



U.S.-South Korea Beef Dispute: Issues and Status

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Summary

U.S. beef access to South Korea is one of the outstanding issues in the debate over the Korea-U.S. Free Trade Agreement (KORUS FTA). In 2003, South Korea was the third-largest market for U.S. beef exports, prior to the ban its government imposed after the first U.S. cow infected with mad cow disease, or BSE (*bovine spongiform encephalopathy*), was discovered. Some Members have stated that congressional consideration of, and support for, KORUS depends on South Korea fully opening its market to U.S. beef. Currently, South Korea allows imports of most U.S. beef products, except those from cattle older than 30 months.

On April 18, 2008, U.S. and South Korean negotiators reached an agreement on the sanitary rules that Korea will apply to beef imports from the United States. It allows for imports of all cuts of U.S. boneless and bone-in beef and certain beef products from cattle, *irrespective of age*, as long as specified risk materials known to transmit mad cow disease are removed and other conditions are met. Though the U.S. beef industry and U.S. policymakers welcomed this deal, Korean TV coverage and Internet-spread rumors that questioned the safety of U.S. beef resulted in escalating protests and calls for the beef agreement to be renegotiated or scrapped. U.S. officials countered that measures already in place to prevent the introduction of BSE in U.S. cattle herds meet international scientific standards. To address rising public pressure, the Korean government twice pursued talks with the United States to find ways to defuse these concerns without “renegotiating” the beef agreement. This culminated in the June 21, 2008, confirmation by both governments of a “voluntary private sector” arrangement that allows Korean firms to import U.S. beef produced from cattle *only under 30 months of age*. Both governments view this as a transitional step until Korean consumer confidence in the safety of U.S. beef improves.

Since the resumption of U.S. beef exports in July 2008, U.S. exporters have worked to recapture this key overseas market. Beef exports to South Korea in 2010 are well above last year’s level and may reach one-half of the 2003 level (in value terms). Though Australia is the main competitor, U.S. exporters have gained noticeable market share since the Korean market reopened to U.S. beef. Promotional efforts to rebuild consumer confidence in U.S. beef, aggressive marketing efforts by large store chains, and much lower retail prices for imported beef than for Korean beef account for the continued growth in U.S. beef sales.

On June 26, 2010, President Obama directed Administration officials to work with their Korean counterparts to resolve the beef and auto issues with South Korea by this November’s G-20 meeting in Seoul. He also stated that his intent is to present the KORUS FTA to Congress, likely in 2011. Administration officials have stated that their objective is “to eventually secure full market access for U.S. beef” that reflects South Korea’s recognition that the United States meets international scientific standards. More recent statements have raised the possibility that the Administration may not require achieving this objective before the KORUS FTA is sent to Congress, and instead may seek to secure commitments from South Korea to move in steps toward that goal. Bilateral discussions later this fall are expected to focus on the terms of, and the timetable for, South Korea’s moving to accept all U.S. beef shipments, irrespective of the age of slaughtered cattle, as laid out in the April 2008 agreement. Since this document is separate from the text of the KORUS FTA, it could be amended easily if both countries agree to changes. Korea’s position on the beef issue likely will be shaped by the memory of the size and intensity of the anti-beef agreement protests, which likely have eroded the Korean President’s willingness and ability to accept changes the Obama Administration may seek before submitting the KORUS FTA to Congress.

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Many U.S. policymakers view the resumption of all U.S. beef exports to South Korea—the third-largest U.S. beef export market in 2003—as essential, but not necessarily all that is required, before the U.S. Congress would consider legislation to implement the Korea-U.S. Free Trade Agreement (KORUS FTA).¹ To facilitate this, in April 2008 the U.S. and Korean governments agreed on (but subsequently modified) the rules that Korea will apply to U.S. beef imports to ensure that shipments meet Korean human health standards. South Korea’s aim was to improve prospects that the Bush Administration would send the KORUS FTA to Congress before the end of 2008. This did not occur, however, for the reasons explained below. In late June 2010, President Obama directed U.S. trade officials to work with their South Korean counterparts to resolve outstanding matters related to U.S. beef access and the agreement’s automobile provisions² by the time he meets with South Korean President Lee in Seoul in mid-November 2010. Obama’s statement that he intends “in the few months” after this meeting to present Congress with implementing legislation for this agreement sets a time frame for possible consideration by the 112th Congress. Though the auto provisions are likely to be more difficult to resolve, the outcome of talks on the beef access issue could influence the position of Members of Congress who represent cattle production and beef processing states if a vote is scheduled on this trade agreement.

This report describes the beef provisions in the KORUS FTA and the separate bilateral protocols that the United States has negotiated in order to secure the lifting of South Korea’s ban on U.S. beef imports, imposed after the discovery of mad cow disease in late 2003. It also summarizes U.S. beef export developments to this key market before and after the ban and since these protocols took effect; and lays out the outstanding issues on U.S. beef access that will likely need to be resolved to facilitate congressional consideration of the KORUS FTA.

The “Mad Cow” Disease Dispute

U.S. Beef Exports to South Korea Through 2003

Beginning in the late 1990s, South Korea became a growing and important market for major beef exporters, particularly the United States. In 2003, beef imports accounted for nearly 75% of South Korean beef consumption. U.S. shipments that year alone supplied half of all of the beef consumed by Korean consumers.

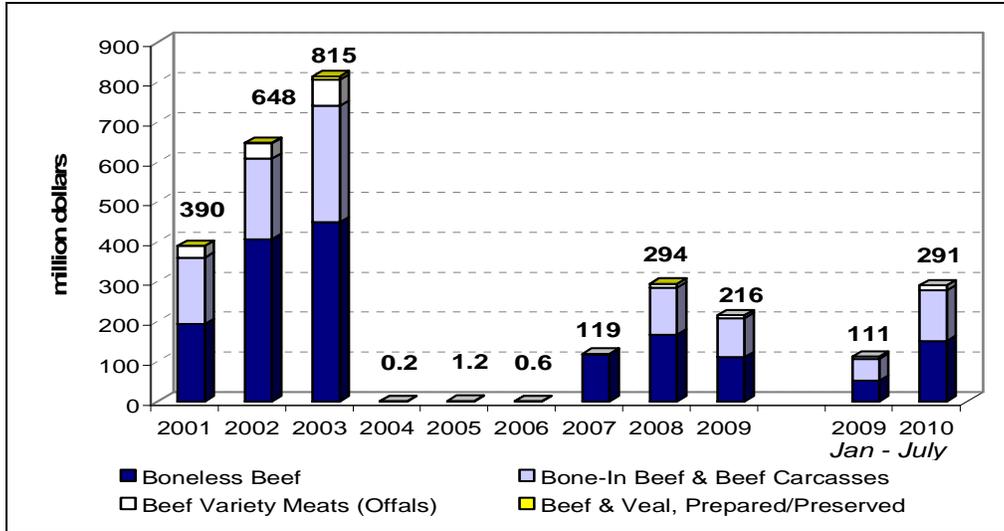
By 2003, South Korea had become the third-largest export market for U.S. beef. That year, U.S. beef exports to South Korea totaled \$815 million (**Figure 1**), or 246,595 metric tons (MT) (**Figure 2**), and accounted for 21% of the \$3.9 billion in U.S. beef products shipped worldwide. Beef exports represented 28% of all U.S. agricultural exports to Korea. Boneless beef products accounted for \$449 million (55% of the total). Bone-in beef exports totaled \$292 million (36%). Sales of beef variety meats (primary offals—tongue, liver, heart, and other edible cattle parts)

