6

Prospects for an FTA

The previous chapters examined the challenges and opportunities in negotiating a bilateral free trade pact between Korea and the United States. Overall, such an agreement would yield economic benefits for both. But to achieve those gains, each country would have to change long-standing policies that protect politically powerful industries from foreign competition. Each country would have winners and losers from closer trade integration; the benefits from trade would be distributed unevenly among sectors of the economy, and those facing stiffer competition would likely object vocally. For that reason, whether it can bridge cross-cutting economic and political interests would be the ultimate test of the viability of a Korea-US FTA.

Political Landmines

The bilateral trade frontier is littered with numerous obstacles; a few of them are political landmines that will need to be defused or circumvented. We briefly outline the major political challenges in each country.

In Korea, as in the Uruguay Round of multilateral trade negotiations, the most vociferous opposition to an FTA with the United States would likely come from agricultural interests. Korea's farm sector is heavily subsidized and not competitive but still wields substantial clout in national politics. As in many countries, the farm sector has disproportionate representation in the National Assembly, even though agriculture, forestry, and fishing now account for only 5 percent of GDP and 11 percent

of the Korean population (down from 48 percent in 1970).[1] However, due to the rapid urbanization and industrialization of the past 30 years, a good share of the urban population still have family members residing in agricultural areas and thus support farm protection and subsidies. Over time, however, these ties—and the political power they lend to the farm sector—are likely to weaken with the continuing decline in the agricultural population. Only 6 percent of young workers (age 20 to 24) are in farming today, and almost 70 percent of the agricultural work force is over 50 years old (OECD 1998, 123-24). In the near term, however, agriculture would continue to pose the largest obstacle to free trade talks.

In the manufacturing sector, Korean support for an FTA with the United States depends importantly on whether a prospective trade pact can deal with problems arising from the use of antidumping and countervailing duties. Reforms in these areas are particularly important for steel and electronics industries, which as noted earlier have been a frequent target of US cases. If Korean participation in FTA talks is contingent on substantial progress in this area, the negotiations may be stillborn (see discussion below regarding the US political problems in this area).

Finally, Korean participation in an FTA would have to overcome lingering concerns about the possible negative effect on Korea's trade balance. The Korean economy has recovered strongly from the financial crisis of late 1997, but the memory of the deficit-induced crisis still haunts Korean politics. In addition, the mercantilist mentality of seeing exports as good and imports as bad is still prevalent among Koreans long conditioned on export-led growth. In that regard, a serious worsening of Korea's overall trade balance, or the threat of such a development in the aftermath of an FTA, could spur a nationalistic backlash in Korea against bilateral free trade talks.

Although Korea and the United States are close allies, there is still some anti-American sentiment in Korea, which has worsened in recent years. Although this represents a small part of the Korean population, they are very vocal and effective in getting their message across to the general public through street demonstrations, which invariably attract media attention. Such groups could try to rally the public against a Korea-US FTA. Influential new citizens groups in Korea, which have so far shown quite nationalistic tendencies, might also join the anti-American groups in opposing a Korea-US FTA.[2]

Public resistance also might spring from distaste for closer economic integration with a dominant economic power. Because of the domination

1. Some electoral districts in the rural areas have half the number of voters of urban constituencies.

2. USITC (1989) also discussed the possibility of increased anti-American sentiment in Korea if FTA negotiations had been advanced in the late 1980s.

by China and Japan in Korea's past, many Koreans might not like the idea of being integrated with another economy, even if it is a close ally. Of course, this problem could be more serious in the case of a Korea-Japan FTA due to the Japanese occupation of Korea in the early 20th century.

By contrast, US political resistance to an FTA with Korea could surface in two ways: opposition to revisions in US antidumping law and to tariff cuts on textiles and clothing, and indifference about a deal with a relatively small economic payoff. The former could generate strong opposition to a bilateral trade pact; the latter would likely present only a modest entry barrier to the start of prospective negotiations.

