
Purpose: Consideration
Submitted by: APEC Secretariat

Third Senior Officials’ Meeting
Cairns, Australia
3 July 2007
REPORT OF
THE INDIVIDUAL ACTION PLAN (IAP) PEER REVIEW
OF KOREA

The IAP Peer Review Session of Korea was held on 1st July 2007 in Cairns, Australia. Delegates from Australia; Brunei Darussalam; Canada; Chile; China; Hong Kong, China; Indonesia; Japan; Korea; Malaysia; Mexico; New Zealand; Peru; Philippines; Singapore; Chinese Taipei; Thailand; United States and Viet Nam were present. The APEC Secretariat, ABAC and PECC were also present.

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This report contains the following annexes.

Annex 1 - Concluding Remarks by the Moderator
Annex 2 - Study Report on Korea’s 2007 IAP
Annex 3 - Presentation by Korea
Annex 4 - Written Questions Received at the Session.
Concluding Remarks by the Moderator

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• We had a good discussion today. I appreciate the comprehensive study report and presentation by our experts, Mr. Greg Wood of GSRW Consulting Pty Ltd and Mr. Hikari Ishido of Chiba University.

• I would like to thank the Korean delegation led by Ambassador Hong Seong-Hoa, Korean Ambassador for the DDA negotiations in Ministry of Foreign Affairs and Trade. We appreciate for all the efforts to clarify and explain your initiatives as well as to accept and respond to additional questions raised here today.

• I would also wish to extend my appreciation to the Secretariat for coordinating this IAP Peer Review. Finally, I wish to thank members of APEC economies for your contribution to our discussion.

• As I have reiterated in the beginning of the session today, the IAP Peer Review process is an important instrument APEC have in place to guide economies towards achieving the Bogor Goals. In this regards, I wish to note that, today, we have used this instrument to the best extent.

• In general, Korea has made significant progress in IAP chapters. We can see Korea’s commitment to trade and investment liberalization and facilitation, as seen from its efforts in areas such as:
  - Deregulation and regulatory review;
  - Investment;
  - Competition policy;
  - Standards and conformance;
    and
  - Customs procedures.

• The discussion and review session today as well as the experts have verified that Korea is on its way towards achieving the Bogor Goals. For that, we may wish to congratulate our Korean colleagues. However, more can be done to accelerate this process and fulfil Bogor commitments.

• Our discussion today covers wide ranging issues and topics. I will attempt to summarise some salient points that was discussed here.
In respond to 1997 Asian Financial Crisis, we witnessed Korea’s main goals are to:

- maintain greater involvement with the international community;
- liberalising investment;
- improving governance and the economic system;

and

- improving the competitiveness of all sectors of the Korean economy, particularly in technology capacities.

Sturdy economic performance was explained by Korea’s real GDP growth on average by 4.76 per cent with 5 per cent growth in 2006, while maintaining inflation on average 3 per cent over the last 5 years. Korea’s current account has been in surplus for four consecutive years. Exports now represent 36 per cent of Korea’s GDP.

Korea’s simple average applied tariff in 2006 is 12.8 per cent is somewhat reduced from 13.54 per cent in 2002. Despite the reduction, there is still a significant reduction needed to reach Bogor goals.

Comparison to the Korea’s previous review, progress has been obvious with continuous and impressive efforts in making Korea the 24th most competitive nation in the world (based on Global Competitiveness Report 2006-2007, World Economic Forum).

Korea’s five-year plan for opening up the domestic market stimulated a sharp rise in FDI in 1997. Korea also liberalised its manufacturing sector to the maximum by revising of Foreign Investment and Foreign Capital Promotion Act in 1998. Efforts in promoting trade and investment is thoroughly explained through statistics, databases of foreign invested companies, tax rebates and investment trends by Korea Trade-Investment Promotion Agency (KOTRA).

Korea is seemed to take full advantage by engaging into FTA negotiations with key trading partners. Korea-US FTA (KORUS FTA), concluded on 1 April 2007, is by far one of the most comprehensive FTA that Korea has ever entered into, covering extensive range of agriculture and services sectors than preceding Korean FTAs while focussing to numerous non-tariff measures.

Korean Customs Service had attracted international acknowledgement by maintaining impressive record of technology advancement to:

- improve efficiency;
- slash clearance times;
- enhance probity and integrity;
  and
- employ sophisticated intelligence and risk management systems.

- Korea also has been positively engaged in enhancing mobility of business people, as well as its own policy initiatives that compliment the APEC framework, its is known that the it has been enhanced in line with achieving the Bogor goals.

- Of course, Korea also has areas for further reflection and improvement. We can see that from the questions and comments today. Areas that have much concerns to other APEC economies includes:
  - trade policy;
  - tariff policy;
  - investment;
  - services;
  - RTAs/FTAs;
  - Standards and conformance;
  - IPR;
  - Rules of Origin;
  - Transparency;
  - Competition policy;
  - Customs procedures;
  - Dispute Mediation;
    and
  - Government Procurement.

- The Koreans gave us their perspectives and their considerations behind their current policies on these issues. Nonetheless, we would like to urge Korea to reconsider, and find ways to move towards a more liberalized, less onerous and more transparent regime.

- Before we end this Review session, I wish to remind again member economies who furnish us with impromptu questions during the session today, to provide
your question in written form to Ms Monica from the APEC Secretariat, via email: mop@apec.org, by 9 pm today, if you wish them to be included in the report.

- That’s the end of our IAP Peer Review for Korea. Congratulations on a job well done. I look forward to the other IAP sessions this afternoon. With that, I thank you.
Korea's IAP Study Report

Purpose: Consideration
Submitted by: APEC Secretariat

Third Senior Officials’ Meeting
Cairns, Australia
3 July 2007
IAP Study Report—Korea 2007
(As at 25 June 2007)
## Contents

**Executive Summary**  
4

1. **Introduction: Korea’s Economic Performance**  
8

2. **Developments since last IAP**  
8
   - Policy Objectives  
   - Longer Term Issues  
   - International Issues under debate  
   - Trade Developments  
   - Value of trade  
   - Direction of Trade  
   - Composition of Trade  
   - Foreign exchange and exports  
   - Foreign Investment  
   - Foreign Trade and Investment Policies  
   - FTA negotiations: summary  
   - Korea-US Free Trade Agreement  
   - Earlier FTAs  
   - Korea-Chile FTA  
   - Korea - Singapore FTA  
   - Korea- EFTA FTA  
   - Korea- ASEAN FTA  
   - Developing Country Status  
   - Korea and Bogor  
   - Trade policy: consultation and decision-making  

3. **Assessment of Korea’s IAP (Chapter by Chapter)**  
18
   - Chapter 1.  Tariffs, and Chapter 2. Non-tariff Measures  
   - Chapter 3.  Services  
   - Chapter 4.  Investment  
   - Chapter 5.  Standards and Conformance  
   - Chapter 6.  Customs Procedures  
   - Chapter 7.  Intellectual Property Rights  
   - Chapter 8  Competition Policy  
   - Chapter 9.  Government Procurement  
   - Chapter 10.  Deregulation/Regulatory Review and Reform  
   - Chapter 11.  Implementation of WTO Obligations  
   - Chapter 12.  Dispute Mediation  
   - Chapter 13.  Mobility of Business People  

Appendix A: Members of the Review Team  
58
Appendix B: Organizations and Officers Consulted  
60
Appendix C: Korea’s Responses to Questions submitted by Member Economies and Experts  
67
Boxes

Box 1. Korean Agriculture  
Box 2. Korea’s assistance to agriculture  
Box 3. Korean Regulatory Reform  

Tables (in Chapters)

Table 1-1 Summary of Korean Tariffs  
Table 4-1 FDI in Korea by country, 1980-2005  
Table 7-1 Korea’s technology trade, 1995-2005  
Table 7-2 Responsibility for Korea’s IPR protection  
Table 8-1 Policy arrangement stipulated in the revised Fair Trade Act  
Table 13-1 Statistics on ABTC (during May 3, 1997-March 20, 2007)

Headings (with Tables) in RTAs/FTAs

OVERALL : Liberalisation Schedule of Korea’s FTAs
Korea-Chile FTA
Korea-Singapore FTA
Korea-EFTA FTA
Executive Summary

Individual Action Plans (IAP) of APEC member economies record the progress they have made toward achieving the trade and investment liberalisation goals that APEC set in the Bogor Declaration of 1994. In essence these provide for the achievement of free and open trade and investment by 2010 in the case of developed economies and by 2020 in the case of developing economies, together with a range of trade and investment facilitation programs.

Overall Assessment

Korea states that it “remains fully committed to the Bogor goals of trade and investment liberalisation and facilitation, and will continue to reduce tariffs comprehensively both at the multilateral, regional and bilateral level”. Philosophically Korea strongly supports the multilateral trading system but in recent years its energies have been directed to negotiating FTAs with selected trading partners. Negotiations on the Korea-US FTA, the most important FTA for Korea in terms of substance and coverage, were concluded on 2 April 2007: the negotiated outcome has yet to be ratified by respective legislatures.

The general directions of Korea’s economic policy and micro-economic reform, put in place after the 1997 crisis remain in place, albeit more familiar and less newsworthy than they were when first introduced. Greater involvement with the international economy, liberalising investment, improving governance and the economic system, improving the competitiveness of all sectors of the Korean economy, are central goals. So too is enhancing Korea’s technology capacities.

The last expert assessment of Korea’s IAP took place in 2003. The overall judgment was that:

"Korea has made impressive overall progress towards the implementation of the Osaka action agenda and the achievement of APEC's Bogor goals. Among the IAP Chapters, progress has been especially impressive in deregulation and regulatory review, investment, competition policy, standards and conformance and customs procedures. There have also been significant developments in intellectual property rights and government procurement. Progress in services has been uneven.... Progress has been least evident in the tariff chapter, especially in relation to agricultural tariffs. It is in the latter area that Korea remained furthest away from realisation of the Bogor objective”.

Our conclusions in 2007 are very close to that made four years earlier. In many respects progress has been continuous and impressive. But with the Bogor clock ticking, it is a cause of unease that there has been little change in the main tariff and non tariff measures as applied on an MFN basis. Agriculture is still the area where the highest levels of protection apply and represents the toughest hurdle to meeting the Bogor goals.
Summary of Individual Chapter Assessments

In terms of the individual IAP Chapters:

*Chapters 1 and 2: Tariff and Non Tariff Barriers*

Bound tariff and simple average applied tariff rates have remained largely unchanged since the last IAP in 2002: they are relatively high by international standards. The flexible tariff system, with its attendant uncertainties, remains in place. Korea’s active negotiation of free trade agreements will mean certain APEC economies can expect to encounter a significant reduction in tariff barriers in coming years. Others, specifically MFN suppliers, will not be so well-placed: some may encounter trade diversion. In any context, be it FTA or MFN, the agriculture sector represents the toughest hurdle for Korea to surmount to reach the Bogor goals. There are signs of some positive trends in domestic agricultural policies, but Korean agriculture, now as previously, remains insulated.

*Chapter 3: Services*

Korea’s service sector is characterized by diversity in the level of liberalization across its sub-sectors, as noted in the previous IAP peer review report 2002. Korea has not always committed to binding across-the-board service sector liberalization, due mainly to domestic policy considerations. Overall, however, Korea’s service sector has been experiencing a rapid opening up, both multilaterally and bilaterally with the US, and hence is on track towards achieving the Bogor goals.

*Chapter 4: Investment*

While foreign investment in some sectors remains restricted, Korea is aware of the critical importance of active foreign participation in its domestic economy and also of Korean firms’ outbound investment, for ensuring long-term sustainable growth. Korea adheres to the MFN principle in its investment policy, and has been committed to further liberalization of remaining restricted sub-sectors.

*Chapter 5: Standards*

Integrating Korea’s standards system with the international standards systems is a key goal of the administering agency KATS and the evidence is that it is fulfilling that mandate. Korean standards are being adopted as international standards with increasing frequency. As with any country there can be a sense that national standards or technical regulations exclude foreign competition, and may be intended to do so. However no country has found sufficient grounds or reason to challenge Korea’s industrial standards, in the WTO in recent years. Food standards have been internationally challenged but the same commitment to align Korean standards with Codex and other applicable international standards also applies.

*Chapter 6: Customs*

Korean Customs Service maintained its impressive record of utilising IT technology to improve efficiency, cut clearance times, enhance probity and integrity, and employ
sophisticated intelligence and risk management systems. Its achievements over the past few years have attracted international acknowledgement. Desirably all Korean agencies with border responsibilities would become part of the single window clearance system.

Chapter 7: Intellectual Property

The Korean government’s policy stance is that consistency in intellectual property protection is an important infrastructure for enhancing national and corporate competitiveness in the knowledge-based economy. Korea’s intellectual property rights protection system has been strengthened and is in conformity with the TRIPS agreement of the WTO. While extension of bilateral preferential arrangements is desirable into the future, Korea’s IPR protection policy is on a right track towards achieving the Bogor Goals overall. However, it still faces lingering instances of IPR violation in its private sector.

Chapter 8: Competition Policy

Korea is strengthening institutions to ensure fair business competition, and is aware of its importance as a trade facilitation measure. Recent changes include policies to upgrade the nation’s economy in line with the 3-year Market Reform Roadmap; establishing and facilitating voluntary regulation by market participants; enhancing the case handling process and related organizational capacity; and strengthening international cooperation.

Chapter 9: Government Procurement

Korea’s administration of government procurement through the PPS and the KONEPS electronic procurement system is impressive, and apparently very cost effective. KONEPS ensures transparent decision making and high standards administrative integrity. However, for whatever reason, foreign involvement in the government procurement market is constrained and possibly declining. This may reflect the small business and similar exclusions. If more of the sector was genuinely open to foreign presence the value-for-money benefits to the Korean taxpayer would be significant.

Chapter 10: Deregulation/Regulatory Review

We endorse the conclusion the OECD reached in its detailed study of April 2007. Korea has made impressive progress toward improving its regulatory framework. Its system has been further developed and consolidated since 2000 and the government's commitment to a "participatory society" has promoted a more transparent regulatory regime.

Chapter 11 Rules of Origin

FTAs which include divergent and complex rules of origin, differing in concept, detail, and administrative process add to trade facilitation costs. The issue is relevant for Korea and all economies negotiating FTAs.
Chapter 12: Dispute Mediation

Korea has been an active participant in WTO dispute settlement mechanisms, sitting on “both sides of the table”. Credible dispute settlement processes are extremely important for international business, especially when investing. Conscious of that, Korea has in place a portfolio of arbitration and mediation options, and is approaching the dispute settlement issue with measured and constructive intent.

Chapter 13 Mobility of Business People

Korea has been positively engaged in enhancing mobility of business people as part of trade facilitation, under its own policy initiatives (granting of visa), as well as under the APEC framework (viz., ABTC and API). While preferential treatment is provided bilaterally, the overall mobility of business people has been enhanced in line with achieving the Bogor goals.
1. Introduction: Korea’s Economic Performance

Over the 2002-2006, the period since the last the IAP, Korea’s real GDP grew on average by 4.76% with 5% growth in 2006. The expectation for 2007 is that growth will slow slightly to 4.5% partly because of a slackening in domestic consumption while export growth is also expected to be down on the previous year.

Inflation has been tending down. Over the past five years it has averaged 3% but was only 1.7% in January quarter 2007, on a year-on-year basis, notwithstanding record high oil prices through much of 2006.

In 2006, manufacturing and mining employed 18.1% of the total workforce, services 66.3%, agriculture 7.7% and construction 7.9%. The trend is for the share of total employment in the manufacturing and agricultural sectors to decline; more than offset by strong growth in employment in the service sector. The unemployment rate in 2006 averaged 3.6%.

There has been double-digit growth in exports since 2003. Korea’s current account has been in surplus for four consecutive years. Exports now represent 36% of Korea’s GDP.

Korea's fiscal position remains sound. Korea is one of the few OECD countries where the public sector, on a general government basis, has run a surplus every year since 1980. Korea's gross public debt remains one of the lowest in the OECD. Local governments account for half of total government expenditure

Koreans, on average, worked 2500 hours per year, 15% higher than in Greece, the next ranked OECD country, and 37% higher than in the US, itself above the majority of European countries.

Per capita income reached $US18,356 in 2006, the projection being that it will reach $US 20,000 in 2007.

2. Developments since last IAP

Policy Objectives

Korean economic policy underwent a fundamental reassessment in the aftermath of the 1997 crisis. The government is continuing to pursue microeconomic reform, to restructure each economic sector and to continue to upgrade the “economic system”. Financial restructuring has been the single most important focus, with ongoing reforms aimed at upgrading the banking and financial markets. Another emphasis is on improving the competitiveness of service industries and SMEs.

Korea’s aim is to develop an innovation driven economy where new technologies and creative talents are the engines of future economic growth. Cutting edge and high-technology industries are being fostered. Korea’s R&D budget, currently 3% of GDP and high by international standards, is being further enhanced. A total of 40 trillion won was earmarked from the national budget for R&D investment between 2003 and 2007.
The government is also expanding social and welfare expenditures, for example by widening the scope of social insurance entitlements, enhancing the education system, and stabilising the cost of housing for those at the lower end of the socio-economic scale.

**Longer Term Issues**

Longer term issues that weigh with Korean policymakers include:

- improving productivity to secure the country’s full potential, for example by further integrating into the world economy, by deregulating and opening up the financial sector, the service sector, and the labour market. The IMF sees particular scope for productivity improvement in the services sector where at present labour productivity is about 60% of that in manufacturing, the largest differential amongst OECD countries;

- the broader implications of globalisation, the closer integration of the Korean and international economy, the pressure generated for more symmetrical policies and policy responses to those adopted by other economies;

- the implications for Korea of the emergence of the BRICs whose contribution to the global economy is forecast to increase from 12 percent in 2005 to 33% in 2030. For Korea, like other economies, the BRICs pose opportunities and challenges: opportunities for export market expansion and profitable investment, and the challenge of increased competition as they move rapidly up the technology curve;

- demography: Korea’s population is ageing more rapidly than any other OECD country. Birth rates are exceptionally low. At present the fertility rate is 1.08; sustaining a stable population requires 2.2. Over the next 50 years Korea’s old age dependency ratio will increase from the third lowest to the fourth highest in the world due to a drop in fertility and increasing life expectancy. Labour supply growth is slowing: there is the expectation of a significant decrease in the working age population, an increase in average working age, a likely contraction in saving and consumption. Amongst the ways to address these demographic pressures are maintaining older workers in the workforce, designing policies to allow women to strike a better balance between career and housework, and improving the child-care system (for example by the provision of public and private child-care facilities);

- Korea has a relatively inflexible labour market: issues include narrowing the legal and economic differentials between full-time and casual and contract workers, and improving labour relations;

- ensuring an efficient foreign exchange and capital market.
International issues under debate

If the issues being analysed by the Korea Institute for International Economic Policy, a partially government-funded think tank, are indicative of wider trade relevant issues under debate in Korea, they include:

- the best strategies for Korea as it approaches advanced economy status, for example with respect to foreign direct investment, bilateral trade agreements, governance structures, national consultation around trade policy decisions; social cohesion and consensus, the balance between social policy and economic development;
  - one objective is to design a more comprehensive trade adjustment assistance program to assist industries detrimentally affected by trade liberalisation;
- the prospects and implications of a free trade agreement between Korea and a range of potential regional and bilateral configurations including the study of an East Asia free trade agreement, as well as further bilateral agreements, with China for example;
- the impact of China’s rapid advance toward high-end technology, and the role played by a foreign investment in this process. The Institute has been analysing the character and motivation of China’s own free trade agreements, in negotiation or in prospect;
- the prospects for Korea becoming a major financial hub for the Asian region and the general implications of closer cooperation between the economies of the region in times of balance of payments and other such crises; the potential of Korea to be a market for financial derivatives;
- the lessons for Korea from the economic and structural reforms that Japan has undertaken since the late 1990s;
- the very substantial GDP gains to be had if all APEC member economies were able to implement a 5% reduction in business transaction costs, an issue addressed in the Hanoi Action Plan to implement the Busan Roadmap toward the Bogor goals;
- what categories of foreign investment in the Korean services sector have resulted in higher economic performance;
- strategies for securing reliable sources of energy and the potential for enhancing Korean cooperation and investment in the Middle East and Pacific Russia;
- the potential for greater Korean interaction with India and its potential as a platform for international export development;
- the reasons the Doha Round is faltering.

Trade Developments

Value of trade

Korea's exports of goods and services grew from $US 207 billion in 2000 to $US 334 billion in 2005 (Goods exports in 2006 were valued at $326 billion).

Over the same period imports of goods and services grew from $US193 to $US315 billion, goods imports being valued at $US 309 in 2006.
Korea has maintained a significant surplus in its balance of trade, and balance of payments on current account, over this period.

**Direction of Trade**

There has been rapid growth in Korea’s trade with China. Goods exports to China, valued at $US18.4 billion in 2000, grew to $61.9 billion in 2005. Korea is now the second-largest exporter to China (after Japan) while China is the most important export destination for Korea. A significant portion of Korea's exports are capital goods and industrial supplies destined for Korean companies operating in China.


Korea's exports to the United States have been relatively static: $37.6 billion in 2000, $41.3 billion in 2005. Sales in the latter year were down slightly on 2004 levels.

**Composition of Trade**

Korea's major exports are telecommunications, sound recording, office machinery, electronics and electrical machinery, semiconductors, appliances, ships, motor vehicles and other transport equipment. Chemicals, textiles, iron and steel, were other major export categories.

Korea’s electronic exports accounted for 40% of total exports last year. The country holds a commanding 60% share of global sales of flash memory products, which is progressively replacing DRAM and hard drives in many categories of electronics hardware.

Imports include food and live animals, ores and scrap, petroleum, natural gas, iron and steel, electrical machinery and parts.

**Foreign exchange and exports**

Korea's recent export performance is the more notable as since 2004 the Korean won has appreciated more than any other currency in Asia. The cumulative appreciation of the won against the US dollar from December 2004 to December 2006 exceeded 12%, 29% against the yen. To date, exports have held up well reflecting Korea's inherent competitiveness, particularly in capital intensive goods such as machinery and electronics.

That said, the significant appreciation of the won is bringing the current account from surplus into balance, putting export profits under pressure. This is compounded by deteriorating terms of trade as Korea is suffering from a relative decline in prices for IT products. The terms of trade it fell by 36% between 1991 and 2005.
Foreign Investment

Underpinned by its awareness that foreign direct investment (FDI) has technological spill-over impacts\(^1\) on the performance of domestic firms, Korea has been attracting a relatively stable and high level of FDI inflow, which totalled $US 11.6 billion in 2005. The European Union was the source of the largest inflow followed by the United States, Japan and China. Almost all inbound investment was directed to the service sector. However, tightened tax rules and other policy changes contributed, arguably, to a 7 percent drop in FDI in Korea to $7.2 billion in 2006.\(^2\)

Korea’s overseas direct investment totalled $US 6.5 billion in 2005, 60% directed to Asian economies. Korea was a significant investor in China as Korean companies shift basic production to China. Significantly, small and medium enterprises (SMEs) account for over half of Korea’s foreign direct investment in China in 2005. Korea’s investment in overseas resources development reached $3.7 billion US in 2006. Most went into international oil and gas development.

Foreign Trade and Investment Policies

Korea’s economic development has been built around an export oriented growth strategy: it has enjoyed the advantages that have arisen from progressive post-war global trade liberalisation. Traditionally, Korea has been a strong supporter of the multilateral trading system. Its policy goals emphasise that it remains committed to a successful conclusion of the Doha development agenda.

However, of late the Government’s emphasis has been on building a network of free trade agreements based on “the simultaneous FTA promotion strategy”. Negotiations are conducted simultaneously with a number of economies “so as to reduce the time that would be required for sequential negotiations and to reduce the opportunity costs encountered by domestic commercial operations”.

FTA negotiations: summary

Korea first concluded FTAs with Singapore, Chile, EFTA, with relatively modest trade volumes involved, then with ASEAN at least as regards goods. At the time of writing, Korea had just concluded FTA negotiations with the US. Korea is negotiating with Canada and India, and has embarked upon a joint study process with China. Korea and the European Union (EU) launched their first round of official free trade talks on 7 May 2007. FTA negotiations commenced with Japan and Mexico but are at a standstill. Private level joint studies will be launched this year with Australia, New Zealand and Peru. Korea aims to become a major FTA hub through these proactive FTA negotiations.

Korea-US Free Trade Agreement.

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On April 2, 2007 Korea and the US concluded free trade agreement negotiations launched in February 2006, covering a wide range of trade-related sectors such as goods, trade remedies, investment, services, IPR, labour and environment. The agreement has yet to be signed, (due at the end of June this year) and then to be approved by the Korean National Assembly and the United States Congress. The agreement will create a free trade area whose combined economic size will mean it has the third largest trade coverage of any after the EU and NAFTA.

Highlights of the agreement, as advised to us by the Korean government, include:

**Industrial goods:** 94% of bilateral trade in manufactured, fishery, and forestry products will be duty-free within three years after entry into force of the agreement, and virtually all remaining tariffs will be eliminated within 10 years;

**US motor vehicle market:** the US agreed to immediately eliminate tariffs on passenger vehicles imported with the engine size smaller than 3000 cc and automotive parts.

The US also agreed to eliminate tariffs over three years for passenger vehicles larger than 3000 cc;

**Agriculture:** to balance Korea's sensitivities with US market access requests, the two parties agreed to exclude rice, to maintain base tariff rates under certain conditions, to adopt long-term phase-out, agricultural safeguards and tariff rate quotas for certain sensitive products of Korea;

**Textiles and apparel:** the US agreed to immediately eliminate tariffs on 61% of total imports by value and to exempt the application of the yarn forward standard for some of Korea's main export items. To address US concerns, the two parties agreed to strengthen anti-circumvention cooperation so as to block illegal imports from third countries seeking to enjoy benefits under the agreement;

**Outward Processing Zone (OPZ):** the two countries will establish a committee on outward processing zones on the Korean peninsula and designate such zones at a later date. This provides a foundation for enabling goods produced in certain areas of North Korea such as the Kaesong industrial complex to be recognised as South Korean originating goods under the FTA;

**Services/investment:** for services and investment, Korea and the United States improved upon their WTO commitments and provided meaningful market access commitments across virtually all major services sectors. Especially for business services including legal and accounting services where Korea’s need to enhance competitiveness through liberalisation is apparent, step-by-step liberalisation initiatives will be introduced;

**Regulatory transparency:** Korea will extend the minimum public notification period for proposed regulations or decrees from 20 to 40 days so as to enhance transparency in the rule-making process

Regarding US access to Korea’s market the United States Trade Representative's summary of the agreement indicates that:
• **automobiles:** "... it eliminates the discriminatory aspects of Korea's special consumption and annual vehicle taxes", Korea will not impose any new engine displacement taxes and maintain the non-discriminatory application of those taxes" Other provisions relate to certain (unspecified) non-tariff barriers in the auto sector;

• **agriculture:** $US1.6 billion of US farm exports to Korea will be immediately duty-free including wheat, feed corn, soya beans for crushing, hides and skins. Other agricultural products will have two-year or five-year tariff phase-downs. Tariff rate quotas for such products as skim and wholemeal powder, cheese, barley, popcorn, soya beans for food use will be expanded, as will market access for beef and pork products, pears, apples, grapes and oranges;

• **textiles and apparel:** the agreement provides reciprocal duty-free access immediately for most textile and apparel goods but with a special textile safeguard, allowing the United States to impose tariffs on certain goods, should injury occur due to import surges;

• **investment:** the US account refers to the agreement “establishing a stable legal framework for US investors operating in Korea”. By implication the investment provisions involve national treatment or MFN. The US wording reads: "with very few exceptions, US investors will be treated as well as Korean investors (or investors of any other country) in the establishment, acquisition, and operation of investments in Korea";

• **services:** "Korea ...improved upon its WTO commitments on services, and provided meaningful market access commitments that extend across virtually all major service sectors and includes services via both the cross border (such as through electronic means) as well as through a commercial presence”. “For the first time, there has been an opening of the market to foreign legal consulting services and a similar arrangement for accounting services”.

The USTR description also lists liberalisation benefiting:

- financial services,
- audiovisual products,
- telecommunication,
- e-commerce,
- pharmaceuticals and medical devices,
- protection of (US) trademarks,
- protection of copyrighted works,
- patent protection (the agreement provides that the extension of patent terms to compensate for delays in granting the original patent),
- penalties for piracy and counterfeiting,
- protection and promotion of worker rights,
- commitments and cooperation to protect the environment,
- expanded access to government procurement contracts, (nine additional Korean government entities are covered than are presently under the government procurement agreement)
- national treatment to US persons for participation in the development of standards, technical regulations, and conformity assessment procedures.

- Other sectors in the agreement effect trade remedies (eg enhanced cooperation on anti-dumping, global and bilateral safeguard measures)

**Earlier FTAs**

Earlier agreements with Chile, Singapore, EFTA and ASEAN were negotiated between December 1999 and August 2006.

