



March 31, 2006

Ms. Gloria Blue  
Executive Secretary  
Trade Policy Staff Committee  
Office of the United States Trade Representative  
1724 F Street, NW  
Washington, DC 20508

Dear Ms. Blue:

On behalf of Humane Society International (HSI) and The Humane Society of the United States (The HSUS), and pursuant to the *Federal Register* notice at 71 Fed. Reg. 10,999-11,000 (Mar. 3, 2006), please accept the following written comments in response to the Office of the United States Trade Representative's notice of Initiation of Environmental Review of Proposed Free Trade Agreement Between the United States and Korea; Public Comments on Scope of Environmental Review.

Founded in 1954, The HSUS today leads a family of organizations, including its international affiliate Humane Society International, with a constituency of 9.5 million and a significant global presence. HSI is a member of the Trade and Environment Policy Advisory Committee (TEPAC) in the United States, advising the Office of the United States Trade Representative (USTR) and the Environmental Protection Agency (EPA) on international trade policy. In addition, HSI also promotes humane, sustainable, and equitable development in discussions of international trade and economic policy at the World Trade Organization (WTO). Locally, HSI implements a number of trade capacity building and technical assistance programs in several developing WTO Member countries including a number of countries located in Central and South America. Through these programs, HSI supports economic development efforts including humane sustainable agricultural practices and habitat protection policies.

These comments address issues relating to the scope of the environmental review, specifically those concerns of HSI and The HSUS regarding current environmental and animal welfare issues that may be either ongoing or may be impacted by the proposed U.S.-Korea Free Trade Agreement.

**Promoting the protection of all animals worldwide**

**2100 L Street, NW, Washington, DC 20037 USA ■ 1-301-258-3010 ■ Fax: 1-301-258-3082**

**E-mail: [hsi@hsihsus.org](mailto:hsi@hsihsus.org) ■ [www.hsihsus.org](http://www.hsihsus.org)**

## **I. Introduction**

In the interest of amplifying and clarifying negotiating objectives for the Office of the United States Trade Representative (USTR) for the proposed U.S.-Republic of Korea Free Trade Agreement (“U.S.-Korea FTA” or “agreement”), Humane Society International (HSI) provides the following comments on matters affecting the environment and animal welfare in the negotiation of the proposed agreement. These comments focus on several areas of concern to HSI with respect to the negotiation of the U.S.-Korea FTA, which we believe should be included in the scope of the environmental review undertaken in the course of negotiating the proposed agreement.

The Trade Act of 2002 sets forth certain objectives and priorities relating to the environment that are to be met by the United States in the negotiation of free trade agreements. These include: (1) ensuring that trade and environment policies are mutually supportive and seek to protect and preserve the environment and enhance the international means of doing so, while at the same time optimizing the use of the world’s resources;<sup>1</sup> and (2) seeking provisions in trade agreements under which the parties to those agreements strive to ensure that they do not weaken or reduce the protections afforded in domestic environmental and labor laws as an encouragement for trade.<sup>2</sup> In order to meet the above negotiating objectives with respect to environmental, natural habitat, and animal welfare concerns, HSI believes the essential inquiry for negotiators of the U.S.-Korea FTA is to examine how trade and environment policies can be achieved in a manner that is mutually supportive for both parties.

HSI believes that in the course of compiling information for the environmental review, strong consideration must be given to the impact the proposed agreement will have on the environment in both the United States and South Korea, as well as on global and transboundary environmental resources. Since environmental problems do not respect continental or national boundaries, environmental protection and sustainable development initiatives should be a global priority. Increased trade, investment flows, and travel between the United States and South Korea as a result of the proposed agreement will make these initiatives all the more relevant.

By its own admission, “during the past 40 years Korea has been following supply-oriented development policies based on economic efficiency rather than on sustainable conservation and management. As a result, Korea achieved rapid economic growth in a short period of time, but this led to problems of degradation in the natural environment such as the destruction of ecosystems” throughout the country.<sup>3</sup> Although South Korea is recognized as part of the developed world, it continues to face considerable challenges in its attempt to balance its goals of increasing industrialization and wealth with protection of the environment. Indeed, many of the environmental challenges facing South Korea

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<sup>1</sup> Trade Act of 2002, P.L. 107-210, §2102(a)(5).

<sup>2</sup> *Id.* at §2102(a)(7).

