



Global Logistics & Transportation Solutions

U.S./KOREA

Free Trade Agreement

*Including Overview of the Colombia and
Panama Agreements*

By Gerald J. McManus



US/Korea Free Trade Agreement



Global Logistics & Transportation Solutions

- 1) U.S. Korea FTA to Take Effect on Thursday, March 15, 2012
- 2) KORUS was passed by the United States on October 12, 2011 (Senate: 83-15 - House 278-151).
- 3) U.S. exports to Korea in 2011 were \$43 billion; Imports from Korea during 2011 were \$56 billion.
- 4) The average U.S. tariff on Korean goods is 3.2%
The average duty on U.S. goods entering Korea is 7%.
- 5) Korea is the world's fourteenth largest economy.



US/Korea Free Trade Agreement



Global Logistics & Transportation Solutions

- 1) Korean tariff on agricultural products average 54% to our 9%. Two-thirds of U.S. agricultural exports will be free of duty immediately. Korean quotas on the balance will be phased out over ten years.
- 2) Under KORUS, 95% of U.S. exports of manufactured goods will be free of duty within three years.
- 3) USITC expects U.S. exports of autos to increase by at least 50% under the Agreement.
- 4) U.S. duty on imported automobiles is 2.5%. Korean duty is 8%.



US/Korea Free Trade Agreement



Global Logistics & Transportation Solutions

- 1) No Merchandise Processing Fee may be levied on Originating goods entering either country.
- 2) Goods may re-enter the exporting country free of duty after being exported to be repaired or altered as long as the work does not destroy the essential character of the item.
- 3) Temporary admission of professional equipment for display or demonstration. Commercial sample (not to be sold) are free of duty.
- 4) Commercial samples may be entered duty-free (and retained) if they are marked, torn, or perforated and unsuitable for sale.



KORUS – Duty Reductions Stages



Global Logistics & Transportation Solutions

- A. Duty free on date the Agreement enters into force.
- B. Two equal stages. Duty-free effective January 1 of year two.
- C. Three annual stages. Duty-free effective Jan 1 of year three.
- D. Five equal stages. Duty-free January 1 of year five.
- E. Six equal stages. Duty-free January 1 of year six.
- F. Seven equal stages. Duty-free January 1 of year seven.
- G. Ten equal stages. Duty-free January 1 of year ten.
- H. Fifteen equal stages. Duty-free January 1 of year fifteen.
- I. Reduced over seven stages, as follows:

		<u>Reduction</u>
1)	5% beginning on effective date;	5%
2)	Additional 5% on year two;	10%
3)	Additional 7% on year 3 through 5;	31%
4)	Additional 10% on year 6 and 7;	51%
5)	Additional 12% on year 8;	63%
6)	Additional 17% on year 9;	80%
7)	Additional 20% on year 10	100%

- J. Remain at base rate until year 9.
- K. Continue to be free of duty.

KORUS – Duty Reductions Stages



Global Logistics & Transportation Solutions

- Year One means the year this Agreement enters into force.
- Beginning in year two, each annual stage shall take effect on January 1 of the year
- Year 2 will begin January 1, 2013.



Korean Duty Rate Reduction Stages



Global Logistics & Transportation Solutions

<u>Chapter</u>	<u>Pre-KORUS</u>	<u>Stage</u>
28 Inorganic Chemicals	6.6%	A (most)
29 Organic Chemicals <i>Benzene (G), Toluene (C)</i>	5%, 5.5%, 6.6%	A (most)
30 Pharmaceuticals	8%	A (most) C (some)
31 Fertilizers	6.5%	A (most)
32 Tanning/Dyeing <i>Resin (C), Ink (C)</i>	6.5%	A (most)
33 Essential Oils, Cosmetics <i>Perfumes & powders 8% (C); Skin care 8% (G); Hair care 8% (D)</i>	5%	A (most)

Korean Duty Rate Reduction Stages








Global Logistics & Transportation Solutions

	<u>Chapter</u>	<u>Pre-KORUS</u>	<u>Stage</u>
34	Washing/Lubricating	6.6%	A (most) C,D&F
35	Starches, Glues <i>Casein 20% (F); Starch glue 201% (G)</i>	8.0%	A (most)
38	Miscellaneous Chemicals	6.5%	A (most)
39	Plastics	6.5% & 8%	A (most), C,D,G
84	Mechanical Appliances	8.0%	A (most), C,D,G
85	Electrical Machinery	8.0%	A (most), C,D,K,G
87	Vehicles	8.0%	4%



Silicon Dioxide Classified Under HTSUS 2811.22.5000

	Chapter	28
	Heading	2811
	Subheading	2811.22

	Rate Subheading	2811.22.50
	Statistical Subheading	2811.22.5000

Tariff Shift Review #1



Global Logistics & Transportation Solutions

- You produce Silicon Dioxide (2811.22) here in the United States and sell to Korea.
- This Silicon Dioxide is made from Silica Gel (2811.23) imported from China. This is the only non-originating component.
- Your Korean customer is requesting a KORUS Certificate of Origin for the Silicon Dioxide.
- Can you give them one?

