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## UNITED STATES-KOREA (KORUS) FTA & THE OUTDOOR INDUSTRY

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*Late update: March 15, 2012*

### **STATUS**

- March 15, 2012: United States-Korea Free Trade Agreement (KORUS) enters into force.
- November 2011: KORUS implementing legislation was passed by the Korean Parliament.
- October 2011: KORUS implementing legislation was passed by the U.S. Congress.
- December 2010: Limited renegotiation was completed.
- June 2007: The United States and the Republic of Korea signed KORUS.

### **BACKGROUND**

Korea is the United States' seventh largest trading partner, and KORUS will be the United States' most commercially significant free trade agreement since the North American Free Trade Agreement (NAFTA). The U.S. International Trade Commission estimates that the reduction of Korean tariffs and tariff-rate quotas on goods alone will add approximately \$10 billion to annual merchandise exports to Korea. Under the FTA, nearly 95 percent of bilateral trade in consumer and industrial products would become duty free within three years of the date the FTA enters into force, and most remaining tariffs will be eliminated within 10 years.<sup>1</sup>

Political hurdles in the United States stalled the agreement for over four years. After KORUS was signed in 2007, the Democratic Leadership of the 110<sup>th</sup> and the 111<sup>th</sup> Congresses urged the Bush Administration and then the Obama Administration to refrain from sending the implementing legislation to the Hill for a vote because the Agreement lacked sufficient support for passage, primarily due to concerns within the agricultural (U.S. beef exports) and automotive chapters. In the fall of 2010, Obama administration trade negotiators engaged their South

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<sup>1</sup> Office of the United States Trade Representative

Korean counterparts to address and resolve certain U.S. Congressional concerns. The result was a limited renegotiation that modified the KORUS automotive chapter, which was signed in December 2010.

The Obama administration's effort to renegotiate provisions of the automotive chapter of KORUS sparked an outcry from other U.S. industries (and their Congressional champions) that sought better deals for their chapters, such as certain agriculture (U.S. beef exports) and the textile industry. Ultimately, the renegotiation was confined to the provisions of the automotive chapter, and the concerns/objections of other industries (and their Members of Congress) did not derail Congressional consideration of the FTA, which was passed on October 12, 2011. Additional changes to the FTA are not likely, but can be done through negotiations and agreement of both parties. Any changes agreed to must be ratified by the U.S. and Korean legislatures.

### **KORUS AS AN ASIAN TRADE TEMPLATE**

As the most recent and the most commercially significant U.S. free trade agreement in Asia, the provisions of KORUS will likely be the initial templates for chapters of future U.S. trade agreements in Asia, beginning with the Trans-Pacific Partnership (TPP) Agreement,<sup>2</sup> the negotiations of which are already underway.

Outdoor Industry Association (OIA) members should evaluate how the rules of origin and other mechanisms are designed for products such as apparel, footwear, and other outdoor gear and communicate how the agreement can be utilized. OIA should then engage with U.S. trade negotiators to explain how KORUS provisions affect OIA companies, and seek appropriate modifications in TPP and future free trade negotiations.

### **KORUS PROVISIONS**

#### **I. OUTDOOR APPAREL & TEXTILE PROVISIONS**

##### **a. Outdoor Impact**

The KORUS contains restrictive rules of origin for apparel and textile products. Unless companies have a supply chain that relies on U.S. or Korean yarns, fabrics, and assembly, there will be little opportunity to qualify for the duty-free benefits of the Agreement. Korea is a supplier of technical fabrics, but they will be of little use under KORUS unless those fabrics are made from U.S. or Korean yarns, and also assembled into garments in the United States or Korea. [NOTE: With the entry into force of KORUS, Korean-made fabrics will now qualify for the value rule under the Haiti/HELP program.]

##### **b. Rules of Origin**

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<sup>2</sup> TPP is a multilateral FTA negotiation between the United States, Australia, Brunei, Chile, Malaysia, New Zealand, Peru, Singapore, and Vietnam.

i. In General

Most apparel products (HTS chapters 61 and 62) and textile products (HTS chapters 50-60) are subject to a strict yarn-forward rule of origin, whereby in order to qualify for duty-free benefits under KORUS, the materials and processes must originate/occur in the KORUS region (Korea or the United States), including:

