

**AGREEMENT BETWEEN THE
GOVERNMENT OF AUSTRALIA AND THE
GOVERNMENT OF THE REPUBLIC OF KOREA
ON COOPERATION IN THE FIELDS OF
ENERGY AND MINERAL RESOURCES
(CANBERRA, 30 AUGUST 2004)
[2004] ATNIF 13**

Documents tabled on 11 May 2005:

National Interest Analysis [2005] ATNIA 9

with attachment on consultation

Text of the proposed treaty action

Background information:

Country political brief and country fact sheet

List of other treaties with that country

NATIONAL INTEREST ANALYSIS: CATEGORY 1 TREATY

SUMMARY PAGE

Agreement between the Government of Australia and the Government of the Republic of Korea on Cooperation in the Fields of Energy and Mineral Resources (Canberra, 30 August 2004) [2004] ATNIF 13

Nature and timing of proposed treaty action

1. The Agreement was signed in Canberra on 30 August 2004. Article 6 specifies that the Agreement will enter into force on the date upon which Australia and the Republic of Korea (South Korea), referred to as “the Parties”, exchange diplomatic notes notifying each other that all domestic requirements for its entry into force have been fulfilled.
2. The Government proposes to provide its notification to the Government of the Republic of Korea under Article 6 as soon as practicable following the conclusion of twenty sitting days from the date the Agreement is tabled in both Houses of Parliament.

Overview and national interest summary

3. The Australian Government views the signing of an Agreement with South Korea as a means of strengthening and developing the existing cooperation between the two countries in the fields of energy and mineral resources. The Agreement is an extension of the relationship of cooperation fostered under a Memorandum of Understanding since 1999.
4. The treaty is in Australia’s national interest as it secures an increasingly cooperative relationship with one of Australia’s largest trading partners and our second biggest export market for energy and minerals products. The treaty provides a cooperative framework to pursue areas of mutual benefit and interest such as trade, investment, technology and policy consultation.
5. The treaty will also contribute to the further development of friendly relations between the two countries.

Reasons for Australia to take the proposed treaty action

6. South Korea has proposed that the current Memorandum of Understanding on Cooperation (MOU) in Minerals and Energy be upgraded to a treaty level Agreement. The MOU contains a reference to the eventual conclusion of a treaty-level Agreement on closer cooperation in energy and mineral resources. South Korea has continued to press for progress on the Agreement.
7. It appears important to the South Korean Government to secure Agreements with its significant trading partners. South Korea has already established Agreements with its other major resource suppliers, such as Russia and Mongolia. Refusal by Australia to conclude an Agreement could prejudice the future development of resources and energy relationships and risk diminishing Australia's status as a trading partner with Korea to lower than that of its other main suppliers.
8. South Korea is one of Australia's largest trading partners and is our second largest export market for energy and minerals products. Therefore, it is in Australia's economic interests to maintain well developed cooperative relations with South Korea. Conclusion of the Agreement would be useful to Australian industry as South Korean commercial decision-makers are often influenced by perceptions of the closeness of political relationships.
9. In relation to the environment the Agreement recognises the importance of cooperation in efforts to stabilise greenhouse gas concentrations in the atmosphere in accordance with the United Nations Framework Convention on Climate Change (UNFCCC) to which we are a party.
10. The Agreement strengthens the current arrangements by including stronger provisions relating to confidentiality, and signifies to South Korea that we regard bilateral cooperation and strengthened relations as a high priority.
11. The two countries have a long history of bilateral cooperation through the Joint Committee for Energy and Mineral Resources Consultations and Cooperation, which has met on 20 occasions since the 1980s. The Agreement, as a stronger commitment, reinforces the bilateral relationship between Australia and South Korea and seeks to further develop Australia's objectives as currently sought within the Joint Committee. These objectives are as follows:
 - promoting exports of Australian energy and minerals commodities, products, technologies and services;
 - identifying and facilitating commercial opportunities for Australian energy and minerals companies;
 - identifying and removing barriers to trade and investment in the energy and minerals sector;
 - promoting inwards investment in the Australian energy and minerals sector;
 - improved understanding of market trends and policy developments in Australia's major energy and minerals trading partners;
 - encouraging reform of energy markets;
 - gathering commercially useful market information;
 - exchanging views on international issues affecting energy markets;

- facilitating collaborative research and development on energy and mining technologies; and
- exchanging information on supply and demand forecasts for the energy and minerals sectors in Australia and South Korea.

12. The facilitation of bilateral dialogue as described above gives both industry and government the tools to make decisions that are in Australia's national interest. In particular, the objectives of the Agreement align with widely accepted national goals such as greater levels of economic activity, greater employment, greater exports, greater inflow of investment and improved information flows between Australian sellers and international buyers.

