# 3

# Bilateral Trade Frictions

To assess the potential effect of an FTA on bilateral trade and investment between the United States and Korea, we need to identify the existing major obstacles and irritants in bilateral economic relations that hinder or threaten to obstruct flows of trade and investment between the two countries. We then discuss how an FTA can help reduce these irritants.

Until the 1970s the United States and Korea did not have serious disputes over economic relations. In the 1950s Korea received large amounts of economic aid, which it used mainly to purchase US goods. In the 1960s and 1970s Korea developed its industrial sector and pursued an export-led economic growth policy. In the 1980s and 1990s Korea became a modest economic power and a significant US trading partner. The end of the Cold War further shifted somewhat the focus of US-Korea bilateral relations from the security dimension to economic relations.[1] Concerned with its trade deficits, the United States in the 1980s began to aggressively pressure its trading partners to buy more US exports.[2] Major trade bills were enacted in 1984 and 1988 to strengthen US trade laws. Since then the two countries have had numerous disputes involving agriculture,

1. For a summary of Korea-US economic relations, see Young (1989; 1996).

2. Schott (1989) argues that the main objective of US trade policy was to manage the political fallout and to deflect protectionist pressures generated by its (then) record trade deficits. To counter these pressures and sustain domestic support for an open trade policy, the United States resorted to a mixture of unilateral, bilateral, and multilateral actions to reduce foreign barriers to US exports and to counter unfair trade practices benefiting foreign competition to US firms. As a percentage of GDP, the US trade deficits in 1999 and 2000 were much higher than the peaks of the 1980s.

heavy and high-technology manufactures, and services. These trade frictions have at times been exacerbated by large bilateral trade imbalances, although these imbalances were mainly the result of US macroeconomic policies (Noland 1993).

## Trade Complaints

Korea's trade complaints against the United States are documented in the annual *Foreign Trade Environment* report, issued by the Ministry of Foreign Affairs and Trade, which reviews major trading partners' policies and practices that are considered detrimental to Korea's exports. The latest report highlights complaints about US import restrictions, customs clearance delays, standards and technical barriers, barriers related to protecting the environment and intellectual property rights (IPRs), discrimination in taxation and government procurement,[3] and US competition policy.

Korea's main concerns are with US antidumping and countervailing duties (CVDs), which are discussed in detail in the next section. Another major complaint involves apparel quotas under the Multi-Fiber Arrangement (MFA). However, the United States committed in the Uruguay Round to eliminate these quotas by the end of 2004. The Korea International Trade Association (KITA) estimates that the value of Korean exports to the United States restricted by these penalty tariffs and quotas is about $5 billion, or about 25 percent of total Korean exports to the United States (KITA 1999; Yang 2000). Another concern for Korea is tariff peaks on some items, especially textiles and apparel. Table 3.1 shows US tariff peaks on some of the products of Korean interest. We estimate that the United States imported $381 million of these high-tariff goods in 1999, which accounted for 1.1 percent of total US imports from Korea and 10.4 percent of total US imports of these items.

The US complaints against Korea are summarized in the US Trade Representative's *National Trade Estimate Report on Foreign Trade Barriers*, which annually reviews the trade practices of major US trading partners. The US complaints are much more extensive, covering import policies; standards, testing, labeling, and certification; government procurement; export subsidies; intellectual property rights; services barriers; investment barriers; anticompetitive practices; electronic commerce; and other barriers. The report calls for greater market access in procurement of airport construction, agricultural products, automobiles, telecommunications, and services. It also claims that fairer Korean trade practices are needed in pharmaceuticals, steel, and cosmetic products. The report also calls for

3. Both the United States and Korea are signatories of the WTO Government Procurement Agreement (GPA). However, the GPA does not cover all purchases at the federal level and has even broader exceptions at the state and local levels.