¹ For more information, see CRS Report RL34330, *The Proposed U.S.-South Korea Free Trade Agreement (KORUS FTA): Provisions and Implications*, coordinated by William H. Cooper.

² For more information on the automobile provisions, see section titled “Competing Automobile Manufacturers” in CRS Report R41389, *Pending U.S. and EU Free Trade Agreements with South Korea: Possible Implications for Automobile and Other Manufacturing Industries*, by Michaela D. Platzer.

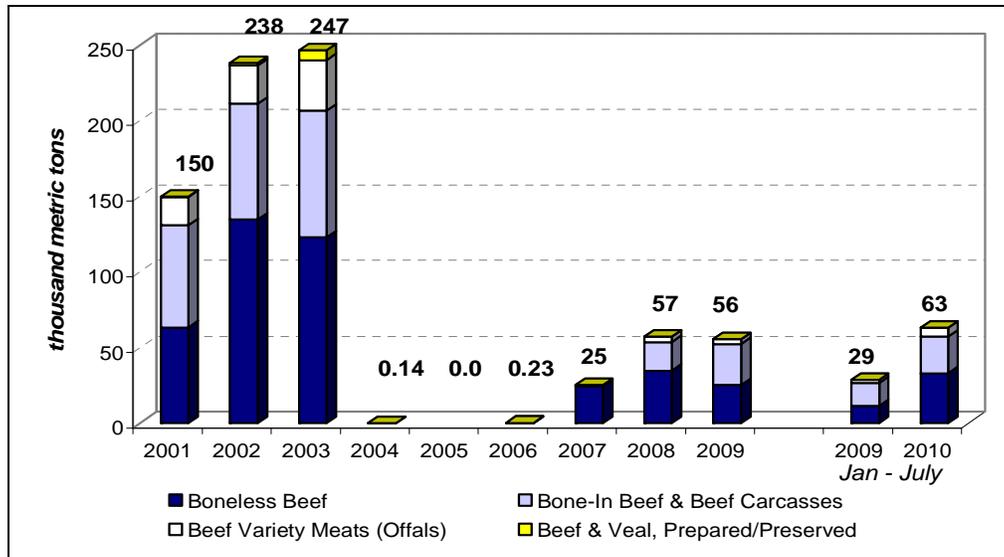
were \$65 million (8%). Processed beef product shipments were valued at \$9 million (1%). The U.S. market share of Korea's beef imports reached 69% (Figure 3).

Figure 1. Value of U.S. Beef Exports to South Korea, by Type

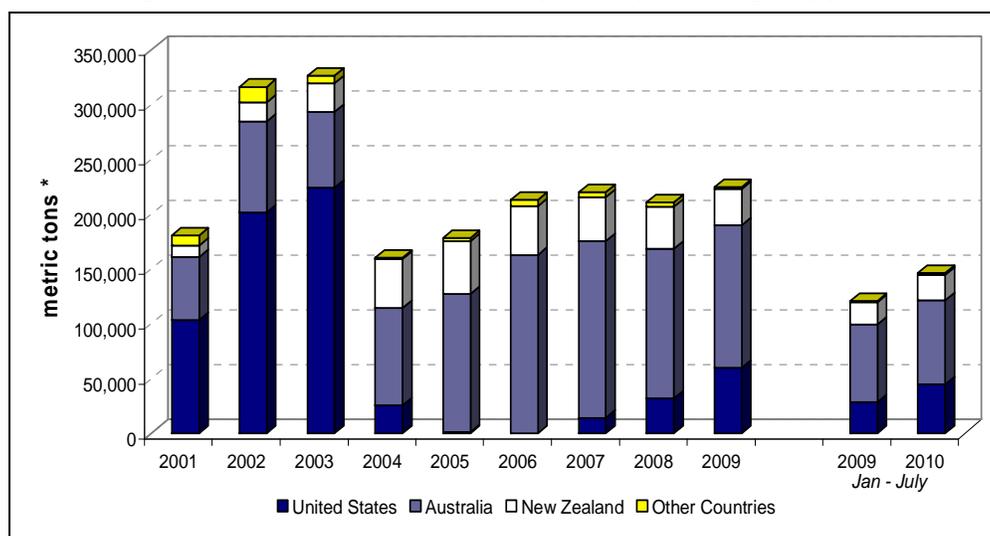


Source: Derived by CRS from Department of Commerce, U.S. Census Bureau, Foreign Trade Statistics.

Figure 2. Quantity of U.S. Beef Exports to South Korea, by Type



Source: Derived by CRS from Department of Commerce, U.S. Census Bureau, Foreign Trade Statistics.

Figure 3. South Korean Beef Imports by Leading Suppliers

Source: U.S. Department of Agriculture (USDA), Foreign Agricultural Service; Korea International Trade Association.

Note: Imports refer to beef, fresh/chilled and frozen, boneless and bone-in, but exclude beef variety meats and processed beef products.

* product weight equivalent

South Korea's Ban on U.S. Beef Imports

After the first U.S. case of *bovine spongiform encephalopathy* (BSE), or mad cow disease, was discovered in a Canadian-born cow in Washington state in December 2003,³ South Korea and many other countries banned imports of U.S. beef. BSE is a fatal, neurodegenerative disease of cattle thought to arise from the consumption of animal-derived protein supplements added to feed. Scientists believe that this disease can be transmitted to humans who eat the brain, spinal cord, or other high-risk tissues of BSE-infected cattle, which causes a variant form of Creutzfeldt-Jakob disease (CJD). This is a very rare and incurable degenerative neurological disorder (brain disease) that is ultimately fatal.

