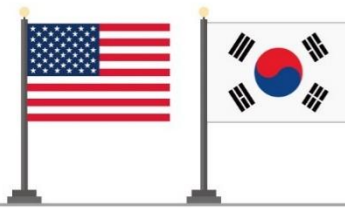




Since 1953
AMCHAM
American Chamber of Commerce in Korea

Business Environment Insight Report



2024



Since 1953
AMCHAM
American Chamber of Commerce in Korea

About AMCHAM Korea

The American Chamber of Commerce in Korea (AMCHAM Korea) was founded in 1953, with a broad mandate to encourage the development of investment and trade between Korea and the United States.

AMCHAM Korea is the largest foreign chamber in Korea with approximately 800 member companies and affiliates with diverse interests and substantial participation in the Korean economy.

For any inquiries regarding the report, please contact gov@amchamkorea.org.

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Report Summary: Key Findings

Industry	Key Issues	Recommendations
Aerospace & Defense	<ul style="list-style-type: none"> • Inconsistent Application of Offset Requirements^{NEW} • Newly Introduced Offset Terms & Obligations^{NEW} • Offset Terms & Guidelines^{UNRESOLVED} • Offset Obligations Threshold for Sole-Source Contracts^{UNRESOLVED} 	<ul style="list-style-type: none"> • Establish a process for DAPA, overseas contractors, and ROK industry to discuss and coordinate offset programs in advance of RFP release for procurement programs. • Consider revising or lessening the severity of the provision, thereby helping to create more affordable procurements. • Incorporate an additional provision in the Offset Guidelines so DAPA could consider replacement projects by the contractor that has greater offset value than the shortfall. • Reconsider a threshold increase in offset obligation for the sole-source programs for effective and timely deployment of the end user services
Agriculture, Food & Beverage	<ul style="list-style-type: none"> • Restrictions on TV Advertisements for High-calorie and Low-nutrient Foods^{NEW} • Complicated Risk Review of Living Organisms and Lack of Transparency and Predictability^{UNRESOLVED} • Burdensome Requirements Mandating OEM Manufacturers to Have an On-site Inspection Biennially^{UNRESOLVED} • Packaging Materials and Methods^{UNRESOLVED} 	<ul style="list-style-type: none"> • Reconsider the regulation extending the restrictions on TV commercials for high-calorie and low-nutrient foods. • Streamline the approval process for the safety review for genetically modified crops by eliminating redundant and unnecessary procedures, and increase transparency and predictability. • Ease the mandatory on-site inspection requirements. • Reconsider excessive regulations on packaging methods and materials.
Alcoholic Beverage	<ul style="list-style-type: none"> • Restrictions on TV Advertisements for Alcoholic Beverages^{UNRESOLVED} 	<ul style="list-style-type: none"> • Lift the ban on broadcast advertising of alcoholic beverages containing 17% ABV or more.

<p style="text-align: center;">Automobiles</p>	<ul style="list-style-type: none"> • Electric Vehicle Subsidy Decision-making Process^{NEW} • Electric Vehicle Range Test at Cold Temperature^{NEW} • Overlapping Regulations on Electric Vehicles^{NEW} • Recognition of U.S. Safety Standard (FMVSS) in Korea^{NEW} • Vehicle Ownership Taxation System^{NEW} • Auto GHG/CAFE rules for 2026-2030^{UNRESOLVED} • Damage Disclosure Requirements^{UNRESOLVED} • End-of-Life Vehicle & Extended Producer Responsibility(EPR)^{UNRESOLVED} • Sale of Pre-certified Vehicles^{UNRESOLVED} • Warranty/Recall Requirements^{UNRESOLVED} 	<ul style="list-style-type: none"> • Enhance overall consultation and decision-making process concerning EV subsidy policy changes. • Revise Korea's cold range testing methods to align with U.S. standards for improved test engineer safety. • Minimize industry burden and avoid redundant rules through government-wide consultation and review. • Grant full recognition of FMVSS-certified vehicles regardless of its origin of production. • Ensure fairness in automobile ownership tax reform, aligning with KORUS FTA principles. • Adopt transparent procedures and foster open communication with industry stakeholders in setting realistic GHG/CAFE rules for 2026-2030. • Exclude certain parts from damage coverage, set a 4.5% MSRP reporting threshold, and base repair costs on automaker's Pre-Delivery Inspection Center rates. • Grant an exemption to U.S. end-of-life vehicles from the hazardous materials requirement and reconsider the EPR extension. • Allow imported vehicles, including EVs, used for marketing and development to gain sale certification post-use. • Notify recalls exclusively for vehicles or parts sold by automakers in Korea and adhere to international norms in determining the deadline.
<p style="text-align: center;">Chemicals</p>	<ul style="list-style-type: none"> • Detailed Criteria to Distinguish Chemical Substances from Articles^{NEW} • Discrepancies in the List of Existing Chemicals between K-REACH and OSHA^{NEW} • Disclosure of Confidential Business Information^{UNRESOLVED} • Expanded Scope of Consumer Chemical Product Regulations^{UNRESOLVED} • Redundant Regulation under the Chemical Control Act (CCA)^{UNRESOLVED} • Test Methods for Consumer Chemical Products^{UNRESOLVED} 	<ul style="list-style-type: none"> • Detail criteria in distinguishing an article or a chemical substance for registration exemption. • Amend Article 85 of the Enforcement Decree of the OSHA to include all existing chemicals under the K-REACH and revise Article 147 of the Enforcement Rules to relax the registration criteria for new chemicals. • Minimize confidential business data disclosure requirements and punitive penalties for non-registration. • Eliminate registration requirements for changes that have no relevance to human health. • Eliminate duplicate regulatory requirements. • Harmonize testing methods for safety standards for consumer chemical products with global standards.

<p style="writing-mode: vertical-rl; transform: rotate(180deg);">Digital Economy</p>	<ul style="list-style-type: none"> • Artificial Intelligence^{NEW} • Legislative Bill on Management and Support for Stability of Digital Services^{NEW} • Online Platform Regulations^{NEW} • Application of the Cloud Security Assurance Program (CSAP)^{UNRESOLVED} • Designation of a Local Representative^{UNRESOLVED} • Personal Information Protection Act (PIPA)^{UNRESOLVED} 	<ul style="list-style-type: none"> • Align with international best practices and pursue proportionate, risk-based regulation that enables responsible and safe development of AI. • Reevaluate the Bill to better reflect unique capabilities and characteristics of each service providers and to minimize undue burdens on businesses. • Engage with civil society and industry groups for extensive consultation and provide more transparency in formulating the Online Platform Bill. • Extend logical network separation to the Moderate tier, broaden the range of non-sensitive public sector information, and revise Korea-specific requirements to align with global technological standards. • Reconsider the requirement for foreign telecommunications service providers to designate a local agent in Korea. • Align personal information protection regulations with global standards.
<p style="writing-mode: vertical-rl; transform: rotate(180deg);">Energy & Environment</p>	<ul style="list-style-type: none"> • Bilateral Agreements for CO₂ Transport and Storage^{NEW} • Equity Investment Commitment Letter in Electricity Business License Evaluation Process^{NEW} • Need for Different Approach to Interconnection Analysis^{NEW} • Opportunities for Private Investment in Grid Infrastructure^{NEW} • Domestic Certification Requirements for Large-and Medium-Sized Wind Turbines^{UNRESOLVED} • Need for RE100 Policy Changes^{UNRESOLVED} 	<ul style="list-style-type: none"> • Accelerate the advancement of proposed bilateral agreements and forge additional agreements with nations possessing pertinent storage capacity. • Modify the requirements in the Equity Commitment Letter to avoid discouraging foreign investment. • Only inform developers of the interconnection constraints and allow them to decide whether to proceed with the associated risks. • Invite private investors to help improve grid capacity to facilitate the growth of renewable energy and ease KEPCO's financial burdens. • Allow mutual recognition of safety certification. • Need to accelerate the use of renewable energy and the progress of RE100.

<p style="text-align: center;">Financial Services</p>	<ul style="list-style-type: none"> ● Adherence to Regulatory Transparency^{NEW} ● Differentiation of Information Handling for Corporate vs. Consumer Clients^{UNRESOLVED} ● Liberalization of firewall standards among financial entities within Korea^{UNRESOLVED} ● Measured liberalization of Korean data protection standards for financial companies^{UNRESOLVED} ● Relaxation of Korean Network Segregation for Financial Companies^{UNRESOLVED} ● Relaxation of Restrictions on the Short Sale of KTB^{UNRESOLVED} 	<ul style="list-style-type: none"> ● Ensure consistency between administrative guidance and current regulations to enhance regulatory predictability and uniformity. ● Provide differentiated information processing guidelines for corporate client information vs. individual client information. ● Relax the firewall standards among financial entities within Korea to facilitate the exchange of information. ● Ease the data protection standards to a level comparable to the U.S. and other developed OECD nation standards. ● Relax network segregation and cloud computing standards for financial companies to a level comparable to those of the U.S. and other developed OECD nations. ● Relax the short sale rule so that banks can cover KTB position on the bond settlement.
<p style="text-align: center;">Pharma, Medical Devices & Life Science</p>	<ul style="list-style-type: none"> ● Exclusion of Advanced Medical Equipment Companies from Relevant Policy Discussions^{NEW} ● Delayed Patient Access to New Medical Technologies^{UNRESOLVED} ● Lack of Transparency and Predictability^{UNRESOLVED} ● Pricing of Global Innovative Drugs^{UNRESOLVED} ● Reimbursement Coverage for Innovative Medical Technologies^{UNRESOLVED} 	<ul style="list-style-type: none"> ● Encourage open communication with medical equipment companies to discuss policies concerning medical equipment. ● Accelerate reimbursement coverage and pricing approval processes and include both in parallel reviews. ● Establish and disclose clear criteria for the pricing and reimbursement evaluation to ensure transparency and predictability of policies. ● Assess the value of new and innovative medicine in a more swift and appropriate manner. ● Adopt flexible and practical approaches for reimbursement coverage determinations.

Note: “New” refers to new regulatory issues that have arisen since last year’s AMCHAM report, while “Unresolved” refers to issues that remain unresolved from the previous year.

INTRODUCTION

As bilateral diplomatic and economic relations between the U.S. and Korea ascend to new levels of collaboration, the American Chamber of Commerce (AMCHAM) is pleased to publish our annual Business Environment Indicators report. This report outlines latest developments across important industries and issue areas in the U.S.-ROK commercial relations, including but not limited to the KORUS FTA and the Indo-Pacific Economic Framework (IPEF).

As the oldest and largest foreign chamber of commerce operating in the Republic of Korea today, AMCHAM is the premier business organization promoting the bilateral U.S.-Korea economic relationship. As a strong advocate for the KORUS FTA and the Indo-Pacific Economic Framework for Prosperity (IPEF), AMCHAM firmly supports the goal of advancing resilience, sustainability, inclusiveness, economic growth, fairness, and competitiveness between trading partners. We have been a close partner and resource to the U.S. government in this mission, working as a bridge between the two governments and business communities to secure a level-playing field for U.S. companies in Korea.

Mission of AMCHAM Korea

Promote the expansion of trade and investment partnerships between the U.S. and Korea by:

1. Supporting U.S. companies in Korea
2. Helping U.S. SMEs to enter the Korean market
3. Facilitating Korean companies' investment in the U.S.

AMCHAM at a Glance

- 71 years in history
- 800+ corporate members and affiliates
- 1,500+ individual members
- 29 industry committees
- Board of Governors

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This report will highlight the major areas of regulatory issues and recommendations of the U.S. business community regarding the implementation of the amended KORUS FTA, the four pillars of the IPEF (1. Fair & Resilient Trade; 2. Supply Chain Resiliency; 3. Clean Energy, Decarbonization, and Infrastructure; and 4. Taxation and Anti-Corruption), and the broader business environment for American companies in Korea. By supporting the full and faithful implementation of the amended KORUS FTA and principles of the IPEF, we hope that this report will contribute to strengthening the U.S.-Korea economic partnership to the benefit of businesses and consumers in both countries.

ECONOMIC IMPACT OF KORUS FTA

In 2022, the United States and South Korea marked the 10th anniversary of the KORUS FTA. At the time of its implementation a decade ago, the KORUS FTA represented the most advanced FTA in terms of the coverage of its comprising factors and legal binding force. It remains so today after the renegotiation of the agreement in 2018.

Over the last decade, Korea and the United States both benefited from the KORUS FTA with the total trade in goods rising 81% from \$100.1 billion in 2011 to \$181.1 billion in 2023. Both countries have seen a relatively equal amount of growth in goods exports.

There have been notable changes in trade patterns. Prior to the implementation of the KORUS FTA, machinery and electrical parts were the largest categories of exports from the U.S. to Korea. By 2023, crude oil, natural gas, and semiconductor equipment had become the primary export items from the U.S. to South Korea. Conversely, the leading export categories from South Korea to the U.S. were automobiles, automotive parts and accessories, and petroleum products.

Despite the disruption from the pandemic and geopolitical tensions, trade between the U.S. and South Korea has continued to expand. U.S. exports to South Korea grew from \$56.5 billion in 2019 to \$64.8 billion in 2023. Korea has seen a similar growth, with its exports to the U.S. increasing from \$77.5 billion in 2019 to \$116.2 billion in 2023.

A notable development in South Korea's export landscape is the reorientation of its primary export market from China to the U.S. This shift is underscored by a sustained and notable increase in exports to the U.S., spanning from August 2023 to May 2024. According to the Ministry of Trade, Industry, and Energy (MOTIE) and the Korean Customs Service (KCS), as of May 2024, exports to the U.S. reached \$ 53.3 billion,

surpassing the export volume to China, which stands at approximately \$ 52.6 billion. Should this trend persist until the yearend, South Korea's largest export market will have shifted from China to the U.S. for the first time in 23 years since 2001. This development reflects deepening economic interdependence and commercial ties between the two countries amid the rising importance of global supply chain resilience.

Foreign Direct Investment has also grown under the KORUS FTA. U.S. investment in South Korea has grown significantly from \$1 billion in 2011 to \$6.13 billion in 2023, while South Korean investment in the U.S. has grown by more than 290% since 2011, from \$7.4 billion in 2011 to \$27.72 billion in 2023.

INDO-PACIFIC ECONOMIC FRAMEWORK (IPEF)

As part of the broader strategy to address the growing challenges in the Indo-Pacific region, the Biden administration has shown a continued commitment to the policy of securing a free and open Indo-Pacific as a top priority of U.S. foreign policy.

In May 2022, President Biden announced the Indo-Pacific Economic Framework (IPEF) whereby the U.S. would secure a free and open Indo-Pacific region by promoting digital economy, technology, resilient supply chains, decarbonization and clean energy, infrastructure, and worker standards. 14 countries in the region, representing 40% of the global economy, have joined the initiative, and Korea has confirmed its participation in all four pillars of the IPEF. As of November 2023, the participating economies have made substantial progress in negotiations for the three Pillars, except Pillar I (Trade). The IPEF agreement on supply chains took effect in Korea as of April 17 this year. It marked the first multilateral agreement regarding global supply chain issues in which the Korean Government has participated.

As digital economy continues to expand, representing 15% of the global GDP, AMCHAM strongly advocates for integrating a high-standard, legally binding digital chapter within the Trade Pillar of the IPEF. This initiative aims to facilitate the seamless flow of data across borders, which is essential for fostering innovation and maximizing economic potential.

BUSINESS ENVIRONMENT IN KOREA AS OF 2024

American businesses operating in Korea are major stakeholders for both U.S. and Korean economies. AMCHAM and its member companies stand ready to assist the efforts of both governments to create a stronger, more vibrant, innovative, and globally competitive bilateral economic and commercial partnership.

The Yoon administration, which was inaugurated on May 10, 2022 for a single 5-year term, has aimed to stimulate private-led economic growth and stimulate strategic industries, to promote a benign cycle of economic growth and welfare. As part of the economic policy priorities, the Yoon administration has focused on reversing “killer regulations,” i.e. Korea-unique regulations that deviate from global standards, such as labor law, real estate taxation, corporate tax, and financial services regulations.

Moreover, in an effort to enhance Korea’s competitiveness in critical and emerging technologies, the Yoon administration aims to inject over 150 trillion won financing over the next three years into five key advanced industries: semiconductors (including displays), secondary batteries, biotechnology, future mobility, and hydrogen.

In April, 2024, South Korea held its 22nd general election, where the main opposition Democratic Party (DP) secured a majority in the National Assembly with 175 seats, while the People Power Party (PPP) obtained 108 seats. This electoral outcome highlights potential challenges in driving the economic reform agenda for the Yoon administration during his remaining term.

AMCHAM remains fully supportive of the Korean government’s policy goal to foster sustainable economic growth. In this context, AMCHAM encourages the Korean government to consult both domestic and international business communities prior to the roll-out of regulatory reforms to ensure that due consideration is given to the unique conditions affecting each sector.