**Korea-Chile FTA**

Korea’s tariff reduction schedule under the FTA saw the immediate liberalisation of virtually all industrial products. The agreement will ultimately see Korea liberalise all manufactures, fisheries and forestry products. Liberalisation of farm products is partial and protracted. 15.6% of agricultural items were immediately made duty-free, 38% are to be liberalised after five years, 16.3% liberalised over 7, 9, and 10 years respectively: a few were subject to a 16 year timetable for duty elimination. Still others are liberalised within a tariff quota or are subject to seasonal quotas. The outcome on some 373 agricultural items was left to the Doha Development negotiations. 21 items, including rice, apples, and pears, were permanently excluded from liberalisation.

For its part, Chile immediately liberalised 41.8% of its tariff lines including almost all its farm product and forest product tariffs and 31% of its industrial products. By Year five it will have eliminated another 41% of its industrial product tariffs, an additional 24% being eliminated in Year 10. Some products, essentially textiles and clothing, will not be fully liberalised until Year 8 of the agreement. A few, for example washing machines and refrigerators, are excluded from future liberalisation.

Other provisions covered investment stimulation, the expansion of trade in services, a safeguard provision for surges in agricultural imports, dispute resolution procedures, government procurement, strengthening intellectual property rights including geographic indicators, and detailed rules of origin.

There has been a substantial increase in bilateral trade since the effect of the agreement. However the period has also coincides with a rise in copper and other metal and resource prices, major export items from Chile to Korea.

One domestic measure put in place subsequent to the Chile agreement was a structural adjustment scheme for Korean farmers who may be affected by the FTA. Some 1.2 trillion won was set aside for a compensation scheme. Under it 144 billion won was paid to 11,340 farming households who stopped production of grapes, kiwi fruit and peaches. In the event, Korean grape and kiwi fruit production increased after the agreement entered into force. Any damage to Korean farmers, if such occurred, has been slight.

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3 The Korea-Chile FTA: Significance and Implications. Chung Hae-kwan. East Asia Review Spring 2003
Korea - Singapore FTA

The agreement with Singapore entered into force in March 2006. It commits the two governments to eliminate all tariffs on substantially all trade in goods. Under the agreement all Korean exports will immediately enter Singapore tariff free and Korea will eliminate tariffs on 91.6% (in terms of product lines) of goods from Singapore within 10 years (immediate liberalization: 59.7%, liberalization within 5 years: 17.8%, liberalization within 10 years: 14.1%).

The FTA covers all services except air traffic services and public services and provides the national treatment, prohibiting each party from requiring a local presence with a few exceptions, the subject of a negative list approach.

Korea- EFTA FTA

The agreement with the EFTA entered into force on 1 September 2006. It commits the parties to eliminate all tariffs on substantially all trade in goods with the exception of agricultural goods which are subject to separate agreements with each respective member state of EFTA.

Korea- ASEAN FTA

An agreement on trade in goods was concluded in May 2006. Negotiations are still continuing on services and investment. Korea and Thailand have launched bilateral consultations for the joining of Thailand in the Agreement on Trade in Goods.

Developing Country Status

Korea opts to retain developing country status, though it is conscious that the issue cannot be left in abeyance indefinitely. Korea has been a member of the OECD for the past decade. It is an exporter of some of the most technologically advanced manufactures, and a significant international investor. Per capita income is now in excess of $US18,000, still below the average for OECD countries, but is increasing steadily and expected to reach $US 20,000 in 2007.

The practical effects of developing status retention for Korea are limited. No major trading partner accords Korea developing country preferences. It appears that, as with a number of other elements of Korean trade policy, that the main rationale for retention is linked to concerns that agriculture remains vulnerable and Korea can better defend its high support levels if it retains DC status. The issue also has relevance to the applicable timeframe for fulfilling the Bogor goal.

Korea is a member of the Asia-Pacific Trade Agreement (the former Bangkok Agreement) and provides tariff preferences on 726 items to five economies under its provisions.

Under GSTP, Korea grants tariff preference on 89 items to 49 least developed economies.
**Korea and Bogor**

Korea:

“remains fully committed to the Bogor goals of trade and investment liberalisation and facilitation, and will continue to reduce tariffs comprehensively both at the multilateral, regional and bilateral level.”

As recorded in the last IAP Review in 2002, in response to the financial crisis of 1997 Korea internationalised and deregulated its economy, reformed many areas of public administration, opened up the financial and some other services sectors, reinvigorated competition policy, and generally made government decision-making more transparent. That remains its broad policy direction.

**Trade policy: consultation and decision-making**

The OECD comments that “Korea has a strong presidential system of government and hence, central government agencies operating with presidential support are in a key position to promote reform across all sectors of government. These agencies can provide leadership and direction to the reform process to ensure that progress is made and momentum is maintained.”

Nevertheless, the negotiation of FTA agreements has been contentious in Korea. As with the Uruguay Round, the spate of free trade agreement negotiations has excited public interest and debate and politicised international economic policy. The government comments that it has been:

“difficult to build a consensus between the people, and there has been strong opposition to FTAs by those who are working in companies that do not have the capacity to survive, and domestic interest groups against the FTAs have also arisen. Countermeasures to support these companies have become a foremost priority.” (see question 9)

Routinely, decision-making on trade policy issues involves the major departmental ministries interacting closely with government advisory bodies, Korean industry, academia, and think tanks. The National Assembly is obviously, often vigorously, involved.

The Korean government has been reviewing decision-making arrangements to facilitate high-level ministerial consideration of the trade-offs between the trade policy, deregulation, industry policy, and foreign policy objectives.
3. Assessment of Korea’s IAP (Chapter by Chapter)

Chapter 1: Tariffs

APEC economies will achieve free and open trade in the Asia-Pacific region by:
   a. progressive reduction of tariffs until the Bogor goals are fully achieved;
   b. ensuring the transparency of APEC economies’ respective tariff regimes.

and Chapter 2: Non-tariff Measures

APEC economies will achieve free and open trade in the Asia-Pacific region by:
   a. progressively reducing NTM’s to the maximum extent possible to minimise possible distortion to trade;
   b. in respect of WTO members:
      • elimination of any measures inconsistent with WTO agreements;
      • full compliance with WTO agreements,
   in accordance with WTO agreements; and
   c. ensuring the transparency of APEC economies’ respective non-tariff measures.

Korea’s simple average bound tariff rate in 2006 will be 17.2% compared with 27.6% in 1996, and 17.67% at the time of the last IAP in 2002. When all WTO commitments are finally implemented in 2009 the average bound tariff will stand at 17%, relatively high by international standards.

There is a marked difference between the bound rates applying to agricultural products (currently averaging 61.1%) and those applying to industrial products, which currently average 10%. 91.5% of all tariff lines are bound, metals and agriculture (excluding fish) being the sectors with the highest coverage of bindings.

Korea’s simple average applied tariff in 2006 is 12.8%, (defined in the terminology used by the WTO), down slightly from the rate that applied in Korea’s 2002 (13.54%). Applied tariff rates averaged 7.2% on an import-weighted average-applied rate basis. The simple average applied tariff for agricultural products in 2004 was 47.9% in contrast to the rates applying to industrial products which averaged 6.6%. The textile and clothing sector has a 9.8% on average tariff.

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<th>Table 1-1 Summary of Korean Tariffs</th>
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<td>All goods</td>
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<td>Agriculture</td>
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<td>Textiles and clothing</td>
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<td>Chemical and photographic supplies</td>
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<td>Non electrical machinery</td>
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<td>Electrical Machinery</td>
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<td>Duty free Tariff lies as a percentage of all tariff lines</td>
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<td>Simple average bound tariff</td>
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<td>Simple average applied tariff</td>
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The Korean government advises that the average applied tariff for the FTAs negotiated with Chile, Singapore, and the EFTA countries is 2.03% against the average applied MFN tariff of 12.82%, a differential of 10.79 percentage points.  

**Unilateral tariff reductions.**

In August 2006 the basic customs duty on major energy items including crude oil, and LNG and LPG were lowered from 5% to 3%. However flexible tariff rates, currently operating at a lower level, have been kept in place for the time being.

**Tariffs as budget revenue**

By international standards a significant proportion of Korea's total government revenue comes from customs duties. In 2006 some 4.8% of national government revenue came from that source.

**Flexible tariff system**

In certain sectors Korea's flexible tariff rate regime means the differential between bound and applied rates can take on significance..

Employing a number of different mechanisms and rationales, the system allows the Korean government to increase or decrease certain tariffs at its discretion. The mechanisms include:

**Adjustment duties** which are designed to protect domestic, competitively weak industries from import surges that threaten to disrupt the domestic market. These duties are set annually by the Ministry of Finance and Economy (MOFE) after examining the “protection of domestic industry, international trade relations and the impact on the national economy as a whole.”

Eighteen items are currently subject to adjustment duties: six agricultural products, ten fisheries products, plywood, and surface-mounted machines for electronic parts. As the WTO Secretariat commented in the last WTO Trade Policy Review, the imposition of higher MFN adjustment duties within Korea's bindings reflects the significant gap between its applied tariff rates and bound levels.

Korea's customs legislation, and the provisions of the Uruguay Round agreement on agriculture, also allow for **special emergency tariffs** on agricultural, forestry and livestock products in the event of sharp increases in imports or falls in import prices. Special tariff safeguards apply to a range of agricultural products with some 44 items, including ginseng root, groundnuts, and small green beans amongst the products subject to special safeguard actions in 2006.

**Usage tariff rates** are specified in the tariff schedule. These are low provisional duties used to exempt imported inputs for specified end uses from applicable tariffs.

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4 Korean Government's response to question 23 on the IAP Questionnaire  
5 See ROK answer to IAP supplementary question 41  
6 ditto Para 34.
In similar vein, Korea provides an exemption from customs duties, special excise tax, and value-added tax for three years for capital imports by foreign investors in the high tech industry or operating in a foreign investment zone.

Similar in concept, autonomous tariff quotas provide lower in-quota duties for certain imported imports, including those used in specified end uses. They are autonomous in the sense that Korea itself determines the quota level taking into account supply and demand, and are not constrained by international commitments.

Korea argues that the purpose of the quota is to stabilise domestic prices by imposing low tariff rates on the items imported. Eighty nine items are currently subject autonomous tariff quotas. The request for, and the control of, these quotas originates with domestic producers: quotas are allocated on a first-come first-served basis.

Alternate tariffs allow import duties to be set at the higher of an ad valorem or a specific duty. They apply to a range of manufactured and agricultural items.

The WTO Secretariat has commented that, because of the uncertainty as to the actual duty that will result from their application, non ad valorem duties undermine economic efficiency, transparency, and tariff predictability.

The number of items falling within the broad “flexible tariff” descriptor has been cut. It is the government's intention to further reduce its scope. The government has stated that:

"Korea plans to reduce or remove gradually the flexible tariffs in line with the reduction of tariff rates resulting from the DDA and FTA negotiations and the necessity to enhance transparency and predictability of tariff rate policy."

In DDA negotiations Korea has expressed the view that would be desirable to eliminate all non-ad valorem duties, and that it would do so if generally agreed.

The uncertainty is an economic cost and it would be desirable for access to be subject to lower, precisely determined, clearly known duties.

One aspect which will require clarification is the implications for the administration of the flexible tariff system arising from the negotiation of free trade agreements. Presumably FTA partners will negotiate to avoid, or constrain, the application of adjustment duties, and emergency safeguard tariffs to them. Korea would need to ensure that the remaining MFN suppliers are not subject to more intense restriction through the flexible tariff system if FTA suppliers are excluded from its ambit.

Anti Dumping

Korea regularly applies anti dumping duties. As at 31 December 2006, some 26 actions involved the application of definitive duties, 5 price undertakings were in force, and 15 new investigations, or reviews of existing actions, were underway.8

7 Ditto Para 42.
8 WTO Document G/ADP/153/KOR, OF 1 February 2007
Tariff quotas

Tariff quotas apply to 63 product groups, all in the agricultural sector. Quota levels are often small, and the out of quota tariff rates, which were established in the Uruguay Round tariffication process, often extremely restrictive. It is common for out of quota tariffs to exceed 100%, and in one case 800% ad valorem.

The tariff quotas are administered by some 22 different organisations including ministries, producer groups, and state trading entities. On occasions, the administering authority is owned or controlled by domestic producers competing with the imported item.

Different mechanisms for quota allocation and administration are employed. They include the auctioning of quotas, “designation”, real demand allocation and a combination thereof. Korea argues that the different administration methods and the diverse range of entities reflect different characteristics and the distribution system of different imported items, and they efficiently manage market access volumes.9

Credible import administration would require that directly interested parties were not directly involved in controlling imports.

Significantly, notwithstanding substantial differentials between international and Korean internal prices, tariff quotas are frequently underutilised. The average utilisation rate for tariff quotas is 63%.

Import quotas and non-tariff barriers.

Korea maintains non-tariff measures to protect health, hygiene and sanitation, safety, and the environment, as well as to comply with obligations under international agreements.10

Rice is now the only product subject to import quota restrictions. However, Korea's WTO minimum market access commitments on rice permitted the continuation of an import quota but require a growing minimum market access undertaking. Under the arrangements re-negotiated in 2004, Korea is obliged to import close to 8% of its domestic consumption of rice by 2014.

In the years after the Uruguay Round, rice imports were permitted solely for processing use. In 2004, some 10% of rice imports were allowed to enter as table rice for direct domestic consumption. Under the revised arrangements 30% of rice imports must be available for table consumption by 2010.

One way of indicating the cost of protection of this sector to the Korean consumer is that the average price on the international market for rice over a five-year period was $US363 per ton. Korea's farm gate price for rice over the same period was $US1652 per ton.11

9 See answer to Question 31.
10 IAP 2006.
All other import restrictions were liberalised by January 2001.

**Import Levies**

Some 35 items are subject to import levies including petroleum oils, their preparations, natural gas and petroleum substitute fuels.

**Tariffs, NTBs and the Bogor goals**

With applicable tariffs averaging 12.8% there is still a significant reduction required to reach the Bogor target. Agriculture, where protection runs at high levels, presents the most significant challenge. Nevertheless,

"Korea has made continued efforts to implement strategies and create policy options, as well as extending research in this regard, and will continue to contribute to the achievement of the Bogor goals by 2010/2020"

The mechanism that will definitely impact average applicable tariffs will be the reductions negotiated in the context of FTAs. Their impact amongst other APEC economies will be variable, depending on whether or not they negotiate an FTA with Korea, and if they do, the concessions agreed. In the absence of such an agreement, the composition of the trade of the country concerned will be important.

Korea has also negotiated an FTA with a non-APEC grouping (EFTA) and commenced negotiations with the European Union. Again the implications for APEC members are uncertain, but conceivably Korea could be extending preferences to Europe to the detriment of those APEC economies with whom Korea does not have preferential arrangements. Where a country does not pursue, or secure, an FTA with Korea, the possibility of trade diversion and market share loss exists. The potential for trade diversion is greatest in where protection is highest, once again agriculture, textiles, services being the obvious focus.

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on this point is as follows: “In order to enhance comparability of the price of the Korean rice with the international market price, we believe that the price of high quality short grain rice, not the average price, should be used”. According to a conference report by the United Nations Food and Agriculture Organisation, the world-average export price of medium/short grain milled rice in 2000 is reported to be US$367.71 per ton (http://www.fao.org/rice2004/en/pdf/wailes.pdf), which is almost identical to the five-year average in the main text. Note here that the concept of “high quality rice”, or “rice with less than 10% of broken grains” (as per the United Nations Conference on Trade and Development, http://www.unctad.org/infocomm/anglais/rice/quality.htm), is not applied. According to a study on China, however, the markup rate for high quality rice is just 10% (http://www.ers.usda.gov/publications/wrs012/wrs012g.pdf).

12 Korea’s comments that: “Korea has concluded FTAs with Chile, Singapore, and the US in addition to the EFTA. It has been negotiating FTAs with ASEAN, Canada and India, and also launched a joint study with China. These economies overlap with many APEC member economies, therefore, we do not believe it is proper to say that Korea’s FTA policy will be detrimental to APEC economies.”
The agricultural challenge.

Korean agricultural policies have evolved in a number of constructive ways since the last IAP, but the sector remains sensitive and complicates Korea’s international trade negotiations. The country's ability to meet its Bogor commitments is intertwined with the future evolution of its agricultural policy and its approach to trade liberalisation affecting agriculture.

Agricultural Policy Objectives

The objectives of Korean agricultural policy are changing to some extent, as are the policy instruments used. One constant is the determination that Korea will produce food that is safe and of high quality. There is now emphasis on organic and environmentally friendly production methods.

A social policy objective is to narrow the gap between urban and rural incomes.

Current policy also emphasises the "multifunctional" aspects of rural activity, its contribution to an amenable physical and psychological environment, and its visual and potential tourism importance.

Until recently, policy, particularly for rice, aimed to secure self-sufficiency and insisted on domestic production of rice and the exclusion of imports. Necessarily that design rationale has had to be modified since the Uruguay Round and the resultant minimum market access commitment.
A mountainous country Korea has limited cultivatable land, with competing demands from agriculture, industry and residential housing. Notwithstanding land reclamation and drainage, the land area cultivated fell from 2.2 million ha in 1980, to 1.8 million ha in 2004. This trend is expected to continue.

In 2004, just over 7% of Koreans lived on the land, compared with 44.7% in 1970. The speed with which population and economic activity has relocated in Korea is almost without historical precedent. Many urban Koreans retain family and historical links to rural communities. There is a strong regard for the rural way of life.

The farm population is ageing. Over 60% of farmers are over 60 years old. In 2005 some 64% of farm households were full-time rural operations. Average farm size is small by international standards with only 6.5% of farm households working in excess of 3 ha.

Rice contributes 32.5% of gross farm receipts, livestock 18.9%, vegetables 24.6%, fruit 11.1% and “other” 12.9%.

The average income of people engaged in agriculture is about 76 percent of urban income levels in 2001 and falling.

Both rice production and rice consumption have been falling. Consumption has dropped from 5.2 million metric tons in 1990 to 4 million metric tons in 2003. A limited amount of rice is now being imported in accordance with the minimum market access arrangements negotiated in the Uruguay Round, updated in 2004.

The most rapid increase in agricultural production has taken place in the greenhouse sector where acreage has increased from 11,000 ha in 1980 204,000 ha in 2004. Government publications comment that: " considering income from greenhouse farming is five to 10 times more than that of field farming in the same size of the area, the items the greenhouse farming will be diversify and expanded more in days to come " Capital and technology intensive, greenhouse farming has been developed with the government's strong financial support.

Recent policy announcements and new policy designs have been developed with an eye to WTO consistency. Over the past two years specific measures have, for example:

- replaced the pre 2005 support arrangements involving annual direct purchasing and stocking of rice with a two tier income support system. A fixed component pays 600,000 won per hectare each year for the benefits that come to the public from maintaining rice paddies. The second tier is a variable payment system whereby, if the market price of rice falls below a target price, the government pays 85% of the difference;
- established a program for disaster insurance and other measures designed to minimise farm management risks;
- established farm income and management safety nets so as to prevent drops in farm income following market liberalisation; this includes various schemes to promote structural adjustment;
- supported environmentally friendly farming practices;

Box 1. Korean Agriculture
• ensured high standards of food safety.

Changes have also been directed to providing support to the ageing farm population through:
• the pension,
• assistance with health insurance fees;
• assistance with children's education costs;
• and community welfare schemes more generally.

Box 2. Korea’s assistance to agriculture

Korea's Producer Support Estimate (PSE) is amongst the highest in the world. The PSE, the subsidy required to compensate producers of a commodity if government support were to be withdrawn, is an indicator of the level of assistance extended by government intervention of one means or another to agriculture.

In 2005, OECD statistics indicate that Korea's PSE for agriculture overall was 23.9 trillion won or 63% of the value of rural production. Rice, the dominant product in Korea's agricultural production, had a PSE of 76%.

By way of comparison New Zealand's PSE, in 2005, was 3%, Australia's 5%, China's (in 2003) 8%, United States 16%, the EU 32%, Japan 56%.

The OECD, for 2005, also calculated the total support estimate for Korea to be $27.1 trillion won, which is 3.35% when expressed as a share of GDP.

This is very close to the total value of Korean agriculture's farm-gate contribution to GDP, estimated at 4.4% in that year.

Source: OECD Agricultural Policies in OECD Countries at a Glance. 2006

Automobile Tariffs

An issue that has been contentious, particularly between Korea and the United States, is the special consumption tax that applies to motor vehicles with an engine capacity in excess of 2000 cc. Above this size the consumption tax rate is 10%, below it is 5%.

Korea explains the difference by the fact that automobiles with large engine sizes are generally more expensive and burdensome to the environment, energy consumption and traffic than are smaller vehicles. Korea itself, manufactures cars with engine capacities exceeding 2000 cc.

An annual vehicle tax is also imposed by local governments, based on engine capacity. Vehicles whose engine capacity is less than 800 cc face a tax of 80 won per cc rising, by a graduated scale, to vehicles of more than 2000 cc where the tax rate is 220 won per cc.
Indications are that the recently concluded US Korea FTA negotiations have resolved this disagreement from a bilateral perspective: tax adjustments (including the above two) will apply MFN, tariff adjustments will be preferential.

**Overall Assessment Chapters 1 and 2**

Bound tariff and simple average applied tariff rates have remained largely unchanged since the last IAP in 2002: they are relatively high by international standards. The flexible tariff system, with its attendant uncertainties, remains in place. Korea’s active negotiation of free trade agreements will mean certain APEC economies can expect to encounter a significant reduction in tariff barriers in coming years. Others, specifically MFN suppliers, may not be so well-placed: some may encounter trade diversion. In any context, be it FTA or MFN, the agricultural sector will generate the greatest hurdle to Korea’s reaching the Bogor goals. There are signs of some positive trends in domestic agricultural policies, but Korean agriculture, now as previously, remains insulated.

**Chapter 3: Services**

*APEC economies, in accordance with the APEC Policy Framework for Work on Services, will achieve free and open trade and investment in the Asia-Pacific region by:*  
  a. progressively reducing restrictions on market access for trade in services;  
  b. progressively providing for inter-alia most favored nation (MFN) treatment and national treatment for trade in services;  
  c. providing, in regulated sectors, for the fair and transparent development, adoption and application of regulations and regulatory procedures for trade in services; and  
  d. recognising the role that e-commerce plays in the supply and consumption of services.

**Services: overview**

Liberalization of Korea’s service sector has been difficult due to the relatively underdeveloped state of domestic service industries, as mentioned in Korean Overseas Information Service (2005). Nevertheless, the Korean government has taken several unilateral actions toward the sector’s eventual full opening. Korea now sees service sector liberalization not as a forced undertaking but as a way to further improve its domestic service provision, aiming at a “win-win” situation for both foreign investors and domestic consumers. Korea has made commitments in 104 of 155 sectors under the WTO. In order to make contribution to the progress in the multilateral services negotiation, Korea has submitted its first revised offer in time, and is planning to submit a meaningful revised offer upon resumption of the Doha Development Agenda.

According to its IAP report 2006, Korea’s keen areas of interest in services are the liberalization of the infrastructure services, such as maritime transport, construction, telecommunications, distribution, and financial services. Korea recognises that these services are particularly important since they are support services essential for the development of other service sectors as well as other industries including manufacturing.

The government is considering making changes to the law that currently provides support for the people who are affected by trade liberalization in goods so that services can be included in the law.
**Business Services: Legal**

As of this writing, Korea does not allow foreign lawyers (with foreign licences only) to provide legal services in Korea. The Korea-US FTA signed on 1 April 2007, however, stipulates step-by-step opening up by Korea of legal consulting services to foreign (that is, US) lawyers. While Korea is planning to open its legal service market to foreigners on the basis of the ongoing negotiations on legal services in the WTO framework, extension of the preferential treatment covered under the Korea-US FTA would be another desirable option. International business sentiment seems to view restrictions in this area as having a negative impact on foreign investment inflow in Korea.

**Business Services: Accounting**

Both local and foreign service providers are subject to the same sets of CPA qualification and registration requirements. A person can obtain a CPA qualification in Korea by passing the examination administered by the MOFE. As of now, only Certified Public Accountants (CPA) registered with the Ministry of Finance and Economy (MOFE) can provide accounting services, as prescribed in the CPA Law. Under the Korea-US FTA (agreed upon on 1 April 2007), foreign (that is, US) accountants shall be allowed step by step to operate in Korea. Apart from this bilateral arrangement, mutual recognition of accounting licenses is not secured in Korea which is also the case in most other APEC member economies.

**Business Services: Architectural**

The Ministry of Construction and Transportation employs the Certified Architects Act to stipulate the qualifications of an architect and the execution of architect service business. While the Korean market itself is open to foreign participation, a person who possesses a foreign architect license or qualification may perform business of a certified architect only jointly with a domestically certified architect office. Enhanced utilization of the “APEC Architect”, which is an APEC-wide framework to facilitate the cross-border mobility of architects, is welcomed by Korean architects overall, and Korea participated actively in the drafting of APEC Architect Operations Manual, which was released in 2005 for APEC-wide reference.

**Business Services: Engineering**

There are no special restrictions in terms of national treatment and market entry for construction enterprises (i.e., local commercial presence or mode 3 of GATS is secured). However, there are no market opening measures for construction engineers (mode4) in addition to the ones indicated by the Korean government in the horizontal commitment of GATT. Although Korea is participating in the APEC engineer system, no mutual recognition agreement has been concluded until now.

**Business Services: Other Professional Services**

While mutual recognition of license for veterinary medicine is not provided, a person who majored in the discipline in a foreign university which satisfies the standards required by the Notification of the Ministry of Agriculture and Forestry, and acquires a license for veterinarian can apply for the national veterinary examination. Whether a foreign university qualifies or not is determined by the National Veterinary Research and Quarantine Service which is in charge of the National Examination.
Business Services: Other
In printing and publishing services, there are restrictions on foreign investment. For daily newspapers, up to 30% foreign equity participation is allowed, and for periodicals other than daily newspapers and for news agency services, a 50% ceiling is in place. Also, a publisher or an editor of a periodical in Korea must be a Korean citizen domiciled in Korea.

Communication Services: Postal
Korea’s policy stance is that the postal services are offered by the state and the service is not an area in which foreigners can invest. This arrangement seems to be widely observed across APEC member economies.

Communication Services: Express Delivery
Overland freight trucking or forwarding service providers must conform to the requirements for trucking or forwarding service providers prescribed by the Trucking Transport Business Act. Freight trucking service providers must obtain a license for freight trucking business or freight forwarding business under the Trucking Transport Business Act to conduct overland freight trucking business.

Communication Services: Telecommunications
As for market entry, foreign entities can own up to 49% share of facilities-based operators, while the newly agreed-upon Korea-US FTA allows indirect US ownership (through a juridical entity established in Korea) up to 100% share of facilities-based operators, subject to public interest test. In terms of technical standards, Korea adopts a technical standard called CDMA (Code Division Multiple Access), one of major standards used widely in Asia and Europe and the US. Regarding operational requirements, since 2004 the interconnection fee is calculated on the basis of LRIC (Long-run Incremental Cost) since 2004. For the 2G services, number portability was introduced by SK Telecom (on January 1, 2004), KTF (on July 1, 2004), LG Telecom (on January 1, 2005). Number portability between 2G and 3G has been implemented since Jun 2006. Foreign entities can own up to a 49% share of facilitate-based operators. Korea made commitments consistent with current domestic regulations in the WTO Agreement on Basic Telecommunications, including adopting the Regulatory Principles of the WTO Reference Paper.

Communication Services: Audio Visual
In the radio and TV production and transmission sector, cross ownership, which is a type of media ownership in which one type of medium owns or holds shares of another type of medium, is prohibited. As for foreign entry in the sector, restrictions on foreign investment for cable broadcasting, program providing business was reduced in 2006, from 33% to 49% in terms of foreign equity participation, while there is no change for satellite broadcasting business, standing at the ceiling of 33% of foreign equity participation. The number of channels possible for retransmitting foreign broadcasts was increased from 10% to 20% of total operating channels in 2006. A theatre operator must show Korean movies for no less than a fifth of the annual running days from January 1 to December 31 every year, according to Article 13 Enforcement Decree of the Promotion of the Motion Pictures Industry Act, July 1, 2006.

Construction & Related Engineering Services
Where a foreigner or a foreign corporation operating an office in foreign economies desires to register as a construction firm in Korea, the applicant shall establish an office in the country and conclude the registration of construction business in order to execute a construction work. As of now, there are 24 foreign construction companies, of which 8 are general construction companies and 16 are specialized companies.

**Distribution Services**
As regards foreign entry, no restrictions exist except for the horizontal measures in market access and national treatment listed for the mode 4 of supply, and for the horizontal measures in national treatment listed for the mode 3 of supply. The following services are excluded from foreign entry: trade in pharmaceuticals, medical and functional goods; firearms, explosives and swords; works of art and antiques; and operation of and distribution services at the public wholesale markets for agricultural, fishery and livestock products.