First, antidumping is considered by many US industries as the first and best line of defense against foreign unfair trade practices. It allows countries to react *unilaterally* against foreign competition in the domestic market in a WTO-consistent manner.[3] With most US trade barriers sharply reduced as a result of eight rounds of multilateral trade negotiations over the past 50 years, antidumping has become a safety net for industries facing adjustment pressures. In essence, US commitments to multilateral liberalization have been proffered as part of a broader bargain that allows so-called safeguard actions (including antidumping) to be imposed to ''temporarily'' reverse trade reforms. Many members of the US Congress, including strong pro-trade advocates, might not continue to support US trade reforms if antidumping were not in the trade policy toolbox.

In addition, US industry would probably strongly contest the granting of tariff preferences to Korean textile and apparel exporters in a bilateral FTA. To be sure, such benefits were granted, albeit grudgingly, to Mexico in NAFTA, and more recently to Caribbean and African producers in the US Trade and Development Act of 2000. But a Korea-US FTA would attract more opposition from US industry for two reasons: the Korean textile and apparel industry is not integrated with US firms, and many of them are highly competitive.

Second, it may be difficult to generate enthusiasm in the United States for starting free trade talks with Korea because the economic payoff seems small compared with the political costs of liberalizing US trade barriers. Furthermore, partisan fights over the inclusion of provisions in the FTA regarding labor, environment, and human rights would inevitably resurface and focus a harsh spotlight on Korean practices. Some US groups would press for the development of extensive rights and obligations in these areas that could serve as a model for other US trade initiatives (as they have done in the US-Jordan FTA). Of course, these groups would also seek support from other constituencies that oppose changes in US trade practices in politically sensitive areas such as antidumping.

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3. To be sure, some provisions of national antidumping legislation have been challenged in WTO disputes, but the resort to such measures to combat dumped goods was accepted by all WTO members and codified in the Uruguay Round Agreement on Antidumping.

Policy Alternatives

There are three ways negotiators can address the concerns of their domestic political lobbies: by excluding the sensitive product or sector from the FTA liberalization schedule, by affording a protracted transition period before bilateral trade is liberalized, or by incorporating special rules (e.g., high intraregional content requirements) that allow domestic trade officials to restrict ''unfair'' trade and import surges. Obviously, each method undercuts to some extent the trade benefits that would accrue from the FTA. WTO provisions provide guidance on how to craft preferential regional arrangements but are vague with respect to the scope of permissible exceptions, rules of origin, and other trading rules (Lawrence 1996).[4]

In the Korea-US context, three key questions need to be addressed. Must agriculture be included in the deal? Can special trading rules be negotiated to constrain the use of contingent protection measures such as antidumping? And more broadly, can FTA talks proceed without US fast-track authority?

Agriculture

Numerous free trade pacts have been negotiated without comprehensive coverage of agricultural trade. For example, the Canada-US FTA exempts important farm products from its liberalization commitments, and these exemptions were carried over into NAFTA. Interestingly, NAFTA eliminates all farm trade barriers between the United States and Mexico, albeit over a lengthy transition period, but allows the industrial countries to avoid free trade in agriculture.[5] Of course, the European Union limits the scope of its farm trade reforms in all its preferential trade pacts, including its most recent FTA with Mexico. In each case, the partner countries justify their actions by arguing that agriculture is a small share of bilateral trade and that overall the pact covers ''substantially all'' trade.

Notwithstanding the Canada-US pact, a result that significantly exempts agriculture would be much more difficult in the Korea-US context. The farm sector is one of the strongest domestic lobbies for an open US trade policy and for renewal of fast-track legislation. Any deal could not ignore their priority interests—the NAFTA result with Mexico is evidence of farmers' political leverage. In addition, exemptions from farm

4. GATT Article XXIV and GATS Article V set out criteria by which preferential regional arrangements would not be considered illegal under WTO rules. However, such pacts have almost never been accepted as fully compliant with WTO obligations.

5. While the Canada-US FTA eliminated agricultural tariffs and important restrictions on wine trade, both sides wanted exemptions for certain products (e.g., dairy, poultry, and sugar).

trade reforms in US FTAs would make it harder for the United States to protest in the WTO against EU FTAs that carve out important agricultural products or sectors (and thus continue to distort global trade to the disadvantage of competitive US farmers). In short, exemption of agriculture is not feasible, and special arrangements for specific products (whether it involves continued protection or prolonged transitions to free trade) would engender significant political costs.