Transparency and predictability in regulatory changes is crucial to the overall health of the business environment and for the AMCHAM business community to commit future investments in and exports to Korea. According to the 2024 AMCHAM Business Survey, over 40% of respondents identified the unpredictable regulatory environment as the biggest risk facing businesses in Korea. With the Korean General Elections and the U.S. elections being held in 2024, respondents highlighted the regulatory uncertainty and potential policy shifts as significant risk factors affecting both Korean and the U.S. businesses

AMCHAM is committed to working closely with the U.S. and Korean governments to make further progress in the areas of improvement outlined in this report and to ensure a stable policy environment following this year’s elections. We believe that these policy suggestions, once implemented, will go a long way towards creating a level playing field for foreign and domestic businesses in Korea and deepening the vital bilateral trade and investment ties between Korea and the United States.



AEROSPACE & DEFENSE

- Overview
- Inconsistent Application of Offset Requirements^{NEW}
- Newly Introduced Offset Terms & Obligations^{NEW}
- Offset Terms & Obligations^{UNRESOLVED}
- Offset Obligations Threshold for Sole-Source Contracts^{UNRESOLVED}

AEROSPACE & DEFENSE

OVERVIEW

South Korea is the United States' 13th largest market for aerospace exports as of May 2023. In 2023, U.S. aerospace exports to South Korea recorded a total of \$3.75 billion, accounting for nearly 81.5 % of South Korea's total volume of aerospace imports. South Korea has recently emerged as one of the world's fastest-growing defense exporters, rising from its 31st place in 2000 to become the ninth-largest arms exporter globally. With a strategic emphasis on defense exports, the Yoon administration aims to elevate Korea to among the top four defense exporters worldwide by 2027.

Recently, the Aerospace & Defense industry has witnessed significant strides in cooperation between the United States and Korea, marked by the signing of the Security of Supply Arrangement (SOSA) in November 2023 to enable priority delivery requests for defense-related goods between the two countries. Furthermore, both the U.S. and Korean governments progress towards signing the Reciprocal Defense Procurement (RDP) Agreement later this year. This agreement will provide a structured framework for continuous dialogue on market access and procurement issues, aimed at fostering more effective defense collaboration between the two countries.

In light of these developments, AMCHAM strongly believes that the efficient reform of Korea's defense acquisition policy will serve to promote robust, high-value industrial collaboration between the U.S. and Korea. AMCHAM remains committed to supporting Korea's national security interests and industrial objectives as well as the ROK-U.S. Alliance. AMCHAM urges both governments to collaborate closely with the industry to refine acquisition policies, thereby enhancing Korea's long-term capacity to advance its defense industry objectives globally. Such efforts will also bolster Korea's strategic deterrence capabilities.

INDUSTRY ISSUES

Inconsistent Application of Offset Requirements

It is a long-established requirement that overseas procurement of \$10 million or more is subject to an offset program (Article 26.1 of the Defense Program Act - Enforcement Decree). However, the same article includes bases for exemption, such as contracts with a foreign government, or more broadly, in consideration of national security or economic efficiency. In addition, Article 8.3 of the DAPA Offset Guidelines provides DAPA with the ability to apply offset requirements even where the main contract value is below \$10M. In short, DAPA has wide legislative and regulatory authority to apply or exempt offset for defense procurement programs on a case-by-case basis, and there is no allowance for overseas contractors to be notified of DAPA's determination prior to the request for proposal (RFP) issuance.

AMCHAM fully recognizes and does not in any way challenge the fact that DAPA has every right to decide whether to apply offset for any given program. However, in practice, the exemption power DAPA has for procurement programs makes it very challenging for overseas contractors to prepare offset projects in advance of the RFP release. It usually takes multiple months and sometimes even years for a contractor to develop a good offset project; the 30 to 90 days of turnaround time usually allocated in DAPA RFPs is certainly insufficient to properly develop an offset initiative. Developing offset projects requires investment of human and financial resources, and these are necessarily done in the expectation that offset will be required.

It is true that DAPA regularly releases the list of offset-eligible programs, from around 2 years before the RFPs are expected. These lists are definitely helpful. However, over the past few years, the overseas contractors have experienced that some programs that were listed as eligible went on to have offset exempted. The list also does not provide any indication with regard to what types of industrial initiatives are prioritized by DAPA or other Korean stakeholders, and similarly the offset wishlist which forms part of the Offset RFP is not shared with contractors in advance.

The cumulative effect of these realities is that overseas contractors are often obliged to prepare offset projects in the dark, without knowing 1) whether offset will be exempt for the main contract and 2) what the industrial priorities are for the Korean Government (ROKG) and ROK industry. This leads to contractors potentially investing manpower and funding to develop offset projects only for there to be no offset at all, or projects that may not be desired by DAPA.

AMCHAM believes that some form of advance coordination between DAPA and overseas contractors before the RFP release would be substantially beneficial for the offset program of each procurement. It would allow for long-term development of offset projects that deliver greater benefits to ROK industry, allow contractors to prepare offset items that more closely align with ROK items of interest, and enable DAPA to optimize the procurement process and reduce risk of offset negotiations impacting main contract schedule.

Article 8 of DAPA Offset Guidelines, Dec 2022

- (1) In principle, an Offset program can be launched when an acquisition program satisfies the conditions of Article 4(1). The IPT director or the Director of the Procurement Planning Management Division shall launch an Offset program through deliberation by Defense Acquisition Program Execution Committee should it be deemed beneficial to the ROK's national interest based on the result of advance research, etc. with regards to subparagraph 2-2, Article 26(1) of the Decree.*
- (2) The national security and economic efficiency of subparagraph 3 of Article 26(1) of the Decree is assessed based on the comprehensive review of each of the following subparagraphs:
 - 1. The impact of fielding urgency such as emergency force, wartime logistics, etc. on national security; and*
 - 2. Economic efficiency by launching offset programs from the comprehensive and long-term perspective on the effect of defense industry promotion, expansion of export opportunities, job creation, the life-cycle cost reduction of military supplies, etc.**
- (3) Should it be deemed beneficial to the national interest of the Republic of Korea, the offset program may be launched even if the Main Contract Amount of a unit acquisition program is less than ten (10) million U.S. dollars.*
- (4) Pursuant to Article 33 of the Defense Acquisition Program Management Regulations (hereinafter referred to as the "Regulations"), the analysis report on the execution and direction of the Offset program shall be included in the System Development Implementation Plan (Technical Cooperation Production Plan), Production Plan or Procurement Plans.*

Article 26 of Enforcement Decree of the Defense Acquisition Program Act

- (1) *The amount of each unit project of munitions for which offset trade shall be promoted pursuant to Article 20 (1) of the Act shall be at least 10 million US dollars: Provided that offset trade may be omitted in any of the following cases: <Amended on Dec. 17, 2013; Mar. 30, 2021>*
- 1. Where parts for repair are purchased;*
 - 1-2. Where core parts are purchased to be used for the defense research and development projects under Article 8 of the Defense Science and Technology Innovation Promotion Act;*
 - 2. Where raw materials, such as petroleum, are purchased;*
 - 2-2. Where munitions are purchased under a contract concluded with a foreign government;*
 - 3. Where a purchase is made after deliberation by the Committee, in consideration of national security, economic efficiency, etc.*
- (2) *"Matters prescribed by Presidential Decree, such as export linkages for commodities other than munitions" in Article 20 (3) 6 of the Act means the following: <Newly Inserted on Jul. 1, 2009; Mar. 23, 2013; Dec. 17, 2013; Jul. 26, 2017., 2024.3.29.>*
- 1. Export linkages for commodities, other than munitions, selected by the Minister of the Defense Acquisition Program Administration upon recommendation of the Minister of Trade, Industry and Energy or the Minister of SMEs and Startups;*
 - 2. Inducement of foreign investments (limited to foreign investments defined in Article 2 (1) 4 of the Foreign Investment Promotion Act) determined by the Minister of the Defense Acquisition Program Administration, in consultation with the Minister of Trade, Industry and Energy for the improvement of the competitiveness of the defense industry.*
- (3) *Matters necessary for the promotion of offset trade, such as procedures for promotion of offset trade, shall be prescribed by the Minister of the Defense Acquisition Program Administration. <Amended on Jul. 1, 2009>*
-

- **Issue**
The lack of advance notification from DAPA to overseas contractors regarding offset requirements in defense procurement poses significant challenges, necessitating improved coordination for better program effectiveness.
- **Relevant Regulations**
Article 8 of DAPA Offset Guidelines, June 2022, Article 26 of Defense Program Act, Enforcement Decree
- **Relevant Agencies**
Defense Acquisition Program Administration (DAPA)
- **Recommendation**
AMCHAM urges the Korean Government to establish a process for DAPA, overseas contractors, and ROK industry to discuss and coordinate offset programs in advance of RFP release for each procurement program.

Newly Introduced Offset Terms & Obligations

DAPA's most recently released Offset Guidelines in December 2022 include a new provision, Article 12.4 (see below), which will allow DAPA to confiscate 60% of offset obligation from main contract performance bond in the event of non-execution of Offset MOA by the completion of the main contract period of performance. While the likelihood of an Offset agreement not being executed before the main contract performance is complete is low, the execution of the Offset MOA, being a bilateral process, could be delayed by both ROKG and the contractor. For example, the evaluation of the individual offset projects by the Korea Research Institute for Defense Technologies (KRIT) tends to be the most time-consuming aspect of offset negotiations and may well be the main factor that could delay the execution of the Offset MOA.

In addition, establishing the performance bond in the main contract that incorporates the potential payout for 60% of the entire offset obligation may be very costly. Contractors must take into account the possibility that due to factors outside its control, an Offset MOA may not be signed, which would result in the confiscation described in Article 12.4. This means a much larger performance bond must be established for the proposal, which then drives up the price of the program.

Given this, it is advisable that DAPA consider removing or lessening the severity of the provision, which will help to create more affordable procurements.

Article 12 of DAPA Offset Guidelines, Dec 2022

(4) If the MOA is not signed until the period of the Main Contract expires, the Director General shall include in the Main Contract the condition that 60% of the targeted Offset value is confiscated and the Offset obligation is extinguished

- **Issue**

Article 12.4, which permits the confiscation of 60% of the offset obligation from the main contract performance bond if the Offset MOA is not executed, poses potential cost escalation and operational challenges for foreign contractors.

- **Relevant Regulations**

Article 12 of DAPA Offset Guidelines, Dec 2022

- **Relevant Agencies**

Defense Acquisition Program Administration (DAPA)

- **Recommendation**

AMCHAM urges the Korean Government to consider revising or lessening the severity of the provision, thereby helping to create more affordable procurements.

Offset Terms & Obligations

Articles 23.3. and 23.4. (see below) of the current Offset Guidelines (first introduced in Dec 2021) state that, in the event of non-performance, 10% of residual offset obligation will be confiscated from the offset performance bond if the obligation is not completed by the end of the agreed Proof of Performance (PoP); if the Overseas Contractor is still unable to perform the remainder of the obligation within the one additional year from the end of PoP, then 50% of the residual offset value will additionally be confiscated, and the remainder of the offset obligation will be liquidated.

We recognize and appreciate that this change has incorporated the AMCHAM request to reconsider the previously non-liquidating nature of the offset penalty provision. However, the newly introduced elements in this article pose an undue financial burden on overseas contractors and make the U.S.-ROK industrial collaborations challenging as detailed below:

The total amount of confiscation if the contractor fails to perform, while liquidating, is very high. For example, for a \$100m offset program, the bond will be placed at \$10m; if \$20m remains at the end of PoP, \$2m will be confiscated at that point, and after one year, additional \$10m will be confiscated, making it a total of \$12m in terms of the confiscated amount. A contractor therefore would have completed 80% of their obligation, but still be subject to a payout of additional \$12m in an actual cost to close out the remaining \$20m offset value. In addition, the performance bond is not sufficient to cover the total amount of confiscation, while performance bonds cost money and impact the overall procurement cost.

The restrictive penalty provision in the Offset Guidelines binds the DAPA as much as it binds overseas contractors. A contractor may fail to perform its offset obligation for a variety of causes that are not directly attributable to the contractor, and some may not be readily covered under the Force Majeure clause: there may be unforeseen downturn in market conditions which reduce expected production quantities; or there may be ambiguities or mistakes in the Offset Memorandum of Agreement (MOA) or Technical Assistance Agreement (TAA) that are interpreted differently or even disputed by successive project managers, forcing the contractor to deviate from the original plan. At that point, it may be in the interest of all parties (DAPA, an overseas contractor, and the ROK industry alike) to seek alternative offset projects that may deliver an equal or greater benefit to Korea rather than resorting to punitive measures. However, because of Article 23, DAPA Offset Division (OD) has no choice but to impose the prescribed penalties. Therefore it is highly recommended that an additional provision be included so that DAPA would have an option (but not

necessarily an obligation) to consider replacement projects by the contractor that has a greater offset value than the shortfall.

Article 23.3. and 23.4 of DAPA Offset Guidelines, June 2022

(3)“ If the Foreign Contractor fails to fulfill its Offset obligation within the implementation period of the Offset MOA, the Director General shall confiscate 10% of the unfulfilled portion of said obligation from Offset performance bond as a penalty for contract violation.

(4) Even in case of above paragraph (3), the Foreign Contractor shall be obligated to continue to implement its unfulfilled obligation for 1 year upon the expiry of the implementation period. If the Foreign Contractor fails to complete its unfulfilled obligation, the Director General shall additionally confiscate 50% of the unfulfilled portion of the said obligation and extinguish the remaining unfulfilled value.”

- **Issue**

Onerous and excessive penalty terms in Offset Guidelines

- **Relevant Regulations**

June 2022 DAPA Offset Guidelines, Offset Memorandum of Agreement, Technical Assistance Agreement, Offset Guidelines

- **Relevant Agencies**

Defense Acquisition Program Administration (DAPA)

- **Recommendation**

An additional provision needs to be included in the Offset Guidelines so that DAPA would have the option to consider replacement projects by the contractor that has a greater offset value than the shortfall.

Offset Obligation Threshold for Sole-Source Contracts

Under Article 10.1.2. (see below) of the current Offset Guidelines, offset obligation for sole source programs has increased from the previous obligation threshold of 10% to 30% or greater. While we fully support DAPA's effort to expand opportunities for the ROK industry to become more involved in global supply chains, export their products to overseas markets, and enhance their capabilities, the threefold increase in offset obligations would ultimately cost more for DAPA for sole source programs and impede the end user services' ability to deploy the necessary systems effectively and on time.

AMCHAM members remain committed to providing greater collaborative opportunities to our Korean industrial partners, and the ROK defense industry continues to benefit from the valuable purchase orders and know-how provided by US contractors.

Article 10.1.2. of DAPA Offset Guidelines, June 2022

“(1) For the programs notified pursuant to Article 9(1) and (2), the Director General shall determine the Offset ratio as in the following subparagraphs in consideration of competing sources, attainability of the Offset negotiation target, etc. However, in the event that the amount for a unit program pursuant to Article 4(1) is not less than one hundred (100) million U.S. dollars, the IPT Director shall include it in the Basic Strategy of Acquisition Program, etc. and the Offset ratio shall be determined through the deliberation and coordination of the Defense Acquisition Program Promotion Committee (hereinafter referred to as the “Committee”).

- 1. For programs with competing sources: fifty (50) percent or above of Estimated Main Contract Amount*
- 2. For programs without competing sources: thirty (30) percent or more of the Estimated Main Contract Amount*

- **Issue**

Significant increase in the offset quota for sole-source contract

- **Relevant Regulations**

Article 10.1.2. of DAPA Offset Guidelines, June 2022

- **Relevant Agencies**

Defense Acquisition Program Administration (DAPA)

- **Recommendation**

AMCHAM recommends that the Korean government reconsider a threefold increase in offset obligation for sole-source programs.



AGRICULTURE, FOOD AND BEVERAGE

- Overview
- Restrictions on TV Advertisements for High-calorie and Low-nutrient Foods **NEW**
- Agricultural Biotechnology **UNRESOLVED**
- On-site Inspections of the OEM Manufacturers **UNRESOLVED**
- Packaging Materials and Methods **UNRESOLVED**

AGRICULTURE, FOOD AND BEVERAGE

OVERVIEW

Agricultural trade is a prime example of how expanded U.S.-Korea economic and commercial ties have benefitted both countries. While Korea imposes high tariffs averaging 56.8% on agricultural goods from non-FTA partners, a majority of U.S. agricultural products are exempt from import duties under the KORUS FTA. U.S. agricultural exports to Korea have increased over 30% since the KORUS FTA entered into force in 2012. In 2023, exports of U.S. agricultural and related products to South Korea amounted to over \$ 8 billion, making the country the fifth-largest single-country export market by value for the U.S.