**Education Services**
The government deregulated the establishment and operation of foreign educational institutes by in principle excluding foreign institutes from the obligations of current domestic education laws, including the Higher Education Act and Private School Act. This exclusion was realized with the Act on the Establishment and Operation of Foreign Educational Institutes (on December 1, 2005) and the Special Act on the Establishment and Operation of Foreign Educational Institutes in Free Economic Zones and the Jeju Free international City (on May 31, 2005). As for kindergarten, primary and secondary schools, foreigners can work as foreign language teachers in the specialized areas designated as Foreign Language Special Districts by the Regionally Specified Development District Act (as of December 31, 2005).

**Environment Services**
Currently, there are no laws or regulations that limit foreigners’ entry to the environmental service market. In principle, foreigners can provide environmental services. However, since public services are offered by the government or local self-governing bodies, foreign businesses have difficulty in entering the environment service market which is part of public service in Korea.

**Financial Services**
In the banking sector, the current arrangement is that when any foreign financial institution established under a foreign act or subordinate statute and conducting banking business in a foreign country that intends to establish any branch, agent or office to conduct banking business in the Republic of Korea, or to close any branch or agent, shall be subject to authorization by the Financial Supervisory Commission under the conditions as prescribed by the Presidential Decree.

Commercial presence (Mode 3 of GATS) is required for the foreign entry of non-life insurance and securities companies (Mode 4 market entry is not allowed). In the insurance sector, a person who owns a subsidiary of an insurance company as well as a person who runs an insurance company directly in a foreign country can be licensed to conduct an insurance business (effective August 30, 2003).

Under the bilateral Korea-US FTA, the US financial institutions shall have full rights to establish or acquire financial institutions in Korea to provide comprehensive financial
services (Mode 3). Also, Mode 1 market entry by US financial institutions shall be allowed within a specified list of financial activities.

**Health Related & Social Services**
Foreigners are permitted to provide all kinds of medical service in Korea as long as they have obtained the appropriate licenses from the Minister of Health and Welfare. Foreigners are also afforded the same treatment as Korean nationals in providing any kind of medical service, as long as they have obtained the required licenses. In essence, Korea does not recognize foreign licenses in this sector.

**Tourism & Travel Related Services**
There is no foreign entry requirement in this sector. Tourist hotel service shall comply with the registration standards as prescribed by the Tourism Promotion Act. Restaurant services shall comply with the registration standards as prescribed by the Food Sanitation Act. Travel agencies shall comply with the standards as prescribed by the Tourism Promotion Act. A restaurant is required to obtain a license to provide food and drinking services as prescribed by the Food Sanitation Act.

**Recreational Cultural & Sporting Services**
In the entertainment sector, a foreigner who seeks to hold or provide a public performance in Korea or a person who desires to invite a foreigner to hold a public performance in Korea shall obtain recommendation from the Korea Media Rating Board. (Article 6, Performance Act)

As for news agencies, any person who is an operator or editor must be a citizen of the Republic of Korea and have domicile in the territory of the Republic of Korea. Also, a 25 % ceiling on foreign equity participation exists in establishing a news agency.

In the sports and other recreational services sector, the bicycle & motorboat racing sector is restricted to government institutions or public organizations, and horse racing is exclusively operated by the Korea Racing Association.

**Transport Service**
In aviation and maintenance/repair of aircraft service, there are no restrictions for foreigners under the Aviation Act with the exception of a local residency requirement. Foreign enterprises can supply rail transport for the routes newly built after July 1 2005, and on condition of implementing the Economic Needs Test and regulations on licenses of the Railroad Enterprise Act.

**Energy Services**
In services incidental to the mining sector, there will be no restrictions for foreign entry into the market except for horizontal measures in market access and national treatment listed for mode 4 of supply. In the sector of wholesale trade services, there is a test to evaluate the economic needs for wholesale trade of gaseous fuels and related products. The main criteria are the formation of reasonable prices, the number of and impact on existing suppliers for balance of supply and demand, the healthy development of industries, and the establishment of orderly trade. In addition, population density, traffic, environmental pollution, local conditions, and other local characteristics as well as public interests are other criteria. Also in the sector of retail services, there is an economic need test for gaseous fuels, whose criteria are the number of and impact on existing suppliers in order to achieve a balance of supply and demand, population density, traffic,
environmental pollution, local conditions, and other local characteristics and the interest of the public. In the pipeline transport sector, there are no restrictions for foreign entry into the market, but only oil transportation excluding LPG, except for the horizontal measures in market access and national treatment listed for mode 4 of supply.

**Overall Assessment**
Korea's service sector is characterized by diversity in the level of liberalization across its sub-sectors, as noted in the previous IAP peer review report 2002. Korea has not always committed to binding across-the-board service sector liberalization, due mainly to domestic policy considerations. Overall, however, Korea’s service sector has been experiencing a rapid opening up, both multilaterally and bilaterally with the US, and hence is on track towards achieving the Bogor goals.

**Chapter 4: Investment**

*APEC economies will achieve free and open investment in the Asia-Pacific region by:*

(a) Liberalizing their respective investment regimes and the overall APEC investment environment by, inter alia, progressively providing for MFN treatment, and ensuring transparency; and

(b) Facilitating investment activities through, inter alia, technical assistance and cooperation.

Table 4-1 shows foreign direct investment (FDI) inflows in Korea by country. As shown, the level of FDI inflow in Korea increased rapidly in the 1980s, soared sharply in 1997, hit its peak in 1999 and recently has been fluctuating around $10,000 million. In terms of investing economies, the contribution of the United States and Japan remain significant.

**Table 4-1 FDI in Korea by country, 1980-2005**

<table>
<thead>
<tr>
<th>Year</th>
<th>Total (US$ million)</th>
<th>United States</th>
<th>Japan</th>
<th>Hong Kong</th>
<th>Germany</th>
<th>United Kingdom</th>
<th>France</th>
</tr>
</thead>
<tbody>
<tr>
<td>1980</td>
<td>143.1</td>
<td>70.6</td>
<td>42.5</td>
<td>0.5</td>
<td>8.6</td>
<td>2.3</td>
<td>-</td>
</tr>
<tr>
<td>1985</td>
<td>532.2</td>
<td>108.0</td>
<td>364.3</td>
<td>13.4</td>
<td>11.3</td>
<td>12.3</td>
<td>5.1</td>
</tr>
<tr>
<td>1990</td>
<td>802.6</td>
<td>317.5</td>
<td>235.9</td>
<td>3.0</td>
<td>62.3</td>
<td>44.8</td>
<td>22.4</td>
</tr>
<tr>
<td>1995</td>
<td>1,947.2</td>
<td>644.9</td>
<td>418.3</td>
<td>58.0</td>
<td>44.6</td>
<td>86.7</td>
<td>35.2</td>
</tr>
<tr>
<td>1997</td>
<td>6,970.9</td>
<td>3,189.6</td>
<td>265.7</td>
<td>84.6</td>
<td>398.1</td>
<td>258.6</td>
<td>410.7</td>
</tr>
<tr>
<td>1998</td>
<td>8,852.6</td>
<td>2,976.0</td>
<td>503.0</td>
<td>38.4</td>
<td>786.8</td>
<td>60.0</td>
<td>367.5</td>
</tr>
<tr>
<td>1999</td>
<td>15,541.5</td>
<td>3,739.0</td>
<td>1,750.0</td>
<td>461.0</td>
<td>960.0</td>
<td>479.0</td>
<td>760.0</td>
</tr>
<tr>
<td>2000</td>
<td>15,216.7</td>
<td>2,922.0</td>
<td>2,448.0</td>
<td>123.0</td>
<td>1,599.0</td>
<td>84.0</td>
<td>607.0</td>
</tr>
<tr>
<td>2001</td>
<td>11,291.8</td>
<td>3,890.0</td>
<td>772.0</td>
<td>167.0</td>
<td>459.0</td>
<td>432.0</td>
<td>426.0</td>
</tr>
<tr>
<td>2002</td>
<td>9,101.0</td>
<td>4,500.0</td>
<td>1,403.0</td>
<td>234.0</td>
<td>284.0</td>
<td>115.0</td>
<td>111.0</td>
</tr>
<tr>
<td>2003</td>
<td>6,468.0</td>
<td>1,240.0</td>
<td>541.0</td>
<td>55.0</td>
<td>370.0</td>
<td>871.0</td>
<td>150.0</td>
</tr>
<tr>
<td>2004</td>
<td>12,792.0</td>
<td>4,717.0</td>
<td>2,262.0</td>
<td>90.1</td>
<td>487.0</td>
<td>642.0</td>
<td>180.0</td>
</tr>
<tr>
<td>2005</td>
<td>11,564.0</td>
<td>2,690.0</td>
<td>1,879.0</td>
<td>819.7</td>
<td>704.8</td>
<td>2307.8</td>
<td>85.2</td>
</tr>
</tbody>
</table>

In the early 1960s\textsuperscript{13}, Korea strictly screened foreign direct investment (FDI), confining it to selected industries and also restricted the repatriation of capital. However, as economic conditions and the environment of the global and domestic economy changed, the government enacted a liberalized foreign investment law in 1984. In 1993, the Korean government devised a five-year plan for opening up the domestic market. Entrance to OECD in 1996 stimulated a sharp rise in FDI a year later in 1997, as 57 industries, were fully opened for foreign investors. The Act on Foreign Investment and Foreign Capital Promotion, which was revised in the first quarter of 1998, created an almost fully liberalized manufacturing sector.

The Government is currently committed to creating a more favorable environment for attracting FDI. Its policy initiatives are focused on facilitating FDI through equity participation and mergers and acquisitions activities involving Korean companies. The Government will step up the implementation of 156 tasks concerning foreign business and living environments while strengthening support for foreign schools. Under this scheme, the government’s financial support has increased from 11.8 billion won in 2006 to 12.5 billion won in 2007. There are 49 foreign schools in Korea at the end of 2006, and four of them are supported by MOCIE.

In order to ensure transparency and predictability, since March 1999 the Ministry of Commerce, Industry and Energy (MOCIE) has published, annually, the "Consolidated Public Notice for FDI". The Notice compiles and publishes FDI restrictions, other than those stipulated in the Foreign Investment Promotion Act (FIPA 1998). In August 2005, MOCIE also established a website “Government for Foreigners (G4F)” (\texttt{www.g4f.go.kr})

The G4F (Government for Foreigners) project was executed as part of the government's e-government roadmap project. With the completion of the first phase of infrastructure construction in August 2006, the G4F offered services such as providing foreigners with quality on-line information on investments and on daily life in Korea. Currently, the G4F supports Korean corporations looking to attract foreign investment and foreign investors and further offers e-application services to foreigners on immigration and visa-related issues. Moreover, with the completion of further infrastructure to integrate administrative services for foreigners, the information service was integrated and standardized. Overall, these enhancements have improved the overall efficiency of foreigner-related administrative work.

Korea Trade-Investment Promotion Agency (KOTRA) established a new website “Invest-Korea” (\texttt{www.investkorea.org}) which provides comprehensive information on FDI including statistics, databases of foreign invested companies, tax rebates and investment trends. The "Consolidated Public Notice for FDI" is also available via the Invest-Korea website.

According to the APEC Non-Binding Investment Principles (adopted in 1994) to which Korea adheres, there should be no discrimination between source economies. All relevant laws, regulations, and administrative guidelines are stipulated in the form of

\textsuperscript{13} This section draws on Korean Overseas Information Service (Government Information Agency) (2005), \textit{Facts about Korea}. 

32
"Regulations on Foreign Investment" in a transparent manner and there is no policy or agreement, which may cause discrimination between source economies. Under the FIPA, unless otherwise provided in other laws, foreign investors and foreign invested companies are accorded equal treatment to the nationals or corporations of the Republic of Korea. During FTA talks on the investment chapter with India, the US, Canada, and ASEAN, Korea pursued the non-discrimination principle. Under the new "Foreigner's Land Acquisition Act", foreigners, including non-residents, are now given national treatment in the acquisition of land, without any limits on land use and land size.

Since the abolition of the performance requirements on foreign investment in 1989, there have been no performance requirements such as export or local content obligations that are inconsistent with the WTO/TRIMs Agreement. During FTA talks on investment with India, the US, Canada, and ASEAN, Korea has been looking for ways to minimize other performance requirements.

Korea is improving the living environment for business people and their families in Korea. On the list of requests made by foreigners, Korea has already put into place many items such as more convenient customs procedures and longer visas for household staff. Korea also held the Foreign Investment Festival in November 2006, to promote awareness on the importance of FDI to the economy.

Korea has fully opened the theatrical animation market since Jan 1, 2006. However, TV broadcasting and radio broadcasting sectors are fully closed to foreign investment, and a further 26 sectors are partially restricted (see Chapter 3 for services sector foreign entry restriction.) Korea is a signatory to bilateral investment agreements for the protection of FDI with 79 economies. Among these agreements, 69 are currently in force and 10 are signed. Korea provided information relating to the regulatory framework on foreign capital participation through the "Guide to the Investment Regimes of the APEC Member Economies".

Korea is implementing measures to help improve both the business and the living environment for foreign investment. For instance, Korea is working to increase the scope of incentives. MOCIE is in the final stage of approving a list of incentives geared to help businesses reap greater rewards, which will allow more companies to receive cash grants. Korea provides financial support to foreign workers under the salary peak system (maximum of six years) as a measure to establish a fair wage system based on productivity to both domestic and foreign companies (This is under the enforcement decree of the Employment Insurance Act, revised as of Dec. 2005.)

In terms of outbound investment, MOCIE announced in February 2007 that local companies looking to invest overseas will receive “comprehensive support”, as the government seeks to expand Korea's business presence abroad as well as to better utilise the country's liquidity. The government is examining ways to create specialised funds to help companies enter overseas construction and resources development in particular. It is also planning to simplify procedures for companies to get tax benefits for facility investments in resource development made overseas.

**Overall Assessment**
While foreign investment in some sectors remains restricted, Korea is aware of the critical importance of active foreign participation in its domestic economy also of Korean firms’ outbound investment, for ensuring long-term sustainable growth. Korea adheres to the MFN principle in its investment policy, and has been committed to further liberalization of remaining restricted sub-sectors.

**Chapter 5: Standards and Conformance**

*APEC economies will, in accordance with the declaration on APEC standards and Conformance Framework and with the Agreement on Technical Barriers to Trade (TBT agreement) and the Agreement on the Application of Sanitary and Phytosanitary Measures (SPS Agreement) attached to the WTO Agreement:*

- a. align their domestic standards with international standards;
- b. endeavour to actively participate in international standardisation activities;
- c. promote good regulatory practice for the preparation, adoption application of technical regulations in the APEC region;
- d. achieve recognition of conformity assessment including mutual recognition arrangements and regulated and voluntary sectors;
- e. promote cooperation for technical infrastructure development to facilitate broad participation in mutual recognition arrangements in both regulated and voluntary sectors; and
- f. ensure the transparency of the standards and conformity assessment of APEC economies.

The process of standard development in Korea is government led, and is a significant element of Korea’s industry policy. At the end of 2006, 22,058 Korean (industrial) Standards (KS) had been adopted, an increase of 807 over the previous year. The number of Korean industrial standards has doubled over the last five years. While the total number of standards in Korea is not as high as some other economies, the United Kingdom and France for example, it is double the number operative in the United States.

Approximately 60% of Korean Standards were subject to international ISO/IEC harmonisation. About 30% of Korean standards have been established by reference to other international standards excluding ISO or IEC. Roughly 10% of KS standards have been established without any reference to any international standards.

As far back as the 1970s there has been a fairly constant numerical differential between the total number of standards adopted by Korea, and the number internationally harmonised.

Korean standards development proceeds purposefully. In 2007, within five general themes, the development of new standards are, for example, to be developed for bio-medicines, automobile black boxes, carbon nanotubes, equipment and devices for the disabled, home-use fuel cells, solar energy, biometrics and logistics distribution technology.

All Korean standards are voluntary unless and until cited in the technical regulations issued by government ministries. For example the Ministry of Information and Communication decides on the technical requirements needed for the telecommunications sector, for example mobile telephone standards. According to
Korean authorities, mandatory technical regulations are used only to meet legitimate objectives, such as national security requirements, preventing deceptive practices, protecting human, animal and plant health and safety, and preserving the environment, under relevant domestic laws. In 2004, 2,945 Korean standards were included in mandatory technical regulations by 22 government ministries under 65 regulations.\(^\text{14}\)

Policy on standards is set by the Ministry of Commerce Industry and Energy. The Korean Agency for Technology and Standards (KATS) is the nation’s standardisation agency. KATS sets, administers, and disseminates voluntary Korean industrial standards based on the national standardisation act of 1999 and industrial standardisation act.\(^\text{15}\) KATS has as its key goal to revise and harmonise national industrial standards with international norms. Regulatory authorities are to adopt international standards when setting up or modifying technical or voluntary standards. Since December 2001 Korea added the services sectors to the standardisation agenda.

KATS and the related ministries cooperate in establishing, amending, or abolishing standards or technical regulations.

The National Standards Council, chaired by the Prime Minister, approved the second National Standards Plan (2006-2010) in May 2006. Under it Korea;

- “will continue promoting the alignment of Korea’s national standards with international standards…
- “remove technical barriers to trade by improving the national conformity assessment system…
- ensure Korea “actively participates in international standardisation activities and mutual recognition agreement between nations…”
- “promote standards education activities and train professionals in standards and conformance”.\(^\text{16}\)

Korea is very active in international standards fora such as the ISO and the IEC. Increasingly, Korean standards are being adopted as international norms, not least in the semiconductor and electronics fields. Four Korean digital signature technologies were recently accepted by the ISO/IEC as international standards and the IEC is currently assessing the 10 Korean standards in the semiconductor field for possible adoption.

The OECD Review of Progress in Implementing Regulatory Reform in Korea (April 2007) comments (page 38) that

“while there has been considerable progress in harmonisation of Korean standards with international standards, there is still a perception among the international business community that certain "Korea specific" standards and labelling requirements are unjustified and potentially discriminatory. The existence of country specific standards in and of itself may not be a problem as country specific standards exist in other OECD countries. However, care should be taken so that they do not constitute unnecessary barriers to trade and positive

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\(^{14}\) WTO Trade Policy Review of Korea. WT./TPR/S/137 Part III Paragraph 80

\(^{15}\) WTO trade policy review paragraph 77.

\(^{16}\) IAP
consideration should be given to accepting as equivalent technical regulations of other countries provided the objectives of its own regulations are fulfilled.”

The recently released US description of the provisions of the Free Trade Agreement between United States and Korea includes reference to an arrangement to:

“provide national treatment to US persons for participation in the development of (Korean) standards, technical regulations, and conformity assessment procedures”. It also says the agreement "requires Korea to make binding the WTO TBT Committee Decision to promote reliance on international standards that are consensus-based"\(^\text{17}\)

The WTO trade policy review of Korea of 2004 commented that reforms have addressed criticisms from trading partners that Korea's standardisation and conformity testing procedures impede trade. New or revised standards are published in the Official Gazette and Quality Management issued by the Korea Standards Association, and are publicly available.

Outside the industrial area a range of other organisations are involved in developing and implementing Korean standards. Responsibility for food safety, pharmaceuticals and cosmetics rests with the Ministry of Health and Welfare and its agency, the Korean Food and Drug Administration. According to the IAP Korea has harmonised its domestic standards for food labelling with the Codex general standard, the Codex general standard for food additives and the Codex general guidelines on claims. KFDA is committed to aligning Korean food standards to international laws, especially Codex.

To the extent that there has been international dispute settlement action in the period covered by this IAP, for example in the Technical Barriers Committee of the WTO, the international complaints have been directed against Korea's approach to standards-related decisions in the food and agriculture area. One major dispute related to Korean stipulations on the shelf life of food products. The issue was resolved without recourse to a formal dispute settlement panel.

The communications area has been another area subject to international unease. However it is noteworthy that the latest USTR Section 1377 Review of Telecommunications Trade Agreements makes no mention of Korea.

Conformity Assessment

Korea joined the APEC MRA for conformity assessment of telecommunications equipment (Phase I) in 1999. It joined the APEC MRA on conformity assessment of Electrical and electronic equipment (phase 1) in 1999. Korea established an MRA with Canada(1997), United States(2005), Vietnam(2006) on recognition of the test results on telecommunications equipment

Over recent years, according to the OECD, substantial improvement has been seen in Korea's automobile standards and certification procedures. In the area of certification, the type approval system was abolished in January 2003 and a self certification system

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\(^\text{17}\) Trade facts published by the office of the United States trade Representative, summary of the Korus FTA, April 2007.
was introduced to make auto manufacturers ensure the safety of their products. Under the self certification system, vehicles are required to be labelled as such and manufacturers or importers are held liable for product defects. In the area of standards, all-new standards in the area of safety had been based on international standards (i.e. ISO/IEC standards, UN/EEC regulations and FMVSS) after a thorough review and comparison with them.

Overall Assessment

Integrating Korea’s standards system with the international standards systems is a key goal of the administering agency KATS: the evidence suggests that it is fulfilling that mandate. Korean standards are being adopted as international standards with increasing frequency. As with any country there can be a sense that national standards or technical regulations exclude foreign competition, and may be intended to do so. However in recent years no country has found sufficient grounds or reason to challenge Korea’s industrial standards in the WTO. Food standards have been internationally challenged but the same commitment, to align Korean standards with Codex and other applicable international standards, also applies.

Chapter 6: Customs Procedures

APEC economies will facilitate trade in the Asia-Pacific region by:
  a. simplifying and harmonising customs procedures;
  b. encouraging the use of technologies and e-commerce as productivity tools in keeping with the developments of the new economy; and
  c. and hence in cross-border cooperation in the movement of goods and services to counter terrorism.

The last IAP recorded the impressive progress that Korea has made to streamline Customs processes and to facilitate trade. That progress has continued. Central has been the adoption of electronic technology to facilitate document clearance, coupled with careful risk analysis, an emphasis on integrity and probity, with training systems in support. Certainly in its electronic technology, and arguably more generally, Korea Customs Service (KCS) is at the cutting edge of international best practice.

The KCS operates a single window system on behalf of twelve major government agencies handling 93% of total import verification. The system encompasses the import requirements administered by the Korea Food and Drug Administration, the National Fisheries Products Quality Inspection Service, and the National Veterinary Surgeon and Quarantine Service. Not all relevant government agencies have yet joined the single window system: their doing so would further improve the efficacy of the border clearance system.

There are currently over Korean 42,000 companies in the trading sector using EDI. Electronic clearance procedures have enhanced transparency, allowing business to track down every step of the Customs process and reducing the scope for subjective assessments and corruption. A unified e-trading infrastructure is currently under construction which will enable trading companies to complete the entire trading process including marketing, foreign exchange, commerce/trade, logistics, and clearance in a paperless manner.
The KCS has also expanded the scope of administrative information made public and enlarged its workforce to provide more prompt responses to inquiries made on its website. It has developed a roadmap for integrity including the signing of the Customs Business integrity pact.

The Korean system also utilises the concept of a Customs Ombudsman, appointed from the private sector and assisted by one customs staff member in each Customs house. The system handles disputes and complaints over clearance and valuation processes.

The KCS has introduced the Spider-web system as part of a more vigorous approach to tracking down IPR violative goods. KCS has also been operating a trademark computerised system on the website since 2001.

Amongst other developments, a self assessment system for customs duties and taxes has been introduced, as has an e-bidding system in Customs auctions.

The IAP mentions an “intelligence oriented customs administration”. This refers to:

- building the Customs data collection to enable the KCS to control illegal trading. The data is based on a comprehensive analysis of the internal and externally generated data held by the KCS;
- establishing the knowledge management system (KMS) which integrates knowledge and experience to the organisation;
- setting up a risk management system to manage various risks and customs administration tasks systematically and efficiently for effective performance of the KCS.

Customs and FTA Rules of Origin.

So far, each FTA has separate, non-identical, rules of origin. The KCS has commented that clearance is thereby complicated, as the rules of origin require procedures to assess whether individual products, particularly textiles, meet the rules of origin of individual agreements.

In addition the new arrangements have required the employment of staff, both for administration and for education of customs officers. The process of trade facilitation has been complicated by these FTA generated individual and differential rules of origin.

Overall Assessment

Korean Customs Service maintained its impressive record of utilising IT technology to improve efficiency, cut clearance times, enhance probity and integrity, and employ sophisticated intelligence and risk management systems. Its achievements over the past few years have attracted international acknowledgement. Desirably all Korean agencies would become part of the single window clearance system.

Chapter 7: Intellectual Property Rights

APEC economies will:

a. in conformance with the principles of the TRIPS Agreement:
- ensure adequate and effective protection, including legislation, administration and enforcement of intellectual property rights,
- foster harmonization of intellectual property rights systems in the APEC region, promote transparency strengthen public awareness activities,
- strengthen public awareness activities, and
- promote dialogue on emerging intellectual property policy issues, with a view to further improve intellectual property rights protection and use of the intellectual property rights systems for the social and economic benefit of members.

b. address the challenges for intellectual property rights arising from the rapid growth and developments of the New Economy by:
- establishing legal frameworks to promote creative endeavor and encourage online activity;
- ensuring a balance between the different rights and interests of copyright owners, users and distributors;
- establishing an appropriate balance among all stakeholders, including content providers and ISPs in terms of the liabilities for infringing intellectual property online; and
- providing incentives for innovation without sacrificing the community’s interest in reasonable access to information.

As the Korean government recognizes, the strict protection of intellectual property rights is essential for the technological well-being of the nation and for cooperative economic relations with major trading partners. Since 1987, the Korean government has instituted reforms to strengthen the protection of intellectual property rights. New copyright law ensures comprehensive protection for both foreign and domestic works. Copyright guarantees extend over the life of an author plus 50 years. Also, safeguards against intellectual property infringement have been extended to computer software products through specific legislation (Korean Overseas Information Service, 2005).

Korea’s technology balance of payments is shown in Table 7-1. Its deficit has been steadily increasing, reaching $2,900 million in 2005. The rate of increase of the deficit is falling, from 16.2% in 2003 to 6.2% in 2005, while the ratio of technology exports to technology imports is improving, from 0.25 in 2003 to 0.36 in 2005. It is projected that the gap between technology imports and exports will soon begin narrowing.

Table 7-1 Korea’s technology trade, 1995-2005

<table>
<thead>
<tr>
<th>Year</th>
<th>Technology export (A)</th>
<th>Technology import (B)</th>
<th>Balance (A-B)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1995</td>
<td>112.4</td>
<td>1,947.0</td>
<td>-1834.6</td>
</tr>
<tr>
<td>1996</td>
<td>108.5</td>
<td>2,297.2</td>
<td>-2,188.7</td>
</tr>
<tr>
<td>1997</td>
<td>162.9</td>
<td>2,41.6</td>
<td>-2,251.7</td>
</tr>
<tr>
<td>1998</td>
<td>140.9</td>
<td>2,386.5</td>
<td>-2,245.6</td>
</tr>
<tr>
<td>1999</td>
<td>193.3</td>
<td>2,685.8</td>
<td>-2,492.5</td>
</tr>
<tr>
<td>2000</td>
<td>201.0</td>
<td>3,062.8</td>
<td>-2,861.8</td>
</tr>
<tr>
<td>2001</td>
<td>619.1</td>
<td>2,642.7</td>
<td>-2,023.6</td>
</tr>
<tr>
<td>2002</td>
<td>638.1</td>
<td>2,721.5</td>
<td>-2,083.3</td>
</tr>
<tr>
<td>2003</td>
<td>816.2</td>
<td>3,236.5</td>
<td>-2,420.3</td>
</tr>
<tr>
<td>2004</td>
<td>1,416.4</td>
<td>4,147.5</td>
<td>-2,731.1</td>
</tr>
</tbody>
</table>
In terms of anti-piracy measures, the ministry of Information and Communications (MIC) has established a Standing Inspection Team (SIT) for the prevention of software piracy, under the authority of the Computer Program Protection Act. The SIT has now been given judicial police authority. The MIC can issue an executive order to internet service providers (ISPs) to reject, suspend and limit pirated products and services.

The Office for Government Policy Coordination is taking the leading role, with five projects being promoted to enhance the protection of intellectual property rights: (a) Strict enforcement of regulations against the infringement of intellectual property rights, (b) Advancement of laws and systems for the protection of intellectual property rights, (c) Enhancement of public awareness about the protection of intellectual property rights, (d) Reinforcement of international countermeasures for the protection of intellectual property rights, and (e) The establishment of a cross-departmental implementation system.

Responsibility for Korea’s IPR protection is divided among five governmental organs, as reported in the IAP Report 2002. Among these, Korean Intellectual Property Office

19 Table 7-2, a reproduction table from the previous IAP peer review report (in 2003, downloadable at: http://www.apec-iap.org/default.asp?pid=/peerReview/default), shows relevant agencies and their responsibility for the IPR protection in Korea.

