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## **Republic of Korea and its Growing FTA Network**

**A study of provisions in Korea's FTAs on access for merchandise  
goods into its market**

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### Abstract

*Korea was a relative latecomer in the process of building an FTA network but once its first FTA with Chile came into force in 2004 the network has rapidly expanded. Its 15 FTAs in force so far cover over 70 per cent of its exports and its partner countries account for a three quarter of world GDP. It has FTAs with all three of its major trade partners- China, EU and the US- and is in the process of negotiating more that will further increase the coverage. This paper seeks to trace this rapid growth, and the factors that may have contributed to it. The paper further makes a comparative analysis of commitments by Korea on various market access parameters in its FTAs in relation to merchandise trade. Apart from tariffs, on which there is a wide variation in commitments in relation to agriculture products, there are also interesting differences in relation to rules of origin and their verification, in dealing with standards and their compliance, geographical indication protection and other non tariff aspects. Some of them may provide clues regarding possible ways in which future FTAs may evolve or even be a way for multilateral solutions to emerge on dealing with non tariff barriers.*

## 1. Introduction

The Republic of Korea<sup>1</sup> has recorded impressive development during the last more than four decades. Rapid industrialisation helped it to steadily grow to a US\$ 1.5 trillion economy by 2017 with a population now slightly more than 50 million. Its nominal GDP has risen five times compared to 1990 and three times compared to the year 2000<sup>2</sup>. Korea has acquired considerable strength in several areas of manufacturing including steel, automobiles, chemicals,

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<sup>1</sup> Henceforth referred to as Korea in this paper

<sup>2</sup> Korea's nominal GDP was, as per World Bank website, US\$ 279 bn in 1990, US\$ 562 bn. in the year 2000 and US\$ 1.53 tn in 2017

petrochemicals, semi-conductors, consumer electronics and home appliances, mobile phones and ship building.

External trade has been a key factor behind this success with its merchandise trade as a share of GDP rising from 48.4 per cent in 1990 to reach a peak of 89.8 per cent in 2011. Subsequent years, with global trade slowing down, when Korean exports also slowed down and even contracted in a couple of years, have seen this moderating to 68.7 per cent in 2017, even as it was the sixth largest exporting country in the world that year<sup>3</sup>.

Korea remained exclusively multilateralist in its external trade policy during the GATT and early WTO days. But the East Asian financial crisis in the latter half of the nineties that also engulfed Korea led her to review several of its trade and industrial policies.

The emergence of NAFTA, the closer integration and expansion of the European Union and the launch of the ASEAN Free Trade Area and a number of other regional trade blocs around this time had also begun to influence policy makers and Korea began to feel that some kind of closer regional economic cooperation was needed to accelerate the liberalization process and to countervail the prevailing regional economic blocs<sup>4</sup>.

Korea then began in a slow fashion to experiment with bilateral FTAs beginning with negotiations with Chile in 1998. This move was also intended to promote structural reforms and boost competitiveness. The quest for more open markets acquired greater momentum in the next decade and after, when several of its competitor countries including its neighbours China, Japan and

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<sup>3</sup> These calculations have been made using WITS statistics for trade figures and World Bank data for GDP

<sup>4</sup> See Korea's FTA policy: current status and future prospects by Chan-Hyun Sohn and Jinna Yoon, September 2001, KIEP Discussion paper.

some South East Asian countries also pressed ahead with concluding more FTAs.

To date, Korea has become party to fifteen FTAs that are in force covering 52 countries and they have a substantial trade coverage. Its FTA partners together account for around 75 per cent of world GDP, 72 per cent of its exports and 63 per cent of imports. Korea however is continuing to negotiate some more FTAs that will in the coming years further increase the coverage. In this paper we trace the evolution of this journey and what may have contributed to it . This is covered in Section 2.

As Korea stitched up more FTAs, it grew bolder venturing into deeper and more comprehensive FTAs particularly with its major trade partners, the United States and the European Union. Once done, it also struck a deal with China, its No.1 trade partner. In all these later FTAs the implementation period became longer. We shall therefore look into the scope and content of some of its major FTA milestones and see how these have differed from each other. Our analysis will however be confined to the commitments made in the FTAs for access into Korea and not so much on how they may have been implemented or utilised which is difficult in the absence of adequate data. But where these are available they have been cited particularly the impact on trade. We shall however not be taking up services, investment and other aspects which figure in most of the FTAs but confine ourselves to mapping the FTAs in respect of trade in merchandise goods.

The tariff aspect then is covered under Section 3. The rules of origin are dealt with in Section 4 and the trade remedy elements in the different FTAs are covered in Section 5. The manner in which standards are addressed is taken up in Section 6. Finally a few other aspects that impact on market access have been commented upon in Section 7. Section 8 carries certain conclusions.

## **2. The evolution of Korea's FTA network**

Some analysts<sup>5</sup> have classified Korea's FTA evolution under three phases. The first phase, Korea FTA 1.0, relates to the period 1998 to 2004 when Korea concluded its first FTA, with Chile. The partner was carefully selected even if it was not a proximate neighbour. Its economy was complementary to the industry dominated Korean economy. Negotiations on the Korea-Chile FTA commenced in 1998 with Korea regarding Chile, which already had entered into several FTAs by then, as a bridgehead for market penetration in Latin America through its extensive FTA network and as a partner from which it could also learn the ropes of FTA dealmaking.

Korea's main exports to Chile at that time were vehicles, machinery, mineral products and plastics comprising 85 per cent of the basket<sup>6</sup>. Chile's exports to Korea on the other hand were dominated by base metals and minerals, wood pulp and to a smaller extent, farm products including pork, fish items, fruits and wine. But because of different farming seasons in the two countries the fruit imports were not considered a major concern.

Even so, Korea had to deal with a lot of domestic protests by its farmers in 2002 and 2003 and the ratification of the deal by the Korean parliament was postponed on three occasions. This is notwithstanding the care Korea had taken to shield rice, vegetables and fruits and meat items in the deal. In order to persuade some of the opposing lawmakers to approve the deal, the government introduced a Special Act

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<sup>5</sup> See for example, Myoung Jin-ho, Jung Hye-sun, Hyun-jung Je and Seol-gi Mun, The Decade Long journey of Korea's FTAs, Institute of International Trade, KITA, June 2014

<sup>6</sup> Interestingly, To-hai Liou has pointed out how Korean automobiles occupied 20.2% of the Chilean market in the period January to April 2002 but its market share dropped to 13.8% in 2003 over the same period. Mobilephones were losing as well. This was because Chile began to import car and mobile phones from the EU, Argentina, Paraguay, Brazil, and Uruguay as the bilateral FTAs took effect. See his article on 'South Korea's FTA strategy under Roh-Moo-Hyun' in Taiwan Journal of WTO Studies VIII, 2008.

to assist farmers who were negatively impacted by the FTA with a fund to the tune<sup>7</sup> of 2.1 trillion Korean Won.

### ***Korea's FTA Roadmap 2004***

The second phase is ascribed to the period 2004 to 2012 with the policy guidance emanating from Korea's *FTA Roadmap*<sup>8</sup>, initially drawn up in 2003 and subsequently revised in May 2004, that recognised the global proliferation of FTAs that had begun to take place. By then, its geographically immediate competitors for global markets, China and Japan, had already made some progress in some of their respective FTA negotiations. China had concluded a framework agreement on an FTA with ASEAN in November 2002 and was proceeding with the FTA finalisation. Japan's FTA with Singapore came into effect in November 2002 and Japan had also commenced negotiations for concluding FTAs with Mexico, Malaysia and Thailand by early 2004.

Not to be left behind, particularly as its economy depended heavily on external trade, Korea upped its pace with the *Roadmap* strategy calling for simultaneous and comprehensive FTAs including with advanced economies such as EU and the United States. While the Roadmap pointed out that big trading nations were ideal partners and FTAs with them should be pursued actively in the medium to long term, in the short term, however, the following criteria, among others, should be used to choose prospective FTA partners<sup>9</sup>: (a) economic justification; (b) political and diplomatic considerations; (c) willingness of countries to conclude FTAs with Korea; and (d) potentiality of countries to serve

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<sup>7</sup> See Para11 of WTO Secretariat report relating to Korea's Trade Policy Review 2008. This was inter alia to compensate some retiring fruit producers (of grapes, kiwis, peaches) who were affected by the FTA, and had to close their farms, as well as to enhance competitiveness so as to enable the fruit industry to respond rapidly to the changes in consumption patterns.

<sup>8</sup> See 'The Decade Long journey of Korea's FTAs', Institute of International Trade, KITA, June 2014 by Myoung Jin-ho, Jung Hye-sun, Hyun-jung Je and Seol-gi Mun.

<sup>9</sup> Chulsu Kim, South Korean Trade Policy and FTAs, Japan Spotlight, May/June 2004.

as stepping stones to larger FTAs. The objective was to develop Korea as an FTA hub.

Generally speaking, Korea was also very keen to derive a first mover advantage and worked towards early conclusion of each FTA even as reaching an agreement depended as much on the other party. For example, its negotiations for an FTA with ASEAN commenced after ASEAN started similar negotiations with Japan but its FTA in the goods became operational in June 2007 before the Japan-ASEAN FTA which came into force only in December 2008. Likewise it kept up the pace in its CEPA (called as 'Comprehensive Economic Partnership Agreement') negotiations with India in order that this FTA came into force earlier (1st January 2010) as against India's CEPA with Japan that came into force only in August 2011.

This second phase, Korea FTA 2.0, witnessed a rich harvest when Korea's FTAs with EFTA (2006), Singapore (2006), ASEAN (2007), India (2010), Peru (2011), EU (2011) and the United States (2012) came into force. Korea's FTAs in this phase saw a dual approach in respect of agricultural products. While continuing to adhere to a restricted approach in respect of other FTAs, in the case of FTA with US, which was looking to increase its farm exports, it had to agree<sup>10</sup> to put agriculture substantially on the table. But once the negotiations commenced in February 2006 the progress was quick and conclusion of the deal was announced in just 14 months in April 2007.

Interestingly, the proposal for the FTA with the EU apparently came<sup>11</sup> from the latter which became concerned *inter alia* of counter effects of trade diversion by the Korea-US FTA. Korea promptly agreed and the first round of negotiations was held within a month in May 2007 and the deal was concluded in October 2009. In both these FTAs, fewer agricultural products were kept out of tariff elimination but

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<sup>10</sup> Jeffrey J. Schott, Scott C. Bradford, and Thomas Moll, 'Negotiating the Korea-US Free Trade Agreement, Policy Brief PB 06-04, Pietersen Institute for International Economics, June 2006.

<sup>11</sup> Op Ed Brookings East Asia commentary on 'The EU-Korea FTA: A boost to economic recovery and a challenge to US', October 10, 2010.



these FTAs also involved longer phase out periods. The commitments also extended to more WTO plus areas including labour and sustainable development.

The South Korean President during this period, the left leaning Roh Moo Hyun (2003-08) showed a keen interest in promoting the net work of FTAs, even as he came into office with an anti-US image. But once in office<sup>12</sup>, Roh showed particular concern about competition arising from being sandwiched between low wage cost China and advanced manufacturing Japan. He also looked at the trade talks with the US strategically as a way to improve relations with the US.

The ratification process of the deep FTAs with US and the EU was however not easy and faced considerable domestic opposition in Korea particularly from farmers. Far more than in the case of Korea-Chile FTA, the Korean government had to make promises of compensatory assistance and support to their farmers and fishermen to the tune of 24.1 trillion won (approx. US\$ 20 bn.) from 2008 to 2017<sup>13</sup>.

The Korea-US FTA also attracted resistance among democratic US lawmakers and certain industry lobbies and difficulties arose for securing passage in the US Congress. President Obama called it a badly flawed agreement during his election campaign. It took a couple of more years and further concessions mainly by Korea in the auto sector<sup>14</sup> before the deal could finally secure domestic approvals from either parties and go into effect in 2012.

The deal passed also because it otherwise found favour in both countries for geopolitical reasons. In writing about the FTA, Jeffrey Schott<sup>15</sup>, even in 2007, had said that it was part of each country's strategic response both to the challenges to

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<sup>12</sup> Mireya Solis, South Korea's fateful decision on the Trans Pacific Partnership, Brookings Policy Paper, September 2013.

<sup>13</sup> See for example Para 19 of Part IV (Page 120) of WTO Secretariat report of Korea's Trade Policy review of 2012

<sup>14</sup> See US Congressional Research Service report on US-South Korea Free Trade Agreement (KORUS FTA): Provisions and implications by William H Cooper et al, November 30 ,2011.

<sup>15</sup> Korea-US Free Trade Agreement: A summary assessment, Petersen Institute for International Economics, August 2007, Number PB07-7

security and stability in the Korean Peninsula and to evolving economic integration in East Asia. US Assistant Secretary Kurt Campbell in his submission to the Senate Armed Services Committee in September 2010 said that the FTA will bolster the enduring strength of the strategic partnership and contribute to strengthening the bilateral alliance.