Although the amendment negotiations of the KORUS FTA did not deal with agricultural trade, U.S. agricultural exports are expected to benefit from improvements made to customs and origin verification procedures that were agreed as part of the amendment package. AMCHAM hopes that the U.S. and Korean governments will continue to work together to promote mutually beneficial trade in agricultural goods.

INDUSTRY ISSUES

Restrictions on TV Advertisements for High-calorie and Low-nutrient Foods

The Ministry of Food and Drug Safety (MFDS) is currently attempting to extend the restriction on TV commercials for high-calorie, low-nutrient foods to include the 7-8 PM timeframe. While the Ministry cites that a significant number of children watch television during this period, analysis reveals that the majority of programs aired between 7-8 PM on terrestrial channels target viewers aged 15 and above, with minimal content for children under 12. Additionally, as media consumption diversifies towards digital platforms, there has been a noticeable increase in children's engagement with new media.

Imposing excessive regulations on broadcasting advertisements during specific time slots and genres could potentially infringe upon the legitimate business rights of companies and overly restrict marketing activities. Furthermore, such regulations may inadvertently encroach upon the viewing rights of adult audiences for food advertisements. Without assured policy effectiveness, solely prohibiting broadcasting advertisements may disrupt the overall advertisement market.

Therefore, given the programming schedule during the 7-8 pm slot primarily targets viewers aged 15 and above, the changing trends of children's media consumption, and the lack of conclusive evidence supporting the efficacy of the advertisement ban in reducing child obesity, it is important for the government to reconsider the proposed regulation. A more balanced approach, supported by robust evidence and consideration of evolving media landscapes, is essential to address the complex challenges of promoting healthier dietary choices among children while respecting the rights of businesses and adult viewers.

- **Issue**
The Ministry of Food and Drug Safety's proposal to extend the ban on commercials for high-calorie, low-nutrient foods lacks evidence of effectiveness and unfairly puts a burden on businesses in the industry.
- **Relevant Agencies**
Ministry of Food and Drug Safety (MFDS)
- **Relevant Regulations**
Special Act on Safety Management of Children's Dietary Lifestyle

- **Recommendation**

AMCHAM urges the Korean government to reconsider the regulation on banning TV advertisements for high-calorie and low-nutrient foods.

Agricultural Biotechnology

Agricultural biotechnology contributes to higher crop yields, health and environment, and conservation of energy, soil, and water resources. Unfortunately, certain Korean laws and regulations, especially the Act on Transboundary Movements of Living Modified Organisms and other Related Matters (“the LMO Act”), continue to create a challenging regulatory environment for U.S. agricultural biotechnology exports.

The Ministry of Food and Drug Safety (MFDS) and the Rural Development Agency (RDA) under the Ministry of Agriculture, Food and Rural Affairs (MAFRA) are primarily responsible for ensuring the safety of biotech crops imported for food and feed use. However, per the LMO Act, three additional agencies, i.e. the Korea Disease Control and Prevention Agency (KDCA) under the Ministry of Health and Welfare (MOHW), the National Institute of Fisheries Science (NIFS) under the Ministry of Oceans and Fisheries (MOF), and the National Institute of Ecology (NIE) under the Ministry of Environment (ME), are mandated to be a part of the consultation process, making as many as five agencies conducting safety reviews for each of the new biotech crops. The Risk Review Consultations (RRC) by these three additional agencies have created unnecessary problems as each agency issues specific data requirements that cannot be justified by risk assessment principles. These additional requirements add no value to the assessment and have created issues of non-transparency and unpredictability in Korea’s biotech crop safety assessment process. As the LMO Act mandates participation by all five agencies, it limits the potential for streamlining the system without legislative changes. The U.S. had multiple discussions with the Ministry of Trade, Industry and Energy (MOTIE) and other relevant agencies regarding this issue and will continue to engage with Korea on improving its approval process for agricultural biotechnology.

Since 2008, major grain exporting countries and their value chain stakeholders have repeatedly requested improvement in these regulations by amending the LMO Act to remove the requirement for the consultation of the three additional agencies in the RRC. However, there have been no meaningful improvements thus far.

- **Issue**
The overly complicated process for risk review of living modified organisms, and lack of predictability and transparency
- **Relevant Regulations**
The Act on Transboundary Movements of Living Modified Organisms and Other Related Matters (LMO Act)

- **Relevant Agencies**
Ministry of Trade, Industry and Energy (MOTIE), Ministry of Food and Drug Safety (MFDS), Ministry of Agriculture and Rural Affairs (MAFRA), Ministry of Health and Welfare (MOHW), Ministry of Fisheries (MOF), Ministry of Environment (ME)
- **Relevant KORUS Provisions**
Chapter 8 (Sanitary and Phytosanitary Measures) Article 3 (Committee on Sanitary and Phytosanitary Matters), Subparagraph 3(a)
- **Recommendation**
Korea should streamline the burdensome approval process for the safety review process for genetically modified crops by eliminating redundant and unnecessary procedures and increasing transparency and predictability. To prevent non-tariff barriers in Korea's biotech grain trade which amounts up to \$2.5 billion a year, MOTIE, the responsible national authority for the LMO act, should be the appropriate ministry to take the initiative. It will also be important for the Korean government to clarify its position on how to deregulate agricultural products that are increasingly being developed through new breeding techniques such as gene editing (e.g. CRISPR). Such a policy should be based on science, as well as the terms stipulated in the KORUS FTA, so that its implementation would promote innovation and trade.

On-site Inspections of the OEM Manufacturers

Per the Special Act on Imported Food Safety Control, the Ministry of Food and Drug Safety (MFDS) mandates that any business entity that imports and sells food, etc., and has entrusted manufacturing or processing to an exporting country by original equipment manufacturing (OEM) requires an imported food sanitation audit institution to conduct on-site inspections on an enterprise manufacturing or processing imported food, etc., by OEM. In pursuant of Article 10 of the Special Act, the MFDS may designate an institution that can professionally conduct on-site inspections. In particular, unless otherwise registered as a “good importer” pursuant to Article 7 (Registration of Good Importers) of the Special Act, it is required for a business entity to conduct an on-site inspection every two years regardless of its good track records of audit results, bearing all the expenses incurred by the inspection, including travel expenses, the interpretation fee, and etc. This imposes a severe burden on U.S. companies importing OEM foods and health functional foods to Korea due to increased import costs and complicated administrative processes.

- **Issue**
Burdensome requirements mandating OEM manufacturers to have an on-site inspection every two years
- **Relevant Agencies**
Ministry of Food and Drug Safety
- **Relevant Regulations**
Special Act on Imported Food Safety Control
- **Recommendation**
We urge the Korean government to ease the mandatory on-site inspection requirements.

Packaging Materials and Methods

Currently, Korea targets to save resources and protect the environment by controlling excessive packaging and banning the re-packaging of commodities. Article 9 of the Act on the Promotion of Saving Recycling and Resources states that manufacturers, importers or sellers shall comply with the standards for packaging methods, covering the rate of packaging space and layers. As per the Standards of Product Packaging Materials and Packaging Methods, the detailed standards for food and beverage products are as follows:

Products	Standards	
	Rate of packaging space	Number of package layer
Processed food	15% or less	2 or fewer
Beverages	10% or less	2 or fewer
Alcohol	10% or less	2 or fewer
Confectioneries	20% or less (For decoration cake: 35% or less)	2 or fewer
Health functional food	15% or less	2 or fewer

However, due to various sizes and heights of products, it is difficult to apply a uniform method to each packaging. U.S. companies have raised concerns about the lack of clarity regarding the calculation method for packaging space ratios used by Korean government authorities. Moreover, partial amendments to the Recycling Act proposed in 2020 mandate pre-inspection on packaging materials to ensure compliance with specified packaging requirements. Such regulations place an onerous financial burden on industry stakeholders and would delay product releases, weakening companies' competitiveness in the market.

- **Issue**
Excessive regulations on packaging materials and methods
- **Relevant Agencies**
Ministry of Environment (ME)

- **Relevant Regulations**

Act on the Promotion of Saving and Recycling of Resources

- **Recommendation**

We urge the Korean government to reconsider excessive regulations on packaging methods and materials.



ALCOHOLIC BEVERAGE

- Overview
- Restrictions on TV Advertisements for Alcoholic Beverages^{UNRESOLVED}

ALCOHOLIC BEVERAGE

OVERVIEW

The South Korean alcohol market is undergoing a transformation driven by evolving consumer preferences. Since the COVID-19 pandemic, a shift has been observed away from traditional beverages like beer, soju, and makgeolli, towards imported liquors such as whiskey and wine.

South Korea's alcohol imports in 2023 reached \$1.13 billion, with the United States ranking third among the top five import markets, accounting for \$140.6 million (12.5% of total imports). South Korea's alcohol exports also reached \$0.33 billion in 2023, with exports of distilled spirits, including soju and liqueurs, expanding. The United States ranked second among the top five export markets for Korean liquor, with exports totaling \$63.7 million (19.5% of total exports).

INDUSTRY ISSUES

Restrictions on TV Advertisement for Alcoholic Beverages

Broadcast advertising of alcoholic beverages that contain 17% or more of alcohol is prohibited in South Korea, while products below this threshold are permitted, albeit with restrictions. The general rules are as follows:

Medium Type	Alcohol below 17% ABV	Alcohol with 17% ABV and above
Terrestrial & Cable TV, SKY Life, Terrestrial & Satellite DMB, Real-time IPTV	Allowed from 22:00 to 7:00 of the following day	Completely banned
Radio	Allowed from 17:00 to 8:00 of the following day	Completely banned
IPTV VOD Advertisements	Allowed from 22:00 to 7:00 of the following day	Completely banned

The largest spirits category in Korea is Soju. It contains alcohol content just below 17% ABV and is able to advertise consistently within the rules above. Conversely, the majority of international spirits, especially whiskies that have a minimum 40% ABV requirement, are prohibited from any form of broadcast advertising. As is in the case of e-commerce, Korea is an outlier among leading and developed economies around the world in relation to TV and broadcast advertising. In Asia, specifically, developed markets like Japan, China, Taiwan, Singapore, and Australia all allow TV and radio advertising for alcohol products above 17% ABV. Unlocking advertising for alcohol products above 17% ABV in Korea (and other international spirits) will ensure a level playing field with local products.

- **Issue**
Broadcast advertising prohibition of alcoholic beverages with 17% ABV or above
- **Relevant Regulations**
National Health Promotion Act (NHPA), The Broadcasting Advertising Review Regulations

- **Relevant Agencies**

Ministry of Health and Welfare (MOHW), Korea Communications Standards Commission (KCSC)

- **Recommendation**

We urge the Korean government to lift the ban on broadcast advertising of alcoholic beverages with 17% ABV or more, In line with global standards.



AUTOMOBILES

- Overview
- Electric Vehicle Subsidy Decision-making Process^{NEW}
- Electric Vehicle Range Test at Cold Temperature^{NEW}
- Overlapping Regulations on Electric Vehicles^{NEW}
- Recognition of U.S. Safety Standard (FMVSS) in Korea^{NEW}
- Vehicle Ownership Taxation System^{NEW}
- Auto GHG/CAFE rules for 2026-2030^{UNRESOLVED}
- Damage Disclosure Requirements^{UNRESOLVED}
- End-of-Life Vehicle & Extended Producer Responsibility^{UNRESOLVED}
- Sale of Pre-certified Vehicles^{UNRESOLVED}
- Warranty/Recall Requirements^{UNRESOLVED}

OVERVIEW

The revised KORUS FTA contains a number of outcomes with positive implications for the U.S. automotive industry. These improvements reflect a willingness by the Korean government to improve market access for U.S. automobile exports in response to concerns voiced by the U.S. government and business community. Improved market access under the amended KORUS FTA has contributed to expanded exports of U.S. automobiles to Korea, while the extension of the U.S. truck tariffs by 2041 will provide significant protection for the U.S. industry and potentially encourage further investment by Korean automakers in the U.S.

Against this backdrop, U.S. automakers have seen significant benefits under the KORUS FTA in large part due to a reduction in tariff rates. Korea's tariff rate on U.S. automobile imports fell from 8% in 2011 to 0% in 2016. In comparison, the U.S. tariff rate on Korean automobiles fell from 2.5% in 2011 to 0% in 2016. Korean companies have also benefited significantly from the KORUS FTA, particularly through increased access to the U.S. market and the elimination of tariff barriers, facilitating their exports to the United States. In 2023, South Korea experienced a significant surge of 44.6% in its automotive exports to the U.S., amounting to \$32.2 billion. This increase represented a substantial proportion of South Korea's trade volume with the U.S. From January to November 2023, South Korea shipped a total of 1.17 million vehicles to the U.S.

While technical measures imposed in the name of the environment or safety reasons continue to create an uneven playing field for U.S. automobiles in Korea, AMCHAM anticipates growth in U.S. automobile exports as these non-tariff barriers are addressed. In this context, any protective measures, such as new tariffs on imports of automobiles and automotive parts, intended to protect the U.S. automotive industry, would be counterproductive and risk undoing the significant gains that U.S. automakers have achieved in Korea under the KORUS FTA. AMCHAM urges both U.S. and Korean governments to cooperate with the industry to remove remaining barriers and refrain from imposing new barriers to the bilateral automotive trade.

INDUSTRY ISSUES

Electric Vehicle Subsidy Decision-making Process

Every year, the Korean government establishes subsidy plans for passenger/truck/bus electric vehicles in accordance with the purpose of the policy, reflecting them in the related notice (electric vehicle supply program subsidy guidelines). However, sufficient prior discussion and review procedures with stakeholders were omitted/reduced before establishing such policies, so the response and preparation of the industry, which would distribute electric vehicles to the domestic market every year, is bound to be very inadequate. In particular, importers need a consultation period with the head office of at least 2-3 years for the domestic launch and supply of electric vehicle models, and at least 6 months for pricing policies.

- **Issue**
Inevitability of industry unpreparedness for electric vehicle distribution due to unpredictable changes in subsidy standards and lack of sufficient consultation procedures.
- **Relevant Regulations**
Clean Air Conservation Act
- **Relevant Agencies**
Ministry of Environment (ME), Ministry of Trade, Industry and Energy (MOTIE), Ministry of Economy and Finance (MOEF)
- **Relevant KORUS Provisions**
Chapter 9 (Technical Barriers to Trade) Article 7 (Automotive Standards and Technical Regulations)
- **Recommendation**
AMCHAM recommends enhancing the overall consultation and decision-making process for the project as the industry is unable to prepare and respond in a timely manner due to the lack of information and procedures regarding the changes in subsidy policies every year.

Electric Vehicle Range Test at Cold Temperature

Electric Vehicle (EV)'s charging distance test at cold temperature is a regulation that is applied only in two countries - Korea and the United States. The Korean EV cold temperature test procedure requires the HVAC (Heating, Ventilation, and Air Conditioning) set to "Max Fan Speed and Maximum Heat" for the entire test, while the U.S. testing for cold range is with the heater on at 22C. Due to these HVAC settings, the test operator is exposed to very high cabin temperature during this long-duration test. The cabin temperature exceeds 40 °C and the test duration was over 3.5 hours.

- **Issue**
Discrepancies in EV cold temperature testing procedures between Korea and the United States lead to operator safety concerns
- **Relevant Regulations**
Regulation for Test procedures for Energy efficiency, Greenhouse gas emission and Fuel economy for Motor Vehicles
- **Relevant Agencies**
Ministry of Environment (ME)
- **Recommendation**
AMCHAM recommends that prompt revision of the Korean cold range testing methods and harmonization with the U.S. testing be requested, as the Korean testing poses a potential threat to the safety of test engineers.

Overlapping Regulations on Electric Vehicles

As the spread of electric vehicles expands in the Korean market, various new regulations for electric vehicles are being established by relevant ministries. Recently, the Ministry of Land, Infrastructure and Transport has planned to implement follow-up management of electric vehicles' driving distance on a single charge, energy consumption efficiency and a preliminary certification system for electric vehicle battery safety through the revision/promulgation of the Automobile Management Act. The Ministry of Trade, Industry and Energy plans to implement an electric vehicle energy consumption efficiency rating system from the beginning of April this year. The Ministry of Environment is also seeking to strengthen verification of electric vehicle certification (mileage per charge, etc.) and subsidy evaluation by revising related laws. These regulations carry strong penalties for violation (imprisonment/fines, penalty surcharge, and consumer compensation, etc.), acting as a major obstacle to the industry's efforts to popularize electric vehicles.

- **Issue**

Regulations related to electric vehicles and batteries are diversifying and strengthening, and these regulations are being indiscriminately established by each ministry without prior coordination, which is acting as a major obstacle to the industry's spread of electric vehicles.

