertisers and their agencies must still work through KOBACO to advertise on broadcast television.

KOBACO has implemented some market-oriented measures in recent years. Its "Global Standard" system offers advertising airtime in various time-lengths and provides more purchasing flexibility. However, since most advertising contracts are still offered only on a monthly basis, spot buying, although theoretically possible, is in fact rare. This restriction hinders advertisers' ability to react to market changes and run short-term advertising campaigns tailored to their immediate market needs.

In August 2000, the Korea Advertising Review Board (KARB) took control of advertising censorship procedures from the Korea Broadcasting Committee (KBC). There is still considerable ambiguity surrounding the censorship function. A particular problem is that advertising materials must be submitted in fully produced film format rather than as “storyboards”, thereby significantly increasing the risks and costs of developing new advertising campaigns and introducing new brands. Product testing must be repeated in Korea, even if testing conducted in other countries is available.

In some product categories, e.g., cosmetics, the Ministry of Health and Welfare (MHW) additionally requires that local trade associations approve advertising copy in advance of airing or publication. The approval guidelines are vague, and the process also notifies competitors of future marketing activity, including the introduction of new products. For cosmetics and pharmaceuticals, "before and after" demonstrations of product effectiveness are not permitted nor are direct efficacy claims for pharmaceuticals and over-the-counter medicines.

Direct Selling

The U.S. direct selling industry faces a variety of barriers in Korea, one of its largest markets in the world. The Korean Government is in the process of revising the Door-to-Door Sales Act (DDSA), which governs direct selling. Of particular concern to industry were changes being considered that would have made direct selling companies jointly and severally liable for actions taken by direct sellers’ independent contractors that are outside the contractors’ scope of duties and responsibilities and beyond the control of the direct selling company. The United States raised concerns over this issue with the Korean Government in 2001 and these concerns appear to have been addressed. However, continuing questions remain about other provisions in the proposed legislation, which is to go into effect in June 2002, including the penalties for violating the DDSA. U.S. industry also has continuing concerns over other restrictions on direct selling in Korea, including minimum paid-in capital, restrictions on price, and limitations on payouts for multilevel compensation companies, a regulatory provision not found anywhere else in the world.

Screen Quotas

Korea maintains screen quotas on imported motion pictures, requiring that domestic films be shown in each cinema a minimum number of days per year (currently, 146 days with reductions to 106 days possible if certain criteria are met). The quota discourages trade, cinema construction, the expansion of theatrical distribution in Korea, and the competitiveness of the Korean film industry. In January 1999, the National Assembly passed a resolution introduced by the Culture and Tourism Standing Committee that a relaxation of the screen quota should only be considered if and when Korean films achieve a 40 percent market share, which was exceeded beginning in 2001. In December 2000, a similar resolution was introduced by the Unification and Foreign Affairs and Trade Standing Committee and was passed by the entire National Assembly. Korea’s resistance to reducing its screen quotas has held up negotiation of the U.S.-Korea Bilateral Investment Treaty.

Foreign Content Quota for Free Terrestrial TV

Korea restricts foreign activities in the free TV sector by limiting the percentage of monthly broadcasting time (not to exceed 20 percent) that may be devoted to imported programs. Annual quotas also limit, at a maximum of 75 percent, 58 percent, and 40 percent respectively, broadcast motion pictures, animation and popular music. Foreign investment is not permitted for terrestrial television operations.

Foreign Content Quota for Cable and TV

Korea restricts foreign participation in the cable TV sector by limiting per channel air time for most foreign programming to 50 percent. Annual quotas for broadcast motion pictures are set at 70 percent and for animation at 60 percent. These restrictions limit foreign access and the development of Korea’s film and animation industries. The Korean Government also restricts foreign ownership of cable television-related system operators and program providers to 33 percent although pending legislation would raise the ceiling to 49 percent. Network operators are limited to 49 percent. For satellite broadcasts, foreign participation is limited to 33 percent.

Satellite Re-Transmission

The Integrated Broadcast Law mandates that Korean firms that wish to re-broadcast satellite transmissions of foreign programmers must have a contract with the foreign program provider in order to obtain approval from the Korean Broadcasting Commission (KBC). The Korean Government currently is not requiring that Korean firms pay fees for such transmissions. System operators and satellite broadcasting companies also are limited to re-transmitting foreign broadcasts on less than 10 percent of the total number of operating channels, with the total number of operating channels to be at least 40.