In respect of Korea-EU FTA too, there were some reservations<sup>16</sup> particularly from the Italian auto sector which somewhat delayed the signing of the Korea-EU FTA. But two favorable factors contributed to the signing of the deal in October 2010 and its coming into effect in July 2011. First, was its far reaching nature and that the scope of tariff liberalisation went beyond anything that EU had secured in previous agreements. Secondly, at a time when the Korea-US FTA was temporarily riddled with ratification problems it was felt that a prompt application<sup>17</sup> of the agreement would enable EU to have the first mover advantage. Furthermore, it was the first of the so called new generation of FTAs pursued by EU under the 'Global Europe Initiative' adopted in 2006.

All of these developments happened under the conservative Korean President Lee Myung Bak (2008-13) and fitted in with his vision of promoting 'Global Korea' which sought to build a global FTA network which will be completed by quickly concluding FTAs with large advanced economies and with newly emerging, natural resource-rich and strategically important economies<sup>18</sup>. This was felt required to secure stable overseas markets and resources, enhance economic competitiveness and improve the legal system at a time of economic downturn and strengthened protectionism coming in the wake of the world financial crisis in 2008. However, perhaps because Korea already had FTAs with most initial members of the TPP, and since TPP was seen to have been initiated by the United States to counter China's

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<sup>16</sup> See "EU-South Korea trade deal under attack", 14 September 2010, [euractive.com](http://euractive.com)

<sup>17</sup> See "An assessment of the EU-Korea FTA" by the Directorate General for External Policy, European Parliament, 2010

<sup>18</sup> See Chapter 4 of Korea's Diplomatic White paper in 2009 titled 'Diplomacy for new engines of growth' in which in Sub Chapter 1 is titled 'Building Global FTA network'.

growing economic influence, Korea had not jumped to be on board the TPP mega deal<sup>19</sup> when it was initially launched in 2009/2010. China was Korea's largest trading partner and Korea probably did not want to risk its bilateral relations by joining TPP.

### *The Changing global scene and Korea's turn to its own region*

By 2012, however, the global FTA scene was taking a major turn with several countries becoming part of mega FTAs and plurilaterals such as the Trade in Services Agreement (TiSA). The US led TPP, put out as a high standard one and politically being billed as marking US's pivot towards Asia, came to assume more importance with Canada and Mexico and later Japan also deciding to join the negotiations by 2012. The Trans Atlantic Trade and Investment Partnership (TTIP) negotiations between the US and EU also got conceptualised in 2011 and negotiations commenced in 2013. Further, the 16 member Regional Comprehensive Economic Partnership (RCEP) was also heading from a concept stage to negotiations that commenced in 2013.

Korea at this time began turning attention to its own region. Korea had long been approached by China for an FTA tie-up. China became its largest export destination in 2004 and its leading import source in 2007. However Korea had its reservations<sup>20</sup>

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<sup>19</sup> Some analysts have felt that Korea's reluctance to initially join TPP was to distance itself from a US led architecture for fear of upsetting China that had become Korea's largest trading partner and with which Korea was keen to conclude an FTA. However certain others, have indicated otherwise. See Jessica Lee in her article 'The truth about South Korea's TPP shift' in The Diplomat, October 23, 2015 in which she said there was a perception within the Korean government that it would be redundant to join TPP given that South Korea had bilateral free trade agreements with nearly all the TPP parties, including the United States. She also went on to quote Korea's Trade Minister Tae Ho Park as saying Korea had enough on its plate, including implementing FTAs with the United States and the European Union. A policy brief by Jeffrey Schott of Petersen Institute of International Economics in August 2015 had also mentioned about Korean officials conveying the reasons for not initially joining TPP as comprising a) negotiation fatigue after Korea-US FTA and Korea-EU FTA; b) same friction with Japan that had stalled bilateral FTA efforts in the past decade could complicate TPP; and c) possible re-opening of sensitive issues particularly relating to agriculture discussed during Korea-US FTA and subsequent ratification process.

<sup>20</sup> See also "Impacts and main issues of the Korea-China FTA" by Choi Nakgyoon, posted in the website [www.keia.org](http://www.keia.org)

due to the negative impact it could have on its agriculture and fisheries sector. China being next door it could also easily export fresh vegetables and live fish to Korea. It was also possible that Korea decided to wait till the FTAs with US and EU were firmly finalised before commencing negotiations with China. On the positive side, it may have been felt that an FTA with China would contribute to stabilising bilateral ties, be a step in north east Asian regional integration and promote future Korean reunification.

Eventually when in January 2012 President Lee had a summit meeting with the Chinese President Hu Jintao it was announced that Korea would initiate necessary domestic steps for holding the negotiations for Korea-China FTA that was subsequently launched in May that year.

Even before China, Korea and Japan had been toying with the idea of an FTA between them and feasibility studies took place between 1998 and 2003. Negotiations also began in December 2003 but were suspended after six rounds in December 2004 at Korea's request. This was apparently due to apprehensions in the Korean industry<sup>21</sup> about the possible adverse impact. But a diplomatic white paper<sup>22</sup> of Korea's Ministry of Foreign affairs and Trade in 2006 attributed the suspension to "Japan's proposal of an excessively low level of concession on agricultural products". In any case, these negotiations did not resume despite Japanese Prime Minister Hatoyama reiterating its importance<sup>23</sup> again in 2010.

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<sup>21</sup> See "Demystifying the impasse of Korea-Japan FTA: The pivotal role of Big Business Associations in Korea's trade policy" by Sang-Bok-Moon, *Journal of International Area Studies*, Vol.17, No.2, December,2010- A key finding of the paper was that it was the opposition by the Federation of Korean Industries (FKI) that led to the breakdown.

<sup>22</sup> See page 154 of the diplomatic white paper of Korea in 2006 under its Part 4 titled "Economic Diplomacy to build an advanced trading nation"

<sup>23</sup> See "Japan-Korea FTA cornerstone of East Asia Community" by Yoichi Funabashi, in *East Asia Forum*, 20 April 2010

On the other hand the trilateral Korea-China-Japan FTA, about which the three countries conducted several rounds of unofficial studies<sup>24</sup> between 2002 and 2009 got elevated to an official study in 2010. The fifth trilateral summit of the three leaders in 2012 led to the announcement of the launch of the negotiations for which the first round was held in March 2013. In some ways the trilateral probably suited the countries more not only for economic reasons but also to keep at bay the territorial and historical differences that could rear their head in a bilateral mode.

Furthermore, with Korea being one of the dialogue partners of ASEAN, Korea also formed part of the evolutionary discussions and subsequent negotiations for concluding a Regional Comprehensive Economic Partnership (RCEP) negotiations for which the first round was held in May 2013.

### ***New Trade Roadmap of 2013***

The Presidency of Park Gyun He in 2013 also saw a change in the ministry handling FTA negotiations. While during the period 1998 to 2012, FTAs were handled by a Minister for Trade in the Ministry of Foreign Affairs and Trade, this responsibility was transferred to a newly created Ministry of Trade, Industry and Energy (MOTIE). The Ministry also came up with a *New Trade Roadmap* in 2013<sup>25</sup> in what marked a third phase of FTA development by Korea, that focussed on economic integration of East Asia and FTAs with emerging economies even as it continued with stitching up more FTAs with partners like Turkey, seen as a bridgehead for Europe and Central Asia penetration, and Canada, looked at as another advanced country in North America. Korea also conveyed its interest to join TPP negotiations in November 2013.

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<sup>24</sup> See “China-Japan-Korea FTA: A dual track approach to a trilateral agreement” by Srinivasa Madhur in Journal of Economic Integration, Volume 28, No.3, September 2013 which examines the question of whether bilateral FTAs among the three partners may be an easier way to approach an eventual trilateral and arrives at the conclusion that Korea-China FTA may be relatively easier rather than the other two, which is what subsequently happened.

<sup>25</sup> See ‘The Decade Long journey of Korea’s FTAs’, Institute of International Trade, KITA, June 2014 by Myoung Jin-ho, Jung Hye-sun, Hyun-jung Je and Seol-gi Mun.

International trade had also considerably slowed down after the peak in 2011 and Korea was no exception. Korea's exports in fact contracted in 2012 and took time to revive. In response to this, the Park government sought to promote a 'creative economy' and make SMEs a driver of growth. The new 2013/14 strategy also called for trade to have a strong linkage with the industry as against the earlier one focussing mainly on FTA oriented trade. The strategy further required enhancement of policy effectiveness to create jobs and support SMEs. Trade cooperation was also linked to current and prospective outbound investments.

The New Trade Map looked at Korea acting as a lynchpin in East Asia between the US led TPP and the RCEP on the one hand and the China-Korea FTA and US-Korea FTA on the other. Being an FTA hub and being a lynchpin were also seen<sup>26</sup> as different since the former was predicated on bilateral FTAs but lynchpin was based on regional integration. The latter was deemed to have a more ripple effect since it can soften the so called spaghetti bowl effect of bilateral FTAs while there was also scope for more members to be added to a regional pact. FTAs with emerging economies were also expected to include models of cooperation customised to each one of them.

Seen as linking up more with domestic industry's plans and priorities, the new strategy resulted to some extent a return to a more defensive approach particularly in the context of China's rising profile and competitiveness and a perceived closing of their gap. This defensive approach, not only in respect of agricultural products but also certain industrial products, was evident particularly in the deal concluded with China as we will see in the next section.

In respect of emerging markets, while its efforts to recommence negotiations with Mexico did not go very far, with the metallurgical and auto industry in Mexico

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<sup>26</sup> Young Gui Kim, Korea's FTA policy and a new trade roadmap, KIEP opinions, January 2014.

remaining skeptical<sup>27</sup>, Korea launched separate negotiations for FTAs with Indonesia and Vietnam even as it also sought an upgrade of its FTA with ASEAN (and Chile and India). It also went ahead with concluding FTAs with Australia and New Zealand so that it did not fall behind on this score with either China or Japan. On the heels of Japan concluding an FTA with Mongolia, negotiations also commenced with the latter.

Korea's forays on the FTA front have now further expanded in Latin America with FTAs concluded in 2016 and 2018 respectively with Colombia and the group of five Central American Countries of El Salvador, Honduras, Costa Rica, Nicaragua and Panama. While the deal with Colombia is already in force the latter is awaiting ratification.

### *Is there a Korea FTA 4.0 already at work?*

With the enunciation of Korea's 'New Southern policy' and 'New Northern policy' during the time of present Korean President Moon Jae In are we already seeing some further refinements in Korea's FTA policy? During his visit to Russia in June 2018 President Moon sought to give a boost<sup>28</sup> to his New Northern Policy that is aimed at improving economic cooperation with Russia, as also with Mongolia and central Asian countries. Among the initiatives was an FTA with Russia to increase trade and investment. The policy is seen as particularly timely should denuclearisation of North Korea make progress leading to greater peace and stability in the peninsula.

As for the C-J-K FTA, reports<sup>29</sup> indicate there may still be a long way to go for the agreement to be concluded but the three sides, are known to have decided at the fourteenth round of negotiations in December 2018 to accelerate the pace and that

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<sup>27</sup> See 'South Korea's all-out economic diplomacy in Mexico-Can Park breathe new life into a Korea-Mexico FTA?' By Anais Faure, 18 April, 2016, The Diplomat.

<sup>28</sup> 'Moon's Russia visit raises hope for cooperation', an editorial on 'New Northern Policy' in Korea Times on 25 June 2018

<sup>29</sup> See news report "Korea-China-Japan FTA has a long way to go" in Korea Herald, February 7, 2019.

they would go beyond RCEP in terms of market liberalisation, comprehensiveness and mutual reciprocity.

As for the New Southern Policy, developments in recent years have shown how Korea's large dependence on the markets of US and China for its exports (together over 35 percent) has made it vulnerable to their political and economic agendas and manoeuvring. This became evident in 2016 and 2017 when the siting of THAAD missile in Korea evoked very strong economic pressures from China. Likewise was President Trump's call for renegotiation of the Korea-US FTA after terming it a bad deal during his election campaign. The ongoing China-US trade dispute is also seen as fraught with uncertainties that have impacted Korean trade and could have longer term implications.

As for the renegotiation of Korea-US FTA itself, Korea promptly responded to Trump's call, and there was not much domestic discussion or bilateral bargaining about the further concessions that Korea had to agree for its revision<sup>30</sup>, at a time when the North Korea-US summit related discussions had also begun. But Korea has shown keenness to widen and deepen its other partnerships with countries in the south even as it is not intending to replace existing partnerships with US or China. One analyst<sup>31</sup> has observed that the vision of the New Southern Policy can be summarized as a strategic foreign policy that pursues the nation's practical interests along with its traditional four major diplomatic partners (the U.S., China, Japan, Russia) and new southern regions, based on a more balanced form of diplomacy. It seeks diversification of economic cooperation boosting further ties with ASEAN countries and India.