<sup>3</sup> Green Korea 2005: Towards the Harmonization of Human and the Nature, Ministry of Environment, Republic of Korea at 13, available at [http://eng.me.go.kr/user/cyber/cyber\\_index.html](http://eng.me.go.kr/user/cyber/cyber_index.html) [*hereinafter* Green Korea 2005].

today are transboundary and/or global in nature, including coastal and marine resource depletion, illegal wildlife trade, and inhumane animal practices. Concerns over these issues, which will be developed more fully below, must have their impacts on the environment in the United States, South Korea, and the global environment investigated fully in the course of the environmental review for the study to have its desired impact.

## II. Incidental Killing of Whales

As a peninsular country, South Korea's development policies have impacted a wide array of coastal marine life. Of particular concern to HSI is the number of whales killed by the South Korean fisheries industry through incidents of either bycatch or shipstrike due to the continued practice of drift-net fishing.<sup>4</sup> From 2000 through 2004, the South Koreans reported the incidental killing of 472 whales to the International Whaling Commission (IWC), including fin, humpback and minke species. While that number is equal to the amount of incidental killings reported by Japan over the same period, it is exponentially greater than the numbers reported by the neighboring countries of Australia and New Zealand, which reported 17 incidental deaths and 1 death, respectively, from 2000 through 2004.<sup>5</sup>

HSI is concerned about these high incidental kill rates because as opposed to Australia and New Zealand it is legal to process whales which have become entangled in fishing nets for commercial sale in both South Korea and Japan. According to progress reports submitted to the IWC, the entanglement rates of large whales are much lower in countries other than South Korea and Japan, and the fatality rate of whales is lower still in other IWC member countries as fishermen are often able to disentangle the whales before they drown. Press reports have confirmed that despite the international moratorium on whale fishing about 150 tons of whale meat is consumed in South Korea each year.<sup>6</sup> Indeed, in 2005 the *Los Angeles Times* observed:

When a [South Korean] fisherman catches a whale in his net, he is allowed to sell it commercially after the police inspection. With whales commanding outrageous prices (restaurateur Park says one sold for \$120,000 a few years ago), there is little incentive for a fishermen who finds a whale tangled in his net to cut it loose and a powerful incentive to kill one "accidentally on purpose."<sup>7</sup>

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<sup>4</sup> Drift-net fishing is a practice where a net, often miles in length, is anchored to a boat and left to float with the tide. This practice often results in large numbers of non-commercial fish (bycatch) including whale species being caught in the net and killed if fishermen do not reach them in time.

<sup>5</sup> See Scientific Committee Progress Reports of the International Whaling Commission by Korea, Japan, Australia and New Zealand from 2001 through 2005, available at [http://www.iwcoffice.org/commission/sci\\_com/scprogress.htm#report](http://www.iwcoffice.org/commission/sci_com/scprogress.htm#report)

<sup>6</sup> Barbara Demick, *Los Angeles Times*, Looking to Feed a Big Appetite for Whale Meat in South Korea (Feb. 2, 2005).

<sup>7</sup> *Id.*

Although the United States and others report high incidental fatality rates for certain species such as right whales, this can be attributed to the type of fishing gear used and the whale's foraging behavior. Minke whales and other rorquals (including humpback), however, are rarely entangled in fishing gear anywhere but South Korea and Japan. The extremely high incidental kill rates in South Korea and Japan, therefore, are difficult to understand when compared to entanglement and fatality rates reported by other IWC member countries. For these reasons HSI believes that the United States should further investigate the high incidental kill rates reported by South Korea in the course of compiling the environmental review of the proposed U.S.-Korea FTA.

### **III. Illegal Trade in Wildlife (CITES) and Wildlife Conservation**

South Korea became a party to the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) in 1993. The decision to join CITES reportedly was motivated by a 1992 Pelly Amendment petition filed by the National Wildlife Federation and WWF seeking to ban trade with South Korea due to the continuing illegal trade in rhino horn and tiger bone used in the production of traditional medicines occurring in the country. It was argued that the illegal trade in these animal parts was undermining international conservation efforts for the affected species. In 1994, South Korea eventually banned the import, domestic sale, and display for commercial purposes and storage of both rhino horn and tiger bone.