- **Relevant Regulations**

Clean Air Conservation Act, Motor Vehicle Management Act, Act on Promotion of Development and Distribution of Environmentally Friendly Vehicles

- **Relevant Agencies**

Ministry of Environment (ME), Ministry of Land, Infrastructure and Transport (MOLIT), Ministry of Trade, Industry and Energy (MOTIE)

- **Relevant KORUS Provisions**

Chapter 9 (Technical Barriers to Trade) Article 7 (Automotive Standards and Technical Regulations)

- **Recommendation**

In relation to the establishment of new electric vehicle and battery regulations by ministries, it is necessary to minimize the burden on the industry's efforts to popularize electric vehicles by only promoting core policies after sufficient consultation and review at

the government-wide level to ensure that there are no unnecessary duplicate regulations.

Recognition of U.S. Safety Standard (FMVSS) In Korea

Inconsistencies in global standards increase costs/complexity and may result in product restrictions without any meaningful benefits to the customer. Thus, the automotive industry agrees on the ideal standard of “test once, certify once and sell anywhere.”

Under KORUS-FTA, the U.S. made-in vehicles certified with FMVSS (Federal Motor Vehicle Safety Standards) are allowed to be imported into Korea with a 50,000 unit cap per year without complying with KMVSS (Korean Motor Vehicle Safety Standards). However, same vehicles certified with FMVSS but produced in other regions cannot be sold in Korea. They must comply with KMVSS to be imported into Korea, which costs the U.S. OEMs additional engineering works despite small volume of sales.

This aggravates not only the trade imbalance between the U.S. and Korea for automotive sector, but also impedes the global brands from competing fairly with the dominant local players. In particular, the homologation cost prevents the U.S. auto brands from expanding their business and diversifying their line-ups in Korea.

- **Issue**
Vehicles certified with FMVSS but produced in other regions cannot be sold in Korea. They should comply with KMVSS to be imported into Korea, which costs the U.S. OEMs additional engineering works despite small volume of sales.
- **Relevant Regulations**
Motor Vehicles Management Act
- **Relevant Agencies**
Ministry of Land, Infrastructure and Transport (MOLIT)
- **Relevant KORUS Provisions**
Section B: Safety Standards, Protocol between the government of the Republic of Korea and the government of the United States of America amending the February 10, 2011 exchange of letters
- **Recommendation**
AMCHAM recommends Korea’s full recognition of FMVSS certified vehicles regardless of its origin of production.

Vehicle Ownership Taxation System

Recently, the Korean government has determined that there is a flaw in the current vehicle ownership tax structure centered on engine displacement and is taking preliminary work to improve it. Although they are collecting various opinions through stakeholder and expert meetings, there is a move at the government level to adopt vehicle value as a new standard, especially for internal combustion engine vehicles. In the case of imported cars, although acquisition tax, individual consumption tax, education tax, value-added tax, etc. are already paid in proportion to the vehicle price at the purchase stage, if the price standard is applied to the possession stage, an unreasonable situation arises where the consumer should pay double taxes. Additionally, if the standards are arbitrarily changed without prior agreement with stakeholders, there is a risk of violating the principles of the Korea-U.S. FTA, so a cautious approach is deemed necessary.

- **Issue**

There is a move to reform the current automobile ownership tax from displacement-based to price-based, which may violate the principles of tax equity and the Korea-US FTA.

- **Relevant Regulations**

The Local Tax Act

- **Relevant Agencies**

Ministry of the Interior and Safety (MOIS)

- **Relevant KORUS Provisions**

Chapter 2 (National Treatment and Market Access for Goods)
Article 12 (Engine Displacement Taxes)

- **Recommendation**

In the process of reforming the automobile ownership tax, the Korean government should not have any unreasonable discriminatory elements against foreign automobile industries investing/entering Korea in line with the basic purpose of the Korea-US FTA, so careful review is required to the extent that these principles are maintained.

Auto GHG/CAFE rules for 2026-2030

As part of the KORUS FTA amendment, Korea committed itself to taking U.S. regulations into account when setting future fuel economy targets and to include more lenient targets for small manufacturers. In early 2021, however, the Korean government announced a 40 % reduction of national emissions by 2030 (NDC, Nationally Determined Contribution) from the 2018 baseline to improve commitments to the climate change framework. Since the current CAFE targets for 2026~2030 are set based on the previous NDC, the government has decided to revise the existing CAFE target for 2026~2030. The government is poised to leverage the mid-term review slated for 2025, as stipulated in the current regulations, to enact stricter Corporate Average Fuel Economy (CAFE) targets spanning from 2026 to 2030. Collaborating with academic institutions since 2022, the Ministry of Environment (ME) initiated commissioned research, culminating in a stakeholder meeting held in November 2023 to discuss the findings. The study recommends more stringent targets, ranging from 18% to 40% improvement compared to the existing benchmarks (e.g., the 2030 passenger car target of 70g/km). Presently, ME aims to formulate a draft target for the 2026-2030 period by 2024, engage in negotiations with stakeholders throughout the same year, and ultimately finalize the new CAFE targets for 2026-2030 by 2025.

- **Issue**
Korea's stringent greenhouse gas emissions standards
- **Relevant Regulations**
Regulations for Motor Vehicle Average Fuel Economy Standards, Greenhouse Gases Emission Standards, and Their Application and Management
- **Relevant Agencies**
Ministry of Environment (ME)
- **Relevant KORUS Provisions**
September 2018 KORUS Amendment and Modification Texts:
Agreed Minutes
- **Recommendation**
Korea needs to adopt transparent procedures and foster open communication with the industry when formulating new GHG/CAFE rules for the period of 2026-2030. It is also crucial for Korea to establish reasonable targets, accounting for factors such as the current

compliance status of automakers, shifts in domestic EV demand, and adjustments in U.S. standards for CAFE targets.

Damage Disclosure Requirements

Korea requires automakers to notify a purchaser (1) of any “defect” (e.g., a scratch in the paint) occurring between the time the vehicle was released from the factory and its delivery to the purchaser and (2) whether the “defect” has been repaired. The requirement imposes a much higher burden on imported automobiles, given the extended supply chain from manufacturer to consumer is longer, resulting in a higher chance that the vehicle might be scratched, etc., in transit. The burden is especially significant for low-volume importers.

- **Issue**
Requirement to report repair history that is unfairly burdensome for imported vehicles
- **Relevant Regulations**
Motor Vehicle Control Act / Damage Disclosure Regulation
- **Relevant Agencies**
Ministry of Environment (ME), Ministry of Land, Infrastructure and Transport (MOLIT)
- **Relevant KORUS Provisions**
Chapter 9 (Technical Barriers to Trade) Article 7 (Automotive Standards and Technical Regulations)
- **Recommendation**
AMCHAM recommends that Korea align with many U.S. states by excluding damages to glass, tires, bumpers and other interior components if replaced with original equipment manufacturer (OEM) parts and setting a de minimis reporting threshold at 4.5% of manufacturer’s suggested retail price (MSRP). Additionally, repair costs should be calculated using automakers’ Pre-Delivery Inspection Center repair costs, not using the rates assessed by independent repair shops for domestic as well as imported vehicles.

End-of-Life Vehicle & Extended Producer Responsibility

Korea implements restrictions on hazardous materials in end-of-life vehicles (ELV). As the U.S. does not have such restrictions on hazardous materials, it is difficult for U.S. vehicles to comply with ELV requirements, and this will restrict vehicle exports.

- **Issue**
Regulations on hazardous materials in end-of-life vehicles and extended producers' responsibility of vehicle recycling that are unfairly burdensome to U.S. automakers
- **Relevant Regulations**
Act on the Promotion of Saving and Recycling of Resources
- **Relevant Agencies**
Ministry of Environment (ME)
- **Relevant KORUS Provisions**
Chapter 9 (Technical Barriers to Trade) Article 7 (Automotive Standards and Technical Regulations)
- **Recommendation**
AMCHAM urges the Korean Government to grant an exemption to U.S. vehicles from the hazardous material requirement and to reconsider the Extended Producer Responsibility (EPR) extension.

Sale of Pre-certified Vehicles

The Korean government requires all new vehicle models imported into Korea to obtain their emissions certification prior to clearing customs to be eligible for sale. However, the government does permit automakers to clear customs without an emission certification if the vehicle is used for marketing and development-related activities. Korea's strict interpretation does not allow automakers to obtain the necessary emissions certifications for these specific vehicles. As a result, once these specific vehicles have completed their marketing and development purposes, they must be shipped back to their country of origin or be scrapped because they are not eligible for sale in Korea. Likewise, in the case of electric vehicles exempt from certification that have undergone a subsidy evaluation and fuel efficiency test (including driving distance on a single charge) by a domestically certified agency, they are also not eligible for sale in Korea.

- **Issue**

Vehicles(including electric vehicles) imported into Korea for marketing and development-related purposes that are not eligible for sale due to the strict interpretation of the regulation

- **Relevant Regulations**

Clean Air Conservation Act, Motor Vehicle Management Act

- **Relevant Agencies**

Ministry of Environment (ME), Ministry of Land, Infrastructure and Transport (MOLIT)

- **Relevant KORUS Provisions**

Chapter 9 (Technical Barriers to Trade) Article 7 (Automotive Standards and Technical Regulations)

- **Recommendation**

We encourage the Korean government to permit vehicles(including electric vehicles) that are imported into Korea for specific marketing and development-related activities to be able to obtain the necessary certification needed for sale once the vehicle has completed its intended use.

Warranty/Recall Requirements

Current recall regulations obligate automakers and importers to recall defective vehicles indefinitely. By comparison, Korea-made cars that are exported to the U.S. face only ten years of recall regulations. Korea requires to notify all voluntary recalls and all recalls ordered by any other foreign country, even if the recall covers vehicles not sold by the automaker in Korea. Moreover, Korea requires the automaker to provide this notice within 14 days of the initial recall announcement.

The indefinite recall period imposes unreasonable financial costs on auto companies and discourages voluntary recall efforts. Requiring an automaker to notify a recall involving vehicles not sold by the automaker in Korea is unreasonable and unduly burdensome. It also may create confusion in the Korean market, undermining consumer confidence in the automaker. (For example, a car sold in India has different homologation requirements from those for a car sold in Korea. A recall of the Indian version of the vehicle would not necessarily affect the Korean version.)

In 2021, the Korean government revised a related recall regulation under the Motor Vehicle Control Act (MVCA). As a result, the recall definition has been revised in a manner similar to the U.S. definition, but the penalty has increased from 1% of the revenue to 3%. In the case of voluntary recalls, the financial penalty could be reduced by 50% of the original amount. However, the U.S. does not impose penalties for voluntary recalls.

Furthermore, the reporting deadline of 14 days is unreasonably short and inconsistent with the deadline in other countries.

- **Issue**
Korea's unreasonably stringent warranty/recall requirements for global automakers.
- **Relevant Regulations**
Motor Vehicle Management Act
- **Relevant Agencies**
Ministry of Land, Infrastructure and Transport (MOLIT)
- **Relevant KORUS Provisions**
Chapter 9 (Technical Barriers to Trade) Article 7 (Automotive Standards and Technical Regulations)

Recommendation

Automakers should be required to notify recalls only for vehicles or parts that are sold by the automaker in Korea. Moreover, the deadline for giving notice should conform to international norms and not be less than 30 days.



CHEMICALS

- Overview
- Detailed Criteria to Distinguish Chemical Substances from Articles^{NEW}
- Discrepancies in the List of Existing Chemicals between the K-REACH and the OSHA^{NEW}
- Disclosure of Confidential Business Information^{UNRESOLVED}
- Expanded Scope of Consumer Chemical Product Regulations^{UNRESOLVED}
- Redundant Regulations under the Chemical Control Act (CCA)^{UNRESOLVED}
- Test Methods for Consumer Chemical Products^{UNRESOLVED}

OVERVIEW

Although U.S. chemical exports to Korea have benefited from duty-free treatment under the KORUS FTA, Korea's regulatory environment, characterized by a growing number of non-tariff technical burdens, remains challenging. Since the highly publicized accidents involving toxic humidifier disinfectants in 2011, "chemophobia" has become widespread in Korean society. On multiple occasions, concerns about the safety of chemical substances in various household products have been exacerbated by sensationalist media reporting. In response, the Ministry of Environment (ME) and the Ministry of Employment and Labor (MOEL) have introduced a series of tightened regulations on chemical products. Korea's Act on Registration and Evaluation of Chemicals (K-REACH), Chemical Substances Control Act (CCA), Consumer Chemical Products and Biocides Safety Act (K-BPR), and Occupational Safety and Health Act (OSHA) are examples of Korean standards that are overly strict compared to regulations in the U.S. and the EU. Such regulations create an uneven playing field by imposing regulatory barriers that inhibit U.S. companies' access to the Korea market.

ONGOING ISSUES

Detailed Criteria to Distinguish Chemical Substances from Articles

K-REACH Article 11 stipulates that chemicals contained in specific solid forms, serving particular functions, and not leaking during use are exempt from registration. The industry considers this provision as one of the exemption conditions for “articles”. However, there are products for which it is challenging to determine solely based on this condition whether they qualify as chemical substances or articles. Such ambiguity presents challenges in companies’ compliance efforts.

- **Issue**
Unclear conditions for registration exemption
- **Relevant Regulation**
Korea’s Act on Registration and Evaluation of Chemicals (K-REACH) article 11
- **Relevant Agency**
Ministry of Environment (ME)
- **Recommendation**
More elaborate criteria are needed in distinguishing an article or a chemical substance for registration exemption.

Discrepancies in the List of Existing Chemicals between the K-REACH and the OSHA

The definitions of new chemical substances differ between the K-REACH and the OSHA. Under K-REACH, substances previously designated as existing chemicals through hazardousness assessments under the former Toxic Chemicals Control Act are considered registered. However, OSHA does not recognize those substances unless separately registered under OSHA. Consequently, compliance requirements vary between the two laws when handling these substances. While K-REACH requires joint registration for existing chemicals imported or manufactured in quantities of 1 ton or more, OSHA mandates the submission of a Hazardousness and Risk Assessment Report for substances imported or manufactured in quantities of 100 kg or more. This dual regulatory situation poses challenges for handling these substances.

- **Issue**
Disparity in recognizing existing chemicals between K-REACH and OSHA, leading to compliance challenges in handling the substances.
- **Relevant Regulations**
Korea's Act on Registration and Evaluation of Chemicals (K-REACH), Occupational Safety and Health Act (OSHA)
- **Relevant Agencies**
Ministry of Employment & Labor (MOEL), Ministry of Environment (ME)
- **Relevant KORUS Provision**
Chapter 9 (Technical Barriers to Trade) Article 1 (Affirmation to TBT Agreement)
- **Recommendation**
The hazardousness data for chemicals that have been designated as existing chemicals through hazardousness assessments under the Toxic Chemicals Control Act are already secured by the government. Registration of existing chemicals in quantities of 1 ton or more is ongoing under the Chemical Substance Control Act until 2030, so it is expected that more hazardousness and risk information will gradually be obtained. Therefore, AMCHAM

suggests amending Article 85 of the Enforcement Decree of the OSHA to include all existing chemicals under the K-REACH. AMCHAM also proposes amending Article 147 of the Enforcement Rules to relax the registration criteria for new chemicals under the OSHA to 1 ton, aligning with the K-REACH.

Disclosure of Confidential Business Information

K-REACH, CCA, and OSHA require disclosure of chemical mixture composition to authorities, creating duplicative regulations with varying requirements and systems. This complexity burdens U.S. chemical exporters to Korea, as they may face challenges in disclosure due to confidentiality concerns or incomplete information from third-party suppliers. Non-compliance can restrict exports to Korea for U.S. exporters.

Under the amended K-REACH, the Ministry of Environment (ME) provides the Only Representative (OR) method to comply with the registration and notification process for third-party importers. It is the sole method available to register or notify chemical substances imported by third parties. However, the Korean market volume is comparatively small in relation to the global market, making it challenging for global companies to justify the cost and burden of compliance with this process. With the newly amended K-REACH, the penalty for manufacturing, importing, or selling chemicals without registration has been increased to up to 5% of the average annual sales of the company for the three years prior to the violation.

The amended OSHA puts an additional burden on chemical companies. To import a chemical product, a company must register its data on the products' substance under the amended K-REACH, declare and obtain approval under CCA, receive approval on the Material Safety Data Sheet (MSDS), and obtain Confidential Business Information (CBI) approval for any substance registered as hazardous on the Globally Harmonized System of Classification and Labelling of Chemicals (GHS) that the company otherwise would not disclose due to confidentiality reasons.

- **Issue**
Korean regulations that require the disclosure of confidential business information
- **Relevant Regulations**
Act on Registration and Evaluation of Chemicals (K-REACH), Chemical Control Act (CCA), Occupational Safety and Health Act (OSHA)
- **Relevant Agencies**
Ministry of Environment (ME), Ministry of Employment and Labor (MOEL)

- **Relevant KORUS Provision**

Chapter 9 (Technical Barriers to Trade) Article 1 (Affirmation to TBT Agreement)

- **Recommendation**

AMCHAM acknowledges the necessity of transparency in safeguarding consumers from hazardous chemicals but suggests that companies should only disclose information on such substances to protect confidential business data. They propose adjusting penalties for non-registration of substances to be less punitive.