And ideas toward further expanding trade and investment relations with ASEAN and India are in evidence not only in the push for revision in the respective FTAs

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<sup>30</sup> See 'Fact Sheet on US-Korea Free Trade Agreement outcomes', September 2018, Office of USTR at [www.ustr.gov](http://www.ustr.gov)

<sup>31</sup> "Korea's New Southern policy: vision and challenges" by Sungil Kwak, Director General, Southern Policy Development, Korea Institute for International Economic Policy, 12 Nov.2018



but also in other economic cooperation proposals<sup>32</sup>. While these suggest evolution in thinking and possible future trends, what will now be examined are the market access commitments made by Korea in its existing FTAs.

### **3. Market Access Commitments in Korea's FTAs**

Korea's commitments on market access<sup>33</sup> on merchandise trade in its FTAs have generally been of a high order exceeding tariff elimination of over 90 per cent of its tariff lines. With its industry at a high level of export competitiveness, the main restraining element has been from its agricultural sector that is characterised by small scale production and lack of international competitiveness. Depending on the FTA partner concerned Korea has moderated the extent of liberalisation in agriculture. But even on industrial products, Korea has shown a little more caution in the FTA with China, for example, in certain areas. Moreover, in terms of WTO plus areas covered by the different FTAs, while the agreements with EU and US have

been most ambitious, those with other countries have varied depending on the FTA partner in question.

In what follows we shall survey in some detail the market access and other related commitments made by Korea in a few deals that could be flagged as distinct milestones in its FTA journey. These will include the Korea-Chile FTA, the first FTA by Korea, the Korea-ASEAN FTA with an important regional grouping, the ambitious Korea-US and Korea-EU FTAs, the latter being the first FTA by EU

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<sup>32</sup> See for example the remarks of President Moon Jae In at the Korea-India Business Forum, July 2018

<sup>33</sup> Wherever commitments in Korea's FTAs have been referred to in this paper these have been taken from their texts available in the Korea Customs FTA Portal

in Asia, the Korea-China FTA with the country which has been Korea's foremost trading partner for several years now, the Korea-Australia FTA and also its FTAs with emerging economies, India and Vietnam.

Additionally, we will also examine the nature of commitments<sup>34</sup> entered into by Korea in the different FTAs in respect of rules of origin, trade remedial measures like anti-dumping and safeguards, and standards all of which impact on market access commitments. While all the FTAs have been notified to WTO under Article XXIV of GATT 1994 and Article V of GATS, only the FTAs with India and ASEAN to the extent they relate to merchandise goods have been notified also under the Enabling Clause.

### ***3.1 Extent of tariff elimination***

Generally, market access in an FTA is negotiated keeping in view a country's offensive interests as well as sectors that need to be domestically protected irrespective of the trade partner in question and sectors or products that need protection against certain more competitive suppliers. Negotiations are

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<sup>34</sup> Generally speaking it can be said that Korea has not based its FTAs on any particular model. This has also been observed by Inkyo Chong and Jungran Cho who note that Korea's agreements with Chile, Singapore and US were based on the NAFTA model, one with EFTA based on EFTA-Singapore FTA and those between ASEAN and Korea resembled AFTA and ASEAN-China FTA. See 'The impact of Free Trade Agreements on Business in the Republic of Korea' by these authors in Working Paper series No 156, ADB Institute, October 2009.

Table 1: Tariff reduction commitments by Korea in select FTAs

Korea's commitments in its FTAs	Korea-Chile FTA (2004)	Korea-ASEAN FTA (2006)	Korea-India CEPA (2010)	Korea-EU FTA (2011)	Korea-US FTA (2012)	Korea-Australia FTA (2014)	Korea-Vietnam FTA (2015)	Korea-China FTA (2015)
Year of tariff cut starting	2004	2006	2010	2011	2012	2014	2015	2015
Staging categories by Korea	7	11	6	20	24	19	12	14
Year of staging completion	2020 (16 yrs.)	2016 (10 yrs.)	2017 (8 yrs.)	2031 (21 yrs.)	2031* (20 yrs.)	2033 (20 yrs.)	2029 (15 yrs.)	2034 (20 yrs.)
Tariff elimination at start (%)	87.2 [44.7]		60.6 [3.9]	81.2 [93.8]	77.8 [83]	73.4 [90.9]	92 [78.7]	49.4 [20.1]
Tariff elimination at end (%)	96.3 [98.8]	92.38	88.6 [69.7]	99.5 [99.5]	99.7 [100]	98.15 [100]	95.33 [89]	92 [90.6]
Lines remaining in TRQs (%)	18	14	0	13	15	3	7	21
Lines that will remain dutiable	412 [96]	858	1277 [3540]	57 [42]	35 [0]	227 [0]	572 [1053]	979 [779]
Duty free lines in agri. (in %) at the end	76.5 [95.7]	67.18	37.4 [0]	96.8 [98.14]	98.3 [100]	87.7 [100]	75.8 [93.92]	68.3 [92.65]
Duty free lines in indy. (in %) at the end	99.8 [99.5]	96.92	98.01 [83.27]	100 [100]	100 [100]	99.9 [100]	99.3 [88.05]	97.45 [90.2]
Trade Coverage (in %) of the agmt.	99.9 [96.2]		89.7 [85.5]	99.99 [99.9]	98.9 [100]	99.7 [100]	94.9 [92.6]	90.5 [85.8]

Source: Calculations by author based on FTA texts.

\* As per the limited renegotiation of Korea-US FTA in 2018, phase-out period for imports of

\* Korean trucks into US has been extended from 2021 to 2041.

Figures in square brackets indicate corresponding commitment by trading partner

also guided by the level of ambition among the partners and the question of balance and reciprocity. Estimation of the latter depends not only on the extent of tariff elimination or the trade coverage of tariff reductions by the parties to an FTA. Factors such as whether the proposed FTA partner already has several third country FTA partners and how high are its MFN tariff levels also matter in the assessment.

Table 1 gives a comparative table of key market access markers of some select FTAs of Korea. In its first FTA with Chile, Korea brought down 87.19 per cent of its tariff lines down to zero at the time of it coming into force in 2004. Tariffs on another 8.29 per cent of lines were reduced to zero in eight years and the balance covering around 1 per cent, mainly agriculture products, over 16 years eventually taking the total tariff elimination to 96.3 per cent of all tariff lines. Chile's tariff elimination was only 44.7 per cent at the start but the phased reductions finally yielded 98.8 per cent tariff elimination for Korean products in Chile.

Seen against that initial FTA, Korea's tariff elimination commitments were maximal in its FTAs with EU and US which after full implementation will go upto 99.5 and 99.7 per cent respectively of all of Korea's tariff lines. In return, these partners also committed to eliminate tariffs upto 99.5 per cent and 100 per cent respectively. EU eliminated tariffs on as high as 93.5 per cent of tariffs lines amounting to 87 per cent of trade<sup>35</sup> at the time of the FTA coming into force in 2011, as against Korea that provided tariff elimination in case of 81.2 per cent of its lines accounting for 64.7 per cent of its imports from EU. The initial tariff elimination coverage by the US was relatively lower at 83 per cent against Korea's own 77.8 per cent.

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<sup>35</sup> Wherever trade coverage of tariff reduction commitments are referred to in this paper the corresponding figure has been taken from the respective factual presentation of the FTA by WTO. EU's trade coverage has for example been taken from para 28 of WTO document WT/REG296/1/REV.1 dated 31 August 2012 giving a factual presentation of EU-Korea FTA.

But the FTAs with both US and EU had implementation spread over a twenty year period going upto 2031 with over 20 different staging options. What further distinguished these two FTAs from the rest were the very high levels of commitments in agriculture by Korea, in response to the push for market opening in this sector by both partners, that extended upto 96.8 per cent in the case of EU and 98.3 per cent in the case of US. In no other case has Korea's tariff elimination commitments exceeded 90 per cent in agriculture.

Korea's FTA with Australia also involved a very high level of tariff elimination with Australia eliminating 91 per cent of its tariffs at the start leading up to full elimination in 20 years. Korea's commitments were less front loaded beginning with elimination of only 73.4 per cent of its tariffs but eventually it would also go up to 98.5 per cent. The trade coverage of Korea's tariff elimination was even higher at 99.7 per cent of imports from Australia.

On the relatively lower side on tariff commitments were Korea's FTAs with ASEAN as a whole, with China as well as with India that had final tariff elimination percentages of 92.4, 92 and 88.6 per cent respectively. The implementation periods in the cases of ASEAN and India were however briefer extending up to only 11 and 8 years respectively with also far fewer staging options. Reciprocally, India's eventual tariff elimination percentage for imports from Korea was even lower at 69.7 per cent but its trade coverage added upto 85.5 per cent of Korea's imports into India coming close to the trade percentage of 89.7 per cent of Korea's tariff elimination<sup>36</sup>.

Korea's tariff elimination with China will however get phased over a longer 20 year period under 14 different staging periods. Caution has been exercised by both sides which are each other's leading import partners even without an FTA. China's tariff elimination that was only 20.1 per cent at the start in 2015 will finally go upto 90.6 per cent in 2034 and its trade coverage then will be around 86 per cent of imports

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<sup>36</sup> See also Pages 32-37 of Korea trade policy review, 2012, in WTO Secretariat document WT/TPR/S/268 that gives a brief review of Korea's FTAs in force at that time

from Korea. Interestingly, while Korea's final tariff elimination will only extend to 68.3 per cent in the agriculture side, as against 92.65 per cent by China, it makes up with a 97.45 per cent tariff elimination on industrial products as against only 90.2 per cent on the latter by China.

In the Korea-Vietnam FTA, which was in the form of a top-up over the two countries' commitments under the Korea-ASEAN FTA, the tariff elimination commitment of Korea rose to 95.3 per cent involving a similar degree of trade coverage. This was against only 89 per cent final tariff elimination by Vietnam that however had a 93 per cent trade coverage. But just as in the case of China, their level of commitments on agriculture and industrial products were of an inverse nature.

### **3.2 Tariff reductions by Korea on agriculture products**

Expectedly, Korea went for greater protection in its FTAs for its agriculture sector which attracts a high average applied MFN tariff rate<sup>37</sup>. In its FTA with Chile, after five years of implementation, mainly agriculture products were left with tariffs. Also, while 21 lines relating to rice and its products were not to be subject to any tariff elimination, another 391 agriculture lines were set aside without any commitment pending the outcome of Doha round at the WTO. For certain items like oranges, pears and apples, these were subject to tariff rate quotas (TRQs) during off season part of the year only.

This pattern of much longer phase-outs for farm products has continued even in its FTAs with US, EU and Australia with each of whom all industrial tariffs were eliminated in about five to ten years time.

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<sup>37</sup> As per WTO Secretariat's report in connection with Korea's trade policy review in 2016, the average MFN applied tariff of Korea's agricultural products was 60 per cent that year against an average bound rate of 68.6 per cent.

US received the most liberal commitment on agriculture with rice and its products being the only ones free from any tariff reduction. Several agricultural products in the fisheries, dairy, vegetables and fruits and cereals were liberalised through tariff rate quotas. But the only TRQs that would remain beyond the implementation period related to milk or cream, honey, potatoes, oranges and soybeans in whose cases the TRQ volumes will continue to rise but by only 3 per cent annually.

In the case of EU, Korea's tariff elimination on agricultural lines will only extend to 96.6 per cent as against 98 per cent in respect of US. In all, 57 lines will see tariffs remain and these will additionally include onions, garlic, ginseng, and a few fishery and cereal items. Furthermore there will be a range of items under TRQs but those on which the quotas will remain after the implementation period will be milk and its products, honey and oranges (in season).