KORUS Rule of Origination

2811.22 - A change to subheading 2811.22 from any other subheading.

Tariff Shift Review #2



Global Logistics & Transportation Solutions

- You produce Sulfuric Acid (2807.00) here in the United States.
- This Sulfuric Acid is made from Sulfur (2802.00) imported from Malasia.
- Your Korean customer is requesting a KORUS Certificate of Origin.
- Can you give them one?

KORUS Rule of Origination

A change to subheading 2807.00 from any other Chapter.

Tariff Shift Review #3



Global Logistics & Transportation Solutions

- You produce Arsenic Trioxide (2811.29.1000) here in the United States and sell to Korea.
- This Arsenic Trioxide is made from Arsenic (2811.29.5000) imported from Mexico. *(This Mexican Arsenic originated under NAFTA when imported into U.S.)*
- The Korean customer is requesting a KORUS Certificate of Origin.
- Can you give them one?

KORUS Rule of Origination

2811.29 - A change to subheading 2811.29 from any other subheading.

- ④ You produce Microwave Tubes (8540.71) here in the U.S. and sell to Korea. Your Korean customer is asking if the microwave tubes “Originate” under KORUS.
- ④ The only non U.S. material used in producing the Microwave Tubes are Deflection Coils from Germany (8540.87).

KORUS Rule of Origination

A change to 8540.71 through 8540.89 from any other subheading.

KORUS Annex 6-A Part 1

General Interpretive Note(e)



Global Logistics & Transportation Solutions

- (e) When a single rule of origin is applicable to a group of headings or subheadings and that rule of origin specifies a change of heading or subheading, it shall be understood that the change in heading or subheading may occur from any other heading or subheading as the case may be, including from any other heading or subheading within a designated group.
- When, however, a rule refers to a change in heading or subheading “outside that group” this shall be understood to require that the change in heading or subheading must occur from a heading or subheading that is outside the group of headings or subheadings set out in the rule.

KORUS Annex 6-A Part 1 General Interpretive Note(e)



Global Logistics & Transportation Solutions

KORUS Tariff Shift Rules

☉ Microwave tubes 8540.71 - With Chinese coil 8540.87



KORUS Rule: A change to 8540.71 through 8540.89 from any other subheading.

☉ X-ray Film 3701.10 - With Chinese print film 3702.20



KORUS Rule: A change to heading 3701 through 3703 from any other heading outside that group.

- Except as provided in Annex 6B (Exceptions to DeMinimis) each Party shall provide that a good that does not undergo a change in tariff classification pursuant to Annex 6A (Specific Rules of Origin) is nonetheless Originating if the value of all Non-originating material used in production of the good does not exceed 10% of the Adjusted Value. However, the value of Non-originating material will be included in any Regional Value requirement.



Exceptions to De Minimis Annex 6B

- De Minimis will not apply to a non-originating material used in the production of a good classified in HS Chapters 1 through 24 unless the non-originating material is classified under a different subheading than the good for which origin is being determined.
- In addition to the above, there are more De Minimis exceptions in Chapters 3,4,7,8,10,11,15,17,18,19,20, and 21.

KORUS - Adjusted Value



Global Logistics & Transportation Solutions

- Adjusted Value – Means the value of the goods, adjusted if necessary to exclude any costs, charges or expenses incurred for transportation, insurance, and related services incident to the international shipment of the merchandise from the country of exportation to the place of importation.
- *Adjusted value for merchandise exported from the U.S. would be the FOB U.S. port value.*
- *Adjusted value for merchandise imported into the U.S. would be the FOB foreign port value.*

KORUS De Minimis



Global Logistics & Transportation Solutions

You produce a chemical product (3811.21) that is used in coating textiles. Your firm sells to Korea. Your bill of materials shows:

Material A (U.S)	3812.10	\$0.60
Material B (Canada)	3811.21	0.05
Material C (Korea)	3811.21	0.10
Material D (China)	3811.21	0.10
• Labor		0.05
• Profit		0.05
• General Expense		<u>0.05</u>
• Selling Price (FOB Philadelphia)		\$1.00

KORUS Rule of Origination

A change to 3811.21 from any other subheading.

