

United States International Trade Commission

U.S.-Korea Free Trade Agreement:

Effects on U.S. Small and Medium-Sized Enterprises

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Acronyms

A2IM	American Association of Independent Music
AAMSI	Associated Aircraft Manufacturing and Sales Inc.
c.i.f.	Customs, insurance, and freight
CPA	Coalition for a Prosperous America
EU	European Union
FMVSS	Federal motor vehicle safety standards
FTA	Free trade agreement
GDP	Gross domestic product
IMF	International Monetary Fund
IP	Intellectual property
MEMA	Motor & Equipment Manufacturers Association
MFN	Most favored nation
mt	Metric tons
NAFTA	North American Free Trade Agreement
NHC	Northwest Horticulture Council
OEM	Original equipment manufacturer
SME	Small and medium-sized enterprise
TRQ	Tariff-rate quota
USITC	United States International Trade Commission
USTR	United States Trade Representative

Executive Summary

With the entry into force of the U.S.-Korea Free Trade Agreement (FTA) on March 15, 2012, a very large share of U.S. exports of consumer and industrial products were eligible for duty-free entry into the Republic of Korea (Korea), as the number of Korea's tariff lines providing immediate duty-free access for U.S. exports increased from 13 percent to 80 percent. In addition, the FTA increases market access commitments in major services sectors and includes provisions for addressing nontariff measures as well as trade-related issues such as labor, environment, and competition policy. This report examines the FTA's effects on exports by U.S. small and medium-sized enterprises (SMEs), which account for a significant share of U.S. exports both in general and to Korea. To provide information for the report, SMEs were queried about their experiences thus far in exporting to Korea under the FTA. A small number of companies provided the requested information, with responses coming from firms in diverse sectors of the economy, including agriculture (wine, tree fruit, potatoes, hay), manufacturing (tool and die, aircraft parts), and services (media, software).

Responding SMEs reported varying experiences. Several indicated immediate sales increases, while others reported that potential trade gains have been delayed because of long implementation time frames. Narratives of expanding business opportunities and the creation of new relationships were partly countered by concerns about remaining nontariff measures (such as current phytosanitary restrictions) and new administrative burdens. Nonetheless, most respondents expressed the belief that the FTA had already proven helpful and would benefit their companies even more over time.

CHAPTER 1

Introduction

Purpose and Background

This report by the United States International Trade Commission (USITC or Commission) discusses the effects of the U.S.-Korea Free Trade Agreement (FTA) on the production, distribution, and export strategies of U.S. small and medium-sized enterprises (SMEs). It describes how U.S. SMEs have benefited from specific provisions of the FTA and details the challenges that SMEs still face in exporting to the Republic of Korea (Korea) since the FTA's entry into force. This report contains information collected by the Commission from SMEs about their experiences before and after the FTA's entry into force and their expectations regarding the FTA's effect on their firms. This report was prepared at the request of the United States Trade Representative (USTR) in a letter dated January 29, 2013, with a requested report delivery date of May 1, 2013.¹

With the entry into force of the FTA on March 15, 2012, a very large share of U.S. exports of consumer and industrial products were eligible for duty-free entry into Korea, as the number of Korea's tariff lines providing immediate duty-free access for U.S. exports increased from 13 percent to 80 percent.² Besides cutting tariffs, the FTA increases market access commitments in major services sectors and includes provisions for addressing nontariff measures as well as trade-related issues such as labor, environment, and competition policy.³ On the date of entry into force, Korea and the United States also established a Working Group on SMEs to address issues affecting SMEs during implementation of the FTA. The USTR requested this report to assist the work of the Working Group on SMEs, which is expected to meet later in 2013.

Some of the information in this report was taken from a series of three Commission reports from 2010 on the role and importance of SMEs in U.S. exports generally.⁴ As an indication of the importance of exports in general and the Korean market specifically to U.S. SMEs, the Commission found in the first report that SMEs accounted for 30.2 percent of U.S. merchandise exports in 2007 and that Korea was the seventh-largest market for U.S. exports by SMEs in 2007 (the most recent year for which such data were available).⁵

¹ For a copy of the letter requesting this report, see appendix A. For a copy of the *Federal Register* notice instituting the investigation to produce this report, see appendix B.

² Based on the terms of the agreement as negotiated in 2007. See USITC, *U.S.-Korea Free Trade Agreement: Potential Economy-wide and Selected Sectoral Effects*, September 2007, xix.

³ USTR, "New Opportunities for U.S. Exporters" (accessed April 10, 2013).

⁴ USITC, *Small and Medium-Sized Enterprises: Overview of Participation*, January 2010; USITC, *Small and Medium-Sized Enterprises: U.S. and EU Export Activities*, July 2010; USITC, *Small and Medium-Sized Enterprises: Characteristics and Performance*, November 2010.

⁵ USITC, *Small and Medium-Sized Enterprises: Overview of Participation*, January 2010, 3-1.

Scope

The scope of this report encompasses all sectors of the U.S. economy as defined by the North American Industry Classification System. Similarly, the U.S. merchandise export data used in this report encompass all chapters of the international Harmonized Commodity Description and Coding System. Comparable data for U.S. exports of services to Korea were unavailable.

The definitions of “enterprise” and “SME” are the same as those used in the USITC reports referenced above. This report uses the U.S. Census Bureau (Census) definition of an enterprise, which is a business organization consisting of one or more domestic establishments under common ownership or control. For the purposes of this report, the terms “enterprise,” “firm,” “business,” and “company” are used interchangeably. “SMEs” refers to enterprises with less than 500 employees in the agriculture, manufacturing, and service sectors.⁶

Although the FTA entered into force on March 15, 2012, the basic agreement was signed in 2007, giving SMEs an opportunity to plan and adjust their strategies to take advantage of reductions in duties and other trade impediments once the FTA entered into force. In light of that lead time, the Commission sought information about plans made before and after the FTA entered into force.

Information Sources

In keeping with the focus of this report on the FTA’s effects as identified by the SMEs themselves, this report consolidates the information provided through telephone and in-person interviews of SME representatives conducted by Commission staff and through written submissions made by SMEs, supplemented with information from the SMEs’ websites.⁷ The Commission generally did not seek to corroborate or verify the information and views received. Primary background data are derived from Census figures. The Commission invited interested persons to file written submissions for this investigation. Those submissions are available at the Commission’s Electronic Docket Information System (<https://edis.usitc.gov/edis3-internal/app>).

To identify companies that are SMEs, that have exported or possibly would export to Korea, and that might have insight into the effects of the FTA on their production, distribution, and export strategy, Commission staff contacted business and industry

⁶ The January 2010 USITC report on SMEs observed that several U.S. government agencies, including the Small Business Administration, the U.S. Department of Agriculture, and Census, define small businesses in various industries using a variety of employee, revenue, and asset criteria. These size categories, however, define which firms are “small businesses” relative to specific industries, rather than the economy as a whole. Because this report analyzes the role of SMEs throughout the economy, the Commission has employed an economy-wide, rather than industry-specific, definition of SMEs. USITC, *Small and Medium-Sized Enterprises: Overview of Participation*, January 2010, 1-2 to 1-5.

⁷ For summaries of the public submissions for this report, see appendix C. The Commission scheduled a public hearing to collect information, but the hearing was canceled when the only request from an interested party to appear at the hearing was withdrawn.

associations, consulted industry and trade literature, distributed notices via the foreign and domestic networks of other U.S. government agencies, and searched public and proprietary databases. Through interviews, direct mail, third-party distribution, and other methods, Commission staff attempted to contact an estimated 4,000-plus potential study participants, and a small number of companies provided the requested information. The Commission also received five written submissions, which are summarized in appendix C.

Organization of the Report

Chapter 2 presents an overview of the state of the Korean economy in the periods before and after the entry into force of the FTA, as well as data on the patterns of U.S. exports to Korea during those periods. Chapter 3 summarizes the information obtained by the Commission from SMEs and other sources about the effects of the FTA on the production, distribution, and export strategy of U.S. SMEs since the FTA entered into force; how U.S. SMEs may have benefited from specific provisions of the FTA; and challenges they have faced in exporting to Korea. Appendix A contains a copy of the USTR's request letter, while appendix B contains a copy of the *Federal Register* notice initiating the investigation. Appendix C summarizes the positions of interested parties who submitted written statements to the Commission in connection with this investigation.