Table 2: Duty cuts in select farm items in Korea's FTAs with Asian developing countries

HS Code	Product name	ASEAN - Korea FTA (AKFTA)	Korea-India FTA	Korea-China FTA	Korea-Vietnam FTA
HS 030617	Shrimps and prawns	TRQ	EXC	Will reduce to zero in 20 years	TRQ in addition to AKFTA TRQ
HS 030749	Cuttle fish & Squid frozen	TRQ for cuttle fish and reduction by 20% for squids	EXC for cuttle fish and duty reduced to zero for Squid	Zero in ten years for cuttle fish. No reduction for squids	Reduced by 20% of AKFTA applied rate
HS 071320	Chickpeas dried and shelled	Already reduced to zero	EXC	Will reduce to zero in 15 years	0
HS 080450	Guavas, Mangoes, Mangosteins	Partial reduction from 30% to 24 %	EXC for guavas and Mangostein, SEN for Mangoes	Will reduce to zero in 15 years	Will reduce to zero
HS 080610	Grapes fresh	Partial reduction from 45 % to 36%	EXC	No reduction from base rate	Reduction of 20% from AKFTA rate
HS 090240	Other black tea fermented	Already reduced to zero	EXC	No reduction from base rate	0
HS 090931	Seeds of cumin neither crushed or ground	Already reduced to zero	SEN	Will reduce to zero in 15 years	0
HS 091030	Turmeric	Already reduced to zero	RED	Will reduce to zero in 10 years	0
HS 120740	Sesamum seeds W/N broken	Partial reduction by 20% from base rate	EXC	TRQ of 24,000 tons	Reduction of 20% from AKFTA rate
HS 130232	Mucillages and thickeners	Already reduced to zero	EXC	Will reduce to 0 in 15 years	0
HS 151530	Castor oil and its fractions	Already reduced to zero	EXC	Will reduce to 0 in 5 years	0
HS 160521	Shrimps/prawns not in airtight containers	TRQ	EXC for breaded and SEN for other	Will reduce to zero in 20 years	TRQ
HS 170112	Cane Sugar	Already reduced to zero	Already reduced to zero	Will reduce to 0 in 5 years	0
HS 220300	Beer made from malt	Tariff reduction of 50% from base rate	EXC	Will reduce to zero in 20 years	Will reduce to zero in 5 years

Source : Based on FTA texts. Exc- means exclusion; SEN-means sensitive with tariff reduced in 8 years to only 50% of base rate; RED- Tariff reductions in 8 years will go to between 1 to 5 per cent.



But between them, in terms of phasing of tariff reductions, the United States was able to negotiate more advantageous terms in both animal and vegetable products while EU showed more interest and gains in the area of processed foodstuffs<sup>38</sup>. While fisheries remained sensitive to Korea but since EU's exports of them to Korea were significantly less compared to US the former received a more favorable treatment.

Korea's tariff elimination of agriculture lines in the case of its FTA with Australia, that has particular strength<sup>39</sup> in the farm sector, was somewhat lower at 87.7 per cent. In all, 227 lines will not see tariff elimination that included not only rice lines being free from any obligation but a range of items from live animals and meat, vegetables and fruits, dairy products, prepared food, and timber products that will not undergo any reduction from the base rate. Imports of seven categories of products- butter and other fats , cheeses, oranges, malt and barley, soybeans, fodder and milk powder- will be governed by TRQs but while most of them will be phased out and their tariffs eliminated, TRQs will permanently remain for oranges and soybeans.

Tariff elimination percentages in agriculture were significantly lower in the FTAs with India (37.4 per cent), ASEAN (67.18 per cent), China (68.3 per cent) and Vietnam (75.8 per cent). While there was no provision for TRQs in the FTA with India, there were seven items (at 6-digit level) which were under TRQ in the FTA with ASEAN. These related to a combined 5000 ton quota for frozen shrimps, 300 tons for live ,fresh or chilled shrimps and 2000 tons for cuttle fish at zero duty. There were also TRQs for manioc and processed shrimps.

Compared to these two FTAs, Vietnam and China fared better. China received TRQ access at zero duties for 21 products that included not only ten fishery items

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<sup>38</sup> A good comparative analysis of Korea-US FTA and Korea-EU FTA may be found in the paper "KORUS FTA vs. Korea-EU FTA: Why the differences?" By Yeongkwan Song in the Academic Paper series of Korea Economic Institute, Volume 6, Number 5, May 2011.

<sup>39</sup> Out of the 25 lines that comprise the maximum global exports of Australia at 6-digit level, five of them relate to farm products that include beef,wheat,rape or colza, wines and barley.

but also products held sensitive by Korea such as soybeans, sesame seeds, squids and prepared food. In the case of Korea-Vietnam FTA, which was in the form of further liberalisation of products deemed sensitive/highly sensitive in the ASEAN FTA, Vietnam received an expanded and exclusive TRQ for shrimp items going up from 10,000 tons in 2015 to 15000 tons in six years time. Furthermore, exports like cashew nuts, some vegetables and fruits, coffee, tea, certain spices, etc., will have duties removed utmost within five years.

Most of the agricultural items in the Korean schedule of commitments in the Korea-India FTA were excluded or remain in the sensitive categories with only partial tariff reduction. Table 2 gives an idea of how India fared vis-a-vis its regional competitors in the Korean market for certain agricultural items. The items shown are only illustrative and not exhaustive but for all the items figuring in the table, India's global exports have been significant but they have not yet made any dent in the Korean market. Interestingly, during the visit to India of President Moon Jae In<sup>40</sup> in July 2018, when the upgradation of India-Korea was also discussed, the two sides are known to have finalised an Early Harvest Package that included further liberalisation of certain items, consisting of 17 tariff lines by Korea<sup>41</sup> some of which were agricultural lines in Table 2.

### ***3.3 Tariff commitments on Non Agricultural Goods***

Korea's commitments on tariff elimination in its FTAs for non agricultural goods are much higher than in respect of agriculture items and within much shorter time frames<sup>42</sup>. This is particularly so with its developed FTA partners. With USA, 96 per cent of its non-agricultural lines will have zero tariffs by the year 2016 that will rise

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<sup>40</sup> See the Joint Statement of 10 July 2018, 'India and Republic of Korea: A vision for people, prosperity, peace and our future' released during the visit of President Moon Jae In to India when the two sides discussed also in the context of India's "Act East policy" and Korea's "New Southern Policy".

<sup>41</sup> See "South Korea agrees to cut import tariffs on 17 Indian products" by Amiti Sen in The Hindu Business Line on 13 July 2018

<sup>42</sup> This is even as its average MFN industrial tariff is 6.6 per cent against a average bound rate of 9.3 per cent. See WTO Secretariat report on Korea's Trade Policy review in 2016.

to 99.9 per cent in 2021. Only two tariff lines for dextrans in HS 35 will have non zero duties thereafter but even they will be under a TRQ with a zero in-quota duty.

The duty elimination in respect of the European Union will be somewhat longer. By 2016, tariffs on 97.9 per cent of the lines were to be eliminated going up to 98.8 per cent in 2018 and reaching 100 per cent in 13 years after the FTA coming into force in 2023. The last of the items that will be liberalised for EU will be 12 lines also relating to dextrans and starches under HS 35 but in its case no duties, even in the form of TRQs, will be applicable on any non-agricultural product after 2024.

Korea's sensitivities in relation to Australia were somewhat different extending also to timber products. While 98.8 per cent of all non-agricultural tariff lines will have zero tariffs for Korea's imports from Australia by 2023, these will rise to 99.9 per cent by 2028. However, seven lines in HS 44 relating to certain wood items, including sawn wood, fibre board and plywood, have been placed in the 'E' category that will see no tariff reduction from the base rates.

Among Asian developing countries, Vietnam has done quite well in its FTA with Korea. The share of non-agriculture duty free lines will be 98.3 per cent in 2019 rising to 98.5 per cent in 2024. But 62 lines will not see elimination to zero. However, barring very few lines among them that are totally excluded from any concession, the rest will undergo some tariff reductions. And all these 62 sensitive lines are again mainly from HS 35 and HS 44 chapters although in Vietnam's case more lines from these HS chapters are so covered than in the case of Australia. Among the 62 lines however are also three tariff lines, relating to sorbitol, mannitol and ethyl acetate, which are organic chemicals under HS 29, on which the tariff reduction for Vietnam will be limited and will not go below 5 per cent.

In terms of number of lines, India does better than either ASEAN or China in respect of treatment of non-agricultural products in its FTA with Korea. While 190 lines will not see tariff elimination in respect of India for imports into Korea, these numbered 342 lines in respect of ASEAN and 313 lines in regard to China. Table 3

gives in detail the distribution of these lines among the different manufacturing sectors.

Among the products excluded from full tariff reduction those relating to starches, ginseng items, processed timber or fibre boards figure in all the FTAs. There are however also important differences on other items in the tariff reduction commitments of Korea in these FTAs.

In the FTA with ASEAN, for example, Korea had taken only partial reduction commitments in respect of several organic and inorganic products (HS 28 & HS 29) numbering 40 lines. They were however only ten lines in these sectors in respect of China that will not see tariff elimination and a solitary one in the case of India. Moreover, in respect of plastics, the sensitive lines relating to ASEAN numbered 20 and 11 among them will not see tariff reduction below 5 per cent while both in respect of India and China all the tariff lines in HS 39 will see tariff elimination on full implementation. The ASEAN FTA was concluded at an early stage of Korea's FTA making and Korea may have taken a more cautious approach. With reference to plastics for example, the rising petrochemical capacities in ASEAN countries resulted in steady rise in imports from them into Korea from US\$ 188 m in 2003 to US\$ 315 m in 2006 of HS 39 items.

There are also sharp differences in the treatment of textile products that are of particular export interest to all of them. In respect of India, 85 lines relating to cotton yarn in HS 52 will not see full tariff reduction, a sore point with the Indian spinning industry. But India is a key source of import of yarn followed by ASEAN and China. To some extent it may explain why sensitive lines are fewer at 46 lines in respect Korea's schedule for HS 52 for China and an even less number of 32 lines in respect of ASEAN. But while the rest of the entire textiles HS section is free of any limitation for India, there are several lines in Korea's schedules for both ASEAN and China in respect of wool yarn, synthetic yarn and fibres and garments that will not undergo full tariff elimination. This may again be due to their significant shares, exceeding 70 per cent together, in Korea's total imports in this sector. Of course, in

Vietnam's FTA with Korea, that is a top-up over the one with ASEAN, there will be no tariff for exports of any of its textile item beyond 2019.

In respect of transport equipment, the sensitive lines in Korea's schedule for ASEAN under their FTA number nineteen and all of them relate to bicycles and parts. Korea's schedule for China is quite different in which there are 25 lines under HS 87, relating to various new automobiles and cars , which are excluded from any tariff reduction. So are 5 lines in HS 86 relating to rail

Table 3 Tariff line distribution of excluded/partial reduction lines in certain of Korea's FTAs

	ASEAN-Korea FTA	ASEAN-Korea FTA	Korea-India FTA	Korea-India FTA	Korea-Vietnam FTA	Korea-Vietnam FTA	Korea-China FTA	Korea-China FTA
HS Sections	E	PR	E	PR	E	PR	E	PR
<b>V Mineral products (HS 25-27)</b>	0	17	7	3	0	0	0	0
<b>VI Chemicals and allied (HS 28-38)</b>	0	70	13	15	0	14	23	0
<b>VII Plastics, Rubber etc., (HS 39-41)</b>	0	20	0	0	0	0	0	0
<b>IX Wood, cork, straw etc (HS 44-46)</b>	4	107	23	35	5	43	28	22
<b>XI Textile and articles (HS 50-63)</b>	0	80	4	81	0	0	135	18
<b>XII Footwear, headgear etc., (HS 64-67)</b>	0	0	0	0	0	0	3	2
<b>XIII Articles of stone, ceramic s, glass etc (HS 68-70)</b>	0	9	0	7	0	0	26	1
<b>XV Base metals and articles (HS 72-83)</b>	0	0	0	0	0	0	8	5
<b>XVI Machinery mechanical/ electrical (HS 84-85)</b>	0	15	0	1	0	0	6	4
<b>XVII Vehicles and transport equipment (HS 86-89)</b>	0	19	0	0	0	0	30	1
<b>XX Miscellaneous products (HS 94-96)</b>	0	1	1	0	0	0	1	0
<b>Total</b>	4	338	48	142	5	57	260	53

coaches, locomotives and related items. But there are no limitations on tariff elimination for any transport equipment for India and Vietnam.

While the number of sensitive lines relating to machinery are relatively low in all the three schedules, the maximum is in respect of Korea's schedule for ASEAN in which 15 tariff lines will have only partial reduction. These relate mainly to certain marine engines, pumps, ball bearings, manganese batteries and electrical cables. In the case of China the six lines which will be excluded from tariff reduction and four lines that will see partial reduction are certain pumps and air compressors, machine tool items, and valves and ball bearing items. There is only one sensitive line however from India in respect of boards of automatic control panels (HS 8538904000) that will not have tariff going below 5 per cent. All other tariff lines relating to the machinery section in its case will be fully eliminated on implementation.

Certain articles of ceramics, porcelain china and granite figure among the sensitive products for ASEAN, India and China in Korea's schedule under their respective FTAs . But only in respect of China there are also 12 sensitive lines relating to glassware (HS 70) of which 11 will be excluded from any tariff reduction and one line will have only partial tariff reduction. Similarly, in respect of footwear (HS 64) there are three lines which be excluded from tariff reduction and two more lines will undergo only partial reduction in the case of China. But there are no limitations on full tariff elimination for footwear from ASEAN and India. On all these again Korea's caution may be understandable since China had shares of 48 per cent, 53 per cent and 42 per cent in Korea's imports of HS 64, HS 69 and HS 70 respectively in 2015 even in the absence of an FTA.