KORUS De Minimis



Global Logistics & Transportation Solutions

You produce a chemical product (3811.21) here in the U.S. The product is used in coating textiles. You sell to Korea. Your bill of materials shows:

Material A (U.S)	3812.21	\$0.60
Material B (Canada)	3811.29	0.05
Material C (Korea)	3811.21	0.10
Material D (China)	3811.21	0.10
Labor		0.05
Profit		0.05
General Expense		<u>0.05</u>
Selling Price (FOB Philadelphia)		\$1.00

KORUS Rule of Origination

A change to 3811.21 from any other subheading.

KORUS - Textile DeMinimis (Art 4-2)



Global Logistics & Transportation Solutions

- A good provided for in chapters 50 through 63 that does not originate because certain fibers or yarns used in the production of the component of the good that determines the tariff classification of the good do not undergo an applicable change in tariff classification shall nonetheless be considered to originate if the total weight of all such fibers or yarns in that component is not more than 7 percent of the total weight of that component.
- However, Elastomeric Yarns shall be considered Originating only if such yarns are wholly formed in the territory of a Party.



KORUS – Textile De Minimis

Global Logistics & Transportation Solutions

You produce men's shirts which have knit bodies (Chapter 61) and woven sleeves (Chapter 62).

<u>Woven sleeves</u>	<u>Origin</u>	<u>Value</u>	<u>Weight</u>
100% polyester	Japan	\$ 0.60	200 grams

(Value of sleeves: \$0.60 – weight 200 grams)

<u>Knit bodies</u>			
60% cotton	U.S.	\$ 0.30	360 grams
35% wool	U.S.	\$ 0.40	210 grams
5% rayon	Belgium	\$ 0.10	30 grams

(Value of bodies: \$0.80 – weight 600 grams)

KORUS De Minimis "SETS" (Same for Colombia and Panama)



Global Logistics & Transportation Solutions

- Article 6-9: If goods are classified as a set under GRI 3 (Goods put up in sets for retail sale), the set is Originating only if each good in the set is Originating. Notwithstanding the above, a set is Originating if the value of all the Non-originating goods in the set does not exceed 15% of the Adjusted Value of the set.
- Article 4.2.8: Textile or apparel goods (Ch 50 through 63) that are classifiable under GRI 3 (Goods put up in sets for retail sale) shall not be regarded as Originating unless each of the goods in the set is Originating or total value of Non-originating goods does not exceed 10% of the Customs value of the set.

Regional Value Content requirement is included in the following Chapters:

- | | |
|-----------------------------|---------------------------------|
| 20 – Food Preparation | 86 – Railway Equipment |
| 64 – Footwear | 87 - Vehicles |
| 73 – Iron and Steel | 89 – Floating Structures |
| 76 – Aluminum | 90 – Optical, Measuring |
| 81 – Base Metal | 91 – Clocks, Watches |
| 82 – Cutlery | 92 – Musical Instruments |
| 83 – Articles of Base Metal | 93 – Arms, Ammunition |
| 84 - Mechanical Appliances | 94 – Furniture, Bedding |
| 85 - Electrical Apparatus | 95 – Toys, Sports |
| | 96 – Miscellaneous Manufactures |

KORUS - Regional Value Content (Same for all Recent FTA's)



Global Logistics & Transportation Solutions

Build-down Method $RVC = \frac{AV - VNM}{AV} \times 100$

Build-up Method $RVC = \frac{VOM}{AV} \times 100$

AV is the Adjusted Value of the good

VNM is the value of NON-Originating Material

VOM is the value of Original Material

Regional Value Content



Global Logistics & Transportation Solutions

You sell Electron Guns (8540.99) to Korea at US\$150 per piece FOB NY.

These guns are made using Chinese microwave tubes.

Your Bill of Materials shows:

\$80 for Chinese tubes (8540.99)

\$40 for U.S. material

\$30 for labor and profit



Korus Rule of Origination

8540.99 - A change to any other subheading, or a Regional Value Content of:

a) 35% under the build-up method, or

b) 45% under the build-down method

Build down method

$$RVC = \frac{AV - VNM}{AV} \times 100$$

$$46\% = \frac{\$150 - \$80}{\$150} \times 100$$

Build up method

$$RVC = \frac{VOM}{AV} \times 100$$

$$27\% = \frac{\$40}{\$150} \times 100$$

VALUE OF MATERIALS

KORUS: Art. 6-3 & 6-4



Global Logistics & Transportation Solutions

- For purposes of calculating the Regional Value Content and for applying De Minimis rules, the value of a material is:
- Originating Goods – The following expenses, if not included in the value, may be added to the value of the Originating material: Freight, insurance, packing, duties, brokerage fees and other costs incurred up to the place of the producer.
- Non-originating Material – The following expenses, if included in the value of Non-originating material, may be deducted: Freight, insurance, packing, duties, brokerage fees, and all other costs incurred in transporting the material within or between the parties.

