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Obama Ignores Korean Request for Changes to Trade Deal; Implementation Rushed to Beat Korean April Election

Korean Party Expected to Win Warns Obama It Will Revoke Pact Absent Changes

WASHINGTON, D.C. – The Obama administration should accept Korean demands to remove controversial private corporate protections from the Korea Free Trade Agreement (FTA), rather than rush to implement the deal ahead of the April 11 Korean parliamentary elections (which recent polls indicate will elevate a political party that has vowed to terminate the pact unless the "investor-state" enforcement system is altered), Public Citizen said today. The mid-month implementation date being pushed for the Korea FTA is extremely rare for the United States. Generally, trade pacts are implemented on the first day of a month, since tariff cut phase-ins are determined from the date a pact goes into effect.

On Dec. 27, 2011, the Korean parliament passed a resolution calling for FTA renegotiations to remove the private investor enforcement system. On Feb. 8, nearly 100 parliamentarians – mainly from the opposition Democratic United Party (DUP), which is expected to gain control of the parliament in April – wrote President Barack Obama, vowing to terminate the FTA if it is implemented without changes. Shortly thereafter, the United States Trade Representative announced that the pact would be implemented on March 15.

Tens of thousands of anti-FTA protestors are again in the streets of Korea, while Korean polling shows 70 percent opposition to the pact. The FTA is one of the defining issues of the Korean election. The ruling party reorganized under a new name after polling predicted defeat by the DUP, which has made opposition to the current FTA one of its marquee issues.

"Just how damaging this deal is to the 99 percent in both countries has been repeatedly revealed from this latest disgrace of trying to outrun the democratic accountability of Korea's election to the White House, notably canceling a public bill-signing ceremony after the FTA was passed here," said Lori Wallach, director of Public Citizen's Global Trade Watch. "By rushing the implementation, the Obama administration is trying to cement in the extreme NAFTA-style corporate investor privileges that candidate Obama pledged would not be included in his trade agreements and that a large majority of Korea's parliament also opposes."

NAFTA-style foreign investor privileges and their private "investor-state" enforcement are among the most controversial aspects of past U.S. trade deals. In fact, this provision is now emerging as a point of major contention in the Trans-Pacific Partnership (TPP) negotiations, where Australia has indicated it will not accept "investor-state" enforcement. The terms of "investor-state" promote job offshoring by requiring host countries to guarantee privileged treatment for foreign investors, forbidding limits on investors' capital transfers, and providing corporations with a private enforcement of these rights. The system allows corporations to sue governments directly for cash damages in tribunals of three private-sector lawyers who alternate between serving as "judges" and bringing cases against governments for corporations, and who operate under arbitration rules of the World Bank and United Nations.

The "investor-state" regime eliminates many costs and risks normally associated with relocating production to low-wage developing countries. It also exposes a wide range of common government policies and actions to challenge outside domestic courts. Currently, Chevron is using an "investor-state" tribunal to try to avoid paying $18 billion in environmental cleanup and punitive damages ordered after 18 years of U.S. and Ecuadorian court rulings. Philip Morris is using the system to attack Australian and Uruguayan cigarette plain packaging laws. More than $675 million has been paid by governments to corporations under U.S. pacts' "investor-state" provisions alone, 70 percent of which has been in attacks on environmental, health and other non-trade policies.

A greater percentage of Democrats in the U.S. House of Representatives opposed Obama on the Korea FTA's passage (and two other trade deals passed the same day) than on any other legislation during his presidency. A higher percentage of House Democrats voted against Obama on this deal than did House Democrats against former President Bill Clinton's North American Free Trade Agreement (NAFTA) or China's entry into the World Trade Organization.

The official U.S. International Trade Commission study showed that the Korea FTA is projected to increase the overall U.S. trade deficit, with seven U.S. manufacturing sectors particularly hard hit. The Economic Policy Institute used government trade balance data to project that the pact would cost 159,000 American jobs in its first seven years.

The pact, signed before the global financial crisis, also includes limits on financial regulation. The Obama administration did not remedy this problem in 2010 when it tweaked auto trade provisions of the pact that had been signed in 2007 by then-President George W. Bush. Citigroup called the Korea FTA "the best financial services chapter negotiated in a free trade agreement to date."

"The Korea FTA has become the major campaign issue in Korea. And given the growing focus on American manufacturing in the U.S. election, I suspect many American politicians will rue the day that they supported a deal that even the official government studies show will increase our trade deficit and slam seven U.S. manufacturing sectors," said Wallach.

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