Expanded Scope of Consumer Chemical Product Regulations

K-BPR significantly broadens the scope of consumer chemical products subject to registration and/or safety confirmation. The definition of “Consumer Products” now encompasses not only household items but also industrial and professional products. Consequently, U.S. companies importing or manufacturing consumer chemical products must adhere to safety and labeling standards, incurring substantial costs and assuming significant regulatory responsibilities. These responsibilities include biennial reporting, testing at designated labs every three years, and so on. Moreover, frequent and redundant registrations are necessary even for minor formula changes, posing specific challenges for imported products.

Some products that were previously not subject to these requirements may fail to pass the newly mandated tests. In such cases, there will be a risk that the import and sale of these products will be discontinued. This will impact on both U.S. exporters and Korean end users, particularly if alternative products meeting the new safety and labeling standards are not readily available.

- **Issue**
Recent legislation that expands the scope of registration and/or safety confirmation, burdening U.S. companies
- **Relevant Regulations**
Korea’s Consumer Chemical Products and Biocides Safety Act (K-BPR)
- **Relevant Agencies**
Ministry of Environment (ME), Ministry of Employment and Labor (MOEL)
- **Relevant KORUS Provision**
Chapter 9 (Technical Barriers to Trade) Article 1 (Affirmation to TBT Agreement)
- **Recommendation**
Companies should not be required to register changes that have no relevance to human health. Percentage changes, changes in minor ingredients like perfume, and inert chemical changes in formulas are examples of irrelevant chemical changes that should be exempted. Redundant registration requirements, e.g.,

between CCA and K-BPR, should be eliminated. A sufficient grace period for registration of such changes should be granted to minimize difficulties for businesses.

Redundant Regulations under the Chemical Control Act (CCA)

CCA is a law designed to manage chemical substances and prevent chemical accidents. According to Article 3 (Scope of Application) of the law, products regulated under other laws are exempt from CCA control. However, household chemical products regulated by the 'Chemical Control Act on Consumer Chemical Products and Biocides Safety Control' and hygiene products regulated by the 'Hygiene Control Act' are still within the scope of CCA regulation.

- **Issue**
Redundant regulations under CCA
- **Relevant Regulations**
Chemical Control Act (CCA)
- **Relevant Agencies**
Ministry of Environment (ME)
- **Relevant KORUS Provision**
Chapter 9 (Technical Barriers to Trade) Article 1 (Affirmation to TBT Agreement)
- **Recommendation**
The Korean government should try to eliminate duplicate regulatory requirements.

Test Methods for Consumer Chemical Products

Under K-BPR, ME maintains its own safety testing methods for the safety and labeling standards of consumer chemical products, which differ from globally standardized testing methods. ME only recognizes certified testing agencies in Korea, primarily semi-governmental organizations, and does not acknowledge globally certified agencies. These conditions impose an additional burden on global companies in Korea, requiring them to conduct additional sets of testing for certification and modify products to meet ME's safety standards when importing consumer chemical products from the U.S. This can act as a barrier for global companies seeking to enter the Korean consumer chemical product market.

- **Issue**
Korea's lack of recognition on globally standardized testing methods.
- **Relevant Regulations**
Consumer Chemical Products and Biocides Safety Act (K-BPR)
- **Relevant Agencies**
Ministry of Environment (ME)
- **Relevant KORUS Provision**
Chapter 9 (Technical Barriers to Trade) Article 1 (Affirmation to TBT Agreement)
- **Recommendation**
Korea should harmonize its testing methods for safety and labeling standards for consumer chemical products with globally standardized testing methods. Testing results from globally certified testing agencies should be recognized in Korea.



DIGITAL ECONOMY

- Overview
- Artificial Intelligence^{NEW}
- Legislative Bill on Management and Support for Stability of Digital Services^{NEW}
- Online Platform Regulations^{NEW}
- Application of the Cloud Security Assurance Program (CSAP) ^{UNRESOLVED}
- Designation of a Local Representative ^{UNRESOLVED}
- Personal Information Protection Act (PIPA) ^{UNRESOLVED}

OVERVIEW

Free movement of data across borders is essential to 21st-century commerce and the Fourth Industrial Revolution. Unfortunately, Korea's regulations impose highly stringent and globally unique requirements on cloud and internet service providers that diverge from international standards. Such regulations restrict market access opportunities for the U.S. and other global service providers who face difficulties in compliance due to the global nature of their business operations. This situation favors local providers to the detriment of global providers. Additionally, these regulations isolate Korean businesses and consumers from accessing globally innovative technologies and services, which could stimulate greater economic productivity and innovation within Korea.

AMCHAM supports digital trade regulations that enable and facilitate the cross-border flow of data and avoid data localization requirements. Mandating that data be kept or processed within national boundaries does not make it safer from cybersecurity threats or natural disasters. U.S. industries are making significant investments in cloud data centers worldwide to provide globally integrated services and achieve data storage security. Decisions on where data is stored and how it is processed should be determined by the free market and consumer choice rather than through government mandates.

AMCHAM applauds the Korean government's effort to better align Korea's regulations on cloud and internet services with global standards and usher in the Fourth Industrial Revolution. In particular, we welcome the establishment of the Presidential Committee on Digital Platform Government with the initiative to create a data-based digital platform where the government could collaborate with the public and firms to solve social problems. However, we are concerned about legislation imposing requirements that restrict the free movement of data across borders such as mandating the localization of certain components of the cloud industry in Korea. It is our hope that the Korean government will work closely with international businesses and the U.S. government to address these concerns and create a truly level playing field for domestic and multinational companies in the digital economy sector.

INDUSTRY ISSUES

Artificial Intelligence

In December 2022, a bill proposing the enactment of the Act on Promotion of AI Industry and Framework for Establishing Trustworthy AI was introduced to the Korean National Assembly. The legislative intent behind the bill aimed to stimulate further growth of the AI industry through ex-post regulations, reflecting the Korean government's strong determination to position itself as a global frontrunner in the AI field. Although the bill was initially expected to swiftly pass the National Assembly during the first half of 2023, it is currently under revision to take into account the potential risks associated with AI.

While the revisions to the bill are yet to be announced, AMCHAM understands that the revised bill may impose a greater burden on AI-related businesses, particularly those engaged in high-risk sector AI. AMCHAM is concerned that American companies exploring the Korean AI market will face high market barriers following the passage of the bill, along with various other regulatory initiatives recently announced by the KCC and the PIPC, among others.

AMCHAM understands and supports the Korean government's efforts to ensure the spread of safe and reliable AI. However, we are concerned that the government's increasing efforts to regulate the use of AI on multiple fronts may hinder opportunities for American companies in Korea, including opportunities for collaboration with Korean companies.

- **Issue**
Ongoing debate on how to regulate the risks associated with AI without limiting AI's potential for growth, with particular emphasis on deepfake, disinformation, data governance and privacy, copyright, and supply chain and chips.
- **Relevant Regulations**
Proposed legislation to enact the Act on Promotion of AI Industry and Framework for Establishing Trustworthy AI (AI Bill), (proposed amendments to the) Copyright Act, anticipated AI bill driven by the KCC, anticipated guidelines driven each by the PIPC, KCC, and the Ministry of Culture, Sports and Tourism (MCST)
- **Relevant Agencies**
Ministry of Science and ICT (MSIT), Korea Communications

Commission (KCC), Personal Information Protection Commission (PIPC), Ministry of Culture, Sports and Tourism (MCST)

- **Relevant KORUS Provisions**

Chapter 12 (Cross-Border Trade in Services)

- **Recommendation**

We urge the Korean government to align with international best practices and pursue proportionate, risk-based regulation that enables responsible and safe development of AI to increase Korea's competitive edge in the AI field.

Legislative Bill on Management and Support for Stability of Digital Services

In the aftermath of the fire and service outage at the Pangyo data center in late 2022, the Legislative Bill on the Management and Support of Stability of Digital Services was proposed in the National Assembly's Science, ICT, Broadcasting, and Communications Committee on January 30, 2024. The Bill mandates that major digital service providers develop and execute a management plan, perform simulation drills, and report incidents to the government. However, AMCHAM raises concerns about the Bill's uniform enforcement across all value-added telecommunications business operators, regardless of the distinct nature of their services. This blanket application is seen as both impractical and unfair, as it fails to consider the unique nature and varying impacts of different digital services.

- **Issue**

The Bill does not differentiate the various services provided by value-added telecommunications operators, introducing redundant regulations and significantly increasing compliance cost and complexity. This approach clashes with self-regulation principles, and could risk exposing trade secrets due to excessive documentation demands.

- **Relevant Regulations**

The proposed Legislative Bill on Management and Support for Stability of Digital Services

- **Relevant Agencies**

ICT Committee of National Assembly, Ministry of Science and ICT (MSIT)

- **Relevant KORUS Provisions**

Chapter 15 (Electronic Commerce) and Chapter 18 (Intellectual Property Right)

- **Recommendation**

AMCHAM urges the National Assembly to thoroughly reevaluate the Bill. Our regulatory approach advocates for tailored obligations that reflect unique capabilities and characteristics of each service provider, aiming to preserve constitutional principles while minimizing undue burdens on businesses.

Online Platform Regulations

As digital platform businesses have significantly impacted the Korean economy, concerns about unfair business practices and their negative effects on consumers have grown. The KFTC's proposal to create the "Online Platform Bill" was abruptly introduced during the Cabinet meeting held on December 9, 2023, sparking controversy within the industry.

Some U.S. online platform companies have expressed concerns about the KFTC's proposed Online Platform Bill for the following reasons: (1) Digital platform providers see the "Online Platform Bill" as an unnecessary duplication of regulations, (2) the adoption of EU's gatekeeper concept should be carefully assessed, considering its potential impact on the digital services market in Korea, (3) the proposed bill could inadvertently target Korean and U.S. digital services providers, creating discrimination in the market and handling market share to Chinese technology giants in Korea, and (4) the digital platform providers request the KFTC to provide the most recent draft of the proposed Online Platform Bill and adhere to due process by engaging in industry consultations during the legislative proceedings.

On the other hand, some U.S. companies active in the digital platform sector support the proposed Online Platform Bill, recognizing the need to regulate Big Tech to promote fair and open competition among digital service providers and other stakeholders.

- **Issue**
Legislation prohibiting the pre-designated large platform operators from abusing/misusing their market power
- **Relevant Regulations**
Online platform legislation (Proposed)
- **Relevant Agencies**
Korea Fair Trade Commission (KFTC)
- **Relevant KORUS Provisions**
Chapter 12 (Cross-border trade in services)
- **Recommendation**
Given the differing industry views on the proposed legislation, AMCHAM asks the Korean government to take time to consult with civil society and industry groups on this issue and provide more transparency in the process of formulating the new bill.

Application of the Cloud Security Assurance Program (CSAP)

Korea's unique data protection standards for public cloud services, enforced by the MSIT and the Ministry of the Interior and Safety, require public agencies to only use SaaS and IaaS from providers certified under the Cloud Security Assurance Program (CSAP) by KISA. This certification demands specific criteria such as physical network separation, discriminatory local and global Common Criteria (CC) Certification, Korea-specific encryption modules, and vulnerability scanning/penetration testing of CSPs' infrastructure. These standards are more stringent than global norms, making it challenging for foreign cloud providers, particularly U.S. companies, to comply solely to access the Korean market.

The four criteria mentioned above serve as barriers to foreign cloud service providers. This makes it more difficult for U.S.-based ICT companies to enter the SaaS market as well as the IaaS market for public institutions, including local governments, public corporations, public schools, and public research institutes.

In January 2023, the MSIT announced an amendment to the Notification on the Security Certification of Cloud Computing Service concerning the CSAP certification, introducing "High", "Moderate", and "Low" impact level categories and allowing logical separation of the network for the Low-tier. Nonetheless, this change is largely superficial and falls far from generating any tangible impacts. Even though the physical separation rule is now partially lifted for the Low-tier space involving non-personal public data, it only has a limited impact due to the prevalence of personal information in Korea's public data. Additionally, three major blocker requirements remain unchanged across all certification tiers, making it difficult for foreign CSPs to achieve any level of CSAP certification.

- **Issue**
Korea-unique data protection standards for public cloud computing that deter U.S. companies from entering the Korean market
- **Relevant Regulations**
Cloud Security Assurance Program (CSAP) certification
- **Relevant Agencies**
Ministry of Science and ICT (MSIT), Ministry of the Interior and Safety (MOIS)
- **Relevant KORUS Provisions**
Chapter 12 (Cross-Border Trade in Services), Chapter 15 (Electronic Commerce) & Chapter 17 (Government Procurement)

- **Recommendation**

AMCHAM urges the Korean government to extend logical network separation to the Moderate tier, broaden the range of non-sensitive public sector information, and revise Korea-specific requirements to align with global technological standards. This, they believe, would promote regulatory reform in the cloud computing sector.

Designation of a Local Representative

In May 2020, the National Assembly amended the Telecommunications Business Act (TBA) to require large content providers to ensure network stability and appoint local representatives. Concerns arose within the industry that this requirement imposes responsibility on content providers for network quality they cannot control. Meanwhile, the KFTC announced potential amendments to the E-Commerce Act, aiming to mandate foreign business operators to designate local representatives responsible for managing consumer complaints and providing information requested by authorities under the Fair Trade Act.

AMCHAM understands the intent of the amended TBA and subsequent legislative proposals mandating the appointment of a local representative is to promote the development of domestic e-commerce and to protect the rights and benefits of Korean users of online services provided by global service providers. However, such a regulation would have the unintended consequence of making it practically impossible for certain U.S. service providers to operate in Korea, particularly smaller U.S. internet companies that cannot designate an agent in Korea.

The regulation contradicts Article 12.5 of the KORUS FTA, which stipulates that neither party may require a service supplier of the other party to establish or maintain a representative office or any form of enterprise, or to be resident, in its territory as a condition for the cross-border supply of any service. Requiring the designation of a domestic agent would yield results similar to requiring the establishment of a representative office.

- **Issue**
Recent legislation that requires foreign service providers to designate a domestic representative
- **Relevant Regulations**
Act on Promotion of Information and Communications Network Utilization and Information Protection, Etc. (Network Act), Telecommunication Business Act (TBA), Personal Information Protection Act (PIPA), amendments to the current E-Commerce Act (KFTC)
- **Relevant Agencies**
Ministry of Science and ICT (MSIT), Korea Communications Commission (KCC), Personal Information Protection Commission (PIPC), Korea Fair Trade Commission (KFTC)

- **Relevant KORUS Provisions**

Chapter 12 (Cross-Border Trade in Services)

- **Recommendation**

We encourage the Korean government to end the requirement for foreign telecommunications service providers to designate a foreign agent in Korea, which is likely to impose significant hardships on U.S. service providers and ultimately have adverse consequences for the domestic value-added telecommunications service market.

Personal Information Protection Act (PIPA)

After the amendment of PIPA in 2023, the amended law brings several notable implications for global companies, including: (1) the expansion of data subject rights, such as data portability and the right to refuse or request explanation on automated decision-making, and (2) the shift towards economic sanctions, with an upward adjustment in the base amount for administrative penalties and fines, changing from “relevant revenue” to “total revenue”.

PIPA imposes stricter regulations on the overseas transfer of personal data. Data controllers must inform users of the destination, intended use by third parties, transfer method and timing, and retention period when obtaining consent for such transfers. Additionally, the amended law empowers the Personal Information Protection Commission (PIPC) to halt a company's cross-border data transfers in case of significant violations or insufficient protection of transferred personal data, prompting concerns from U.S. stakeholders.

The current stance of the PIPC regarding the provision of personal information to overseas third parties is that separate consent is necessary for both “cross-border transfer” and “third-party provision of personal information.” However, AMCHAM understands that the regulator also requires each of these items to be separately outlined in the privacy policy. This requirement remains, despite the fact that the only distinction between the two lies in the involvement of an overseas third party in the former, thereby imposing an additional burden on business entities.

These regulations create an uneven playing field for U.S. data storage and processing service providers and are inconsistent with the principle of the most favored nation treatment under the KORUS FTA, as well as the World Trade Organization (WTO) General Agreement on Trade in Services (GATS). Requiring global content providers to install servers in Korea and provide services effectively mandates data localization.

- **Issue**
Strict requirements on handling the collection, usage, disclosure, and other processing of personal information
- **Relevant Regulations**
Personal Information Protection Act (PIPA)

- **Relevant Agencies**
Ministry of Science and ICT (MSIT), Personal Information Protection Commission (PIPC)
- **Relevant KORUS Provisions**
Chapter 12 (Cross-Border Trade in Services)
- **Recommendation**
We urge Korea to align the personal information protection regulations with global standards and to seek more effective ways to facilitate cross-border transfer of data in line with global standards.