### ***3.4 Impact of tariff reductions on Korea's trade with its FTA partners-broad trends***

To understand the full impact on Korea's trade of tariff reductions under its FTAs, it may be necessary to conduct separate analysis for each of its FTAs depending on the year of its entry into force, the tariff phase-out schedules, the rules of origin etc., which is not within the scope of this paper. However, some broad trends about the overall impact of all its FTAs can be inferred from looking at Korea's trade figures collectively with its 52 FTA partners.

#### ***A consolidative trade trend evident towards FTA partners***

Even as there has been no dramatic change in the share of its FTA partners in Korea's total exports, a creeping consolidation can be seen notwithstanding some annual variations. The share of its 52 FTA partners in its export basket, as can be seen from Table 4 increased from around 68 per cent in 2005 to 72.5 per cent in 2018. These shares have risen even as the pie has also got enlarged. Korea's global share of exports grew from 2.73 to 3.24 per cent during this period (and climbing from twelfth in rank in 2005 to sixth in the world in 2017<sup>43</sup>). This provides evidence that Korea's FTA strategy has helped in maintaining the country's overall momentum in exports.

The share of Korea's FTA partners in its imports have also edged up, in fact more significantly, in recent years. While it was around 55 per cent in 2005 it has climbed upto an average of 63 per cent for the last three years.

One consequence of the rise in trade shares of FTA partners is the decline seen in the shares of others. The share of Japan, a major trade partner, in Korea's imports has in particular seen a steady drop from 18.52 per cent in 2005 to 10.2 per cent in 2018. Japan has also now a smaller share in Korea's export basket shrinking from

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<sup>43</sup> See WTO Trade Profile of years 2006 and 2018



8.45 per cent to 5 per cent during this period. Korea however continues to have a substantial trade deficit with Japan.

Table 4: Korea's trade with FTA partners (in US\$ billion)

	2005	2010	2014	2016	2018
<b>Korea's export to FTA partners</b>	193.5	309.1	395.2	350.4	438.4
<b>Korea's global exports</b>	284.4	466.4	572.7	495.4	604.9
<b>Share of FTA partners in Korea's export</b>	68.2%	66.28%	69%	70.73%	72.5%
<b>Korea's import from FTA partners</b>	142.8	238.4	296.9	261.04	334.7
<b>Korea's global imports</b>	261.2	425.2	525.5	406.2	535.2
<b>Share of FTA partners in Korea's imports</b>	54.65%	56.06%	56.51%	64.26%	62.53%

Data sourced from Korea customs figures taken from [www.unipass.customs.go.kr](http://www.unipass.customs.go.kr) with computations done by the author.

Table reports on trade with 52 FTA partners figuring in the totality of FTAs signed by Korea irrespective of the year they came into force including the one with Colombia.

### *Agricultural imports have grown under FTAs but in a limited way*

The opening of Korea's agricultural sector for imports under its FTAs has had only limited impact so far partly also due to longer phase-outs of tariff reductions for them. Imports of agriculture items (HS Chapters 1-24) from all sources which accounted for 4.65 per cent of Korea's overall imports in 2010 edged upto 6 per cent by 2018. Among them, imports of animal products (HS Chapters 01 to 05) rose more rapidly than other segments with its imports into Korea more than doubling from US\$ 5.5 bn in 2010 to US\$ 11.5 bn in 2018. Imports of these meat items into Korea from US and EU actually trepled from US\$ 932 m and US\$ 483 m respectively in 2010, before their FTAs came into force, to US\$ 2.86 bn and US\$ 1.54 bn

respectively in 2018 (see Table 5). This was due to the more liberal treatment accorded to US and EU under their FTAs.

Similarly, while imports into Korea of processed agricultural imports (HS chapters 15 to 24) went up by 55 per cent from all sources, those from EU and US rose by 110 and 93 per cent respectively. On the other hand, imports of vegetable and fruit items (HS chapters 06 to 14) into Korea, which received more cautious liberalisation under the FTAs, grew by only 32 per cent between 2010 and 2018.

Table 5 Imports into Korea of agricultural products from EU & US (in US\$ million)

	Imports into Korea from EU 2010	Imports into Korea from EU 2018	Imports into Korea from US 2010	Imports into Korea from US 2018
<b>Animal products HS 01-05</b>	483.2	1539.2	932.4	2855.6
<b>Vegetable products HS 06-14</b>	287.7	331.3	3171.3	3552.3
<b>Foodstuff items HS 15-24</b>	931.2	1952.4	1228.9	2366.2
<b>Total agricultural products</b>	1702.1	3822.9	5332.6	8774.1

Data sourced from Korea customs figures taken from [www.unipass.customs.go.kr](http://www.unipass.customs.go.kr)

A difference in the commencement date of tariff reductions between Korea's FTAs with US and Australia is also having an impact on their beef exports to Korea. While tariffs are getting steadily reduced for US beef from 2012 onwards under Korea-US FTA and will get eliminated by 2026, duties under Korea- Australia FTA that came into force a couple of years later will become zero only in 2028. This has already resulted in US overtaking Australia as the No.1 supplier to Korea from 2017 onwards and in 2018 US beef exports to Korea totalled US\$ 1.55 bn as against only US\$ 1.01 bn by Australia. ( There are also differences in safeguard triggers-see the section on Safeguards )

***Some FTA partners gain more market shares than others***

Some FTA partners have fared better than others in increasing their overall market share in Korea as can be seen from Table 6. EU may be the most prominent here with its trade with Korea also turning surplus in 2012 onwards, one year after the FTA came into force. The share of US in Korea's imports which was declining for over two decades has shown some reversal since 2014, two years after the FTA came into force. Further, imports from China have continued to show an upward trend. The biggest change however is in respect of Vietnam whose imports into Korea have multiplied almost six times since 2010. As for older FTA partners like ASEAN (minus Vietnam), India and Chile the momentum seen after the initial years is not evident any more. This is not unusual when the host country enters into more FTAs and the initial tariff advantage gets to be subsequently shared by more countries. On the side of Korea's exports, Vietnam again stands out<sup>44</sup> with a 8 per cent share in 2018, compared to only 2 per cent in 2010. Korea's exports to US has shown some spurt after 2012 but that is not so evident with EU and Australia after the respective FTAs came into force. Korea's exports to China, that account for a quarter of Korea's exports, have however continued to grow after the FTA coming into force. Interestingly, Korea's exports to India also continues to show some upward momentum probably because India still has only a limited number of FTAs, allowing Korea to continue to hold the edge.

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<sup>44</sup> Vietnam was Korea's eighth largest trading partner in 2014 but with the FTA between them it has now become Korea's fourth largest trade partner. Korea is also Vietnam's No.1 foreign investor that is in turn giving boost to bilateral trade. See for example the newsitem "VN, South Korea trade investment ties on a strong footing-Seminar", Vietnam News, 17 July 2019.

Table 6 : Korea's trade with select FTA partners and Japan ( in US\$ billion)

Country /Region	Exports from Korea in 2005	Exports from Korea in 2010	Exports from Korea in 2014	Exports from Korea in 2016	Exports from Korea in 2018	Imports into Korea in 2005	Imports into Korea in 2010	Imports into Korea in 2014	Imports into Korea in 2016	Imports into Korea in 2018
<b>Chile</b>	1.15 (0.4)	2.95 (0.63)	2.08 (0.36)	1.61 (0.32)	1.81 (0.298)	2.28 (0.87)	4.22 (0.99)	4.81 (0.915)	3.70 (0.90)	4.48 (0.84)
<b>ASEAN</b>	27.43 (9.64)	53.2 (11.4)	84.58 (14.77)	74.52 (15.04)	100.11 (16.55)	26.06 (9.97)	44.1 (10.37)	53.42 (10.16)	45.03 (11.09)	59.63 (11.14)
<b>India</b>	4.6 (1.61)	11.44 (2.45)	12.78 (2.23)	11.6 (2.34)	15.61 (2.58)	2.11 (0.8)	5.67 (1.33)	5.28 (1.00)	4.19 (1.03)	5.89 (1.1)
<b>EU</b>	43.66 (15.35)	53.51 (11.47)	51.66 (9.02)	46.61 (9.41)	57.68 (9.53)	27.30 (10.44)	38.72 (9.10)	62.39 (11.87)	51.90 (12.77)	62.3 (11.64)
<b>US</b>	41.34 (14.54)	49.82 (10.68)	70.29 (12.27)	66.46 (13.42)	72.72 (12.02)	30.59 (11.71)	40.4 (9.5)	45.28 (8.61)	43.21 (10.64)	58.87 (11)
<b>Australia</b>	3.81 (1.34)	6.64 (1.42)	10.283 (1.8)	7.50 (1.51)	9.61 (1.6)	9.86 (3.77)	20.46 (4.81)	20.41 (3.88)	15.18 (3.73)	20.72 (3.87)
<b>China</b>	61.92 (21.77)	116.84 (25.05)	145.29 (25.37)	124.43 (25.11)	162.13 (26.8)	38.65 (14.79)	71.57 (16.83)	90.08 (17.14)	86.98 (21.41)	106.49 (19.89)
<b>Vietnam</b>	3.43 (1.2)	9.65 (2.07)	22.35 (3.90)	32.63 (6.59)	48.62 (8.04)	0.69 (0.27)	3.33 (0.78)	7.99 (1.52)	12.5 (3.08)	19.64 (3.67)
<b>Japan</b>	24.03 (8.45)	28.18 (6.04)	32.18 (5.62)	24.36 (4.91)	30.53 (5.04)	48.4 (18.52)	64.3 (15.12)	53.77 (10.23)	47.47 (11.69)	54.6 (10.20)
<b>Total export/import by Korea</b>	284.42	466.38	572.67	495.43	604.86	261.24	425.21	525.51	406.19	535.20

Data sourced from Korea customs figures taken from [www.unipass.customs.go.kr](http://www.unipass.customs.go.kr)

Figures shown in parentheses indicate respective import/export shares for that year of Korea's global imports/exports.

#### **4. Rules of Origin in Korea's FTAs**

Rules of origin (RoO) have an important role in FTAs. Several countries/ regions have also evolved different models<sup>45</sup> which differ in the origin determination for many manufactured items. In negotiating its FTAs, Korea has generally shown greater flexibility in largely accepting those models<sup>46</sup> of partner countries rather than insisting on following one pattern or another.

Thus in the case of Korea-ASEAN FTA, as well as in the Korea-Vietnam FTA , the most common rule adopted is a regional value content (RVC) of 40 per cent **or** if the good has undergone a change in tariff classification at the four digit tariff heading level (CTH-Change in tariff heading). In the case of India-Korea FTA, the predominant rule is an RVC of 35 per cent **and** that the good has undergone a change in tariff classification at the six digit level (CTSH). There is relatively less reliance on RVC in the Korea-China FTA and more on the change in tariff classification but there are also instances of RVCs of varying percentages that have been used.

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<sup>45</sup> A useful mapping of worldwide FTAs on the basis of RoO can be seen in Chapter 2 titled “Preferential rules of origin in regional trade agreements” by Maria Donner Abreu in the book edited by Rohini Acharya on ‘Regional Trade Agreements and the Multilateral Trading System’, Oxford University Press, 2016.

Table 7: Differing Rules of Origin in Korea's FTAs: A sample

Product with HS CODE	ASEAN-Korea FTA	Korea-India CEPA	Korea-US FTA	Korea-EU FTA	Korea-Vietnam FTA	Korea-China FTA	Korea-Australia FTA
Processed shrimp HS160529	RVC(35)	CTH & RVC(40)	CC	Shrimps will have to be wholly obtained	CC or RVC(40)	RVC(45)	CC
Processed vegetables HS2006	RVC(45)	CC & RVC(40)	Only if vegetables wholly obtained & CC	Vegetable wholly obtd. & non-origin inputs of HS17 use <30%	CTH or RVC(40)	CC	CTH
Inorganic and Organic chemicals HS28/29	CTH/CTSH or RVC(40)	Mainly CTH but RVC (35/30) also reqd. for some products	Chemical process specified or CTH/CTSH as indicated	CTH but flexibility of non-origin materials upto 20% in cases	CTH or RVC(40)	CTH (except CTSH for HS 2840)	CTH/CTSH or specified chemical reaction process
New pneumatic tyres of rubber HS4011	CTH and RVC(55)	CTSH and RVC(35)	A change to Heading 4007 to 4017 from any other heading	CTH	CTH or RVC(40)	CTH	CTH
Men's/boys woven shirts of cotton HS6205	CC and good cut and sewn or RVC(40)	Manufacture from non-originating yarn	Cut and assembled from originating fabric	Weaving & making/preceded by printing and 2 finishing optns.	CC and good cut and sewn or RVC(40)	CC or RVC(40)	CC
Passenger vehicles HS8703	RVC(45)	CTH and RVC(40)	RVC- 35% as per build-up, 55% as per build down or 35% by net cost	Non-origin material not > 45% of ex-works value	RVC(45)	CTH& RVC(60)	CTH & RVC(30) using build up / RVC(40) by build down
Wooden furniture HS940330 60	RVC(60)	CTSH and RVC(35)	CTH	CTH or non-origin material not > 40% of ex-works value	CTH or RVC(60)	CTH or RVC(40)	CTH or RVC(40)

Source : Based on FTA texts; Abbreviations used: RVC- Regional Value Content (figure in parentheses indicates percentage)CC: Chapter change; CTH-Change in tariff heading; CTSH- Change in tariff sub-heading.