Accounting

Korea restricts the establishment of foreign accounting firms by requiring that company employees must include at least 10 Korean-certified accountants/partners, including at least three of whom must be partners and seven of whom must be employed accountants. Foreign Certified Public Accountants (CPAs) are required to fulfill the same requirements as Korean CPAs, including: (1) obtaining Korean certification; (2) completing a two-year internship; and (3) registering with the public accountants association. Accounting firms in Korea are prohibited from making an investment in or providing a debt guarantee to any other firm in excess of 10 percent of the accounting firm's paid-in-capital.

Engineering

Although there are no restrictions on foreign engineering services specified in Korean law or regulation, procuring agencies (national, local and private) can specify particular conditions and/or requirements for engineers and engineering services depending on the nature of the project. Such specifications can be written to favor domestic engineering services firms. The Ministry of Construction and Transportation (MOCT) imposes no requirements that engineering services be provided on a joint venture basis.

Legal

At the time of Korea's accession to the OECD in 1996, the Korean Government amended the "Lawyers Act" to permit non-Koreans to be licensed to practice law in Korea, provided that they meet the same criteria that are applied to Korean nationals. The Korean Government also amended the "Regulation on Foreign Investment" in 1997 to allow for foreign investment in the legal sector. Any individual not qualified as a lawyer under Korean law is prohibited from providing legal services to Korean and foreign clients in Korea and from establishing a law firm or office in Korea. There is no provision for "foreign legal consultants" in Korean law, although in practice many foreign attorneys in Korea perform legal advisory functions. The U.S. Government continues to have concerns that no foreign law firms may practice law in Korea and that delineation of permitted practices for foreign lawyers is non-transparent, creating serious difficulties for foreign lawyers employed by local firms.

Financial

As a condition of its IMF economic stabilization package, Korea agreed to bind its OECD commitments on financial services market access in the WTO. Korea's revised schedule of WTO financial services commitments entered into force in September 1999. The U.S. Government will continue to work with Korea to ensure that it meets its WTO and OECD financial services commitments and to bring about more liberal treatment of foreign financial services providers.

Foreign-based, non-financial businesses in Korea face burdensome and costly procedural requirements for financial transactions that are inappropriate to Korea's level of development and financial sophistication. For instance, virtually all inter-company transfers are subject to certification. This is a cumbersome, costly, and unnecessary requirement, particularly for transactions between subsidiaries. Even after most foreign exchange transactions were liberalized in 2001, foreign bank and financial subsidiaries must receive Bank of Korea (BOK) permission on any transfer exceeding $300,000 and must inform the BOK of all transactions less than $300,000.

Insurance

Korea is the second largest insurance market in

Asia after Japan, with $47.9 billion in premiums paid in the fiscal year ending March 31, 2001. The environment for foreign insurance companies has improved considerably since Korea implemented a series of regulatory changes following its 1996 OECD accession. Korea incorporated many of these changes, including expanded market access and national treatment commitments, into the 1997 WTO Financial Services Agreement.

The 1997-98 financial crisis led to an ambitious restructuring of the Korean insurance industry. In 1998, the newly established Financial Supervisory Commission (FSC), the Korean Government's financial watchdog and center for financial reform, revoked the licenses or forced the merger of many insurance companies on the grounds of insolvency. In addition, 16 life and non-life insurance companies entered FSC-supervised workout programs. (A workout program is a voluntary, out-of-court debt-restructuring framework, which may or may not involve government oversight.)

In 2000, after failing several times to sell Korea Life Insurance (KLI) to foreign buyers, the Korean Government nationalized it, taking over management control. In late 2001, the Korean Government again announced its intention to sell KLI. Two firms, one U.S. and one Korean (the Dongbu group) expressed interested. KLI has roughly a 16 percent share of the Korean insurance market.

The Korean Government is gradually liberalizing foreign entry into the life and non-life insurance markets and has lifted some restrictions on partnering with Korean insurance companies and on hiring Korean insurance professionals. In April 1998, Korea liberalized insurance appraisals and activities ancillary to the management of insurance and pension funds. Korea's brokerage market was opened to foreign firms in April 1998. Several foreign reinsurance firms like Reliance and ARIGA have since entered the market.

Banking

The most significant banking event in Korea in 2001 was the merger between Housing and Commercial Bank and Kookmin (Citizen) Bank, creating Korea's largest commercial bank. With $140 billion in assets, Kookmin Bank is the world's 60th largest bank. Kookmin is the only Korean bank listed on the New York Stock Exchange.

In the aftermath of the economic crisis, the Korean Government injected over 34 trillion won in public funds into the commercial banking system, effectively nationalizing it. Currently, six commercial banks are government owned and managed (Seoul, Hanvit, Peace, Kyongnam, Kwangju, Cheju). The Korean Government also retains majority ownership in Chohung Bank and significant minority stakes in Korea First, Korea Exchange, and Kookmin Banks. (In January 2000, the Korean Government sold 51 percent of Korea First Bank to a U.S. firm, Newbridge Capital.)

