

PART III. Scope of the JKFTA

B. Scope of the Japan-Korea FTA

(1) Liberalization and Facilitation

Tariffs

49. Under the common understanding that it would be important to properly comprehend the current trade regime of each country, the two sides touched upon the tariff status of their respective countries.

<Table 4> Imports According to Tariff Rate

| | Import Value | | Share (%) | | Tariff Line | |
|----------------------|----------------------------|---------------------------|-----------|-------|-------------|-------|
| | Korea (US\$ million) | Japan (billion Yen) | Korea | Japan | Korea | Japan |
| Free | 8,446 | 1,086.4 | 28.3 | 57.3 | 849 | 3,303 |
| 0<X<10% | 20,895 | 472.8 | 70 | 24.9 | 8,368 | 3,823 |
| 10%≤X | 508 | 57.1 | 1.7 | 3.0 | 1,944 | 1,109 |
| Others | 7 | 279.3 | | 14.7 | 76 | 1,068 |
| Total | 29,856 | 1,895.6 | 100 | - | 11,237 | 9,303 |

Source: Trade Statistics, Ministry of Finance in Japan,
Ministry of Finance and Economy in Korea

50. The import-weighted average applied tariff rate in Japan and Korea is 2.5 percent and 7.9 percent¹⁴, respectively in 2001. However, Japan and Korea, both net importers of agricultural goods, have relatively high tariff rates in the agricultural sector in order to protect the domestic agricultural industry. And Japan maintains relatively high tariff rates on several industrial goods such as leather goods, footwear, petrochemicals and textiles, while Korea has high tariff rates in clothing and footwear. In particular, Japan has a larger proportion of specific duties than Korea in agricultural products and also has specific duties in

¹⁴ source : WTO IDB(Integrated Data Base), 2001

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such areas as footwear and textiles. The average tariff rate in each sector is as follows.

<Table 5> Tariff comparison between Japan and Korea

| | Import-weighted average applied tariff rate | | Import-weighted average bound tariff rate | |
|--|---|-------|---|-------|
| | Korea | Japan | Korea | Japan |
| All Goods | 9.19% | 2.7% | 11.74% | 3.6% |
| Agriculture excluding Fish | 84.04% | 10.6% | 93.94% | 15.8% |
| Fish and Fish Products | 13.04% | 4.4% | 13.15% | 4.4% |
| Petroleum Oils | 4.51% | 0.9% | 5.04% | 3.7% |
| Wood, Pulp, Paper and Furniture | 3.97% | 1.4% | 4.93% | 1.9% |
| Textiles and Clothing | 9.76% | 9.3% | 22.78% | 9.4% |
| Leather, Rubber, Footwear and Travel Goods | 6.73% | 11.0% | 10.80% | 11.0% |
| Metals | 3.88% | 0.6% | 5.68% | 0.7% |
| Chemical & Photographic Supplies | 6.86% | 2.0% | 10.18% | 2.0% |
| Transport Equipment | 4.95% | 0.0% | 7.40% | 0.0% |
| Non-Electric Machinery | 4.65% | 0.0% | 6.83% | 0.0% |
| Electric Machinery | 2.29% | 0.1% | 3.20% | 0.1% |
| Mineral Products, Precious Stones & Metals | 2.94% | 0.6% | 5.25% | 0.3% |
| Manufactured Articles, n.e.s | 5.54% | 0.7% | 7.44% | 0.7% |

* Source : APEC IAP 2002

51. Against this backdrop, the Joint Study Group agreed on the following conditions for the JKFTA.

- a. The negotiations for the JKFTA should take into account the need to be consistent with GATT Article XXIV:8(b), i.e. the “substantially all the trade” criterion.

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b. The JKFTA should cover all sectors without excluding a particular sector as a whole from the liberalization process.

c. At the same time, the JKFTA should address the sensitive sectors of each country and come up with appropriate measures to resolve the issue, while exercising flexibility.

52. Presently, duty-free goods constitute 57.3 percent of Japan's imports from Korea, and 28.3 percent of Korea's imports from Japan. Emphasizing that duty-free imports account for as much as 57.3 percent of Japan's total imports from Korea, the Japanese side pointed out that Japan has already reduced its duties to a considerable extent. At the same time, the Japanese side mentioned that although the remaining dutiable goods are sensitive to imports, Japan is ready to bring every item onto the negotiation table.

53. The Korean side reaffirmed that no particular sector should be excluded from the liberalization process under the JKFTA and, therefore substantial improvement of market access for agricultural products should be an essential part of the negotiations. The Japanese side responded that it had no intention to exclude the whole agriculture sector.