Beef Access Became Intertwined with KORUS FTA Talks

U.S. government efforts to regain partial access to the key Korean market took two years to negotiate. In January 2006, South Korea agreed to a protocol that allowed imports of U.S. *boneless* beef only from cattle *less than 30 months old*. At that time, the under-30-months-old criterion was based on the widely held view that cattle younger than 30 months were less

³ There have been only two other discoveries of BSE in cattle in the United States—in June 2005, in a U.S.-born cow on a Texas farm, and in March 2006, in another U.S.-born cow in Alabama. For more information on U.S. safeguards to protect cattle herds from BSE, third-party assessments made of U.S. import safeguards against the introduction of BSE, debate and developments on the livestock “feed ban” issue, U.S. surveillance and testing programs for BSE in cattle, and BSE prevention in cattle slaughter and beef processing, see CRS Report RL32199, *Bovine Spongiform Encephalopathy (BSE, or “Mad Cow Disease”): Current and Proposed Safeguards*, by Sarah A. Lister and Geoffrey S. Becker.

susceptible to mad cow disease. U.S. negotiators had signaled that some opening on the beef issue was necessary before negotiations with South Korea on a comprehensive FTA could begin. Difficulties experienced in exporting beef later that year to Korea under this first agreement, however, began to affect the negotiating dynamics of the overall FTA, even though this issue was not on the formal agenda. Separate bilateral discussions on this sensitive issue moved from the technical level to high-level meetings as both sides raced to conclude the KORUS FTA by the end of the March 2007 deadline set by then-in-effect trade promotion authority. However, the beef issue was not resolved by the time both countries concluded this trade agreement.

Then-South Korean President Roh Moo-hyun, in a national address on April 1, 2007, stated he had personally promised President Bush that his government would “uphold the recommendations” of the World Organization for Animal Health (OIE) on the BSE risk status of the United States and “open the Korean [beef] market at a reasonable level.” The OIE is the international scientific body recognized by the World Trade Organization as the reference for matters of animal disease and health. On May 22, 2007, the OIE formally found that the United States is a “controlled risk” country for the spread of mad cow disease. The U.S. Department of Agriculture’s (USDA’s) top official on this matter commented that this “risk classification recognizes that OIE-recommended, science-based measures are in place to effectively manage any possible risk of BSE in the [U.S.] cattle population” and “provides strong support that U.S. regulatory controls are effective and that U.S. cattle and products from cattle of all ages can be safely traded in accordance with international guidelines, due to our interlocking safeguards.”⁴

USDA immediately requested that South Korea amend its import requirements for U.S. beef within a specified time frame to reflect this risk determination and to reopen its market to all U.S. cattle and beef products. In response, South Korea’s animal health regulatory agency began an eight-step process to assess the BSE risks of the U.S. beef sector in light of the OIE finding, with the intent to negotiate a revised bilateral agreement that would lay out import rules applicable to U.S. beef. Against this backdrop, U.S. boneless beef exports resumed in late April 2007, with occasional breaks when Korean inspectors refused entry to some shipments that contained bones or did not meet other requirements laid out in the January 2006 agreement. With the third discovery of prohibited bones on October 5, 2007, South Korean authorities announced they would not conduct any more inspections of U.S. beef until both sides conclude formal negotiations to revise the 2006 protocol.

U.S. Beef Exports During the 2004-2007 Period

Minimal U.S. beef offal exports occurred in 2004, 2005, and 2006 (**Figure 1** and **Figure 2**), due to South Korea’s ban on imports after the first U.S. BSE-infected cow was discovered in December 2003. Though some U.S. boneless beef sales occurred in the last few months of 2006 after South Korea agreed to implement the January 2006 agreement, Korean inspectors rejected these shipments after discovering small bone fragments in a few boxes. From 2004 to 2006, beef shipments from Australia and New Zealand increased substantially to cover South Korean demand that had previously been met by U.S. beef exporters (**Figure 3**). In 2007, both countries accounted for 92% of South Korea’s beef imports, compared to 29% in 2003.

⁴ USDA, Animal and Plant Inspection Service, “Statement by Dr. Ron DeHaven Regarding OIE Risk Recommendation,” March 9, 2007, available at http://www.aphis.usda.gov/newsroom/content/2007/03/OIE_statement3-9-07.shtml.

U.S. boneless beef exports to South Korea resumed in late April 2007 and continued through early October 2007, when bone fragments again were found. During this period, Korea's quarantine regulatory agency inspected and cleared for retail sale most U.S. boneless beef shipments, applying its interpretation of the January 2006 agreement. Even with partial-year exports, South Korea ranked as the fourth-largest market for U.S. beef in 2007, with sales of \$119 million (**Figure 1**) or 25,165 MT (**Figure 2**).

U.S. and South Korean Negotiating Objectives

The longstanding U.S. negotiating position had been to press for full access in one step for all U.S. beef into South Korea's market. This meant expanding the scope of the 2006 agreement to include exports of *bone-in* beef and coverage of all U.S. beef from cattle, *regardless of age*, as long as BSE-risk materials are removed during processing. U.S. trade officials maintained that U.S. beef is safe, pointing out that it is consumed by millions of Americans. They frequently noted that the U.S. measures in place to prevent the introduction of BSE in U.S. cattle herds already meet international scientific standards as spelled out by the OIE.

South Korea argued for a "two-phased" approach to a full opening. The first step would allow imports of both boneless and bone-in beef cuts from U.S. cattle less than 30 months old. Cattle parts identified by the OIE as agents that can transmit BSE to cattle and in turn, potentially harm humans, would have to be removed from imported beef. Korea's trade minister argued this first step would give the United States about 80% of the market share it had before the ban on U.S. beef took effect in late 2003. The second step to take effect later would permit imports of beef from older cattle, as long as risk materials are removed according to OIE's standards.⁵

April 2008 Beef Agreement and Subsequent Change

Just hours before newly elected Korean President Lee met President Bush at Camp David on April 18, 2008, U.S. and South Korean negotiators reached agreement on the sanitary rules that Korea will apply to beef imports from the United States. It allows for imports of all cuts of U.S. *boneless* and *bone-in* beef and other beef products from the edible parts of cattle, *irrespective of age*, as long as specified risk materials (SRMs) known to transmit mad cow disease are removed and other conditions are met. However, both sides revised this deal in a late-June private-sector arrangement that will for an unspecified time period limit sales of U.S. beef (boneless and bone-in) only to cattle less than 30 months old when slaughtered. Combined, the new rules significantly expand upon the products covered by the January 2006 protocol, which only permitted imports of boneless beef from cattle under 30 months old.