In September 2000, the Korean Government commenced a "second round" of bank restructuring. The National Assembly authorized the formation of financial holding companies and granted authority for the government to spend a further 50 trillion won in public funds to recapitalize ailing financial institutions. In April 2001, the Korean Government combined four state-owned banks (Hanvit, Kyongnam, Kwangju, and Peace banks) into Woori Financial Holding Company, after injecting 6 trillion won as bank recapitalization. Unlimited deposit insurance, which had been introduced to shore up confidence in banks during the 1997-98 financial crisis, was revoked on January 1, 2001, and replaced by a per-account limit of 50 million won.

The IMF and the U.S. Government have strongly urged Korea to privatize these state-owned banks, which would allow market forces to more efficiently allocate financial resources and increase investor confidence in the Korean economy. On January 25, 2002 the Korean Government announced a comprehensive plan to sell off its stake in the state-owned banks (Woori Financial Holding Company, Chohung Bank, Seoul Bank, Cheju Bank) and re-privatize them within three to four years. The plan also calls for liquidating the government's minority stakes in Korea First Bank, Korea Exchange Bank, and Kookmin Bank. Korea plans to fully consider the size and management circumstances of each bank and "market conditions" (bank share prices) in determining its sell-off strategy. The Korean Government intends to sell bank shares to foreign investors, by public offerings, through sales to institutional investors, and by issuing optional exchangeable bonds (known as "opera" bonds) and depository receipts (DR). Korea Deposit Insurance Corp. (KDIC), the majority stockholder in the banks, is to take the initiative in the sell-off process. According to the plan, in the first half of 2002, Chohung Bank will issue DRs (about 15 percent of its shares) in the foreign market and Seoul Bank will sell off a 50 percent stake to strategic investors. Also in the first half of 2002, Cheju Bank will sell a 51 percent stake to the Shinhan Financial Group. In the second half of 2002, Woori Financial Holding Company will sell a 10-20 percent stake to strategic investors, both domestic and international. Chohung Bank and other state-owned banks will try to sell another 5-20 percent stake to local and foreign investors. The government plans to sell its remaining stakes by 2005.

Korea continues to restrict the operations of foreign bank branches based on branch capital requirements. These restrictions limit: (1) loans to individual customers; (2) foreign exchange trading; and (3) foreign-bank capital adequacy and liquidity requirements. Foreign banks are subject to the same lending ratios as Korean banks, which require them to allocate a certain share of their loan portfolios to Korean companies other than to the top four *chaebol* conglomerates and to small and medium enterprises. Foreign banks can establish subsidiaries or direct branches. Although foreign investors may legally become majority owners of Korean banks, this has proven to be difficult in practice. In 1998 and 1999, the Korean Government opened the capital markets to foreigners, permitting foreign financial institutions to engage in non-hostile mergers and acquisitions of domestic financial institutions.

All banks in Korea continue to suffer from a non-transparent regulatory system and must seek approval before introducing new products and services – an area where foreign banks are most competitive.

On January 1, 2001, the Korean Government further deregulated foreign exchange transactions by easing the Capital Transaction Permission System, thereby providing new opportunities to foreign banks. The April 1999 Foreign Exchange law had introduced the first phase of foreign exchange and import-export transaction liberalization.

Securities

On June 24, 2000, the Korean Government removed limits on local currency issues of stocks and bonds by foreign firms. The Korean Government places no limits on foreign ownership of listed bonds or commercial paper, no longer restricts foreign ownership of securities traded in local markets and has removed almost entirely foreign investment ceilings on Korean stocks. Despite this liberalization, foreign securities firms in Korea continue to face some non-prudential barriers to their operations.

INVESTMENT BARRIERS

The Kim Dae-jung Government has made a strong commitment to create a more favorable investment climate and to facilitate foreign investment. Progress has been made, but additional steps are needed to fully achieve this goal.

The 1998 Foreign Investment Promotion Act: (1) increased the number of business sectors open to foreign investment (currently, four remain fully closed to foreign direct investment (FDI), including inshore fisheries, coastal fisheries, television and radio stations, and 17 remain partially closed); (2) provided more tax incentives; (3) simplified investment procedures; and (4) established Foreign Investment Zones. The Korean Government must automatically approve a foreign investor's notification unless the activity appears on an explicit "negative list" or is related to national security, the maintenance of public order or the protection of public health, morality or safety. Since May 1998, foreigners have been permitted to engage in hostile takeovers and may purchase 100 percent of a target company's outstanding stock without consent of its board of directors.