The rules in the case of US-Korea FTA are more diversified and product specific and provide co-equal options involving change in tariff classification or carrying an essential process or set of operations (such specific manufacturing options are used mainly in the chemicals and textiles sectors) or having a certain minimum RVC. This is also the case in the Australia-Korea FTA even as a change in tariff classification is kept as a widely available option.

In the case of EU, the main criteria is the CTH and an alternative value added option is also given for several products that sets the maximum value of non-originating inputs between 25 and 50 per cent of the ex-factory price of the product. However, as a mitigating measure to the CTH option, it allows upto 20 per cent tolerance on the use of non-originating materials from the same tariff classification. But there are also several products where such tolerance is not applicable.

In practically all of the FTAs, however, there is the ‘wholly obtained’ requirement for agricultural products in HS chapters 1 to 14, or CC (Chapter Change) as in the case of US-Korea FTA. Processed agricultural products also generally require a CC transformation or higher RVC percentages. In the case of EU-Korea FTA, some products carry additional limiting elements such as a mandatory requirement that non-originating input from Chapter 17 (sugar and sugar confectionery) be less than 30 per cent of value of the product. Similarly US-Korea FTA imposes certain limits on usage of non-originating dairy products for products in HS 19. Table 7 gives a glimpse of the differing RoO in certain FTAs of Korea for a few sample items

Certain sectors or products get more specific treatment in some of the FTAs. In respect of chemical products in HS 28 to HS 39, Korea’s FTAs with US and Australia have prescribed certain chemical reaction processes as possible origin conferring options while the others rely on CTC or/and RVC criteria .

The textiles and garments sector have generally attracted more specific rules of origin and Korea's FTAs are no exception. While all these FTAs require a change in tariff classification, there are mandatory additional process requirements such as cutting and sewing in the exporting country even in the FTAs with ASEAN and with India. In the case of US-Korea FTA there is also the added requirement of use of fibres or yarns locally or from the other party if the same can be made available. The Korea-EU FTA goes into a fair amount of detail about the manufacturing stages the product has to undergo

in the originating country. And where an option for starting production at a more advanced stage of production is given it sets a certain limit on the value of the non-originating input in relation to ex-works price of the product. In Table 4 the differing rules in respect of men's woven shirts (HS 6205) may be seen as an illustrative example.

The automotives sector forms another area that have more specific and stringent rules of origin. All of Korea's FTAs rely, in so far as passenger cars are concerned, on minimum RVC content even as CTC may be an **additional** requirement. The latter is the case in respect of FTAs with India, China and Australia. Korea has also taken a more restrictive approach on timber related items. Wooden furniture from ASEAN and Vietnam require a higher RVC of 60 per cent.

As for calculating RVC, most FTAs provide for either the build-up<sup>47</sup> method or the build down method. In some of the FTAs in which both options are provided, a higher RVC is required in the case of build down<sup>48</sup> method while a lower RVC percentage is set for the build-up method. In Korea's first FTA with Chile, for example, RVC is generally kept at 45 per cent for the build down option and 30 per cent if build up method is used for the same product. There is also a third net cost<sup>49</sup> method available for automotive products in the Korea-US FTA. The RVC required

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<sup>47</sup> As per build up method RVC is defined as  $RVC = \text{Value of originating materials} / \text{Value of product} \times 100$

<sup>48</sup> In the build down method  $RVC = \text{Value of product} - \text{Value of non-originating materials} / \text{value of product} \times 100$

<sup>49</sup> In the net cost method,  $RVC = \text{Net cost of product} - \text{value of non-originating materials} / \text{Net cost of product} \times 100$  and net cost of product does not include sales promotion, marketing, and certain other costs.



for such products in this FTA is 35 per cent as per build-up or net cost method and 55 per cent under build down method.

Most of Korea's FTAs also provide for a certain *de-minimis* in case of CTC requirement. A good that does not undergo a change in tariff classification is nonetheless regarded originating if the value of all non-originating materials that have been used in the production of the good, which do not undergo the applicable change in tariff classification, does not exceed a certain percentage (normally 10 per cent) of the value of the good. But there are also certain chapters, in particular chapters HS 1 to 14, that get exempted in some of the FTAs from application of the *de-minimis* provision. Also for HS 50-63, some of the FTAs specify that the *de-minimis* will be determined on the basis of weight and not value. The EU-Korea FTA also has an overall de-minimis provision but it allows even higher tolerance levels of 20 per cent for non-originating materials to be from the same classification in case of certain products, particularly chemicals.

Yet another interesting feature present in the Korea-EU FTA is the provision for self-certification by the exporters. The exporter has to merely declare on the invoice or other commercial documents that the products are of EU/Korean preferential origin. To benefit from this procedure they have to apply for approved exporter status, unless they export consignments of products whose total value does not exceed EUR 6000. But the grant of this status may require necessary guarantees and prior verification. Considering the significant cost of complying with the administrative and other formalities for getting a certificate of origin from the issuing authority in a timely manner for for each consignment this may be a welcome development that may see wider application in future.

In the Korea-US FTA this aspect has been handled differently. While it also does away with certification in a prescribed format, it provides a list of essential information to be given in a written or electronic format by the importer/exporter or the producer, including information demonstrating that the good is originating, based on their knowledge. In the renegotiation of Korea-US FTA in 2018, the two

sides have exchanged further letters that makes this ‘knowledge based’ certification somewhat more trade friendly. It even allows for errors or discrepancies to be rectified within a certain period and affirms that verification will be conducted only if the customs authority had doubts about the originating status and based on risk management principles. A working group on RoO has also been set up to *inter alia* resolve concerns relating to verification of claims of origin.

Some elements of the foregoing approaches towards easing certification requirements and their verification have been found in Korea’s subsequent FTAs with Australia and Canada, but none have gone as far as the Korea-EU FTA.

Furthermore, a special feature in several of Korea’s FTAs is the special provision made for outward processing (OP) at the Kaesong and other industrial zones. While Korea’s FTA with Chile does not include this provision (the Kaesong Industrial complex, a few miles inside the border in North Korea, was set up only in 2002 by when the Chile FTA had been almost finalised) several others do. But the FTAs with EU, US and Turkey have gone only so far as to provide for the establishment of a committee to look into the issues. For the present however, since February 2016, South Korea has suspended its companies’ operations in Kaesong complex following Pyongyang’s nuclear and long-range missile tests then.

## **5 Trade Remedy provisions in Korea’s FTAs**

### ***5.1 Action against dumping and subsidisation***

In all of Korea’s FTAs, the parties retain their rights and obligations under the WTO agreements on anti-dumping (AD) and subsidies and countervailing duty (CVD) measures. In several of Korea’s more recent FTAs, the parties have also taken certain additional commitments regarding AD and CVD investigations. In what follows, these are serially listed below with names of FTA partners in whose FTA with Korea they figure given in the parentheses. This is even as the precise language used or the exact level of commitment in each one of them may somewhat vary.

The trade remedy provisions are however not subject to dispute settlement procedures under the FTAs.

- 1) The parties agree they will make an effort through bilateral consultations not to initiate AD procedures. (EFTA)
- 2) The parties agree to follow the 'lesser duty' rule. ( Singapore, EFTA, India, EU, Turkey, Peru, Canada, Vietnam, Australia, New Zealand and Colombia )
- 3) The parties agree to provide written notice of an application for AD/CVD measures prior to initiation of investigations. ( EU, US, Peru for CVD, Turkey, Australia, New Zealand, Canada, China, Vietnam and Colombia).
- 4) The parties agree to afford the other party a meeting or consultations or other similar opportunity or to make inquiries and representations prior to initiation of AD/CVD investigations. ( EU, Turkey, Peru and Australia for CVD only, US, Canada, New Zealand, China, Colombia and Vietnam for both but language more mandatory for consultations in CVD cases).
- 5) The parties agree to count the average of all individual margins, whether positive or negative, when dumping margins are established on weighted-to-weighted basis- also referred to as prohibition of 'zeroing'. (Singapore, India, Turkey, New Zealand, Vietnam, China , Australia and Colombia).
- 6) The parties agree to give due consideration to proposals for price or quantity undertaking after an affirmative determination in an AD/CVD investigation that could result in suspension of the investigations with no duties imposed. (US, Canada, Australia, Vietnam, New Zealand, China and Colombia).
- 7) The parties agree for careful consideration of applications for AD measure on a good on which AD measures were terminated in the previous twelve months as a result of review. ( EU, Turkey, China and Vietnam).
- 8) The parties agree for a de-minimis dumping margin threshold set out in Article 5.8 of ADA in new shipper reviews. ( EU, Turkey and China).
- 9) The parties agree to set up a committee / working group on trade remedies. ( US, EU, Canada, China and Vietnam).

In addition to the above, in the Korea-EU FTA, the chapter on 'Competition' has a separate section on 'Subsidies' in which the two parties have agreed to remove distortions of competition caused by subsidies. Additionally, it has identified two types of subsidies as 'specific subsidy' under Article 2 of the WTO agreement on subsidies and countervailing measures and prohibited them. These relate to subsidies granted by the government or through a public body for covering debts or liabilities of certain enterprises without limitation and subsidies to insolvent or ailing enterprises without a credit restructuring plan. And this section on subsidies is subject to dispute settlement provisions of the FTA even as the rest of the competition chapter is not.

Furthermore, in the Korea-China FTA there is a confirmation that the two parties will not use a third country surrogate value methodology in determining the dumping margins.

What emerges from all the foregoing is that Korea has shown flexibility in the inclusion of such additional provisions. From a trade law evolution angle, it is also interesting to see that from a mere reiteration of AD and CVD provisions of the WTO in the first Korea-Chile FTA, the provisions in subsequent FTAs have been steadily expanding. Its more recent FTAs- such as with China and Vietnam - have greater number of such additional provisions. Of course, seeking adherence to certain provisions relating to zeroing or quantitative undertakings also depend on the national AD/CVD legislation of the concerned FTA partners.

In the recent limited renegotiation of Korea-US FTA in 2018, Korea from its side was also able to get a new provision included that would bring about greater procedural transparency and due process in the verifications conducted by the authorities in anti-dumping and countervailing duty investigations.

In terms of invoking of trade remedies, Korea ranks 13th among all anti dumping users and had 37 definitive AD measures in place against exporters from 14

countries as of December 2018<sup>50</sup>. Of them, 28 definitive measures were against exporters of FTA partners<sup>51</sup> and these were on a range of items including chemicals, plastics, plywood, coated paper, ceramics, glass and metals. Korea has however not imposed any countervailing measure so far.

Have signing of FTAs made any difference in Korea's usage of trade remedies? There is no perceptible trend here in terms of number of AD measures taken totally or against any particular country in recent years. The total number of definitive measures against all current FTA partners have swung between 24 measures by end 2010 to 20 in 2012, to 27 in 2014 and 28 in end 2018.

Korean exporters have however faced higher level of trade remedy actions in certain of their FTA partners in the face of freer access to them. Most prominent has been in the US in which the definitive trade remedy measures in force have more than doubled from 12 AD duties and 3 CVDs at the end of 2012, the year in which the Korea-US came into force, to 27 AD duties and 7 CVDs at the end of 2018<sup>52</sup>. The number of definitive AD measures against Korean exporters in India also rose from 19 in 2010, when the FTA came into force, to 21 in 2018. Similarly the AD measures of ASEAN countries collectively against Korean exporters numbered 5 in 2010 but climbed to 11 in 2018<sup>53</sup>.

## ***5.2. Safeguards***

Apart from reaffirming their rights and obligations under the global safeguards regime under the WTO relating to Article XIX of GATT (1994), several of Korea's FTAs provide for additional bilateral safeguards. This is in case a tariff concession

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<sup>50</sup> Please see the semi annual report on anti-dumping actions of Korea to WTO for the period July-December 2018. The relevant WTO document is G/ADP/N/1/KOR/6 dated 23 March 2011

<sup>51</sup> They comprised China(11), ASEAN countries (7), India (4), EU countries (3) and US (3).

<sup>52</sup> It has been observed that the recent renegotiated terms for promoting greater transparency in AD/CVD proceedings in Korea-US FTA was a direct response to the frequent use of these trade remedy measures. See "Trump's first trade deal: The slightly revised Korea-US Free Trade Agreement" , by Simon Lester et al, CATO Institute Free Trade Bulletin No.73, June 2019.