The April 2008 agreement requires the removal of specified risk materials (SRMs) during meat processing, and prohibits the entry of (1) all mechanically recovered and mechanically separated meat and (2) advanced meat recovery (AMR) product from the skull and vertebral column of cattle 30 months of age and over at the time of slaughter. These prohibitions reflect scientific conclusions that these materials can harbor the BSE agent in cattle and in turn infect humans if product from such cattle are consumed.⁶ Other provisions detail which other beef products can

⁵ *Inside U.S. Trade*, "Korean Minister Sees Open Beef Market In Two Steps, Delay In FTA Approval," November 16, 2007, p. 5.

⁶ Specified SRMs are "tonsils and distal ileum from cattle of all ages; and [the] brain, eyes, spinal cord, skull, dorsal (continued...)"

enter, or are prohibited from entering, South Korea.⁷ The agreement also prescribes the steps that South Korea’s quarantine inspection agency can take if banned cattle parts or other problems are found in a shipment from a U.S. meat firm, and specifies what its counterpart U.S. agency (USDA’s Food Safety and Inspection Service, or FSIS) must do to address the matter. These are intended to serve as a map for handling specific problems in a way that does not stop altogether the flow of all U.S. beef exports to South Korea. Other rules spell out the requirements that U.S. beef processing plants and the FSIS must meet, in order for beef and beef products to be sold to South Korea.⁸

The private-sector deal announced on June 21, 2008, reflects a “commercial understanding” reached between Korean beef importers and U.S. exporters, that as “a transitional measure,” only U.S. beef from cattle under 30 months of age will be sold to Korea. The U.S. Trade Representative (USTR), in acknowledging the request made by the U.S. meat industry for Korea’s beef importers, stated that the U.S. government will meet this request under a Quality System Assessment (QSA) program that will verify that beef destined for Korea will be from cattle less than 30 months old. This program will be voluntary—operating only at those beef processing plants that seek to sell beef and beef products to that market.⁹ (See “Implementation” for status of this QSA program.)

Reaction to April 2008 Agreement

While the U.S. beef industry and U.S. policymakers welcomed the April deal, Korean TV coverage of the issue and Internet-spread rumors that questioned the safety of U.S. beef sparked large candlelight vigils in South Korea to protest the beef agreement. Opposition political parties soon joined these protests, advocating that the government renegotiate or scrap the agreement. Farmers also called for the National Assembly (Korea’s parliament) to reject the KORUS FTA when considered during a special session later in May 2008. Opponents argued that the Korean government moved too quickly to strike a deal, and did not secure enough safeguards against the dangers of mad cow disease.

These developments, in turn, adversely affected the political standing of Korea’s new President and his government’s inability to pursue his ruling political party’s policy agenda—one item being the approval by the National Assembly of the KORUS FTA. To respond to mounting public

(...continued)

root ganglia and vertebral column (excluding vertebrae of the tail, transverse processes and spinous processes of the cervical, thoracic and lumbar vertebrae, median crest and wings of the sacrum) from cattle 30 months of age and over at the time of slaughter.” For more information, see “BSE Prevention in Slaughter and Processing: the ‘Fourth Firewall’” in CRS Report RL32199, *Bovine Spongiform Encephalopathy (BSE, or “Mad Cow Disease”): Current and Proposed Safeguards*, by Sarah A. Lister and Geoffrey S. Becker.

⁷ AMR product that is free of SRMs and central nervous system tissues is allowed. Ground meat, processed products and beef extracts may contain AMR but must be free of SRMs and all mechanically recovered or separated meat.

⁸ These detail the scope of U.S. plants operating under USDA inspection that are eligible to sell to South Korea, the origin of foreign cattle imported into the United States from which beef can be exported to Korea, the steps that FSIS will take to handle cases of the discovery of a food-safety hazard in a U.S. firm’s shipped beef product or inspection audit, the requirement that certain U.S. steak products be temporarily labeled, the on-site audits that Korea’s inspectors can conduct of U.S. facilities exporting beef to Korea, and the scope of measures that the United States implements to meet or exceed OIE guidelines for controlled-risk BSE status.

⁹ USTR, “USTR Confirms Korea’s Announcement on U.S. Beef,” June 21, 2008.

pressure, the Korean government twice pursued talks with the United States to find ways to defuse public concerns without “renegotiating” the beef agreement. A May 19, 2008, exchange of letters affirms that South Korea has the right under international agreements to take steps to protect its citizens from health and safety risks (i.e., suspend U.S. beef imports if a BSE-infected cow is discovered in the United States). On June 21, 2008, both governments confirmed a “voluntary private sector” arrangement that allows Korean firms to import U.S. beef produced only from cattle less than 30 months old, and announced some changes to the April agreement.

Although South Korea secured the application of the under-30-months-old criterion with respect to U.S. beef imports, the OIE in contrast makes no age distinction in assessing the risk level of cattle slaughtered for beef. Instead, its recommendation is that importing countries, to prevent the introduction of BSE, ensure that beef of any age meet certain conditions, such as the removal of those cattle tissues suspected of transmitting BSE and the implementation of effective safety controls for cattle feed. Though the United States for some time has argued that it is in full compliance with OIE guidelines, U.S. negotiators appear to have had little choice but to compromise in a way that would allow some sales to resume. Publicly, both countries presented this arrangement as a transitional step to improve Korean consumer confidence in U.S. beef, and did not commit to any timetable for revisiting this matter.

Some Members of Congress responded cautiously or skeptically to the “voluntary commercial agreement,” noting that it changes the April protocol by allowing Korea to reject U.S. beef from cattle over 30 months of age, disregards international standards that affirm the safety of all U.S. beef regardless of age, and sets an “unfortunate” or “dangerous” precedent in negotiating the terms of beef access into other countries.¹⁰

South Korean government officials portrayed the June-negotiated arrangement as going far to allay public concerns about the safety of U.S. beef. However, the political fallout of the controversy continued through the summer of 2008. Three high ranking Korean officials (including the Agriculture Minister and his deputy) resigned because of their involvement in the agreement’s negotiations. The Korean National Assembly completed an inconclusive parliamentary inquiry on the strategy and process followed by two successive governments on negotiating this agreement. It also debated a controversial livestock sector bill that includes a ban on beef imports from any country whenever a new case of a BSE-infected cattle is discovered. As adopted, the measure reportedly exempts the bilateral beef agreement reached with the United States from being subject to its coverage.

