

CRS Report for Congress

U.S.-South Korea Beef Dispute: Negotiations and Status

Updated June 20, 2008

Remy Jurenas
Specialist in Agricultural Policy
Resources, Science, and Industry Division



Prepared for Members and
Committees of Congress

U.S.-South Korea Beef Dispute: Negotiations and Status

Summary

On April 18, 2008, U.S. and South Korean negotiators reached agreement on the sanitary rules that Korea would apply to all beef imports from the United States. This would allow for imports of all cuts of U.S. boneless and bone-in beef and other beef products from cattle, irrespective of age, as long as specified risk materials known to transmit mad cow disease are removed and other conditions are met. These rules significantly expand upon a January 2006 U.S.-South Korean protocol, which only permitted imports of U.S. boneless beef from cattle less than 30 months old. The revised rules were expected to take effect in mid-May when Korea published implementing regulations. However, continued strong Korean public opposition to the agreement led to the government's decision to request that the United States put on hold exports of beef from cattle older than 30 months, and to indefinitely postpone publication of the rules until there is a U.S. response. On June 19, negotiators reportedly reached an accommodation, with details expected to be released shortly.

If the April 2008 agreement takes effect, U.S. beef exporters would be ready to recapture a key overseas market. In 2003, South Korea was the third-largest market for U.S. beef exports, prior to the ban imposed after the first U.S. cow infected with mad cow disease, or BSE (bovine spongiform encephalopathy), was discovered.

Several Members of Congress have stated that congressional consideration of, and support for, the Korea-U.S. Free Trade Agreement (KORUS FTA), depends upon South Korea fully opening its market to U.S. beef. Though not technically on the agenda of the FTA talks, parallel bilateral negotiations in 2006-2007 did not resolve differences on the sanitary terms for resuming sales of all U.S. beef products.

The U.S. beef industry and U.S. policymakers welcomed the deal. However, in Korea, TV coverage of the issue and Internet-spread rumors that questioned the safety of U.S. beef resulted in escalating protests. With opposition political parties also advocating that the beef agreement be renegotiated or scrapped, the Korean government sought and received assurances from the United States (confirmed in an exchange of letters on May 19) that South Korea has the right under existing international agreements to take steps to protect its citizens from health and safety risks. The government hoped this letter exchange would quell public concerns by showing it could suspend U.S. beef imports if another infected BSE cow is discovered in the United States. However, protests have intensified and undermined the standing of the Korean President and his political party, which holds a slim majority in Korea's parliament.

U.S. trade officials maintain that the beef agreement will not be renegotiated. Their position is that U.S. beef is safe and is consumed by millions of Americans. They maintain that the U.S. measures in place to prevent the introduction of BSE in U.S. cattle herds meet international scientific standards. With Korea requesting to modify the agreement's terms without formally renegotiating it, both governments have little choice but to again explore options to reach some accommodation. This report will be updated to reflect developments.

Contents

Background	1
U.S. Beef Exports to South Korea	3
U.S. and South Korean Negotiating Objectives	3
April 2008 Beef Agreement	5
U.S. Feed Ban Rule Broadens Scope of Agreement	6
Steps to Be Taken If Problems Are Found During Inspection	6
Steps That Apply If Another U.S. BSE Case Occurs	7
Other Rules	7
Korean Reaction to Agreement	9
Initial Reaction	9
Government Efforts to Respond to Public Concerns	9
Bilateral Letter Exchange to Clarify Agreement Terms	10
More Recent Developments	10
U.S. Reaction to Agreement and to Korean Concerns	11
Latest Bilateral Discussions	13
Outlook	13
Appendix A. International Standards to Prevent Spread of BSE in Beef Trade ..	15

List of Figures

Figure 1. U.S. Beef Exports to South Korea, by Type	4
Figure 2. South Korean Beef Imports, by Leading Suppliers	4

U.S.-South Korea Beef Dispute: Negotiations and Status

Many U.S. policy makers view the resumption of all U.S. beef exports to South Korea — the third-largest market in 2003 — as essential, but not necessarily sufficient, before the U.S. Congress would consider implementing legislation for the Korean-U.S. Free Trade Agreement (KORUS FTA).¹ To facilitate this, the U.S. and Korean governments reached an agreement in mid-April 2008 on the rules that Korea would apply to U.S. beef imports that ensure shipments meet human health standards. South Korea's rationale for concluding this deal was to improve the prospects for the Bush Administration deciding to soon send the KORUS FTA to Congress, because of the limited time remaining in this year's congressional calendar. The White House had for some time signaled that Korea had to reopen its market to U.S. beef sales in order to secure the votes of Members of Congress who represent cattle production and beef processing states and whose support for the KORUS FTA is viewed as critical. However, in light of Korean public concerns about the safety of U.S. beef and growing opposition to the agreement, both governments have since engaged in intense discussions to find ways to address these concerns and resume U.S. beef sales to Korea. A formal bilateral announcement is expected shortly on the results of the latest round of talks that ended on June 19.

Background

South Korea's concern about the potential human health impacts of U.S. beef dates back to December 2003, when its government banned imports of U.S. beef after a Canadian-born cow in Washington state tested positive for bovine spongiform encephalopathy (BSE), or mad cow disease.² The loss of the third-largest export market together with other major foreign markets for U.S. beef contributed to a sharp fall in U.S. cattle prices in 2004. Subsequent talks over the sanitary rules that would apply to U.S. beef sales took two years to complete. In January 2006, South Korea agreed to a protocol that allowed imports of U.S. *boneless* beef only from cattle *less than 30 months old*. U.S. negotiators had signaled that some opening on the beef issue was necessary before negotiations with South Korea on a comprehensive FTA

¹ For more information, see CRS Report RL34330, *The Proposed U.S.-South Korea Free Trade Agreement (KORUS FTA): Provisions and Implications*, by William H. Cooper, Mark E. Manyin, Vivian C. Jones, Stephen Cooney, Remy Jurenas, and Alison Siskin.