## Table 3.1 US imports from Korea with tariff peaks, 1999

| Commodity | Tariff rate (percent) | HTS code | US imports: From all sources (thousands of dollars) | US imports: From Korea (thousands of dollars) | Korea's share (percent) | Item's share in total US imports from Korea[a] (percent) |
|---|---|---|---|---|---|---|
| **Textiles and apparel** | | | | | | |
| Knitted or crocheted pile fabrics of man-made fibers. | 18.6 | 6001.92.00 | 132,787 | 75,052 | 56.5 | 0.2 |
| Men's or boy's shirts, knitted or crocheted, of cotton | 20.5 | 6105.10.00 | 1,583,046 | 20,279 | 1.3 | 0.1 |
| Men's or boy's shirts, knitted or crocheted, of man-made fibers | 33.6 | 6105.20.20 | 274,477 | 37,040 | 13.5 | 0.1 |
| Women's or girls' blouses or shirts, knitted or crocheted | | | | | | |
| Of man made fibers, nesoi | 33.6 | 6106.20.20 | 412,919 | 52,998 | 12.8 | 0.2 |
| Of wool or fine animal hair | 15.6 | 6106.90.10 | 9,000 | 158 | 1.8 | - |
| Sweaters, etc., knitted or crocheted, of man-made fibers | 17 | 6110.30.15 | 148,363 | 4,889 | 3.3 | - |
| Men's or boys' suit-type jackets and blazers of synthetic fibers | 22-28.3 | 6203.33.10 | 34,991 | 20 | 0.1 | - |
| Under 36 percent by weight of wool | 22-28.3 | 6203.33.20 | 88,630 | 1,657 | 1.9 | - |
| Women's or girls' suit-type jackets and blazers of synthetic fibers | 0.463$/kg + 21 | 6204.33.40 | 18,757 | 295 | 1.6 | - |
| Men's or boys' shirts, not knitted or crocheted, of man-made fibers, | 0.516$/kg + 20.5 | 6205.30.15 | 466 | 0 | 0.0 | - |
| Containing 36 percent or more of wool or fine animal hair nesoi | 0.302$/kg + 26.9 | 6205.30.20 | 508,311 | 170,846 | 33.6 | 0.5 |

*(table continued next page)*

**Table 3.1 US imports from Korea with tariff peaks, 1999** *(continued)*

| Commodity | Tariff rate (percent) | HTS code | US imports: From all sources (thousands of dollars) | US imports: From Korea (thousands of dollars) | Korea's share (percent) | Item's share in total US imports from Korea[a] (percent) |
|---|---|---|---|---|---|---|
| Woven fabrics obtained from high tenacity yarn of polyesters | 15.6 | 5407.10.00 | 28,701 | 1,109 | 3.9 | - |
| Woven fabrics containing 85 percent or more of nylon or other polyamides, unbleached or bleached | 10.2 | 5407.41.00 | 17,437 | 41 | 0.2 | - |
| Woven fabrics, over 85 percent by weight of filaments of nylon/other polyamides, of yarns of different colors | 0.195$/kg + 18 | 5407.43.10 | 4 | 0 | 2.5 | 0 |
| Woven fabrics, over 85 percent by weight of filaments of textured polyester filaments, dyed | 0.221$/kg + 20.5 | 5407.52.05 | 98 | 0 | 0.1 | 0 |
| **Footwear** | | | | | | |
| Sports & athletic footwear w/outer soles of rubber/plastic and textile uppers | 37.5-48 | 6404.11.40 | 740 | 0 | 0.0 | 0 |
| | 37.5-48 | 6404.11.50 | 45,119 | 0 | 0.0 | 0 |
| **Luggage** | | | | | | |
| Trunks, suitcases, vanity and attache cases, occupational luggage | 19-20 | 4202.12.20 | 115,033 | 324 | 0.3 | - |
| Bags, and cases with outer surface of plastic sheeting or of textile materials | 19-20 | 4202.92.90 | 249,083 | 16,765 | 6.7 | - |
| **Subtotal** | | | **3,667,962** | **381,475** | **10.4** | **1.1** |

- = denotes negligible value, close to zero.
HTS = Harmonized Tariff Schedule.
nesoi = not elsewhere specified or indicated

a. Total US merchandise imports from Korea in 1999 was $35,152,300,000.