- yarn creation (spinning, extruding)
- fabric creation (knitting, weaving)
- fabric finishing
- fabric cutting and assembly
- sewing thread source
- narrow elastics source
- pocketing fabric source

ii. Certain Exceptions to Yarn-forward

KORUS includes limited itemized exceptions to the yarn-forward rule. The following items are only subject to a “cut and wholly assembled” rule of origin; meaning the fabric and other components may be sourced from any third-party country, but the fabric must be cut and the product must be assembled in Korea or the United States:

- 6104.33 - 6104.39: Women’s and girls’ cotton blazers, other than cotton
- 6107.21/6108.31: Cotton nightshirts and pajamas of circular knit fabrics
- 6108.21: Women’s and girls’ cotton briefs & panties of circular knit fabrics

iii. Short Supply

KORUS includes a temporary (5 years) mechanism to determine whether fibers, yarns, and fabrics are commercially available in Korea or the United States for the purposes of meeting the yarn-forward rule of origin. Interested parties in either country may initiate a consultative process to request that certain items be added to the KORUS short supply list (KORUS does not begin with any items on the list).

If a fiber, yarn, or fabric is determined to be commercially unavailable (*i.e.*, in short supply) a producer may use such items from outside of the KORUS region in production. For example, if a fabric weaver in the United States is unable to source a specific type of yarn in the United

States or Korea, that weaver may petition to use a third-country yarn and still have the fabric meet the yarn-forward rule of origin.

The KORUS short supply mechanism limits the quantity of the imported product made with short supply materials to 100 million square meter equivalents annually. This is a change from short supply under past U.S. FTAs, such as CAFTA-DR, which approves short supply imports in unrestricted quantities. Unless agreed to by both the United States and Korea, the short supply mechanism will expire after five years.

c. Tariff Staging

i. U.S. Imports:

U.S. imports of Korean apparel is generally eligible for immediate U.S. duty-free treatment under KORUS, subject to meeting the rules of origin, with the limited exceptions where tariffs will be removed in equal annual stages beginning on the first day of the FTA, indicated below:

- |                         |                         |
|-------------------------|-------------------------|
| • 6105.10.00 – 10 years | • 6115.99.18 – 5 years  |
| • 6105.20.20 – 5 years  | • 6203.42.40 – 10 years |
| • 6106.10.00 – 10 years | • 6203.43.35 – 5 years  |
| • 6106.20.20 – 5 years  | • 6203.43.40 – 5 years  |
| • 6108.91.00 – 5 years  | • 6203.49.80 – 5 years  |
| • 6108.92.00 – 5 years  | • 6204.62.40 – 10 years |
| • 6109.10.00 – 10 years | • 6204.63.35 – 5 years  |
| • 6109.90.10 – 10 years | • 6205.20.20 – 5 years  |
| • 6110.20.20 – 10 years | • 6205.90.40 – 5 years  |
| • 6114.20.00 – 5 years  | • 6206.30.30 – 5 years  |
| • 6114.30.10 – 10 years | • 6211.49.90 – 5 years  |
| • 6115.93.90 – 5 years  | • 6212.10.50 – 10 years |
| • 6115.99.14 – 5 years  | • 6212.10.90 – 10 years |

Most U.S. imports of Korean textiles are immediately eligible for U.S. duty-free treatment under KORUS, subject to meeting the rules of origin, with numerous exceptions where tariffs will be removed in equal annual stages beginning on the first day of the FTA. The exceptions can be found in Appendix I of this document.

ii. U.S. Exports:

U.S. exports of apparel face Korean tariffs that average between 8 and 13 percent. Virtually all exports of U.S.-made apparel will be immediately eligible for duty-free treatment under KORUS, subject to meeting the rules of origin, with the following exception:

- 6203.49.000 – 13% – tariffs will be removed in three equal annual stages

Most U.S.-made textiles are immediately eligible for duty-free treatment under KORUS, subject to meeting the rules of origin, with the following exceptions where tariffs will be removed in equal annual stages beginning on the first day of the FTA:

- 5007.90.4000 - 5 years
- 5402.10.0000 - 5 years
- 5402.20.0000 - 5 years
- 5402.33.0000 - 5 years
- 5402.49.9000 - 5 years
- 5402.69.2000 - 5 years
- 5403.31.0000 - 5 years
- 5403.39.0000 - 5 years
- 5404.10.2000 - 5 years
- 5404.90.9000 - 3 years
- 5407.10.1000 - 5 years
- 5502.00.2010 - 3 years
- 5503.10.9000 - 3 years
- 5504.90.1000 - 5 years
- 5504.90.2000 - 5 years
- 5504.90.9000 - 5 years
- 5506.90.0000 - 5 years
- 5509.21.1000 - 5 years
- 5603.13.9000 - 5 years
- 5603.92.0000 - 5 years
- 5603.94.0000 - 5 years
- 5703.30.0000 - 3 years
- 5705.00.0000 - 3 years
- 5902.10.0000 - 5 years
- 5902.20.0000 - 5 years
- 5902.90.0000 - 5 years
- 5903.90.0000 - 5 years