Obligations

13. The Agreement formalises a measured commitment by Australia and South Korea to encourage bilateral consultation across a broad range of energy and minerals sectors. While a number of areas of collaboration are listed, collaboration is not limited to these areas. Obligations under the Agreement are:

- to exchange energy and minerals information in accordance with domestic laws and regulations including data on trade, energy policies and current and future trends of energy and minerals industries;
- to promote and facilitate technical cooperation including exchanges of scientific personnel and the promotion of joint research;
- to cooperate to facilitate bilateral trade and investment; and
- to facilitate the development and implementation of greenhouse gas mitigation projects in their respective countries in the context of the UNFCCC.

14. At the same time, under Article 2 the Agreement encourages sound, equitable management of intellectual property and confidential information.

15. The above obligations do not commit Australia to specific or detailed actions, but rather to the encouragement or facilitation of activities or the pursuit of broad goals.

16. Under Article 3, the Agreement imposes obligations on both Parties to establish a Joint Committee which will ensure the effective implementation of the Agreement. This Joint Committee already exists under the MOU and is jointly administered by the Australian Government Department of Industry, Tourism and Resources and the Government of the Republic of Korea.

Implementation

17. The Agreement will be implemented within the framework of Australia's existing laws and policies. It does not seek to change Australia's regulatory framework and no new legislation is required to give effect to the obligations contained therein.

18. No changes to the existing roles of the Commonwealth or the States and Territories will arise as a consequence of implementing the Agreement.

Costs

19. No additional direct costs will be incurred as a result of entering into the Agreement. Some costs may be incurred in fulfilling the aims of the Agreement, for example, holding periodic Joint Committee meetings (Article 3). These costs would not be large and would be met from existing departmental resources as already occurs to facilitate cooperation under the MOU. Such costs, therefore, would be expected to be incurred without the Agreement.

20. While costs may be born by other participants to meetings held under the Agreement, for example cooperative research involving an Australian agency, such involvement would be voluntary and entered into on the basis of a net benefit.

Regulation Impact Statement

21. The Office of Regulation Review has been consulted and confirms that a Regulation Impact Statement is not required.

Future treaty action

22. Article 7 specifies that the Agreement may be amended by mutual consent between the Parties. Any amendment shall enter into force upon the exchange of diplomatic notes whereby the Parties notify each other that all domestic requirements for the entry into force of the amendment have been fulfilled.

23. Article 7 specifies that notwithstanding the amendment or termination of this Agreement in whole or in part thereof, any rights or obligations under this Agreement existing prior to the effective date of amendment or termination shall remain in force.

24. Amendments would be subject to Australia's domestic treaty process, including tabling and consideration by the Joint Standing Committee on Treaties (JSCOT).

Withdrawal or denunciation

25. Article 6 provides that the Agreement shall remain in force for a period of five years, after which it will continue until either Party notifies the other Party, in writing, of its intention to terminate the Agreement. The termination will take effect six months from the date of the written notice. As set out above in paragraph 23, existing rights and obligations shall remain in force.

26. Australian action would be subject to Australia's domestic treaty policy.

Contact details

International Energy Branch
Energy and Environment Division
Department of Industry, Tourism and Resources

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and the Government of the Republic of Korea
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Consultations

1. Extensive consultation was undertaken in consideration of the Agreement. All state, federal and industry stakeholders that were consulted support the proposed agreement. Stakeholder representatives will continue to be invited to participate in the Joint Committee meetings.
2. A copy of the text of the Agreement has been sent to all State and Territory Governments, along with a letter seeking comments and feedback. All governments responded in favour of the Agreement. The Western Australian (WA) Government has sought clarification of some obligations and opportunities for WA, arising from Articles 1, 2, 4, 5 and 10 of the Agreement. These articles have been explained in greater detail to the satisfaction of the WA Government.
3. The Queensland (QLD) Government expressed concern over the reference to Uranium, noting that it is against Queensland policy. The Department of Industry Tourism and Resources advised that there was nothing in the Agreement that would be inconsistent with Queensland's policy approach or that would require Queensland to amend its legislation to allow mining or uranium treatment or processing. This explanation was to the satisfaction of the QLD Government.
4. A copy of the text of the Agreement was also sent to major industry leaders and of those who responded (Rio Tinto, Australia LNG, Australian Magnesium Corporation, Pritchard Vdovenya- International Lawyers, Minerals Council of Australia, Exxon Coal and Minerals), all are in favour of the Agreement and welcomed stronger relations with South Korea.

Political Brief – Republic of Korea

Bilateral Relations: Australia and the Republic of Korea (South Korea) have a strong and cooperative relationship underpinned by substantial and growing trade links, common interests in the Asia-Pacific region and historical ties from Australia's involvement in the Korean War. There have been regular high level visits between the two countries, including Prime Minister Howard's visit to South Korea in July 2003, Foreign Minister Downer's visit in February 2003, and Trade Minister Vaile's visit in 2002. South Korean Minister of Foreign Affairs and Trade Ban Ki-moon visited Australia in August 2004.