² There have been only two other discoveries of BSE in cattle in the United States — in June 2005, in a U.S.-born cow on a Texas farm, and in March 2006, in another U.S.-born cow in Alabama. For more information on U.S. safeguards to protect cattle herds from BSE, third-party assessments made of U.S. import safeguards against the introduction of BSE, debate and developments on the livestock “feed ban” issue, U.S. surveillance and testing programs for BSE in cattle, and BSE prevention in cattle slaughter and beef processing, see CRS Report RL32199, *Bovine Spongiform Encephalopathy (BSE, or ‘Mad Cow Disease’): Current and Proposed Safeguards*, by Sarah A. Lister and Geoffrey S. Becker.

could begin. However, in late 2006 South Korean inspectors rejected the first three shipments of U.S. beef, after discovering small bone fragments in a few boxes of packaged frozen boneless beef. Though not on the agenda of its FTA negotiators, U.S. efforts to resolve all issues of beef access to the Korean market subsequently became contentious as those talks continued. For example, the U.S. Trade Representative (USTR) decided not to participate for several weeks in the FTA's sanitary and phytosanitary working group. Also, separate bilateral discussions on this sensitive issue moved from the technical level to high-level meetings as both sides raced to conclude the KORUS FTA by the end of the March 2007 deadline set by the then-in-effect trade promotion authority.

Although the beef issue was not resolved in the FTA talks, South Korea's then-President Roh, on April 1, 2007, stated he had personally promised President Bush that his government would “uphold the [yet to-be-released] recommendations” of the World Organization for Animal Health (OIE) on the BSE risk status of the United States and “open the Korean [beef] market at a reasonable level.” The OIE is the international scientific body recognized by the World Trade Organization as the international reference for matters of animal disease and health. On May 22, 2007, the OIE formally found that the United States is a “controlled risk” country for the spread of mad cow disease. For a description of OIE's role on this issue, see **Appendix A**, “International Standards to Prevent Spread of BSE in Beef Trade.” The U.S. Department of Agriculture's (USDA's) top official on this matter commented that this “risk classification recognizes that OIE-recommended, science-based measures are in place to effectively manage any possible risk of BSE in the [U.S.] cattle population” and “provides strong support that U.S. regulatory controls are effective and that U.S. cattle and products from cattle of all ages can be safely traded in accordance with international guidelines, due to our interlocking safeguards.”³

USDA immediately requested that South Korea amend its import requirements for U.S. beef within a specified time frame to reflect this risk determination and to reopen its market to all U.S. cattle and beef products. In response, South Korea's animal health regulatory agency began an eight-step process to assess the BSE risks of the U.S. beef sector in light of the OIE finding, with the intent to negotiate a revised bilateral agreement that would lay out import rules applicable to U.S. beef. Initial expectations were that this process would be completed by late September 2007. However, the process was delayed by the third discovery since shipments resumed in April 2007 of banned backbones in some boxes of U.S. packaged beef. On October 5, 2007, South Korean authorities announced they would not conduct any more inspections of U.S. beef until both sides conclude formal negotiations to revise the 2006 protocol. To move toward that goal, bilateral technical-level talks held October 11-12, 2007, failed to bring both sides closer to an agreement. South Korean officials sought rules that were reportedly more strict than OIE guidelines, intended to reportedly correct four shortcomings in the U.S. measures taken to limit BSE risks. The U.S. stance was that current rules already met OIE standards.⁴

³ USDA, Animal and Plant Inspection Service, “Statement by Dr. Ron DeHaven Regarding OIE Risk Recommendation,” March 9, 2007.

⁴ *Inside U.S. Trade*, “U.S., Korea Beef Market Access Talks Fail Over Level of Access,” (continued...)

Because of the political controversy anticipated with the prospect of further opening the Korean market to U.S. beef, President Roh's government decided to defer negotiations until after the December 2007 presidential election. Then, newly inaugurated President Lee Myung-bak decided to wait until after the April 9, 2008, parliamentary elections. Both decisions effectively delayed talks with the United States on revising the beef import rules. These talks finally began on April 11.

U.S. Beef Exports to South Korea

Since the late 1990s, South Korea has become a growing market for major beef exporters, particularly the United States. By 2003, beef imports accounted for nearly 75% of South Korean beef consumption. U.S. shipments alone supplied half of all of the beef consumed by Koreans.