*Source:* US International Trade Commission, *1999 ITC Tariff Data Base*, http://www.dataweb.itc.gov.

more liberalization in financial and securities markets, further measures to encourage foreign direct investment, and improvements in the tariff structure and other nontariff barriers such as import clearance procedures, expediting imports of perishable goods, and harmonizing standards and conformity assessment procedures with international codes. The report notes that Korea has been described as one of the toughest markets in the world for doing business, and if Korea's ongoing reforms are fully and faithfully implemented, trade and investment barriers should be reduced. The report says that Korea did implement some reforms but resistance to key trade reforms remains and many issues have arisen on Korea's compliance with its international obligations.

In a related but separate effort to demonstrate the concerns of the US business community in Korea, the American Chamber of Commerce in Korea (Amcham-Korea) also publishes an annual report on bilateral trade relations. Amcham's report in 2000, *Improving Korea's Business Climate,* summarizes complaints by US companies operating in Korea. These complaints range from market access to Korean advertising policy. Most of these complaints are also covered by the USTR report.

One of the most highlighted disputes involves automobiles. The United States and Korea signed an auto agreement in 1998. However, the agreement has failed to live up to US industry expectations of increased market penetration. In 1999 the share of imported automobiles was less than 1 percent of the Korean domestic market. Major problems cited by the US auto industry include high Korean tariffs and taxes, onerous standards and testing procedures, and a lack of public awareness of new financing mechanisms for auto purchases.

US officials have also asked the Korean government to make a sustained public relations effort to change the negative public perception about buying imported cars. Despite recent public statements by the Korean president and other senior government officials at the opening of the imported auto show and government purchases of imported automobiles, the total sales of imported autos in Korea has remained miniscule (4,414 cars during 2000). The US auto industry blames the recent attempt by the Ministry of Finance and Economy to tax audit purchasers of large cars, which are the primary products of foreign sellers in Korea. Although foreign car makers blocked the attempt through successful lobbying, many local dealers felt that the damage had already been done. With the continuing high growth of Korean automobile sales in the US market, the automobile trade dispute will likely remain one of the main points of bilateral friction.

## US Legal Actions

In the 1980s and 1990s, 52 antidumping and CVD cases were initiated against Korean exports to the United States; duties were imposed in 29

cases (Yang 2000). As of July 2000, there were 5 CVD and 18 antidumping orders against Korean exports to the United States (table 3.2). These import price restrictions are concentrated in semiconductors, steel products, color televisions, and telecommunications equipment, which are Korea's major export items. We estimate that the amount of US imports from Korea for these items was $2.5 billion in 1999, which accounted for 7 percent of total US imports of all merchandise from Korea and 6.5 percent of total US imports of these items from all sources.[4]

In addition, the US government announced that it would impose, effective 1 March 2000, additional tariffs on line pipe under the ''escape clause'' of section 201 of US trade law. These safeguard measures initially impose an additional 19 percent duty on US imports of these products; the extra duty will be progressively phased out over three years. The country most affected by this action is Korea, which accounts for about half of all US line pipe imports.

## WTO Cases

In the heat of all these complaints by both countries, the United States and Korea have brought 10 cases to the WTO for dispute settlement since its inception in 1995. As seen in table 3.3, six of these cases were filed by the United States: five of the complaints involved agricultural and food products; the other case dealt with government procurement. We estimate that these WTO disputes involved almost $2.5 billion of US exports to Korea and about $1.9 billion of Korean exports to the United States in 1999, equivalent to about 8 percent of total US-Korea merchandise trade volume (table 3.4). During the same period, the United States filed 54 requests for WTO dispute settlement, of which 8 were against the European Union and 4 against Japan. In contrast, Korea has filed only four requests for WTO dispute settlement; all of them were against the United States and were related to US antidumping and safeguard measures.

WTO dispute settlement cases clearly indicate trade barriers and practices that afford substantial trade protection. They also delineate areas of export interest by the plaintiff country. The United States is strongly interested in obtaining further market access to Korean agricultural and food products markets, while Korea is most interested in reducing US trade remedies against Korean exports to the United States. Obviously, these areas raise serious obstacles for a prospective Korea-US FTA. Korea is not likely to open up agriculture in the near future; such reforms strike

4. Korean exporters argue that the antidumping cases cost them whether or not duties are actually imposed because defending cases is costly and the investigation dampens potential trade growth.