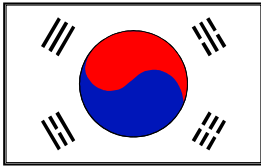
Trade and Investment: South Korea is Australia's fourth largest trading partner and export market, while Australia is South Korea's sixth largest source of imports. The value of total two-way merchandise trade in 2004 was \$14.1 billion, with Australian exports to South Korea worth more than \$9 billion. Australia's top exports to South Korea in 2004 were coal, crude petroleum, non-monetary gold, iron ore and aluminium. South Korea's main exports to Australia include telecommunications equipment, passenger motor vehicles, televisions, computers and household equipment.

Political Overview:

Domestic politics: Since the first democratic presidential election in 1987, the government has undertaken incremental reform of the institutions shaped by its rule under the Japanese (1910-1945) and several South Korean military dictatorships. South Korea is a presidential style democracy, similar to the United States. The President, who is directly elected to a single five year term, appoints the Prime Minister, Cabinet, public officials and the heads of executive agencies and is also commander-in-chief of the armed services. President Roh Moo-hyun, aligned with the governing Uri Party, was elected in December 2002. The 229 National Assembly members serve a four year term. South Korean politics are highly volatile, with political parties tending to follow the personalities of their leaders and regional affiliations rather than ideology. In the April 2004 parliamentary elections, the ruling Millennium Democratic Party (MDP) dropped 106 of its 115 seats, while the Uri Party trebled its vote from the previous election to take government with 152 seats. The conservative Grand National Party won 121 seats.

Foreign policy: South Korean foreign policy is dominated by security issues relating to the continuing threat from North Korea, including more recently the threat of its nuclear weapons program. The United States maintains about 30,000 troops in the country, although it expects to reduce this to around 25,000 by the end of 2005. South Korea's top foreign policy priorities are the relationships with the United States, China, Japan and Russia, in addition to constructive engagement with North Korea. South Korea is an active member of the United Nations (UN), the Organisation for Economic Co-operation and Development (OECD), the World Trade Organisation (WTO) and regional organisations such as Asia-Pacific Economic Cooperation (APEC) and the Asean Regional Forum (ARF).

Economic Indicators: The average annual GDP per capita in South Korea in 2003 was US\$12,624. Growth in South Korea's GDP in real terms dropped from 6.9 per cent in 2002 to 3.1 per cent in 2003, but is forecast to recover slightly to 4.8 per cent for 2004 before dropping again to 3.3 per cent in 2005. Consumer demand is falling while inflation will continue to drop from 3.6 per cent in 2004 to 2.5 per cent in 2005. South Korea's unemployment rate is predicted to remain steady around its 2003 level of 3.4 per cent.



REPUBLIC OF KOREA

Fact Sheet

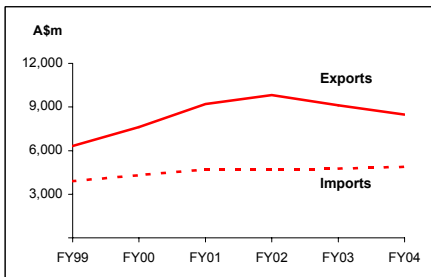
General information:

Capital:	Seoul	Head of State and Head of Government:	
Surface area:	99 thousand sq km	H.E. Roh Moo-Hyun	
Official language:	Korean		
Population:	47.9 million (2003)		
Exchange rate:	A\$1 = 804.2584 Won (Jun 2004)		

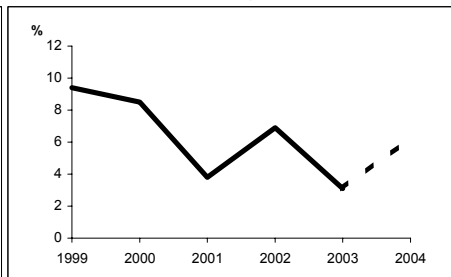
Recent economic indicators:

	1999	2000	2001	2002	2003(a)	2004(b)
GDP (US\$bn):	444.4	511.8	482.6	547.0	605.0	672.5
GDP per capita (US\$):	9,533	10,889	10,193	11,482	12,624	13,947
Real GDP growth (% change YOY):	9.4	8.5	3.8	6.9	3.1	6.3
Current account balance (US\$m):	24,477	12,242	8,239	6,092	12,321	24,527
Current account balance (% GDP):	5.5	2.4	1.7	1.1	2.0	3.6
Goods & services exports (% GDP):	39.1	40.9	37.8	35.2	38.1	46.7
Inflation (% change YOY):	0.8	2.3	4.1	2.8	3.5	3.3
Unemployment rate (%):	6.4	4.1	3.8	3.1	3.4	3.3