ENERGY & ENVIRONMENT

- Overview
- Bilateral Agreements for CO2 Transport and Storage^{NEW}
- Equity Investment Commitment Letter (ECL) in Electricity Business License (EBL) evaluation process^{NEW}
- Need for Different Approach to Interconnection Analysis^{NEW}
- Opportunities for Private Investment in Grid Infrastructure^{NEW}
- Domestic Certification Requirements for Large- and Medium-Sized Wind Turbines^{UNRESOLVED}
- Need for RE100 Policy Changes^{UNRESOLVED}

ENERGY & ENVIRONMENT

OVERVIEW

The Korean government has committed to achieving “Zero Carbon Emissions” by 2050, with plans to reduce coal reliance during the transitional "energy mix" period and shift focus towards nuclear, LNG, and renewable energy sources.

The energy industry, including the renewable energy sector and nuclear power plants, is expected to gain momentum following the IPEF Ministerial Meeting held in March 2024. Participating economies agreed to establish joint standards and share regulatory and incentive policies to foster robust cooperation across five key areas: carbon markets, clean electricity, hydrogen, just transition, and Sustainable Aviation Fuel (SAF). In response, South Korea plans to lead in establishing regional carbon market-related standards and actively participate in clean electricity cooperation to advance the expansion of the Carbon-Free Energy (CFE) initiative.

Also, the Korean National Assembly passed the Act on the Capture, Transportation, Storage, and Utilization of Carbon Dioxide (the “CCUS Act”) on January 9, 2024, to provide the legal and institutional framework necessary for addressing climate change mitigation and promoting the CCUS industry.

However, there are concerns within the industry regarding rising energy costs. With the working plan of the 11th Basic Plan on Electricity Supply and Demand unveiled on May 31st, AMCHAM hopes that the Korean government actively communicates with the relevant industry stakeholders during the process to formulate more sustainable and practical measures for mitigating the impact of escalating energy costs while progressing towards achieving the Zero Carbon Emissions target.

INDUSTRY ISSUES

Bilateral Agreements for CO₂ Transport and Storage

Since South Korea's storage capacity is limited, capturing CO₂ from local emitters, transporting it, and storing it in foreign storage locations will be key for the country to achieve its committed 2030 and 2050 emissions reduction targets. In order to do so, and although South Korea has ratified the London Protocol, bilateral agreements with importing countries are required and we urge more active movement for this subject.

- **Issue**
Need for bilateral agreements that allow CO₂ transport from South Korea in a more timely manner
- **Relevant Agencies**
Ministry of Trade, Investment and Energy (MOTIE)
- **Relevant Regulations**
Carbon Dioxide Capture, Transportation, Storage, and Utilization Act.
- **Recommendation**
Speed up proposed bilateral agreements and develop other timely ones with countries that hold relevant storage capacity and aim to develop the CCS market with Korean stakeholders.

Equity Investment Commitment Letter (ECL) in Electricity Business License (EBL) Evaluation Process

In December 2022 the Electricity Regulatory Committee (ERC) revised the standard evaluation guidelines for the EBL to include the ECL that is legally binding as a demonstration of commitment to support equity injection to the project during construction at a minimum of 15% of the total project cost. This amendment was aimed at filtering out disingenuous developers including speculators. Furthermore, in August 2023, ERC added proof of actual paid-in capital equivalent to at least 1% of the total project cost to its evaluation criteria to raise the hurdle.

For a typical 400MW greenfield offshore wind project in Korea the commitment in the ECL and paid-in capital amounts to 300 billion KRW and 20 billion KRW each as calculated below:

- i) Expected TIC of a 400MW project: approx. 2 trillion KRW (5 billion KRW/MW)
- ii) 1% of the total project cost paid-in capital: 20 billion KRW
- iii) ECL commitment to 15% of total project cost: 300 billion KRW (including the paid-in capital)

The two requirements serve as a double barrier to screen disingenuous developers through raising the standards of the project owner's financial capabilities. While the paid-in capital is a sufficient barrier considering its significant amount suitable for its purpose, the ECL poses a serious threat to foreign investment in Korean offshore wind. The guidelines explicitly require a legally binding document and prohibit the inclusion of 'reversible internal conditions' such as 'availability of the necessary capital' and 'board approval' in the ECL. In a standard international governance environment for corporates and financial institutions, such equity commitment letters are considered as 'unconditional' obligations and are commercially incongruent if required to be issued prior to making the final investment decision by the relevant governing body.

Contrary to its intended purpose, the new ECL guideline is now serving as a major obstacle for credible, financially qualified investors and developers (primarily foreign) and has caused considerable uncertainty in the market.

As a direct consequence, the new ECL guideline has substantially slowed down the EBL application process and the number of EBLs approved, and some EBL applications have even been disallowed.

The new ECL guideline is generally considered to be misguided, especially as it requires unconditional equity commitment at the time of EBL application despite 4 to 6 years of further development typically required for greenfield offshore wind projects. Any form of equity commitment letter at such an early point in the development phase invariably includes customary conditions such as “board approval” and “equity and debt funding” as essential and prudent risk management and governance measures designed to ensure responsible and transparent investment practices.

The new ECL guideline is significantly impacting and discouraging foreign participation in the development of and investment in the Korean offshore wind market at a time when Korea needs to engage with international developers and investors to catalyze the development of its offshore wind industry. Numerous foreign players are finding it highly challenging to satisfy the new ECL guidelines.

AMCHAM urges the Korean government and its agencies to actively promote and encourage participation by foreign developers and investors and provide an enabling legal and regulatory framework to support the creation of a new large-scale renewable energy industry.

- **Issue**
Equity Commitment Letter discouraging foreign investment and participation
- **Relevant Regulations**
Standard Evaluation Form of Electricity Business License
- **Relevant Agencies**
Ministry of Trade, Industry and Energy (MOTIE)
- **Recommendation**
AMCHAM urges the Korean government to modify the requirements in the Equity Commitment Letter to avoid disproportionately discouraging foreign investment.

Need for Different Approach to Interconnection Analysis

Under the existing permitting regime in Korea, which was established before the influx of privately developed renewable energy, projects are required to be operational within 10 years of being granted an Electricity Business License (EBL). After an inflow of renewable energy projects' applications for EBL, the Electricity Regulatory Committee (ERC) has started to reject applications based on the 'current' interconnection capacity.

The EBL is considered one of the initial steps in renewable energy project development, as it sets the site boundaries and resultant project capacity. During EBL deliberation, the ERC assesses the earliest possible interconnection period through an opinion request to KEPCO and KPX and should these authorities opine that the project can only become operational more than 10 years later than the time of deliberation, the ERC is likely to determine that the project is ineligible for an EBL.

However, the current approach overlooks the following potential loopholes:

- i) The approach presumes that all preceding projects come online as planned;
- ii) Grid conditions may improve over the course of development.

Given that the EBL serves as the starting point for project development, it is difficult to determine which projects will reach completion. Analyzing the interconnection of new projects under the assumption that all preceding projects will come online is overly aggressive. Moreover, changes in grid conditions over time may create opportunities for new projects to come online. Therefore, the decision to proceed with the project at the EBL stage and assume the risk on interconnection should rest with the developer, not the government.

- **Issue**
Interconnection analysis should not be a factor in EBL consideration
- **Relevant Regulations**
Electric Utility Act
- **Relevant Agencies**
Ministry of Trade, Industry and Energy (MOTIE)
- **Recommendation**
AMCHAM advocates that the government should only inform

developers of the constraints in interconnection and allow them to decide whether to proceed with the associated risks or not.

Opportunities for Private Investment in Grid Infrastructure

In recent years, limitations in interconnection capacity have emerged as a significant challenge for the development of renewable energy. Despite investors' strong motivations to advance projects, there remains no established timeline for interconnection leading to overall timeline uncertainty.

While this issue may also be prevalent in other markets, some have begun to invite private investors to contribute to grid improvements. Considering the vertical structure of Korean electricity system operation, it would be beneficial for the government to consider mobilizing private funds for its electricity infrastructure, similar to its approach in other sectors such as ports and highways. This could potentially alleviate some of the current challenges and accelerate the growth of renewable energy.

- **Issue**
Opportunities for Private Investment in Grid Infrastructure
- **Relevant Regulations**
Act on Public-Private Partnerships in Infrastructure
- **Relevant Agencies**
Ministry of Trade, Industry and Energy (MOTIE), KEPCO
- **Recommendation**
Korea should invite private investors to help improve grid capacity, facilitating the growth of renewable energy and easing KEPCO's financial burdens.

Domestic Certification Requirements for Large- and Medium-Sized Wind Turbines

The Korea Energy Agency (KEA)'s KS Certification system, which came into effect in 2014, inhibits the smooth entry of foreign suppliers into the market. Companies are obliged to hold KS Certification in order to receive government subsidies, as products without the certification are excluded from Renewable Energy Certificate (REC) issuance. As Korea's regulatory environment does not recognize international safety certification standards, the KS Certification requirement serves as an obstacle for foreign companies trying to enter the Korean market.

- **Issue**
Domestic Certification Requirements for large-and medium-sized wind turbines
- **Relevant Regulations**
Electric Utility Act
- **Relevant Agencies**
Ministry of Trade, Industry and Energy (MOTIE)
- **Relevant KORUS Provisions**
Chapter 9 (Technical Barriers to Trade)
- **Recommendation**
Mutual recognition of safety certification should be recognized to enhance the partnership and synergy between the two industries.

Need for RE100 Policy Changes

RE100 is a global inter-enterprise agreement project that aims to replace 100% of the electricity usage of companies with renewable energy by 2050. In order to achieve this goal, companies should fully commit to using electricity generated from renewable energy or purchase Renewable Energy Certificates (RECs) in proportion to the electricity used.

Currently, only 4% of all RE100 companies doing business in Korea purchase 100% renewable electricity. These businesses are advocating for greater policy changes to remove the barriers to renewable electricity in Korea. These policy suggestions include 1) creating a power market structure that enables renewables to compete fairly with fossil fuels, 2) increasing the national renewable energy usage goal to accelerate corporate use of renewable energy, 3) improving accessibility to Power Purchase Agreements, 4) enhancing the transparency of renewable electricity certificates and tracking systems.

- **Issue**
Need for legislation and policy changes to incentivize corporates to use renewable energy
- **Relevant Regulations**
Act on the Promotion of the Development, Use and Diffusion of New and Renewable Energy
- **Relevant Agencies**
Ministry of Trade, Industry and Energy (MOTIE), Korea Energy Agency (KEA)
- **Recommendation**
Korea should commit to supporting the use of renewable energy and recognize the need to accelerate the progress of RE100 in Korea.



FINANCIAL SERVICES

- Overview
- Adherence to Regulatory Transparency^{NEW}
- Differentiation of Information Handling for Corporate Clients vs. Consumer Clients^{UNRESOLVED}
- Liberalization of Firewall Standards among Financial Entities within Korea^{UNRESOLVED}
- Measured Liberalization of Korean Data Protection Standards for Financial Companies^{UNRESOLVED}
- Relaxation of Korean Network Segregation and Cloud Computing Standards for Financial Companies^{UNRESOLVED}
- Relaxation of Restrictions on the Short Sale of KTB^{UNRESOLVED}

OVERVIEW

With the Korean government nurturing ambitions to become a financial hub in the region, it is important to AMCHAM that Korea continues to be viewed as a safe and predictable place to do business. Amid the growing geopolitical tensions in the region, there is a compelling case to be made for Korea to become a regional financial hub and we want to help the Korean economy succeed.

AMCHAM commends the Korean government's efforts to better align Korea's regulations with global standards. In particular, we welcome the Financial Services Commission (FSC)'s well-intended deregulatory reform to expand the usage of cloud services in the financial sector. We also applaud the government's efforts to enhance the efficiency and stability of securities settlement and FX trading for offshore investors. However, Korea's regulatory environment still undermines its competitiveness and reduces the flexibility of foreign financial services companies operating in the country. AMCHAM hopes the Korean government will work closely with international businesses and the U.S. government to strengthen investor confidence in the Korean market and provide the right infrastructure for multinational companies to expand their business in Korea.

ONGOING ISSUES

Adherence to Regulatory Transparency

Financial industry participants continue to receive administrative guidance from regulators that are not aligned with current regulations. These actions effectively develop two sets of regulatory requirements: 1) a public set of written and promulgated regulations and 2) a grey area of guidance issued by regulators. The grey area of administrative guidance is unwritten, developed without financial sector input, and often runs counter to current regulations or rights of financial companies. Given the two sets of rules, financial companies find it difficult to operate and exercise their rights (as per written regulations). It also presents a challenge to positioning South Korea as a regional/global financial hub, as the regulatory inconsistency undercuts a sense of the rule of law, uniformity, and predictability.

- **Issue**
Challenges due to regulatory inconsistencies between administrative guidance and current regulations, undermining Korea's regulatory predictability and uniformity.
- **Relevant Agencies**
Financial Services Commission (FSC), Financial Supervisory Service (FSS).
- **Relevant KORUS Provision**
Chapter 13 (Financial Services) Annex13-B (Specific Commitments)
- **Recommendation**
The development and implementation of regulations through a transparent process is critical to the growth of the financial sector in South Korea. The development of off-the-book rules that are not aligned with written regulations reduces confidence in the regulatory system. To avoid these issues, South Korea should adhere to its commitments under KORUS, specifically Chapter 13 – Financial Services – Annex13-B (Specific Commitments), which underlines South Korea's commitment to “expand and enhance transparency” and within such context “shall provide interested parties an opportunity to comment on that guidance.”

Differentiation of Information Handling for Corporate Clients vs. Consumer Clients

The Regulation on Entrustment of Information Processing by Financial Companies has permitted, in principle, financial companies to outsource their information processing work to overseas institutions. In reality, however, consultations did not go smoothly during the reporting process, serving as a barrier for overseas outsourcing.

Corporate client information that is largely disclosed to the public already requires a differentiated information processing guideline compared to those required for individual client information. With the introduction of differentiated guidelines for corporate clients, advanced global financial services can be provided to domestic corporate clients, and further revitalization of the digital financial economy is expected.

- **Issue**
Need for global financial companies to consolidate information in overseas information processing systems in order to support corporate clients
- **Relevant Regulations**
Regulation on Supervision of Electronic Finance, Article 11, paragraph 11, Regulation on Supervision of Electronic Finance, Article 14-2, Regulation on Entrustment of Information Processing of Financial Companies, Article 7, paragraph 3
- **Relevant Agencies**
Financial Services Commission (FSC), Financial Supervisory Service (FSS).
- **Relevant KORUS Provision**
Chapter 13 (Financial Services)
- **Recommendation**
Corporate client information requires a differentiated information processing guideline from that for individual client information.

Liberalization of Firewall Standards among Financial Entities within Korea

South Korea currently sticks to a specialized banking system that requires the separation of banks, securities companies, and asset management companies, making it impossible for foreign financial companies to share information with their affiliates. Under such circumstances, many foreign financial institutions that have adopted a universal banking system must divide their organization into several units/entities in Korea. Firewall regulations that restrict the exchange of information among financial companies specializing in different businesses serve as a strong practical disincentive for Korea's case as a regional hub in Asia.

- **Issue**
Korea's specialized banking system restriction on information exchanges among financial companies
- **Relevant Agencies**
Financial Supervisory Service (FSS).
- **Relevant KORUS Provision**
Chapter 13 (Financial Services)
- **Recommendation**
We urge Korea to liberalize firewall standards among financial entities within Korea to facilitate the exchange of information among financial entities within Korea.

Measured Liberalization of Korean Data Protection Standards for Financial Companies

The liberalization of Korean data protection standards for financial companies operating in Korea would enhance the attractiveness of Korea to U.S. and global companies as a regional financial hub. Targeted liberalization of the Personal Information Protection Act, the Use and Protection of Credit Information Act, and the Act on Promotion and Communication Network Utilization and Information Protection to a level comparable to their counterparts in the U.S. and other developed OECD nations is desirable.

- **Issue**
The measured liberalization of Korean data protection standards for financial companies
- **Relevant Regulations**
Personal Information Protection Act (PIPA), Protection of Credit Information Act (PCIA), Act on Promotion and Communication Network Utilization and Information Protection, Etc. (“Network Act”).
- **Relevant Agencies**
Ministry of Interior and Safety (MOIS), Financial Services Commission (FSC), Financial Supervisory Service (FSS).
- **Relevant KORUS Provision**
Chapter 13 (Financial Services)
- **Recommendation**
We urge Korea to liberalize data protection standards to a level comparable to those of the U.S. and other developed OECD nations.