Beef in the KORUS FTA

Market Access Provisions

Under the KORUS FTA, South Korea would eliminate over a 15-year period its 40% tariff on beef muscle meats imported from the United States. South Korea also would have the right to impose additional tariffs on a temporary basis in response to any surges in imports of U.S. beef

¹⁰ For example, see press releases issued on June 21, 2008 by Senator Baucus, “Baucus Comments on U.S.-Korea Beef Changes”; Senator Chambliss, “Sen. Chambliss Statement on South Korea’s Announcement Regarding U.S. Beef”; Senator Nelson, “Nelson Responds to Beef Agreement with South Korea.”

meats above specified levels. The trigger for this additional tariff would be 270,000 metric tons (MT) in year 1, and would increase 2% annually. In year 15, the trigger would be 354,000 MT.¹¹ In year 16, this protective safeguard mechanism would no longer apply. Separately, the 18% tariff on imports of beef offals (tongues, livers, tails and feet), and tariffs ranging from 22.5% to 72% on other beef products, would also be eliminated in 15 years.

Assuming that South Korea fully lifts its restrictions on U.S. beef, and bilateral beef trade returns to normal, the U.S. International Trade Commission (USITC) estimates that the phase-out of South Korea's beef tariff and safeguard could increase U.S. beef exports by about \$600 million to \$1.8 billion (58% to 165%) above what would be the case without this agreement.¹² In another analysis, the American Farm Bureau Federation (AFBF) projects that U.S. beef sales would be \$265 million higher than otherwise as the United States recaptures its historic share of the South Korean market. However, the AFBF notes that the market share of U.S. beef likely will not increase over time, because South Korean tastes have developed a preference for grass-fed Australian beef, which will continue to be competitive in price against U.S. beef even if the current 40% tariff is removed.¹³

Cattle Producer and Meat Industry Views

Key U.S. interest groups have frequently acknowledged that the full benefits associated with the KORUS FTA's beef market access provisions can only be attained if both countries work through the issue of addressing South Korea's lingering concerns about the safety of U.S. beef exports. Cattle producers are divided on their support for the KORUS FTA. The National Cattlemen's Beef Association (NCBA) and the U.S. Cattlemen's Association (USCA) are in favor. The Ranchers-Cattlemen Action Legal Fund, United Stockgrowers of America (R-CALF USA) opposes it.¹⁴ Beef processors and packers, represented by the American Meat Institute (AMI) and the National Meat Association (NMA), support this agreement.¹⁵

¹¹ In 2003, U.S. exports of beef muscle meats to South Korea totaled 213,083 MT. The safeguard level in year 1 would allow for duty-free access for about 20% more U.S. beef than the average 2002-2003 level of U.S. beef exports to the South Korean market. To place this in the context of recent export activity, the U.S. Department of Agriculture estimates that U.S. beef muscle meat exports in 2010 could reach about 78,000 MT (see footnote 20).

¹² Derived by CRS from Table 2.2 in USITC, *U.S.-Korea Free Trade Agreement: Potential Economy-wide and Selected Sectoral Effects*, pp. 2-8 and 2-9.

¹³ Derived by CRS from AFBF's *Implications of a South Korea-U.S. Free Trade Agreement on U.S. Agriculture*, July 2007, p. 17.

¹⁴ The NCBA, with a claimed membership of 230,000 cattle producers, breeders, and feeders, advocates policy positions and economic interests on behalf of farmers and ranchers and 40 national breed and industry organizations. NCBA has been the traditional "main line" trade association representing the interests of U.S. cattle producers for over 100 years, and historically has been supportive of efforts to expand two-way trade and "free trade" generally. The USCA, formed in 2007, represents cattle producers' interests in Washington, DC, and advocates for mandatory country-of-origin labeling and international trade, market competition, reform of the mandatory beef check-off program, animal health, welfare and identification, and private property rights issues. The USCA had earlier expressed concern about the cost of the additional regulatory requirements adopted to address food safety concerns when Korea's protocol pertaining to U.S. beef imports was negotiated in April 2008. R-CALF USA, with a claimed membership of over 12,000, represents cattle producers on domestic and international trade and marketing issues. R-CALF was created in 1998 to pursue three trade cases and has taken a more skeptical approach to the Bush and Obama Administrations' trade policies, concerned about the impact of cattle and beef imports on the economic well-being of cattle ranchers.

¹⁵ The AMI, according to its website, is a national trade association representing companies that process 95% of the red meat in the United States, and their suppliers throughout America. The NMA, based in California, is a smaller trade association with about 225 member companies. Members include equipment manufacturers and food suppliers who (continued...)

Implementation of 2008 Beef Access Agreement

Administrative Steps Taken

In accordance with the beef agreement, as modified by the June 2008 private-sector arrangement, South Korea on June 26, 2008, published rules to put the beef agreement into effect, and began to inspect U.S. beef shipments held in cold storage in Korea since the fall of 2007. Shortly thereafter, USDA agencies began implementing the procedures adopted to ensure that U.S. beef meets Korea's import requirements. Under these terms, each U.S. beef shipment to Korea must be accompanied by an export certificate issued by USDA's Food Safety and Inspection Service (FSIS) that confirms the U.S. beef establishment participates in two programs administered by USDA's Agricultural Marketing Service (AMS).¹⁶ The first is that beef and products destined for South Korea must be produced under an approved Export Verification (EV) program. This details the specific product requirements that a supplier must meet in order for an export shipment to be eligible to enter Korea. Currently, AMS lists 58 suppliers as covered by the EV program for Korea.¹⁷ The second is the voluntary Quality System Assessment (QSA) program that verifies that beef from a participating plant is from cattle under 30 months of age. Currently, AMS has approved 54 exporting establishments as eligible to ship beef product that can be certified as meeting this requirement.¹⁸

Beef Sales Under the Agreement

To meet initial consumer demand following the reopening of South Korea's market to U.S. beef, shipments accelerated from mid-July 2008 through early October 2008 to supply regional wholesale markets and such retail sales outlets as local traditional butcher shops and online stores. With the build-up among importers of unsold inventories, export shipments then fell through year-end 2008. Perceiving a change in consumer sentiment towards U.S. beef, three large Korean discount retail chains began selling U.S. beef in late November 2008. Sales of U.S. beef in these major sales outlets were strong in December, largely due to discount pricing (**Figure 4** and **Figure 5**).

