

KORUS as Obamacare: Implications of calls by Korea's opposition parties to repeal the Korea U.S.-Free Trade Agreement

by L. Gordon Flake

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Explaining US domestic politics to international audiences is never easy. It is particularly difficult during election years. The proposal to grant US statehood to colonies on the moon is hardly the most outlandish proposal to emerge from the ongoing primary contest. Such statements should be taken with a grain of salt as they will presumably be moderated as candidates move to the middle for the general elections and, if elected, face the realities of governance. As South Korea's own vibrant democracy gears up for general elections in April and a presidential election in December, political parties are similarly seeking to distinguish themselves. While it is important for US observers to place such pre-election posturing in context, one recent pledge by South Korea's main opposition parties is particularly dangerous, shortsighted, and unrealistic.

On Feb. 8 the Democratic United Party (DUP) and the Unified Progressive Party (UPP) held a joint press conference and read out a letter signed by 96 opposition lawmakers and delivered to President Obama and other US leaders through the US Embassy in Seoul. The letter threatens that "If we win the presidential election and if our demands for renegotiations are not met by that time, the KORUS FTA will be terminated by Clause 2, Article 24.5 of the agreement." (Article 24.5 states, "This Agreement shall terminate 180 days after the date either Party notifies the other Party in writing that it wishes to terminate the Agreement.")

Currently, opposition to KORUS centers around 10 provisions in the agreement that have been termed "poisonous" even though nine of the 10 were negotiated by the progressive Roh Moo-hyun administration and despite the fact that the most sensitive provision on Investor-State Dispute Settlement (ISD) is included in nearly all other ROK trade agreements, including one with the European Union. Opposition concerns over the process of ratification and certain provisions of KORUS are understandable and US and South Korean officials should be able to discuss and address such concerns in the normal course of diplomacy. But when senior leaders such as Democratic United Party Chairwoman Han Myeong-sook — who was prime minister when the deal was negotiated — calls KORUS a "treacherous deal" there is a danger that what is a domestic political issue in Seoul will negatively impact US-ROK relations.

KORUS was broadly supported by Asia specialists, government officials with responsibility for Asia, and business leaders across the political spectrum in the US. Its ratification

in both Seoul and Washington was the product of considerable effort over the course of five years, overcoming numerous economic and political challenges. In the end, KORUS was rightly viewed as more than just a trade deal. It was and is a strategic agreement intended to strengthen and deepen the US-ROK relationship. For the opposition in Korea to lead with a pledge to "take every measure possible to repeal" KORUS is a clear indication that they do not understand or do not value the strategic importance of the deal. While critics may think that opposition to KORUS is good politics — similar to Republican pledges to repeal what they call Obamacare — their sweeping and hyperbolic denunciations risk being interpreted as anti-American. Is this the perception that leaders of a potential new government in Korea wish to give to the individuals and institutions most committed to US-Korea relations? And remember it is precisely those individuals and institutions who were most vested in KORUS as a strategic initiative that will provide the primary prism through which a new government in Korea will be viewed.

Whatever their motivations, opponents of KORUS are likely overestimating their leverage: there is almost no appetite or political capacity to re-open negotiations in Washington. In October 2011, the United States had a strategic mandate to move forward with KORUS. Then, failure to ratify an agreement of this quality with an ally as close as South Korea would have undercut the US position in APEC, prospects for the Trans-Pacific Partnership (TPP) Trade Negotiations, and US credibility in the East Asia Summit and the region more broadly. But, the US has now ratified KORUS. Regardless of whether the ROK decides to back out, the US strategic mandate and its credibility in leading a trade and investment liberalization agenda in Asia have been secured. Moreover, the primary impact of withdrawal would fall on Korea: there would be real economic costs and missed opportunities for the ROK as well as damage to its soft power, since Seoul has never before repealed an international treaty; To do so would cause the ROK's international position and reputation to suffer.

While opposition to KORUS may prove to be political posturing, the effort to repeal the deal will have the immediate impact of limiting the ROK's prospects to join negotiations over the Trans-Pacific Partnership. Not only are ROK officials unlikely to take on the added challenges of TPP negotiations in the current environment, but it is hard to imagine other members of the TPP being interested in including South Korea if it is attempting to repeal a similar trade deal with the United States. As a nation deeply dependent on international trade, the ROK has played a key role in recent years in promoting international trade and investment liberalization. Not only has the ROK been a leader in the G20, but having successfully negotiated and ratified in KORUS a prototype for the "21st Century" free trade agreement envisioned by the TPP, the

ROK could be a leading voice for further trade and investment liberalization in the region. Repeal deprives the US and the ROK of a positive narrative and an area of close cooperation in the international arena.

The successful negotiation of the KORUS free trade agreement was one of the signature accomplishments of the Roh Moo-hyun administration. Despite political strains in the alliance and very real differences between US and ROK approaches to North Korea, the fact that our two nations could agree upon such a significant and mutually beneficial agreement served as evidence of our shared interests and strategy. It is a shame that in an effort to reclaim the legacy of President Roh the current generation of opposition leaders in South Korea is jeopardizing that very accomplishment.

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