<sup>53</sup> All these numbers have been compiled based on statistics given in the WTO website featuring semi-annual reports of members giving details about the measures in force.

under an FTA for a particular good causes or threatens to cause serious injury to the domestic industry in the importing country. In most of Korea's FTAs, the investigations to be undertaken in this regard are akin to those in the global safeguards agreement.

There are also certain standard clauses in all of them such as that the safeguard duty cannot exceed the base rate or applied MFN duty for an item and there will be no simultaneous application of the global safeguard and bilateral safeguard on the same item. Further, upon termination of the safeguard measure the customs duty shall be the same rate which would have been in force but for the safeguard measure. Most of the FTAs also provide for progressive liberalisation if the safeguard measure is imposed for more than one year.

Where there is a difference lies in the maximum duration permitted for a safeguard measure on a product, the provision for compensation in such an event and for how long the safeguard mechanism may be applied for any product. Table 8 presents the situation in respect of certain of Korea's FTAs in this regard.

Further, in Korea's FTAs with India, US, Peru, Canada, New Zealand, Australia, Vietnam and Colombia a party taking a global safeguard measure may exclude imports of an originating good of the other FTA partner ( selective safeguard ) from its application.

Table 8: Timelines in the bilateral safeguard measure under the different FTAs

	Korea-ASEAN FTA	Korea-India CEPA	Korea-US FTA	Korea-EU FTA	Korea-China FTA	Korea-Vietnam FTA	Korea-Australia FTA
Maximum period of initial application of safeguard measure + extension allowed	3 years+1year	2 years+2 years	2 years+1 year	2 years+2 years	2 years+2 years	2 years+1 year	2 years+1 year
If compensation for safeguard measure not bilaterally agreed any limitation on withdrawal of concessions by exporting partner?	No restriction	Not before two years but when measure taken as a result of absolute increase in imports it will be 3 years	No restriction	Not before 2 years	Not before 2 years	Not before 2 years	No restriction
Period for which safeguard provision on any product is available under the FTA	Date of completion of tariff reduction for that item + 7 years	Date of completion of tariff reduction for that item + 10 years	Ten years from entry into force of FTA or date of tariff elimination for the good whichever is later	Date of completion of tariff reduction for that item + 10 years	Ten years from entry into force of FTA or date of tariff elimination for the good whichever is later	Ten years from entry into force of FTA or date of tariff elimination for the good whichever is later	Date of completion of tariff reduction for that item + 5 years

Apart from having bilateral agreement-wide safeguards, there are also certain sector specific safeguards in a few of Korea's FTAs. An agriculture specific safeguard mechanism is included in the FTAs with Chile, US, EU and Australia. In the last three FTAs, the mechanism, considering the list of products in the schedules, basically provides Korea (and not the other FTA partner) the possibility imposing a

safeguard measure when the aggregate volume of imports of certain identified agricultural products exceeds a trigger quantity set out in the agreement that further provides the maximum safeguard duty and applicable duration. This is possibly the case since Korea has gone undertaken substantial liberalisation in agriculture in its FTAs with these three partners.

In the Korea-US FTA, there are also separate safeguard measures for the textiles and the automotive sectors. In the textiles safeguard, an emergency measure can be taken for two years that will be extendable by another two years (in the bilateral agreement wide safeguard in this FTA the measure can be extended only by an year). Moreover, emergency actions can be taken upto ten years after customs duties are eliminated on that item.

The automotive safeguard in Korea-US FTA applies to vehicles under HS 8703 and 8704 and in this case again the safeguard measure will be extendable by two years and the special safeguard mechanism will be available for ten years beyond full elimination of tariffs on that vehicle. Additionally, parties are not subject to any retaliation for upto two years after a particular auto safeguard is applied, there is no restriction on repeat application and no requirement to progressively liberalise auto safeguard tariff.

There is no readily available information about the cases where Korea had to invoke bilateral safeguard measures under its FTAs. But safeguard trigger volumes have exceeded in respect of beef imports from Australia<sup>54</sup>.

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<sup>54</sup> As per the agricultural safeguards provision in Korea-Australia FTA the safeguard trigger gets activated once beef imports exceed a certain tonnage that was 154,584 tons in 2014 and which went up to 203,970 in 2028 beyond which the MFN duty of 40 per cent will apply. Australia's exports has crossed the trigger levels in 2016, 2017 and 2018. See in this regard for example the alert "Korean beef safeguard to be triggered imminently" dated 10 October 2018 appearing on the website of Meat and Livestock Australia at [www.mla.com.au](http://www.mla.com.au). It is interesting to note that in the case of US the corresponding safeguard trigger tonnage was much higher and went up from 270,000 tonnes in 2012 to 354,000 tonnes in 2025.



Korea has however not launched any global safeguard investigation after 1999. The only two safeguard measures it has taken under WTO relate to dairy products (1996), and fresh or peeled garlic (1999). Korea has however invoked more regularly special safeguards<sup>55</sup> (SSG) under the WTO agreement on agriculture on some of the products in which it has reserved the right to take SSG action such as grains, potatoes, ginseng and soyabean.

## **6. Product Regulation in the FTAs**

### ***6.1 Sanitary and Phytosanitary (SPS) measures***

Korea's FTAs generally reaffirm the rights and obligations of parties under the WTO SPS agreement. Several of them also go further and in separate chapters devoted to SPS issues provide for a more detailed framework for addressing them. In all of Korea's FTAs however the SPS provisions are not subject to dispute settlement under the FTA itself.

The FTAs appear to broadly fall into three categories in so far as specific SPS provisions in them are concerned. Korea's FTAs with Singapore, EFTA countries, ASEAN and Vietnam could be placed in the first category in which the SPS provisions are quite brief and apart from affirming the parties' commitments towards the WTO SPS agreement, provide for contact points for exchange of information for implementation purposes. While a working group will further review implementation of SPS (&TBT) aspects in the Korea-ASEAN FTA that recognised the importance of transparency of such regulations, Korea's FTA with Vietnam, that also has provisions for technical cooperation, has a Committee set up for this purpose. All the additional aspects in these FTAs are however somewhat general in nature or couched in discretionary language.

A second category of Korea's FTAs, such as with Chile, India and EU goes into greater detail on SPS aspects that are typically covered- harmonisation with

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<sup>55</sup> See for example page 66 of WTO Secretariat report relating to Korea's trade policy review in 2016

international standards, equivalence and mutual recognition, risk assessment, regional conditions, transparency, control inspection and approval and technical assistance and cooperation. Korea's first FTA that was with Chile had a separate chapter covering most of these aspects even as it was clearly stated that it provided a regulatory framework deemed consistent with the WTO SPS agreement.

Chapter 5 in the Korea-EU FTA that addressed SPS measures also covered aspects relating to transparency, harmonisation, regional requirements and technical cooperation. Among Korea's FTAs, it is perhaps the most detailed in terms of specific commitments and procedures beyond the WTO SPS agreement. The regionalisation provision for example required both parties to not only recognise the concept of pest or disease free areas and areas of low pest or disease prevalence in accordance with the WTO SPS agreement and other international standards, but the two parties are required to identify such areas within a time period of two years from the entry into force of the agreement in the form of "Confidence building cooperation". If a party does not accept the determination by the other party then valid reasons are also to be given<sup>56</sup>. A Committee on SPS to review implementation was also set up to *inter alia* develop procedures for approval of establishments for products of animal origin and, where appropriate, of production sites of plant origin.

A report assessing the progress made under the Korea-EU FTA in 2016 stated that the policy dialogue<sup>57</sup> under the FTA resulted in finding a mutual recognition approach for certification of organic products. Also it has led to a change in Korean regulations which recognised that ripening of cheeses can have equivalent effects to pasteurisation even as a significant issues arose with Korean restrictions on unpasteurised cheeses. The dialogue has however not resolved all pending issues.

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<sup>56</sup> Such a provision on 'regionalisation' also figures in the Korea-Peru FTA. See also in this regard the analysis by Lee Ann Jackson and Hanna Vitikala in their chapter on 'Cross cutting issues in regional trade agreements: sanitary and phytosanitary measures' in the book edited by Rohini Acharya on 'Regional Trade Agreements and the Multilateral Trading System'

<sup>57</sup> See "Assessing the results of Korea-EU FTA" by the European Commission, September, 2016.

As per a recent EU document<sup>58</sup> these are several including the Korean ban on EU beef that is still in effect (on account of BSE), EU regionalisation system not being recognised by Korea with respect to animal disease outbreaks, procedures for registering production establishments for animal products and those for pest risk assessment to enable exports of fruits and vegetables that are deemed as burdensome etc.,

The provisions in the Korea-India FTA were relatively brief but did dwell on transparency, equivalence of each other's measures, and also about consulting (with the use of the word 'shall') on a broad range of SPS issues. It further provided for technical cooperation, training and joint research and on the institutional side established a joint working group to address both SPS and TBT issues.

A third category of Korea's FTAs such as with the US, Australia and China were stylistically somewhat different. While they too reaffirmed the parties' existing rights and obligations under the WTO SPS agreement, they did not spell out further commitments on specific aspects in any detail. Rather these aspects were listed more as implementation points, but with more mandatory language, that were to be taken up by a committee under the respective FTAs that will have oversight on SPS matters (referred to as 'technical meetings' in the Korea-Australia FTA). Additionally, all the three FTAs also provided for technical cooperation activities in varying measure in relation to development, implementation and application of SPS measures.

A US Congressional Research Report<sup>59</sup> has noted that the SPS Committee under the Korea-US FTA has been the venue for addressing plant pest and disease concerns that could prevent Korean imports of fruits and vegetables and Korea's new maximum residue levels (MRLs) for pesticides and animal drugs on imports. Korea

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<sup>58</sup> See page 38 of EU Commission staff working document 'Evaluation of the Implementation of the Free Trade Agreement between the European Union and its Member States, of the one part, and the Republic of Korea, of the other part' SWD(2019) 102 final, dated 7.3.2019

<sup>59</sup> See 'Overview of US-South Korea agricultural trade' by Jenny Hopkinson, August 8 2018, Congressional Research Report

adopted a Special Act on imported food safety management act that came into force in August 2016 that put in place new registration and inspection requirements for imported food products and foreign businesses that produce and export food products to it. Korea also started a complete overhaul of its pesticide and veterinary drug maximum residue level system.

At such a time of substantial regulatory revision, FTA partner countries, particularly those that have more specific provisions in their SPS chapters, do have an edge in having an additional platform to raise their bilateral concerns in a more mandated manner even as none of the FTAs guarantee a time bound outcome or offer recourse to dispute settlement.

## **6.2 Dealing with Technical barriers to trade (TBT)**

Molina and Khoroshovina<sup>60</sup> have analysed close to 240 FTAs concluded globally regarding the manner in which they have addressed TBT issues. They conclude that in a vast majority of FTAs the parties' basically affirm their rights and obligations under the TBT agreement and in several of them, select provisions from the TBT agreement are also incorporated into the FTA text. This is the case in Korea's FTAs as well .

In most of Korea's FTAs, TBT issues are dealt with in separate chapters in the FTA text. They also have provisions on harmonisation/equivalence of technical regulations, conformity assessment procedures and transparency. Disciplines on marking and labelling are however found in fewer agreements - with Australia, China and the EU. In certain cases there are also references to how TBT related issues will be approached in select sectors. A higher level of commitment on acceptance of conformity assessment procedures/certifications from authorised bodies in the other party is also found in some of them. Most of Korea's FTAs have

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<sup>60</sup> A.C.Molina and V.Khoroshovina, Technical barriers to trade provisions in regional trade agreements: to what extent they go beyond the WTO TBT agreement in the book edited by Rohini Acharya on 'Regional Trade Agreements and the Multilateral Trading System'

established separate co-ordination mechanisms or working groups or committees to conduct oversight on TBT issues. Some of Korea's FTAs - such as those with India, China and Australia- however explicitly rule out TBT aspects from being subject to dispute settlement provisions of the FTA. Table 6 gives a snapshot of coverage of different TBT related aspects in a number of Korea's FTAs.

In Korea's FTA with the US the Chapter on TBT has a separate annex setting out the terms of an automotive working group that will address TBT related issues concerning vehicles. Somewhat uniquely, a side letter was exchanged between the two sides which specified that vehicles built to US standards will be deemed as meeting Korean standards upto a numerical ceiling for each US automaker ( the so called low volume seller exemption). In 2007, this limit was fixed at 6,500 vehicles per year that was raised to 12000 in 2010 that has been further increased to 50,000 in 2018 following the latest renegotiation of US-Korea FTA under the Trump administration. Korea has also agreed<sup>61</sup> to harmonise relevant testing procedures and methods for gasoline-powered vehicles with US Federal regulations as long as they were consistent with California's emission standards.

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<sup>61</sup> Jeffrey J. Schott and Euijin Jung, KORUS amendments: Minor adjustments fixed what Trump called 'Horrible Trade Deal', Policy Brief 18-22, Pietersen Institute for International Economics, November 2018.