Capital market reforms have eliminated or raised ceilings on aggregate foreign equity ownership, on individual foreign ownership and on foreign investment in the government, corporate and special bond markets, and have liberalized foreign purchases of short-term financial instruments issued by corporate and financial institutions. However, the Korean Government still maintains foreign equity restrictions with respect to investments in various state-owned firms and many types of media, including cable and satellite television services and channel operators, as well as schools and beef wholesalers.

The Korean Government has taken several important steps to privatize state-owned corporations. In 2001, foreign investment limits for Korea Telecom (KT) were increased from 33 percent to 49 percent. In addition, the National Assembly passed legislation in December 2000 that sets the stage for the privatization of KEPCO, the state-owned electric power utility. KEPCO subsequently divided its power generation division into six subsidiaries to lay the foundation for a market-driven electric power industry. In June 2001, KT sold Depository Receipts amounting to $2.24 billion, while in October 2001, Korea Tobacco & Ginseng Corp. sold Global Depository Receipts and Exchangeable Bonds totaling $550 million.

The Korean Government removed restrictions on the direct purchase of land by foreigners through the 1998 revision of the Alien Land Registration Acquisition Act. Non-Koreans, however, still cannot produce certain agricultural products for commercial purposes, nor can agriculturally-zoned land be taken out of agricultural production.

While the more liberalized Korean investment regime has increased U.S. investor interest in Korea, additional changes, including a more transparent and predictable regulatory environment, more sustained intellectual property protection, significant progress on structural reform and market opening, and enhanced labor-market flexibility would greatly improve Korea's attractiveness as a destination for foreign investment, a stated goal of the Korean Government. Conclusion of the U.S.-Korea Bilateral Investment Treaty also would further this goal.

Throughout 2001 and into 2002, the local creditor banks, in cooperation with the Korean Government, have engaged in negotiations to sell key Korean firms – Hyundai Investment and Trust Securities, Daewoo Motor, and Hynix Semiconductor – to U.S. companies. To date, none of the deals have been concluded.

ANTICOMPETITIVE PRACTICES

Competition Policy

Korea's enforcement of competition policy is generally weak, despite the increased role of the Korea Fair Trade Commission (KFTC) as enforcer of Korea's competition law and advocate of competition policy and corporate restructuring. KFTC's powers to conduct investigations and to impose tougher penalties were enhanced in January 1999 with the revision of the Monopoly Regulation and Fair Trade Act. The Act was subsequently revised in December 2000 to broaden KFTC's authority in corporate and financial restructuring and to raise substantially the administrative fines for violations and for failure to cooperate with KFTC investigations. In December 2001, the KFTC fined seven mid-ranking *chaebol* $5.5 million for illegally subsidizing affiliates. The KFTC did not inspect the "Big Four" *chaebol* in 2001. Despite the KFTC's increased enforcement activity, its role remains relatively weak compared with the other economic ministries, and the Korean Government has no plans for bolstering the KFTC's authority, a prerequisite for competition policy to take root in Korea.

ELECTRONIC COMMERCE

Korea continues to be a world leader in Internet penetration and usage. One-half of Korea's 48 million people used the Internet in 2001, up from only 11 million users in 1999 and 19 million users in 2000. Households with high-speed Internet access rose from just over 50,000 in 1998 to more than 7.7 million in 2001. Competition in DSL-based services appears robust, and may be further boosted by the government's decision to require Korea Telecom to unbundle local loops. Korea Telecom, which provides half of Korea's high-speed Internet service, is the world's fastest-growing ADSL provider. Despite the rapid growth of the Internet in Korea, the global recession caused a downturn in electronic transactions in 2001. Moreover, Korean banking practices and requirements for documentation restrict the growth of electronic commerce trade of intangibles, particularly for software products.

In December 2001, the National Assembly passed a revision to the Basic Electronic Commerce Act, which should go in to effect on July 1, 2002. The revised act more clearly lays out the rights and obligations of the sender and receiver of a commerce-related electronic message, gives the government more authority to settle e-commerce disputes, and brings security and consumer protection rules more in line with OECD standards. The original law, passed in July 1999, encourages private sector development of electronic commerce and codifies authorization of electronic signatures as legally binding on consumers and businesses.

In December 2001, the National Assembly passed the Digital Content Promotion Act. This law, which has yet to be promulgated, will encourage the Korean Government to help industry construct the infrastructure it needs and, more importantly, will impose stiff penalties for the copying or retransmission of on-line content. However, the Korean Government should eliminate inconsistencies between this law and the Copyright Act, which would take precedence in any areas where the laws diverge.