CHAPTER 2

Korean Economic Conditions and U.S. Exports

This chapter gives an overview of the state of the Korean economy during 2007–12 and of U.S. exports to Korea during the 24-month period ending in February 2013 in order to help compare the bilateral trade environment facing U.S. SMEs in the year before and the year after the FTA’s entry into force. Because trade statistics on U.S. SME exports for 2011–13 are not currently available, this chapter uses data on total U.S. merchandise exports to Korea from March 2011 through February 2013, the latest month for which these data are available. In particular, it compares data from March 2012 through February 2013—the period the FTA has been in force—with data from the same months in 2011–12.

The Commission found that since the FTA’s entry into force, U.S. exports to Korea have risen in certain sectors, although total U.S. exports to Korea have declined. However, because of the short time frame and the presence of external factors (briefly discussed below), among other aspects, this chapter does not seek to analyze the FTA’s effects.

The Korean Economy

The Korean economy was projected to be the world’s 15th largest in 2012.¹ Korea was the fifth-largest global exporter that year, following the European Union (EU), China, the United States, and Japan, with total goods exports of \$548 billion and a trade surplus of \$28.3 billion. In 2012, Korea was also the fifth-largest global importer, after the EU, the United States, China, and Japan, with goods imports of \$519.6 billion.² Imports from the United States accounted for 8.3 percent of total Korean imports in the full year 2012, down from 8.5 percent in the full year 2011, making the United States Korea’s fourth-largest import partner after China, Japan, and the EU.³

In 2011, which was the latest year for which international data on trade in services are available, Korea ranked 10th in total services imports and 12th in total services exports.⁴ Korea was the 11th-largest destination for U.S. services exports in 2011.⁵

Real growth in Korea’s gross domestic product (GDP) slowed in 2011 and 2012, on the heels of strong growth in 2010 (figure 2.1). Korea’s position as a significant participant in global trade makes the country’s economy sensitive to swings in demand for its exports. In 2012, weak growth in global demand for Korean exports contributed to a slowdown in Korean production.⁶ The intensifying European sovereign debt crisis in 2011 and 2012

¹ International Monetary Fund (IMF), *World Economic Outlook*, October 2012.

² GTIS, Global Trade Atlas database (accessed March 18, 2013). All trade data represent trade in goods, as data for trade in services for the periods examined are not available.

³ GTIS, Global Trade Atlas database (accessed March 18, 2013).

⁴ IMF, *Balance of Payments Statistics: Yearbook 2012*, 2012, 1033.

⁵ Ibarra-Caton and Sharma, “U.S. International Services,” October 2012, 36–37.

⁶ Bloomberg, “Korea Output Unexpectedly Falls,” July 30, 2012.

lowered demand for Korean exports not only in the EU itself, but also in markets such as China and Japan, which import Korean inputs for use in products they export to the EU.⁷

FIGURE 2.1 Korean real GDP growth (right axis) and goods exports and imports (left axis), 2007–12



Source: Global Trade Atlas database; IMF International Financial Statistics, World Economic Outlook (October 2012).

Total Korean exports declined by a small amount, 1.3 percent, in full year 2012 (figure 2.1). Similarly, Korean import levels declined by 0.9 percent in 2012 after three years in which growth exceeded 20 percent annually (figure 2.1).

U.S. Exports to Korea

U.S. exports to Korea from March 2012 to February 2013 were worth \$39.2 billion, a decline of 7.2 percent from the same period in 2011–12 (table 2.1). By comparison, total Korean imports fell 3.4 percent in value during the same period (table 2.1).

TABLE 2.1 U.S.-Korea trade, March 2011–February 2012 and March 2012–February 2013

	March 2011– February 2012	March 2012– February 2013	Percent change
	Billion \$	Billion \$	
U.S. exports to Korea	42.3	39.2	-7.2
Total U.S. exports	1,317.0	1,357.6	3.1
Total Korean imports	534.6	516.5	-3.4

Source: Compiled from official statistics of U.S. Department of Commerce and data from the Global Trade Atlas database.

Although total U.S. exports to Korea declined in the period in which the FTA has been in effect, exports in certain sectors rose. U.S. exports to Korea of beverages and tobacco products, chemicals, textiles, and transportation equipment grew the most strongly during this period (table 2.2). The U.S. sectors suffering the greatest declines in exports provide goods that may be used as inputs to Korean production, including petroleum and coal

⁷ Korean exports to the EU dropped by 11.4 percent from 2011 to 2012, while exports to China experienced only a slight increase of 0.1 percent following an increase of 14.9 percent in 2011. GTIS, Global Trade Atlas database (accessed March 18, 2013).

products manufacturing, plastics and rubber products manufacturing, and fabricated metal product manufacturing.

TABLE 2.2 U.S. exports to Korea, by industry, March 2011–February 2012 and March 2012–February 2013

NAICS3 sector description	March 2011–	March 2012–	Percent change
	February 2012	February 2013	
	Million \$	Million \$	
Apparel manufacturing	113	98	-13.3
Beverage and tobacco product manufacturing	129	162	25.5
Chemical manufacturing	6,398	6,841	6.9
Computer and electronic product manufacturing	6,179	5,939	-3.9
Electrical equipment, appliance, and component manufacturing	1,084	1,057	-2.5
Fabricated metal product manufacturing	1,404	1,043	-25.7
Food manufacturing	3,019	3,047	0.9
Furniture and related product manufacturing	30	28	-6.5
Leather and allied product manufacturing	164	182	10.8
Machinery manufacturing	5,919	5,437	-8.1
Miscellaneous manufacturing	852	821	-3.7
Nonmetallic mineral product manufacturing	394	394	0.1
Paper manufacturing	505	485	-3.9
Petroleum and coal products manufacturing	915	486	-46.9
Plastics and rubber products manufacturing	355	282	-20.4
Primary metal manufacturing	1,112	1,099	-1.1
Printing and related support activities	77	70	-9.4
Textile mills	49	51	3.9
Textile product mills	78	71	-9.1
Transportation equipment manufacturing	4,502	4,660	3.5
Wood product manufacturing	52	49	-5.6
All nonmanufactured products ^a	8,945	6,939	-22.4
All products	42,273	39,241	-7.2

Source: Compiled from official statistics of U.S. Department of Commerce and official Census statistics.

^aIncludes agricultural and mining commodities, certain publishing services, scrap, and used goods.

U.S. exports of services to Korea from April to December 2012 were \$13.3 billion, an increase of 8.4 percent compared to the same period in 2011 (table 2.3). The categories of services exports that experienced the largest increase in the period were royalty and license fees (23.4 percent) and travel (10.0 percent). The other transportation category, which includes freight and port services for goods traveling by ocean or air, saw a decline in sales to Korea of 4.8 percent.

TABLE 2.3 U.S. exports of services to Korea, by sector, April–December 2011 and April–December 2012

Sector	April–December 2011 (million \$)	April–December 2012 (million \$)	Percent change
Travel ^a	2,637	2,901	10.0
Passenger fares	106	112	5.7
Other transportation (freight and port services)	1,659	1,580	–4.8
Royalties and license fees	3,494	4,311	23.4
Other private services (education, financial, insurance, telecommunications, computer and information, management and consulting, research and development, leasing, and other business services)	4,256	4,272	0.4
U.S. government miscellaneous services and transfers under U.S. military agency sales contracts	151	159	5.3
Total U.S. exports of services to Korea	12,301	13,335	8.4

Source: Bureau of Economic Analysis, U.S. International Transactions.

Note: Data on U.S. exports of services to Korea in the fourth quarter of 2012 are the latest available at the time of publication. Sum of sectors may not add to total due to rounding or reporting inconsistencies.

^aU.S. exports of travel services consist of expenditures by foreign residents traveling in the United States.