Antidumping

GATT Article XXIV does not mention antidumping and countervailing duties but there is an economic logic to phasing out such measures in an integrated trading area. Rules on price discrimination differ markedly depending on whether trade crosses domestic or international frontiers, but FTAs and customs unions tend to blur the distinction between the two. Thus antidumping is not deployed on trade among members of the European Union. Similarly, FTAs between Australia and New Zealand and between Canada and Chile have renounced the use of antidumping duties on bilateral trade (upon the removal of bilateral tariffs).

In the United States, however, such precedents carry little weight. NAFTA does not contain disciplines on industrial subsidies or contingent protection measures, except for the special dispute settlement procedures of NAFTA Chapter 19, which provide for expedited reviews of final national antidumping determinations (see Hufbauer and Schott 1993). NAFTA members are free to continue to deploy antidumping measures against their free trade partners, and they do so with regularity. NAFTA Chapter 19 reviews merely judge whether national agencies have followed the procedures of their own national laws; if not, NAFTA panels can remand the case to the national agency to correct the problem. But NAFTA does not preclude cases from being brought, or duties applied, against trade from partner countries.

NAFTA precedents are only a small part of the problem for those contemplating changes in US antidumping practices. Important political constituencies, led by the steel industry, have opposed any discussion of reform of antidumping laws in any trade negotiation. Indeed, US Trade Representative Charlene Barshefsky argued forcefully during preparations for the WTO ministerial in Seattle that antidumping should not be on the WTO negotiating agenda.

Fast-Track Authority

The fast-track provisions of US trade law were introduced in the US Trade Act of 1974 both to promote cooperation among the executive and legislative branches in forming US objectives for trade negotiations and to

expedite the ratification and implementation of the resulting agreements through appropriate changes in US law. Under fast-track procedures, Congress must accept or reject trade agreements, without amendment, in a fixed period. The pact must be considered as a package; members cannot require that particular provisions be renegotiated or removed before the entire agreement enters into force. However, these provisions expired in 1994 and have not been reauthorized despite several legislative attempts.

Does the United States need fast-track authority to engage in FTA negotiations with Korea? As a matter of law, the answer is no. The president can negotiate an agreement and then ask Congress to legislate the necessary changes in US law to comply with the negotiated obligations. Indeed, US negotiators recently concluded WTO pacts on financial and basic telecommunications services without recourse to fast-track procedures. To be sure, those agreements did not require significant changes in existing US laws or regulations, so the availability of fast-track authority was never really an issue.

Nonetheless, trade legislation can proceed through ''normal'' channels in the US Congress and successfully promote new trade initiatives. A case in point is the Trade and Development Act of 2000, noted above. However, this legislation took many years to complete and was adopted only after changes were made at the behest of the US textile lobby, which significantly diluted the value of the trade concessions for exporters from those regions.

A more subtle question is whether a decision on fast-track authority can be put off until FTA negotiations approach their end game. US trade officials argue that they can begin talks without fast track and then pursue the legislative authority once the outline of a deal is developed. While legally correct, the policy is faulty on two counts. First, without fast track, US negotiators would likely continue to resist discussion of changes in US trade barriers; the scope of the prospective deal would be diluted accordingly. Second, without fast track, US trading partners receive an ambiguous signal regarding US political commitment to the talks and the prospective agreement. As evidenced from the failed attempts to revive fast track in recent years, passage of new trade authority is not guaranteed. Even if the authority is renewed, it may be encumbered by demands that new pacts achieve a diverse set of both trade and nontrade objectives. Given this uncertainty, US trading partners are unlikely to put their best offers on the table.

In sum, the reauthorization of US fast-track procedures is highly desirable but not essential for the initiation of bilateral free trade talks. Without fast track, however, US negotiators would have limited flexibility in discussing sensitive issues such as the scope of antidumping or agricultural reforms. But even with fast track, the room for negotiation on those issues likely is quite narrow.