d. Safeguard Mechanism

i. In General

KORUS provides for a safeguard mechanism specific to textiles and apparel. Under this mechanism, the importing party may suspend future tariff reductions (in the event a product is subject to tariff staging) or may increase duties on the product in question to as much as the normal MFN tariff rate. The mechanism can be invoked in cases where importation of the product(s) is causing serious damage or threat thereof to domestic producers.

ii. Comparison to Other U.S. FTAs

The KORUS textile safeguard is similar to the CAFTA-DR safeguard, with a few exceptions:

- The CAFTA-DR safeguard could only be invoked for up to five years after the agreement was implemented. The KORUS safeguard is available for ten years.

- Safeguards under CAFTA-DR could be in place for up to three years. KORUS provides for a two-year safeguard period that can be extended for an additional two years.

## II. OUTDOOR FOOTWEAR PROVISIONS

### a. Outdoor Impact

Outdoor footwear faces some of the highest tariffs assessed against imported products. Ranging from 8.5 to 37.5 percent, the tariff can add significant costs for outdoor companies and their consumers. Under KORUS, most outdoor footwear imports will be eligible for immediate duty-free treatment, with some exceptions discussed below. U.S. manufacturers and exporters of outdoor footwear will benefit immediately with the opening of the Korean market.

### b. Rules of Origin

#### i. In General

Footwear (Chapter 64) is subject to the same rule of origin as most other manufactured goods under KORUS, meaning the imported product must be manufactured in the United States or Korea, and must have undergone a tariff shift, whereby components from other HTS classifications are combined to shift the product classification from one code to another (*i.e.*, none of the component parts could be considered “footwear” before manufacture).

For example, uppers and soles made in third countries can be assembled in the United States or Korea and qualify for duty-free treatment under KORUS. However, the rule prevents a third-party (*e.g.*, China) assembled footwear product to qualify for KORUS benefits by undergoing basic applications (*e.g.*, adding of laces or embroidery).

#### ii. Exceptions

The list of footwear items below are determined to be sensitive to the U.S. industry under KORUS. For these items to meet the rule of origin the footwear uppers must be manufactured in the KORUS region and at least 55 percent of the value of the final footwear product must be sourced from the KORUS region:

- 6401.10.00
- 6401.91.00
- 6401.92.90
- 6401.99.30
- 6401.99.60
- 6401.99.90
- 6402.30.50
- 6402.30.70

- 6402.30.80
- 6402.91.50
- 6402.91.80
- 6402.91.90
- 6402.99.20
- 6402.99.80
- 6402.99.90
- 6404.11.90
- 6404.19.20

c. Tariff Staging

i. U.S. Imports

Most footwear imports that meet the KORUS rules of origin will qualify for immediate duty-free treatment.

However, tariffs on the sensitive footwear items (II.b.ii of this document) will remain at MFN rates for the first eight years of the FTA, even if they qualify under the rules of origin. Beginning on January 1 of year nine, the duties on qualifying footwear shall be reduced in four equal annual stages, resulting in duty-free treatment by year twelve of the agreement.

ii. U.S. Exports

All U.S. footwear exports (HTS Chapter 64) that meet the rules of origin will be immediately duty-free into Korea.

**III. OUTDOOR TRAVEL GOODS AND ACCESSORIES**

a. Outdoor Impact

Outdoor travel good imports into the United States are assessed at relatively high tariff rates (*e.g.*, 8, 10, 17.6, 20 percent) compared to the average U.S. tariff rate for consumer goods (1.5 percent). KORUS will bring these rates to zero immediately, under fairly flexible rules of origin, provided manufacturing occurs in Korea.

Any outdoor company domestically manufacturing and exporting under HTS subheading 4202 will see immediate duty-free benefits into Korea's market.

b. Rules of Origin

i. In General

Non-textile travel goods, accessories, and luggage under heading 4202 are subject to a tariff shift rule of origin, meaning the imported product must be manufactured in the United States or Korea, and must have undergone a tariff shift, components from other HTS classifications are combined to

shift the product classification from one code to another (*i.e.*, none of the component parts could be considered “travel goods” before manufacture).