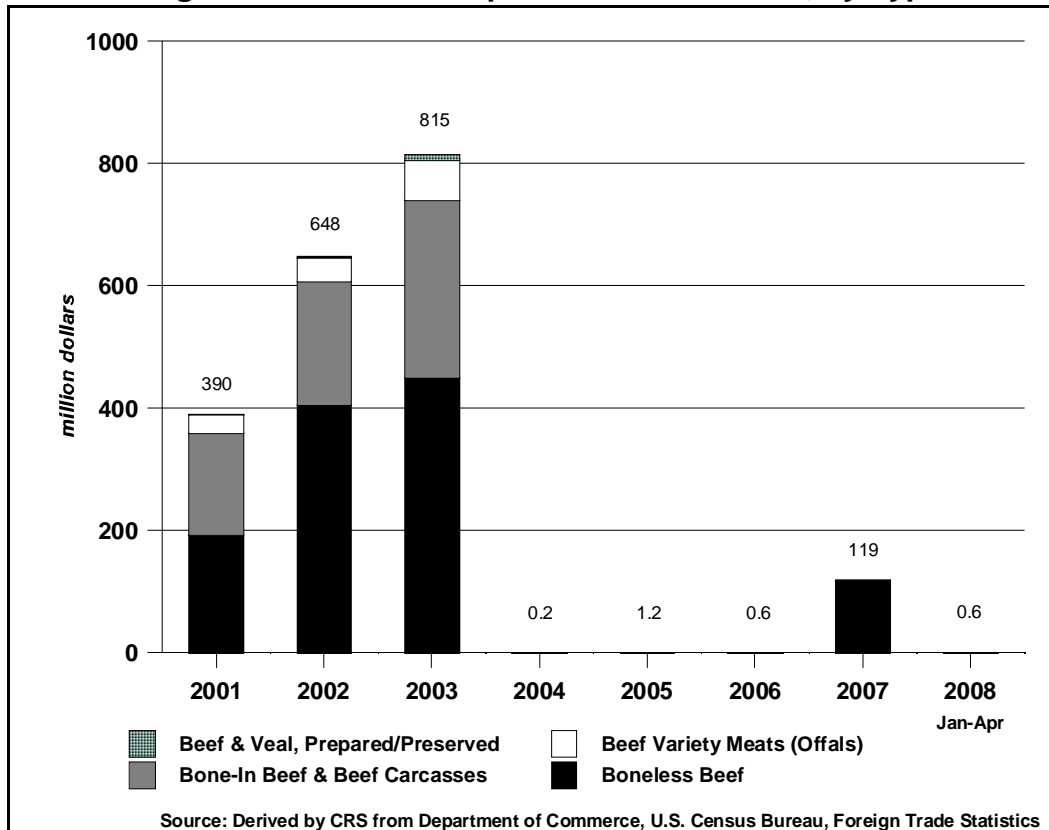
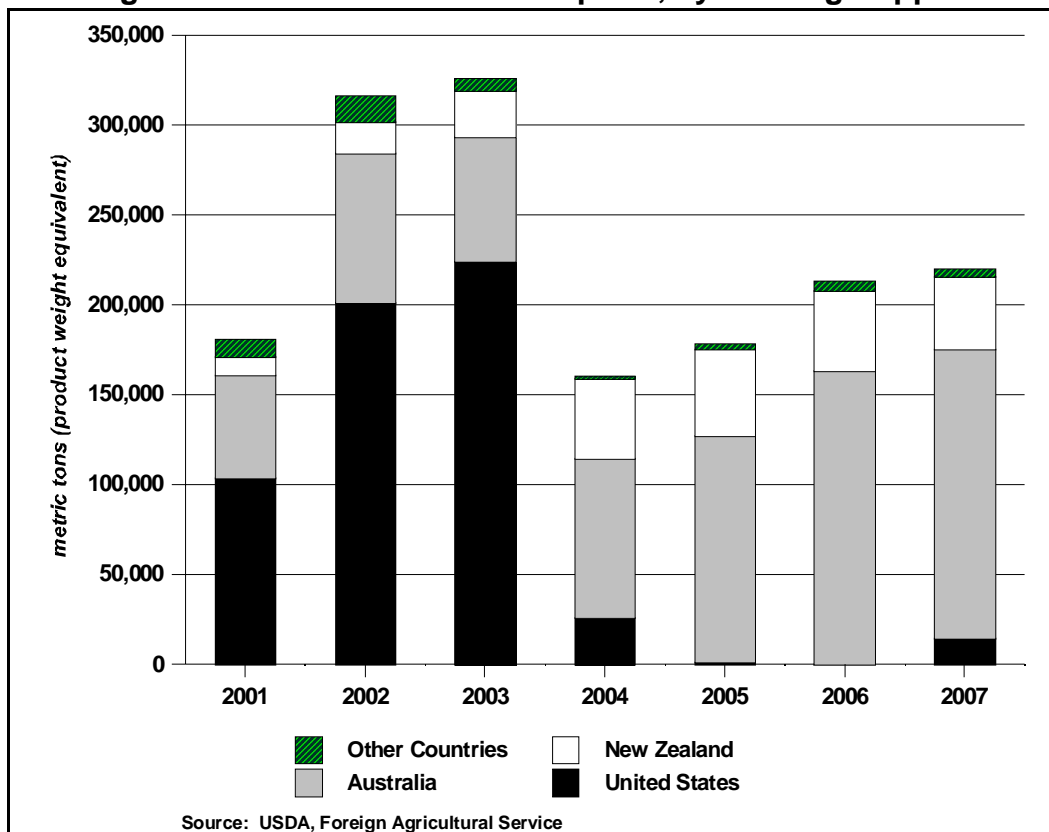
In 2003, U.S. beef exports to South Korea totaled \$815 million, or 246,595 metric tons (MT), and accounted for 21% of the \$3.9 billion in U.S. beef products shipped worldwide. Boneless beef products accounted for \$449 million (55% of the total), while bone-in (rib) beef totaled \$292 million (36%). Sales of beef offals (tongue, liver, heart, among other edible cattle parts) reached \$65 million (8%). Minimal U.S. beef offal exports occurred in 2004, 2005, and 2006, due to South Korea's ban on imports after the first U.S. BSE-infected cow was discovered (**Figure 1**). Though some U.S. boneless beef sales occurred in the last few months of 2006 after South Korea agreed to implement the January 2006 agreement, Korean inspectors rejected these shipments after discovering small bone fragments in a few boxes. During the 2004-2006 period, beef shipments to South Korea from Australia and New Zealand increased substantially to cover demand that had previously been met by U.S. beef exporters (**Figure 2**). In 2007, both countries accounted for 92% of South Korea's beef imports, compared to 29% in 2003.

U.S. boneless beef exports to South Korea resumed in late April 2007 soon after negotiators concluded the KORUS FTA. Through early October 2007, Korea's quarantine regulatory agency inspected and cleared for retail sale most U.S. boneless beef shipments, applying its interpretation of the January 2006 agreement. Even with partial-year exports, South Korea ranked as the fourth-largest market for U.S. beef in 2007, with sales of \$119 million, or 25,165 MT (**Figure 1**).

U.S. and South Korean Negotiating Objectives

The longstanding U.S. negotiating position has been to press for full access in one step for all U.S. beef into South Korea's market. This meant expanding the scope of the 2006 agreement to include exports of *bone-in* beef and coverage of all U.S. beef from cattle, *regardless of age*, as long as BSE-risk materials are removed during processing.

