

PART III. Scope of the JKFTA

Paperless Trading

79. Paperless trading has been pursued as a means of strengthening the bilateral economic relationship in terms of promoting trade facilitation. Since the “IT Cooperation Initiative” agreed in the Japan-Korea summit in September 2000, paperless trading has been pursued experimentally in a wide array of areas.

80. The Joint Study Group also recognized that paperless trading infrastructure would lower the transaction costs. According to a recent study conducted by Korea International Trade Association (KITA), paperless trading could reduce bilateral transaction costs around 10 percent of current costs amounting to 6.2 billion US dollars, or 12.5 percent of the 50 billion US dollars in transactions. It is anticipated that the lowered transaction cost will contribute to promoting trade facilitation between the two countries.

81. The Japanese side explained various cooperation programs between Japan and Korea on areas such as mutual connection of the local electronic systems that are already at work, namely, Trade Electronic Data Interchange (TEDI) and Korea Trade Network (KTNET)¹⁵.

82. The Korean side pointed out that customs clearance and distribution are unified through KTNET in Korea, while in Japan, several standards - TEDI, Japan Electronic Open Network Trade Control System (JETRAS), Port Logistics Information Network (POLINET), NACCS, and port Electronic Data Interchange (EDI) - are used. The Korean side then expressed its expectation that Japan’s Single Window System introduced in July 2003 for export-import procedures and port related procedures would further facilitate customs procedures.

83. The Korean side pointed out that electronic transactions must be given the same level of protection as off-line transactions in order to promote EDI, and that both sides should introduce necessary legal measures for this purpose.

¹⁵ KTNET is a VAN service provider established in 1992 by Korea International Trade Association (KITA)

PART III. Scope of the JKFTA

84. With regard to the certificate of origin, the Joint Study Group also discussed the possibility of handling the certificate of origin through electronic means such as paperless trading. The Joint Study Group noted that although Korea issues electronic certificates of origin (e-C/O), they are only for domestic use and are not valid for international transactions.

85. The Joint Study Group acknowledged the importance of the e-C/Os for realizing paperless trading between the two countries, and emphasized the need to cooperate for its implementation. The Joint Study Group highlighted that it is important to accept the e-C/O as authentic in order to expedite the importing procedures of the customs clearance between the two countries

Trade Remedies

Safeguards

86. Safeguard measures are by and large classified as a multilateral safeguard measure applied indiscriminately to all countries according to the WTO Agreement and a bilateral safeguard measure applied only to the other party(ies) of the FTA. The Joint Study Group examined whether it would be necessary to incorporate a bilateral safeguard mechanism in the JKFTA to respond to increased imports from the other party to the extent of causing serious injury to the market.

87. The Joint Study Group noted the following points that could be used as a reference in devising a safeguard mechanism for the JKFTA:

- a. The emergency measure is to be applied only during the transition period.
- b. The safeguard measure will allow suspension of further reduction of customs duties or increase customs duties to a lesser MFN rate.
- c. The duration of a safeguard measure will not exceed one year, and in exceptional circumstances, three years.

PART III. Scope of the JKFTA

Anti-Dumping and Countervailing Measures

88. The Joint Study Group was in agreement that anti-dumping and countervailing measures were useful policy enforcement measures for importing countries to address unfair trade practices but that such measures should not be abused to distort the trade flow.

89. The Joint Study Group noted several options, which could be considered in establishing a FTA in general, as follows:

- a. The two parties can maintain the rights and obligations on anti-dumping and countervailing measures under the WTO Agreement;
- b. While resorting to the WTO Agreements, additional provisions can be incorporated so as to exercise greater discipline to anti-dumping and countervailing investigations, hence reducing the possibility of using anti-dumping and countervailing measures in an arbitrary or protectionist manner;
- c. A party can impose anti-dumping or countervailing measures only against predatory pricing practices of the other party's exporters;
- d. The two countries can mutually exempt from imposing anti-dumping and countervailing measures.

90. As to whether to stipulate WTO-plus provisions in the JKFTA, such as strengthening the requirements for initiating anti-dumping and countervailing measures, the Japanese side mentioned that it would be appropriate to focus on negotiations at the WTO, rather than to come up with WTO-plus provisions in the JKFTA.

91. The Korean side suggested that WTO-plus provisions would be more appropriate in the JKFTA, given the necessity to discipline excessively protective and abusive use of anti-dumping measures. In this connection, the

PART III. Scope of the JKFTA

Korean side proposed to examine the possibility of reflecting the current discussions in the WTO on improving relevant agreements, such as the sunset review provisions, in the JKFTA.