CHAPTER 3

U.S. SMEs and Korean Market Experiences

This chapter summarizes information provided by U.S. SMEs discussing the effects of the U.S.-Korea FTA on their production, distribution, and export strategies and describing how they have benefited from specific provisions of the agreement, as well as challenges that they may have faced in exporting to Korea. The information presented is drawn from companies' written and oral statements to the Commission and information taken from company websites. Appearing first are summaries of statements from agricultural SMEs (the majority of respondents), followed by summaries of statements from firms in manufacturing and services.

Agriculture

U.S. agricultural SMEs witnessed some immediate improvements in the trading environment when the FTA entered into force, primarily from lowered or eliminated tariffs and higher quota levels. For example, several U.S. SME exporters of hay and of cherries reported quick sales improvements and the creation of new business relationships as a result of these changes. However, U.S. SME potato exporters who responded stated that they saw no short-term gains and, in fact, faced a new phytosanitary restriction that limited existing sales. SME exporters of cherries and other fruit said that they continued to face Korean phytosanitary restrictions, which the FTA's entry into force did not address. U.S. SME wine producers' comments were mixed: one said it had yet to see any change in its export levels despite the duty elimination, while another reported it was having immediate success, emphasizing its product's new price competitiveness with other foreign wines in the Korean market.

Potatoes

Potato producers' comments addressed three types of issues: tariff reduction, phytosanitary measures (measures intended to protect plant health), and business relationships.

Tariff Reduction

Under the FTA, chip-stock potatoes¹ and table-stock potatoes are treated separately. Chip-stock potato imports from the United States were granted unlimited duty-free access

¹ This term denotes potatoes that are specifically designated to be processed into potato chips and not eaten fresh ("table-stock potatoes"), although chip-stock potatoes are also exported in a fresh state without having been processed.

to Korea during a five-month period of the year, while an annual duty-free tariff-rate quota (TRQ) of 3,000 metric tons (mt) was established for U.S. table-stock potatoes.²

Allied Potato, a grower, marketer, and exporter primarily of chip-stock potatoes with operations in Washington state and California, had anticipated that the initial reduction in the duty on chip-stock potatoes under the FTA would entice some Korean customers to consider trying U.S. product and that export volumes would increase further as the tariff rate fell over time. The firm reported that it has seen a slow and steady increase in shipments as new trade relationships have been established, and it expects to export higher volumes to Korea next year and in the future.³

Phytosanitary Issues

In response to concerns about zebra chip disease,⁴ Korea banned all fresh potato imports from Idaho, Oregon, and Washington in August 2012, including table-stock and chip-stock potatoes, but relaxed this restriction for chip-stock potatoes in October 2012. Table-stock potatoes from these three states continue to be banned from the Korean market. Before the restriction, Strebin Farms, a producer and exporter of table-stock and chip-stock potatoes from Oregon, stated that it regularly shipped table-stock potatoes to Korea and, in mid-2012, had already scheduled a shipment. The shipment was canceled due to the new phytosanitary restriction. Strebin Farms stated that because of the imposition of phytosanitary restrictions in the months following implementation of the FTA, gains from the agreement have not yet materialized for the firm; in fact, sales to Korea have actually declined compared to previous years.⁵

Wada Farms, an Idaho grower, shipper, and marketer of table-stock potatoes, said that it has never shipped to Korea, but made efforts to do so after the FTA entered into force. However, the ban on table-stock potatoes was implemented before the company could make any sales, and the firm expressed frustration that a new market opportunity had opened and then closed before it could take advantage of it. The firm stated that it would be interested in exporting to Korea in the future but is unable to do so as long as the phytosanitary restrictions remain in place.⁶

² Under its most-favored-nation (MFN) obligations, imports into Korea of non-seed fresh potatoes, including chip-stock and table-stock potatoes, are subject to a TRQ, under which the first 18,810 mt of potatoes (in-quota imports) enter Korea at a rate of duty of 30 percent ad valorem, and imports over that amount (over-quota imports) enter at a rate of duty of 304 percent ad valorem. Under the FTA, Korea agreed (1) to provide separately for originating U.S. imports of chip-stock potatoes and table-stock potatoes and (2) to reduce its duties on some U.S. imports. For eligible imports of U.S. chip-stock potatoes, Korea agreed to immediately allow such imports to enter free of duty between December 1 and April 30 of each year. For imports of U.S. chip-stock potatoes entered between May 1 and November 30, Korea may initially impose its MFN rate of duty of 304 percent ad valorem, but Korea has agreed to reduce the duty in stages starting in 2019, with duty-free entry starting in 2026. For eligible U.S. imports of table-stock potatoes, Korea agreed to allow the first 3,000 mt of U.S. imports of such potatoes to enter duty free during the first year of the FTA, with all imports above that quantity subject to the MFN rate of duty of 304 percent ad valorem. Korea agreed to increase the 3,000 mt trigger quantity for the TRQ at the rate of 3 percent per year.

³ Company representative, telephone interview by USITC staff, March 19, 2013.

⁴ Zebra chip disease is a bacteriological infection that affects product quality but is not harmful to humans. Suszkiw, "Bacterium Identified as Prime Suspect," October 2009, 22; Suszkiw, "Multi-Pronged Fight against Zebra Chip Disease in Potatoes," February 2012, 8–9.

⁵ Strebin Farms stated that U.S. table-stock potato exporters should be able to ship their product to Korea if it is first certified as being free from the disease and the potato psyllid—the vector that infects potato plants with the bacterium that causes zebra chip disease. Company representative, telephone interview by USITC staff, March 18, 2013.

⁶ Company representative, telephone interview by USITC staff, March 20, 2013.

Business Relationships

Allied Potato said that one of the main benefits of the FTA's entry into force has been the creation of an incentive for launching U.S.-Korean business partnerships. The firm reported that it has seen a slow and steady increase in shipments as new trade relationships have been established and the quality of the product has been demonstrated. The company said that it had not previously considered Korea to be a market with large growth potential, but now the firm is reevaluating its overall export strategy and planning to export higher volumes to Korea next year and in the future.⁷

Overall View of the FTA

The three firms all saw the FTA as holding promise for the future, if not for the present.

- Allied Potato stated that while its opinion of the FTA is positive, its expectations of benefits under the agreement have not yet been fully realized because it will take time for the advantages to become apparent.⁸
- Strebin Farms said that the entry into force of the FTA was, at least conceptually, a positive event, but because of the imposition of phytosanitary restrictions the firm's sales to Korea have actually declined compared to previous years. In the long run, the firm is optimistic that U.S. shipments to Korea of table-stock and chip-stock potatoes will grow steadily, but it believes that the phytosanitary dispute must be resolved before the playing field will truly be leveled.⁹
- Wada Farms characterizes the FTA as an "opportunity on hold."¹⁰

Hay

The hay producer's comments focused on the FTA's effect on access to the Korean market.

Market Access

Of the wide variety of hay and other fodder products, hay in general entered Korea under an annually variable TRQ before the FTA entered into force. The largest category of U.S. hay exports to Korea now enters under a new 200,000 mt duty-free TRQ.¹¹ Consequently,

⁷ Company representative, telephone interview by USITC staff, March 19, 2013.

⁸ Ibid.

⁹ Company representative, telephone interview by USITC staff, March 18, 2013.

¹⁰ Company representative, telephone interview by USITC staff, March 20, 2013.

¹¹ Korean imports of hay and other fodder of subheading 1214.90 (except alfalfa in bales) has an MFN duty rate of 100.6 percent ad valorem. Imports within the TRQ trigger quantity of 200,000 mt set by the FTA can enter free of duty; that quantity applies for the first 14 years of the FTA and is then unlimited. Over-quota shipments are accorded 15-year staged duty reductions from the MFN rate. Alfalfa in bales is accorded 5-year staged duty reductions from the MFN rate of 18 percent ad valorem. Sweetened animal forage of subheading 2309.90 is also subject to a TRQ if considered supplemental animal feeds, with a 5,500 mt trigger quantity increasing incrementally each year to 7,392 mt in year 11 and unlimited as of year 12, with over-quota imports accorded 12-year staged duty reductions from the base rate. Goods of subheading 2309.90 are subject to MFN duty rates of 6.6 percent or 60.6 percent ad valorem, depending on the type and additives.