⁴ (...continued)
October 19, 2007, p. 6.

Figure 1. U.S. Beef Exports to South Korea, by Type**Figure 2. South Korean Beef Imports, by Leading Suppliers**

South Korea argued for a “two-phased” approach to a full opening. The first step would allow imports of both boneless and bone-in beef cuts from U.S. cattle less than 30 months old, as long as those cattle parts identified by the OIE as agents that can transmit BSE to cattle and in turn to humans are removed. Korea’s trade minister argued this first step would give the United States about 80% of its market share before the ban on U.S. beef took effect in late 2003. The second step would permit imports of beef from older cattle, as long as risk materials are removed according to OIE’s standards.⁵ In preparing to take office, South Korea’s then President-elect Lee Myung-bak signaled an interest in moving quickly to resolve the beef issue. His transition team reportedly instructed the Ministry of Agriculture to advocate strengthening import rules, such as placing Korean inspectors at U.S. meat processing plants to conduct “on-the-spot” inspections.⁶

April 2008 Beef Agreement

The second agreement, reached just hours before President Lee met President Bush at Camp David on April 18, 2008, spells out South Korea’s health requirements that would apply to imports of U.S. beef and beef products. Korea would allow entry to all cuts of U.S. beef (*bone-in* or ribs, and *boneless*) and other beef products from the edible parts of cattle, *irrespective of age*, that meet all other specified conditions. The new rules significantly expand upon the products covered by the first (January 2006) protocol, which only permitted imports of boneless beef from cattle under 30 months old. The agreement would require the removal of specified risk materials (SRMs) during meat processing, and prohibit the entry of (1) all mechanically recovered and mechanically separated meat and (2) advanced meat recovery (AMR) product from the skull and vertebral column of cattle 30 months of age and over at the time of slaughter. These prohibitions reflect scientific conclusions that these materials can harbor the BSE agent in cattle and in turn infect humans if product from such cattle are consumed.⁷ Other provisions detail which other beef products may or may not enter South Korea.⁸

⁵ *Inside U.S. Trade*, “Korean Minister Sees Open Beef Market In Two Steps, Delay In FTA Approval,” November 16, 2007, p. 5.

⁶ Korea Times Online, “Election Politics Cloud KORUS FTA Ratification,” January 7, 2008.

⁷ Specified SRMs are “tonsils and distal ileum from cattle of all ages; and [the] brain, eyes, spinal cord, skull, dorsal root ganglia and vertebral column (excluding vertebrae of the tail, transverse processes and spinous processes of the cervical, thoracic and lumbar vertebrae, median crest and wings of the sacrum) from cattle 30 months of age and over at the time of slaughter.” For more information, see “BSE Prevention in Slaughter and Processing: the ‘Fourth Firewall’” in CRS Report RL32199, *Bovine Spongiform Encephalopathy (BSE, or “Mad Cow Disease”): Current and Proposed Safeguards*, by Sarah A. Lister and Geoffrey S. Becker.

⁸ AMR product that is free of SRMs and central nervous system tissues is allowed. Ground meat, processed products and beef extracts may contain AMR but must be free of SRMs and all mechanically recovered or separated meat.

U.S. Feed Ban Rule Broadens Scope of Agreement

One important provision would automatically broaden the age range of cattle covered by the agreement when the U.S. Food and Drug Administration (FDA) publishes its final animal feed ban rule. Its inclusion addresses some of South Korea's concerns about what U.S. government regulations prohibit to be added to animal feed. With the publication of this FDA rule on April 23, 2008, the bilateral agreement upon taking effect would apply to imports of U.S. beef and beef products from *all cattle*, even those older than 30 months. Prior to this development, the agreement would have applied only to beef and beef products from cattle less than 30 months old at the time of slaughter.

The published FDA rule bars the use in animal feed and pet food of specified risk materials from cattle that have “the highest risk for carrying the agent thought to cause BSE.” FDA states that these measures will strengthen existing safeguards that have been adopted against BSE.⁹ The rule reportedly falls short of South Korean negotiators' initial demands for (1) a broader ban on the materials that are allowed to be used in animal feed, (2) a requirement that ranchers report cattle with BSE symptoms to the USDA, and (3) U.S. implementation of a mandatory national animal identification system.¹⁰

Steps to Be Taken If Problems Are Found During Inspection

The April agreement prescribes steps that South Korea's quarantine inspection agency can take if banned cattle parts or other problems are found in a shipment from a U.S. meat firm and specifies what its counterpart U.S. agency must do to address the matter. One provision specifies that Korea will continue to inspect other imports of U.S. beef and related products, rather than as allowed by the first agreement to suspend their entry and revoke the right of that firm to sell beef to Korea if the problem is not resolved. For example, if Korean inspectors detect a “food-safety hazard” — defined as “any biological, chemical, or physical property that may cause food to be unsafe for human consumption” — in a “lot” from a U.S. firm, the Korean government “may reject the lot.” Korea must then notify and consult with the U.S. government on the matter and may request corrective action if appropriate. If an SRM is found, USDA's Food Safety and Inspection Service (FSIS) will investigate to determine what caused the problem. In the meantime, Korea will inspect more closely other shipments from that U.S. firm (i.e., by increasing the inspection rate on lots of the same product) until five lots pass inspection without the discovery of any

⁹ Prohibited materials include the brains and spinal cords from cattle 30 months of age and older, the entire carcasses of BSE-infected cattle, the entire carcass of cattle that has not been inspected and passed for human consumption that is 30 months of age or older from which brains and spinal cords were not removed, tallow derived from BSE-infected cattle and from other prohibited cattle materials, and mechanically separated beef derived from the same prohibited materials. U.S. Department of Health and Human Services, Food and Drug Administration, “Substances Prohibited from Use in Animal Food or Feed,” published in the *Federal Register*, April 25, 2008, p. 22720.