For **2008** as a whole, U.S. beef exports to South Korea totaled \$294 million (**Figure 1**) or 57,269 MT (**Figure 2**). Of this total, sales of bone-in beef products (previously prohibited) were \$118 million. Compared to 2007, these U.S. beef exports were 148% higher in value and 128% greater in quantity. Even though sales occurred for only half the year, South Korea ranked as the fourth-largest market for U.S. beef. For 2008 as a whole, the U.S. market share of all of Korea's beef imports rose to 15%, up from 6% in 2007.

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provide services to the meat industry.

¹⁶ See USDA, FSIS, "Export Requirements for the Republic of Korea," as updated September 10, 2010, available at http://www.fsis.usda.gov/regulations_&_policies/Republic_of_Korea_Requirements/index.asp.

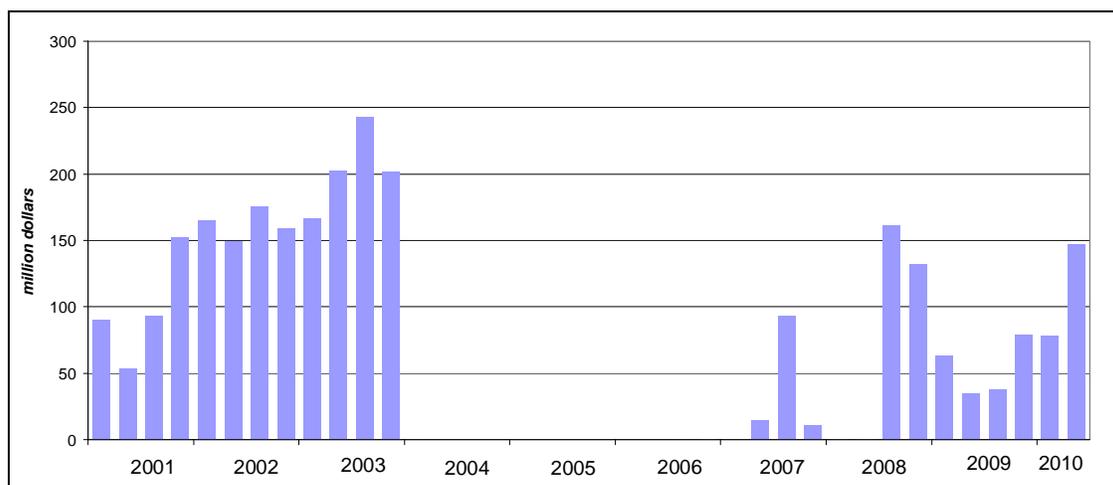
¹⁷ "Official Listing of Eligible Suppliers to the USDA Bovine EV Programs," as updated September 9, 2010, at <http://www.ams.usda.gov/AMSV1.0/getfile?dDocName=STELPRD3105269>.

¹⁸ "Official Listing of Approved Suppliers for the USDA QSA Program for Korea and Taiwan," revised September 9, 2010, at <http://www.ams.usda.gov/AMSV1.0/getfile?dDocName=STELPRDC5070251>.

In 2009, U.S. beef sales to South Korea totaled \$216 million (**Figure 1**) or 55,633 MT (**Figure 2**). Compared to 2008, these exports were lower by nearly 27% in value and 3% in quantity. South Korea again ranked as the fourth-largest destination for U.S. beef in dollar terms. The U.S. market share further increased to 26%, at the expense of Australia and New Zealand.

Exports fell in the first quarter of 2009, as importers worked down their inventories of frozen U.S. beef that had entered earlier. One positive development was the decision of large department store chains (another major marketing outlet) to resume sales. This reflected an acknowledgment by these other retailers that public opposition to U.S. beef had eased, with no significant problems reported since sales had begun at the discount retail stores. In the second and third quarters of 2009, U.S. beef exports to South Korea stabilized at a lower level, in part due to household decisions to tighten spending (i.e., less restaurant dining, where U.S. beef would frequently be consumed) in response to the uncertainty caused by Korea's economic recession (**Figure 4** and **Figure 5**). The availability of cheaper Australian beef because of the Australian dollar's more favorable exchange rate against the Korean *won* also reduced the price-competitiveness of U.S. beef during this period. USDA reported that imports were slowed by the difficulties that importers experienced in securing credit due to the financial squeeze and the weak *won* relative to the U.S. dollar, and by "ample" inventories of U.S. beef sitting in cold storage. It also attributed the slower pace of sales to the lingering negative image of U.S. beef among Korean consumers.¹⁹

Figure 4. Value of U.S. Beef Exports to South Korea, Quarterly
(2001 to mid-2010)

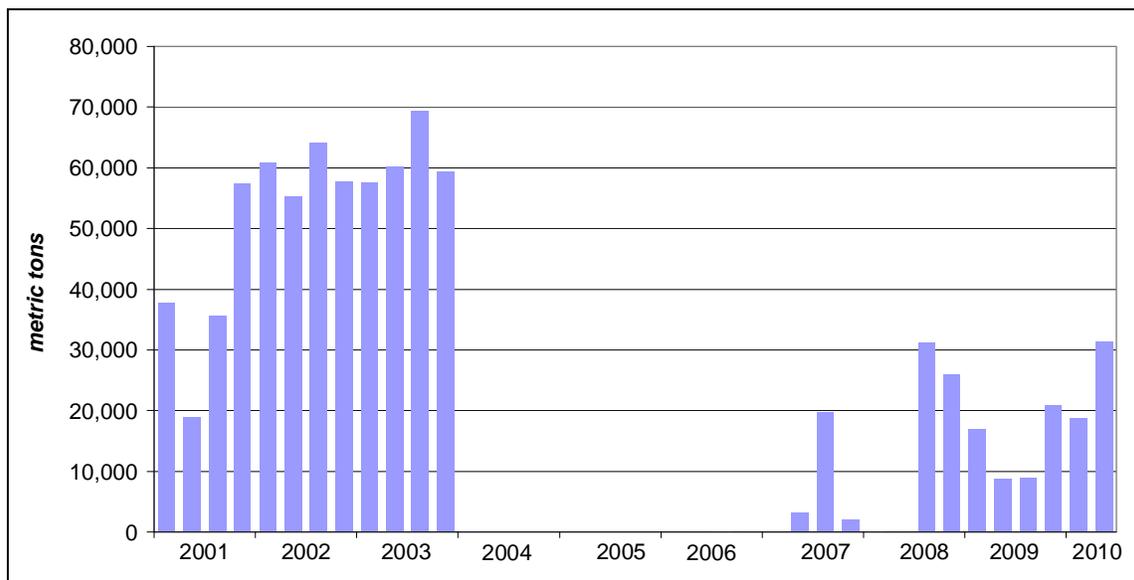


Source: Derived by CRS from Department of Commerce, U.S. Census Bureau, Foreign Trade Statistics.