**Table 3.2 US antidumping and countervailing duty cases against Korea** (in effect as of July 2000)

| Products | Effective beginning date | HTS code | 1999 US imports from all sources (thousands of dollars) | 1999 US imports from Korea (thousands of dollars) | Korea's share (percent) | Item's share in total US[a] imports from Korea | Antidumping tariff ranges (percent) |
|---|---|---|---|---|---|---|---|
| **Antidumping tariff (18 cases)** | | | | | | | |
| Malleable cast iron pipe fittings | May 1986 | 730719 | 94,206.0 | 3,021.8 | 3.2 | 0.01 | 25.59 |
| Brass sheet and strip | November 1986 | 740921<br>740929 | 56,505.0 | 28.0 | 0.3 | - | 7.34 |
| Stainless steel cookware | January 1987 | 732393 | 512,721.0 | 93,441.3 | 18.2 | 0.27 | 1.06-8.10 |
| Color picture tubes | December 1987 | 854011 | 155,234.0 | 2,726.2 | 1.8 | 0.01 | 0.12-1.91 |
| Cellulose nitrates | June 1990 | 391220 | 30,429.0 | - | - | - | 2.10 |
| Polyethylen terephathalate film | May 1991 | 392062<br>392063<br>392069 | 368,513.0 | 67,771.1 | 21.2 | 0.19 | 0.36 |
| Circular welded nonalloy steel pipes & tubes | October 1992 | 730630 | 430,270.0 | 63,534.1 | 14.8 | 0.18 | 2.64-3.51 |
| Welded stainless steel pipes & tubes | December 1992 | 730640 | 100,536.0 | 9,595.7 | 9.5 | 0.03 | 2.67 |
| Stainless steel butt-welded pipe fittings | February 1993 | 730723 | 47,478.0 | 188.1 | 0.4 | - | 21.20 |
| Electronic monolithic digital integrated circuits (DRAMS) | April 1993 | 854219<br>854290<br>847330 | 31,192,772.0 | 1,793,109.6 | 6.0 | 5.10 | 9.04 |
| Cold-rolled flat steel product | July 1993 | 7209<br>7210<br>7211 | 2,281,364.0 | 185,224.7 | 6.6 | 0.53 | 1.21-5.72 |

*(table continued next page)*

**Table 3.2 US antidumping and countervailing duty cases against Korea** (in effect as of July 2000) *(continued)*

| Products | Effective beginning date | HTS code | 1999 US imports from all sources (thousands of dollars) | 1999 US imports from Korea (thousands of dollars) | Korea's share (percent) | Item's share in total US[a] imports from Korea | Antidumping tariff ranges (percent) |
|---|---|---|---|---|---|---|---|
| Corrosion resistant carbon flat steel product | July 1993 | 7212<br>7215<br>7217 | 630,023.0 | 16,690.9 | 2.3 | 0.05 | 0.14-1.49 |
| Casing, tubing and drill pipe for oil and gas drilling | July 1995 | 730421<br>730429<br>730520<br>730620 | 115,749.0 | 2,798.2 | 7.5 | 0.01 | 2.93 |
| Stainless steel wire rod | September 1998 | 722100 | 104,592.0 | 13,466.1 | 12.9 | 0.04 | 5.19-28.44 |
| Stainless steel plate in coils | May 1999 | 721911<br>721912<br>721931 | 39,943.0 | 649.0 | 1.6 | - | 16.26 |
| Stainless steel sheet & strip in coils | July 1999 | 722020<br>721933<br>721934<br>721932<br>721935 | 502,338.0 | 22,826.9 | 6.6 | 0.06 | 12.12-58.79 |
| Polyesters synthetic staple fiber | May 2000 | 550320 | 265,497.0 | 75,451.6 | 28.4 | 0.21 | |
| Cut to length plate | February 2000 | | 872,864.0 | 112,405.7 | | | |
| **Subtotal** | | | **37,801,034.0** | **2,462,929.0** | **6.5** | **7.01** | |