¹⁰ *Inside US Trade*, “Feed Ban Opens Beef Market Despite Failing to Meet Korean Demands,” April 25, 2008, p. 4.

food-safety hazard. Only then can Korea return to its standard inspection procedures and rates on imports from that firm.

However, if the Korean government discovers two incidents of food-safety hazards involving separate lots from that same U.S. firm, Korea may suspend entries from that firm until corrective action occurs. One exception is that beef product from that firm certified for export to Korea prior to the date of suspension is eligible to be inspected. That U.S. meat firm is suspended from exporting to Korea until the U.S. government informs the Korean government of what corrective action has been taken and the date the firm's suspension is lifted. Unlike the first (2006) agreement, these various steps provide a map for addressing problems that could arise in future beef shipments.

Steps That Apply If Another U.S. BSE Case Occurs

If another case of BSE occurs in the United States, the agreement narrows the scope of how both countries would respond to such a discovery. The first step requires the U.S. government to immediately conduct a thorough epidemiological investigation (i.e., look at all of the factors that contributed to the presence of BSE in this case) and inform the Korean government of the results. The second step requires the U.S. government to consult with the Korean government about these findings. The Korean government can only suspend imports of U.S. beef and products if the additional case or cases results in the OIE recognizing an adverse change in the classification of the U.S. BSE status (i.e., changing it from “controlled risk” to “undetermined risk”).¹¹ However, in an effort to address Korean public concerns that these provisions were not strong enough, both governments on May 19 exchanged letters affirming that each country could take steps to protect its citizens from health and safety risks under specified multilateral agreements (see “Bilateral Letter Exchange to Clarify Agreement Terms,” below). Previously, under the January 2006 agreement, South Korea reserved the right to unilaterally suspend imports of U.S. boneless beef when (1) there was objective recognition that the U.S. BSE risk status has significantly worsened “due to the malfunctioning of [five specified] U.S. BSE control measures,” and (2) the presence of “additional BSE risk has been confirmed through the development of new science.”

Other Rules

The agreement also includes provisions spelling out the requirements that U.S. beef exporters and the U.S. government must meet to sell beef and beef products to South Korea. Among other things, these provisions:

- allow all U.S. meat establishments operating under USDA inspection to sell beef and beef products to South Korea,¹² except in

¹¹ For an explanation, see **Appendix A**, “International Standards to Prevent Spread of BSE in Beef Trade.”

¹² However, during the first 90 days after the agreement takes effect, South Korea reserves the right to audit and/or reject U.S. decisions on the listing of new plants eligible to export (continued...)

the case (as described above in “Steps to Be Taken If Problems Are Found During Inspection”) when Korea suspends a firm following the discovery of two food safety hazard incidents. Currently, seven U.S. processing plants are not eligible under the first agreement’s terms as interpreted by South Korea to export boneless beef to that market.¹³

- expand the origin of foreign cattle from which beef and products can be exported to Korea to include cattle imported from Canada and raised in the United States for at least 100 days before slaughter. Previously, only boneless beef from cattle imported from Mexico and present in the United States for a minimum 100 days was eligible for export.
- detail the steps that USDA’s FSIS would take to handle cases of a U.S. meat establishment’s “serious non-compliance” — the discovery of a food-safety hazard — during an audit or in a shipped product (e.g., immediately control the non-compliant product; stop the production process if the problem continues until the determination is made that corrective and preventative measures have been taken; and allow production to resume if the determination is made that corrective steps are adequate). Previously, the U.S. government was required to immediately suspend the inspection of beef destined for Korea when serious non-compliance with the agreement’s health requirements was discovered.
- require during the first 180 days after the agreement takes effect that U.S. exporters will indicate on boxes of T-bone and Porterhouse steaks that such cuts come from cattle under 30 months of age.
- allow Korean government inspectors to conduct on-site audits of a representative sample of U.S. facilities that export beef and products to Korea, with any resulting discovery of serious non-compliance with health requirements to require the U.S. government to take appropriate measures. Previously, the Korean government could ask the U.S. government to stop the U.S. meat establishment from exporting beef to Korea.
- require the United States to implement measures that meet or exceed OIE guidelines for controlled-risk status to detect and prevent the introduction and spread of BSE.

¹² (...continued)

beef to Korea or on re-listing those plants that had lost their eligibility to export because of problems with previous shipments.

¹³ USDA, FSIS, “Export Requirements for the Republic of Korea,” KS-74, June 13, 2008, at [http://www.fsis.usda.gov/regulations_&_policies/Republic_of_Korea_Requirements/index.asp].

Korean Reaction to Agreement

Initial Reaction

In South Korea, announcement of the beef import agreement with the United States was met with street protests sparked by TV coverage and Internet-spread rumors claiming that U.S. beef is not safe, calls by opposition political parties for the government to nullify or renegotiate the terms of the agreement, and calls by farmers for the National Assembly (Korea's parliament) to reject the KORUS FTA upon its consideration during a special session later in May 2008. Opponents argued that the South Korean government moved too quickly to strike a deal, and did not secure enough safeguards against the dangers of mad cow disease. The intensity of the early May protests prompted Korean government officials to go on the defensive to reassure the public that U.S. beef is safe. Lengthy nationally televised press conferences were held and government officials appeared before a parliamentary committee examining the agreement's details.