Relaxation of Korean Network Segregation and Cloud Computing Standards for Financial Companies

The relaxation of Korean network segregation and cloud computing standards for financial companies operating in Korea that want to leverage global cloud hubs located overseas would enhance the attractiveness of Korea to U.S. and global companies as a regional financial hub. The financial sector faces significant challenges to utilize global IT capabilities in Korea, including cloud and AI services, given the rules that mandate the separation of internal and with external networks. Introduced following a large-scale cyber-incident, the rules were codified in the Electronic Financial Supervisory Regulation. The regulation specifically introduced network separation rules that require separate internal networks for business purposes and external networks (with access to the internet). These factors not only drive up business expenses but also hinder the implementation of innovative technologies and systems, which could streamline operations, enhance customer care, and improve overall service quality. The inability of financial services companies' employees based in Korea to work across jurisdictions, with related parent company organizations, also slows down innovation as IT and related teams are only able to operate within the internal network. The rules also stifle innovative solutions that local and global financial technology firms can develop and provide for financial companies, as well as internal development of such solutions. Targeted relaxation of the Regulation on Supervision of Electronic Financial Transactions to a level comparable to the regulations of the U.S. and other developed OECD nations is desirable.

- **Issue**
Relaxation of Korean network segregation and cloud computing standards for financial companies that want to leverage global cloud hubs located overseas
- **Relevant Regulations**
Electronic Financial Transactions Act, Regulation on Supervision of Electronic Financial Transactions
- **Relevant Agencies**
Financial Services Commission (FSC), Financial Supervisory Service (FSS).
- **Relevant KORUS Provision**
Chapter 13 (Financial Services)

- **Recommendation**

We urge Korea to liberalize its network segregation and cloud computing standards to a level comparable to standards of the U.S. and other developed OECD nations, and recommend that the government work with the financial sector to accelerate reforms to the Electronic Financial Supervisory Regulation (Financial Services Commission) that would remove network separation while protecting company systems and customer data.

Relaxation of Restrictions on the Short Sale of Korea Treasury Bond (KTB)

Banks must cover KTB's position in the market on the same day they trade with foreign investors to avoid short sale regulation breaches, despite a settlement with the foreigner being due several days after the trade date.

This regulation hinders showing competitive offers to clients especially for illiquid off-the-run bonds, particularly when client RFQ (Request for Quotation) comes late in the day near market close, since it will be tough to source the bond from the market on the trading date.

Around \$60bn inflow is estimated if KTB were to be included in the World Global Bond Index (WGBI) and clients will demand active market making for off-the-runs.

- **Issue**
Restriction on short sales of KTB
- **Relevant Regulations**
Financial Investment Services and Capital Markets Act, Article 180
- **Relevant Agencies**
Financial Services Commission (FSC), Financial Supervisory Service (FSS).
- **Recommendation**
We recommend that Korea relax the short sale rule so that banks can cover KTB position on the bond settlement date instead of the trade date.



PHARMACEUTICAL, MEDICAL DEVICES & LIFE SCIENCES

- Overview
- Exclusion of Advanced Medical Equipment Companies from Relevant Policy Discussions^{NEW}
- Delayed Patient Access to New Medical Technologies^{UNRESOLVED}
- Lack of Transparency and Predictability^{UNRESOLVED}
- Pricing of Global Innovative Drugs^{UNRESOLVED}
- Reimbursement Coverage for Innovative Medical Technologies^{UNRESOLVED}

Pharmaceuticals & Medical Devices

OVERVIEW

The COVID-19 pandemic has brought a pivotal moment for the biopharmaceutical industry. Countries across the world are rushing to develop new drugs utilizing artificial intelligence. With the threat of another novel infectious disease pandemic in the near future, the biopharmaceutical is poised to emerge as a future growth engine. Through its innovative ecosystem, the biopharmaceutical field not only prolongs life expectancy but also enhances the quality of life, reduces healthcare costs, and holds promise as a future growth engine for the economy.

Recognizing this potential, the Korean government has announced the promotion of biopharmaceutical industry as Korea's next growth frontier. Aligned with its commitment to fortify the U.S.-Korea alliance, President Yoon has championed an ambitious investment strategy to establish the 'Korean Bio Cluster', drawing inspiration from the success of the 'Boston Bio Cluster' after his visit in April, 2023. Emphasizing collaboration with U.S. counterparts, this initiative underscores the imperative of cross-border cooperation.

In today's dynamic business landscape, collaboration across sectors has evolved from a mere option to a necessity. Cooperation with companies boasting diverse expertise is essential for driving innovation forward. Transparency, predictability, and a fair system that acknowledges the value of innovation are indispensable elements in nurturing a culture of creativity and progress. Hence, 'open innovation' and 'valuing innovation' have emerged as pivotal concepts that underscore the importance of collaborative approaches and the transformative power of inventive thinking.

Although the Korean government has improved pricing and reimbursement policies to provide better and faster access to innovative medicines and medical devices, U.S. companies still face challenges that discourage them from bringing innovation to Korean patients.

AMCHAM and its member companies in the pharmaceutical, medical device, and life sciences industries are pleased to be a part of the effort to build a healthcare system in Korea that encourages and incentivizes innovation while providing affordable and accessible care for all.

INDUSTRY ISSUES

Exclusion of Advanced Medical Equipment Companies from Relevant Policy Discussions

Medical technology is advancing rapidly in medical equipment, such as CT, MRI, and robotic surgery. Typically, enhanced medical devices, primarily consumable ones, aim for reimbursement through a value appraisal track. Conversely, medical equipment is usually procured directly by hospitals, leading to pricing discussions between the hospitals and providers. However, the pricing of the medical procedure associated with the medical equipment, known as the Resource-Based Relative Value Score (RBRVS), is already established, lacking a mechanism to capture additional value for the improved performance of the medical equipment.

The value of advanced medical equipment is insufficiently represented in the Resource-Based Relative Value Score. Particularly noteworthy is the ironic situation wherein enhanced medical equipment, designated to alleviate the workload of medical staff, may paradoxically decrease the score. In essence, the introduction of improved medical equipment can result in a reduction of the price of medical procedures.

Medical equipment has undergone remarkable advancements in recent years. Technologies embedded within these equipment, facilitating personalized solutions and treatments, have the potential to significantly enhance patients' quality of life and yield cost-effective outcomes. Consequently, a more comprehensive understanding of this equipment is anticipated to positively influence both patients and healthcare finances.

However, medical equipment companies have historically been excluded or sidelined from various government policy decisions. While pharmaceutical companies and medical device companies (primarily consumable medical devices) have been engaged in the decision-making process and consulted regarding policy changes, medical equipment companies have not been included in these communications. Therefore, there is an urgent need to establish a communication channel that enables medical equipment companies, as suppliers, to participate in discussions regarding policy improvements related to medical equipment.

- **Issue:** No communication with vendors regarding medical equipment

- **Relevant Regulations:** National Health Insurance Act
- **Relevant Agencies:** Ministry of Health and Welfare (MOHW), Health Insurance Review & Assessment Service (HIRA)
- **Relevant KORUS Provisions:** Chapter 5 (Pharmaceutical Products and Medical Devices) Article 1 (General Provisions), Article 2 (Access to Innovation)
- **Recommendation:** AMCHAM encourages the Korean government to open communication with medical equipment companies to discuss policies regarding medical equipment.

Delayed Patient Access to New Medical Technologies

Korea's healthcare system involves multiple patient access processes, including regulatory approval from the Ministry of Food and Drugs Safety (MFDS), New Health Technology Assessment (nHTA) approval from the Ministry of Health and Welfare (MOHW) and the National Evidence-based Healthcare Collaborating Agency (NECA), and reimbursement coverage and pricing approval from MOHW and the Health Insurance Review & Assessment Service (HIRA). To expedite these approval procedures, MOHW has implemented the Parallel Review (PR) process, inspired by the parallel review system of the U.S. Food and Drug Administration (FDA) and Centers for Medicare & Medicaid Services (CMS). This PR process allows for concurrent reviews of regulatory approval and nHTA applications, aiming to reduce the overall lead time for market access.

While the PR process contributes to shortening the patient access lead-time, the reimbursement coverage and pricing decision-making process are not included in it. In most cases, the reimbursement coverage and pricing decision-making process, especially for new and innovative medical devices that have undergone the nHTA process, takes significantly longer than other procedures (often two to three years), exceeding the legally mandated timeframe of 100 days. Various factors contribute to this substantial delay, including: 1) a lack of coordination between relevant departments within HIRA; 2) inefficient administrative operations; 3) inadequate communication with stakeholders (e.g., advisory healthcare professionals and specialty societies); 4) organizational understaffing; and 5) a lack of commitment to complying with the legally required review timeframe.

Delayed patient access resulting from lengthy review duration poses a disadvantage to innovators, particularly U.S. medical device manufacturers, given that the product life cycles of medical devices can be as short as 18 months. Consequently, the delayed adoption of innovative medical devices reduces the period of market exclusivity for these innovators.

- **Issue:** Delays in the approval process that deny patient-access to new medical technologies
- **Relevant Regulations:** National Health Insurance Act
- **Relevant Agencies:** Ministry of Health and Welfare (MOHW), Health Insurance Review & Assessment Service (HIRA), National Health Insurance Service (NHIS)

- **Relevant KORUS Provisions:** Chapter 5 (Pharmaceutical Products and Medical Devices) Article 1 (General Provisions), Article 2 (Access to Innovation)
- **Recommendation:** The process for reimbursement coverage and pricing approval from the MOHW and the HIRA should be accelerated to be within the legally mandated timeframe of 100 days. Reimbursement coverage and pricing approval should also be included in the PR process.

Lack of Transparency and Predictability

The Korean government has been operating the private-public consultative bodies with industry associations to improve drug pricing and reimbursement policies and to disclose the results of the reimbursement evaluation, demonstrating its commitment to fostering a pro-innovation policy environment. However, there remains room for improvement in terms of transparency and predictability.

Given the challenge in demonstrating the cost-effectiveness of high-priced innovative medicines, the industry has requested the Korean government to raise the Incremental Cost-Effectiveness Ratio (ICER) thresholds for evaluating the cost-effectiveness of treatment for severe and rare diseases to at least twice the GDP per capita. However, in 2022, the Korean government removed the reference to GDP per capita from the ICER threshold guidelines, introducing greater uncertainty into the cost-effectiveness evaluation process. According to the data released by the Health Insurance Review and Assessment Service (HIRA) in December 2023, the median ICER thresholds for anticancer and rare disease treatments over the past five years (2018~2022) were KRW 39,990,000 (approx. USD 30,762) and KRW 39,970,000 (approximately USD 30,746), respectively. Considering that Korea's GDP per capita in 2023 was KRW 44,051,000 (approx. USD 33,885), the value of new and innovative medicines is significantly underestimated in Korea.

New medicines must undergo reimbursement appropriateness evaluation by HIRA and drug price negotiation with the National Health Insurance Service (NHIS) for reimbursement. However, various subcommittees and the Drug Reimbursement Evaluation Committee (DREC) of HIRA often scrutinize reimbursement appropriateness with a heavy emphasis on price and budget impact. This results in pharmaceutical companies facing duplicated price-cut pressures even before engaging in drug price negotiation with the NHIS. Consequently, it becomes challenging for pharmaceutical companies to anticipate the appropriate pricing of medicines in Korea and develop a reasonable pricing strategy. In fact, the list price of medicines in Korea is among the lowest among OECD countries.

- **Issue:** Lack of predictability to pricing & reimbursement review process, lack of transparency and due process for companies to apply for reimbursement
- **Relevant Regulations:** Pricing & Reimbursement (P&R) regulations
- **Relevant Agencies:** Ministry of Health and Welfare (MOHW), Ministry of Food and Drug Safety (MFDS), National Health

Insurance Service (NHIS), Health Insurance Review and Assessment Service (HIRA)

- **Relevant KORUS Provisions:** Chapter 5 (Pharmaceutical Products and Medical Devices) Article 2(Access to Innovation), Article 3 (Transparency)
- **Recommendation:** AMCHAM encourages the Korean government to establish and disclose the clear criteria of the pricing and reimbursement evaluation to ensure transparency and predictability of policies.

Pricing of Global Innovative Drugs

Although Korea has introduced new pricing and reimbursement policies since the enactment of the KORUS FTA in 2012, the pricing and reimbursement evaluation process still takes considerably longer compared to other major countries. This prolonged process devalues innovation by global pharmaceutical companies, thereby negatively impacting Korean patients' access to new and innovative medicines.

Recent studies conducted by industry associations such as PhRMA and KRPIA in 2023 also highlight the limited access environment in Korea, as follows:

- Only 22% of the 460 new drugs launched from 2012 to the end of 2021 were reimbursed in Korea, a figure lower than the OECD average (29%) and that of other reference countries such as the U.S. (85%), Japan (48%), the U.K. (48%), and France (43%).
- The time from the global launch to public reimbursement in Korea averaged 46 months, longer than other reference countries such as the U.S. (4 months), Japan (17 months), the U.K. (27 months), and France (34 months). This means Korean patients often have to wait almost four years to access new drugs.
- Over the past decade (2012~2021), expenditure on new drugs accounted for only 2.1% of total medical expenditure and 8.5% of the total pharmaceutical expenditure in Korea, figures significantly lower than those in major developed countries.
- As of 2021, the sales proportion of new drugs launched globally in the past decade was merely 4% in Korea, ranking it among the lowest in OECD countries. Similarly, the sales proportion of patented new drugs and newly introduced drugs in 2021 stood at about 25%, lower compared to 45-65% in other major countries. These figures underscore a very low spending share on new drugs.

On February 4, the Korean government unveiled the '2nd National Health Insurance Comprehensive Plan' and its '2024 Implementation Plan', which include the enhancement of patient access by valuing innovative medicines. This includes initiatives such as shortening the reimbursement evaluation process for new medicines used in treating life-threatening diseases from 330 days to 150 days through the 'Approval-Evaluation-Negotiation System'; expanding the 'Pharmacoeconomic Evaluation Exemption (PEE) System' to include treatments for rare diseases that enhance the quality of life for pediatric patients; implementing a flexible ICER threshold for innovative new medicines; and expanding the 'RSA' to include

medicines that significantly deteriorate the quality of life. The plan aims to extend eligibility for premium pricing benefits to certain pharmaceutical companies as well.

In addition, the Korean government is also planning to implement multiple measures to exert pressure on drug prices for the sustainability of the national health insurance budget. These measures include revision to the 'Price-Volume Agreement (PVA)', re-evaluation of reimbursed drugs, and re-evaluation of international drug prices.

The drug pricing benefits outlined in the Second NHI Master Plan are a result of both governmental requirements and pharmaceutical companies' requests. The inclusion of specific details in the plan indicates the government's intent to enforce these measures. However, while the master plan outlines a general framework for premium pricing benefit and relevant post-management, further refinement of the details through public-private consultations is still necessary. There is significant industry concern that only superficial improvements will be achieved. Therefore, a thorough examination of the actual effects of system improvements embedded within the policy is needed, along with the preparation of clear and specific alternatives.

Another area for improvement is the 'Innovation Pharmaceutical Company (IPC)' designation system, which the Korean government has been implementing since 2012 to promote and recognize the innovation of pharmaceutical companies. If a company is designated as an IPC, it can receive tax benefits, R&D support, premium pricing, and so on. However, as of April 2024, only three out of the 46 IPCs are multinational companies, indicating that the evaluation criteria may be overly favorable to domestic companies, particularly in terms of recognizing innovativeness. Fortunately, the Korean government has been in discussions with the industry to enhance the IPC designation system. It is expected to announce improvements to the system in the first half of 2024. The industry anticipates that these changes will lead to fair evaluation and recognition of innovativeness for both domestic and multinational companies. The industry welcomes the government's efforts to improve the system and to accurately reflect the value of innovative drugs. It pledges to collaborate closely with government agencies to ensure that the revised system is effectively implemented in the Korean bio-pharmaceutical industry. The administration should facilitate collaboration between ministries and provide clear policy direction.

- **Issue:** Rigid drug pricing and reimbursement policies that do not reflect the characteristics of the pharmaceutical industry and the value of innovation

- **Relevant Regulations:** Global Innovative New Drug Pricing Benefit System
- **Relevant Agencies:** Ministry of Health and Welfare (MOHW), Health Insurance Review and Assessment Service (HIRA), National Health Insurance Service (NHIS)
- **Relevant KORUS Provisions:** Chapter 5 (Pharmaceutical Products and Medical Devices) Article 1 (General Provisions), Article 2 (Access to Innovation)
- **Recommendation:** In line with the commitment made during the KORUS FTA amendment negotiations to provide meaningful consultation and transparency during the revision of its pharmaceutical pricing policy, AMCHAM urges the Korean government to recognize the value of new and innovative medicines more quickly and appropriately, and to change the direction of drug pricing and reimbursement policies from one of budgetary constraint to one of flexibility and innovation for better patient access.

Reimbursement Coverage for Innovative Medical Technologies

U.S. medical device manufacturers must follow the pricing and reimbursement policies set by the Korean government as the country focuses on cost containment within its national healthcare system.

