

Report of the Environmental Affairs Council Pursuant to Article 20.7.4 of the Free Trade Agreement Between the United States of America and the Republic of Korea
November 18, 2013

Article 20.7.4 of the Free Trade Agreement Between the United States of America and the Republic of Korea (“KORUS”) provides in pertinent part that:

the Council shall review the implementation of this Article [Opportunities for Public Participation] and prepare and submit to the Joint Committee a written report on the results of that review no later than 180 days after the first anniversary date of entry into force of this Agreement, and thereafter on the request of either Party. The Council shall make each such report public at the time the Council submits the report to the Joint Committee.

The Environmental Affairs Council (“Council”) has reviewed the implementation of Article 20.7 and provides the following report:

Article 20.7.1 provides that:

Each Party shall promote public awareness of its environmental laws by ensuring that information is available to the public regarding its environmental laws and environmental law enforcement and compliance procedures, including procedures for its interested persons to request the Party’s competent authorities to investigate alleged violations of its environmental laws.

Korea:

According to the Administrative Procedure Act and the Legislative Operation Rule, the Korean government collects public views and opinions in the case of enactment, amendment or abrogation of all laws having a period no less than 20 days after their pre-announcement on the internet, newspaper, public bulletin, broadcast media or publication. Particularly, the Ministry of Government Legislation releases information on all laws and regulations in Korea on the official web site of the National Legislative Information Center (<http://www.law.go.kr>). Information on environmental laws and regulation is also available on the Ministry of Environment homepage (<http://www.me.go.kr>).

In addition, the National Assembly Act guarantees the right of stakeholders to express their opinions by prescribing the obligation to have a public hearing in the case of enactment or general revision of laws and regulations.

Based on the Civil Petitions Treatment Act, the Korean government guarantees the right of any individual, legal entity or group that intends to require specific action from government agencies to file civil petition for expressing opinion or requesting investigation in oral or written form by letter, telephone or the internet. The government agency that received a civil petition is legally

obligated to give notice of the result of the handling within a designated period of time (normally 7 days).

United States:

The U.S. government is committed to promoting public awareness of U.S. environmental laws. All U.S. environmental laws and regulations are publicly published.¹ U.S. government agencies that have responsibilities under these laws, including for their administration or enforcement, have promoted public awareness including through use of the Internet. These agencies have posted detailed information on their respective websites regarding environmental laws, enforcement and compliance procedures under those laws, and information for interested persons regarding how to request that the competent U.S. authorities investigate alleged violations of environmental laws. For example, these websites include those maintained by

- the U.S. Department of Justice (<http://www.justice.gov/enrd/>) (http://www.justice.gov/enrd/Current_topics.html);
- the U.S. Environmental Protection Agency (EPA) (<http://www.epa.gov/>) (<http://www2.epa.gov/enforcement>);
- the U.S. Department of the Interior (<http://www.doi.gov/index.cfm>);
- the U.S. Fish and Wildlife Service (<http://www.fws.gov/>);
- the National Oceanic and Atmospheric Administration (<http://www.noaa.gov/>) (<http://www.nmfs.noaa.gov/ole/index.html>);
- the U.S. Animal and Plant Health Inspection Service (http://www.aphis.usda.gov/plant_health/lacey_act/); and
- the U.S. Forest Service (<http://www.fs.fed.us/>) (<http://www.fs.fed.us/lei/rules-orders-regulations.php>).

Article 20.7.2 provides that:

Recognizing that opportunities for public participation can facilitate the sharing of best practices and the development of innovative approaches to issues of interest to the public, each Party shall:

- (a) seek to accommodate requests from persons of either Party for information or to exchange views regarding either Party's implementation of this Chapter; and
- (b) provide for the receipt of written submissions from persons of either Party that concern matters related to the implementation of specific provisions of this Chapter. Each Party shall respond to these submissions in accordance with domestic procedures and make the submissions and its responses easily accessible to the public in a timely manner.