Travel goods, accessories and luggage under heading 4202 with outer surface of textile materials are subject to a cut-and-wholly assembled rule of origin, meaning the components may be sourced from third-countries, but the textile materials must be cut in the KORUS region and the product must be assembled in the KORUS region.

c. Tariff Staging

i. Imports

All U.S. imports of qualifying Korean travel goods are immediately eligible for U.S. duty-free treatment under KORUS, subject to meeting the rules of origin.

ii. Exports

All qualifying U.S. exports of travel goods, accessories and luggage in HTS Chapter 42 will be immediately duty-free into Korea.

**IV. OUTDOOR EQUIPMENT**

a. Outdoor Impact

Outdoor companies will see enhanced trade benefits for outdoor equipment under KORUS. Outdoor equipment discussed in this section includes the following items such as camping pads, harnesses, fuel containers, umbrellas, sleeping bags, tents, snowshoes, and ski equipment. U.S. manufacturers will gain immediate duty-free access to the Korean market for their goods under flexible rules of origin. With limited exceptions (discussed below) Korean exports to the United States will gain immediate duty-free access.

b. Rules of Origin

i. In General

Most manufactured goods are subject to a relatively flexible tariff shift rule of origin, meaning the imported product must be manufactured in the United States or Korea, and must have undergone a tariff shift, whereby components from other HTS classifications are combined to shift the product classification from one code to another. OIA can answer specific questions regarding an outdoor product, but other than the exceptions below, most outdoor equipment will be subject to the tariff shift rule.



For outdoor equipment, below are listed a few notable exceptions to the tariff shift rule:

Camping stoves – regional value content must be at least 35 percent.

Sleeping bags – sleeping bags are subject to a cut-and-wholly assembled rule of origin.

Tents – the component of the tent that determines the classification (the textile material) is subject to a yarn-forward rule of origin, same as apparel and textiles under KORUS. The other component parts of the tent are not subject to the rule.

c. Tariff Staging

i. Imports

Most manufactured goods are subject to immediate U.S. duty-free access under KORUS, including outdoor equipment under the following HTS Chapters, headings and subheadings:

- 63, which includes certain medical products, tents, camping pads and other camping goods.
- 65 – head gear, hats
- 6601 – umbrellas
- 7613 – fuel containers
- 9404 – sleeping bags, camping pads
- 9506.11/12/19 – ski equipment
- 9506.99.50 – snow shoes

Other outdoor equipment is subject to longer-term phase-outs, where tariffs will be removed in equal annual stages beginning on the first day of the FTA, as indicated below:

3923.30.0000	10 years	Carboys, bottles, flasks and similar articles for the conveyance or packing of goods, of plastics
3926.90.7500	5 years	Camping pads
7321.11.10	10 years	Portable camping gas stoves

ii. Exports

U.S. exports of outdoor equipment to Korea will be duty-free immediately.

**APPENDIX I**

U.S. tariffs on the following textile imports from Korea will be removed in equal annual stages, beginning on the first day of the FTA:

- 51011960 – 5 years
- 51012170 – 5 years
- 51013070 – 5 years
- 51033000 – 5 years
- 52010018 – 10 years
- 52010024 – 10 years
- 52010028 – 10 years
- 52010034 – 10 years
- 52010038 – 10 years
- 52010060 – 10 years
- 52010080 – 10 years
- 52029930 – 10 years
- 52030010 – 10 years
- 52030030 – 10 years
- 52052100 – 5 years
- 52052200 – 5 years
- 52052300 – 5 years
- 52052400 – 5 years
- 52052600 – 5 years
- 52052700 – 5 years
- 52052800 – 5 years
- 52054100 – 5 years
- 52054200 – 5 years
- 52054300 – 5 years
- 52054400 – 5 years
- 52054600 – 5 years
- 52054700 – 5 years
- 52054800 – 5 years
- 52062100 – 5 years
- 52062200 – 5 years
- 52062300 – 5 years
- 52062400 – 5 years
- 52062500 – 5 years
- 52064100 – 5 years
- 52064200 – 5 years
- 52064300 – 5 years
- 52064400 – 5 years
- 52064500 – 5 years
- 52081120 – 5 years
- 52081140 – 5 years
- 52081180 – 5 years
- 52081240 – 5 years
- 52081260 – 5 years
- 52081280 – 5 years
- 52081300 – 5 years
- 52081920 – 5 years
- 52082120 – 5 years
- 52082140 – 5 years
- 52082160 – 5 years
- 52082240 – 5 years
- 52082260 – 5 years
- 52082280 – 5 years
- 52082300 – 5 years
- 52082920 – 5 years
- 52083140 – 5 years
- 52083160 – 5 years
- 52083180 – 5 years
- 52083230 – 5 years
- 52083240 – 5 years
- 52083250 – 5 years
- 52083300 – 5 years
- 52083920 – 5 years
- 52085140 – 5 years
- 52085160 – 5 years
- 52085180 – 5 years
- 52085230 – 5 years
- 52085240 – 5 years
- 52085250 – 5 years
- 52085300 – 5 years
- 52085920 – 5 years
- 52085940 – 5 years
- 52085960 – 5 years
- 52085980 – 5 years
- 52091100 – 5 years