Government Efforts to Respond to Public Concerns

In light of mounting public concerns, President Lee on May 7 stated that his government will immediately stop imports of U.S. beef if public health is threatened, and then work out countermeasures. Korea's Agriculture Minister further stated that quarantine inspections of U.S. beef imports would be suspended if another case of mad cow disease is detected in the United States, even if that step risks trade friction. On May 8, Prime Minister Han Seung-soo went further by stating that the Korean government "will put the people's health and safety before all else," and if a case of mad cow disease occurs in the United States that is believed to endanger public health, will act to ban imports of U.S. beef, conduct a survey of all U.S. beef imports, immediately send an investigative team to the United States, and negotiate to revise the signed beef agreement.¹⁴ These statements raised concerns among U.S. trade officials that the agreement could be unraveling. They signaled to their Korean counterparts that there will be no renegotiation but decided to work together to find some accommodations. On May 12, U.S. Trade Representative (USTR) Susan Schwab acknowledged that "the United States accepts and supports the Prime Minister's statement and would not ask for anything different" and that the United States recognizes Korea's right to take measures to protect public health that are consistent with international agreements' position on protecting public health. She also reiterated that the bilateral beef agreement "should address any concerns of Korean consumers by building several layers of procedures and safety measures to ensure that imported U.S. beef is safe."¹⁵

¹⁴ Yonhap English News, "PM pledges beef deal revision if BSE outbreak is confirmed," May 8, 2008; Seoul Yonhap, "Statement to the People Regarding Imports of US Beef," May 8, 2008.

¹⁵ USTR, "Statement by U.S. Trade Representative Susan C. Schwab on Recent Developments in Korea," May 12, 2008.

Bilateral Letter Exchange to Clarify Agreement Terms

As the initial May 15 target for publishing the rules to implement the agreement passed, Korean trade officials, trying to find a way to defuse public criticism but still adhere to President Lee's then-position not to reopen the April agreement, continued talks with their U.S. counterparts. Several days of intense behind-the-scenes talks culminated in an exchange of letters to clarify the agreement.

On May 19, 2008, Korea's trade minister and the U.S. Trade Representative signed letters that affirm Korea's right as a member of the World Trade Organization (WTO) to protect its citizens from health and safety risks under Article XX of the General Agreement on Tariffs and Trade and the WTO Agreement on the Application of Sanitary and Phytosanitary Measures. While this letter exchange does not specifically state that South Korea can prohibit U.S. beef should another case of mad cow disease occur in the United States, the U.S. recognition that Korea can exercise broad recourse permitted under multilateral agreements to protect its citizens' health appears to give the Korean government some cover to take this step if determined to be warranted.

The letter exchange also addressed Korea's concern that the SRMs specified in the April agreement did not include two SRMs from cattle over 30 months old that are listed in U.S. regulations as required to be removed from all beef and beef products, whether destined for U.S. consumption or export. The United States agreed to recognize Korea's right to reject any beef shipment that contains these additional SRMs, and to block all future shipments from a U.S. processor that violates the expanded list of SRMs twice.

More Recent Developments

In acknowledging the continuing strong, vocal opposition to the beef agreement, President Lee in a nationwide address on May 22 apologized for his government's lack of efforts to sound out public opinion on resuming U.S. beef imports and accepted criticism for his negligence "in carefully reading the public's mind" on this issue. He pointed to the recent bilateral document exchange that guarantees Korea's right to "take sovereign measures to halt beef imports immediately if any situation endangering public health occurs," noting that it guarantees that the safety of U.S. beef to be imported will meet international standards and that the quality of such beef will be the same as that consumed by Americans. Lee further called on the political opposition that holds the majority in the National Assembly to set aside its partisanship and approve the KORUS FTA in the remaining few days of its special session, in order to secure a competitive edge in the U.S. market and bolster Korea's economy.¹⁶

On May 26, Korea's Agriculture Ministry announced another delay in issuing updated rules to apply to U.S. beef imports until it reviews the report of inspectors who had just toured U.S. beef processing plants and the government holds meetings

¹⁶ Yonhap News Agency, "Full text of Lee's statement on beef dispute, KORUS FTA," May 22, 2008.

with cattle producers to discuss support measures that could be adopted to assist them adjust to cheaper beef imported from the United States.¹⁷ On May 29, Korea's Agriculture Ministry announced it would publish on June 3 these rules to apply to imports of U.S. beef and products.

Public protests on the beef issue turned violent during the weekend of May 31 - June 1. On June 2, the Agriculture Ministry announced it would indefinitely postpone the official publication of the rules. This means that quarantine inspections of U.S. beef cannot resume. This step was reportedly taken at the request of the President's ruling political party, which some speculate was prompted by its desire to restore civil order and end the violence.¹⁸

While the Korean government's position for several weeks had been that it would not seek to reopen the agreement for renegotiation, its stance appeared to change on June 3. To address public concerns about the safety of U.S. beef, the Agriculture Minister said that his government had requested the United States to put on hold exports to South Korea of beef from cattle older than 30 months. He also stated that the publication of the new import rules will be postponed until the United States responds to this request, and added that quarantine inspection of U.S. beef at various stages of entry will also stop. On the same day, President Lee in a cabinet meeting acknowledged the significant drop in his approval rating because of the controversy over the agreement, and stated that "It is only natural that we do not import beef from cattle older than 30 months as long as the public is worried about it, and the majority is opposed to it."

The beef issue has served as the catalyst for the expression of public discontent with President Lee's other policies. Protests continued to spread across Korea, as reflected in a June 10 march of a reported 80,000 demonstrators in Seoul opposed to resuming U.S. beef imports and calling for Lee's resignation. Also on June 10, the President's cabinet offered to resign, reportedly taking blame for the political turmoil triggered by the beef agreement.

U.S. Reaction to Agreement and to Korean Concerns

The U.S. beef sector and U.S. policy makers welcomed news of the agreement when announced in mid-April 2008. The National Cattlemen's Beef Association noted that South Korea "potentially represents a \$1 billion market and could grow to be the United States' top beef customer." The American Meat Institute commended U.S. negotiators for their efforts to communicate "the interlocking safeguards in place in the United States that make the U.S. beef supply among the safest in the world." The National Meat Institute emphasized that the agreement's most important

¹⁷ Yonhap News Agency, "Gov't to consult farmers ahead of U.S. beef pact implementation," May 27, 2008.

¹⁸ Inside U.S. Trade Online, "Korea Again Delays Opening to U.S. Beef Amid Protests," June 2, 2008.

aspect is “the reduced risk of failure,” leaving “few opportunities for the types of technical non-compliance” that caused problems when Korea last allowed U.S. beef to enter.