South Korea, however, like many Asian countries, continues to have problems regulating the use of CITES-listed species in traditional medicines. A 2003 report by TRAFFIC studied the use of five CITES species in traditional medicine in South Korea.<sup>8</sup> The study found that while illegal trade in rhino, tiger parts and bear gallbladders continued, practitioners of traditional medicine stated that use of these animal parts had declined in recent years. The study also found, however, that a high proportion of traditional medicine practitioners continue to use musk deer and pangolin<sup>9</sup> products in their medicines. Furthermore, in a separate study, the CITES Secretariat identified South Korea as one of the leading drivers of the illegal ivory trade in both Asia and Africa through the involvement of South Korean nationals.<sup>10</sup>

Although it may be unlikely that a U.S.-Korea FTA would cause an increase in the illegal trade of wildlife or endangered species, that does not mean the issue need not be addressed by the Governments of South Korea and the United States. Indeed, Southeast Asia remains a region where wild animals, many of which are endangered, remain available for purchase. For this reason, the United States should further

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<sup>8</sup> Kang, S., and Phipps, M. (2003). *A Question of Attitude: South Korea's Traditional Medicine Practitioners and Wildlife Conservation*. TRAFFIC East Asia, Hong Kong, available at [http://www.traffic.org/news/press-releases/Traffic\\_East\\_Asia\\_Report.pdf](http://www.traffic.org/news/press-releases/Traffic_East_Asia_Report.pdf)

<sup>9</sup> An armored placental mammal in the anteater family, sometimes referred to as the "scaly anteater."

<sup>10</sup> CITES press release: Illegal ivory trade driven by unregulated domestic markets, available at <http://www.cites.org>; see also CITES, Twelfth meeting of the Conference of the Parties Santiago (Chile), 3-15 November 2002, Illegal Trade in Ivory and other Elephant Specimens at 3 (noting "Nationals of the Republic of Korea have frequently been associated with illegal shipments of ivory within Africa and Asia."), available at <http://www.cites.org/eng/cop/12/doc/E12-34-1.pdf>

investigate CITES violations including the use of endangered species in traditional medicines and the illegal ivory trade passing through South Korea in the course of compiling the environmental review of the proposed U.S.-Korea FTA.

#### **IV. Dog Meat**

According to the Korean Animal Protection Society (KAPS), many South Koreans claim the right to consume dog meat as a matter of cultural pride derived from a century's old tradition.<sup>11</sup> KAPS, along with many Koreans, however, believe that the true origin of eating dogs grew out of widespread starvation following the Korean War and the fabrication of health benefits derived from eating dog meat encouraged by dog dealers and restaurants. Unfortunately, today younger Koreans have been known to continue to eat dog meat in defiance of what they view as Western imperialism which condemns the practice.<sup>12</sup>

Although consumption of dog meat in South Korea is unlikely to be affected by the proposed U.S.-Korea FTA, HSI is concerned that fur removed from the dogs could enter the international stream of commerce. While there is currently a ban in force on the import of dog fur into the United States,<sup>13</sup> HSI would like USTR to monitor the situation regarding dog meat consumption in South Korea through the environmental review process, and remain vigilant in enforcing the ban on the import of dog fur into this country should the proposed agreement come into force.

#### **V. Trade in Bear Parts**

South Korea is one of the largest consumers of bear parts and products in the world. It is believed that a large and illegal trade in bear parts and products flowing from China is currently flourishing in South Korea. In addition, it is also believed that South Korea is a major destination of bear parts poached here in the United States. With respect to this issue, The HSUS has been supporting the Bear Protection Act in Congress, which, if passed would ban the import, export and interstate movement of bear viscera.

In addition to the illegal trade in bear parts, it is also known that South Korea used to have a large bear bile "farming" industry, which was banned in 1992. The new law required the removal of catheters that had been placed in the bears' gall bladders to drain the bile.<sup>14</sup> However, breeding still continues on farms and bears over ten years old can be legally slaughtered and their gallbladders sold for bile. In 1999 it was reported that there were over 1,300 bears located on 108 farms in South Korea, most of them North American black bears.<sup>15</sup> Currently, South Korea has no laws governing the actual trade in

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<sup>11</sup> See Korean Animal Protection Website, available at <http://www.koreananimals.org/dogs.htm>

<sup>12</sup> *Id.*

<sup>13</sup> The Dog and Cat Protection Act of 2000, P.L. 106-476, 114 Stat. 2101, codified at 19 U.S.C. § 1308.