Table 9 Nature of coverage of TBT issues in certain FTAs of Korea

	Korea-Chile FTA	Korea-ASEAN FTA	Korea-India FTA	Korea-US FTA	Korea-EU FTA	Korea-China FTA	Korea-Vietnam FTA
Separate chapter or confined to a few articles?	Separate Chapter 6 on standards related measures	Articles 7 & 8 covering WTO disciplines including TBT issues	A detailed article on TBT & SPS measures	Separate Chapter	Separate Chapter	Separate Chapter 6 related to TBT measures	Separate Chapter 6 on TBT
Provisions on harmonisation/ equivalence of technical regulations of each other	Yes for promoting compatibility/ equivalence	-	Yes	Detailed, also providing more mandatory cooperation for vehicle standards	Where no international standards exist to cooperate to align/ converge tech. reqmts.	Positive consideration to be given for equivalence or reasons to be given	Positive consideration to be given for equivalence or reasons to be given
Conformity Assessment procedure- on the lines of WTO TBT agreement	Specifies detailed procedure & urges positive consideration for MRAs	-	Urges framing guidelines for accepting suppliers declaration	Reference also to Phase II of APEC MRA for conformity assessment of telecom eqpmt.	More specific sectoral commitments in separate Annexes	To also negotiate possible implementing arrangements at the earliest.	Specific reference to APEC MRA for conformity assessment of telecom eqpmt.
Sector Specific provisions	On telecom in Chapter 12 of FTA and reference to APEC MRA on telecom	-	Provides for mutual consultations on telecom and electrical and electronic eqpmt.	Separate provisions on automotive sector and pharmaceuticals and medical devices	Separate Annexes on electronics, motor vehicles, chemicals and pharmaceuticals	Exchange info. on regulatory systems for consumer product safety	Action points on Consumer product safety, MRAs for testing labs of food, cosmetics
Separate Ctee or Wkg.Gp. to monitor implementation	A committee set up on standards-related measures	Established a Working Group on SPS & TBT	Established a Joint Working Group on SPS & TBT	1. Ctee on TBT; 2. Ctee on medicines and medical devices; 3. Wkg.Gp. on automobiles	A coordination mechanism of all TBT Co-ordinators	A separate Committee on TBT set up	A separate Committee on TBT set up
Does FTA provide for dispute resolution on TBT issues?	Yes	It is not ruled out	Explicitly ruled out	Yes	Yes	Explicitly ruled out	It is not ruled out

Further, Korea's FTA with US included a separate chapter on pharmaceuticals and medical devices which inter alia provided for regulatory cooperation apart from

pricing and reimbursement issues. It foresees the possibility of negotiation of an agreement on Good manufacturing practices, good laboratory practices and marketing approval for generic drugs. Subjects covered under this chapter were also subject to oversight by another separate committee under the FTA, apart from a TBT committee.

But Korea's FTA with EU perhaps went the farthest in respect of sector specific WTO plus commitments on TBT issues. In a separate annex in the FTA on motor vehicles they commit to regulatory convergence on standards and regulations for vehicles and auto parts using in particular WP 29 within the framework of UNECE. The implementation of this annex is overseen by a working group under the FTA and the annex is also subject to dispute settlement with a more rapid timeframe for resolution.

Similarly in another annex on electronics Korea and EU commit themselves to a time bound agreement for acceptance of supplier's declaration of conformity with the required standards or technical regulations. In the annex on pharmaceuticals and medical devices they have agreed that each party's rules regarding pricing, reimbursement or regulation in relation to these products will be promptly published or otherwise made available at an early stage. Similarly on chemicals they have agreed on ensuring transparency as well as cooperation in the areas of good laboratory practices and test guidelines towards seeking a more harmonised approach.

A report of the EU Commission on trade and investment barriers<sup>62</sup> has indicated that the FTA implementation structure with Korea provided an effective vehicle to address trade barriers and referred in particular here to

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<sup>62</sup> See page 27 of the Report from the Commission to the European Parliament and the Council on trade and investment barriers 1st January-31 December 2016

**Table 10 Trade impact: imports of select items from US and EU (in million US\$)**

	Korea's annual average imports from all sources in 2009-11	Korea's annual average imports from all sources in 2016-18	Percent rise in overall imports in 2016-18 versus 2009-11	Korea's annual average imports from US in 2009-11	Korea's annual average imports from US in 2016-18	Percent rise in import from US 2016-18 versus 2009-11	Korea's annual average imports from EU in 2009-11	Korea's annual average imports from EU in 2016-18	Percent rise in import from EU 2016-18 versus 2009-11
<b>HS 30 Pharma products</b>	3467.7	5877.2	69.5	610.5 (17.6%)	1197.8 (20.4%)	96.2	1806.8 (52.1%)	2945 (50.1%)	63
<b>HS 8703 Passenger cars</b>	2804.4	11071.1	269	253.5 (9%)	1685.9 (16.7%)	550	1969.1 (70.2%)	7035.3 (69.9%)	257
<b>All products (in billion US\$)</b>	473.3 bn	558 bn	11.6	38 bn	50.9 bn	34	39.5 bn	57.2 bn	44.8

Source: Trade figures given have been computed from statistics made available by Korea Customs at [www.unipass.customs.go.kr](http://www.unipass.customs.go.kr) . Figures in parentheses indicate percentage share in relation to Korea's total imports in that sector.

how Korea agreed to amend its unique seat size and clearance requirements and certain other harmonisation concerns in the FTA automotive working group. A EU staff working document<sup>63</sup> has analysed the reduction in non-tariff trade costs in several sectors as a result of the FTA that shows the electronics sector in EU to have benefitted the most with a 25 per cent reduction. This is even as the same report also outlines several pending unresolved issues in respect of automotives and electronics. It also bemoans the lack of inclusion of truck-tractors in the equivalence tables of the automotive annex in the FTA since Korea is not accepting the EU standards here to be equivalent to Korean standards- demonstrating that comprehensive sector specific chapters in FTAs do help in highly regulated sectors like autos but it also depends on coverage.

<sup>63</sup> See page 36 of EU Commission staff working document 'Evaluation of the Implementation of the Free Trade Agreement between the European Union and its Member States, of the one part, and the Republic of Korea, of the other part' SWD(2019) 102 final, dated 7.3.2019



Likewise the annual report on Foreign Trade Barriers of the office of US Trade Representative for 2019 has listed some of its concerns in the Korean market in the areas of motor vehicles, pharmaceuticals and chemicals sectors while also indicating how provisions of KORUS and its institutional mechanisms were being used to address them. These are all clear indications how future FTAs may evolve, or existing FTAs may be revised, in also having sector specific mechanisms to address standards and technical regulations.

To get an idea of the impact that sector specific provisions in Korea's FTAs with EU and US have had on trade, Table 10 looks at Korea's imports from these partners of passenger cars and pharmaceuticals that shows a sharper increase in Korea's imports in these sectors from all sources, significantly beyond the overall rise in imports. EU has managed to more or less retain its large market shares in these two areas in Korea despite the sharp rise in Korea's overall imports in them. For US, there was also a significant accretion in market shares in both the sectors. For Korea too, it was able to significantly increase its exports<sup>64</sup> both to the EU and the US in these two sectors during this period.

Finally, it is somewhat unique that on automotives the TBT chapter (Article 6.7) of Korea-Canada FTA makes an explicit reference to provisions of another FTA, the Korea-EU FTA . The chapter gives Canadian automakers access to the Korean market for cars built to key U.S. safety standards or European Union safety standards and are not subject to any numerical limits.

## **7. Other commitments that impinge on market access**

There are certain other commitments found in Korea's FTAs that are WTO plus in scope and which impact on market access. An example is the provision prohibiting

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<sup>64</sup> During the period 2009-11 to 2016-18, Korea's annual average exports of passenger cars (HS 8703) sharply rose from US\$ 6.88 bn to US\$ 14.6 bn to US and from US\$ 3.9 bn to US\$ 7.05 bn to the EU market. Similarly its exports of pharmaceuticals (HS 30) to US shot up from only US\$ 52 mn to US\$ 283 mn and to EU from US\$ 51 mn to US\$ 916 mn.

export taxes that is found in several FTAs starting from the agreement with Chile. Such a provision however does not figure in the FTAs with ASEAN, India, Vietnam and China.

Trade facilitation is another aspect that has come to be elaborated in greater detail in Korea's FTAs of recent years. While Korea's FTAs with US and EU, which predated the WTO agreement on trade facilitation, already had substantial provisions, later agreements are now having separate chapters covering a range of issues like risk management, use of automated systems, time bound clearance, authorised economic operators, expedited clearance for express shipments, advance ruling, customs cooperation and minimal or no documentation for shipments of *de-minimis* value. On the last, while Korea's FTAs with Vietnam or Australia do not specify what such a *de-minimis* value should be and leave it to local regulations, the Korea-US FTA stipulates a value of US\$200 and the Korea-Colombia FTA pegs it at US\$ 100.

Commitments on government procurement have also varied across Korea's FTAs. Its FTA with Chile extended commitments for opening government procurement for goods and services to government purchases above a threshold of SDR 50,000 and for construction services to contracts above SDR 5 million. These thresholds, particularly for government purchases of goods and services, have varied in Korea's later FTAs with US, EU, Australia, Canada and Colombia<sup>65</sup>. While Korea, US and EU are full parties to the GPA, countries like Australia, Chile and Colombia are only observers. But Korea has taken GPA plus commitments with both GPA members as well as others. Korea's FTAs with ASEAN, EFTA, India, China and Vietnam however do not have any market access commitments on government procurement.

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<sup>65</sup> In the FTAs with US and Canada the minimum threshold for goods/services was specified as 100 million Korean Won, in the FTA with Colombia it was set at SDR 70,000 and in the FTAs with Australia and EU it was as per Korea's commitment under the GPA, namely SDR 130,000.

Yet another aspect relates to the commitments taken by Korea in protecting Geographical Indications (GIs) of certain FTA partner countries. The most extensive commitments can be found in the Korea-EU FTA which lists 60 agricultural items (cheeses, ham, olive oil, beer etc.) of EU countries and 63 items of Korea. This is apart from another list putting down various spirits and wines belonging to various regions in the two territories to be accorded GI protection.

In the Korea-US FTA the GIs so listed were fewer. These were limited to Bourbon Whisky and Tennessee whisky on the US side and the traditional liquor Gyeongju and Beopju of Korea. In the FTA with Canada, the Canadian GI products listed were Canadian Whisky and Canadian Rye Whisky. Korean products listed for GI protection in this case were Korean Red Ginseng, Korean White Ginseng, Korean Fresh Ginseng and Incheon Rice. In the FTA with Chile, in return for committing to give GI protection for three Chilean regional wines, Korea was able to get reciprocal commitment for Korean Ginseng, Korean Kimchi and Boseong tea. Such specific GI commitments have not been found in Korea's other FTAs.

## **8. Conclusions**

From its first FTA with Chile coming into force in 2004, Korea has rapidly expanded its network to 15 FTAs that cover over 72 per cent of its exports. Its FTA partners together now account for over 75 per cent of world GDP. If RCEP or C-J-K FTA were to conclude soon it will also add Japan into this fold bringing its FTA coverage closer to 80 per cent of exports and 75 per cent of imports.

Working to preserve and promote trade with its principal partners through FTAs, showing flexibility to accept FTA templates of its partners be it related to RoO or to comprehensiveness of the FTA and trying to gain early mover advantage wherever possible have all been the driving elements of Korea's FTA strategy even as it has remained cautious about opening its agricultural sector. Successive leadership support to this strategy under different slogans relevant to the times has enabled Korea to stay ahead in its quest for markets.

It is evident from the earlier comparative analysis of Korea's FTAs that there is a wide variety in scope and in depth of commitments across various market access parameters for merchandise goods. Elements of reciprocity and trade competitiveness of the partner have apparently been key elements in calibrating commitments. There is also a perceptible move towards further elaboration of regulatory provisions in later FTAs similar to a worldwide trend.

Those FTA partners who were able to conclude more sector specific provisions in highly regulated areas like autos, electronics or pharmaceuticals are reaping some trade benefits. Even in respect of SPS measures, having a bilateral forum under the FTA to redress concerns is acknowledged as a plus by some of Korea's FTA partners even as this chapter is not subject to dispute settlement under the FTA in any of Korea's FTAs. Such provisions may provide guidance in the design of future FTAs or even be a way for multilateral solutions to emerge on dealing with non tariff barriers.

Korea's FTA strategy can be said to have helped in maintaining the country's overall momentum in exports to rise from being 12th in world exports in 2005 to being 6th in 2017. In imports, during this period, Korea has risen from being 13th in the world to 9th overall. The collective share of its 52 FTA partners have expanded both in Korea's import and export baskets.

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