On December 31, 2001, the Digital Signature Act was amended and promulgated, to take effect on April 1, 2002. While Korea previously has used only digital signature keys, this new law brings Korea in line with international signature recognition policies by allowing the use of various types of authentication technologies. The impact of these changes remains to be seen, especially given that the Korean Government will maintain final approval of the use of these technologies by requiring their review by licensed authorities, and the Ministry of Information and Communications will write the guidelines and standards for authentication methods used in Korea.

OTHER BARRIERS

Lack of Transparency

The Korean Government has made some progress in certain areas with respect to transparency issues, but the lack of transparency in rule making and in Korea's regulatory system continues to be the principal problem cited by investors or exporters seeking to compete in the Korean market. Many Korean trade-related laws and regulations lack specificity and the implementing regulations often diverge from the objectives of the laws. Korean officials exercise a great deal of discretion in applying broadly drafted laws and regulations, resulting in inconsistency in their application and uncertainty among businesses. Compounding this problem is the Korean Government's frequent failure to provide specific and timely notification of planned or actual changes to laws and regulations. Moreover, vague laws or regulations may be reinterpreted and then applied retroactively, even in cases where companies have sought to fully follow Korean Government guidance on implementing domestic regulations. These transparency-related problems continue to be serious problems for market entry in a wide variety of sectors, although food producers are particularly negatively affected by the ability of individual Korean Government officials to apply their own interpretations of vague or ambiguously worded labeling and product categorization standards.

Frugality Campaigns and Anti-Import Bias

While the Korean Government is no longer directly involved in frugality or anti-import campaigns and has taken steps to discourage overt anti-import activity, concerns about anti-import biases remain. The legacy from past anti-import campaigns has proven difficult to overcome, especially in the auto sector. A February 2001 survey revealed that the main factor restraining imported car sales in Korea is social pressure and the negative public image of foreign cars in Korea. Another Korean study completed in January 2002 confirmed these findings and found that such attitudes weaken the competitiveness of the Korean auto sector.

The Korean Government has taken some steps to improve Korean attitudes toward foreign cars. In March 2001, in an unprecedented action, President Kim Dae-jung encouraged Koreans to consider buying an imported car, seeking to eliminate the stigma associated with purchasing a foreign car. In an important symbolic step, the Korean Government also plans to purchase 100 imported cars in 2002 and 2003 for use as highway patrol cars for Korea's National Police Agency; this figure will equate to more than one-third of the Agency's fleet. The Korean Government also lent its support to the establishment of an "imported car" taxi service, which is slated to begin prior to the opening of the World Cup games in late May. Finally, the Korean Government is helping to disseminate the results of twin studies by U.S. and Korean economic research institutes on the contribution of foreign automakers and foreign autos to the development of the Korean auto industry and the overall Korean economy. These are useful steps. However, it is essential that the Korean Government continue to make sustained and vigorous efforts to help eliminate the negative attitudes of Koreans toward foreign cars.

In April 2001, the National Agricultural Cooperative Federation (NACF), a quasi-government producer group that allocates Ministry of Agriculture (MAF) policy-directed loans, showed solidarity with several Korean livestock-related farmer associations that demonstrated against Korea's liberalization of its live cattle market per its Uruguay Round commitment. The demonstrators killed and injured imported cattle they offloaded from detained transport trucks while riot police, sent to protect such animals, stood by watching. The U.S. Government expressed concern about NACF's role in the boycott, especially given its links to the Korean Government. Farmer associations also approached the Cheju Citrus Cooperative, the administrator of Korea's citrus import quota, regarding importing citrus that the farmers claimed undermined prices of various domestic fruits and vegetables. The Cheju Citrus Cooperative subsequently chose not to tender for the remaining quota, the third year Korea failed to do so.

Motor Vehicles

In 1998, the United States and Korea concluded a Memorandum of Understanding (MOU) to improve market access for foreign motor vehicles. Although the Korean Government has implemented most of its commitments under the 1998 MOU, the United States has serious concerns about the lack of progress toward the key goals of the agreement, which include: (1) substantially increasing market access for foreign motor vehicles; and (2) establishing conditions so that the Korean motor vehicle sector operates according to market principles. While Korean imports into the U.S. market again hit record levels in 2001, import sales in Korea totaled 7,747 vehicles, representing 0.7 percent of the market.