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| **Countervailing duty (5 cases)** | | | | | | | |
| Stainless steel cookware | January 1987 | 732393 | 512,721.0 | 93,441.3 | 18.2 | 0.27 | 1.06-8.10 |
| Cold-rolled carbon steel flat product | July 1993 | 7209<br>7210<br>7211 | 2,281,364.0 | 185,224.7 | 5.8 | 0.53 | 3.95 |
| Corrosion resistant carbon steel flat product | July 1993 | 7212<br>7215<br>7217 | 630,023.0 | 16,690.9 | 2.6 | 0.05 | 2.69 |
| Stainless steel sheet & strip in coils | July 1999 | 722020<br>721933<br>721934<br>721932<br>721935 | 502,338.0 | 22,826.9 | 6.6 | 0.06 | 1.58-59.30 |
| Cut to length plate | February 2000 | | 872,864.0 | 112,405.7 | | | |
| **Subtotal** | | | **4,799,310.0** | **430,589.5** | **9.0** | **1.22** | |

- = indicates negligible value, close to zero.
HTS = Harmonized Tariff Schedule.

a. Total US merchandise imports from Korea in 1999 was $35,152,300,000.

*Source:* US International Trade Commission, US trade by partner country, http://www.dataweb.usitc.gov; Korea International Trade Association, 1999, *Import Restriction Report* (in Korean).

**Table 3.3 Korea-US trade disputes brought to the WTO** (as of 28 September 2000).

| Consultation requested | Case number | Complaint filed by | Subject of dispute | Status |
|---|---|---|---|---|
| April 1995<br>May 1996 | WT/DS 3<br>WT/DS 41 | United States<br>United States | Korean measures concerning testing and inspection of agricultural products | Consultations pending.[a] |
| May 1995 | WT/DS 5 | United States | Korean requirements imposed on shelf-life products[b] | In July 1995 both parties notified a mutually acceptable solution to the dispute. |
| May 1997 | WT/DS 84/1 | United States | Korean internal taxes imposed on certain alcoholic beverages | Panel established in October 1997; in September 1998 the WTO panel found the Korean measure was a violation of GATT rules. The appellate body upheld panel findings in February 1999. On 27 January 2000 Korea stated it had fully implemented the panel recommendations by amending its tax law.[c] |
| July 1997 | WT/DS 89/1 | Korea | US antidumping duties on imports of Korean color television receivers | In September 1998 Korea withdrew the complaint, as US antidumping duties were revoked. |
| August 1997 | WT/DS 99/1 | Korea | US antidumping duty on Korean dynamic random access memory semiconductors (DRAMs) of one or more megabytes. | Panel established in January 1999; the WTO panel found the measure violated the Antidumping Agreement. On 27 January 2000 the United States said it had implemented the panel recommendations by amending the Antidumping Agreement. On 25 April 2000, following a request by Korea, the Dispute Settlement Body agreed to reconvene the panel. On 19 September 2000 Korea requested that the panel suspend its work, including the issuance of the interim report, ''until further notification.'' The panel agreed to this request.[d] |

| | | | | |
|---|---|---|---|---|
| February 1999 | WT/DS 161/1 | United States | Korean measures restricting imports of fresh, chilled, and frozen beef. | Panel established in May 1999. On 11 September 2000, Korea notified its intention to appeal certain issues of law and legal interpretations developed by the panel. |
| February 1999 | WT/DS 163/1 | United States | Procurement practices of the Korean Airport Construction Authority. | Panel established in June 1999; on 1 May 2000 the panel found that the entities conducting procurement for the project at issue were not covered by Korea's obligations under the Agreement on Government Procurement. The panel therefore found that the United States had not demonstrated that benefits were nullified or impaired by Korean measures. In June 2000 the Dispute Settlement Body adopted the panel report. |
| July 1999 | WT/DS 179 | Korea | US antidumping measures on stainless steel plate, sheet and strip from Korea. | Panel is active, established in November 1999. |
| June 2000 | WT/DS 202/1 | Korea | Definitive safeguard measure imposed by the United States on imports of circular welded carbon quality line pipe. | Korea requested a panel. At its meeting on 26 September 2000, the Dispute Settlement Body deferred the establishment of a panel. |

a. In April 1995 the United States requested consultations under WTO dispute settlement procedures after US fruit shipments were detained at the port up to 3 weeks. After two rounds of talks, Korea revised the procedures to allow fresh produce to clear customs within five working days. The United States and Korea consulted four times in 1995, three in 1996, and once in 1997 over import clearance procedures. These consultations have resulted in Korean changes of procedures but problems still remain (USDA Economic Research Service, and 1998 Annual Report of the President of the United States on the Trade Agreements Program).