The importation of medical devices necessitates appointing an importer or representative based in Korea to oversee medical device approvals and ensure regulatory compliance. As part of the pre-market approval process, the Ministry of Food and Drug Safety (MFDS) mandates the submission of testing reports on safety and efficacy. Moreover, companies are required to negotiate pricing terms with the Korean Health Insurance Review and Assessment Service (HIRA) in addition to obtaining medical device approvals.

Issues that the medical device industry in Korea currently faces include the reimbursement pricing regulated by the National Health Insurance (NHI), the implementation of a new healthcare technology assessment system for medical devices, and the forthcoming regulation mandating device registration every 5 years, set to take effect in 2025.

With the implementation of the KORUS FTA, U.S. medical device companies can request a review of government pricing and maximum reimbursement determinations for their products through an Independent Review Process. This review process, established to oversee medical devices and drug prices, operates independently of the Ministry of Health and Welfare (MOHW), the National Health Insurance Service (NHIS), and the Health Insurance Review and Assessment Service (HIRA).

However, innovative technologies often struggle to enter the market due to the stringent and high standards of the evidentiary requirements necessary to obtain specific reimbursement coverages. These requirements include: 1) prospective comparative study, 2) retrospective comparative study meta-analysis, 3) prospective comparative study meta-analysis, 4) randomized prospective comparative clinical study, and 5) cost-effectiveness research. Considering the evolving nature of innovative medical technology and its potential benefits to patients, there is a need for more practical and flexible approaches to determine reimbursement coverage. The current evidentiary requirements for innovative medical technologies are significantly stricter than those for traditional medical technologies. This places a disproportionate burden on relevant manufacturers and hinders the market entry of innovative medical technologies, which could otherwise enhance patient care, save lives, and reduce NHI spending and medical costs through effective and efficient healthcare resource utilization.

- **Issue:** Lack of reimbursement coverage for innovative medical technologies
- **Relevant Regulations:** National Health Insurance Act, New Health Technology Assessment (nHTA)
- **Relevant Agencies:** Ministry of Health and Welfare (MOHW), Ministry of Food and Drug Safety (MFDS), National Health Insurance Service (NHIS), Health Insurance Review and Assessment Service (HIRA), National Evidence-based Healthcare Collaborating Agency (NECA)
- **Relevant KORUS Provisions:** Chapter 5 (Pharmaceutical Products and Medical Devices) Article 1 (General Provisions), Article 2 (Access to Innovation)
- **Recommendation:** In order to foster the development of innovative medical technologies in Korea, it is crucial to adopt a flexible and practical approach for determining reimbursement coverage. Coverage with Evidence Development (CED) is a globally recognized method for adopting innovative medical technologies. It ensures better patient benefits by providing reimbursement coverage, conditional on the development of robust clinical benefit evidence. This approach allows companies to enter the innovation market without interruption. A new pricing system such as the “New Conditional Reimbursement” notified in 2021 should be activated for better patient access to innovative medical technologies.

Table of Abbreviations

ABBR.	EXPANDED
AMCHAM	American Chamber of Commerce in Korea
AIM	American Innovation and Manufacturing
ABV	Alcohol by Volume
BCDA	Broadcasting Communications Development Act
BTD	Breakthrough Drug
CAFE	Corporate Average Fuel Economy
CBI	Confidential Business Information
CBP	U.S. Customs and Border Protection
CC	Common Criteria
CCA	Chemical Control Act
CED	Coverage with Evidence Development
CMS	Center for Medicare and Medicaid Services
COVID	Coronavirus Disease-19
CRISPR	Clustered Regularly Interspaced Short Palindromic Repeats
CSAP	Cloud Security Assurance Program
DAPA	Defense Acquisition Program Administration
ELV	End-of-life Vehicle
EMA	European Medicines Agency
EPA	Environmental Protection Agency
EPR	Extended Producers' Responsibility
FDA	Food and Drug Administration
FSC	Financial Services Commission
FSS	Financial Supervisory Service
FTA	Free Trade Agreement
GATS	General Agreement on Trade in Services
GATT	General Agreement on Tariffs and Trade
GHG	Greenhouse Gas
GHS	Globally Harmonized System of Classification and Labelling of Chemicals
GPA	Government Procurement Agreement
GWEC	Global Wind Energy Council

GWP	Global Warming Potential
HFC	Hydrofluorocarbons
HIRA	Health Insurance Review and Assessment Service
HVAC	Heating, Ventilation & Air Conditioning
IaaS	Infrastructure-as-a-Service
ICT	Information Communication Technology
IPC	Innovative Pharmaceutical Company
IPEF	Indo-Pacific Economic Framework
K-BPR	Safety Control Act of Household Chemical Products and Biocidal Products
KCC	Korea Communications Commission
KCS	Korea Customs Service
KCSC	Korea Communications Standards Commission
KDCPA	Korea Disease Control and Prevention Agency
KEA	Korea Energy Agency
KFTC	Korea Fair Trade Commission
KISA	Korea Internet Security Agency
KORUS	Free Trade Agreement between the United States of America and the Republic of Korea
KPBMA	Korea Pharmaceutical and Bio-Pharma Manufacturers Association
K-REACH	Act on the Registration and Evaluation of Chemicals
KTB	Korea Treasury Bond
LCR	Local Contents Requirement
LMO	Living Modified Organism
LTAP2	Large Transporter Secondary Project
MAFRA	Ministry of Agriculture, Food and Rural Affairs
ME	Ministry of Environment
MFDS	Ministry of Food and Drug Safety
MOA	Memorandum of Agreement
MOEL	Ministry of Employment and Labor
MOF	Ministry of Fisheries
MOHW	Ministry of Health and Welfare
MOIS	Ministry of Interior and Safety
MOLIT	Ministry of Land, Infrastructure and Transportation
MOTIE	Ministry of Trade, Industry and Energy

MRFTA	Monopoly Regulation and Fair Trade Act
MSDS	Material Safety Data Sheet
MSIT	Ministry of Science and ICT
MSRP	Manufacturer's Suggested Retail Price
MSS	Ministry of Startups and SMEs
MVCA	Motor Vehicle Control Act
NDC	Nationally Determined Contribution
NECA	National Evidence-based Healthcare Collaborating Agency
NHIS	National Health Insurance Service
NHPA	National Health Promotion Act
nHTA	New Health Technology Assessment
NIE	National Institute of Ecology
NIFS	National Fisheries Research and Development Institute
NTS	National Tax Service
OD	Offset Division
OECD	Organization for Economic Cooperation and Development
OEM	Original Equipment Manufacturer
OR	Only Representative
OSHA	Occupational Safety and Health Act
PCIA	Protection of Credit Information Act
PIPA	Personal Information Protection Act
PIPC	Personal Information Protection Committee
PoP	Proof of Performance
PR	Parallel Review
PRIME	Priority Medicines
P&R	Pricing & Reimbursement
RDA	Rural Development Agency
R&D	Research & Development
REC	Renewable Energy Certificate
RFP	Request for Proposals
RFQ	Request for Quotation
RRC	Risk Review Consultations
SaaS	Software-as-a-Service
SMEs	Small and Medium-Sized Enterprises

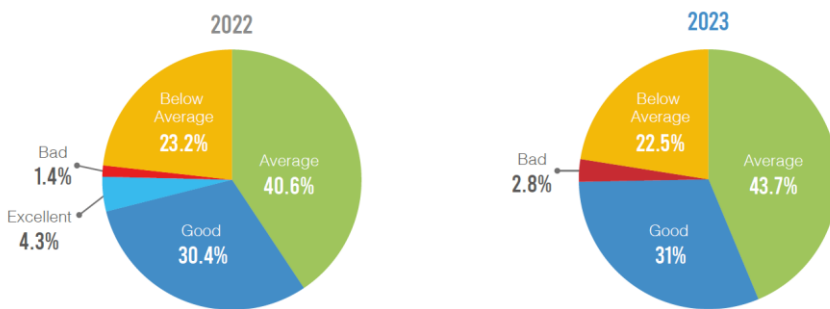
TAA	Technical Assistance Agreement
TBA	Telecommunication Business Act
TSN	Trade Secret Names
TWh	Terawatt hour
WGBI	World Global Bond Index
WTO	World Trade Organization

AMCHAM Business Survey 2024

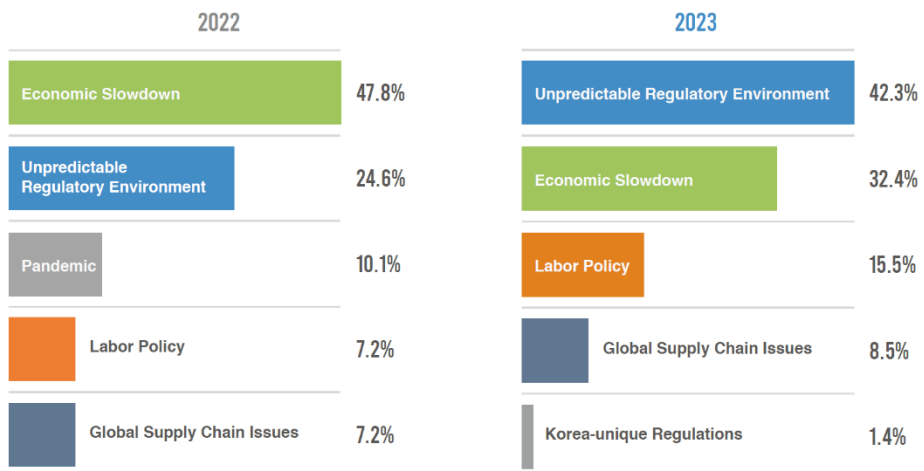


Business Climate of Korea 2023

► Current Business Environment in Korea

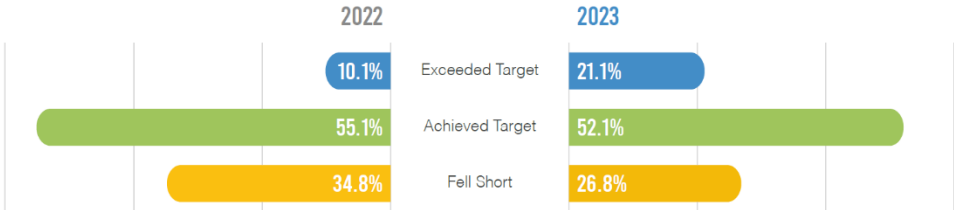


► Biggest Risks to Business Environment

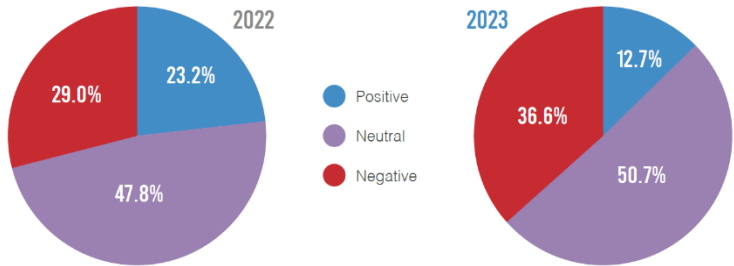


Growth and Political Affairs

▶ 2023 Business Growth

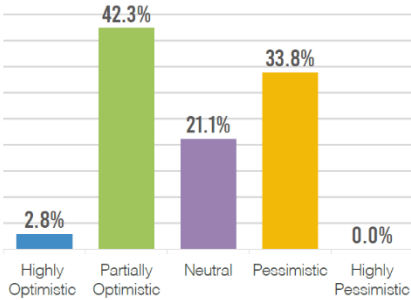


▶ 2023 Impact of Government Policies and Reforms

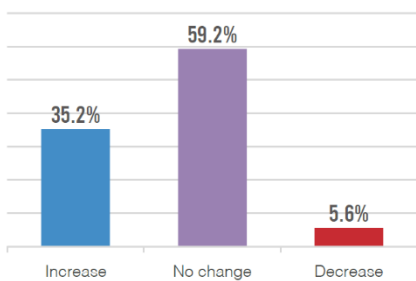


2024 – 2026 Outlook for Korea

▶ 2024 - 2026 Business Outlook

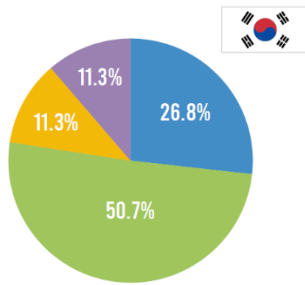


▶ 2024 - 2026 Investment Outlook



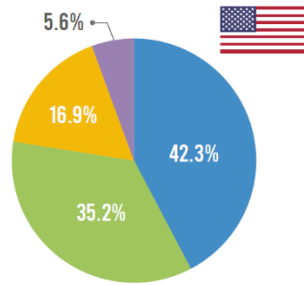
Impact of Korean and U.S. Elections

Impact of Korean General Election on Industry



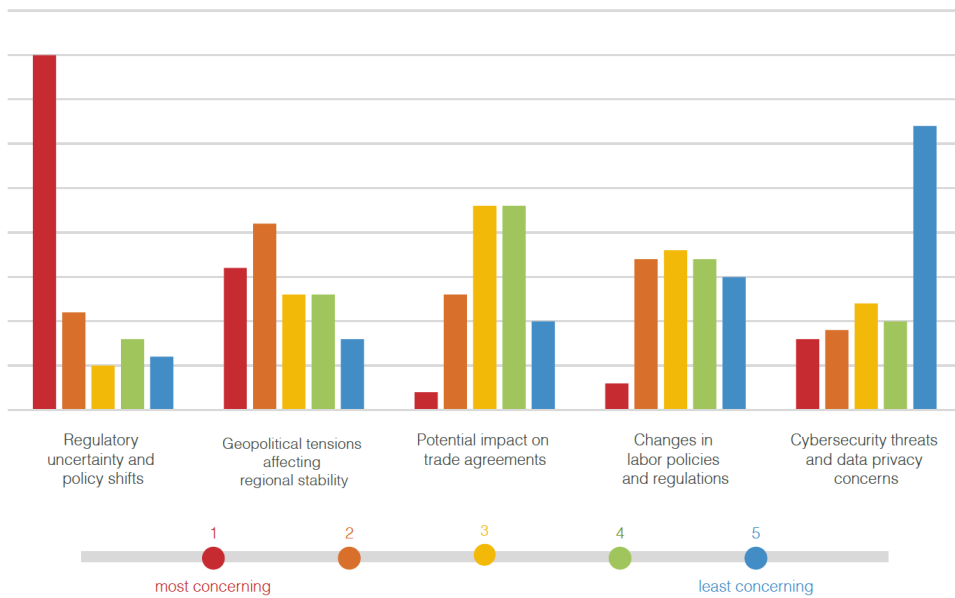
● Significant ● Moderate ● Minimal ● No opinion

Impact of U.S. Presidential Election on Industry



● Significant ● Moderate ● Minimal ● No opinion

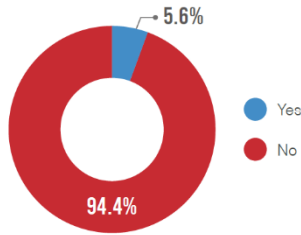
Potential Risk Factors of Korean and U.S. Elections



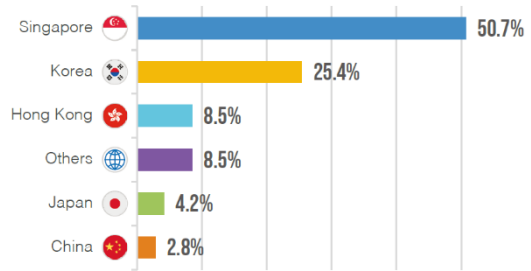


Korea as Regional Business Hub

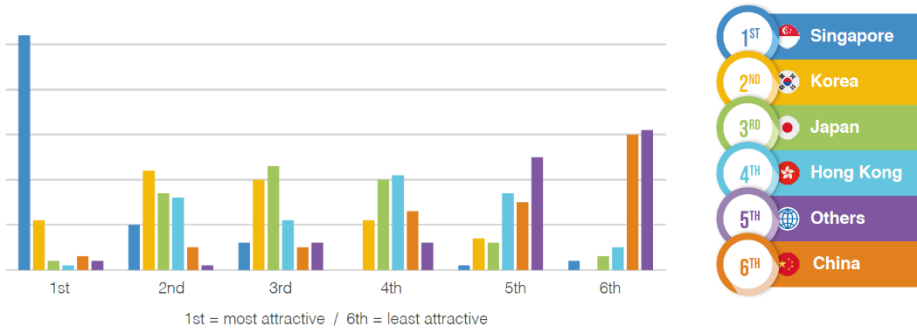
▶ Is your company considering the possibility of relocating its Asian regional headquarters?



▶ Location of Current Regional HQ



▶ Countries Most Preferred as Regional HQ



▶ Areas to Reform to Make Korea Regional HQ (Ranked)

- 1ST Labor Policy
- 2ND Korea-unique regulations
- 3RD CEO risks
- 4TH Tax policy
- 5TH Digital economy policy
- 6TH IP rights
- 7TH Energy policy