Anderson Hay & Grain¹² of Washington state, a producer and exporter of hay, said that it benefited from increased market access following the entry into force of the FTA. In addition, under the FTA Korea will phase out tariffs on all U.S. hay and fodder exports by 2026, during which period Anderson Hay projects a steady rise in exports.¹³ Anderson Hay reported that it experienced sizable growth in its exports to Korea in 2012 and an increased stability and regularity in its sales and shipment patterns. Further, it increased export sales not only to long-established business partners inside Korea, but also to new companies that sought out U.S. hay and straw supplies once the agreement came into force. The firm expressed strong support for the agreement.¹⁴

Fruit

Three fruit producers commented on the FTA, expressing their views as to the positive effects of tariff reduction as well as challenges posed by Korean phytosanitary measures.

Tariff Reduction

Under the FTA, Korea immediately eliminated its MFN duty of 24 percent ad valorem on eligible imports of U.S. cherries, and according to the three firms responding in this sector, that elimination has been the primary driver behind increased U.S. cherry exports to Korea. Oneonta Starr Ranch Growers, a Washington grower, packer, and marketer of apples, pears, citrus, cherries, and other stone fruits, said that the elimination of the duty on U.S. cherries has greatly reduced prices at the retail level, bringing new consumers into the market for cherries. The company said that because the tariff was assessed on the customs, insurance, and freight (c.i.f.) value of the goods and cherries are shipped to Korea via air freight, which increases the c.i.f. value dramatically, its impact on the cherries' final retail price was substantial.¹⁵

Sage Fruit Company, a grower, packer, and marketer of apples, pears,¹⁶ and cherries located in the Yakima Valley of Washington state, stated that before the FTA ended the tariff on cherries, the company had exported only small volumes of cherries to Korea for a limited time. Sage Fruit said that as a result of the tariff elimination, demand for cherries from Korean importers, including many that historically had been customers of Sage Fruit, has risen, and the market now provides higher returns than other markets. Sage Fruit stated that its export volumes to Korea are still small, but it believes they will continue to grow as a result of the tariff elimination.¹⁷

Stemilt Growers, a grower, packer, and marketer of apples, pears, and cherries in Wenatchee, Washington, stated that since the FTA's entry into force and the immediate tariff elimination, the firm's cherry exports to Korea have almost doubled compared with the same period the previous year. The company reported that the reduction in cost due to tariff elimination was significant enough to attract new middle- and lower-income

¹² Anderson Hay & Grain is a Washington state company with additional locations in Oregon and California. They specialize in the production and export of hay, including timothy hay, alfalfa hay, and grass straw products, to be used as feed for horses and cattle.

¹³ Most U.S. exports to Korea of hay and fodder products were subject to a tariff of 100.5 percent before the entry into force of the FTA.

¹⁴ Anderson Hay & Grain Co., written submission to the USITC, March 26, 2013; company representative, email message to USITC staff, April 3, 2013.

¹⁵ Company representative, telephone interview by USITC staff, March 20, 2013.

¹⁶ Apples and pears were accorded either 7- or 10-year staged duty reductions from the MFN duty rate of 46 percent ad valorem, depending on the variety being imported.

¹⁷ Company representative, telephone interview by USITC staff, March 28, 2013.

consumers and increased interest from nontraditional cherry marketers, such as smaller retailers, hotels, and restaurants in second-tier cities. Further, although growth in U.S. exports to Korea over the past year was partially spurred by a large U.S. cherry harvest, the firm expects future growth in exports to Korea to continue at a high rate, possibly between 20 and 30 percent annually.¹⁸

Phytosanitary Issues

Cherry exporters expressed frustration about the methyl bromide fumigation requirements that Korea imposes on U.S. cherry exports to Korea. Oneonta stated that the fumigation shortens shelf life and forces exporters to ship cherries by air, which is far costlier than sea freight.¹⁹ Sage Fruit explained that years ago, when Japan implemented a systems approach protocol as an alternative to fumigating cherries with methyl bromide, the company stopped shipping cherries to Korea and began shipping to Japan.²⁰ Without fumigation, the quality of the fruit was higher, increasing demand and resulting in higher prices in the Japanese market.²¹

Concerning apples and pears, Oneonta and Stemhilt Growers said that long-standing Korean phytosanitary issues, which were not addressed by the FTA, continue to restrict full market access for U.S. pear and apple exports.²² There are currently no U.S. apple or pear exports to Korea for consumption in the Korean market. Stemilt Growers stated it had not necessarily expected the FTA to resolve the issues, but that it is hopeful they may be resolved faster due to the existence of the FTA and the related working group on sanitary and phytosanitary issues.²³

Overall View of the FTA

All three respondent firms expressed positive opinions of the FTA, although two included caveats.

- Stemilt Growers stated that it views the FTA positively.²⁴
- Similarly, Sage Fruit said that it has a positive reaction to the opportunities that the FTA is providing and stated that although the FTA's entry into force has not resulted in the resolution of long-standing phytosanitary issues, such as the methyl bromide fumigation requirement for cherries and the lack of market access for U.S. apples and pears, it hopes that the agreement might provide the political environment and mechanisms to resolve these issues.²⁵

¹⁸ Company representative, telephone interview by USITC staff, March 27, 2013.

¹⁹ Company representative, telephone interview by USITC staff, March 20, 2013.

²⁰ Systems approach protocols vary by product, but typically include a number of processes that mitigate pest risk and allow the importation of the specific product under an acceptable level of phytosanitary security.

²¹ Company representative, telephone interview by USITC staff, March 28, 2013.

²² Company representative, telephone interview by USITC staff, March 20, 2013; company representative, telephone interview by USITC staff, March 27, 2013. See USITC, *U.S.-Korea Free Trade Agreement: Potential Economy-wide and Selected Sectoral Effects*, September 2007, 3-21.

²³ Company representative, telephone interview by USITC staff, March 27, 2013.

²⁴ Ibid.

²⁵ Company representative, telephone interview by USITC staff, March 28, 2013.

- Oneonta also stated that although it hopes these issues can be settled under existing provisions of the FTA, it realizes that resolution of these types of issues tends to be a long, complicated process.²⁶

Wine

The two responding wineries expressed differing views on the effect of the FTA's elimination of tariffs on wine from grapes; one also commented on the FTA's positive influence on the development of U.S.-Korea business relationships.

Tariff Reduction

Wine from grapes is now free of duty, compared with the MFN rate of 15 percent ad valorem applied to U.S. exports of wine from grapes before the FTA entered into force. Wente Vineyards in California²⁷ stated that the tariff elimination and resulting drop in retail prices for wine has lowered the margins between U.S. wine and wine from other countries, specifically Chile and those in Europe,²⁸ and increased demand for U.S. wine. Wente Vineyards stated that the entry into force of the FTA has resulted in tremendous growth for U.S. wine in the Korean market, with exports increasing by approximately 40 percent. According to Wente Vineyards, although the entire Korean market for wine has been growing rapidly, the growth in its exports and exports of all U.S. wine is now outpacing the growth of most European and South American exporters.²⁹

In contrast, Silver Oak, another California winery,³⁰ stated that the elimination of the 15 percent Korean tariff on U.S. wine as a result of the FTA's entry into force has not had an impact on the company's exports to Korea or on prices of U.S. wine at the retail level in Korea. The company stated, however, that it was not expecting an immediate impact on retail prices from the tariff elimination because price adjustments often take time to filter through the supply chain.³¹

Business Relationships

Wente Vineyards stated that the FTA's entry into force has increased marketing awareness and renewed interest from Korean importers and retailers in U.S. wines. This development has allowed the company to expand the number of retailers that market its product.³²

²⁶ Company representative, telephone interview by USITC staff, March 20, 2013.

²⁷ Wente Vineyards of Livermore, California, is one of the oldest continually operating, family-owned wineries in the United States.