The United States has had frequent consultations with Korea to address market access concerns in the automotive sector. In 2001, Korea took several steps to improve consumer perception of foreign cars imported cars (See also "Frugality Campaigns and Anti-Import Bias") and to resolve numerous standards and certification issues (See also "Standards and Conformity Assessment Procedures"). It also temporarily reduced the special consumption tax for motor vehicles, including for cars with engines greater than 2,000 cc – which includes most imports. This reduction has had a positive impact on import sales. The United States has welcomed these steps but has strongly urged Korea to take additional meaningful actions to open this sector, including: (1) elimination of Korea's 8 percent tariff on autos, which would signal to Korean consumers that the Korean Government is serious about opening the auto market to foreign competition; (2) development and implementation of a plan to simplify the auto tax regime in a manner that enhances market access for foreign motor vehicles, as Korea committed to do under the MOU; (3) positive resolution of remaining standards and certification issues; and (4) active efforts to address continuing anti-import sentiments and negative perceptions that serve as significant barriers to the purchase of a foreign car. While steps in each of these areas is critical, reduction of the tariff – which a Korean study showed would increase foreign auto imports to 12 percent in 5 years with a tariff reduction to 2.5 percent – and simplification of the auto tax system would have the most immediate and significant impact.

The United States and Korea also have reviewed corporate restructuring in the Korean motor vehicle sector. The fate of Daewoo Motor, which went bankrupt in July 1999, remains unresolved. Although a U.S. company concluded a non-binding MOU for its sale in September 2001, negotiations are ongoing. The U.S. Government will continue to urge Korea to rely on market-based solutions to the restructuring of this and other sectors and will closely monitor Korean actions as they have a direct impact on the ability of U.S. firms to compete in the Korean market.

Motorcycles

Important progress was made to resolve U.S. concerns over Korea's pass-by noise standard in 2001. However, market access issues remain, including a highway ban, tariff and tax levels, and standards and certification procedures. Korea's highway ban is the most serious of these barriers because it prohibits the use of motorcycles on expressways and on designated bridges, and severely restricts the market penetration potential for heavyweight motorcycles, safely designed for highway use. Korea is the only major world market in which heavy motorcycles are denied access to major highways and designated overpasses in cities. Traffic safety statistics from other developed countries and research organizations demonstrate that highways are actually safer for motorcycles than are other types of roads with numerous intersections and hazards. The U.S. and Korean Governments have consulted on lifting the ban and these discussions are on-going.

Pharmaceuticals

Korea is seeking to cut health care costs and is continuing to consider a variety of proposals, many of which would adversely affect Korean patients and U.S. and other foreign pharmaceutical companies. The Korean Government often has developed such proposals in a seemingly piecemeal manner without adequate input from domestic or foreign stakeholders. Moreover, the Korean Government has often failed to provide the U.S. Government with advance notice of these proposals, despite the 1999 U.S.-Korea agreements on pharmaceutical pricing issues.

To address U.S. concerns about transparency and pre-notification, the Korean Government agreed in January 2002 to establish a bilateral health care reform working group. The group is intended to provide a forum for the U.S. Government and foreign pharmaceutical companies to discuss changes the Korean Government is contemplating and to establish a dialogue on health care reform issues. The United States welcomes this development, which it hopes will address its transparency concerns and serve to improve Korea's plans to develop comprehensive health care reforms.

The United States and Korea made progress in addressing some U.S. concerns in the pharmaceutical sector over the past few years, but many of these concerns have resurfaced recently in new proposals. Indeed, in January 2002, the Korean Government publicly released new proposed measures for national health insurance financial stabilization, some of which could have a significant impact on reimbursement prices for innovative pharmaceuticals. Among the proposals are both new cost containment measures and the repackaging of old proposals, as well as timetables for implementation of these proposals. The Korean Government did not consult with the United States on these proposed measures prior to their publication and the U.S. Government is concerned about the Korean Government's failure to provide the United States with adequate time for meaningful comment prior to finalization of these proposals and time lines. The U.S. Government plans to discuss these concerns and the proposed measures in the newly established working group.

The Korean Government reached agreement with the United States in 1999 to price new, innovative drugs at the average ex-factory price of A-7 countries (United States, United

Kingdom, Germany, France, Italy, Switzerland, and Japan). In addition, in 1999, the two countries agreed to the Actual Transaction Price (ATP) system, which was intended to abolish the typical hospital practice of demanding a discount from pharmaceutical manufacturers when purchasing drugs and then receiving a full reimbursement from the government-operated national health insurance system. The Korean Government is considering changes to both the A-7 pricing system and the ATP system, and the U.S. Government informed Korea any changes that could affect our bilateral agreements would require the concordance of the United States.

The Korean Government announced in May 2001 proposed modifications to its pharmaceutical pricing system, including implementation of a reference pricing system. Facing considerable opposition from doctors, hospitals, patients associations and other domestic stakeholders, as well as foreign pharmaceutical companies, the Korean Government shelved the proposal in the Fall. However, in late 2001, Korea announced that it intended to implement a pilot reference pricing program in 2002. The U.S. Government continues to have serious concerns about the proposed reference pricing program, and will consult closely with Korea on the scope and form of the pilot program and any future reference pricing proposals.