<sup>14</sup> Animals Asia, Bear Bile Farming: Korea, available at <http://www.animalsasia.org/index.php?module=2&menupos=7&submenupos=4&lg=en>

<sup>15</sup> See generally, The Unbearable Trade in Bear Parts and Bile, available at [http://www.hsus.org/wildlife/issues\\_facing\\_wildlife/wildlife\\_trade/the\\_unbearable\\_trade\\_in\\_bear\\_parts\\_and\\_bile/](http://www.hsus.org/wildlife/issues_facing_wildlife/wildlife_trade/the_unbearable_trade_in_bear_parts_and_bile/) (examining current issues with respect to the trade in bear parts in Asia); see also The Bear Trade -

bear parts and bile. In 1997 Earth Justice filed a Pelly Amendment petition regarding the South Korean trade in bear gall bladders, which was not acted upon by the United States.<sup>16</sup> For the reasons noted above, in the course of compiling the U.S.-Korea FTA environmental review the United States should further investigate the illegal poaching of bears in the U.S. for sale in South Korea, as well as how so many North American black bears have ended up on bear farms in South Korea.

## **VI. Sustainable Tourism**

South Korea is endowed with diverse natural habitats and an abundance of biodiversity. Indeed, 65.4 percent of the land is covered with forests and the country is surrounded on three sides by water.<sup>17</sup> In addition, the Korean Peninsula has around 3,200 islands which, according to the Government of South Korea, “provide valuable socio-economic resources as well as numerous ecological benefits in terms of marine resources, the ability to purify environmental pollution, outstanding natural scenery, and habitats for wild fauna and flora.”<sup>18</sup> Although the Government of South Korea has embarked upon several initiatives to conserve its natural biological resources and wildlife in recent years, the advent of increased tourism presents new problems which must be addressed if South Korea endeavors to create a truly sustainable tourism industry.<sup>19</sup>

The intersection between sustainable economic development, environmental protection and conservation efforts is quite clear when examining the issue of sustainable tourism. Simply put, tourism has the potential to provide enormous economic benefits if it is planned and managed in a sustainable fashion. Such planning and management, however, requires a great deal of thoughtfulness and input from civil society and experts in a number of disciplines. In addition to its economic potential, it is also quite clear that tourism poses significant threats to the environment in South Korea if promoted in an unsustainable manner. HSI is concerned that additional tourism due to the proposed U.S.-Korea FTA may result in increased development of beaches, islands, forests and other areas that support wildlife. If, however, the proposed agreement supports programs to implement tourism in a sustainable manner, the economic potential of tourism in South Korea can certainly be achieved.

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Questions and Answers, *available at*

[http://www.hsus.org/wildlife/issues\\_facing\\_wildlife/wildlife\\_trade/the\\_unbearable\\_trade\\_in\\_bear\\_parts\\_and\\_bile/the\\_bear\\_trade\\_questions\\_and\\_answers.html](http://www.hsus.org/wildlife/issues_facing_wildlife/wildlife_trade/the_unbearable_trade_in_bear_parts_and_bile/the_bear_trade_questions_and_answers.html)

<sup>16</sup> *Available at,*

[http://www.earthjustice.org/regional/international/trade\\_documents/Illegal%20Bear%20Trade.pdf](http://www.earthjustice.org/regional/international/trade_documents/Illegal%20Bear%20Trade.pdf)

<sup>17</sup> Green Korea 2005 at 13

<sup>18</sup> *Id.* at 15.

<sup>19</sup> *See generally,* <http://english.tour2korea.com/> (discussing various sightseeing tours including trips to national parks and islands, and bird watching tours).

## **VII. Conclusion**

HSI and The HSUS believe that both the Republic of Korea and the United States recognize the urgent need to preserve and protect their respective environments, as well as the global environment, in order to ensure a better future for their citizens. Sufficient resources, both financial and human are needed, however, to provide the necessary tools to accomplish the economic development desired in a sustainable manner.

In order to achieve this success, HSI and The HSUS strongly believe that the United States must investigate the concerns addressed above in its environmental review of the proposed U.S.-Korea FTA. In addition, the U.S. should also address and highlight the possible role of cooperative activities in the review as a means to address environmental issues affiliated with increased trade between South Korea and the United States. The biggest threat to the ambitions of the proposed agreement would be a lack of sufficient resources on the part of the Governments of South Korea and the United States to implement meaningful programs, which will require the negotiations to emphasize the importance of the allocation of adequate resources by the two governments to ensure effective technical assistance for each of the potentially problematic issues discussed in these comments.