Technical Barriers to Trade - Mutual Recognition

92. The Joint Study Group confirmed that a Mutual Recognition Agreement (MRA) would facilitate trade between the two countries by reducing the costs associated with testing and certification and shortening the time-to-market for products covered under the MRA. In this respect, the Joint Study Group welcomed the Joint Statement between the leaders of both countries in June 2003 to accelerate preparations to embark upon MRA negotiations, while taking into consideration the current activities of the experts.

93. With a view to reinforcing economic partnership between the two countries, Japan and Korea announced the “Japan-Korea Economic Cooperation Agenda 21” at the Summit held on March 20, 1999 in Seoul, and concurred to promote possible cooperation in the area of mutual recognition and standards by exchanging information and holding discussions. As part of such efforts, the two countries held two seminars in July and November of 1999 and exchanged information on the standardization and conformity assessment procedures in each country. Japan and Korea also held a total of nine expert meetings to study the feasibility of mutual recognition in six areas - electronic appliances, telecommunications devices, pressure containers, pharmaceuticals/medical devices, and Japanese Industrial Standards (JIS) /Korean Industrial Standards (KS).

94. The Joint Study Group explored the possibility of pursuing mutual recognition under the framework of the JKFTA and reviewed various types of mutual recognition that might be adopted under the JKFTA. Both sides recognized the necessity to start consultations between both governments to examine the feasibility, possible level and scope of mutual recognition under the JKFTA.

PART III. Scope of the JKFTA

Sanitary and Phyto-sanitary (SPS) Measures

95. The WTO/SPS Agreement provides that the members have the right to take SPS measures necessary for the protection of human, animal or plant life or health but also should consider the trade restrictive aspects of such measures. In this regard, the Joint Study Group concurred that SPS measures in the JKFTA should be applied only to the extent necessary based on scientific principles and not be applied in a manner which would constitute a disguised restriction on the bilateral trade. The Joint Study Group also agreed to consider the relevant international norms such as the WTO/SPS Agreement, and the international standards, guidelines and recommendations developed by Codex Alimentarius Commission, International Office of Epizooties (OIE) and International Plant Protection Convention (IPPC) in the negotiations for the JKFTA.

96. For this purpose, the Joint Study Group noted that it would be necessary to strengthen cooperative relationship between relevant authorities with a view to promoting technical cooperation between the two countries. And the Joint Study Group discussed on the necessity to establish a separate committee on SPS comprising government experts, in order to expedite consultations for resolution of disputes and promote technical cooperation between the two countries under the JKFTA.

Trade in Services

97. The role of services as a source of economic activity is rapidly expanding in the global economy. Global trade in services amounted to 2,973 US billion dollars in 2000, representing 23.6 percent of the total trade in goods worldwide. Korea's exports of services increased from 7.1 billion US dollars in 1991 to 30.5 US billion dollars in 2000¹⁶. Japan's exports of services also increased more than 50 percent during the same period, from 45.3 US billion dollars in 1991 to 69.5 US billion dollars in 2000.

¹⁶ Bank of Korea(2002), Annual Statistics

PART III. Scope of the JKFTA

98. As for bilateral trade in services between Japan and Korea, Japan is the second largest importer of Korean services exports and also the second largest exporter to Korea. 23.4 percent of Korea's total services exports goes to Japan and 16.4 percent of Korea's services imports comes from Japan. Meanwhile, Korea ranks the sixth largest importing country of Japan's services and the third largest exporting country to Japan.

<Table 6> Trade in Services by Trading Partners in 2000

Reporting Country	Services exports				Services imports			
	Partner	Rank	Value (million USD)	Share	Partner	Rank	Value (million USD)	Share
Japan	World	-	69,245	100.0	World	-	116,882	100.0
	United States	1	23,429	33.8	United States	1	38,304	32.8
	EU	2	11,606	16.8	EU	2	21,575	18.5
	Singapore	3	4,309	6.2	Korea	3	6,366	5.4
	Hong Kong	4	3,986	5.8	Singapore	4	4,945	4.2
	Chinese Taipei	5	3,607	5.2	Hong Kong	5	4,855	4.2
	Korea	6	3,398	4.9	China	6	4,189	3.6
	China	7	2,356	3.4	Chinese Taipei	7	3,298	2.8
Korea	World	-	30,533	100.0	World	-	33,423	100.0
	United States	1	8,985	29.4	United States	1	12,114	36.2
	Japan	2	7,155	23.4	Japan	2	5,492	16.4
	EU	3	3,593	11.8	EU	3	5,122	15.3
	China	4	1,926	6.3	China	4	2,311	6.9

Source: Statistics on International Trade in Services, OECD, July 2002.