Same for All Recent FTA's

Non-Originating Materials RVC & De Minimis



Global Logistics & Transportation Solutions

You produce a chemical product (3811.21) that is used in coating textiles.

		<u>Your BOM</u>	<u>FOB China</u>
Material A (U.S)	3812.21	\$0.60	
Material B (Canada)	3811.29	0.04	
Material C (Korea)	3811.21	0.10	
Material D (China)	3811.21	0.11	\$0.10
Labor		0.05	
Profit		0.05	
General Expense		<u>0.05</u>	
Selling Price (FOB Philadelphia)		\$1.00	

KORUS Rule of Origination

*A change to 3811.21 from any other subheading.
(Check preceding slide #26)*

KORUS - Automotive Regional Value Content



Global Logistics & Transportation Solutions

Net Cost Method for Automotive Goods

$$RVC = \frac{NC - VNM}{NC} \times 100$$

Net Cost Method of calculating Regional Value Content only applies to the following Harmonized Tariff Numbers:

- ④ 8407.31 (engines)
- ④ 8408.20 (diesel engines for vehicles)
- ④ 8409 (Chassis)
- ④ 8707 (bodies)
- ④ 8708 (motor vehicle parts)



KORUS - Miscellaneous Articles (Same for All Recent FTA's)



Global Logistics & Transportation Solutions

- ☉ Art. 6-8: Accessories, Spare Parts and Tools – Disregard if shipped with the goods; And classified with the goods; And not invoiced separately; And quantities are customary.
- ☉ Art. 6-10: Packaging material and containers for retail sale - Disregard for tariff shift. Include value for Regional Value Content.
- ☉ Art. 6-11: Packing materials and containers for shipment – Disregard.
- ☉ Art. 6-12: Indirect material – Disregard for tariff shift. Include for Regional Value Content: *Fuel, tools, dies, lubricants, clothing, testing apparatus, catalysts & solvents, and other goods not incorporated into the good*
- ☉ Art. 6-13: Good must be shipped directly between the parties.

KORUS - Claims for Preferential Tariff Treatment



Global Logistics & Transportation Solutions

- Art. 6-15: Each Party shall provide that an importer may make a claim for preferential treatment based on either
 - (a) a written or electronic certification by the importer, exporter, or producer, or
 - (b) the importer's knowledge that the good is an originating good, including reasonable reliance on information in the importer's possession that the good is an originating good.
- Art. 6-16: Certification not required where the Customs value does not exceed \$1000.
- Art. 6-17: All necessary records to be maintained for five years.
- Art. 6-19.4: Importer must have in its possession at the time the declaration is made, a written or electronic certification as described in Art. 6-15 if the certification forms basis for the claim.
- Art. 19.5: If the Importer did not make claim at importation, the importer may, no later than one year after importation make a claim by presenting written or electronic evidence.

KORUS - Claims for Preferential Tariff Treatment



Global Logistics & Transportation Solutions

- A certification need not be made in a prescribed format provided that the certification is in written or electronic form, including the following elements:
 - The name of the certifying person, including necessary contact information
 - The importer of the good (if known)
 - The exporter of the good (if different from the producer)
 - The producer of the good (if known)
 - Tariff classification (HTS) and a description of the goods
 - Information demonstrating that the good is originating
 - Date of the certification
 - Period that the blanket certification covers.

Same for all recent FTA's

Origination

A good is originating when:

- Criterion “A” - The good is wholly obtained or produced entirely in the territory of one of or both of the parties
- Criterion “B” - The good is produced in the territory of one or both of the parties and satisfies the tariff shift and/or regional value content.
- Criterion “C” - The good is produced exclusively from originating materials, e.g., The producer has certificates of origination from all domestic suppliers.



Effective Date March 15, 2012

At this time, Customs Regulations regarding KORUS have not been published. Information presented today has been taken from the final text of the Agreement. We do not anticipate that the Regulations will differ from material as presented.

BDP Regulatory Compliance Group.

Michael.Ford@bdpinternational.com





Global Logistics & Transportation Solutions

U.S./KOREA Free Trade Agreement

By Gerald J. McManus

