

**TESTIMONY ON THE PROPOSED  
U.S. – SOUTH KOREA FREE TRADE AGREEMENT**

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**NAME OF WITNESS**

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**SUMMARY OF TESTIMONY**

The standard free trade agreement model will not work for working families in South Korea and the United States. Increased trade with S. Korea must be accompanied by substantial improvements in workers' rights and steps to promote equitable and sustainable development. Market access issues in both directions will clearly be of enormous economic significance to American and S. Korean workers.

**TESTIMONY**

We appreciate this opportunity to offer comments on the proposed free trade agreement with Korea, on behalf of the nine million members of the AFL-CIO.

**Labor Rights**

Korean labor laws must be brought into full conformity with internationally recognized standards of freedom of association and the right to organize and bargain collectively before trade negotiations begin. Key areas of concern are: the continuing prohibition of multiple unions at the enterprise level; the restrictions on civil servants' right to organize; the prohibition in principle of employers' payment for full-time trade union officials; the broad definition of "essential public services," where strike action is prohibited or severely restricted; the prohibition for unemployed or dismissed workers to become or remain trade union members; and the requirement for notification of third parties to industrial disputes.

If such reforms are made, their maintenance and effective enforcement must be made conditions of any FTA – the current FTA model, which allows a government to weaken or derogate from its labor laws and still enjoy all of the market access benefits of the agreement, is unacceptable.

Improvements in workers' rights are necessary to make a trade agreement with Korea a success, but not sufficient. The agreement must also include equitable and transparent market access rules that allow for effective protection against import surges or other trade law violations, and must include enforceable environmental protections. In the Korean context, it is especially important that effective measures are taken to ensure that non-tariff barriers are addressed. NAFTA-style commercial provisions that protect corporate rights at the expense of public health and safety, the environment, essential human services, and equitable economic development must not be included. Since the administration is presumably well aware of the AFL-CIO's position on the commercial provisions of FTAs on which we have commented in the past, we will instead focus in this testimony on the labor situation in Korea.

There are a number of serious problems with S. Korean labor law and practice, including the absence of

trade union rights for public servants, excessive limitation on strike activity and widespread intervention in internal trade union affairs by the state (including restrictions on union membership). In addition, new legislation for establishing Special Economic Zones (SEZs) includes exemptions on labor and environmental standards for foreign companies, according to the International Confederation of Free Trade Unions (ICFTU) report to the World Trade Organization (WTO). In particular, the new law makes it easy to hire "irregular" workers, who will have little or no protection. In a freedom of association complaint filed at the ILO in April 2005 against the Government, the Korean Confederation of Trade Unions (KCTU) claimed that irregular workers constitute 55.9% of the work force (approximately 8.16 million persons) according to the 2004 survey of the Korean National Statistical Office. The Government disputes that figure, claiming 36.6% are irregular. The new legislation proposed by the Government would lift most restrictions on which types of industries can use contract labor, and would extend the period of time contract labor can be used.

Strife and violence marked 2005, with continued persecution of the public servants union and the arrest of its leaders and dismissal of hundreds of its members. The government forced mandatory arbitration in strikes by pilots of Asiana Airlines and Korean Air. Worker protests and demonstrations were regularly broken up by police violence, resulting in the death of at least one trade unionist, and many others being injured and hospitalized.

On June 14<sup>th</sup>, 2005, Kim Tae-hwan, the chair of the Federation of Korean Trade Unions' (FKTU) Chungju regional chapter, was run over and killed by a cement truck while on the picket line in front of the Sajo Remicon cement factory. FKTU witnesses reported that a replacement worker drove the truck through the picket line at the instruction of a plainclothes police officer. The driver fled but was later arrested by police, and released without bail since the police classified the case as a traffic accident. The striking drivers were protesting their classification as self-employed contract workers, and asking to be allowed to join the Chemical Workers Union of the FKTU.

On January 28, 2006, the "Public Officials Trade Union Act" finally went into effect. There are a number of government employee unions formed that had been unable to register with the government since public sector unions were outlawed. According to the Korean International Labor Institute (KOILAF), a government-established institute, the two main government employee unions are unhappy with the restrictions on the right to organize and bargain in the newly passed law. They have refused to register under the new deficient law. The largest government employee union, Korean Government Employees Union (KGEU) claims 140,000 members. These unions will, therefore, continue to be illegal and subject to harsh sanctions.

The 1997 Trade Union and Labour Relations Adjustment Act (TULRAA) and public service legislation contains several important limitations on the right to strike. This legislation contains a long list of "essential services" where the right to strike can be restricted. Compulsory arbitration for disputes in the "essential public services" is provided in the TULRAA if the parties cannot come to an agreement. If a strike occurs, it is illegal and criminal proceedings can be initiated. Striking workers and union leaders can be prosecuted and sentenced under Article 324 of the Penal Code, which prohibits "obstruction to business." (*ICFTU annual survey 2005*)

Interference in internal trade union affairs continues in South Korea. The trade union act bans trade union pluralism at the company level until the end of 2006. The act also prevents dismissed workers from remaining in the trade union and states that non-union members are not eligible for trade union office. (*ICFTU*)

The ILO Committee on Freedom of Association in an interim report made seven requests of the South Korean Government in November 2004. Among them were:

- To amend the list of essential public services in section 71(2) of the Trade Union and Labour Relations Amendment Act (TULRAA) so that the right to strike may be restricted only in essential services in the strict sense of the term;
- To bring section 314 of the Penal Code (obstruction of business) in line with freedom of association principles and to rectify the situation of any workers who may have been penalized under this provision for non-violent industrial action and to provide further details, including any court judgments, on the 28 cases of workers arrested for obstruction of business in 2003, despite the absence of violent acts.
- To permit trade union pluralism and ensure that all public servants can establish and join unions of their own choosing.

### **Economic Issues**

S. Korea is the United States' seventh largest trading partner (based on the total volume of two-way trade) and the largest economy with which we have negotiated an FTA since NAFTA. An FTA could potentially have both positive and negative impacts on the U.S. economy and on American jobs. For this reason, the content of this agreement is especially important.

Our largest exports to S. Korea include electrical machinery, capital goods, aircraft, and organic chemicals. Our largest imports include vehicles, telecommunications equipment, electrical machinery, computers, and steel. In 2005, we ran a trade deficit with S. Korea of \$16 billion, our twelfth largest.

The U.S. trade relationship with S. Korea has been somewhat contentious, with issues including domestic market barriers, currency manipulation, and lack of transparency in regulations.

In addition, we are deeply concerned about the extremely problematic conditions reported at the newly established Kaesong industrial zone in N. Korea. Not only are N. Korean workers denied all rights to freedom of association and collective bargaining, but they lack any right to free speech or dissent. According to press reports (Christian Science Monitor, 3/1/06; NYT, 2/28/06; LA Times, 2/28/06), S. Korean businesses pay \$57.50 per worker per month, but the workers themselves receive only a fraction of that wage, with the North Korean government keeping the rest. This situation borders on indentured servitude and is of enormous concern, not only with respect to the possibility of goods being transshipped from the zone in the wake of a potential FTA. As far as we have been able to discern, there has been no unmonitored access to the workers in the zone by any foreign organizations or observers.

It is unclear to the AFL-CIO that an FTA with S. Korea, modeled on past FTAs negotiated by the Bush Administration, will address the crucial economic and worker rights problems in our current bilateral relations.

In the absence of solutions to some of the serious problems identified here, we have grave concerns over the prospect of an FTA with S. Korea, both with respect to serious workers' rights problems there and the likely economic impact on American workers.