



September 15, 2009

Via Online Submission [www.regulations.gov](http://www.regulations.gov)

Ms. Gloria Blue  
Executive Secretary, Trade Policy Staff Committee  
Office of the U.S. Trade Representative  
600 17th Street, N.W.  
Washington, DC 20036

RE: USTR's Request for Comments: Free Trade Agreement with the Republic of Korea

Dear Ms. Blue:

In response to the Federal Register notice issued on July 27, 2009, the Telecommunications Industry Association (TIA) and its hundreds of member companies would like to thank you for the opportunity to submit comments regarding a U.S.-Korea free trade agreement (FTA).

TIA represents manufacturers and suppliers of information and communications technology (ICT) products and services for the global marketplace through its core competencies in standards development, domestic and international advocacy, and market development and trade promotion programs. Members' products and services empower communications in every industry and market, including healthcare, education, security, public safety, transportation, government, the military, the environment and entertainment. For over 80 years, the association has facilitated the convergence of new communications networks while working for a competitive and innovative market environment.

Implementing free trade agreements is one solution in helping build a strong, global digital economy. A free trade agreement with the Republic of Korea would benefit ICT manufacturers, suppliers and service providers of both countries by establishing greater market access for both countries, assuring a rules-based and predictable business climate and encouraging further bilateral investment. Korea is the world's tenth largest economy and seventh largest U.S. goods trading partner. In 2008, two-way trade was roughly US\$83 billion. U.S. goods exports alone totaled US\$35 billion in 2007, making Korea our eighth largest export market. In 2007, U.S. exports of telecommunications equipment to Korea was \$420 million. Economists estimate that a U.S.-Korea FTA can bring up to US\$30 billion in income to the U.S. economy and that U.S. exports would rise by 43.2 percent.



TIA supports the U.S.-Korea FTA for the following reasons:

**Technology Neutrality:** The principle of technology neutrality is one of the most critical issues for regulated sectors like telecommunications. Article 14.21 of the FTA ensures that both “telecommunications and value-added services [have] the flexibility to choose technologies” for their provided services. Furthermore, Korea is to make binding the WTO TBT Committee Decision to promote reliance on international standards that are consensus-based. Markets and innovation benefit most when ICT manufacturers and suppliers engage in demand-driven competition, standards are competitively and openly developed, and governments do not interfere to either curb market failures or enhance market champions.

**Standards:** Article 9.3 of the Korea FTA defines “international standards” as the World Trade Organization’s Technical Barriers to Trade (TBT) treaty does, in which international standards are not restricted to only IEC, ISO, and ITU standards. Today, even after improvement, many Korean standards remain inconsistent with international standards, and a lack of clear standards guidelines persists. Therefore, the agreed upon “international standards” definition is an achievement.

**Independent Regulatory Body:** Article 14.14 of the FTA ensures that Korea’s telecommunications regulatory body to be separate from, and not accountable to, any supplier of public telecommunications services or government agency. This is critical to ensuring fairness, impartiality and regulatory integrity in each participating country’s communications industry.

**Transparency:** Regulation and government operations, such as customs operations, should be conducted with transparency, efficiency, timeliness and predictability. The FTA includes commitments from Korea that it will publish proposed regulations in advance, allow a reasonable opportunity to comment on the proposed regulations, address significant substantive comments received, and publish final regulations in an official journal of national circulation. Furthermore, Article 9.6 of the FTA strengthens disciplines to promote transparency in the way governments develop and apply technical regulations and related conformity assessment procedures. Regulations and customs laws, decisions and rulings should be applied in a manner that does not impede business operations and market efficiency. In government procurement, there should also be transparent and open competitive bidding processes.

**Market Access:** Access to and use of public telecommunications networks and services on a non-discriminatory basis affords U.S. businesses the opportunity to compete on a level playing field. The Agreement, under Korea Annex 1, includes a commitment by Korea to permit U.S. companies within two years to own up to 100 percent of a telecommunications operator, excluding KT and SK Telecom Co. LTD. Additionally, Article 9.5 (3) of the Korea FTA contains a provision requiring both countries to provide



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national treatment for each other's conformity assessment bodies. TIA believes this provision is critical, because national treatment enables conformity assessment bodies in one country to provide testing and certification to another country's requirements by being recognized or accredited through the same process as is used for domestic bodies. The quick and effective implementation of Phase II of the APECTel Mutual Recognition Agreement outlined in Article 9.5 would significantly further market access into the Korean market.

**“Negative List” Approach for the Introduction of New Services:** Ensuring that agreed-to trade disciplines are automatically extended to services that have yet to be created or brought to market is very important for encouraging the introduction of new services. Thus, any new services should be considered liberalized, unless specifically exempted. As a result, the principles of market access, transparency and non-discrimination for telecommunications and other services will be reinforced.

**Protection of Intellectual Property Rights:** Internationally recognized agreements on protection of intellectual property rights and business practices would be furthered in an FTA with Korea. This is essential for global competition, innovation and expanding business practices worldwide.

TIA wishes to express its appreciation to USTR for its efforts on behalf of the U.S. ICT industry. It is important that the United States continue its efforts, both bilaterally and multilaterally, to bring about a fully competitive world market for ICT equipment. We look forward to working with USTR in those efforts. Should you have questions or desire further information, please do not hesitate to contact Nicolas Fetchko, Director for International and Government Affairs, at [nfetchko@tiaonline.org](mailto:nfetchko@tiaonline.org) or 202-346-3246.

Sincerely,

A handwritten signature in black ink, appearing to read 'Grant E. Seiffert', written in a cursive style.

Grant Seiffert  
President