¹ Print publication is done by the U.S. Government Printing Office ("GPO"). GPO also maintains a webpage (<http://www.gpo.gov/>) through which interested persons can view U.S. environmental laws and regulations online.

Korea:

As stated above, the Korean government guarantees the right of any individual, legal entity or group that intends to require specific action from government agencies to file civil petition for expressing opinion or requesting investigation in oral or written form by letter, telephone or the internet in accordance with the Civil Petitions Treatment Act. The government agency that received a civil petition is legally obligated to notice the result of the handling within a designated period of time (normally 7 days).

Apart from that, the Ministry of Environment of Korea established the Written Submission Operation Rules in accordance with the Article 20.7.2 of the KORUS FTA as the Ministry of Environment Rule Issue no. 442 on Nov. 18, 2011 and made it available to the public on the Ministry's web site. The rule stipulates the right of stakeholders to make written submissions for requesting information or expressing views regarding the implementation of the KORUS FTA Environment Chapter as well as the obligation of concerned government agencies to answer these submissions. To date, the Korean government has not received any submissions.

United States:

The United States provides for the receipt of submissions from persons of either Party concerning matters related to implementation of the Environment Chapter of KORUS and will provide public responses to those submissions within a reasonable time frame. To facilitate such submissions, the U.S. Department of State has created a webpage posting information on how submissions may be made.² The State Department webpage will post any submissions that are made as well as any responses from the U.S. government. To date, the United States has not received any submissions.

To further facilitate the submission process, the webpage also provides access to documents that may be useful to persons interested in making submissions: the Environment Chapter of KORUS (Chapter 20), the Final Environmental Review of the United States-Korea Free Trade Agreement, the U.S.-Korea Environmental Cooperation Agreement, the U.S.-Korea Environmental Cooperation Commission 2013 - 2015 Work Program, and the February 14, 2013 Joint Statement by the U.S.- Korea Environmental Affairs Council and Environmental Cooperation Commission.

Article 20.7.3 provides that:

Each Party shall convene a new, or consult an existing, national advisory committee, comprising persons of the Party with relevant experience, which may include experience in business or environmental matters, to solicit its views on matters related to the implementation of this Chapter. Each time it meets, the

² The website address is <http://www.state.gov/e/oes/eqt/trade/c49687.htm>. The website notes that interested persons who wish to make comments may do so by submitting them via e-mail to OES_EQT-MAIL@state.gov.

Council shall consider views that each Party has received from its national advisory committee on matters related to the implementation of this Chapter.

Korea:

On Feb. 5, 2013, the Ministry of Environment of Korea held the International Cooperation Subcommittee Meeting under the Central Environmental Policy Committee to consult the matters regarding the implementation of the Environment Chapter of KORUS FTA.

The Central Environmental Policy Committee, which was formally named the Environmental Conservation Advisory Committee, Central Advisory Committee on Environmental Conservation and Environmental Policy Committee, was first established in 1991 with the enactment of the Framework Act on Environmental Policy. The committee, consisting of less than 200 members, including the chairpersons and less than 10 heads of subcommittees, deliberates and advises on matters concerning national environmental plan, nature, air quality, water quality, waste and environmental cooperation.

United States:

The United States consults with the Trade and Environment Policy Advisory Committee (“TEPAC”) on matters related to implementation of the Environment Chapter of KORUS. TEPAC was established in 1994 through Executive Order 1290. It provides (1) policy advice on issues involving trade and the environment to the U.S. Trade Representative (USTR), including negotiations of U.S. trade agreements and (2) reports to the President, Congress, and the USTR on completed trade agreements. TEPAC membership includes persons from civil society, private sector, and research institutions. The Committee is designed to be broadly representative of key sectors and groups with an interest in trade and environmental policy issues. Prior to the February 2013 Council meeting, USTR solicited TEPAC’s views and invited TEPAC members to the public session of the Council meeting.