Notes: Includes boneless and bone-in cuts, beef variety meats, and processed beef products (through 2003).

¹⁹ USDA, Foreign Agricultural Service, South Korea's "Livestock and Products Annual," GAIN Report KS9041, September 1, 2009, pp. 5, 9.

Figure 5. Quantity of U.S. Beef Exports to South Korea, Quarterly
(2001 to mid-2010)



Source: Derived by CRS from Department of Commerce, U.S. Census Bureau, Foreign Trade Statistics.

Notes: Includes boneless and bone-in cuts, beef variety meats, and processed beef products (through 2003).

For **2010**, USDA estimates that U.S. beef exports to South Korea will reach about 78,000 MT, nearly a one-third increase over the 2009 export level of 59,000 MT.²⁰ U.S. beef shipments this year would constitute 34% of total South Korean beef imports, a noticeable increase from the 26% share posted in 2009.²¹ Through July 2010, U.S. beef (boneless and bone-in) exports more than doubled compared to the same seven-month period in 2009 (51,400 MT versus 24,560 MT) (**Figure 2**). In value terms, U.S. beef exports through July 2010 were 162% higher than in the same period last year (\$291 million versus \$111 million) (**Figure 1**). South Korea continues to rank globally as the fourth-largest market for U.S. beef. The U.S. market share of Korean beef imports from all major suppliers through July 2010 stood at 30%, up from a 24% share in the same seven-month period in 2009 (**Figure 3**).²²

Promotional efforts to rebuild consumer confidence in U.S. beef and much lower retail prices for imported beef than for Korean beef contributed to the continued growth in U.S. beef sales during the first half of this year (see **Figure 4** and **Figure 5**). Since December 2009, the U.S. Meat Export Federation (USMEF) has conducted a “Trust Campaign” to rebuild consumer confidence in U.S. beef using television and newspaper advertisements and other promotional activities. Major Korean “hypermarkets”—superstores that combine a supermarket with a department store—have engaged in aggressive marketing efforts that are reported to have increased U.S. beef’s share of imported beef sold by these stores. Retail prices for Korean-produced beef on

²⁰ This estimated quantity is expressed on a product weight equivalent basis to correspond more closely to the quantities recorded for U.S. beef exports as discussed in “U.S. Beef Exports to South Korea” and shown in **Figure 2** and **Figure 3**. The 2010 estimate is derived by CRS using a conversion factor from the 110,000 MT carcass weight equivalent published in USDA, Foreign Agricultural Service, South Korea’s “Livestock and Products Annual,” GAIN Report KS1023, September 10, 2010, p. 9.

²¹ USDA, FAS, GAIN Report KS1023, September 13, 2010, pp. 3, 6.

²² Derived from online statistics database maintained by Korea International Trade Association at <http://www.kita.org>.

average lately have been 2 to 2½ times more expensive than imported beef. Though U.S. beef sales have increased, USDA reports that “there are still a sizeable percentage of fence sitting consumers who haven’t started buying U.S. beef again.” To win these consumers back, marketing efforts are being targeted toward this group. Also, while the more upscale restaurants are selling U.S. beef, smaller establishments “are still a bit reluctant to include it on their menus for fear of losing customers.” To respond, the USMEF plans additional marketing efforts to reach these smaller restaurants.²³

For **2011**, USDA projects that U.S. beef exports to South Korea could reach about 97,000 MT product weight equivalent²⁴—24% higher than its 2010 beef export estimate, as consumer demand is expected to rise. This amount would account for an estimated 40% of projected Korean beef imports from all major country suppliers.²⁵

Impact of Beef Protests on Bilateral Relations and the KORUS FTA

Although the protests against the beef agreement subsided in the summer of 2008, they have had lingering effects on U.S.-South Korean relations because of their erosion of President Lee’s standing early in his term and because of their possible effects on the ratification of the KORUS FTA. The protests damaged the President’s political strength and boosted the position of opposition groups that had been demoralized before the candlelight vigils. In the late summer of 2008, Lee’s approval ratings recovered from the trough they entered at the height of the protests, but for months they remained at a low level (in the mid-20% to 30% range).²⁶ Thus, the uproar over Lee’s decisions on beef effectively ruined his “honeymoon” period to push many of his policy goals. It was not until late 2009 that Lee’s poll numbers began to exceed 40% fairly consistently.

Perhaps most significantly for the United States, the beef protests have meant that President Lee is likely to have less political capital—let alone political will—to make the changes that the Obama Administration is likely to seek in the KORUS FTA. Lee has made securing passage of the KORUS FTA a priority, both for South Korea’s economic competitiveness and for revitalizing the U.S.-South Korean alliance. However, the domestic uproar in Korea following the April 2008 beef deal increased the perception among many South Koreans that Lee is overly solicitous toward the United States. This vulnerability could make it less likely that Lee would be willing or able to accept the changes the Obama Administration has said would be necessary before it will consider submitting the KORUS FTA to Congress.²⁷ In December 2008 and January 2009, South Korean opposition parties physically and procedurally blocked a vote on the KORUS FTA from being taken in the National Assembly. The opposition agreed to end its boycott in exchange for a

²³ Ibid., USDA, GAIN Report KS1023, September 13, 2010; GAIN Report KS1003, February 26, 2010, pp. 4-5.

²⁴ See footnote 20 for explanation.

²⁵ Ibid., USDA, GAIN Report KS1023, September 13, 2010.

²⁶ See, for instance, *JoongAng Ilbo* (Internet Version in English), “President Lee’s Approval Rating Starts to Pick Up,” August 25, 2008; Martin Fackler, “South Korea Losing Faith in ‘Ceo’ Leader and Ally,” *The New York Times*, November 1, 2008.

²⁷ Replies to Questions for the Record from Senator John Kerry on the Nomination of Hillary Rodham Clinton, Secretary of State, January 2009, available at <http://www.foreignpolicy.com/files/KerryClintonQFRs.pdf>.

promise not to call for a committee vote until later in 2009. In April 2009, the National Assembly's Foreign Affairs, Trade and Unification Committee favorably reported the KORUS FTA ratification bill to the full legislature. In its current form, the KORUS FTA has broad support within the National Assembly, which is controlled by President Lee's ruling Grand National Party.