President Bush thanked South Korea’s President Lee for the decision to reopen that country’s market to U.S. beef “consistent with international standards.” Some Members of Congress welcomed the announcement, indicated they will monitor the agreement’s implementation to see commercially meaningful quantities of U.S. beef appear on Korean store shelves, and stated that this step will improve the atmosphere for congressional consideration of the KORUS FTA.¹⁹

As the Korean government struggled to respond to public protests against the agreement and opposition political parties’ calls for its renegotiation, U.S. government officials initially maintained there will be no renegotiating.²⁰ Repeated U.S. statements have emphasized that U.S. beef is safe and is consumed by millions of Americans, and that internationally recognized measures are in place to prevent the introduction of BSE into U.S. cattle herds. At the same time, U.S. officials began consultations with their Korean counterparts on approaches that could help defuse the sensitivity of this issue among the Korean public. The May 19 letter exchange was the first outcome of this process.

Responding to Korea’s request to exclude beef from cattle aged more than 30 months, U.S. government spokesmen expressed disappointment with the continued delay in implementing the agreement, signaled that work will continue with the U.S. beef industry and Korean officials to address U.S. concerns about the delay, and acknowledged respect for Korea’s need to work within its system to address the issues that have arisen. In a recognition of this importance of this matter, President Bush in a June 7 phone call with President Lee reportedly promised to address the Korean leader’s request to work out effective ways to limit U.S. beef exports to cattle aged 30 months or less.²¹ In a separate initiative, five U.S. beef processing firms said they would voluntarily add labels to indicate whether shipped beef is from cattle more or less than 30 months of age, leaving the choice on what to buy up to Korean consumers.²²

¹⁹ For example, see press releases and statements issued on April 18, 2008 by Senator Max Baucus, “Baucus Welcomes Deal On U.S. Beef, Says Korea Must Follow Through”; Senator Saxby Chambliss, “Sen. Chambliss Statement On South Korea Lifting Ban On U.S. Beef”; Senator Charles Grassley, “Memorandum: South Korea on U.S. Beef”; Representative Roy Blunt, “Blunt Hails South Korean Decision to Reopen Beef Market, Urges Action on Sidelined Trade Pacts”; Representative Bob Goodlatte, “Agreement Should Bolster Momentum for Future Free-Trade Agreement”.

²⁰ Inside U.S. Trade, “Korea FTA Backers Float Auto Proposals To Clear Way For Vote,” May 9, 2008; Dow Jones International News, “US Rejects Calls For Renegotiating S Korea Beef Export Deal,” May 16, 2008.

²¹ AgWeb.com, “Bush, South Korean Leader Talk Saturday Re: Beef Trade Issues,” June 9, 2008; *AgriPulse*, “South Korean concerns continue to delay U.S. beef imports,” June 11, 2008.

²² Press release issued by Tyson Foods, Inc., JBS Swift & Co., Cargill Meat Solutions Corp., (continued...)

Latest Bilateral Discussions

To find a “mutually agreeable path forward” on Korea’s request, USTR’s Schwab and South Korea’s trade minister engaged in week-long intense negotiations that ended on June 19. According to USTR, both sides were close to reaching an agreement on the issue of the age of cattle slaughtered for U.S. beef to be exported to South Korea and were in the process of consulting with their governments and stakeholders. Press accounts report that negotiators had agreed in principle that U.S. beef from cattle older than 30 months would not be shipped to Korea, with details on how this would be handled to be announced late on June 20.²³ Evidence of this is reflected in a U.S. meat industry statement acknowledging the Korean Import Beef Association’s position that, as a transitional measure, its members will only import U.S. beef from cattle less than 30 months old, and its request that U.S. beef exporters ask the U.S. government to verify that U.S. beef exported to Korea meets the importers’ request. The statement includes a letter to the Secretary of Agriculture and to the USTR stating that the “U.S. beef industry is prepared to limit exports to Korea to only products from cattle less than thirty months of age under a program verified by USDA as a transitional measure to full market opening consistent with OIE guidelines.” To facilitate this, the letter requests that USDA establish this program as soon as Korea publishes rules to put the April 2008 agreement into effect.²⁴

Outlook

The April 2008 beef agreement is the latest step in the U.S. government’s 4½-year effort to regain access to South Korea’s lucrative beef market for the U.S. cattle and beef processing sectors. Once the revised rules are published, attention will turn to how Korea’s quarantine inspection agency implements them and the pace at which U.S. beef cuts begin to reach consumers.²⁵ The U.S. Meat Export Federation

²² (...continued)

National Beef Packing Co. and Smithfield Beef Group, Inc., “U.S. Beef Processors to Offer Temporary Beef Labeling Program for South Korea; Effort designed to increase consumer confidence,” June 2, 2008, available at [<http://www.tyson.com/Corporate/PressRoom/ViewArticle.aspx?id=2954>]

²³ Inside U.S. Trade, “U.S., Korea Close To Beef Deal, To Consult With Stakeholders,” June 20, 2008, p. 9; *Dong-A Ilbo Daily*, “U.S. Agrees in Banning Exports of Old Beef,” June 20, 2008.

²⁴ U.S. Meat Export Federation, “U.S. Beef Exporters Respond to the Statement from the Korea Import Beef Association,” June 20, 2008, accessed at [http://www.usmef.org/TradeLibrary/News08_0620a.asp].