<table>
<thead>
<tr>
<th>Name of agency</th>
<th>Area of responsibility (relevant laws)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ministry of Culture and Tourism (MCT)</td>
<td>Copyright (Copyright Act) Sound Records, Video Products and Game Software (Sound Records, Video Products and Game Software Act) Publications (Publication Promotion Act)</td>
</tr>
<tr>
<td>Ministry of Information and Communications (MIC)</td>
<td>Computer Programs (Computer Programs Protection Act)</td>
</tr>
<tr>
<td>Ministry of Agriculture and Forestry (MAF)</td>
<td>Plant Varieties (Seed Industry Act)</td>
</tr>
<tr>
<td>Korea Customs Service (KCS)</td>
<td>Customs Clearance Regulation of Counterfeited Goods (Customs Act)</td>
</tr>
</tbody>
</table>
(KIPO) has the main responsibility for industrial property rights policies of the Korean government, and for administering the IPR laws. KIPO’s missions include the following: examination and registration of the patent, utility model, industrial design and trademark systems; adjudication of IPR-related disputes at the Industrial Property Tribunal; anti-counterfeiting activities; management, computerization and dissemination of IPR information and its documentation in Korea and abroad; encouragement of inventive and innovative activities; and human resources development in the field of IPR. To reduce the examination period and improve the examination quality, KIPO recruited 170 additional patent examiners in 2005.

In terms of legislation, the Copyright Act was amended in 2004 to provide "Interactive Transmission Right" to performers and producers of phonograms as well as copyright holders. The amended Copyright Act provides for protection of technological protection measures and rights management information which were used by copyright holders. Matters related to the liabilities of online service providers in the case of copyright infringements were clarified.

In 2005, the Ministry of Culture and Tourism (MCT) has amended the Enforcement Decree of the Copyright Act to facilitate the use of copyrighted works in the digital environment. Furthermore, the Copyright Act amendment bills were passed at the National Assembly on December 1st, 2006, to grant better protection to related right holders and to reinforce the protection of copyright in the digital environment. The amended Copyright Act will become effective on June 29th, 2007.

The amended law provides for enhanced protection of neighbouring rights and introduces “Public Transmission Rights” and “Digital Audio Transmission Rights” so as to protect new types of works. Moreover, Copyright Protection Center was created in April 2005 to conduct systemized and effective anti-piracy activities both online and offline. The bilateral Korea-US FTA provides extended terms of copyright protection (life of the author plus seventy years instead of standard 50 years).

The Standing Inspection Team (SIT) under the Ministry of Information and Communication (MIC) has been granted special police powers since 2003 to ensure the effectiveness of inspection, and conducts inspection against software piracy.

**Overall Assessment**

The Korean government is on the policy stance that consistency in intellectual property protection is an important infrastructure for enhancing national and corporate competitiveness in the knowledge-based economy. Korea’s intellectual property rights protection system has been strengthened and is both in conformity with the TRIPS agreement of the WTO. While extension of bilateral preferential arrangements is desirable into the future, Korea’s IPR protection policy is on a right track towards

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20 Penal punishments in the case of copyright infringements in relation to technological protection measures and rights management information had been stipulated even before the amendment in 2006.
achieving the Bogor goals overall. However, it still faces lingering instances of IPR violation in its private sector.

Chapter 8: Competition Policy

APEC economies will enhance the competitive environment to increase consumer welfare in the Asia-Pacific region, taking into account the benefits and challenges of globalization, developments in the New Economy and the need to bridge the digital divide through better access by ICT, by:

a. introducing or maintaining effective, adequate and transparent competition policy and/or laws and associated enforcement policies;

b. promoting cooperation among APEC economies, thereby maximizing, inter-alia, the efficient operation of markets, competition among producers and traders, and consumer benefits; and

c. improving the ability of competition authorities, through enhanced capacity building and technical assistance, to better understand the impact of globalization and the New Economy.

Responsibility for competition policy in Korea rests with the Korea Fair Trade Commission (KFTC), which covers all the principal competition policy issues including collusion, monopoly, mergers and unfair practices. Since the 2005 revision of Monopoly Regulation and Fair Trade Act (MRFTA), the KFTC has established and revised competition laws and regulations, responding to globalisation and digitisation, and has made efforts to secure effectiveness of competition policy.

The revised proposal for the policy concerning large business groups was drawn up on November 15, 2006. Follow-up measures including legislation has been pursued as planned. A revised bill for the Fair Trade Act (Table 8-1) was submitted to the National Assembly and was passed in April 2007.

In order to promote competition, curb concentration of economic power and protect consumers and small and medium-sized enterprises (SMEs), the KFTC has enacted and enforced competition and consumer protection policies and carried out investigations and ordered corrective measures in case of violation based on its 9 Acts including the MRFTA and Fair Labelling and Advertising Act.

Refinement of law/regulations to implement the 3-year Market Reform Roadmap was made from 2003 to 2006. Under the Roadmap, the KFTC pursued 27 tasks in the three major areas such as reform of business groups’ ownership and management structure, enhancing transparency in corporate management, and facilitating competition in the market.

KFTC started implementing its “Business Review” in December 2004. Then in 2005, KFTC agreed upon either eliminating or reforming 51 anti-competitive government regulations such as price control and entry barriers. By the end of 2005, a total of 38 requests was made for the review, and among them, 35 were processed.

Also, the KFTC promotes competition through the following measures: strengthening the monitoring of cartels; deterring monopoly and oligopoly through efficient M&A review; discouraging market dominance by monopolistic and oligopolistic enterprises; identifying
and correcting unfair business practice in fields close to daily lives of the public; and improving anticompetitive regulation.

Table 8-1 Policy arrangement stipulated in the revised Fair Trade Act

<table>
<thead>
<tr>
<th>Item</th>
<th>Contents</th>
</tr>
</thead>
</table>
| Lowering of the ceiling on total amount of shareholding in other domestic companies | - The asset threshold for business groups subject to the ceiling on equity investment has been raised from more than six trillion won to more than ten trillion won.  
- The equity investment limit has been increased from 25 percent of the net asset to 40 percent  
- Companies subject to the ceiling has been changed from "all affiliates of the concerned business group" to "affiliates whose assets exceed two trillion won." |
| Revision of the holding company system                               | - The regulation on holding companies' shareholding ratio of listed subsidiaries and listed sub-subsidiaries has been eased from 30 percent to 20 percent.  
- The upper limit of holding companies' debt to capital ratio has risen from 100 percent to 200 percent. |
| Extension of the expiry date of the right to request financial transaction information | - The expiry date of the right to request financial transaction information has been extended by three years from the end of 2007 to the end of 2010. |
| Stronger monitoring of undue intra-group transactions conducted through trade of goods and services | - The law clearly stipulates that trade of goods and services constitutes undue intra-group transactions just like monetary, asset and manpower support.  
- Trade of goods and services with subsidiaries of business groups whose assets exceed two trillion won has been subject to resolution of the Board of Directors and public disclosure with regards to large-scale intra-group transactions. |

Source: Fair Trade Commission

As regards establishing fair business practice between large and small-and-medium sized enterprises(SMEs), the KFTC has made the following policy efforts: creation of an environment where large and small-and-medium sized businesses are encouraged to further their cooperation and to enhance the transparency and fairness of subcontract transactions.

In terms of securing consumer benefits, Korea has the following four policy areas: the reinforcement of consumer sovereignty, creation of competitive market environment, development of mechanisms for prevention and remedy of consumer damage, and
enhancement of efficiency in consumer policy enforcement. The KFTC is now endowed with the authority to support and monitor Korea Consumer Protection Board.

**Overall Assessment**

Korea is strengthening institutions to ensure fair business competition, and is aware of its importance as a trade facilitation measure. Recent changes include policies to upgrade the nation’s economy in line with 3-year Market Reform Roadmap; establishing and facilitating voluntary regulation by market participants; enhancing the case handling process and related organizational capacity; and strengthening international cooperation.

**Chapter 9: Government Procurement**

*APEC economies will:*

a. develop a common understanding on government procurement policies and systems, as well as on each APEC economy’s government procurement practices;

b. achieve liberalisation of government procurement markets throughout the Asia-Pacific region in accordance with the principles and objectives of the Bogor declaration, contributing in the process to the evolution of work on government procurement in other multilateral fora; and

c. increase the use of electronic means to conduct government procurement and in so doing seek to promote the uptake of e-commerce more broadly.

Korea acceded to the WTO Agreement on Government Procurement (GPA) in April 1994, the agreement becoming operative in January 1997.

Most Korean government procurement is undertaken by the Public Procurement Service (PPS). Under current arrangements central government authority purchases that exceed 100,000 US dollars, are undertaken by the PPS. Below that threshold individual government agencies can conduct their own purchasing. A higher threshold applies to construction activity, 3 billion won where construction is on behalf of central government agencies, 20 billion won where public works are undertaken by local authorities.

In 2003, the PPS handled at 9.1% of all procurement contracts which represented 25.5% of the value of all procurement activities that year. In 2004, the share of PPS in all procurement activities increased to 30% of contract value.

Comments in the most recent annual report of the PPS indicate that its role is expected to change and, by implication, responsibility for purchasing will be further decentralised to agencies. From 2008, the PPS will “rely less upon vested rights for its role”.

Korea introduced a government e-procurement system in October 2002. KONEPS, as it’s now known, provides a single window for public procurement, digitalising the entire process from tender, to order, to payment. The system is highly efficient, creates a transparent competitive process and minimises the risk of untoward influence on purchasing decisions. It is highly-regarded and acclaimed internationally.

The system has ensured that transparency and openness of decision-making have greatly improved. Digitisation and automation of procedures have not only reduced the scope of subjective assessments (and corruption) but generated savings and
efficiencies. It is estimated that $US4.5 billion in cost savings per year are being achieved by KONEPS when both the private and public sector benefits are taken into account.

The OECD, in its recent review of regulatory reform in Korea, argues that there is room for improvement in utilising KONEPS. Its transaction volume in 2004 (approximately US dollars 42.9 billion) accounted for about 56% of total procurement volume in Korea (approximately US dollars 76 billion).

The Korean government seeks active involvement of the international contract dispute mediation committee where any interested party can request a review for mediation.

One other role of the PPS is to maintain stockpiles of basic materials, particularly to ensure availability of same to SMEs and small scale producers. On request, these stocks are made available at a slight price discount (5%) to the prevailing market price.

**Foreign involvement in Korean government procurement.**

In 2004, the value of all Korea's government procurement contracts including both central and local government purchases, was $US 59 billion. The total volume of contracts secured by foreign suppliers was $US 308 million, 0.5% of that total. This primarily consisted of goods. Overseas suppliers did not secure any construction contracts, the largest single component of Korean government procurement outlays.

In addition, for whatever reason, foreign suppliers appear to be losing ground in the Korean government procurement market. Obviously, Korea is a highly sophisticated and competitive supplier of manufactures and construction services, most particularly in its domestic market. However, even limiting the analysis to goods, the available statistics suggest that in 2004, 11% of government goods procurement was judged to be covered by the WTO government procurement agreement: and foreign suppliers ultimately provided 2% of total Korean government goods procurement.

In contrast, in 1991-1995, the years immediately prior to Korea's accession to the GPA, government procurement of foreign sourced goods by the Office of Supply, the PPS's predecessor organisation, averaged 9.9% of that agency's purchases.21

While the policy emphasis is on value for money in government procurement, other national policy considerations are in play. Both at the central and local government levels, government procurement is seen as a means of supporting SMEs and local activity.

In 2005, of total PPS purchases of 28.5 trillion won, some 15.7 trillion or 55% fell within the category of SME support, and hence outside the GPA ambit for Korea.

The precise definition of an SME differs between sectors. In the manufacturing it is a company employing fewer than 300 persons or with a paid up capital of less than 8 billion won.22

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21 See WT/TPR/S/19 of 28 August 1996. A possible counter-argument in this regard is that it may not be accurate to compare statistics concerning the entire government procurement, with statistics from 1991-1995 concerning procurement handled only by PPS.
Korean authorities advise that the detailed breakdown of support for SMEs in 2005 is as follows:
- Of the total value of 6.6963 trillion won for the procurement of goods, the value of the procurement through the single tendering and set-asides for SMEs that are excluded from the coverage of the GPA amounts to 4.9242 trillion won. The remaining 1.6721 trillion won was the value of contract SMEs obtained through competition.

Overall Assessment

Korea’s general administration of government procurement through the PPS and the KONEPS electronic procurement system are impressive, and apparently cost effective. KONEPS ensures transparent decision making and high standards administrative integrity. However, for whatever reason foreign involvement in the government procurement market is constrained and probably in decline. This possibly reflects the policy of small business and similar exclusions. If more of the sector was genuinely open to foreign presence the benefits in value for money terms to the Korean taxpayer would be advantageous.

Chapter 10: Deregulation/Regulatory Review

APEC economies will facilitate free and open trade and investment in the Asia-Pacific region by, inter alia:

a. enhancing the transparency of regulatory regimes (including through the use of new technologies);

b. eliminating domestic regulations that may distort or restrict trade, investment or competition and are not necessary to achieve a legitimate objective; and

c. speeding up reforms which encourage efficient and well functioning product, labour and capital markets and supportive of institutional framework.

The 1997 crisis led to the implementation of wide ranging reforms, with regulatory reform becoming a key element in the shift to a more market-oriented system. The four priority areas were foreign exchange and transaction regulations (to encourage foreign investment), industrial and land use regulations (to liberalise business activities), monetary and business regulations (to improve industrial competition), and procedures and regulations for citizens. The scope of review has progressively broadened.

The key legislation is the Basic Act on Administrative Regulations (BAAR). It requires each ministry to submit an annual review plan for existing regulations to the Regulatory Reform Committee. It also provides for regulation impact assessment (RIA) to be published in relation to any proposed legislation or ordinance.

Article 7 of the BAAR requires eight elements to be addressed in an RIA:
- necessity of establishing a new regulation or reinforcing an existing one;
- feasibility of the objectives of the regulation;
- existence of alternative means to regulation or possible overlapping with existing regulations;

• comparative analysis of the costs and benefits for those impacted by the regulation;
• inclusion of elements that might limit competition
• objectivity and clarity of regulation;
• concerns regarding establishment or reinforcement of regulation, such as the relevant administrative agency, workforce and budget; and
• propriety of documents submitted by people and procedures in civic tasks.

The RIA process requires a 20 day comment period. There has been some argument that the time period allowed is too short.

Article 8 of the BAAR includes the possibility of sun-setting those regulations which do not have a "clear reason to remain in effect". The use of the provision has been limited, with only 43 regulations currently (in 2007) subject to these provisions.

Overall the regulations in force, or in prospect, are more transparent. The number of regulations in force has fallen, (initially by half), much tougher scrutiny is applied to existing regulations on an on-going basis, and a higher hurdle, including public scrutiny, applies to the introduction of new regulations.

The Internet is used extensively to improve access to regulations, and is linked to efforts to reduce administrative burden.

More recently emphasis has shifted from a quantitative reduction of the overall stock of regulations to improving regulatory quality.

One challenge concerns gaps in implementation, some of which are growing rather than the reverse. The 2000 OECD Review of Korean regulation recommended that the responsibilities of the RRC should be broadened to include taxation and subsidies, industrial policies, and regional development policies. These and other areas remain outside the scope of RRC scrutiny under BAAR statutes.

In addition, the RRC is limited to oversight of regulations prepared by government ministries. Bills directly introduced into the Parliament by assemblymen, (there has been a growing number), are not subject to the regulatory quality process. Local government regulations also escape the full detailed scrutiny and assessment of an effective RIA process.
Box 3. Korean Regulatory Reform

Since 1998 the Regulatory Review Committee's main responsibilities have been setting the basic direction of regulatory policy, reviewing new or amended regulations, implementing a comprehensive plan on regulatory improvement and evaluating progress made on regulatory reform. It oversaw the regulatory impact assessment process.

The RRC decided in April 2004 to in future target its review of the regulatory impact assessments undertaken by individual agencies on "core regulations" those which:

- have over 10 billion won of annual cost of regulatory impact;
- affect over one million regulated people;
- explicitly restrain competition;
- are excessive or unreasonable in the light of international standards; or
- are recognised by the RRC as in need of review because the regulation is controversial among related ministries or stakeholders, or has significant social and economic ramifications.

Since 2004, the work of the RRC has been complemented by the Regulatory Reform Task Force (RRTF) which, like the RRC, is ultimately under the direction of the Prime Minister. This comprises 26 public officials and 24 experts from research institutes and business. The RRTF focuses on practical problems encountered by firms particularly “bundle issues” ie those that straddle the responsibilities of a number of different government agencies.

The operation of the regulatory reform committee was due to expire in 2006 but its mandate has been extended for a further two years. The Regulatory Reform Task Force has also had its operational term extended until 2008 and is following up on the 48 reform tasks pursued so far.

The Business Difficulties Resolution Centre (BDRC), also set up in April 2004, provides a one-stop solution for clients. It receives regulatory proposals and complaints from business. 61% of the complaints received were resolved.

Reputedly, the quality of RIA and related consultation processes varies widely across the agencies. The system allows a great deal of discretion as to how the consultation process is undertaken.

As far as we can establish no regulation has been abandoned by virtue of the regulatory impact analysis process. Generally agencies address potential problems by the public consultation process, as well as by the RIA. The fact that a new rule is exposed in advance of implementation is in itself a safeguard.

The OECD also comments (page 35) that a multitude of agencies currently work on regulatory reform.

"While this may be a source of strength by providing independent analysis, it also risks fragmenting reform implementation. A review for the possibilities of further coordination of the work of various institutions could help, including
consideration of the need for an overall oversight body, which could bring the RRC and the RRTF closer.”

At the time of the IAP, the Korean government was working on the enactment of a Basic Act on Administrative Investigation, an overhaul of the regulation registration system, and of the operation of the regulatory reform monitoring system. The purpose of the new act is to reduce burdens on business from red tape administrative investigations and safeguard the rights of the public. The act stipulates the principles, methods, and procedures of administrative investigation.

In 2000 and 2005, the Korean government reviewed the bylaws of public sector organisations such as associations and government financed institutions, and then identified and rationalised “quasi regulations" which people think function as "real regulations". The number of regulations in force was roughly halved. However on an ongoing basis these subsidiary agencies are not subject to the same degree of scrutiny as are mainstream ministries.

Overall Assessment

We endorse the conclusion of the OECD in its detailed study of April 2007. Korea has made impressive progress toward improving its regulatory framework. Its system has been further developed and consolidated since 2000 and the government's commitment to a "participatory society" has promoted a transparent regulatory regime.

Chapter 11: implementation of WTO obligations (including rules of origin)

APEC economies will ensure full and effective implementation of the Uruguay Round outcomes within the agreed time frame in a manner fully consistent with the letter and the spirit of the WTO agreement.

On rules of origin, APEC economies will:

a. ensure full compliance with internationally harmonised rules of origin to be adopted in relevant international fora; and

b. Ensure that their respective rules of origin are prepared and applied in an impartial, transparent and it will manner.

The Korean government comments (page 232) that it has applied the rules of origin and the origin marking system so as to promote fair trade and to protect consumers. It has also actively participated in the harmonised work program in this area.

Korea has not attempted to adopt common rules of origin in its free trade agreements so far negotiated. In the context of the FTAs Korea takes the position that they should be transparent and promote trade and investment between the parties.

As mentioned above the increasing numbers of complex rules of origin the FTA’s generates its own costs in the form of more difficult trade facilitation.
Overall Assessment

Divergent and complex rules of origin, which differ in concept, detail, and administrative process will add to the trade facilitation costs for Korean trade. The issue is one that will be present for all economies negotiating FTAs

Chapter 12: Dispute Mediation

APEC economies will:

a. encourage members to address disputes co-operatively at an early stage with a view to resolving their differences in a manner which will help avoid confrontation and escalation, without prejudice to the rights and obligations under the WTO agreement and other international agreements and without duplicating all detracting from WTO dispute settlement procedures;

b. facilitate and encourage the use of procedures for timely and effective resolution of disputes between private entities and governments and disputes between private parties in the Asia-Pacific region; and

c. ensure increased transparency of government laws, regulations and administrative procedures with a view to reducing and avoiding disputes regarding trade and investment matters in order to promote a secure and predictable business environment.

Korea utilises the WTO dispute settlement procedures to resolve trade disputes. Thirteen complaints have been brought by Korea to the WTO 11 complaints brought against Korea. Korea has promptly implemented findings made against it.

Other dispute resolution mechanisms employed include:

- the Convention on the Settlement of Investment Disputes between states and nationals of other states (ICSID);

- the negotiation of bilateral investment treaties with other economies which provide for arbitration procedures the settlement of investment disputes; some 27 new bilateral investment treaties have been concluded since September 1996 including agreements with Japan, Mexico, Brunei, Hong Kong, and Chile.

- the possibility of filing a complaint in the Korean Administrative Court;

- the operation of the Korean Commercial Arbitration Board (KCAB) which provides dispute resolution methods including arbitration, mediation and consultation. Since September 1996 KCAB has formed bilateral arbitration agreements with three national arbitration bodies, and cooperative accords with 14 foreign arbitration bodies. That brings to 20, the number of agreements with national arbitration bodies in other economies and cooperative accords with 10 foreign arbitration bodies including the Court of Arbitration of the International Chamber of Commerce.
• Korea also enforces foreign arbitral awards in accordance with the United Nations Convention on the Recognition and Enforcement of Foreign Arbitral Awards (the New York Convention).

One additional step taken to meet the concerns of foreign parties, particularly in relation to foreign investment, is that the Korean government is ensuring that all basic laws regulations and related procedures are available to the public on the internet in English as well as Korean. There remain some complaints on the part of foreign companies that some of the more nuts and bolts administrative regulations, while available in Korean during a consultation period, are not then available in English. However overall the effort that Korea commitments to making information available in other languages is impressive.

Overall Assessment

Korea has been an active participant in WTO dispute settlement mechanisms, sitting on “both sides of the table”. Credible dispute settlement processes are extremely important for international business, especially when investing. Conscious of that, Korea has in place a portfolio of arbitration and mediation options, and is approaching the dispute settlement issue with measured and constructive intent.

Chapter 13: Mobility of Business People

APEC Economies will:

a. enhance the mobility of business people who are engaged in the conduct of trade and investment activities in the Asia-Pacific region; and

b. enhance the use of information and communication technology (ICT) to facilitate the movement of people across borders, taking into account the Leader’s Statement on Counter Terrorism.

The holders of an APEC Business Travel Card (ABTC) are permitted to enter and stay in Korea without a visa for 90 days. Korea joined the ABTC system from the year of its establishment (May 3, 1997). Korea has issued a total of 8,484 ABTC, which accounts for 7.0 % of the total number of active ABTCs and 15.9 % of the total number of ABTCs issued, as shown in Table 13-1.

<table>
<thead>
<tr>
<th>Table 13-1 Statistics on ABTC issued (during May 3, 1997-March 20, 2007)</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Korea</strong></td>
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<tr>
<td>-----------</td>
</tr>
<tr>
<td>1,375</td>
</tr>
<tr>
<td>All ABTC member economies</td>
</tr>
<tr>
<td>Korea’s share</td>
</tr>
</tbody>
</table>

Source: Korea’s written response made during the in-economy visit

Using APEC business travel card for fast entry and departure clearance has facilitated business people’s convenient and fast travel. ABTC has also been promoting trade and investment. So far, the use of ABTC among business people faces the following problems: difficulty and dissatisfaction with ABTC resulting from delay of approval; insufficiency of active public relations; need for the simplification of document for the re-
issuance of ABTC cards; need to meet the requirements to account for business accomplishment of third countries. To maximize efficiency of ABTC, the approval processing time of other economies need to be shortened. As for future plan, Korea will promote ABTC system for wider use through internet-based and direct public awareness enhancement efforts.

In terms of Temporary Entry and Stay of Service Providers and Intra-Corporate Transferees, the Korea Immigration Bureau purchased and installed its own ABTC issuance machine to shorten waiting time for the ABTC card applicants. Treaty Investor (D-8) holders are exempt from all kinds of visa relating fees, except for extra activities other than activities permitted through the given visa status for investors, from August 2006. The short-term business (C-2 status) visa is available to foreigners who are going to engage in market research, business liaising, on-the-job training, counselling, contracts, pilot operation of export-import machines, as well as instalment, repairs, and inspection of such equipment during a time period of short duration. The C-2 visa provides bona fide business people with single or multiple entries to Korea. The duration of visit can be up to 90 days. Only Chilean business people are given up to 6 months of C-2 visas under two economies’ Free Trade Agreement.

Koreans and registered foreigners do not need to submit E/D card at the airport/seaports; only foreign passengers who don’t have registration card need to fill in E/D cards. The Advanced Passenger Information (API) system has been implemented officially since September 2005 at the Incheon International Airport with experts of information analysis.

The Korean Immigration Bureau holds an Immigration Policy Forum each quarter in order to gather suggestions and recommendations concerning business mobility. These fora are going on with the active participation of various international organizations, foreign embassies, and relevant government authorities.

Korea's individual action plan for enhancing the mobility of business people in 2006 has been primarily focused on improving border inspection procedures and reforming foreign residency policy. This is for the purpose of providing more business-friendly environment, and taking security maintenance into account.

Also in 2006, the Korea Immigration Bureau provided various policy measures, including “the e-Government for Foreigners (G4F)”, and Korean Immigration Brand (KISS). G4F system (website: www.g4f.go.kr) is one of the e-government schemes providing Internet application relating to visa matters for registered foreigners, which is under pilot operation. KISS stands for “Korea Immigration Smart Service” representing innovative brand for the fastest & the most comfortable immigration border service. (More information on the mobility of business people in Korea is available at: http://www.moj.go.kr/immi/08_english/04_data/terms_01_f.html and http://www.immigration.go.kr/indeximmeng.html).

**Overall Assessment**

Korea has been positively engaged in enhancing mobility of business people as part of trade facilitation, under its own policy initiatives (granting of visa), as well as under the APEC framework (viz., ABTC and API). While preferential treatments are provided
bilaterally, the overall mobility of business people has been enhanced in line with achieving the Bogor goals.

**APEC Food System, Transparency Standard**

See discussion in the Chapter 5 on Standards

**RTAs/FTAs**

The state of play in Korea’s negotiations on free trade agreements has been described in the general introduction to this review.