²⁸ A company representative stated that it is very difficult to compete on price with Chilean exporters, who are the low-cost suppliers in the Korean market because of their low production costs and duty-free access, but that the FTA's entry into force has reduced the retail price differential. In addition, the representative said that although wines from Europe still dominate the Korean market, the tariff reduction has made U.S. exports more cost competitive against European wines, which also benefit from duty-free access as a result of the EU-Korea FTA. Company representative, telephone interview by USITC staff, March 12, 2013.

²⁹ Ibid.

³⁰ Silver Oak produces Cabernet wines from grapes grown on its own vineyards as well as from grapes grown by a small group of independent growers.

³¹ Company representative, telephone interview by USITC staff, March 20, 2013.

³² Company representative, telephone interview by USITC staff, March 12, 2013.

Overall View of the FTA

- Wente Vineyards said that it has positive impressions about the agreement and its own growth prospects in the Korean market.³³
- Although Silver Oak suggested that Korea may be a growth market for its wine exports and U.S. wine exports in general in the future, the firm indicated that the major driver of that growth will likely be different marketing approaches adopted by Korean distributors and importers and not necessarily any specific provisions or effects of the FTA.³⁴

Manufacturing

Certain Manufactures and Chemicals

Three U.S. SME manufacturers expressed the view that the U.S.-Korea trading environment has improved since the FTA entered into force, with new business possibilities, a strengthening of existing relationships, and more-regular sales patterns. One mentioned a new administrative requirement, but said that it was a minor burden. Each of these manufacturers said that it had exported to Korea before the FTA's entry into force and anticipates greater opportunities under the FTA.

Tariff Reduction

As a result of the FTA's entry into force, the duty on eligible imports of U.S. steel, copper, and nickel springs was reduced from 8 percent to free. Optimum Spring Solutions, a Florida manufacturer of high-quality custom springs³⁵ that exported to Korea before the FTA's entry into force, indicated that its products now cost less in Korea, which has helped the company strengthen its ties to Korean customers (see "business relationships"). The company stated that about one-half of its sales are export sales to various markets.³⁶

Transpo Industries, a New York company that manufactures and supplies safety products and new-technology materials for bridges, roadways, tunnels, railroads, airports, and ports, exports a product called T-48 to Korea. It is designed to be used principally as a high-resistant top coat applied to bridges and other road surfaces and also as a sealant on existing cracks and other defects in damaged road surfaces. Transpo said that it has exported T-48 to Korea during the past five years; the 6.5 percent duty on T-48 was eliminated when the FTA entered into force.³⁷

³³ Ibid.

³⁴ Company representative, telephone interview by USITC staff, March 20, 2013.

³⁵ Optimum Spring Solutions specializes in springs made of high-temperature and specialty alloys including stainless steel, nickel, copper, and cobalt alloys.

³⁶ Company representative, telephone interview by USITC staff, March 18, 2013.

³⁷ Under the FTA, the MFN duty rates ranging up to 8.6 percent ad valorem were eliminated immediately on originating goods.

Business Relationships

AAMSI, a Florida exporter of parts and components for helicopters, military jets, and ships to Korea,³⁸ stated that it has been exporting more products to Korea since the FTA's entry into force. However, the company did not attribute the rise in its exports to the FTA, given that exports of these parts had been receiving duty-free treatment before the entry into force. The company said that the FTA has created a positive atmosphere for business relations with Korea. AAMSI is projecting further expansion of its business operations in Korea, and the company is studying plans to work with potential Korean partner companies to perform aircraft repair in Korea.³⁹

Optimum Spring Solutions said that a customer contact in Korea stated that it has become more convenient to deal with the United States since the FTA entered into force. Optimum Spring Solutions stated that business relationships with Korean customers have become stronger and more stable because its products now cost less in Korea, making the company more competitive in a global context and allowing the company to maintain its level of employment in the United States.⁴⁰

Market Access

Transpo reported easier movement of its product into the Korean market and improved access to the Korean marketplace in general since the FTA's entry into force. The company stated that it is "aggressively" pursuing additional trade opportunities afforded under the provisions of the agreement. For example, Transpo is working to improve the regularity of its sales patterns, which were sporadic before the FTA's entry into force, together with an improvement in export volumes.⁴¹

Administrative Issues

Optimum Spring Solutions noted that it must now provide a one-page certificate of origin with each shipment to Korea to confirm that its products are made in the United States. However, the company considers this new requirement to be a minor inconvenience in comparison to the important benefits of the FTA.⁴²

Services

The three U.S. services SMEs that responded expressed mixed views of the FTA's effects. The two entertainment SMEs viewed the FTA as having a helpful influence on intellectual property (IP) protection, while the third respondent, a software services firm, focused more on administrative concerns and the question of whether its recently improved sales in Korea were tied to the FTA's entry into force.

³⁸ AAMSI provides structural component and assembly manufacturing, parts repair, and overhaul, among other services.

³⁹ Company representative, telephone interview by USITC staff, March 14, 2013.

⁴⁰ Company representative, telephone interview by USITC staff, March 18, 2013.

⁴¹ Company representatives, telephone interview by USITC staff, April 5, 2013.

⁴² Company representative, telephone interview by USITC staff, March 18, 2013.

Music-related Services

Intellectual Property

Two responding SMEs, CMJ Holdings and WBA Entertainment Inc./335 Records, while not citing any provisions in the IP section of the FTA or changes in Korean law per se, reported substantial new opportunities in Korea attributable at least in part to what they regard as the improved IP environment.⁴³ CMJ Holdings Corp., a New York SME that connects music fans and music industry professionals with new music through interactive media, live events, and print, said that it participated in a trade mission to Korea and other Asian countries in September 2012,⁴⁴ and saw direct and indirect benefits from this visit. Shortly after the trade mission, a Korean organization hosted and promoted CMJ at a music conference. And in 2013, for the first time, Korean companies will participate as sponsors in CMJ's annual Music Marathon, a music conference and festival in New York. This participation will mean substantial music-related services spending in the United States by Korean trade associations and firms, as well as spending on other U.S. services such as travel, tourism, and promotional services. CMJ states that the combination of strong IP regulations and low prices for legal access to music has substantially reduced musical piracy in Korea, creating additional value for U.S. artists' work.⁴⁵

WBA Entertainment Inc./335 Records, a professional talent management and production firm in Tennessee whose president is co-founder of the independent music label 335 Records, also participated in the September 2012 trade mission to Asian countries. WBA Entertainment/335 Records noted that IP protection is critical to SMEs in the music industry. Because improved IP protection helps artists control and produce income from their creative work, WBA Entertainment/335 Records generally had a positive view of the FTA's effects.⁴⁶

Software-related Services

While it reported rising sales of its products in Korea, DiSTI—the software firm responding in this category—cited the effect of administrative costs on SMEs in particular.

⁴³ Korea has made progress in IP protection and enforcement during the negotiation and implementation of the FTA. Three reforms are particularly relevant to the protection of music. In 2009, the Korean government amended the copyright law to deter copyright infringement over Internet file-sharing platforms. In 2010, it provided for sanctions against repeat infringers under its “three strikes” law. In 2011, it passed a law requiring online storage lockers to register with the Korea Communications Commission, facilitating online IP enforcement. The Korean government also has dedicated increased resources to improving enforcement on the ground. USTR, “Korea,” 2013, 237.

⁴⁴ The trade mission was arranged by the American Association of Independent Music (A2IM), an industry association of independent music labels. See appendix C for a summary of its comments in this investigation.

⁴⁵ CMJ Holdings Corp., written submission to the USITC, April 9, 2013.

⁴⁶ A company representative noted that the Korean market was open to “traditional business practices,” in which artists enter into agreements and get paid pursuant to those agreements. Company representative, telephone interview by USITC staff, March 11, 2013.