54. With regard to the agriculture sector, both sides found that the two countries share similarities in many aspects, including the small scale of production and low rate of self-sufficiency. In addition, both sides shared the view that JKFTA would provide an opportunity to develop both countries' agriculture, forestry and fisheries sectors by expanding bilateral trade. In this regard, the Korean side explained that Japan is the largest export market for Korean farmers and fishers, occupying 36% of agricultural exports and 70% of the fisheries exports. The Japanese side also expressed its view that Korea is one of Japan's most valuable markets for exporting agriculture, forestry, and fisheries products. However, the Joint Study Group also noted that both countries have sensitivity in agriculture, forestry and fisheries sectors.

55. The Joint Study Group agreed that given the difference in the average tariff rate and the economic size of the two countries, the impact of the JKFTA

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on Korea's industries would be more serious than that on Japan's industry in general.

56. The Korean side commented that such impacts on several Korean manufacturing sectors could be too serious to accommodate within a short period and appropriate measures need to be considered in this respect. The Japanese side responded that there are also several sensitive sectors in Japan. The Joint Study Group shared the view that both countries would mitigate aforementioned impacts by coming up with relevant ways, such as setting up implementation periods and/or establishing bilateral safeguard scheme. Both sides concurred that such measures should be minimal and carefully designed not to hinder the benefits of the JKFTA. In addition, the Japanese side mentioned that eliminating tariff would strengthen the industrial competitiveness of both countries in general.

Non-Tariff Measures (NTMs)

57. In light of the significant impact of NTMs on trade and investment, the Joint Study Group agreed that the task of eliminating NTMs in tandem with tariff removal is essential for an effective JKFTA.

58. The Joint Study Group noted that NTMs have no general definition and vary in scope. However, the Joint Study Group found that NTMs could be generally referred to as restrictive measures, whether direct or indirect, other than tariffs that have adverse effects on international trade and are used by domestic entities to discriminate between imports and domestic products.

59. The Korean side expressed its view that it was necessary to categorize the types of NTMs in order to have a clear and common understanding of NTMs. In this connection, the Korean side examined materials regarding NTMs from a myriad of sources. Based on the examination, the Korean side classified NTMs into quantitative restrictions, technical barriers, SPS, distribution barriers, and others. Each category was then divided into government and non-government measures.

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60. The Korean side highlighted the trade restrictive nature of NTMs in Japan and called for concerted efforts to eradicate such NTMs. The Korean side brought to attention the fact that Korean companies doing business in Japan have been facing problems related to NTMs and emphasized the importance of exerting continuous efforts to address anti-competitive practices restricting market access to foreigners.

61. In response, the Japanese side pointed out that Japanese companies operating in Korea have been also suffering from Korean NTMs and reducing NTMs of both countries contributes to enhancing business relations between Japan and Korea. The Japanese side also pointed out that it is important to review concrete issues one by one through consultation with relevant authorities for better understanding of facts and/or related regulations.

62. Through the discussions, the Joint Study Group recognized that eliminating NTMs would benefit both sides by abolishing inefficient practices not in line with the global standards and facilitating structural reforms in each country, and agreed to establish the NTM Consultation Meeting under the umbrella of the Joint Study Group, composed of government officials and private experts.

63. The Joint Study Group mandated the NTM Consultation Meeting to identify concrete NTMs with a view to bringing about common recognition of concrete issues, and to come up with resolutions through existing channels between relevant authorities and/or within the NTM Consultation Meeting itself.

64. The NTM Consultation Meeting was held two times since its first meeting on May 27, 2003. In the NTM Consultation Meetings, both sides brought forth many issues raised by the business sector of each side as obstacles hindering business activities. The details of the discussions in the Meeting are attached in the Annex. The Joint Study Group recognized that the NTM Consultation Meeting has provided a useful venue for exploring and identifying NTMs. As a result, the NTM Consultation Meetings was able to achieve resolving a number of NTMs and removing some misunderstandings. However, it was also pointed out that the Meeting showed certain limitations in

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addressing NTMs, considering the complexity of NTMs and lack of time to discuss them in-detail.

65. The Joint Study Group noted that further discussions for the effective elimination and monitoring of NTMs would be desirable, considering the importance of the issue. The Korean side expressed its view that discussions on NTM could take place at different stages depending on the nature of the NTMs as follows:

- a. NTMs for which solutions can be reached before embarking upon negotiations of the JKFTA;
- b. NTMs that could be addressed in the course of the negotiations; and
- c. Newly emerging NTMs that could be dealt with after the conclusion of the JKFTA at a separate consultative body.

66. In this respect, the Joint Study Group agreed that the works conducted by the NTM Consultation Meetings should be continued under the FTA negotiation framework as one of its subgroups. The terms of reference of the subgroup would be determined in the FTA negotiations. The Joint Study Group, furthermore, recommended both governments to hold another meeting to discuss NTMs with participation of private experts by the end of the year 2003.