- 52091200 – 5 years
- 52091900 – 5 years
- 52092100 – 5 years
- 52092200 – 5 years
- 52092900 – 5 years
- 52093160 – 5 years
- 52093200 – 5 years
- 52095160 – 5 years
- 52095200 – 5 years
- 52095900 – 5 years
- 52101140 – 5 years
- 52101160 – 5 years
- 52101180 – 5 years
- 52101200 – 5 years
- 52101920 – 5 years
- 52102140 – 5 years
- 52102160 – 5 years
- 52102180 – 5 years
- 52102200 – 5 years
- 52102920 – 5 years
- 52103140 – 5 years
- 52103160 – 5 years
- 52103180 – 5 years
- 52103200 – 5 years
- 52103920 – 5 years
- 52105140 – 5 years
- 52105160 – 5 years
- 52105180 – 5 years
- 52105200 – 5 years
- 52105920 – 5 years
- 52111100 – 5 years
- 52111200 – 5 years
- 52111900 – 5 years
- 52112100 – 5 years
- 52112200 – 5 years
- 52112900 – 5 years
- 52113100 – 5 years
- 52113200 – 5 years
- 52113900 – 5 years
- 52114200 – 5 years
- 52115200 – 5 years
- 52115900 – 5 years
- 52121160 – 5 years
- 52121260 – 5 years
- 52121360 – 5 years
- 52121460 – 5 years
- 52121560 – 5 years
- 52122160 – 5 years
- 52122260 – 5 years
- 52122360 – 5 years
- 52122460 – 5 years
- 54011000 – 10 years
- 54022030 – 10 years
- 54022060 – 10 years
- 54023230 – 10 years
- 54023260 – 10 years
- 54023330 – 10 years
- 54023360 – 10 years
- 54024200 – 10 years
- 54024310 – 10 years
- 54024390 – 10 years
- 54025210 – 10 years
- 54025290 – 10 years
- 54026200 – 10 years
- 54061000 – 10 years
- 54071000 – 10 years
- 54073090 – 5 years
- 54074100 – 10 years
- 54074200 – 10 years
- 54074310 – 5 years
- 54074320 – 5 years
- 54074400 – 5 years
- 54075100 – 10 years
- 54075205 – 5 years
- 54075220 – 10 years
- 54075310 – 5 years
- 54075320 – 10 years
- 54075400 – 10 years
- 54076129 – 10 years
- 54076191 – 10 years
- 54076199 – 5 years
- 54076910 – 10 years
- 54076920 – 10 years
- 54076940 – 10 years
- 54076990 – 10 years
- 54077100 – 10 years

- 54077200 – 10 years
- 54077320 – 5 years
- 54077400 – 10 years
- 54079120 – 10 years
- 54079220 – 10 years
- 54079320 – 10 years
- 54079420 – 10 years
- 55081000 – 5 years
- 55092200 – 5 years
- 56060000 – 10 years
- 58061024 – 5 years
- 58062000 – 10 years
- 58063100 – 5 years
- 58063210 – 5 years
- 58063220 – 5 years
- 59021000 – 10 years
- 59022000 – 10 years
- 59031025 – 10 years
- 59032018 – 5 years
- 59032025 – 5 years
- 59039025 – 5 years
- 60019200 – 5 years
- 60024080 – 10 years
- 60033010 – 5 years
- 60041000 – 10 years
- 60049020 – 10 years
- 60053200 – 5 years
- 60053300 – 10 years
- 60053400 – 10 years
- 60054200 – 10 years
- 60062190 – 10 years
- 60062210 – 5 years
- 60062290 – 10 years
- 60062390 – 10 years
- 60063100 – 10 years
- 60063200 – 10 years
- 60063300 – 10 years
- 60063400 – 10 years