Administrative Issues

DiSTI, a Florida company that sells software tools and services for the development of visual interfaces used in automotive digital dashboards, medical device interfaces, and aviation display controls,⁴⁷ expressed concern over possible administrative costs under the FTA. The firm reported that despite NAFTA, its exports to Canada are almost nonexistent because the general administrative costs have become too great; it stated that such costs alone exceed what it makes in the sale of software and services. DiSTI predicted that if the same types of administrative cost issues arise in Korea, its exports to Korea will decline because smaller companies such as DiSTI usually depend more heavily on on-hand cash flow and revenue streams.⁴⁸

Overall View of the FTA

- DiSTI noted large increases in demand from the Korean automotive sector for its software products and services, although it is unsure if this is a direct result of the FTA's entry into force. Despite its concerns about administrative costs, the firm continues to have a positive outlook and expects to see its market share grow in Korea.⁴⁹

⁴⁷ DiSTI exports to roughly 40 countries and has been growing its business in Korea for the last seven years, using a Korean partner company to act as its agent to assist with language and cultural barriers.

⁴⁸ Company representative, email message to USITC staff, March 28, 2013.

⁴⁹ Ibid.

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APPENDIX A
Request Letter

DOCKET NUMBER 2937
Office of the Secretary Int'l Trade Commission

EXECUTIVE OFFICE OF THE PRESIDENT
THE UNITED STATES TRADE REPRESENTATIVE
WASHINGTON, D.C. 20508

RECEIVED
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US INTL TRADE COMM
2013 JAN 30 AM 10:35

JAN 29 2013

The Honorable Irving A. Williamson
Chairman
U.S. International Trade Commission
500 E Street, S.W.
Washington, DC 20436

Dear Chairman Williamson:

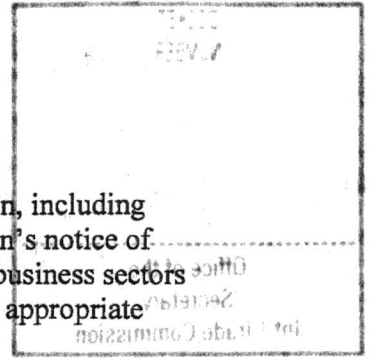
One of the primary goals of the President's National Export Initiative is to increase export opportunities for America's small and medium-sized enterprises (SMEs), and expand exports from SMEs. In line with this initiative, the United States and Korea established a Working Group on SMEs under the United States-Korea Free Trade Agreement (KORUS). As indicated in the October 30, 2011 exchange of letters establishing the Working Group, two of its most important tasks are to (1) analyze and evaluate the impact of the implementation of the KORUS on production, distribution, and trade by SMEs, and (2) explore and develop ways for SMEs to take greater advantage of the economic opportunities created by the KORUS. Within one year of the Working Group's first meeting on June 5, 2012, the Working Group will present the outcome of its work to the KORUS's minister-level Joint Committee.

The KORUS SME Working Group convened two meetings in 2012, and the Working Group views it as useful for both Parties to conduct additional research to ascertain what information is available on the impact of the KORUS thus far on SMEs. The Government of Korea has commissioned a study aimed at investigating the impact of KORUS on exports of Korean SMEs to the United States. I believe that for the Working Group to be able to present effective recommendations to the Joint Committee with respect to possible ways to help U.S. SMEs take advantage of the new opportunities KORUS has created, the United States should also conduct a similar investigation, recognizing the constraints posed by the data at hand due to the short time period in which the KORUS has been in effect.

Therefore, pursuant to authority delegated by the President to the United States Trade Representative (USTR) under section 332(g) of the Tariff Act of 1930 (19 U.S.C. 1332(g)), I request that the Commission conduct an investigation and prepare a report containing information that will assist the Working Group in better understanding the impact of the KORUS on U.S. SMEs since its entry into force on March 15, 2012.

I request that the Commission, to the extent practicable, provide a report discussing the effects of the KORUS on the production, distribution, and export strategy of U.S. SMEs, as identified by those SMEs, and describing how U.S. SMEs have benefited from specific provisions of the KORUS, as well as challenges that U.S. SMEs may have faced in exporting to Korea. Such provisions may include but are not limited to those related to trade in goods and services or to

intellectual property issues. The report should be based on available information, including information furnished by SMEs and interested parties following the Commission's notice of investigation. The U.S. SME sectors examined may include some or all of the business sectors listed in the three prior Commission reports on SMEs released in 2010, or other appropriate business sectors for which information is available.



I request that the report be delivered by May 1, 2013. As we intend to make the Commission's report available to the public, the report should not include confidential business or national security classified information.

I appreciate the Commission's assistance and cooperation in this matter.

Sincerely,

Ambassador Ron Kirk

APPENDIX B
Federal Register Notice

Filing, available on the Commission's Web site at <http://edis.usitc.gov>.

Additional written submissions to the Commission, including requests pursuant to section 201.12 of the Commission's rules, shall not be accepted unless good cause is shown for accepting such submissions, or unless the submission is pursuant to a specific request by a Commissioner or Commission staff.

In accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the review must be served on all other parties to the reviews (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Authority: These reviews are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.62 of the Commission's rules.

By order of the Commission.

Issued: February 6, 2013.

Lisa R. Barton

Acting Secretary to the Commission.

[FR Doc. 2013-03088 Filed 2-11-13; 8:45 am]

BILLING CODE 7020-02-P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 332-288]

Ethyl Alcohol for Fuel Use: Determination of the Base Quantity of Imports

AGENCY: United States International Trade Commission.

ACTION: Termination of investigation.

SUMMARY: The Commission terminated the investigation following the expiration of the statutory requirement that the Commission make such determinations. Section 423(c) of the Tax Reform Act of 1986 ("the Act"), as amended (19 U.S.C. 2703 note), required the United States International Trade Commission to determine annually the amount (expressed in gallons) that is equal to 7 percent of the U.S. domestic market for fuel ethyl alcohol during the 12-month period ending on the preceding September 30. This determination was to be used to establish the "base quantity" of imports of fuel ethyl alcohol, and the Commission transmitted its determinations to the U.S. Customs and Border Protection for its use in the further administration of the law.

Section 423(g)(1)(B) of the Act, as amended, states that the effective period

of the provisions in section 423 (other than subsection (e)) shall apply to articles entered before the expiration of the effective period of Harmonized Tariff Schedule of the United States heading 9901.00.50. The effective period of this heading expired December 31, 2011.

ADDRESSES: All Commission offices, including the Commission's hearing rooms, are located in the United States International Trade Commission Building, 500 E Street SW., Washington, DC. All written submissions should be addressed to the Secretary, United States International Trade Commission, 500 E Street SW., Washington, DC 20436. The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at <http://edis.usitc.gov>.

FOR FURTHER INFORMATION CONTACT: For information specific to this investigation, contact project leader Douglas Newman (202) 205-3328, douglas.newman@usitc.gov, in the Commission's Office of Industries. For information on legal aspects of the investigation contact William Gearhart, william.gearhart@usitc.gov, of the Commission's Office of the General Counsel at (202) 205-3091. The media should contact Margaret O'Laughlin, Office of External Relations (202-205-1819 or margaret.olaughlin@usitc.gov). Hearing-impaired individuals may obtain information on this matter by contacting the Commission's TDD terminal at 202-205-1810. General information concerning the Commission may also be obtained by accessing its Web site (<http://www.usitc.gov>). Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202-205-2000.

Background

The Commission published its notice instituting this investigation in the **Federal Register** on March 21, 1990 (55 FR10512), and published its most recent previous determination for the 2012 amount in the **Federal Register** on December 30, 2011 (76 FR 82320).

By order of the Commission.

Issued: February 7, 2013.

Lisa R. Barton,

Acting Secretary to the Commission.

[FR Doc. 2013-03168 Filed 2-11-13; 8:45 am]

BILLING CODE 7020-02-P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 332-539]

U.S.-Korea Free Trade Agreement: Effects on U.S. Small and Medium-Sized Enterprises; Institution of Investigation and Scheduling of Hearing

AGENCY: United States International Trade Commission.

ACTION: Institution of investigation and scheduling of public hearing.

SUMMARY: Following receipt of a request dated January 29, 2013 (received on January 30, 2013) from the U.S. Trade Representative (USTR) under section 332(g) of the Tariff Act of 1930 (19 U.S.C. 1332(g)), the U.S. International Trade Commission (Commission) instituted investigation No. 332-539, U.S.-Korea Free Trade Agreement: Effects on U.S. Small and Medium-Sized Enterprises.