Rules of Origin

67. The Joint Study Group recognized that rules of origin (ROO) provide with a set of criteria used to determine the origin of a particular product and are classified as rules related to preferential or non-preferential treatment; preferential ROO are used to identify whether goods qualify for preferential treatment under a particular FTA.

68. The Joint Study Group examined the discussions for the Harmonized ROO in the WTO as well as relevant provisions in other FTAs such as NAFTA for reference in its discussions of the ROO in the JKFTA. It was noted that the

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negotiations for the harmonization of ROO in the multilateral context were launched in 1995 and in the past seven years an agreement on the specific ROO has been reached on only 71.6 percent of all products, which indicates the difficulty of making ROO.

69. The Joint Study Group agreed that the ROO for the JKFTA should abide by the following principles:

- a. Only goods originating from Japan and Korea should be allowed to benefit from tariff elimination under the JKFTA.
- b. Circumvention from third countries should be prevented.
- c. The ROO should be developed and applied in an impartial, transparent, clear, predictable, consistent, and neutral manner.
- d. Given that both countries have been trade-oriented, it is necessary to set simple and user-friendly ROO, rather than unnecessarily complicated ones. This is important to guarantee the effective implementation of the ROO and thus to facilitate bilateral trade between Japan and Korea.

70. The Joint Study Group pointed out the following criteria that can be explored in determining the ROO:

- a. Criteria of goods wholly obtained;
- b. Criteria of substantial transformation, which could be further specified as:
 1. Criterion of change in tariff classification;
 2. Manufacturing or processing operation criterion; and
 3. Value added criterion.

71. The Joint Study Group also noted that both countries would basically adopt the criterion of change in tariff classification, supplemented by or

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combined with a value-added criterion and/or a specified process criterion, taking into consideration the characteristics of products, the structure of industry and the impact on bilateral trade and investment.

72. The Korean side, taking into account the complexity of ROO and the necessity to proceed to the negotiations effectively, proposed to conduct a joint study to examine the economic impact of the JKFTA and to improve understanding on the production structure of manufacturing industries in the two countries. The Japanese side pointed out that technical and specialized consultations should take place during the negotiations for the FTA in order to determine ROO of each product, considering the respective characteristics of the products.

Customs Procedures

73. The Joint Study Group took note of the recent developments in each country to improve customs procedures. The two sides explained their respective efforts to shorten the lead-time for customs procedure through such measures as computerization of customs procedures, pre-arrival documents examination system, and 24-hour full open system.

74. The Japanese side also explained that not only import/export clearance but also almost all customs procedures could be electronically processed by introducing Customs Procedure Entry System (CuPES) and that invoices can also be filed electronically. The Japanese side added that Japan has made efforts to promote a Single Window System, where users can complete all the necessary import/export procedures or port related procedures in a single input and transmission by linking Nippon Automated Cargo Clearance System (NACCS) and relevant system of the government.

75. The Korean side explained its measures to simplify customs procedure and shorten the lead-time such as paperless export and import clearance system, electronic duty payment system and comprehensive cargo risk management system. The Korean side also gave its presentation on its on-going progressive programs, including the single window system, web-based

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clearance system, sea and air transshipment system and on-site cargo release system, which enable traders to handle customs procedures by using Personal Digital Assistance (PDA) or laptop computer without having to visit the Customs.

76. The Joint Study Group highly evaluated the cooperation between Japan and Korea on customs procedures and the dialogue between the customs authorities of the two countries on ways to further enrich existing cooperation. The Japanese side explained that the two countries had been preparing to conclude the Agreement on Mutual Assistance in Customs Matters, which would clarify procedures for information exchanges and promote cooperation between the customs authorities of the two countries. The Japanese side expressed its view that relations between such agreement and JKFTA should be clarified and details would be discussed in the negotiations for the JKFTA.

77. The Korean side proposed to establish a "Joint Committee on Customs Cooperation" in order to facilitate bilateral cooperation for harmonization of customs procedures, mutual origin verification assistance and exchange of relevant information between the two countries. Furthermore, the Korean side also proposed to establish a "Customs Expert Group" under the Joint Committee in order to discuss and make recommendations on technical conflicts or disputes between the traders and the customs authorities or between the customs authorities in the two countries.

78. As a way to simplify customs procedures, reduce costs and promote efficiency, the Korean side introduced to deliberate on the issue of including an autonomous issuance system of certificate of origin by the exporters and producers themselves and standardization of procedure on origin verification. In addition, the Korean side suggested the introduction of advanced ruling on origin of imported goods by customs authorities in order to ensure transparency and predictability.