The attached tables, provided by the Korea Ministry of Foreign Affairs and Trade, give more detail on the substance and evolution of the individual FTA agreements that have been concluded.
## OVERALL : Liberalisation Schedule of Korea's FTAs

<table>
<thead>
<tr>
<th>Sector</th>
<th>Total</th>
<th>Manufacture</th>
<th>Agriculture</th>
<th>Fisheries</th>
<th>Forestry</th>
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<tbody>
<tr>
<td>Korea</td>
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<tr>
<td>KC FTA</td>
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<tr>
<td>Chile</td>
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<tr>
<td>Liberalisation rate* : 96.3 Immediate: 87.2</td>
<td>Liberalisation rate : 100 Immediate: 99.9</td>
<td>Liberalisation rate : 71.2 Immediate: 15.6</td>
<td>Liberalisation rate : 100 Immediate: 96.5</td>
<td>Liberalisation rate : 100 Immediate: 58.2</td>
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<tr>
<td>Korea</td>
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<tr>
<td>KS FTA</td>
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<tr>
<td>Singapore</td>
<td></td>
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<tr>
<td>Liberalisation rate : 100, Immediate: 100</td>
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<tr>
<td>Korea</td>
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<td>KEFTA FTA</td>
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<td>EFTA</td>
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<tr>
<td>Liberalisation rate : 100</td>
<td>Liberalisation rate : 100 Immediate: 100</td>
<td>Liberalisation rate : 100 Immediate: 100</td>
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</tbody>
</table>

* Liberalisation rate is defined as the ratio of fully liberalised lines to total tariff lines. To calculate the ratio, "fully liberalised items" include the goods with elimination schedule of more than 10 years elimination schedule. (e.g. "Year 16" in Korea-Chile FTA)

** Including forestry
Korea-Chile FTA

**LIBERALIZATION THROUGH TARIFF REDUCTION: KOREA**

<table>
<thead>
<tr>
<th>Time Period for Duty Elimination</th>
<th>Number of Tariff Lines Fully Liberalized</th>
<th>Tariff Lines (Manufacture)</th>
<th>Agriculture</th>
<th>Fisheries</th>
<th>Forestry</th>
</tr>
</thead>
<tbody>
<tr>
<td>Immediate</td>
<td>9,740 (87.2%)</td>
<td>9,101 (99.9%)</td>
<td>224 (15.6%)</td>
<td>277 (69.5%)</td>
<td>138 (58.2%)</td>
</tr>
<tr>
<td>Year 5</td>
<td>701 (6.3)</td>
<td>545 (38.1)</td>
<td>88 (21.7)</td>
<td>70 (29.5)</td>
<td></td>
</tr>
<tr>
<td>Year 7</td>
<td>41 (0.4)</td>
<td>1 (0.01)</td>
<td>40 (2.8)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Year 9</td>
<td>1 (0.01)</td>
<td>1 (0.07)</td>
<td></td>
<td></td>
<td></td>
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<tr>
<td>Year 10</td>
<td>262 (2.3)</td>
<td>197 (13.8)</td>
<td>41 (10.1)</td>
<td>29 (12.3)</td>
<td></td>
</tr>
<tr>
<td>Year 10S (seasonal duties)</td>
<td>1 (0.01)</td>
<td>1 (0.07)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Year 16</td>
<td>12 (0.1)</td>
<td>12 (0.8)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>DDA</td>
<td>391 (3.5)</td>
<td>391 (27.3)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Excluded from liberalization (E)</td>
<td>21 (0.2)</td>
<td>21 (1.5)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Total</td>
<td>11,170</td>
<td>9,102</td>
<td>1,432</td>
<td>406</td>
<td>237</td>
</tr>
</tbody>
</table>

* Liberalisation rate in 10 years: 96.2%
  - Liberalisation rate: 96.3% (excluding "DDA" and "E" categories)
Korea-Singapore FTA

**LIBERALIZATION THROUGH TARIFF REDUCTION: KOREA**

<table>
<thead>
<tr>
<th>Time Period for Duty Elimination</th>
<th>Number of Tariff Lines Fully Liberalized</th>
<th>Manufacture</th>
<th>Agriculture</th>
<th>Fisheries</th>
<th>Forestry</th>
</tr>
</thead>
<tbody>
<tr>
<td>Immediate</td>
<td>6,724(59.7)</td>
<td>6,304(68.8)</td>
<td>232(16.0)</td>
<td>56(13.8)</td>
<td>132(53.7)</td>
</tr>
<tr>
<td>Year 5</td>
<td>2,009(17.8)</td>
<td>1,487(16.2)</td>
<td>358(24.7)</td>
<td>135(33.3)</td>
<td>29(11.8)</td>
</tr>
<tr>
<td>Year 10</td>
<td>1,582(14.1)</td>
<td>1,125(12.3)</td>
<td>377(26.0)</td>
<td>37(9.1)</td>
<td>43(17.5)</td>
</tr>
<tr>
<td>Excluded from liberalization (E)</td>
<td>946(8.4)</td>
<td>242(2.6)</td>
<td>484(33.4)</td>
<td>178(43.8)</td>
<td>42(17.1)</td>
</tr>
<tr>
<td>Total</td>
<td>11,261</td>
<td>9,158</td>
<td>1,451</td>
<td>406</td>
<td>246</td>
</tr>
</tbody>
</table>

- Liberalisation rate in 10 years: 91.6%
- Liberalisation rate: 91.6% (excluding "E" category)
**Korea-EFTA FTA**

□ **LIBERALIZATION THROUGH TARIFF REDUCTION : KOREA**

※ Among agricultural goods (1,451 items), only processed agricultural goods (304 items) are covered under the Korea-EFTA FTA. Other 1,147 agricultural goods ("basic agricultural goods") are regulated under the separate three bilateral agreements, "Agreement on Agriculture."

<table>
<thead>
<tr>
<th>Time Period for Duty Elimination</th>
<th>Number of Tariff Lines Fully Liberalized*</th>
<th>Manufacture (incl. Forestry)</th>
<th>Fisheries</th>
<th>Processed Agriculture**</th>
</tr>
</thead>
<tbody>
<tr>
<td>Immediate</td>
<td>8,726(86.3)</td>
<td>8,568(91.1)</td>
<td>110(27.0)</td>
<td>48(15.8)</td>
</tr>
<tr>
<td>Year 3</td>
<td>388(3.8)</td>
<td>381(4.1)</td>
<td>7(1.7)</td>
<td></td>
</tr>
<tr>
<td>Year 5</td>
<td>395(3.9)</td>
<td>294(3.1)</td>
<td>101(24.8)</td>
<td></td>
</tr>
<tr>
<td>Year 7</td>
<td>138(1.4)</td>
<td>132(1.4)</td>
<td>6(1.5)</td>
<td></td>
</tr>
<tr>
<td>Year 10</td>
<td>123(1.2)</td>
<td>102(25.1)</td>
<td></td>
<td>21(6.9)</td>
</tr>
<tr>
<td>Tariff reduction (by 10 to 50%)</td>
<td>187(1.9)</td>
<td>1(to 20%, 0.2)</td>
<td>187(61.5)</td>
<td></td>
</tr>
<tr>
<td>TRQ</td>
<td>1(0.0)</td>
<td></td>
<td>1(0.2)</td>
<td></td>
</tr>
<tr>
<td>Review (R)</td>
<td>61(0.6)</td>
<td>29(0.3)</td>
<td>32(7.9)</td>
<td></td>
</tr>
<tr>
<td>Excluded from liberalization (E)</td>
<td>95(0.9)</td>
<td></td>
<td>47(11.5)</td>
<td>48(15.8)</td>
</tr>
<tr>
<td>Total</td>
<td>10,114</td>
<td>9,404</td>
<td>407</td>
<td>304</td>
</tr>
</tbody>
</table>

* Excluding basic agricultural goods
** Agricultural products other than processed agricultural goods are regulated under bilateral agreement on agriculture.

- Liberalisation rate in 10 years : 96.6%
- Liberalisation rate : 96.6% (excluding "Tariff reduction", "TRQ", "R" and "E" categories, and basic agricultural goods)
Appendix A: Members of the Review Team

The Review Team for Korea comprised:

Moderator: Mr Abdul Ghafar Musa, APEC Senior Official for Malaysia
Email: ghafar@miti.gov.my

Experts: Mr Greg Wood, CEO, GSRW Consulting Pty Ltd, Australia
Email: gregwood@webone.com.au

Mr Hikari Ishido, Associate Professor of International Economics, Chiba University, Japan
Email: ishido@le.chiba-u.ac.jp

Program Director of the APEC Secretariat:
Ms Monica Ochoa
Director (Program)
Email: mop@apec.org

Study Team Visit to Korea
List of Meetings and Participating Agencies
19-22 April 2007

Proposed Program for the Review Team
List of Meetings and Participating Agencies
(Revised)

<table>
<thead>
<tr>
<th>Date/Time</th>
<th>Area/Participating Agencies</th>
<th>Venue</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Monday, 19 March</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>10:30-11:50</td>
<td>Korean Economy / KIEP</td>
<td>KIEP</td>
</tr>
<tr>
<td>12:00-13:30</td>
<td>Luncheon hosted by KIEP</td>
<td></td>
</tr>
<tr>
<td>17:00-18:00</td>
<td>Securities, Insurance &amp; Banking / FSC</td>
<td>FSC</td>
</tr>
<tr>
<td><strong>Tuesday, 20 March</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>09:40-11:30</td>
<td>Trade Policy (APEC, WTO, FTA) Services (General), Dispute Mediation / MOFAT</td>
<td>MOFAT</td>
</tr>
<tr>
<td>12:00-13:30</td>
<td>Luncheon hosted by Deputy Director-General for APEC</td>
<td></td>
</tr>
<tr>
<td>Time</td>
<td>Session</td>
<td>Ministry/Office</td>
</tr>
<tr>
<td>--------------</td>
<td>------------------------------------------------------------------------</td>
<td>--------------------</td>
</tr>
<tr>
<td>14:00-14:50</td>
<td>Deregulation / OPC</td>
<td>OPC</td>
</tr>
<tr>
<td>15:10-16:30</td>
<td>IPR, Services (Audio-visual) / MCT, KIPO</td>
<td>MCT</td>
</tr>
<tr>
<td>17:00-18:30</td>
<td>Services, Competition Policy, IPR (Telecommunication)</td>
<td>MIC</td>
</tr>
</tbody>
</table>

**Wednesday, 21 March**

<table>
<thead>
<tr>
<th>Time</th>
<th>Session</th>
<th>Ministry/Office</th>
</tr>
</thead>
<tbody>
<tr>
<td>09:00-09:50</td>
<td>Competition Policy, Chaebol Policy / KFTC</td>
<td>KFTC</td>
</tr>
<tr>
<td>10:00-10:30</td>
<td>Mobility of Business People / MOJ</td>
<td>MOJ</td>
</tr>
<tr>
<td>10:40-11:40</td>
<td>Economic Policy, Services (Financial) / MOFE</td>
<td>MOFE</td>
</tr>
<tr>
<td>12:00-13:30</td>
<td>Luncheon hosted by MOFE</td>
<td>MOFE</td>
</tr>
<tr>
<td>14:00-16:00</td>
<td>Tariffs, Customs Procedures, Government Procurement / MOFE, KCS, PPS</td>
<td>MOFE</td>
</tr>
<tr>
<td>16:20-18:20</td>
<td><strong>Services (Construction) / MOCT</strong></td>
<td>MOCT</td>
</tr>
</tbody>
</table>

**Thursday, 22 March**

<table>
<thead>
<tr>
<th>Time</th>
<th>Session</th>
<th>Ministry/Office</th>
</tr>
</thead>
<tbody>
<tr>
<td>09:00-09:50</td>
<td>Standard and Conformance (Food) / MOHW, KFDA</td>
<td>MOHW</td>
</tr>
<tr>
<td>12:00-13:30</td>
<td>Luncheon hosted by MOCIE</td>
<td>MOCIE</td>
</tr>
<tr>
<td>14:00-15:00</td>
<td>Standard and Conformance / MOCIE, KATS</td>
<td>KATS</td>
</tr>
</tbody>
</table>

**Abbreviations:**

- AFMC: Agricultural and Fishery Marketing corporation
- KATS: Korea Agency for Technology and Standards
- KCS: Korea Customs Service
- KFDA: Korea Food and Drug Administration
- KFTC: Korea Fair Trade Commission
- KIEP: Korea Institute for International Economic Policy
- KIPO: Korea Industrial Property Office
- MAF: Ministry of Agriculture and Fisheries
- MCT: Ministry of Culture and Tourism
- MIC: Ministry of Information and Communications
- MOCIE: Ministry of Commerce, Industry and Energy
- MOCT: Ministry of Construction and Transportation
- MOFAT: Ministry of Foreign Affairs and Trade
- MOFE: Ministry of Finance and Economy
- MOHW: Ministry of Health and Welfare
- MOJ: Ministry of Justice
- OPC: Office for Government Policy Coordination
- PPS: Public Procurement Service
Appendix B: Organizations and Officers Consulted

Ministry of Foreign Affairs and Trade

Deputy Director-General for APEC
Hye-yang Ji

Regional Cooperation Division
Moon-up Sung, Director
Je-hak Jang, Deputy Director

WTO Division
Hyo-eun Kim, Director

Multilateral Trade Cooperation Division
Yeong-han Choi, Director
Do-yeon Won, Deputy Director

Northeast Asian Trade Division
Young-sik Park, Deputy Director

Trade and Investment Promotion Division
Hong-ju Jo, Deputy Director

FTA Policy Division
Hyun-sun Yu, Deputy Director

Legal Services for International Trade
Linda Choi, Lawyer

Ministry of Finance and Economy

International Economic Policy Division
Hyung-chul Yoo, Deputy Director
So-eun Park, Deputy Director

Overall Economic Policy Division
Jin-hyuk Song, Deputy Director

Industrial Economy Division
Hong-jin Park, Deputy Director

Customs Cooperation Division
Dong-yeop Kim, Deputy Director

Accounting Policy Division
Hee-min Kang, Deputy Director
Financial Supervisory Commission

International Affairs Division
Young Han Byun, Director

Securities Supervision Policy Division
Geon Kim, Senior Deputy Director

Division of Insurance supervision
Yousam Choi, Deputy Director

Financial Supervision Policy Division
Jaehong Suh, Deputy Director

Ministry of Commerce, Industry and Energy

Trade Policy Division
Moon Ki Min, Deputy Director

Foreign Investment Promotion Division
Sun Hye Lee, Deputy Director

Export & Import Division
Tae Woo Kim, Deputy Director

Industrial Policy Division
Yohan Song, Deputy Director

Foreign Investment Policy Division
Tae-hee Kim, Deputy Director

Trade Cooperation Policy Division
Kyoung-Sook Lim, Assistant Director

Korean Agency for Technology and Standards

International Standards Cooperation Division
Choong Ho Lee, Director

International Standards Cooperation Division
Eung Jo Park, Researcher

TBT(Technical Barriers to Trade) Division
Gyung Ihm Rhyu, Director

Standards and Technology Policy Division
Hyang Sun, Senior Researcher
Standards and Technology Planning Division
Yu Cheon Oh, Senior Researcher

Ministry of Agriculture and Forest

Bilateral Cooperation Division
Dong-jin Yoon, Director
Ji-sook Song, Deputy Director

Multilateral Agricultural Negotiation Division
Jae-cheol Kim, Deputy Director

Agricultural Marketing Policy Division
Myung-chul Choi, Deputy Director

Environment Friendly Agricultural Policy Division
Hyung-deok Ahn, Deputy Director

Korea Agro-Fisheries Trade Corp.

Buffer Stock Management Division
Gi-bog Song, Director
Jong-min Choi, Deputy Director

Ministry of Maritime Affairs and Fisheries

International Cooperation Team
Do Hyung Koo, Deputy Director

International Cooperation Team
Chang Hee Lee, Assistant Director

The Office for Government Policy Coordination

Regulatory Reform Bureau
Young-hyun Jang, Director
Na-yoon Seo, Deputy Director

Ministry of Culture and Tourism

Copyright Division
Jong-chul Choi, Deputy Director
Mee-hyung Woo, Deputy Director
Seong-je Cho, Deputy Director
Hye-yoon Choi, International Specialist

**Ministry of Information and Communication**

*International Organization Division*
Sang-hak Lee, Director
Seong-jun Bae, Deputy Director
Choong-beom Lee, Assistant Director

*Telecommunications and Broadcasting Policy Coordination Division*
Dong-il Park, Senior Deputy Director
Min-pyo Kim, Deputy Director

*Software Industry Policy Division*
Eun-il Kim, Deputy Director

*IT Trade Strategy Center*
Ha-yun Kang, Senior Researcher

*Telecommunications and Broadcasting Policy Division*
Bum-jin Jang, Research Fellow

**Fair Trade Commission**

*Competition Policy Team*
Chie-gul Kim, Director

*Business Group Team*
Gyu-ha Chai, Director

*International Cooperation Team*
Young-ho Ha, Deputy Director

**Ministry of Justice**

*Foreign Policy Division*
Hyun-chae Kim, Deputy Director
June-shup Shim, Coordinator
Gi-rak Kim, Coordinator

**Korean Intellectual Property Office**

*International Cooperation Team*
Gyu-wan Cho, Director

**Korea Customs Service**
Trade Cooperation Division
Moon-hee Cho, Deputy Director
Hee Min, Deputy Director

Ministry of Health and Welfare

Food Policy Team
Ki-Ho Cho, Deputy Director

Pharmaceutical Policy Team
Tae-Kil Ha, Deputy Director
Pharmaceutical Safety Policy Team
Chang-Hyun Oh, Deputy Director

Division of International Affairs & Cooperation
Kang Hee Lee, Deputy Director

Division of International Affairs & Cooperation
Sang In Jin, Assistant Director

Korea Food & Drug Administration

Food Policy Team
Ki-Ho Cho, Deputy Director

Medical Device Standardization Team
Hyeon-Joo Oh, Senior Research Officer

International Trade & Cooperation Team
Seong Hyeon Lee, Assistant Director

Ministry of Construction and Transportation

International Relation Team
Heonsang Koo, Director

International Relation Team
Su Min Park, Deputy Director

International Air Transport Team
Chun Woo Jung, Deputy Director

Architecture Planning Team
Sun IL Kim, Deputy Director

Construction Economy Team
Dong Kam Park, Assistant Director

International Relation Team
Kyung Woong Nam, Assistant Director
Korea Institute of Registered Architect

Foreign Affairs Committee
Chun-Gyu Shin, Vice Chairman

Korea Institute for International Economic Policy

Chang-jae Lee, Vice President
Wook Chae, Senior Research Fellow
Sang-yirl Nam, Research Fellow
Hye-sung Kim, Researcher

APEC Team
Sang-kyom Kim, Team Head/ Senior Research Fellow

Department of Trade and Investment Policy
Jin-kyo Seo, Department Head/ Research Fellow

FTA Team
Hong-sik Lee, Team Head
Appendix C: Korea’s Responses to Questions submitted by Member Economies and Experts

Korea’s Responses to IAP Questionnaire

January 31, 2007
(With revisions throughout the 2007 peer review process)

Republic of Korea
CONTENTS

Responses to the IAP Questionnaire

Chapter (0): General

Chapter 1: Tariffs

Chapter 2: Non-tariff Measures

Chapter 3: Services; General Approach

Chapter 4: Investment

Chapter 5: Standards and Conformance

Chapter 6: Customs Procedures

Chapter 7: Intellectual Property Rights

Chapter 8: Competition Policy

Chapter 9: Government Procurement

Chapter 10: Deregulation/Regulatory Review

Chapter 11: Implementation of WTO Obligations

Chapter 12: Dispute Mediation

Chapter 13: Mobility of Business People

Response to Hong Kong, China’s Additional Questionnaire

Annex
  1. Exports and imports of goods and services
  2. Adjustment Tariff in 2006
Responses to the IAP Questionnaire

Chapter (0): General

Statistics

1. Can you please provide data on the direction and composition of Korea's goods and services trade in recent years. (e.g for the most recent five years)

The balance of goods trade of Korea has increased continuously since 2001 due to the expansion of automobile and semiconductor exportation, and the balance of services trade has recorded a loss for five consecutive years due to the increase in overseas travelling expenses. Please refer to the attached document (excel file) for details.

2. Could you please provide data showing the direction and magnitude of Korea's inward and outward foreign investment? and if possible the industries which attracted that investment.

(1) Inbound FDI (net invested amount, unit: $1,000)

<table>
<thead>
<tr>
<th>Year</th>
<th>2001</th>
<th>2002</th>
<th>2003</th>
<th>2004</th>
<th>2005</th>
<th>2006</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>3,871,581</td>
<td>3,047,592</td>
<td>3,876,222</td>
<td>8,086,527</td>
<td>6,374,836</td>
<td>4,074,844</td>
</tr>
</tbody>
</table>

- Inbound FDI increased drastically in 2004. In 2004, new investment was actively made in Korea's main industries, such as semiconductors and LCDs.

(2) Inbound FDI by industry (net invested amount, unit: $1,000)

<table>
<thead>
<tr>
<th>Industry</th>
<th>2001</th>
<th>2002</th>
<th>2003</th>
<th>2004</th>
<th>2005</th>
<th>2006</th>
</tr>
</thead>
<tbody>
<tr>
<td>Manufacturing</td>
<td>1,864,140</td>
<td>988,645</td>
<td>1,050,038</td>
<td>3,498,803</td>
<td>63,877</td>
<td>2,319,088</td>
</tr>
<tr>
<td>Service</td>
<td>2,029,403</td>
<td>2,070,462</td>
<td>2,830,366</td>
<td>4,586,779</td>
<td>6,435,838</td>
<td>1,755,550</td>
</tr>
<tr>
<td>Other</td>
<td>21,962</td>
<td>11,515</td>
<td>4,183</td>
<td>944</td>
<td>2,875</td>
<td>206</td>
</tr>
</tbody>
</table>

- Disinvestment in manufacturing and service sectors showed a similar trend of increase and decrease, and the proportion of manufacturing in 2005 increased sharply.
- Disinvestment in electrical machinery, electronics and transportation machinery in the manufacturing sector was particularly noticeable.
(3) Outbound FDI (net invested amount, unit: $1,000)

<table>
<thead>
<tr>
<th>Year</th>
<th>2001</th>
<th>2002</th>
<th>2003</th>
<th>2004</th>
<th>2005</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>1,884,815</td>
<td>2,589,134</td>
<td>2,079,282</td>
<td>5,160,039</td>
<td>5,365,801</td>
</tr>
</tbody>
</table>

- Outbound FDI is on the increase.

(4) Outbound FDI by industry (net invested amount, unit: $1,000)

<table>
<thead>
<tr>
<th>Industry</th>
<th>2001</th>
<th>2002</th>
<th>2003</th>
<th>2004</th>
<th>2005</th>
</tr>
</thead>
<tbody>
<tr>
<td>Manufacturing</td>
<td>1,506,095</td>
<td>1,278,366</td>
<td>429,685</td>
<td>2,914,616</td>
<td>2,891,316</td>
</tr>
<tr>
<td>Service</td>
<td>176,669</td>
<td>239,098</td>
<td>288,142</td>
<td>536,614</td>
<td>489,191</td>
</tr>
<tr>
<td>Other</td>
<td>906,370</td>
<td>1,071,670</td>
<td>1,361,455</td>
<td>1,708,809</td>
<td>1,985,294</td>
</tr>
</tbody>
</table>

- Current outbound FDI centers around manufacturing.
- The service sector's outbound FDI is now increasing, but was stagnant in 2005.

3. What proportion of Korean imports entered under preferential rates of tariff in recent years?

<table>
<thead>
<tr>
<th>Preferential tariff</th>
<th>2004</th>
<th>2005</th>
<th>2006</th>
</tr>
</thead>
<tbody>
<tr>
<td>Number of items</td>
<td>Amount (1000$)</td>
<td>Number of items</td>
<td>Amount (1000$)</td>
</tr>
<tr>
<td>TNDC (Preferential arrangements among Developing Countries negotiated in GATT)</td>
<td>11</td>
<td>6,841</td>
<td>8</td>
</tr>
<tr>
<td>ESCAP-APTA (Asia-Pacific Trade Agreement)</td>
<td>64,346</td>
<td>573,621</td>
<td>64,274</td>
</tr>
<tr>
<td>UNCTAD Global System of Trade Preference</td>
<td>910</td>
<td>412,627</td>
<td>272</td>
</tr>
</tbody>
</table>
Trade Policy

4. Can you please outline ROK’s international trade and international economic policy objectives and priorities?

Korea has built its economy based on export-oriented growth strategy and has enjoyed significant benefits from the post-war global trade liberalization. In fact, Korea’s economic rise is frequently mentioned as an exemplary case of prosperity brought on by free trade. Korea has always been, and still remains, an ardent supporter of the multilateral trading system, and will do its best to conclude DDA successfully in cooperation with the other WTO members.

In addition, Korea has witnessed an upsurge in FTAs throughout the world during the past decade, particularly in the Asia-Pacific region. In view of the ever-increasing number of FTAs throughout the world, Korea believes that an FTA can be an essential and effective tool not only to secure foreign markets but also to achieve trade liberalization, leading to continued growth, development and prosperity. With this understanding, Korea has been pursuing FTAs on a multi-track basis as a major pillar of its trade policy, in parallel with multilateral liberalization; We have concluded the FTAs with Singapore, Chile, EFTA, and ASEAN and we are currently negotiating with the US\textsuperscript{23}, Canada and India.

\textsuperscript{23} The negotiation with the US was completed afterwards on 2 April 2007.
5. Has Korea’s strategy for pursuing these objectives changed since the last IAP? Is the completion of the DDA the top priority for ROK trade policy?

Korea’s trade strategy and its objectives has not changed since the last IAP.

We are confident that the completion of the DDA will pave the way for the economic growth through trade liberalization. Korea believes that an ambitious and balanced outcomes should be achieved not only in market access but also in overall areas of negotiation, including service, development, and trade facilitation.

6. How does Korea interpret the Bogor goals: does it regard them as an obligation to reduce all tariffs and eliminate non-tariff measures by 2010/2020?

As one way of reaching the Bogor goals of free and open trade and investment by 2010/2020, Korea, as a host economy, played a leading role in setting out the Busan Roadmap to the Bogor goals in 2005.

Korea has made continued efforts to implement strategies and create policy options, as well as extending research in this regard, and will continue to contribute to the achievement of the Bogor goals by 2010/2020.

7. We appreciate the IAP’s outline of the FTA agreements concluded to date. Can you please advise the status of the various negotiations: (Chinese Taipei).

The status of Korea’s FTA negotiations is as follows:

- Korea is currently negotiating FTAs with the ASEAN, Canada, India and the US.
- With ASEAN, the first round of negotiations was held in February 2005 and the 16th round of negotiations is scheduled to take place in January 2007. An agreement on trade in goods was concluded and signed in August 2006.
- With Canada, the first round of negotiations was held in July 2005 and the 9th round of negotiations will take place in January 2007.
- With India, the first round of negotiations was held in March 2006 and the 5th round of negotiations took place in January 2007.
- With the US, the first round of negotiations was held in June 2006 and the 6th round of negotiations took place in January 2007.

(a) whether ROK has completed/negotiated FTAs that are not yet operative; when are any such agreements expected to enter into force?

There are no completed FTAs that are not yet operative. To date, there are three effective FTAs with Chile, Singapore and the EFTA.

(b) whether there are FTA negotiations that were commenced but are currently in abeyance?
Negotiations with Japan and Mexico are at a standstill. Six rounds of negotiations have taken place with Japan since December 2003 and three rounds of negotiations have taken place with Mexico since February 2006.

Negotiations with Japan regarding a Korea-Japan FTA are currently in a deadlock.

(c) what is the timetable for completing FTA negotiations currently underway? Can Korea indicate which negotiations have priority, and the rationale that determines that priority?

Regarding the timetable for the completion of negotiations, there are no set deadlines or time periods. Korea does not place priority among the FTAs that are currently under negotiation. However, the size of the trade volume and expected economic effects could be considered.

(d) are other potential FTAs being studied?

A joint study for a prospective Korea-China-Japan FTA is currently being held by the private institutions (KIEP, DRC, and NRA). Private level joint studies will also be launched this year with Australia, New Zealand, and Peru respectively. In addition, a joint study for a prospective Korea-China FTA will be initiated in the first half of this year by their governments, industries, and academics.

8. Can Korea please provide an indication of the considerations it took into account when deciding whether to embark on the various FTA negotiations?

Korea's FTA policy can be summarized as follows: FTAs with large-advanced economic blocs and promising emerging markets in terms of orientation, and high-level comprehensive FTAs in terms of content. FTAs with such counties that can satisfy the above requirements will be considered.

9. Which issues have proven to be most difficult in Korea’s FTA negotiations? (Chinese Taipei)

It is hard to say which issues were most difficult concerning Korea's FTAs as each negotiation has its specific issues. In general, however, Korea's most sensitive sector would be the agricultural sector and this can be considered as the most difficult issue.

10. According to the IAP's reporting on FTAs and RTAs, the Korea-Chile FTA and Korea-Singapore FTA include no provisions on labour and
environmental standards. Can Korea give some indication why these areas were not included? (Chinese Taipei)

There are no particular reasons for leaving out such chapters. Neither party suggested these two chapters be included in the FTAs at the time of the preliminary consultations, as they were not the areas of interest for the related parties.

11. What proportion of Korean imports and exports would receive preferential access once the agreements already concluded come into effect and assuming also the successful conclusion of those FTAs under active negotiation?

With respect to the degree of liberalization in bilateral FTAs Korea aims to achieve liberalization in substantially all trade as referred to in GATT Article 24. More than 90% of all import and exports according to tariff line would receive preferential treatment.

12. Are there provisions in the free trade agreements so far negotiated that ROK would recommend as international best practice?

The content and format of the FTAs Korea has negotiated so far differ according to the partner country’s area of interest and characteristics. Therefore, given this customizing approach it would be difficult to recommend certain provisions as best practice since each agreement is different.

13. Has Korea considered negotiating common rules of origin in its FTAs?

So far, Korea has not considered negotiating common ROOs in its FTAs.

14. The APEC guidelines include the suggestion that each APEC economy consider extending, on a voluntary basis, to all APEC economies the benefits of tariff reductions and eliminations derived from sub regional arrangements. Is it the Korean intention that elements negotiated in its FTA arrangements be extended to other APEC economies?

Regarding extending the elements negotiated in the FTAs to other APEC economies, Korea has not have the opportunity to consider it as a part of its FTA policy. Korea is regarded as a newcomer in terms of FTAs since it was not until 2004 that its first FTA entered into force. However, Korea is fully committed to the Bogor goals of trade and investment liberalization and facilitation, and will continue to reduce tariff comprehensively both at the multilateral, regional and bilateral level.
15. Would ROK consider incorporating an “MFN” style provision in its FTAs, so that the most advantageous concession negotiated in one agreement could then be applicable to other economies with whom it has an FTA?

According to the FTAs Korea has concluded to date, there are no MFN style provisions. However, in the current FTA negotiations with the US and Canada, MFN provisions are being discussed for the service and investment chapters.

16. Can you please indicate Korea's attitude to unilateral tariff reduction? Is retaining tariff rates for negotiating “coin” a consideration affecting to Korea's attitude to tariff reduction?

Korea determines tariff rates taking into consideration its economic development, global competitiveness of companies, its fiscal condition, etc. Korea does not retain tariff rates for tariff negotiations and has a plan to revise its overall tariff rate system reflecting the results of DDA and FTA negotiations.