²⁵ Some 5,300 MT of U.S. boneless beef held in cold storage in Korean warehouses since last fall would be the first to be processed by Korea’s quarantine inspection agency. Once cleared, this product would reach retail store shelves within a few weeks. However, uncertainty exists on how quickly consumers will step forward to buy U.S. beef in light of the public controversy that has occurred, even though its price would be lower compared to Korean-produced beef. Also, an additional 7,000 MT of boneless beef destined for Korea
(continued...)

forecasts that U.S. beef exports should reach 50,000 MT in 2008, about twice the level recorded in 2007. The federation, which promotes the sale of beef overseas, is optimistic that Korean consumers will resume purchases of U.S. beef because of its lower price and the quality of the cuts that will be shipped. Its outlook is for U.S. beef sales to South Korea to return to the 2003 level (247,000 MT) by 2010-2011.²⁶

The beef agreement is intended to resolve an issue that some Members of Congress said stood in the way of congressional consideration of legislation to implement the KORUS FTA. If and when South Korea publishes its regulations to put the agreement into effect, these Members have indicated that they will be carefully monitoring how Korea's quarantine inspection agency implements them. However, while lifting the beef ban is widely regarded as a politically necessary condition for the Bush Administration to send this trade agreement to Congress, it has become a less and less sufficient condition, because of other opposition to the KORUS FTA (e.g., over its auto trade provisions) and increased opposition to FTAs generally. In other words, even if the beef issue were to be resolved quickly, the Bush Administration still might not submit the agreement to Congress. One constraint is that trade promotion authority only provides for a maximum of 90 legislative days of congressional consideration once the President submits a trade agreement. With adjournment of the 110th Congress currently set for late September 2008, the Bush Administration faces a rapidly diminishing window to submit this FTA for a vote. If this does not occur, the decision on if, and when, to submit this FTA to Congress would be left to the next Administration. Under either scenario, most observers agree that U.S. beef sales to South Korea must resume before Congress would be willing to consider this trade agreement.

However, in South Korea, the April 2008 beef agreement emerged as an obstacle to the KORUS FTA's prospects. The highly visible controversy in Korea over the beef agreement has weakened the new President's public standing. This could make it more difficult to secure approval of the KORUS FTA in the new parliamentary session, even though the South Korean President's political party holds a majority — albeit a slim one — of seats in the National Assembly. To regain public confidence, President Lee has in recent weeks staked a firm position in talks with the United States while at the same time seeking not to "renegotiate" the April 2006 agreement. Looking forward, Korean public reaction to the latest reported deal will be a key indicator of whether the government can recover its standing and begin to address other pressing national issues. If this deal does take effect, U.S. beef sales could resume soon. Then, Korean quarantine officials can be expected to strictly implement the sanitary rules that apply to U.S. beef imports and be firm with their U.S. counterparts should problems arise.

²⁵ (...continued)

is stored at West Coast ports awaiting permission to be shipped.

²⁶ Cattle Buyers Weekly, "U.S. Should Sell 50,000 MT to Korea in 2008," May 26, 2008.

Appendix A. International Standards to Prevent Spread of BSE in Beef Trade

The World Organization for Animal Health, frequently referred to by its French acronym OIE, is the scientific body recognized by the World Trade Organization as the international reference for matters of animal disease and health. One OIE responsibility is to develop health standards that countries can use to protect themselves against the introduction of animal diseases without setting up unjustified sanitary trade barriers.

Soon after countries (including the United States) introduced bans or restrictions on the import of products from ruminant animals (e.g., cattle, sheep, goats, deer, elk, buffalo) from countries where BSE had been discovered, the OIE developed guidelines and recommendations for countries to follow to manage BSE within their borders or to maintain their BSE-free status. These specify the conditions that should be applied to determine whether ruminant animals (e.g., cattle), meat products (e.g., beef), and listed byproducts can be imported or are prohibited from being imported, depending upon the exporting country's BSE risk status. The OIE uses three categories to designate BSE risk levels. A designation is based upon its analysis of a country's risk assessment that identifies the presence of or potential for the presence of BSE risk factors, and the measures it has adopted to mitigate the risk of BSE being transmitted to cattle and to humans. From low to high, countries with a "negligible risk" designation are subject to the least restrictive conditions for exporting ruminant animals and products. The "controlled risk" category means that OIE-recommended mitigation measures are in place to manage all identified risks of BSE in the country's cattle population. The "undetermined BSE risk" designation applies to a country that cannot demonstrate it meets the requirements of another category.

Irrespective of the risk level assigned, the OIE recommends that the veterinary agencies of importing countries allow for the import of a number of products without the need to meet any BSE-related condition. Included among these is "boned skeletal muscle meat" (i.e., boneless beef) from cattle 30 months of age or less that were not slaughtered using a specified stunning process to the head, had passed pre- and post-slaughter inspections, and were processed in a way to avoid contamination with tonsils and distal ileum — two tissues that are viewed as primary agents for transmitting BSE.

For a "controlled BSE risk" country, the OIE recommends that importing countries require a veterinary certificate attesting that fresh meat (e.g., boneless and bone-in beef) and meat products (e.g., offals) from cattle *of any age* were not slaughtered using the same stunning process, did pass pre- and post-slaughter inspections, and were processed in a way that ensures no presence of, or contamination with, agents that can pass BSE on to animals or humans. These agents are identified to be seven tissues (tonsils, distal ileum, brains, eyes, spinal cord, skull, and vertebral column), and mechanically separated meat from the skull and vertebral column (from cattle over 30 months of age). Further, the OIE recommends that there be no international trade in these seven specified cattle tissues, or a commodity contaminated by them, to prepare food, feed, fertilizers, cosmetics, pharmaceuticals, or medical devices, nor trade in any of these end products that contains these prohibited tissues. Depending upon the age of cattle, the OIE specifies which of these tissues, and products derived from them, should not be traded. Prohibited are tonsils and distal ileum from cattle of any age, and the five other tissues from cattle over 30 months of age when slaughtered.

This description is based on the "International BSE Standards" section in CRS Report RL32199, *Bovine Spongiform Encephalopathy (BSE, or "Mad Cow Disease")*: Current and Proposed Safeguards, and OIE's *Terrestrial Animal Health Code (2007)*, Chapter 2.3.13, 'Bovine Spongiform Encephalopathy,' available at [http://www.oie.int/eng/normes/mcode/en_chapitre_2.3.13.htm].