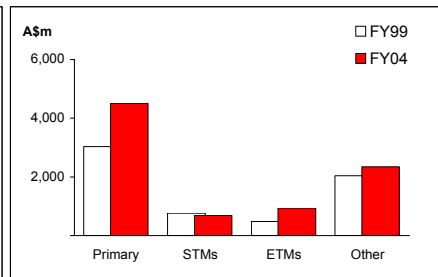
Australia's trade with Korea



Real GDP growth



Australia's exports to Korea



Australia's trade relationship with Korea:

Major Australian exports, 2003-2004 (A\$m):

Coal	1,303
Crude petroleum	1,042
Non-monetary gold	749
Iron ore	735
Aluminium	472

Major Australian imports, 2003-2004 (A\$m):

Telecommunications equipment	976
Passenger motor vehicles	612
Televisions	310
Computers	284
Household type equipment	199

Australian merchandise trade with Korea, 2003-2004:

		Total share:	Rank:	Growth (yoy):
Exports to Korea (A\$m):	8,473	7.8%	4th	-7.1%
Imports from Korea (A\$m):	4,878	3.7%	8th	2.6%
Total trade (exports + imports) (A\$m):	13,351	5.6%	4th	-3.7%
Merchandise trade surplus with Korea (A\$m):	3,595			

Australia's trade in services with Korea, 2003-2004:

		Total share:
Exports of services to Korea (A\$m):	891	2.6%
Imports of services from Korea (A\$m):	388	1.1%
Services trade surplus with Korea (A\$m):	503	

Korea's global trade relationships:

Korea's principal export destinations, 2003:

1	China	18.1%
2	United States	17.7%
3	Japan	8.9%
4	Hong Kong	7.6%
5	Taiwan	3.6%
11	Australia	1.7%

Korea's principal import sources, 2003:

1	Japan	20.3%
2	United States	13.9%
3	China	12.3%
4	Saudi Arabia	5.2%
5	Germany	3.8%
6	Australia	3.3%

Compiled by the Market Information and Analysis Section, DFAT, using the latest data from the ABS, the IMF and various international sources.

(a) all recent data subject to revision; (b) EIU forecast.

Fact sheets are updated biannually; next update: May 2005

LIST OF OTHER TREATIES WITH THE REPUBLIC OF KOREA

Cultural Agreement between the Government of the Commonwealth of Australia and the Government of the Republic of Korea

Seoul, 11/05/1971

In Force: [1972] ATS 11

Agreement between Australia and the Republic of Korea on the Development of Trade and Economic Relations

Seoul, 17/06/1975

In Force: [1975] ATS 22

Agreement between the Government of Australia and the Government of the Republic of Korea concerning the Cooperation in Peaceful Uses of Nuclear Energy and the Transfer of Nuclear Material

Canberra, 02/05/1979

In Force: [1979] ATS 5

Agreement on Fisheries and Exchange of Letters between the Government of Australia and the Government of the Republic of Korea

Canberra, 23/11/1983

In Force: [1983] ATS 23

Convention and Protocol between the Government of Australia and the Government of the Republic of Korea for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income

Canberra, 12/07/1982

In Force: [1984] ATS 2

Treaty on Extradition between Australia and the Republic of Korea

Seoul, 15/09/1990

In Force: [1991] ATS 3

Agreement between the Government of Australia and the Government of the Republic of Korea relating to Air Services

Canberra, 26/02/1992

In Force: [1992] ATS 16

Exchange of Notes between Australia and the Republic of Korea constituting an Agreement to amend the Schedule to the Agreement relating to Air Services of 26 February 1992

Canberra, 16/09/1993

In Force: [1993] ATS 33

Treaty between Australia and the Republic of Korea on Mutual Assistance in Criminal Matters

Canberra, 25/08/1992

In Force: [1993] ATS 34

Exchange of Notes between Australia and the Republic of Korea constituting an Agreement concerning the Retransfer of Australian Obligated Nuclear Material under the Agreement concerning Cooperation in Peaceful Uses of Nuclear Energy and the Transfer of Nuclear Material of 2 May 1979

Seoul, 11/08/1997

In Force: [1997] ATS 26

Treaty on Judicial Assistance in Civil and Commercial Matters between the Government of Australia and the Government of the Republic of Korea

Canberra, 17/09/1999

In Force: [2000] ATS 5

Agreement between the Government of Australia and the Government of the Republic of Korea on Scientific and Technical Cooperation

Canberra, 17/09/1999

In Force: [2000] ATS 13

Note: Australia has no treaties of the same type with other countries.