17. With its impressive and sustained economic performance, with a GDP per capita approaching the average for OECD countries (on a PPP basis), as a significant international investor, as a leading global producer of IT and sophisticated manufactures, what are the factors that weigh with Korea as it considers when to elect to move to developed economy status.

Considering various economic development and vulnerability indicators, Korea is not yet up to the same level of obligations as developed countries at this stage. Therefore, in accordance with the WTO's established practices of “self-election” for determining the status of developing countries, Korea intends to maintain the status of developing countries in the DDA negotiations, and maintains the same position in APEC.

Exchange rate policy

18. Can you please outline the Bank of Korea’s policy toward intervention and management of Korea’s exchange rates?

Korea has maintained a flexible exchange rate system since it first adopted the system in December 1997. As such, the exchange rate is determined by market forces. When the exchange rate becomes unstable due to market participants’ over-concentration in one direction, the Korean government and the Bank of Korea, in close consultation, perform the necessary smoothing operations.
19. What proportion of national government revenue is derived from customs duties?

Customs duties amount to about 4.8 percent of the total national government revenue in 2006 and 5.0 percent in 2005.

20. When will the tariff concessions negotiated by Korea in the Uruguay Round be completely introduced?

The implementation period of Korea’s UR tariff concessions will be completed in 2009.

21. Since 2003, has Korea reduced any tariffs on an MFN basis, outside of Uruguay Round commitments? (See page 3 of IAP)

There has been no tariff reduction case on an MFN basis outside of UR concession since 2003. The description of page 3 of IAP, particularly regarding the first two sections, means that Korea reduced bound tariffs on 284 items according to the UR concession schedule and the bound tariffs of 8 items among them became applied tariffs because their reduced bound tariffs were lower than the base tariffs.

22. Does Korea assess the effective rate protection, and the implications of tariff escalation for users and consumers, when making decisions on tariff rate relativities?

The effective rate protection and the implications of tariff escalation for users and consumers are major factors in determining tariff rate relativities. Korea, like many other countries, maintains the tariff escalation structure in order to protect producers according to processing stages.

23. In the FTA negotiations concluded to date, what is the average differential between the average FTA applied tariff rate, and the average applied MFN tariff.

Korea has FTAs with Chile, Singapore, and EFTA countries. The average applied tariff of the three FTAs is 2.03 percent and the average applied MFN tariff rate is 12.82 percent, therefore the differential of the two is 10.79 percent point.

24. Korea's average tariff protection on manufactures is outweighed by the appreciation in the Won over recent years. What role does Korea see the tariff playing in its trade and industry policy in the context of its flexible exchange-rate policy?

It is true that the appreciation of the Won has negative impacts partially on the export of Korean products and their competitiveness. With the implementation of UR tariff concession and FTAs, Korea’s applied tariff rates are gradually being reduced, thus
the influence of tariff rates on trade and industry policy will be weakened considerably.

25. The WTO Secretariat has commented that non ad valorem duties undermine economic efficiency, transparency, and tariff predictability. Is Korea giving thought to removing such specific rate tariffs from its tariff schedule?

Korea has expressed in DDA negotiations its support for the elimination of non ad valorem duties in order to enhance transparency, tariff predictability and comparison of tariff rates among countries. Non ad valorem duties would be removed from Korea’s tariff schedule if the DDA negotiation determined to do so.

26. With many tariff rates and bands involving very small rate differences, and with decimal rates included on many items in the Korean tariff schedule, is there scope for ROK to simplify its tariff structure?

Korea generally supports the simplification of the tariff structure. The simplification of the tariff structure, however, should be reviewed on a mid- and long-term basis taking into account interested parties’ positions.

27. Automobiles: We understand that a special excise tax applies to motor vehicles with the varying rates applicable according to engine size. What are the applicable rates and the rationale for any differential? Do provincial and city governments levy automobile taxes on a differential basis according to engine size?

The special consumption tax rate for vehicles in excess of 2,000cc is 10% and for vehicles that are 2,000cc and below is 5%. The difference of rate is due to the fact that automobiles with large-size engines are generally more expensive and more burdensome to the environment, energy consumption and traffic, than vehicles with small engines.

The annual vehicle tax is imposed by local governments such city and county, based on engine capacity, due to its characteristics of property tax, and considering the vehicle’s impact on road damage and environmental pollution. Annual vehicle taxes are levied with the following rates.
### Annual tax amount per vehicle

<table>
<thead>
<tr>
<th>Engine capacity</th>
<th>Tax amount per ㏄</th>
<th>Engine capacity</th>
<th>Tax amount per ㏄</th>
</tr>
</thead>
<tbody>
<tr>
<td>800 ㏄ or less</td>
<td>¥18</td>
<td>800 ㏄ or less</td>
<td>¥80</td>
</tr>
<tr>
<td>1,000 ㏄ or less</td>
<td>¥18</td>
<td>1,000 ㏄ or less</td>
<td>¥100</td>
</tr>
<tr>
<td>1,600 ㏄ or less</td>
<td>¥19</td>
<td>1,600 ㏄ or less</td>
<td>¥140</td>
</tr>
<tr>
<td>2,000 ㏄ or less</td>
<td>¥19</td>
<td>2,000 ㏄ or less</td>
<td>¥200</td>
</tr>
<tr>
<td>more than 2,000 ㏄</td>
<td>¥24</td>
<td>more than 2,000 ㏄</td>
<td>¥220</td>
</tr>
</tbody>
</table>

※ vehicle tax(annual) = engine capacity × tax amount per ㏄

### Tariff Quotas (Agriculture)

28. Can you please advise the items/groups on which Korea eliminated tariff quotas in 1997 and 2000?

Korea eliminated tariff quotas on meat of swine, meat of fowls and orange juice in July 1997, and for beef (meat and edible offal of bovine) in 2001.

29. Can you please advise the percentage levels of utilisation of tariff quota entitlements in recent years?

During the recent three years, Korea recorded an average 63% of tariff quota utilization.

30. We understand that 22 organisations including ministries, producer groups, other state trading entities, can be involved in administering tariff quota allocations. We also understand that quota allocation system can be auctioning, designation, real demand allocation, and a combination thereof. What are the reasons for employing the diverse range of entities and quota allocation systems? What are seen as the advantages and disadvantages of the different allocation systems?

The Korean government is adopting auctioning and real demand allocation for the allocation and administration of tariff quota. It employs different administration methods and diverse range of entities in order to reflect different characteristics and the distribution system of different items and to efficiently manage different market access volume.

31. Can you please advise how central government agencies monitor the performance of state trading enterprises and producer associations which are entrusted with the administration of tariff quotas?
Based on related laws and regulations, the Korean government can monitor the performance of state trading enterprises and producer associations entrusted with the administration of tariff quotas, and demand the submission of necessary materials and, if necessary, take punitive measures.

32. Is any assessment made by other than the administering agency of the reasons imports at times fail to fill tariff quota entitlements?

Academic and research institutes are known to have conducted studies on the utilization of tariff quota entitlements for academic purposes.

33. Have levels of quota utilisation been effected by the administrative allocation procedure employed?

Generally, utilization of tariff quota entitlements is decided by the supply and demand in the market. Therefore, tariff quota administration methods are not considered to have a direct effect on the levels of quota utilization.

34. The WTO secretariat has commented that the mechanisms used by Korea for administering and allocating agricultural tariff quotas, (for example by state trading entities or industry associations) can raise potential conflicts between their importing interests and those of their farm constituents. Is any consideration being given to changing the system of quota administration?

Reflecting the outcomes from the on-going DDA negotiations, the Korean government will review improving its current quota administration system when it finds such improvement necessary in the process of administering and allocating market access quota.

35. Do the FTA agreements entered into to date include liberalisation of access to Korea’s agricultural market? Where a product is subject to an MFN tariff rate quota, are imports from a country with whom an FTA has been negotiated, and which are subject to tariff rate quotas under that FTA, additional to or seen as coming within the import entitlements under the MFN tariff rate quota?

The FTA agreements that Korea concluded with other countries include liberalization of access to Korea's agricultural market. As Korea administers TRQ under the UR negotiation and TRQ under FTA separately, imports from a country with whom an FTA has been concluded do not come within the entitlements under the MFN tariff quota.
36. The out-of-quota rate in ROK tariff quotas for certain agricultural products can exceed 200% and for some products is as high as 887.4%. In recent years, has any trade taken place at out-of-quota tariff rates?

Green tea, garlic, red pepper, ginger, maize and buckwheat, of which the gap between domestic and international prices is huge and of which the supply is insufficient, have been imported at out-of quota rates.

37. Under Korea's administrative arrangements, which organisation(s) would have the formal responsibility for administering imports taking place at above-quota rates: is it the organisation responsible for administering the tariff-quotas or, as quotas are not involved, another agency?…more generally regarding agriculture

There is no any specified administrative agency for out-of-quota imports because out-of- quota volume can be freely imported following the payment of a tariff imposed on it.

38. Can you please advise Korea’s policy priorities for the agricultural sector? What measures are currently in place to promote increased efficiency and assist structural adjustment of Korea's agricultural industries?

In its efforts toward restructuring its agricultural sector in an accelerated and efficient manner, the Korean government has shifted its policy orientation; focusing more on the stabilization of farm income and farming management while reducing investment in infrastructure such as land and water-resources development.

As a first step to effectively implement and monitor such policies as farm income safety programs and livelihood safety programs for uncompetitive farmers, the Korean government has launched the “farmhouse registration project.”

In addition, considering the significance of the "non-trade concerns" in the agricultural sector, the Korean government has carried out a policy of improving the welfare condition in rural areas, which is designed to create an environment for a "residential area with urban and rural characteristics.”

39. Have schemes been adopted or proposed to compensate Korean agricultural producers who may possibly be affected by FTA market liberalisation? What form have these schemes taken?

The Korean government raised a temporary FTA fund to provide support for some farmhouses growing greenhouse grapes, kiwis and peaches, which, affected by the Korea-Chile FTA, had to close their farms.

However, the temporary FTA fund is used for general restructuring projects rather than for compensation projects for individual farmers. Based on the principle of selection and concentration, the fund is used to strengthen competitiveness, to enable the agricultural sector to rapidly respond to the changes in consumption
pattern, and to support the efforts of increasing the scale of farmhouses and equipping themselves with expertise and facilities.

40. **What is Korea's attitude to the import of genetically modified agricultural products?**

Genetically modified agricultural products are freely tradable according to the contracts between importers and exporters. However, considering potential risks of genetically modified agricultural products due to scientific uncertainty and consumers' right to know, the Korean government implements the Advanced Informed Agreement Procedure and Labeling for it. Though Korea is not a signatory country of "The Cartagena Protocol on Biosafety," it employs a system which examines products' risk on the human body and the environment, and only allows the import of the approved products. Labeling is required for products for domestic distribution.

**The Flexible Tariff**

41. **Could you please advise which products are currently subject to adjustment duties? What are the applicable rates and what is the differential between the adjustment duties and the normally applicable MFN rates?**

Adjustment duties are imposed on 6 agricultural products, 10 fishery products, plywood, and surface mount machines for electronic parts in 2006. The adjustment duties have been introduced on an MFN basis in order to lighten the shock from trade liberalization. The applicable rates are shown in the attachment 2.

42. **Are any products currently subject to special emergency tariffs? If yes, could you please advise what products and the emergency tariff levels involved? For what period are these emergency tariffs operative?**

Korea applies special safeguard tariffs to agricultural products in conformity with the WTO Agreement on Agriculture on an annual basis. 44 items including ginseng root, ground nut, and small green beans have been subject to special safeguard tariffs in 2006.

43. **What is meant by an “autonomous” tariff quota? What is the quota’s purpose? Who decides the conditions applying to such quotas? Who administers the quota? To whom are they allocated and on what basis?**

The term “autonomous” means that Korea voluntarily determines the quota with a low tariff rate taking into consideration an item’s supply and demand.
The purpose of the quota is to stabilize domestic prices by imposing low tariff rates on the items that need to be imported because their domestic demand exceeds domestic supply.

The request for and control of the quota is administered by domestic producers of such items entitled to quota tariffs and the quota is allocated on a first-come first-served basis.

44. **In line with paragraph 2 of the Leaders Statement, does Korea endeavour to publish changes to tariff levels under its flexible tariff regime in advance of their introduction?**

The law provides that advance consultation with related ministries, economic associations, and research institutions should precede any changes in the flexible tariff system.

Korea informs the public of changes in the flexible tariff system 15-30 days in advance by posting them on the government website and publishes such changes officially through the government gazette.

45. **Is any consideration being given to revising Korea's flexible tariff system generally?**

Korea has a plan to reduce or remove gradually the flexible tariffs in line with the reduction of tariff rates resulting from DDA and FTA negotiations and the necessity to enhance transparency and predictability of the tariff rate policy.

### Chapter 2: Non-tariff Measures

46. **We note from the IAP advice, the increase in the MMA on rice that is to take effect by 2014. Regarding rice, can imported rice be sold directly to Korean consumers?**

Based on the result of the rice negotiations, the government imported 10% of MMA rice as table rice in 2005. The share will increase up to 30% in 2010. Table rice is imported in a form of state trading. Korea Agro-Fisheries Trade Corporation sells rice to the companies registered for public auction through open public tender, and the companies of whom the bid is successfully accepted sell the rice directly to consumers.
47. Have all quantitative restrictions on textile and clothing products been eliminated in accordance with the Agreement on Textiles and Clothing (ATC)?

All quantitative restrictions on textile and clothing products have been eliminated in accordance with the Agreement on Textiles and Clothing.

48. In the context of the 2002/3 review of Korea’s IAP the question was asked “in relation to automatic import licensing, please list the government agency or administrative agency responsible for administering import licensing or prior authorisation requirements for various products. Please outline any recent steps to ensure consistency and transparency in the administration of these provisions by the various agencies and organisations.” A lengthy and informative answer was then provided. Can you please advise whether there has been any alteration to the information provided on that occasion?

The following tables briefly describe the items subject to import-related requirements and the administrative organizations under the 47 domestic laws. Each Ministry takes charge of the application of the laws whose procedures or requirements fall under its authority.

(1) Ministry of Commerce, Industry and Energy

<table>
<thead>
<tr>
<th>Law</th>
<th>Product covered</th>
<th>Related administrative organization</th>
</tr>
</thead>
<tbody>
<tr>
<td>High Pressure Gas Safety Control Act</td>
<td>High pressure gas, container and facilities</td>
<td>Korea Gas Safety Corporation</td>
</tr>
<tr>
<td>Liquefied Petroleum Gas Safety and Business Management Act</td>
<td>Gas appliances</td>
<td>Korea Gas Safety Corporation</td>
</tr>
<tr>
<td>Act on the Control of the Production etc. of Specified Substances for the Protection of the Ozone Layer</td>
<td>Controlled substances under the Montreal Protocol</td>
<td>Ministry</td>
</tr>
<tr>
<td>Electric Appliances Safety Control Act</td>
<td>Designated electric appliances which can cause danger or injury</td>
<td>Korean Agency for Technology and Standards</td>
</tr>
<tr>
<td>Manufacture and Management of Elevators Act</td>
<td>Elevators, escalators and their components specified by this act</td>
<td>Korean Agency for Technology and Standards</td>
</tr>
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<td>--------------------------------------------</td>
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<td>------------------------------------------</td>
</tr>
<tr>
<td>Quality Management and Safety Control of Industrial Products Act</td>
<td>Designated consumer products which can cause danger or injury</td>
<td>Korean Agency for Technology and Standards</td>
</tr>
<tr>
<td>Measures Act</td>
<td>Legal measuring instruments</td>
<td>Korea Machinery Meter and Petrochemical Testing and Research Institute</td>
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</table>

(2) Ministry of Agriculture

<table>
<thead>
<tr>
<th>Law</th>
<th>Product covered</th>
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</thead>
<tbody>
<tr>
<td>Food Grain Management Act</td>
<td>Rice</td>
<td>Ministry</td>
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<tr>
<td>Fertilizer Management Act</td>
<td>Agricultural fertilizer</td>
<td>Ministry</td>
</tr>
<tr>
<td>Agrochemicals Management Law</td>
<td>Agrochemicals</td>
<td>Ministry</td>
</tr>
<tr>
<td>Livestock Epidemics Prevention and Control Act</td>
<td>Animals and animal products</td>
<td>National Veterinary Research Quarantine Service</td>
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<tr>
<td>Plant Protection Act</td>
<td>Plants and plant products</td>
<td>National Plant Quarantine Service</td>
</tr>
<tr>
<td>Seed Industry Law</td>
<td>Crop seeds, Vegetable seeds for sale, Fruit trees for sale</td>
<td>Rural Development Administration, Korea Seed Association, National Seed Management Office</td>
</tr>
<tr>
<td>Law</td>
<td>Product covered</td>
<td>Related administrative organization</td>
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<tr>
<td>Livestock Act</td>
<td>Pure-bred breeding stocks</td>
<td>Korea Animal Improvement Association, Korea Poultry Association</td>
</tr>
<tr>
<td>Pharmaceutical Act</td>
<td>Veterinary medicine</td>
<td>Ministry, Korea Animal Health Product Association</td>
</tr>
<tr>
<td>Ginseng Industry Law</td>
<td>Ginseng</td>
<td>National Agricultural Cooperation Federation</td>
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</table>

(3) National Forestry Administration

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<thead>
<tr>
<th>Law</th>
<th>Product covered</th>
<th>Related administrative organization</th>
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</thead>
<tbody>
<tr>
<td>The Law concerning Protection of Wildlife and Game</td>
<td>Wildlife animals</td>
<td>Administrative local governments</td>
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</table>

(4) Ministry of Maritime Affairs and Fisheries

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<th>Law</th>
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<tr>
<td>Fisheries Act</td>
<td>Marine animals and plants</td>
<td>Ministry</td>
</tr>
<tr>
<td>Quality Control of Fishery Products Act</td>
<td>Marine animals and plants</td>
<td>Ministry, National Fisheries Products Quality Inspection Service, National Fisheries Research and Development Institute</td>
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(5) Ministry of Finance and Economy

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<td>Foreign Exchange Management Act</td>
<td>Coinage, banknotes, securities</td>
<td>Foreign exchange banks, the Bank of Korea</td>
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<tr>
<td>Law</td>
<td>Product covered</td>
<td>Related administrative organization</td>
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<tr>
<td>Tobacco Business Act</td>
<td>Tobacco seeds</td>
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(6) Ministry of Science and Technology

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<tr>
<td>Atomic Energy Act</td>
<td>Nuclear materials</td>
<td>Ministry</td>
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<tr>
<td></td>
<td>Radioisotope, radiation generators</td>
<td>Korea Radioisotope Association</td>
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(7) Ministry of Health and Welfare

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<th>Law</th>
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<tr>
<td>Pharmaceutical Affairs Act</td>
<td>Finished pharmaceuticals</td>
<td>Korea Food and Drug Administration, Korea Pharmaceutical Traders’ Association</td>
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<tr>
<td></td>
<td>Materials for medicines or for herbal drugs</td>
<td>Korea Food and Drug Administration, Korea Pharmaceutical Traders’ Association</td>
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<tr>
<td>Medical Device Act</td>
<td>Medical devices</td>
<td>Korea Food and Drug Administration, Korea Medical Device Industry Association</td>
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<tr>
<td>Act on the control of narcotics, etc</td>
<td>Narcotics for medicine</td>
<td>Korea Food and Drug Administration, Korea Pharmaceutical Traders’ Association</td>
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<td></td>
<td>Cannabis</td>
<td>Korea Food and Drug Administration, Korea Pharmaceutical Traders’ Association</td>
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<tr>
<td></td>
<td>Finished pharmaceuticals &amp; Materials for medicine</td>
<td>Korea Food and Drug Administration, Korea Pharmaceutical Traders’ Association</td>
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<td>Cosmetic Act</td>
<td>Cosmetics</td>
<td>Korea Food and Drug Administration, Korea Cosmetic Association</td>
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<tr>
<td>Food Sanitation Act</td>
<td>Food, food additives, apparatus, container and package</td>
<td>National Quarantine Station or Regional Food and Drug Administration</td>
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<tr>
<td>Health Functional Food Act</td>
<td>Health Functional food</td>
<td>Korea Food and Drug Administration, National Quarantine Station or Regional Food and Drug Administration</td>
</tr>
<tr>
<td>Quarantine Act</td>
<td>Designated products</td>
<td>Korea Food and Drug Administration, National Quarantine Station or Regional Food and Drug Administration, National Veterinary Research and Quarantine Service</td>
</tr>
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<td>Human Tissue Safety &amp; Control Act</td>
<td>Transplant (material) of Human tissue (bone, ligament, tendon etc)</td>
<td>Human Tissue Bank of Korea, Korea Food &amp; Drug Administration, The Export-Import Bank of Korea, Korea Customs Service</td>
</tr>
</tbody>
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(8) Ministry of Labour

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<tr>
<td>Industrial Safety and Health Act</td>
<td>Harmful substances (e.g. yellow phosphorous matches, benzidine)</td>
<td>Local labour administration</td>
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<td></td>
<td>New chemical substances (e.g. chemical elements, radioactive substances)</td>
<td>Ministry</td>
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<td></td>
<td>Safeguarding measures (e.g. safeguarding measures against press)</td>
<td>Korea Occupational Safety &amp; Health Agency</td>
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<td></td>
<td>Harmful or hazardous equipments (e.g. cranes, lifts)</td>
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<td>Law</td>
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<tr>
<td>Radio Waves Act</td>
<td>Apparatus of radio equipment</td>
<td>Radio Research Laboratory</td>
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<td>EMI or EMC equipment</td>
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<td>Telecommunications Basic Act</td>
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<td>(9) Ministry of Information-Communication</td>
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<tr>
<th>Law</th>
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<th>Related administrative organization</th>
</tr>
</thead>
<tbody>
<tr>
<td>Publication and Printing Promotion Act</td>
<td>Foreign publications</td>
<td>Korea Publication Ethics Commission</td>
</tr>
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<td>Protection of Cultural Properties Act</td>
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<td>Cultural Heritage Administration</td>
</tr>
<tr>
<td>(10) Ministry of Culture and Tourism</td>
<td></td>
<td></td>
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</tbody>
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<th>Related administrative organization</th>
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<tr>
<td>Defense Acquisition Program Act</td>
<td>Military products</td>
<td>Defense Acquisition Program Administration</td>
</tr>
<tr>
<td>(11) Ministry of National Defence</td>
<td></td>
<td></td>
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<tr>
<th>Law</th>
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<th>Related administrative organization</th>
</tr>
</thead>
<tbody>
<tr>
<td>Firearms, Swords, Explosives etc. Control Act</td>
<td>Firearms, swords and explosives</td>
<td>Agency</td>
</tr>
<tr>
<td>(12) National Police Agency</td>
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<td></td>
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### (13) National Tax administration

<table>
<thead>
<tr>
<th>Law</th>
<th>Product covered</th>
<th>Related administrative organization</th>
</tr>
</thead>
<tbody>
<tr>
<td>Liquor Tax Act</td>
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</tr>
</tbody>
</table>

### (14) Ministry of Environment

<table>
<thead>
<tr>
<th>Law</th>
<th>Product covered</th>
<th>Related administrative organization</th>
</tr>
</thead>
<tbody>
<tr>
<td>Toxic Chemicals Control Act</td>
<td>Chemical substances</td>
<td>Korea Chemicals Association, Local governments, Basin Environmental Offices or Regional Environmental Offices</td>
</tr>
<tr>
<td>Wildlife Protection Act</td>
<td>Animals and plants detrimental to ecosystem</td>
<td>Basin Environmental Offices or Regional Environmental Offices</td>
</tr>
<tr>
<td></td>
<td>Endangered wild animals and plants</td>
<td>Basin Environmental Offices or Regional Environmental Offices</td>
</tr>
<tr>
<td></td>
<td>Wild animals</td>
<td>Local governments</td>
</tr>
<tr>
<td></td>
<td>International trade in endangered Species of wild fauna and flora</td>
<td>Basin Environmental Offices or Regional Environmental Offices</td>
</tr>
<tr>
<td>Drinking Water Management Act</td>
<td>Bottled water, water treatment chemicals and its container</td>
<td>Basin Environmental Offices or Regional Environmental Offices</td>
</tr>
<tr>
<td>Act on the control of transboundary movements of hazardous wastes and their disposal</td>
<td>Wastes</td>
<td>Basin Environmental Offices or Regional Environmental Offices</td>
</tr>
<tr>
<td>Noise and Vibration Regulation Act</td>
<td>Motor vehicles, etc.</td>
<td>National Institute of Environmental Research</td>
</tr>
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<td>Atmospheric Environment Preservation Act</td>
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### (15) Ministry of Construction and Transportation
Law | Product covered | Related administrative organization
--- | --- | ---
Motor Vehicles Control Act | Motor vehicles | Ministry
Construction Equipment Management Act | Construction equipments | Ministry

**Import levies**

49. The IAP comments that Korea abolished import levies on salt in 2001. Can you please advise whether any levies are still applied on other products?

Import levies are applied on petroleum oils, their preparations, natural gas and petroleum substitute fuels. In total, 35 items are subject to the import levies.

**Chapter 3: Services: General Approach**

50. There is a mention in Korea’s IAP that it “has made commitments in 104 of 155 sectors under the WTO” in Services. Given that there are many cases (in the general discussion of service sector liberalization) in which liberalization “commitments” cover only a part of the sector at issue, could Korea elucidate the level of commitments in the above-mentioned 104 sectors?

Overall, Korea has made relatively high level of commitments. In the WTO DDA negotiations, Korea has made commitments in 104 of 155 sub-sectors, and made improvements in the mode 4 in its revised offer. Health related sectors and social services are the only services sector that Korea has not made any offers.

However, there are some market access and national treatment restrictions in the sectors Korea has made commitments, mostly reflecting domestic laws and national policy objectives. The following are some of the examples: economic needs test requirements in wholesale and retail services, foreign equity restrictions in telecommunications services, commercial presence requirement in some business services, restrictions on the type of juridical persons in education services.

51. While Korea’s IAP states “[n]o further action planned” under “Further Improvements Planned” for “Foreign Entry”, is there a possibility of Korea’s further providing MRA treatment to each sub-sector of Business Services (thereby securing freer foreign entry)?

While Korea is of the view that MRA arrangements could facilitate cross-border trade in services, at this stage no concrete plan is in the pipeline for providing treatment.
Chapter 3 (a:1) Business Services: Legal

52. Could Korea elaborate on the exact nature of further planned improvements in the sector as foreshadowed in its IAP (under Further Improvements Planned) based on the results of ongoing negotiations on legal services in the WTO? (Australia)

In the WTO DDA services negotiations, Korea has made a commitment in legal services. More specifically, Korea has made a commitment for ‘foreign legal consultants’. According to Korea’s offer, ‘foreign legal consultants’ will have the rights to provide advisory services on laws of the jurisdiction where the services supplier is qualified as a lawyer and on public international laws except in certain areas such as legal cases concerning family relations. Upon the conclusion of WTO DDA negotiations, this offer will become effective.

Chapter 3 (a:2) Business Services: Accounting

Chapter 3 (a:3) Business Services: Architectural

Chapter 3 (a:4) Business Services: Engineering

53. Noting that Australia and Korea are cosponsors of a plurilateral request in these sectors (Architecture and engineering) in the WTO Doha round of services negotiations, what further market access openings are planned for these sectors as part of those negotiations? (Australia)

Korea has no plans for further improvement. Korea has already made very high level of commitments in the architecture and engineering service sectors. The only notable restriction on Korea’s schedule is the commercial presence requirement in architectural services. However, Korea has made an additional commitment that allows foreign architects to supply their services through joint contracts even without a commercial presence, which opens up opportunities for foreign service suppliers to make up for the aforementioned mode 1 restriction.

54. We note Korea is participating in the APEC engineer system. With which countries are Korea negotiating mutual recognition agreements in engineering and when could APEC member economies expect Korea to have negotiated such agreements? (Australia)

There is no APEC economy with which Korea has concluded a mutual recognition agreement in the engineering field.

Discussions for mutual recognition are underway with Australia: the two economies exchanged pertinent information in September 2003, and the two economies held
bilateral meetings on the margins of the 5th Steering Committee meeting of 2005. Recently, Korea delivered pertinent information requested by the Engineering Association of Australia, and looks forward to comments and further discussion from the Engineering Association of Australia.

Chapter 3 (a:5) and Business Services: Other Professional Services (Veterinarian):

Chapter 3 (a:6) Business Services: Other (printing, publishing services)

Chapter 3 (b:1) Communication Services: Postal

Chapter 3 (b:2) Transport Services: Express Delivery

Chapter 3 (b:3) Communication Services: Telecommunications

55. With regard to licensing and qualification requirements for telecom service providers, it would be helpful if Korea could provide additional information on how it distinguishes between facilities-based and non-facilities-based carriers. In addition, additional clarification on what is meant by “reasonable scale of facilities” would be welcomed. Finally, what is the basis that MIC uses to approve service providers? (USA)

Facilities and non-facilities based carriers are distinguished by whether telecommunication line facilities have been installed or not, according to the Article 4 of the Telecommunications Business Act. A telecommunication line facility consists of transmission and switching facilities, and a telecommunication line.