DATES:

February 27, 2013: Deadline for filing requests to appear at the public hearing.

March 1, 2013: Deadline for filing pre-hearing briefs and statements.

March 14, 2013: Public hearing.

March 20, 2013: Deadline for filing post-hearing briefs and statements.

March 25, 2013: Deadline for filing all other written submissions.

May 1, 2013: Transmittal of Commission report to the USTR.

ADDRESSES: All Commission offices, including the Commission's hearing rooms, are located in the United States International Trade Commission Building, 500 E Street SW., Washington, DC. All written submissions should be addressed to the Secretary, United States International Trade Commission, 500 E Street SW., Washington, DC 20436. The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at <https://edis.usitc.gov/edis3-internal/app>.

FOR FURTHER INFORMATION CONTACT:

Project Leader Brian Allen (202-205-3034 or brian.allen@usitc.gov) or

Deputy Project Leader Kyle Johnson (202-205-3229 or

kyle.johnson@usitc.gov) for information

specific to this investigation. For

information on the legal aspects of this

investigation, contact William Gearhart

of the Commission's Office of the

General Counsel (202-205-3091 or

william.gearhart@usitc.gov). The media

should contact Margaret O'Laughlin,

Office of External Relations (202-205-1819 or margaret.olaughlin@usitc.gov).

Hearing-impaired individuals may obtain information on this matter by contacting the Commission's TDD terminal at 202-205-1810. General information concerning the Commission may also be obtained by accessing its Web site (<http://www.usitc.gov>). Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202-205-2000.

Background: As requested, the Commission will conduct an investigation and prepare a report containing information on the impact of the U.S.-Korea Free Trade Agreement on U.S. small and medium-sized enterprises (SMEs) since entry into force of the agreement on March 15, 2012. The Commission, to the extent practicable, will provide a report discussing the effects of the agreement on the production, distribution, and export strategy of U.S. SMEs, as identified by those SMEs, and describing how U.S. SMEs have benefited from specific provisions of the agreement, as well as challenges that U.S. SMEs may have faced in exporting to Korea. Such provisions may include but are not limited to those related to trade in goods and services or to intellectual property. The report will be based on available information, including information furnished by SMEs and interested parties. The U.S. SME sectors examined may include some or all of the business sectors listed in the three prior Commission reports on SMEs released in 2010, or other appropriate business sectors as information is available.

Public Hearing: A public hearing in connection with this investigation will be held at the U.S. International Trade Commission Building, 500 E Street, SW., Washington, DC, beginning at 9:30 a.m. on March 14, 2013. Requests to appear at the public hearing should be filed with the Secretary, no later than 5:15 p.m., February 27, 2013, in accordance with the requirements in the "Submissions" section below. All pre-hearing briefs and statements should be filed not later than 5:15 p.m., March 1, 2013; and all post-hearing briefs and statements should be filed not later than 5:15 p.m., March 20, 2013. In the event that, as of the close of business on February 27, 2013, no witnesses are scheduled to appear at the hearing, the hearing will be canceled. Any person interested in attending the hearing as an observer or nonparticipant should contact the Office of the Secretary at 202-205-2000 after February 27, 2013, for information concerning whether the hearing will be held.

Written Submissions: In lieu of or in addition to participating in the hearing, interested parties are invited to file written submissions concerning this investigation. All written submissions should be addressed to the Secretary, and should be received not later than 5:15 p.m., March 25, 2013. All written submissions must conform with the provisions of section 201.8 of the *Commission's Rules of Practice and Procedure* (19 CFR 201.8). Section 201.8 and the Commission's Handbook on Filing Procedures require that interested parties file documents electronically on or before the filing deadline and submit eight (8) true paper copies by 12:00 p.m. eastern time on the next business day. In the event that confidential treatment of a document is requested, interested parties must file, at the same time as the eight paper copies, at least four (4) additional true paper copies in which the confidential information must be deleted (see the following paragraph for further information regarding confidential business information). Persons with questions regarding electronic filing should contact the Secretary (202-205-2000).

Any submissions that contain confidential business information (CBI) must also conform with the requirements of section 201.6 of the *Commission's Rules of Practice and Procedure* (19 CFR 201.6). Section 201.6 of the rules requires that the cover of the document and the individual pages be clearly marked as to whether they are the "confidential" or "non-confidential" version, and that the confidential business information be clearly identified by means of brackets. All written submissions, except for confidential business information, will be made available for inspection by interested parties. In its request letter, the USTR stated that it intends to make the Commission's report available to the public in its entirety, and asked that the Commission not include any confidential business information or national security classified information in the report that the Commission sends to the USTR. Any confidential business information received by the Commission in this investigation and used in preparing this report will not be published in a manner that would reveal the operations of the firm supplying the information.

By order of the Commission.

Issued: February 7, 2013.

Lisa R. Barton,

Acting Secretary to the Commission.

[FR Doc. 2013-03169 Filed 2-11-13; 8:45 am]

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DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Sematech, Inc. d/b/a International Sematech

Notice is hereby given that, on January 16, 2013, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), Sematech, Inc. d/b/a International Sematech ("SEMATECH") has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Lintec Corporation, Tokyo, JAPAN; and Cabot Corporation, Boston, MA, have been added as parties to this venture. No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and Sematech intends to file additional written notifications disclosing all changes in membership.

On April 22, 1988, Sematech filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on May 19, 1988 (53 FR 17987).

The last notification was filed with the Department on October 19, 2012. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on December 4, 2012 (77 FR 71830).

Patricia A. Brink,

Director of Civil Enforcement, Antitrust Division.

[FR Doc. 2013-03137 Filed 2-11-13; 8:45 am]

BILLING CODE 4410-11-P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—U.S. Photovoltaic Manufacturing Consortium, Inc.

Notice is hereby given that, on January 15, 2013, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), U.S. Photovoltaic Manufacturing Consortium, Inc. ("USPVMC") has filed

APPENDIX C

Summary of Positions of Interested Parties

The U.S. International Trade Commission (USITC or Commission) invited interested persons to file written submissions for this investigation. This appendix summarizes the views expressed to the Commission via written submissions and oral statements and reflects the principal points made by the particular party. The views expressed in the summarized materials should be considered to be those of the submitting parties and not of the Commission. In preparing this summary, Commission staff did not undertake to confirm the accuracy of the information summarized or otherwise correct it. For the full text of written submissions, see entries associated with investigation no. 332-539 at the Commission's Electronic Docket Information System (<https://edis.usitc.gov/edis3-internal/app>).

American Association of Independent Music (A2IM)¹

In a written submission, A2IM President Richard Bengloff said that A2IM is an organization of more than 300 independent music labels from across the United States, all of which are small and medium-sized enterprises (SMEs). Mr. Bengloff stated that although most A2IM members are small in terms of revenue, their contribution to the diversity of American music is enormous: at the 2013 Grammy Awards, for example, independent labels and artists won Album of the Year as well as Best Album awards in 18 different categories, and received more than 50 percent of all non-producer nominations.

According to Mr. Bengloff, in September 2012, A2IM and 15 of its SME members participated in a trade mission that, for the first time, included Seoul. Mr. Bengloff stated that the goal of the trip was to expand business opportunities for SME independent labels. Mr. Bengloff noted that delegates from prominent independent labels such as Ultra Music, the world's largest electronic dance music label; ATO Records, whose artists include Alabama Shakes; 335 Records (Grammy award-winning artist Larry Carlton); and VP Records (Sean Paul) met with Korean artists and entrepreneurs. Mr. Bengloff noted that A2IM members' meetings included one-on-one discussions to identify collaboration opportunities in such areas as recorded music sales (physical and digital), subscription services, synchronization licensing, and touring and merchandising, and involved 25–30 prospective buyers across these targeted areas. He added that the mission was organized by the U.S. Commercial Service Korea and included a networking dinner reception hosted by U.S. Ambassador to Korea Sung Y. Kim.