b. Korea imposed an official shelf life on imported foods instead of using the manufacturer-determined "use-by" dates to control food safety quality.

c. Both parties agreed on the appointment of an arbitrator to determine a reasonable deadline. The deadline was set for 31 January 2000. The liquor tax law and the education tax law were amended to impose flat rates of 72 percent for the liquor tax and 30 percent for the education tax on all distilled alcoholic beverages on a nondiscriminatory basis.

d. Korea believes the US measures are not consistent with the Antidumping Agreement and Article X:1 of GATT 1994. On 9 March 2000, Korea asked the original panel to review the matter.

*Source*: *WTO, Overview of WTO Disputes*, http://www.wto/dispute/bulletin.htm.

**Table 3.4 US-Korea trade in items related to WTO disputes between the United States and Korea, 1999 estimates**
(millions of dollars)

| Commodity in dispute | US imports from Korea | US exports to Korea |
|---|---|---|
| Agricultural and food products[a] | | 2,448 |
| Shelf-life products[b] | | 847 |
| Alcoholic beverages[c] | | 2 |
| Beef | | 330 |
| Procurement of airport construction[d] | | 50 |
| DRAMS | 1,793 | |
| Steel[e] | 59 | |
| Total | 1,852 | 2,498 |

DRAMS = Dynamic random access memory semiconductors.

a. US agricultural exports to Korea in 1999 include grains, hides, meats, fruits and vegetables, consumer-ready products, cotton, and other intermediate products. This number reflects total exports of agricultural and food products, including shelf-life related products and beef, http://www.fas.usda.gov.

b. Shelf-life products are defined as those under the following Harmonized Tariff Schedule codes: 02, 04, 09, 11, 13, 15, 16, 17, 18, 19, 20, 21, 22, http://www.dataweb.usitc.gov.

c. Ethyl alcohol, undenatured and the like, excluding other types such as beer or wine.

d. This figure represents the approximate total amount of elevator supply of the Inchon Airport construction project, which was the focus of the dispute. The cost of the whole project is estimated at between $5 billion and $8 billion.

e. Disputed steel products are limited to stainless steel plate, sheet and strip, and circular welded carbon quality line pipe.

*Sources:* International Trade Administration, US Department of Commerce; US International Trade Commission, http://www.dataweb.usitc.gov; USDA Economic Research Service, http://www.fas.usda.gov.

a raw nerve in Korean politics.[5] At the same time, the United States is not likely to give up its right to use antidumping and safeguard measures, which protect import-sensitive and politically powerful domestic industries (for example, textiles and apparel, steel, and sugar). In both the US-Israel FTA and NAFTA, the United States reserved the right to impose safeguard, antidumping, and countervailing duties against the trade of its partner countries.

In short, antidumping and agriculture are likely to be the major stumbling blocks to the creation of an FTA between the United States and Korea. Bilateral problems in each area are likely to be immune to solutions through the FTA negotiations. In fact, Deputy US Trade Representative

5. Tsiang (1989) also argued that the United States might have difficulty reaching an FTA with Korea, Taiwan, and Japan without US tolerance of some exceptions in the case of agriculture because of its security and political sensitivity.

Richard Fisher argued in 1999 that the only way to set the stage for an FTA between the United States and Korea would be to resolve many of the bilateral problems *before* the launch of free trade talks.[6] In that regard, both countries are already negotiating a bilateral investment treaty; they have reported substantial progress, though both sides still differ on a number of issues, including Korea's movie screen quotas. More discussion on the barriers to an FTA follows in chapter 6 on prospects for a Korea-US FTA.

6. Richard Fisher, remarks at the annual US-Korea 21st Century Council Meeting held in Washington, October 1999.