Licensing criteria for telecom service providers such as feasibility of a project plan, financial and technical capabilities have already been set in place. In the case of non facilities-based service operators, an operator must have 3 billion Won in capital, and a switch in order to qualify as a non facilities-based operator.

56. Would Korea please clarify its policy regarding foreign ownership for facilities-based carrier (discussed in the "foreign entry" section)? (USA)

Foreigners are restricted from being authorized to provide facilities-based telecommunication services, and establishing radio stations in accordance with the Telecommunications Business Act, Article 5, Provision 2 (Reasons for Disqualifications for License), and Radio Waves Act, Article 20 (Reasons for Disqualifications).
Foreigners cannot possess stocks issued by facilities-based operators, in excess of 49%, according to the Telecommunications Business Act, Article 6 (Restrictions on Stock Possessions of Foreign Governments or Foreigner).

Foreigners cannot become the largest shareholder of KT (Allowed on condition that possessed stock is less than 5%) in accordance with the Telecommunication Business Act, Addenda Article 4 (Special Cases concerning Acquisition of Stocks).

When providing facilities-based telecommunications service from abroad into the homeland, a contract has to be concluded with a local facilities-based operator according to the Telecommunications Business Act, Article 59-2 (Transboundary Provision of Key Telecommunications Services).

57. **What is Korea’s attitude to allowing “technology choice” in this and related sectors?** Does it see a need to introduce unique Korean specifications for technology in this sector? If so what is the policy rationale? Are the commonly employed mobile phone and technology systems, now employed in most countries, able to operate without complication in Korea?

In principle, the Korean government maintains a neutral position in its standards regimes and industry and users to make their own choice of an appropriate standard. However, the Korean government (MIC) may adopt a single national standard to achieve the legitimate public policy interest, including interoperability, efficient use of radio frequencies, protection of consumer rights or diminishing investment overlap.

58. **Could Korea please outline the present ownership rules that apply in the telecom sector?**

With the exception of a facilities-based operator, there are no restrictions on foreign ownership for special-service and value-added operators.

**Chapter 3 (b: 4) Communication Services: Audiovisual**

59. **Can you please spell out the concept of “cross-ownership” mentioned in the IAP?**

Cross-ownership refers to a type of media ownership in which one type of medium such as a terrestrial broadcasting owns or holds shares of another type of medium such as a system operator.

**Chapter 3 (c) Construction and Related Engineering Services**

60. **Could you please explain the concept of the mandatory subcontract system that the IAP mentions is being abolished in 2008?**
The mandatory subcontract system makes it mandatory for professional constructors to subcontract a certain number of orders received to small and medium sized ones, when the former obtains contracts exceeding a specific amount, with a goal to provide small and medium sized constructors with a minimum number of construction orders.

For example, a contract that reaches 2 million to 3 million is applicable to 20 percent of subcontracts; for more than 3 million 30 percent can be subcontracted.

Chapter 3(d) Distribution Services

61. Can you please explain why pharmaceuticals are amongst the activities being excluded from liberalisation?

Management of pharmacies, and preparation and sales of pharmaceutical products have significant effects on public health. Therefore, those acts are to be conducted only by qualified pharmacists and herb pharmacists in order to maximize the curative effects and prevent risks of misuse or abuse of medicines.

Other countries also have such measures for quality control and regulated distribution of pharmaceutical products.

Chapter 3 (e) Education Services

62. Mexico would like to know if there is any website in which the legal framework mentioned in the “operational requirements” section can be checked out, such as the Private Education Act, Primary and Secondary Education Act, Early Childhood Education Act, Higher Education Act, among others.

We do have a website (http://elaw.klri.re.kr/indexE.jsp) that offers all statutes of the Republic of Korea in English, but the site is operated on a payment basis.

63. In the foreign entry section, Korea points out that foreigners are allowed to teach in designated areas for specialized purposes that are prescribed in the Free Economic Zone and its Operation Act and other related regulations. Mexico would like to have more clarification regarding the “designated areas for specialized purposes.”

Foreign school corporations may establish foreign educational institutions in foreign economic zones, according to Article 22 of the Act on the Designation and Management of Free Economic Zones. “Designated areas for specialized purposes” refers to the free economic zones,” as stated in Article 2-1 of the same Act, which are developed with the aim of improving the management environment for foreign-invested enterprises and the living conditions for foreigners, and designated and published in accordance with the provisions of Article 4. Article 4 of the same Act is as follows:
• Article 4 (Designation, etc. of Free Economic Zones)

(1) The Special Metropolitan City Mayor, the Metropolitan City Mayor or the Do governor (hereinafter referred to as the "Mayor/Do governor") may ask the Minister of Finance and Economy to designate any free economic zones provided that in the event that any proposed zone overlaps in not less than two Special Metropolitan Cities or Dos (hereinafter referred to as the "Cities/Dos"), the relevant Mayors/Do governors shall jointly ask the Minister of Finance and Economy to designate such free economic zones.

(2) The Mayor/Do governor shall, when he intends to ask for the designation of a free economic zone in accordance with paragraph (1), draw up and submit a plan for developing such a free economic zone.

(3) The Minister of Finance and Economy shall make a final decision on the plan for developing the free economic zone that is submitted by the Mayor/Do governor and designate such proposed zones as a free economic zone after deliberation thereof and a resolution thereof of the Free Economic Zone Committee established pursuant to Article 25 (hereinafter referred to as the "Free Economic Zone Committee"). In this case, the Minister of Finance and Economy shall hear the opinion of the Mayor/Do governor who asks for the designation of such a free economic zone in accordance with paragraph (1).

(4) The Minister of Finance and Economy may, if he deems it necessary to develop a free economic zone, draw up a plan for developing such a free economic zone and designate such a zone as a free economic zone after obtaining consent from the Mayor/Do governor, deliberation thereon and a resolution thereof of the Free Economic Zone Committee.

(5) The Minister of Finance and Economy may, if it is deemed necessary when he designates any free economic zone, have the development of such a free economic zone implemented on a phased basis.

(6) The Minister of Finance and Economy shall, when he designates any free economic zones in accordance with paragraph (3) or (4), publish the contents of such designations in the Official Gazette and serve without delay a notice thereof to the Mayor/Do governor under the conditions as prescribed by the Presidential Decree.

(7) The Mayor/Do governor shall, upon receiving the notice referred to in paragraph (6), offer the contents of such notice for public perusal for not less than 14 days.

※ Currently Inchon, Busan-Jinhae and Gwangyang are designated as Free Economic Zones under the Act.

64. We note Korea's ongoing interest in making commitments in the education services sector within the WTO Doha round of negotiations. Could Korea elaborate on what further market openings are planned for the education sector? (Australia)
Korea does not intend to open its market for pre-primary, primary and secondary education, as these markets are considered to be fundamental components of our education system that are closely related to public values and national accountability.

However, Korea is planning to open and make certain commitments in other educational services at the WTO/DDA negotiations. Under the DDA Round, Korea plans to make commitments in the area of higher education and adult education services within the boundaries and limitations of the current education system and domestic laws. These limitations include, for example, the rights of relevant authorities to restrict the number of students for educational institutions.

65. Can you please explain the concept of a “school juridical person”?

Private schools, with the exception of pre-schools, can be established only by school juridical persons.

The term “school juristic persons” refers to juristic persons organized under the Private School Act for the purpose of establishing and operating private schools only. (Article 2-2 of the Private School Act).

As a certain amount of donation is involved as a preposition, school juridical persons may take the characteristics of a foundational juridical person (abiding by certain civil laws). However, in essence, these are special juridical persons organized only for the purpose of establishing and operating schools.

School juridical persons are provided tax favors and the government’s financial support. In the case of the disorganization of a school juridical person, residual property is reverted to the government or local authorities.

Chapter 3 (f) Environment Services

66. Is Korea open to the provision of environmental services by foreign service providers for all sub-sectors? Can foreign service providers provide environmental services on a cross-border basis? (Canada)

It was agreed at the UR/DDA that Korea would open its doors for foreign providers in most services except those services supplied in the exercise of governmental authority and certain new environmental services. Therefore, foreign services providers can provide environmental services on a cross-border basis for those open sectors.

67. In the Foreign Entry section Korea mentions that foreign businesses have difficulty in providing environment services since those services are provided by the government or local self-governing bodies. Mexico would like to know which difficulties the foreign companies are facing.
When the laws and ordinances limit public service providers to the government or government-run organizations, private companies (both domestic and foreign) cannot be the service provider. Even when contracted with the private sector by government, the service charge that is paid to the service provider is set low, as stipulated in the laws and ordinances, which attracts little attention from foreign investors.

Chapter 3 (g) Financial Services

68. Can you please provide information on the extent and effect of foreign participation in the financial services sector in Korea.

(1) The extent of foreign participation in financial services

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<tr>
<th>Field</th>
<th>Status of Liberalization</th>
<th>Date of enforcement</th>
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<tbody>
<tr>
<td>Banking business</td>
<td>to permit to establish local corporation</td>
<td>98.4</td>
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<tr>
<td>Investment trust company</td>
<td>to abolish the limitation of foreigner's investment</td>
<td>97.2</td>
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<td></td>
<td>to permit to establish new/local company</td>
<td>00.6</td>
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<tr>
<td>Short-term Financing company, Merchant bank</td>
<td>to abolish the limitation of foreigner's investment to local company</td>
<td>97.1</td>
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<tr>
<td>Security company</td>
<td>to abolish the limitation of foreigner's investment</td>
<td>97.4</td>
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<td>to permit to establish new/local company</td>
<td>98.7</td>
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<tr>
<td>Investment consultation company</td>
<td>to abolish the limitation of foreigner's investment to local company</td>
<td>97.1</td>
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<td></td>
<td>to permit to establish new/local company</td>
<td>97.2</td>
</tr>
<tr>
<td>Insurance company</td>
<td>to permit to operate independent agency</td>
<td>97.4</td>
</tr>
<tr>
<td>Mutual savings and finance company</td>
<td>to permit to operate mutual savings and finance company</td>
<td>97.1</td>
</tr>
<tr>
<td>Credit finance company</td>
<td>to permit to operate credit finance company</td>
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<tr>
<td></td>
<td>to permit to establish local corporation</td>
<td>98.7</td>
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<tr>
<td>Finance intermediary service company</td>
<td>to permit the new establishment</td>
<td>98.5</td>
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<tr>
<td>Futures company</td>
<td>to permit the new establishment</td>
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(2) The effect of foreign participation in financial services
Foreign participation has promoted the competition. As a result, competitiveness of local financial industry has been improved.

Also, through competition with foreign companies, local companies have been able to learn advanced financial system and techniques.

**Chapter 3 (h) Health-Related and Social Services**

69. Does Korea allow foreign participation in the provision of children’s services (childcare and pre-school services). Is there currently foreign participation in this sector?

Korea currently does not allow foreign participation in the provision of children's services such as childcare and pre-school services, considering the fact that children's services are critical for the public welfare. Bearing in mind that Korean needs to further strengthen the basis of its social welfare services, it has no plans to allow foreign participation in children's services in the near future.

**Chapter 3 (i) Tourism and Travel Related Services**

70. It would be useful to have further explanation whether there are any kinds of restrictions to the foreign entry or any discriminatory treatment in this sector. (Mexico)

A foreigner who seeks to hold or provide a performance or a person who desires to invite a foreigner to hold a performance in hotels or entertainment facilities such as clubs and bars in Korea other than performances under the law of the Public Performances shall obtain a recommendation from the Korea Media Rating Board.

In addition, Korea reserves the right to adopt or maintain any measure with respect to betting and gambling services including the ones transmitted or provided electronically.

**Chapter 3 (j) Recreational Cultural and Sporting Services**

**Chapter 3 (k: 2) Transport Service: Air**

71. Mexico is interested in knowing if there is any limit to the foreign investment in this sector.

Pursuant to Article 6 and 114 of the Aviation Act, people who fall under any of the following subparagraphs shall neither register their airplanes nor operate airplane transport businesses.

(1) non-Korean nationals
(2) foreign governments or public organizations
(3) foreign corporations or entities
(4) corporations where those prescribed in subparagraphs above own more than 1/2 of their own stocks or equities, or have de facto control
(5) corporations whose representatives are foreign nationals or where foreign representatives take up more than 1/2 of the number of executives

72. What is Korea’s attitude to the APEC “open skies” agreement?

Under the bilateral system, Korea pursues a gradual liberalization in aviation with major countries in Northeast Asia and countries where there is a substantial aviation demand. In APEC, it is difficult for Korea to take part in aviation liberalization without participation of all member economies. In addition, Korea actively pursues the system of multiple designated aviation operators, fare reporting system and code-sharing system, according to its deregulation and opening policies, even before the full liberalization in APEC regions.

Chapter 3 (k: 3) Transport Services: Rail

Chapter 3 (k: 4) Communication Services: Road

Chapter 3 (k: 5) Communication Services: Other

73. As there is no IAP information available for this sector, could Korea brief on the current status?

We would appreciate a more specific question. The title of the chapter may be incorrect.

Chapter 3 (l) Energy

74. As there is no IAP information available for this sector, could Korea brief on the current status?

Korea fully opened the oil industry in 1995. Furthermore, Korea has maintained a consistent policy direction to make electric power and gas markets more competitive, and also continued to pursue trade and investment liberalization policies. In line with such policies, Korea has been engaged in FTA talks with the US, Canada, ASEAN, and India, and has improved market transparency, and tried to create a competitive market in the energy sector.

Chapter 3 (m) Other

75. As there is no IAP information available for this sector, could Korea brief on the current status?
It is unclear what should be included in the ‘other services’ category. Just like most members who did not provide any information in this category, we find it difficult to answer this question.

Chapter 4: Investment

76. Please advise which sectors are partially restricted to foreign investment.

Out of 1,508 types of business, 1,030 are fully open, 26 are partially open and 2 are fully closed.

Partially open business types are growing of crops, market gardening, horticulture, farming of beef cattle, inshore fishing, coastal fishing, publishing of newspapers, publishing of magazines and periodicals, processing of nuclear fuel, electric power generation, electric power transmission, other transmission and distribution of electric power, wholesale of meat, coastal water passenger transport and coastal water freight transport, scheduled air transport, non-scheduled air transport and airplane rental with operator, leased line services, wired telephone and other telecommunications, cellular telephone services, other telecommunications, domestic commercial banking, cable networks, broadcast via satellite, news agency activities, and radioactive waste disposal.

77. Korea’s IAP states that TV broadcasting and radio broadcasting are fully closed to foreign investment. Please explain the policy rationale for closing these two economically important sectors, particularly in light of Korea’s acknowledgment in the IAP of the “important role investment plays in the domestic economy.” (USA)

TV broadcasting and radio broadcasting are important not only for the economic sector but also for the social and cultural sphere. They have the public responsibility to build up democratic public opinion by securing diverse social viewpoints and facilitate national unity.

78. Korea's IAP states that it “adheres to the MFN principle in its investment policy” and that there is “no discrimination between source economies.” In light of this statement, please explain why Korea has not been willing to make MFN commitments in its FTAs. (USA)

MFN has not been included in previously-signed FTAs because it is not necessary to include MFN in an FTA, and many bilateral FTAs do not include MFN clauses. Korea can, however, react flexibly depending on the stance of the FTA counterparts.

79. Korea’s IAP states that “since the abolition of the performance requirements on foreign investment in 1989, there have been no performance requirements such as export or local content obligations
that are inconsistent with the WTO/TRIMs Agreement.” In light of this statement, please explain why Korea seeks to take several performance requirements exceptions in the Korea-US FTA for local content obligations that are inconsistent with the WTO/TRIMs Agreement. (USA)

Korea is a member of the WTO/TRIM and does not take performance requirements that are against TRIMs obligations.

In fact, the Korea-US FTA includes more obligations than specified in the TRIMs rules. Korea believes that several performance requirements exceptions in the Korea-US FTA for local content obligations are not inconsistent with the WTO/TRIMs Agreement.

The performance requirement exceptions are enforced in areas such as the cultural, environmental, and public health sectors. For example, Korea maintains a screen quota system in which governmental regulation requires local theaters to show Korean films (at least 73 days a year). Also, someone who procures raw blood material and manufactures blood products must procure raw blood materials from a blood management body in Korea authorized by the Korean government.

80. **We note Korea’s keen interest in liberalisation of infrastructure services, such as maritime transport, construction, telecommunications, distribution and financial services. We would appreciate further information about planned liberalisation in those sectors.** (Australia)

Korea believes that it has already made high-quality commitments in the five infrastructure services. However, in preparing for the WTO/DDA second revised offer, Korea will be looking into some possibilities for further liberalization in those sectors.

81. **We note the IAP’s reference to Korea working to increase the scope of incentives for investment. Will these incentives apply equally to foreign and domestic companies? Will they apply to companies working in specific sectors or generally?**

The following incentives will be provided only to foreign companies.

- tax relief, leasing national and public properties, and reduced prices for leases, customs duties support, and cash grants.

While some incentives will be applied to all sectors, some will be granted only if certain sector-specific conditions are met.

82. **The statement is made in the IAP that Korea will continue to maintain the non discrimination principle in bilateral investment treaties in FTAs with other economies. To be clear, does this mean that liberalising provisions relating to investment, included in individual FTAs, will be extended to other APEC economies?**
A non-discrimination principle is the core clause of the FTA investment agreement and Korea's stance is that the liberalizing provisions can be applied to agreements with other APEC economies.

83. The statement is made that Korea will build a stronger IPR protection system by promoting future FTAs. As Korea is now committing a high level of R&D to GDP, and itself generating innovative intellectual property, presumably it would see advantage in developing stronger IPR protection for its own national reasons.

Korea recognizes the importance of ensuring the cycle of IPR creation, protection, and industrialization, as a means of sustainable growth.

In order to protect the existing IPR, the Korean government is currently implementing a counterfeit product report reward program, and considering granting police power to IPR related government organizations and establishing and managing international IPR protection centers.

In addition, Korea is actively participating in the discussions on the formation of a regional patent community, building various cooperative ties in the field of IPR with other countries.

84. While noting that you are seeking to minimise performance requirements applying to foreign investment, can you please give examples of the requirements that still may apply?

Performance requirements apply to areas such as cultural, environmental and public health sectors. For example, the screen quota system and the procurement of raw blood materials as stated above.

85. What forms of assistance and incentives does the Korean government provide to firms undertaking R&D activities?

In order to foster R&D activities, the following incentives are granted to FDI R&D Centres established by foreign investors.

- 7 years of tax relief is provided for high tech sectors,
- Designation of a foreign investment zone
  - Requirements: investments exceeding 5 million dollars and 10 or more researchers employed
  - Tax reductions (100% for 5 years & 50% for 2 years) and rent reductions (100%) are available.
- Cash grants
  - Requirements: ten or more researchers employed

Even after foreign invested R&D Centers are established, further financial support will be provided to those R&D Centers if they hire Korean researchers or dispatches researchers to Korea. In addition, foreign invested R&D Centers are
treated the same as domestic universities and R&D Centers when they apply for governmental R&D projects. The R&D Centers may participate in governmental R&D projects, such as Industrial Technology Development Projects.

86. Are any entities currently being privatised or under active consideration for privatisation?

Five thermal generation companies that split from KEPCO (Korea Electric Power Corporation) will be privatized in stages.

Currently, privatization is in progress for the first of the five companies, Korea South-East Power.

Chapter 5: Standards and Conformance

87. Paragraph (c) of the Cancun Declaration reads: “APEC economies will...foster the development of effective policies that support competitive markets in the domestic and international telecommunications and information industries.” Does Korea believe that its application of special standards for telecommunications technology is consistent with the Declaration?

Yes, we do.

88. Would Korea please discuss its implementation of Phase II of the APEC MRA for Conformity Assessment of Telecommunications Equipment? (USA)

Korea is interested in implementing Phase II of the APEC TEL MRA. However, in order to execute the second phase MRA, we need to revise our laws and systems. Therefore, we are currently having discussions concerning the measures that need to be taken to reshuffle the laws and systems of Korea.

89. What are the mechanisms to allow consumer interests in Korea to make a direct contribution to the development of standards?

Representatives of interested consumer organizations should be participants on the National Standards Council and the Standards Development Committee, so that consumer interests can make a direct contribution to the development of standards.

90. We understand that some years ago the Korean government decided to implement a mandatory Korean standard in the telecommunications sector. What was the rationale for doing so? Does a mandatory standard contribute to Korea's goal of increasing foreign investment?
What is Korea’s attitude to “technology neutrality” and “technology choice” and international standards?

All WTO Members are entitled to adopt the technical regulation (mandatory) or standard (voluntary) according to the WTO rules.

Korea respects the WTO rules and makes necessary policies to achieve a legitimate public policy interest.

Chapter 6: Customs Procedures

91. Can you please advise the latest figures demonstrating the level of paperless trading for Korean imports and exports?

There are currently over 42,000 companies in the trading sector that conduct e-trading using EDI, creating a yearly economic effect of over 2,500 billion Won. A unified e-trading infrastructure is currently under construction (a three-year plan, having begun in 2005), which enables trading companies to complete the entire trading process including marketing, foreign exchange, commerce/trade, logistics, and clearance in a paperless manner.

At present, the import/export and shipping list registrations are 100% computer processed, and an XML based electronic L/C system has been implemented for the first time in the world.

92. Do Korea Customs alert those with an interest in an amended or new draft regulation when a draft is available for comment?

In enacting or revising laws and administrative regulations, an advance notice of the enactment or revision is posted on the web site for 20 to 60 days before the enforcement to gather the opinions of interested parties.

If necessary, a public hearing is held.

93. Can you please explain in more detail the modus operandi and role of the Customs Ombudsman? Are the Ombudsman’s staff also staff of the Korea Customs Agency or employed by a separate arm of government?

For fast, fair and objective handling of clients' complaints, the KCS Ombudsman is appointed from the private sector. To assist the KCS Ombudsman, one(1) customs officer at each customs house is appointed as a Customs Ombudsman.

The customs Ombudsman, at the request of the KCS Ombudsman, does research on and analysis of clients’ complaints
94. The emphasis in the IPA on an integrity culture is exemplary. Can you please share with us your assessment of the effectiveness of this initiative and the responsiveness of staff to it? How is effectiveness monitored?

To realize the vision of "Settling the culture of integrity," the Korea Customs Service (KCS) drew up a road map and has encouraged active participation of all staff.

The KCS set its policy direction toward settling the culture of integrity by improving the daily life style. The KCS is encouraging participation of workers through online promotion activities, internet mailing service and in-house broadcasting.

Promoting integrity through the cultural improvement in everyday life is a new approach shifting from the existing anti-corruption activities. It is also assessed as a remarkable practice by outside organizations such as the Korea Independent Commission Against Corruption.

The initiative raised KCS staff's awareness of integrity. The integrity of the customs administration was assessed to have reached a stable level by an expert agency.

According to a survey of KCS staff in 2006, the awareness of the importance of integrity rose 71% in 2005 to 85% in 2006. Many officers also expressed positive responses to the cultural approach in improving integrity.

95. What in practice is meant by an “intelligence oriented customs administration.”

Intelligence oriented customs administration means:

(1) building the Customs Data Warehouse (CDW) which helps efficient policy making including control over illegal trade through comprehensive analysis and utilization of internal and external data of the KCS,
(2) establishing the Knowledge Management System (KMS) which integrates knowledge and experience of the organization for sharing and utilization and facilitating the creation of new knowledge, and
(3) setting up the Risk Management System (RM) which manages various risks in customs administration systematically for effective performance of the customs mission.

Chapter 7: Intellectual Property Rights

96. We understand the National Assembly passed a new copyright bill. What provisions were modified in the bill and how will this improve IPR protection for copyrights? Is there any other IPR legislation pending before the National Assembly? (USA)

Korean Intellectual Property Office proposed a bill amending the Patent Act of Korea. The National Assembly passed the bill in December 2006 and the bill will become
effective in July 2007. The bill was intended to improve the patent applicants’
convenience, and includes amendments that relax the specification drafting
requirements, allow deferment of claim scope submission, and require claim-wise
examination.

A bill amending the Trademark Act of Korea was passed by the National Assembly in
December 2006. The bill expands the scope of the protected subject matter of the
trademark to include a color mark that is composed of one color, a hologram, and a
motion mark

The main contents of the amendment bill that the National Assembly of Korea
passed in December 1, 2006 are as follows:

• to provide performers the right of distribution, the right of public performance
  regarding their unfixed performances and moral rights
• to provide performers and phonogram producers the right to remuneration for
digital audio transmission (including real-time web casting)
• to provide that an OSP which aims at file-sharing, such as P2P or web hard, shall
  apply a certain types of technological protection measures such as file-filtering
• to provide the authority to the Minister of Culture and Tourism to order the
deletion of the infringing materials distributed online
• to provide that any person who infringes on copyright, habitually and for profit,
  shall be subject to ex officio criminal remedies.

97. Korea’s IAP states that Korea is currently engaged in free-trade
agreement (FTA) talks with India, the United States, Canada, and ASEAN.
It also states that Korea has fully opened its theatrical animation market
as of January 1, 2006. Does Korea plan to bind this opening in its
current FTA talks? If not, why not? (USA)

Whether the opening is binding or not should be determined by discussions within
Korea and negotiations with Korea’s counterparts for FTAs.

98. Canada has introduced an access to medicine regime which permits the
authorization of compulsory licenses in accordance to Article 31bis of
TRIPS. Canada is currently in the process of reviewing our regime. We
would be grateful if Korea could provide more information regarding the
amendments which it made to its Patent Act to permit the authorization
of compulsory licenses in accordance with Article 31bis of TRIPS.
(Canada)

From a humanitarian point of view, we believe that a compulsory licensing system for
pharmaceutical exports must be implemented to address the public health problems
afflicting many of the developing and least developed countries, especially those
affected badly by HIV/AIDS, tuberculosis, malaria and other epidemics.

At present, these countries cannot make pharmaceutical products by importing
cheaper generics from countries where the pharmaceuticals are patented.
Thus, for the drugs to be imported more cheaper, the General Council of the WTO decided to remove the patent obstacle by facilitating access to pharmaceutical products.

To respect the decision of the General Council of the WTO, Korea revised the Patent Act in May 2005 in order to implement the compulsory licensing system for exporting pharmaceuticals.

Major contents of the revision are as follows:

(1) Implementation of the compulsory licensing system for exporting pharmaceuticals

Under the revised Patent Act, a non-exclusive license can be granted if there is a need to implement a patent invention so that pharmaceuticals can be exported to fight pandemic diseases in an importing country.

(2) Exportation of the entire quantity of manufactured pharmaceuticals

A licensee who is granted a compulsory license for exporting pharmaceuticals should export the entire quantity of the manufactured pharmaceuticals.

(3) Eligibility of importing countries

The revised Patent Act extends the eligibility of importing countries to non-members of the WTO, provided the non-members are among the developing and least developed countries facing public health problems.

The conditions of eligibility for an importing country are as follows:

A WTO member that seeks to import pharmaceutical products should notify the WTO of the name and expected quantity of the products needed. A WTO member that is not one of the least developed countries should notify the WTO that it has insufficient manufacturing capabilities with respect to the pharmaceutical sector of the needed product.

A non-member that seeks to import pharmaceutical products should notify the Korean government of the name and expected quantity of the products needed. A WTO non-member that is not one of the least developed countries should notify the Korean government that it has insufficient manufacturing capabilities with respect to the pharmaceutical sector of the needed product.

99. Ensuring Expeditious Granting of IP Rights; Korea indicates in its report that “[i]n 2004, the Copyright Act was amended to provide ‘Interactive Transmission Rights’ to performers and producers of phonograms as well as copyright holder”. Canada would be grateful if Korea could provide more information regarding what is meant by “Interactive Transmission Rights”. (Canada)

“Interactive transmission right” is the right which can be exercised regarding transmission of works through the Internet. It is the right to authorize the public
accessibility of one's performances fixed in phonograms, by wire or wireless means, in such a way that members of the public may access them from a place and at a time individually chosen by them.

It applies to on-demand services of works, the act of uploading works to enable the public to download the uploaded works and the act that the uploaded works are automatically transmitted to the end-users.

100. Korea indicates in its report that “[i]n 2005, the Ministry of Culture and Tourism (MCT) has amended the Enforcement Decree of the Copyright Act to facilitate the use of copyrighted works in the digital environment.” Canada would be grateful if Korea could provide additional information as to how the amendments facilitate the use of copyrighted material in the digital environment. (Canada)

The 2005 amendment of the Enforcement Decree has simplified the process of statutory licensing, so that works that had been kept idle for reasons such as anonymity could be used actively.