As part of its efforts to trim health care costs, the Health Insurance Reimbursement Agency (HIRA) has imposed unduly restrictive reimbursement guidelines on the innovative drugs of several foreign pharmaceutical companies. While the process for developing a reimbursement price for pharmaceutical products is transparent and subject to appeal, the product can be reimbursed only for the indications listed on the product label. These guidelines are initially set by the Korea Food and Drug Administration, but can later be modified by guidelines established by HIRA. The process for establishing these modified guidelines is non-transparent and there is no appeals process. The U.S. Government has raised its concerns over this issue with the Ministry of Health and Welfare (MHW), most recently in January 2002, and MHW responded that it would consider improvements in the process based on U.S. comments.

In addition, in October 2001, HIRA established the Expensive Drug Cost Index, through which it is seeking to control the use of drugs by hospitals and clinics solely on the basis of cost. Hospitals and clinics could be financially penalized for exceeding the index. The U.S. Government is concerned that such a system would discourage Korean doctors from prescribing drugs based on more appropriate considerations, such as safety, efficacy, quality of drugs and the best interest of the patients, and would discriminate against the products of foreign pharmaceutical manufacturers.

Certain key regulatory issues under the oversight of MHW remain unresolved, and new issues have arisen as a result of the Korean Government’s introduction of health care reforms and cost-containment measures from 1999 to 2001. These issues include batch testing of biologics and vaccines for product registration, border testing for already approved biologics, vaccines, and drugs, the requirement for duplication in Korea of clinical trials already completed outside Korea, ostensibly because of ethnic sensitivity, and authorization for local clinical studies. (See also "Standards and Conformity Assessment Procedures").

Korea’s December 1999 revision to "safety and efficacy review regulations for drugs" allows the Korea Food and Drug Administration (KFDA) to accept foreign clinical data to approve drugs developed overseas. As a result, KFDA has approved some drugs based on foreign clinical data, but foreign companies find it difficult to determine when separate Korean data will be required for approval.

Inadequate protection of intellectual property, business confidentiality, and security for data continue to be market access concerns for U.S. pharmaceutical firms. (See also "Intellectual Property Rights").

Medical Devices

Although there was some progress in 2001 on market access for U.S. medical devices, concerns remain, including the Korean Government's reduction of insurance reimbursement rates for medical devices, revisions to the reimbursement pricing guidelines, hospitals' buying practices, proposed provisions of the Medical Devices Act, a proposal for third party review of product approvals, and the need for more transparency in, and streamlining of, the regulatory approval process.

There was little progress on key issues of concern to the U.S. medical device industry including: eliminating redundant testing through the acceptance of foreign test data in lieu of local tests; waiving bio-compatibility (safety) data requirements for materials for which safety has already been proven through use; permitting the importation of devices that are pending final approval in the U.S. with a Certificate of Exportability issued by the U.S. Food and Drug Administration; eliminating the requirement for a new product license each time a manufacturing address or company name changes; accepting registration for multiple manufacturing plants of a single product under a single product license; and enhancing protection of confidentiality of information submitted to KFDA and other government agencies for product approvals or other purposes.

HIRA's proposed amendments to the pricing guidelines, which are based on the clinical and commercial value of the medical device, were submitted for approval to MHW in 2001, will encourage U.S. medical device manufacturers to introduce new, competitive products to the Korean market. The U.S. Government will continue to urge the Korean Government to increase transparency through close consultation with the U.S. Government and industry and through the inclusion of industry representatives on key committees. Finally, the United States recommends that KFDA proceed cautiously with its plans to develop a third-party review system in order to ensure competition and technical competence with built-in safeguards to protect intellectual property and proprietary information.

Cosmetics and Cosmeceuticals

The United States recognizes the positive trend toward self-regulation in the cosmetics sector, but obstacles remain to the entry and distribution of foreign cosmetic products in Korea. Korea has testing and import authorization requirements for cosmetics that appear excessive and new packaging requirements that appear to limit the use of outer containers considered vital to the protection and presentation of cosmetics.

The Korean Cosmetic Products Act (KCPA) became effective July 1, 2000 and a new product category "cosmeceuticals" has been created under the new regulations. Cosmeceuticals must be reviewed for safety and efficacy by the Korean Food and Drug Administration (KFDA) and must not be "falsely advertised" to have functions beyond proven efficacy. The KCPA provisions on cosmeceuticals create three major problems with respect to clarity. First, they do not clearly establish criteria to determine when a cosmetic product becomes a cosmeceutical. Second, the provisions do not clearly establish which standard must be met to prove efficacy. Finally, they do not define what actions constitute advertising and promotion. In addition, there are no provisions to protect proprietary information that companies may need to submit to prove efficacy. As a result, of the 59 product applications submitted to the KFDA by U.S. cosmetic companies since the new law came into effect, only 18 have been approved. The U.S. Government will continue to strongly urge the Korean Government to work with U.S. and other foreign governments as well as cosmetic manufacturers to clarify these regulations and to significantly accelerate the pace of approvals.