99. Liberalization of trade in services in general can promote competition, lower prices and improve the quality of services. These benefits of liberalization lead to gains in real income. A simulation using the Computable General Equilibrium (CGE) modeling shows that a 33 percent reduction in the services barriers would raise the welfare of Japan and Korea by 0.95 percent and 0.91 percent, respectively.¹⁷

100. Benefits arising from liberalization in services are not limited to the services sector alone. A range of services sectors – such as

¹⁷ Hoekman, Bernard. 2000. "The Next Round of Services Negotiations: Identifying Priorities and Options." *Federal Reserve Bank of St. Louis Review* 82: 31-47.

PART III. Scope of the JKFTA

telecommunications, finance and transportation – not only provide final consumer services, but also serve as essential inputs in the production of other goods and services. This linkage between the services sector and other sectors produces substantial benefits that can potentially contribute to the two countries' economic performance.

101. Considering the ever-increasing importance and benefits of the trade in services, the Joint Study Group noted that it would be necessary to achieve a high level of liberalization in this area through a bilateral FTA that extends beyond the commitments made in the WTO.

Modality of Negotiations in the Services Sector

102. The Joint Study Group noted that the commitment schedule of trade in services is usually inscribed either as a positive list or negative list – the former is a modality used in the GATS and the latter in the NAFTA. Korea adopted the negative list formula in the Korea-Chile FTA (KCFTA) while Japan chose the positive list formula in the Japan-Singapore Economic Partnership Agreement (JSEPA). It was pointed out that while both approaches could in theory generate broadly equivalent outcomes in liberalization terms, as a practical matter a negative list approach can be more effective and ambitious in producing liberalization¹⁸.

103. The Japanese side explained that the JSEPA provides services and investment in different chapters, respectively, and that the former is committed in the positive list formula while the latter is in the negative list formula.

104. The Korean side explained that the investment chapter of the KCFTA applies to all kinds of investment, not only in goods but also in services conducted through commercial presence. Emphasizing the benefits of the negative list formula such as transparency and predictability, the Korean side suggested that Mode three of the commercial presence under the GATS be incorporated into the investment chapter. The Korean side also pointed out that

¹⁸ OECD(2002), "The Relationship Between Regional Trade Agreements and The Multilateral Trading System", page 5, TD/TC/WP(2002)27/Final

PART III. Scope of the JKFTA

Mode one (cross-border supply) and Mode two (consumption abroad) of the cross-border trade in services, as well as Mode four (movement of natural persons) could be dealt in separate chapters.

105. The Joint Study Group concurred on the idea that the JKFTA should cover all services sectors and modes of supply with the exception of a limited number of services, and that the commitments made under the JKFTA should be consistent with Article V of the GATS. The Joint Study Group also identified major elements to be addressed in order to achieve a GATS-plus FTA – i.e. transparency, national treatment, local presence, quantitative restriction and domestic regulation.

106. The Joint Study Group came to an understanding that further liberalization in the services sector could be pursued through additional periodic negotiations to reduce and eliminate any remaining restrictions after the conclusion of the JKFTA.

107. Both sides explained their commitments under the GATS and individual FTAs that each country concluded to date, namely the JSEPA and the KCFTA. Both sides also shared information on the general request in several services areas, which includes information, telecommunications, education, legal and financial services in the Korean market and MRA for medical services providers, air transportation and financial services in the Japanese market.

108. In particular, the Korean side requested to enter into the negotiations for conclusion of a MRA on qualification of medical experts such as medical doctor, nurse and midwife, taking into account both countries' similar training system and its positive effect on both countries' medical systems. In response, emphasizing the necessity to keep the quality of medical services, the Japanese side commented that it is necessary to obtain domestic license in order to engage in medical services in Japan, and it is difficult to establish MRAs on such qualifications at this time. A member from the Japanese academic sector pointed out a positive effect of a MRA on medical experts.

PART III. Scope of the JKFTA

109. Given that negotiations for the JKFTA would reflect the result of WTO/DDA negotiations, the Korean side explained the progress made in the bilateral negotiations in services in the DDA framework. The Joint Study Group was in agreement that the concessions in services under the JKFTA should be greater than those in the context of DDA negotiations.