Options Under Consideration

Concluding the 2008 bilateral beef agreement was considered a significant step forward in the U.S. government's 4½-year effort to regain access to South Korea's lucrative beef market for the U.S. cattle and beef processing sectors. It was intended to resolve an issue that some Members of Congress said stood in the way of congressional consideration of legislation to implement the KORUS FTA. While Korea's lifting of the beef ban was widely regarded as a politically necessary condition for the Bush Administration to send this trade agreement to Congress, it has since become a less sufficient condition, because of other opposition to the KORUS FTA (e.g., over its auto trade provisions) and increased opposition to FTAs in general.

Since President Obama's announcement on June 26, 2010, of his intent to present implementing legislation for the KORUS FTA to Congress "in the few months" after the November 2010 G-20 meeting in Seoul, the Administration has continued to consult with Congress and stakeholders on how to resolve outstanding matters related to access for U.S. beef in the South Korean market. Discussions have focused on what would constitute access for U.S. beef, as spelled out in the signed April 2008 protocol. These consultations are expected to serve as the basis for the U.S. proposals to be presented to Korean officials. These initial talks have not yet been scheduled.

The issue facing U.S. negotiators is how and at what pace the United States can get South Korea to accept all U.S. beef, irrespective of the age of the cattle when slaughtered. However, the requirement that U.S. exporters remove specified risk materials suspected of causing mad cow disease during processing is not at issue. At the same time, U.S. negotiators face pressure to balance this objective with other negotiating initiatives to expand upon or regain market access for U.S. beef in such important Asian markets as Japan, Taiwan, and China.²⁸

Administration officials have stated that their objective is "to eventually secure full market access for U.S. beef" that reflects South Korea's recognition that the United States meets OIE standards. However, public statements made by U.S. Trade Representative Ron Kirk and USDA Undersecretary Jim Miller have raised the possibility that the Administration may not require achieving this objective before the KORUS FTA is sent to Congress, and instead may seek to secure commitments from South Korea to move in steps toward that goal.²⁹

Senator Baucus, chairman of the Senate Finance Committee (which would consider a bill to approve and implement the KORUS FTA) has stated that he wants access for all U.S. beef and

²⁸ At present, Japan accepts U.S. beef, veal, beef offal, and veal offal from animals 20 months of age or younger. Taiwan allows the entry of U.S. boneless and bone-in beef, and other specified beef products, from cattle less than 30 months of age that meet specified requirements on being born and/or raised for a minimum time period in the United States. China does not allow the entry of any U.S. beef, beef products, and tallow.

²⁹ *Inside U.S. Trade*, "U.S. Deliberating on Strategy, Possible 'Beef Triggers' for Korea FTA," August 6, 2010, pp. 1, 24-25.

cuts from cattle of any age as a condition for considering and ratifying the KORUS FTA. His statements stress that the OIE has determined that U.S. beef from cattle irrespective of age can be safely imported, and that 60 countries now recognize this in accepting U.S. beef. Baucus has continued to reiterate that his objective is to see that U.S. beef access in all markets be based on internationally accepted rules, arguing that allowing an FTA partner such as Korea not to follow OIE guidelines would set a “dangerous precedent.”³⁰ Another approach, according to Senator Grassley, ranking member of the Finance Committee, would be to pursue efforts to secure additional beef access “in parallel to the FTA approval process.”³¹

Much of the U.S. cattle and beef industry wants to see the KORUS FTA take effect soon in order to realize the benefit of the reduction in South Korea’s 40% tariff on beef muscle cut imports. The industry points to the fact that U.S. beef exports continue to grow, and that the U.S. market share of Korea’s beef import market is increasing.³² Industry spokesmen have expressed some apprehension about losing these gains, if U.S. negotiators push South Korea too quickly for full beef access. Their stance may reflect a desire to avoid a repeat of the street protests that occurred in May 2008, to preclude a public and official perception that the United States is again pressuring South Korea for a policy change. The U.S. beef sector likely would view such a scenario as undercutting the aggressive market promotion efforts made since late 2008 to assure Korean consumers of the safety of U.S. beef, which it views as having contributed to the increase in U.S. beef exports. Others also have mentioned that securing tariff reductions for U.S. beef would provide a price advantage with respect to beef supplied by Australia and New Zealand, which are likely seeking similar tariff cuts as both countries negotiate FTAs with South Korea.

With USDA’s Miller mentioning that negotiators might look at interim steps to expand access for U.S. beef in South Korea’s market as the basis for resolving this issue, various ideas and/or possible triggers to accomplish this have surfaced. One would be to bring processed beef products under the coverage of the current “voluntary arrangement.” This would allow U.S. exporters to participate in what currently is a \$75 million market in South Korea. Another approach would involve agreeing to triggers that would provide for a transition from the current voluntary arrangement to full compliance with the April 2008 agreement. Such triggers could include (1) no discoveries of additional cases of BSE in U.S. cattle during some future time period (i.e., 3, 5, 10 years); (2) no reports of violations of the terms of the industry, or “voluntary,” arrangement for some stated time period; (3) U.S. beef exporters reaching a specified share of Korea’s beef import market; and/or (4) a change in OIE’s risk assessment of the U.S. beef sector from “controlled risk” to “negligible risk.” Some of these precedent-setting triggers could create concerns that in the future might undermine U.S. efforts to expand exports of other meat products, or to protect export gains that have already been achieved. Should U.S. and Korean negotiators agree to some changes, this would not require a re-opening of the FTA text. Any modification could be handled in an addendum letter to the April 2008 protocol or by some changes in the protocol text itself.

³⁰ *Inside U.S. Trade*, “Baucus Calls On South Korea To Fully Adhere To OIE Guidelines On Beef,” July 23, 2010; BNA, *International Trade Reporter*, “Kirk Says Working for Full OIE Compliance From Korea on Beef; Baucus Seeks Results,” August 12, 2010.

³¹ *Inside U.S. Trade*, “U.S. Deliberating on Strategy, Possible ‘Beef Triggers’ for Korea FTA,” August 6, 2010, p. 25.

³² If the agreement had taken effect on January 1, 2010, the reduced tariff of 37.3% would have resulted in a savings of almost \$11 million to U.S. exporters in the first year. CRS derived this savings, applying the almost 2.7% tariff reduction to an estimate of \$400 million in U.S. beef sales to South Korea in 2010.

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