

## **INVESTMENT**

The U.S.-Korea FTA establishes a secure, predictable legal framework for U.S. investors in Korea. Implementation of the Agreement's obligations will improve transparency, reduce barriers to investment, and improve the dispute settlement process, addressing key concerns about the investment climate in Korea.

The Agreement includes the eight core principles that govern the treatment of foreign investment in the United States and which the United States considers to be necessary elements of a pro-investment climate. The Agreement will secure for U.S. investors: national treatment before and after establishment (treatment as favorable as Korea provides to its own investors or to the investors of any other country); the application of a minimum standard of treatment based on customary international law; assurance that expropriation must be consistent with international law standards and be accompanied by prompt, adequate, and effective compensation; prohibition of most performance requirements, beyond those disciplined in the WTO; improved transparency; access by the investor to binding international arbitration; and the right to make transfers related to an investment in a freely usable currency.

Included among the added benefits, U.S. investors will have access to a transparent, binding international arbitration mechanism for breaches of certain investment agreements with the Korean government, such as, for example, activities such as the supply of services to the public on behalf of the government of Korea, or to undertake infrastructure projects, such as the construction of roads, bridges, canals, dams, or pipelines, that are not for the exclusive or predominant use and benefit of the government.

Following the directive of the Trade Promotion Authority statute, the agreement draws from U.S. legal principles and practices to provide U.S. investors a basic set of substantive protections that Korean investors currently enjoy under the U.S. legal system. Among the rights afforded to U.S. investors (consistent with those found in U.S. law) are due process protections and the right to receive the fair market value for property in the event of an expropriation.