Steel

The United States has long been concerned with the Korean Government's involvement in, and support for, Korea's steel sector and its steel-using industries. Although this involvement has diminished, past policies led to export surges to the United States, especially during the recent Asian economic crisis.

In 2001, the United States continued its dialogue on steel with Korea, meeting both bilaterally and multilaterally at the OECD. Multilaterally, the United States sought and obtained Korea's support for efforts to reduce global excess steel-making capacity as called for by President Bush's June 2001 Steel Initiative. However, further efforts are needed in Korea to reduce excess capacity. Bilaterally, the overall objectives are: (1) the end of Korean Government involvement in Korea's steel industry, including complete privatization of POSCO; (2) the market-based restructuring of Korea's steel industry, including the finalization of the sale of Hanbo Steel and the operation of Hanbo without Korean Government direction or support; and (3) fair trade in steel products.

The Korean Government asserts that it completed the privatization of POSCO when the government-owned Korea Development Bank sold its remaining stake in POSCO in October 2000. Recent reports also indicate that foreign investors now control more than 60 percent of POSCO. In mid-2001, the Korea Industrial Bank, of which the Korean Government owns 98 percent, moved from being the largest single shareholders to the second largest shareholder of POSCO, holding a 3.01 percent stake in POSCO. The U.S. Government continues to urge full privatization of POSCO. In addition, POSCO's size and monopoly producer status in Korea of some key steel products continue to raise concerns of possible unfair practices.

In December 2001, the Korea Asset Management Corporation and other creditors of Hanbo selected an investment fund consortium as its "preferred negotiation partner" for the sale of Hanbo. Negotiations have not been concluded. The U.S. Government will continue to monitor the disposition of Hanbo to ensure that the Korean Government fulfills its assurances that Hanbo will not receive any support and will be sold through a market-based process.

Telecommunications

As one of the world's leading nations in telecommunications, Korea currently is developing its projects for IMT-2000 wireless services and introducing satellite TV broadcasting. As a result, rapid growth is forecast for this sector. Despite such growth opportunities, some leading U.S. suppliers have been hurt by excessive governmental influence over private operators' selection of technologies and interference in private sector negotiations involving foreign licensing and technology transfers. This governmental influence on the choice of sources of equipment and technologies is often implied in the licensing process for operators and also is clearly evident in localization policies for procurement. The U.S.

Government will continue to urge Korea to avoid mandating specific technologies and standards or intervening in private sector negotiations related to this sector.

The Korean government also appears to be leading efforts to discourage use of foreign-sourced software for certain telecommunications applications, while simultaneously supporting development of a Korean national standard for competing products. For example, the Ministry of Information and Communications funds development of competing telecommunications standards through its research and development arm, the Electronics and Telecommunications Research Institute (ETRI). Although these newly developed standards are "voluntary," the Korean Government's control over tariff rate approvals, certification of equipment, licensing, and other regulatory authority provides it the means to exert influence over firms' selection of specific standards or technologies. Such practices deny Korean consumers access to innovative products and potentially discriminate against U.S. software suppliers. The U.S. Government will continue to urge Korea to live up to its bilateral and multilateral commitments not to hinder the imports of such products, either through overt or informal means.

In the services sector, foreign ownership restrictions, including a ceiling of 49 percent foreign ownership for facilities'-based (Type 1) carriers also impede the access of foreign firms in the Korean market. The Korean Government plans to fully divest the government's holdings in Korea Telecom by June 2002. The United States hope that this will help create a more competitive environment in the telecommunications sector and will internationalize KT's procurement practices, providing better market access for U.S. suppliers. In broadcasting, foreign re-transmission channels are restricted to 10 percent of the total of all cable and satellite broadcasting channels and foreign investment in local system operators and program providers is limited to 33 percent. These restrictions also severely limit market access for U.S. broadcast channels and considerably raise the cost of market entry. The United States will continue to recommend that Korea fully liberalize investment in the telecommunications sector as soon as possible in order to enhance the competitive environment in this key sector.

Regarding regulatory issues, the Korean Government made important progress in 2001 by revising regulations for electro-magnetic compatibility and safety standards. These changes will help U.S. suppliers avoid costly delays in entering the Korean market.