Mr. Bengloff said that A2IM members found a vibrant Korean music scene, bolstered by strong Korean government efforts to combat online piracy as part of the implementation of the U.S.-Korea Free Trade Agreement (FTA). He stated that Korean businesses were very interested in importing A2IM members' intellectual property. The biggest ongoing challenge, Mr. Bengloff said, was low prices for digital downloads, as little as 5 cents a song, although A2IM expects prices to increase. Since the visit, many A2IM members have entered into agreements with their Korean counterparts, according to Mr. Bengloff. He added that although these types of arrangements can have a long gestation period, A2IM expects to see positive results for its members from improved conditions in the Korean market.

¹ A2IM, written submission to the USITC, April 8, 2013.

Coalition for a Prosperous America (CPA)²

In a written submission, CPA stated that it is a national, nonprofit organization comprising agriculture, manufacturing, and labor association and company members. According to the submission, CPA members are domestic supply chain companies with customers in the U.S. aerospace, automotive, electronics, medical, energy, defense, telecommunications, and other industries. CPA members also include SMEs from the tooling, machining, plastic mold building, steel, copper, aluminum, electronic component, and other industries. According to CPA, most CPA members do not export, and those that export do so on a limited basis.

CPA stated that it believes that the questions posed for the subject investigation are “not carefully tailored to gain facts relating to economic benefits or harm” resulting from the FTA. The coalition raised the following objections to the study request:

- The questions posed in the investigation are directed only to SME producers that export. SMEs generally do not export, and the U.S. domestic market is the largest and wealthiest market that is “feasible” for SME sales.
- The investigation is based on the assumption that, as a result of U.S. FTAs, domestic SME supply chain suppliers will benefit by exporting in the same way that original equipment manufacturers (OEMs) benefit from such agreements. Also, it assumes that the OEMs’ supply chains will enjoy increased opportunities under such FTAs to supply those OEMs. CPA believes that competing nations pursue trade strategies and agreements to enable them to capture the supply chains of key industries and not open their markets to U.S. suppliers.

CPA said that it believes that CPA members in the domestic supply chain have been harmed by the FTA. According to CPA, U.S. FTAs in general have caused members to lose business to firms in other countries and have encouraged the relocation of U.S. supply chains offshore. CPA also states that the FTA does not include provisions to neutralize currency manipulation, border-adjustable value-added taxes, and state-controlled company subsidies.

² CPA, written submission to the USITC, March 25, 2013; CPA executive and members, meeting with USITC staff, Washington, DC, March 14, 2013.

Motor & Equipment Manufacturers Association (MEMA)³

In a written submission, Ann Wilson, senior vice president for government affairs, stated that MEMA represents more than 1,000 companies that produce motor vehicle parts for use in the light- and heavy-duty vehicle original equipment and aftermarket industries. She stated that motor vehicle parts manufacturers directly employ more than 734,000 workers and that the industry generates another 1.27 million indirect supply chain jobs.

Ms. Wilson stated that MEMA supported the passage of the FTA and that suppliers who have been active in the Korean market since before the FTA's entry into force hope to gain greater benefits from the agreement. She reported that MEMA canvassed members of its Small and Medium Enterprise Presidents Council concerning the FTA and found that no significant issues had been caused by the agreement, although one member company reported that it had lost business to a competitor in Korea since the FTA came into force.

Ms. Wilson said that MEMA has been working with the U.S. government regarding its concerns over Korea's new Vehicle Parts Self-Certification System. She stated that the issue involves the ability of U.S. firms to provide motor vehicle replacement parts for U.S.-originating vehicles exported to Korea. Under the FTA, according to Ms. Wilson, vehicles that comply with U.S. federal motor vehicle safety standards (FMVSS) are deemed to be compliant with comparable Korean standards, and U.S. replacement parts for U.S. vehicles exported to Korea would seemingly be a "non-issue"; however, Korea initially required imported U.S. motor vehicle parts to be certified to Korean standards, which are different from U.S. standards and would likely require manufacturers to retool their operations at a high cost. Ms. Wilson said that parts compliant with U.S. FMVSS should be granted equivalency to corresponding Korean standards.

Ms. Wilson asserted that the requirement of a "KC" stamp on each motor vehicle part under proposed Korean regulations would have been very burdensome to parts suppliers. In lieu of the stamp, however, she reported that final regulations allow the use of a sticker either on the part or on its packaging, as long as the replacement part meets the same U.S. FMVSS specifications as the original component. Although she stated that MEMA believes the U.S. FMVSS "DOT" mark should be sufficient for the Korean market, the use of the "KC" sticker is preferable to the stamp requirement.

Ms. Wilson also noted that U.S. parts manufacturers will be allowed to supply safety-related aftermarket parts only through the vehicle manufacturers' distribution network—that of Ford, GM, and Chrysler—while independent U.S. aftermarket suppliers are shut out of the market. According to Ms. Wilson, Korea may be concerned about counterfeit, low-cost, or low-quality parts entering the supply chain from non-U.S. sources. She contended that the safety standards that U.S. parts are required to meet should satisfy Korean concerns and that Korea should accommodate legitimate, independent U.S. aftermarket suppliers. Moreover, she said that MEMA has advocated for the use of quality motor vehicle parts both in original equipment and aftermarket installations and has urged the entire aftermarket industry to provide consumers with quality parts from manufacturing through distribution and repair.

³ MEMA, written submission to the USITC, March 25, 2013.

Northwest Horticulture Council (NHC)⁴

In a written submission, Mark Powers, NHC vice president, stated that the NHC represents growers, packers, and shippers of tree fruit in the Pacific Northwest on national and international policy issues. Mr. Powers said that cherries are the only Pacific Northwest tree fruit exported to Korea. Exports of U.S. cherries to Korea have expanded by 86 percent, in large part because of the FTA provision reducing the relevant Korean tariff from 24 percent to zero. According to Mr. Powers, however, despite the tariff elimination and the resulting rise in demand in the Korean market, Korean regulatory challenges restrict U.S. cherry exports to Korea. Mr. Powers stated that Korea's requirement that cherries be fumigated with methyl bromide lessens product quality and limits the fruit's shelf life. He expressed the NHC's hope that a systems approach protocol can be agreed on to resolve the issue and find an alternative treatment to methyl bromide fumigation.⁵ Mr. Powers also stated that Korea's process for monitoring chemical residues causes delays in processing cherry shipments at the port, disrupting markets and lowering fruit quality even in circumstances where evidence of residue violations does not exist. Finally, he stated that the entry into force of the FTA has not benefited U.S. apple and pear exporters because these fruits lack meaningful market access, due to long-standing Korean phytosanitary concerns, and this lack has not changed or been addressed.

United States Wine Institute and Wine America⁶

In a written submission, James B. Clawson of JBC International stated that the United States Wine Institute is a public policy and advocacy group representing more than 1,000 Californian wineries and affiliated businesses, and that Wine America (National Association of American Wineries) represents more than 800 wineries in 48 states. Mr. Clawson stated that the FTA's elimination of the 15 percent tariff on U.S. wine has made it possible for U.S. wine exporters to compete with Chilean and European producers in the Korean market. He said that Chilean and European exporters received duty-free access to the Korean market before U.S. exporters because their respective trade agreements with Korea entered into force before the U.S.-Korea FTA did, reducing market share in Korea for U.S. wine. He stated that the tariff reduction has not provided a competitive advantage for U.S. wine in the Korean market, but it has given U.S. wine parity with imported wines from Chile and the European Union. He also noted that Korea maintains a complicated tax and regulatory structure for the distribution of wine, which is a challenge that small U.S. exporters lack the resources to overcome. He said that, despite these challenges, U.S. wine exports to Korea increased by 40 percent in value between 2011 and 2012 "because of the effects" of the FTA.⁷

⁴ NHC, written submission to the USITC, March 22, 2013.

⁵ Systems approach protocols vary by product, but typically include a number of processes that mitigate pest risk and allow the importation of the specific product under an acceptable level of phytosanitary security.

⁶ JBC International on behalf of the United States Wine Institute and Wine America, written submission to the USITC, March 25, 2013.

⁷ JBC International on behalf of the United States Wine Institute and Wine America, written submission to the USITC, March 25, 2013, 4.