101. Reference is made to the Ministry of Information and Communications (MIC) establishing a Standing Inspection Team for the prevention of software piracy. We note a similar team is maintained by the Ministry of Culture and Tourism (MCT) to fight piracy of sound, record, video products, and games software. How many prosecutions have been undertaken by these teams, and what has been the outcome? What penalties were applied?

The Standing Inspection Team (SIT) of the Ministry of Information and Communication (MIC) and the anti-piracy team operated by the MCT differ to great extent in terms of the authority each team has. The SIT is given the authority of special judicial police under the relevant law which enables the SIT to prosecute the infringer to the National Prosecutors' Offices. However, the anti-piracy team of MCT is only given the right to collect and destroy the infringing materials under the Copyright Act and the team can only report to the police about the infringements. After the report by the anti-piracy team of MCT, the police decides whether to prosecute the reported infringer or not and, consequently, MCT does not have knowledge of the number of actual prosecutions.

For more efficient enforcement of copyright, MCT is in the process of consultation with the Ministry of Justice to introduce the special judicial police for the MCT anti-piracy team as well.

MIC has executed extensive inspection project on software piracy by SIT, which was granted special police power in 2003 to ensure the effectiveness of the project.

- 2006 inspection record: Inspection targets (2,172 agencies), Target Software (156,981 types), Free inspection software distribution (11,021 times)
- 2004 ~ 2006 software piracy rate according to SIT Inspection: 2004 (25.18%), 2005(20.93%), 2006(17.11%)
Any person who is prosecuted by the SIT and fails to come to an agreement with the copyright owner shall be sentenced to imprisonment for not more than three years, or a fine not exceeding fifty million Won, or both. As the amended Computer Program Protection Act will be implemented after April 5, 2007, imprisonment for not more than five years, or a fine not exceeding fifty million Won, or both will be applied as penalty.

102. We note that the enforcement decree of the Copyright act was amended in 2006 to facilitate the role of copyright in the digital environment. Can you please outline briefly the changes incorporated?

MCT has not amended the Enforcement Decree of the Copyright Act in 2006. The amendment which aimed at utilizing use of works in the digital environment was made in 2005 and the details can be found in the Korea's previous answer to the question 100.

103. What is the average time taken to decide patent approvals?

The Korea Intellectual Property Office (KIPO) has been exerting efforts to shorten the time for patent examination and has set as the goal to make the first action within 10 months from the initiation of the examination.

As a result, KIPO’s examiners are making first actions within 9.8 months on average. The average time for examination from the initiation until the final decision is 19.7 months.

104. What has Korea done to reinforce and comply with the 2005 commitments of the Anti-counterfeiting and anti-piracy initiative? Has Korea introduced model guidelines and in identifying customs and law enforcement contracts?

The Korea Intellectual Property Office (KIPO) has increased educational programs for government officials who are in charge of reducing trade in counterfeit goods, which includes education on identification of counterfeit goods.

In addition, Korea has been implementing public awareness campaigns through the distribution of promotion materials in printed media, via the Internet, and on electronic billboards. Korea has promulgated an anti-counterfeiting law for rewarding citizens who assisted the relevant government authorities with identifying and stopping trade in counterfeit goods.

The following are examples of Korea’s efforts to reinforce the commitment of the Anti-counterfeiting and anti-piracy initiative.

(1) Institutional overhaul to introduce WCO model guidelines (April 25, 2006).
• To lay the foundation for a Customs Collector to withdraw ex officio customs clearance of the goods which are fake.
• To provide trademark holders with digital photos to help identify trademark violations.

(2) Customs-business consultation meetings for sharing information on counterfeit enforcement in the presence of about 40 stakeholders including major trademark holders.

(3) Information sharing network with about 30 relevant organizations including the Ministry of Foreign Affairs, the Ministry of Commerce, Industry and Energy, the Prosecutors Office, the National Police Agency, foreign Embassies in Korea, foreign Chamber of Commerce and Industry in Korea, etc.

(4) Special crackdown on counterfeits
• Dedicated crackdown activities on counterfeits headed by the Vice Commissioner were carried out with the participation of 144 teams and 498 personnel from the customs houses around the country, recording 363 seizures valuing at 4489.5 billion Won (3.8 times and 8.4 times increase in cases and in value, respectively, year on year)

(5) Development and operation of scientific systems
• Spider-Web System: to screen out high-risk goods at the stage of import declaration and analyze the correlations between the importer and supplier of the goods
• Computerized Trademark Searching System: to search the image (figure), right holder, brand name and the possibility of parallel import of the trademarks which the customs were requested to protect.
• Violation Alert System: to alarm the violation of a trademark by giving a warning at the declaration of the goods with high possibility of a trademark violation.

(6) "Cyber Anti-Smuggling Center" and relevant system development to block the circulation of fakes on online shopping malls
• Activating and expanding (4→6 staff) Cyber Anti-smuggling Center (Seoul Customs House)
• Developing X-mas System(on-line smuggling information system)

(7) Promotional Activities to raise public awareness of IPR protection
• Media campaign including interview, on-site reporting, etc.(62 times)
• Billboard ad. at 9 ports/airports and major cities( 113 places)
• "Genuine and Counterfeit Products Exhibition" (Aug. 2005, Apr. 2006)
• Pamphlet distribution to overseas travelers to discourage the purchase of fakes (850 thousand)
• International conference to raise awareness of IPR protection at home and abroad (Apr. 19~21, 2006)
105. Under “Improvements Implemented Since Last IAP”, is a statement indicating that law enforcement against anticompetitive behaviour has been strengthened through, among other things, “strict law enforcement against abuse of market dominance by large foreign companies.” Does this statement indicate that large foreign companies are being targeted for enforcement action as compared to large domestic companies? If so, please provide an explanation of the rationale for this enforcement policy and the goal(s). (USA)

This statement does not mean that Korea Fair Trade Commission (KFTC) will discriminatorily strengthen its law enforcement against foreign companies.

Rather, it means that KFTC will strengthen law enforcement against anticompetitive behaviors conducted by large companies, be it domestic or foreign. In the past, law enforcement against abuse of market dominance by large domestic companies was enough.

However, in today’s globalized economy, dominance abuse by large foreign companies is increasingly affecting competition in domestic markets and consumer welfare.

106. Under “Further improvements planned” is the statement that: “The Commission is considering revising some of the requirements to presume the existence of cartel.” We would appreciate information with regard to which requirements are being reviewed, what revisions are under consideration, and the rationale for such changes. (USA)

Paragraph 5, Article 19 of the Monopoly Regulation Fair Trade Act (MRFTA) stipulates that when there is the semblance of a cartel and practical anti-competitive effect, “unfair collaborative act (cartel)” is presumed to have occurred. A couple of criticisms have been raised about these two requirements.

First, since anti-competitiveness is a factor identified only after a cartel is proven to have been committed, it does not make sense to set anti-competitiveness as one of the requirements to presume the existence of a cartel agreement.

Second, to presume a “cartel agreement” based on the semblance of a cartel (conformity in behaviors) only has been criticized for imposing too much burden on companies. In actual law enforcement, KFTC does not presume a cartel agreement based on the semblance of a cartel only. It collects circumstantial evidence to reinforce its case.

KFTC is now pursuing an amendment to MRFTA to remove anti-competitiveness from the requirements for the presumption, while maintaining the semblance of a cartel and the circumstantial evidence indicating the existence of the collaborative act. The subject for the presumption will be confined to a cartel agreement only,
while anti-competitiveness will be proven and assessed based on general standards.

107. Also under “Further improvements planned” is the statement that the “KFTC is currently reviewing . . . easing requirements for presumption of dominance.” We would appreciate information with regard to the kinds of changes in the requirements that are being contemplated, as well as an explanation for the rationale and objectives underlying these contemplated changes.(USA)

Currently, MRFTA stipulates that a company is a market dominant company i) when the company’s market share is 50% or more or ii) when the combined market share of the top three companies including the company in question is 75% or more.

There has been criticism that these requirements are too strict, limiting KFTC ability to enforce competition laws sufficiently. Therefore, KFTC has been considering either to ease the requirements for the purpose of expanding the law enforcement or to maintain the current requirements while reinforcing law enforcement.

An amendment to the MRFTA in the first half of 2007 will not include the easing of the requirements. The easing of the requirements will be reviewed in the long-term.

108. Regarding the “Revision to the Guideline on Reviews of Abuse of Market Dominance” (page 6), please elaborate on the revisions indicating the competition law rationale for the changes? What have your experiences been to date in these areas? (Canada)

To have more detailed standards for law enforcement against denial of access to essential facilities, KFTC amended the “Guideline for reviews on abuse of market dominance” in May 2002.

The amendment was aimed at clarifying the criteria for provision of essential facilities by facility holders to enhance transparency in law enforcement, predictability for market participants and thus prevent unfair business practices related to essential facilities and promote competition in the market.

In 2001, KFTC imposed corrective measures and a surcharge on the Credit Finance Association and 7 credit card companies for demanding Shinhan Bank to pay an unfairly excessive membership fee for the “Joint Use of Merchant Network.” This was the first case where KFTC applied the MRFTA against denial of access to or use of an essential facility in the network industries such as information and telecommunications, finance, electricity and so on.

For your information, “Joint Use of Merchant Network” is a system connecting merchants accepting credit cards of the 7 credit card companies. Thanks to the network, customers who have at least one of the 7 credit cards can pay with their credit cards to merchants that have not signed a contract with all of the 7 credit card companies.
With regards to the MRFTA containing provisions on the ban on cross-shareholding and cross debt guarantee (page 20), please advise what has been the impact to date of the bans on cross-shareholding and cross debt guarantee, the ceiling on total amount of shareholdings in other domestic companies, and restriction on the exercise of voting rights by financial/insurance companies belonging to large business groups. Is the MRFTA sufficiently robust to effectively and meaningfully address these issues? Do these ownership structures continue to pose a threat of abuse in certain sectors? What are the remaining Chaebol issues to be dealt with? (Canada)

MRFTA’s regulations on large business groups have arisen from unique characteristics of Korea’s large business groups such as family-owned management structures created through a complex shareholding structure, and the big disparity between ownership and corporate governance.

Large business groups are highly likely to undermine the market function by expanding a monopolistic/olygopolistic market structure and tilting the level playing field.

Moreover, their internal and external monitoring system often fails to function properly and this results in the controlling family abusing their control over the groups to line their own pockets.

Since the shareholding structure among affiliates is so complex, a company’s bankruptcy could lead to a chain-reaction of bankruptcies.

MRFTA’s regulations on cross shareholding and cross debt guarantee, the ceiling on total amount of shareholdings in other domestic companies, and the restriction on the exercise of voting rights by financial/insurance companies belonging to large business groups are evaluated to have contributed a lot to prevent and address such problems that Chaebols pose.

However, considering that controlling families with the share ownership of 5% control the entire business group by leveraging the affiliates’ share ownership of 44% (as of the end of 2006), regulations on Chaebols are still necessary.

KFTC is currently considering amending the MRFTA to ease the regulations on shareholding and strengthen ex post facto regulations and monitoring by market forces with a view to easing the burden of companies faced with the regulations on Chaebols.

Has the Korea Fair Trade Commission (KFTC) conducted an ex-post assessment of the Clean Market Project? What has been the follow up to the project? Have there been changes in the relationship between the KFTC and regulators? (Canada)

The Clean Market Project launched in 2001 is still ongoing.
In 2004, in order to better implement the project, KFTC created ‘Guideline for Operation of Industry specific Taskforces.” The guideline defines matters such as selection of industries (broadcasting, private education, finance, energy, information and telecommunication, health care and pharmaceutical, construction, and real estate) subject to the Project, composition of the taskforces, evaluation of the performance by the taskforces, and rewards for excellent performance. In 2006, KFTC reinforced its anti-competitive regulatory reform working group to better disseminate competition principles in regulated industries and it is currently considering reorganizing some parts of its organizational structure into an industry-oriented one.

It is hard to tell that the Clean Market Project itself has brought any dramatic changes to KFTC’s relationship with regulators.

However, as the project is aimed at reforming anti-competitive business practices in industries with persistent monopolistic/oligopolistic market structure, the project has reminded regulators of the importance of competition policies and contributed to disseminating competition principles to regulated industries.

111. Can you please explain the concept (see page 180) referred to under the review of competition policies and/or laws that “the ceiling on surcharge against cartel” was increased from five to 10% of the relevant turnover.

OECD presumes the size of damage from a cartel to be around 15% to 20% of the relevant turnover, and OECD and WTO recommended in 2004 that Korea’s 5% of the relevant turnover was not a sufficient deterrence to a cartel. Against this backdrop, KFTC made an upward adjustment to the ceiling on the surcharge with a view to strengthening deterrence by increasing risks for cartel participants.

112. What are the main operative provisions of the bilateral cooperation agreements affecting competition policy that Korea has signed with Australia, Mexico, Canada etc.? Does Korea see its competition law as having extraterritorial application? Conscious that it is a complex legal issue how would you describe extraterritorially as applied by Korea?

For Korea, regular competition policy consultation meetings, cooperation in law enforcement and information exchange are the main operative provisions.

However, cooperation based on bilateral cooperation agreements has not been so active yet.

113. We note from the IPA that the Omnibus Cartel Repeal Act led to the elimination and improvement of 20 cartels which had been authorised under other statutes. Can you please advise whether some cartels are still authorised and have legislative protection?

There is no cartel that is authorized by and gets legislative protection from the MRFTA. However, there are a couple of cartel authorized by individual statutes.
For example, a cartel on shipment charge and shipment terms is allowed pursuant to Article 29 of *Marine Transport Act*.

114. **We note your reference to see amended MRFTA does not deem maintaining the highest price as illegal, if there is a justifiable reason.** Can you give examples of what are seen as being justifiable reasons?

In the past, all behaviors constituting resale price maintenance were defined as per se illegal, but since the amendment of the MRFTA in 2001, maximum price maintenance which ban products or services from being traded above a certain level of price has been allowed if it has justifiable reasons.

KFTC enacted the “Guideline for Reviews on Resale Price Maintenance” in Aug 2006.

The guideline defines “maximum price maintenance” as an act that includes requirements or terms in a contract to force sales agents and other distributors not to exceed a certain set price when they sell (supply) the concerned product or service. The guideline lists the followings as situations where the maximum price maintenance is allowed:

1. **When non-market dominant producers sign an exclusive sales contract with distributors, they are allowed to set maximum price to prevent the distributors from seeking excessive profits by increasing the price above the maximum price.**

2. **When there are a small number of distributors that sell a producer's products and there is a high chance for the distributors to increase price out of collusion, the producer can't help but worry about its products losing competitive edge. To prevent this, the producer is allowed to set a maximum price within a certain level.**

Chapter 9: Government Procurement

115. **How does Korea define an SME for the purposes of its government procurement rules?**

According to article 2 of the 'Act on Small and Medium Enterprises', the general definition of a SME is a company which employs fewer than 300 persons or whose paid-in-capital amounts to below 8 billion Won.

116. **Can you please provide statistics on the value of government procurement contracts secured by foreign suppliers in recent years? What percentage of Korea's total government procurement are represented by these contracts?**

In 2004, the total volume of the Korean Government's procurement contract was US$ 58,652 million and the total volume of contract secured by foreign suppliers was US$ 308 million, which represents 0.5% of the total volume of the Korean Government's procurement contract.
Statistics of 2005 is currently being compiled.

117. We note the emphasis on value for money as a principle underpinning Korea’s government procurement policy. Can you please outline whether other policy objectives are relevant and influence Korea’s approach to this area.

To adapt to globalization in government procurement, the Korean government introduced and executed the *value-driven tendering system*, which emphasizes value including price. Furthermore, to foster a fair and credible tendering environment, the government has strengthened the remedy function by using the dispute mediation system in the bidding process.

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**Chapter 10: Deregulation/Regulatory Review**

118. Korea has obviously undertaken a very intense process of regulatory review over a period of years and now generally applies a regulatory assessment process and a sunset provision to new regulations. However time to time intense and sceptical scrutiny from is often very beneficial in this sort of field. Does Korea intend, on a recurrent basis, to hold periodic comprehensive reviews of its regulations and regulatory framework?

The Basic Act on Administrative Regulations requires that each ministry should submit its annual review plan for existing regulations to the Regulatory Reform Committee (RRC) on a yearly basis. The RRC puts the plan together, and then discloses it through careful scrutiny by the Cabinet Council.

Every year the RRC evaluates the degree to which each ministry implements its review plan.

In terms of the “bundled regulations,” which involve multiple ministries and have great impacts on the life of ordinary citizens, the Regulatory Reform Task Force, launched in August 2004 and composed of public servants and members of the private sector, carries out 48 strategic goals related to seven areas including business start-ups, distribution and telecommunication/broadcasting. The way the strategic goals are achieved is determined by a ministerial meeting over which the Prime Minister presides.

119. Korea’s IAP provides that it "has tried to ensure that all laws, regulations and related procedures are available to the public". Please provide clarification as to the extent of Korea's efforts in this regard. (Canada)

An agency’s legislative plan, proposed laws and regulations are disclosed through the website: [http://www.moleg.go.kr](http://www.moleg.go.kr) (homepage of the Ministry of Government
Legislation (MOLEG)), while all the regulations under current law are open to the public through the website: http://www.rrc.go.kr (homepage of the RRC).

Ordinary citizens can post their opinions about the legislative plan, proposed laws and regulations on the homepage of the ministry concerned, MOLEG, or the RRC. As the RRC reviews new regulations, the ministry concerned is required to submit to the RRC a summary of the opinions collected during the comment period.

Then, the RRC factors the opinions into its review and discloses the results on its homepage.

120. Do all agencies and ministries have to abide by a 21 day comment period when considering or proposing changes to regulations, draft legislation, draft presidential orders and other such measures?

In cases where a new or amended regulation is proposed, the agency concerned is required by the Administrative Procedures Act to abide by the 20-day comment period.

Without the comment period, the agency could not go to the next stage of the legislative procedure.

121. Has publication of the regulation impact assessment at the time of pre-announcement of the new legislation led to any proposed regulations being amended or abandoned?

Since July 2006, the findings of the Regulatory Impact Analysis (RIA) have been released during the period of the pre-announcement of legislation in order to collect a wider range of views from interested parties in the process of drafting a new regulation.

No detailed study has been done on how many proposed regulations were amended or abandoned as the result of the publication of RIA.

It was believed, however, that all agencies address potential problems concerning proposed regulations by substantively using the public consultation process and RIA.

122. What is the legal status of quasi administrative regulations made by semi-public agencies such as industry associations? Do these entities have to comply with the RIA requirement and publish proposed “regulatory” changes in advance to allow for public comment?

Articles of incorporation or internal rules made by semi-public organizations such as government-linked institutions are considered quasi-administrative regulations because they are not binding outside the semi-public organizations.
However, due to their dominant position, the quasi-administrative regulations could have influence on public service users.

Therefore, a semi-public organization is not required to comply with the RIA requirement which applies to primary laws and subordinate regulations, or to disclose its proposed regulations.

However, in cases where it is entrusted with a government project, the ministry supervising the semi-public organization reviews the quasi-administrative regulations by exercising the right to administrative supervision.

In 2005, the Korean government improved or abandoned 1,006 out of 2,297 quasi-administrative regulations which involve 509 semi-public organizations.

Chapter 11: Implementation of WTO Obligations

Rules of origin

123. As intra-industry is expanding across the APEC region, attribution of product origin to a single economy is becoming inconsistent with the actuality of multiple parts being imported from multiple economies. What is Korea's current practice in this regard?

In compliance with WTO rules and regulations, Korea has practiced non-preferential rules of origin in accordance with the Agreement on Rules of Origin.

Korea's non-preferential rules of origin include all rules of origin used in non-preferential commercial policy instruments such as in the application of MFN treatment, anti-dumping and countervailing duties, safeguard measures, origin marking requirements and any discriminatory quantitative restrictions or tariff quotas. Korea's non-preferential rules of origin are also used for government procurement and trade statistics.

All Korean non-preferential rules of origin schemes apply both the "wholly obtained" and "substantial transformation" criteria in compliance with the Agreement on Rules of Origin.

Wholly obtained criteria are applied for a good that is wholly grown, produced, or manufactured in one particular country.

On the other hand, when a good consists, in whole or in part, of materials from more than one country, the country where the last substantial transformation has been carried out is the origin of the good.

Under the substantial transformation criteria, the majority of goods' origin determination is based on the change in tariff sub-heading level (HS 6 digits). Meanwhile, for a limited number of goods such as cameras, textiles and livestock, value-added rules or processing operations are applied to supplement substantial transformation criteria.
WTO Agreement Annex 1c. (IPR)

124. While the TRIPS Agreement has the nature of a “minimum standard”, is Korea envisioning any “WTO-plus” element in its future IPR enforcement policy (albeit “[n]o further action planned” reported)?

As reported in its IAP, Korea had no specific plan with regard to its future IPR enforcement policy.

Korea’s current IPR enforcement policy has some WTO-plus elements. For example, criminal punishment can be imposed not only on trademark infringement and copyright infringement, but also on the infringement of patent and design.

Korea’s IPR enforcement policy can be summarized as follows:

(1) Direction of enforcement

- To develop effective control strengthening tight cooperation between the related authorities
- To improve continuous and intensive control mainly on more serious crimes including large circulation or production of forgeries
- To tighten control on producers or importers of forgeries abroad including China
- To improve control on illegal copying or sales of computer programs, media, and books or sales of forgeries on the Internet

(2) An impartial handling of the crime

- Intensifying trials so as to be sentenced to the suitable punishment to the nature of the crime restraining infringement of intellectual property rights and preventing the second offense
- Taking measures of redemption of the illegal profit on regulated large-scale traders by informing the competent tax office of tax data

(3) Maintenance and positive application of cooperation systems between the related and outside authorities

- Keeping up the mutual cooperation system and strengthening investigation cooperation system through exchange of various data and information related to intellectual property rights with the related authorities including the Ministry of Information and Communication, Ministry of Culture and Tourism and Korean Intellectual Property Office
- Consolidating investigation ability of prosecutors through positive use of private organizations connected with intellectual property rights including Korea Software Property Rights Council, Copyright Protection Center under Copyright Commission for Deliberation and Conciliation, and Intellectual Property Right Protection Center under Korean Apparel Industry Association.
Reinforcing mutual assistance with outside authorities including the European Union Permanent Mission to the Republic of Korea, the Embassy of Japan in Korea, the American Chamber of Commerce in Korea, the European Union Chamber of Commerce in Korea, Seoul Japan Club, and Seoul Center of Japan External Trade Organization

Voluntary Action to Accelerate Implementation of WTO Agreements

Chapter 12: Dispute Mediation

125. As a general comment, we note that Korea refers to 10 complaints that it has filed, and has responded to 10. The WTO website currently places Korea as having launched and responded 13 complaints, respectively. Appreciate clarification (Canada)

We would like to rectify the data referred to in Korea's IAP as follows: Korea has filed 13 complaints, and has responded to 11 complaints. The data also differs from those found in the WTO website. The difference is created for the following reason. With regard to the Liquor tax case, which was filed by US and EC, WTO deems it as 2 cases as it counts the number of cases based on the number of countries involved.

The same is true of the Beef case, which was filed by US and Australia.

Chapter 13: Mobility of Business People

126. We find coverage of the Treaty Trader (D-9) visa somewhat confusing. The phrase "foreign professionals who desire to carry on an enterprise or to participate in trade and other commercial enterprises after founding their companies in Korea" would appear to imply that traders must establish a business in Korea. The second part indicates that the category includes "foreign citizens who wish to work for private or public organizations in Korea in order to install/repair import machinery", etc. "or to supervise building ships and industrial plants". This would seem to imply that after-sales service is covered by the D-9 visa. Would Korea please further clarify the nature of the services covered by the D-9 category? (Canada)

The visa of Treaty of Trader (D-9) consists of three categories.

The first category is foreign professionals who desire to carry on an enterprise or to participate in trade and other commercial enterprises after founding their companies in Korea.

In this category, the traders must establish a business in Korea.
The second category is foreign citizens who wish to work for private or public organizations in Korea in order to install/repair import machinery.

In this category, after-sales services for imported machinery are covered by the D-9 visa.

The last category is foreign citizens who are dispatched to supervise building ships and industrial plants.

IAP reporting on FTAs and RTA's

Korea-Chile Free Trade Agreement

127. Can you please advise the number of tariff lines excluded from liberalisation in the Korea Chile FTA.

According to the Korea-Chile FTA, 21 tariff lines (HS Code 10 Digit) are excluded from liberalization for Korea and they are mainly agricultural products including rice, apples, and pears.

128. The agreement contains periods of up to 16 years before complete implementation is reached for certain products. Can you please explain the reasons for the long implementation period?

The 16 year implementation period is given to the most sensitive products. Re-negotiations for tariff elimination for these products will begin after 5 years of entry into force and shall be completed within a year. The newly negotiated tariff elimination schedule will be less than 10 years.

Korea-Singapore Free Trade Agreement

129. Can you please advise the number of tariff lines excluded from liberalisation in the Korea-Singapore FTA: Do the lines excluded coincide or differ with those excluded from the Korea Chile FTA.

According to the Korea-Singapore FTA, 946 tariff lines (HS Code 10 Digit) were excluded from liberalization for Korea including agricultural products such as rice, apples and pears. Also these tariff lines partially overlap with the agricultural products that were excluded in the Korea-Chile FTA.

Korea-EFTA Free Trade Agreement

130. Can you please advise the number of tariff lines excluded from liberalisation in the Korea EFTA FTA. Do they coincide or differ from the exclusions from the Chile and Singapore FTAs.
According to the Korea-EFTA FTA, 95 tariff lines (HS Code 10 Digit) are excluded from liberalization for Korea, and they are mainly processed agricultural products that include meat and dairy products. Since basic agricultural products were excluded from negotiation in trade in goods, the tariff lines excluded from Korea-Singapore and Korea-Chile FTAs for agricultural products partially coincide with the excluded basic agricultural products in the Korea-EFTA FTA. The agreement with EFTA covers only manufactured goods, fisheries and processed agricultural products for trade in goods and separate bilateral agreements were negotiated regarding basic agricultural products.
### Exports and imports of goods and services

(单位：百万美元)

<table>
<thead>
<tr>
<th>Item</th>
<th>2000</th>
<th>2001</th>
<th>2002</th>
<th>2003</th>
<th>2004</th>
<th>2005</th>
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<tr>
<td>Balance of goods trade</td>
<td>16,954</td>
<td>13,488</td>
<td>14,777</td>
<td>21,952</td>
<td>37,569</td>
<td>32,683</td>
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<td>Goods exports (FOB)</td>
<td>176,221</td>
<td>151,478</td>
<td>163,414</td>
<td>197,289</td>
<td>257,710</td>
<td>288,971</td>
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<td>Goods imports (FOB)</td>
<td>159,267</td>
<td>137,990</td>
<td>148,637</td>
<td>175,337</td>
<td>220,141</td>
<td>256,288</td>
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<td>Balance of services trade</td>
<td>-2,848</td>
<td>-3,872</td>
<td>-8,198</td>
<td>-7,424</td>
<td>-8,046</td>
<td>-13,658</td>
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<td>Services exports</td>
<td>30,534</td>
<td>29,055</td>
<td>28,388</td>
<td>32,957</td>
<td>41,882</td>
<td>45,129</td>
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<td>Services imports</td>
<td>33,381</td>
<td>32,927</td>
<td>36,585</td>
<td>40,381</td>
<td>49,928</td>
<td>58,788</td>
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<tr>
<td>Balance of goods and services trade</td>
<td>14,106</td>
<td>9,616</td>
<td>6,580</td>
<td>14,528</td>
<td>29,523</td>
<td>19,025</td>
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<td>Goods and services exports</td>
<td>206,754</td>
<td>180,533</td>
<td>191,802</td>
<td>230,246</td>
<td>299,592</td>
<td>334,100</td>
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<td>Goods and services imports</td>
<td>192,648</td>
<td>170,917</td>
<td>185,222</td>
<td>215,718</td>
<td>270,069</td>
<td>315,075</td>
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<tr>
<td>Goods exports/(Goods+Services)</td>
<td>0.85</td>
<td>0.84</td>
<td>0.85</td>
<td>0.86</td>
<td>0.86</td>
<td>0.86</td>
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<tr>
<td>Goods imports/(Goods+Services)</td>
<td>0.83</td>
<td>0.81</td>
<td>0.80</td>
<td>0.81</td>
<td>0.82</td>
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<td>Services exports/(Goods+Services)</td>
<td>0.15</td>
<td>0.16</td>
<td>0.15</td>
<td>0.14</td>
<td>0.14</td>
<td>0.14</td>
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<tr>
<td>Services imports/(Goods+Services)</td>
<td>0.17</td>
<td>0.19</td>
<td>0.20</td>
<td>0.19</td>
<td>0.18</td>
<td>0.19</td>
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</table>

*source: The Bank of Korea*
### Adjustment Tariff in 2006

<table>
<thead>
<tr>
<th>S</th>
<th>Description</th>
<th>General (%)</th>
<th>2006(%)</th>
</tr>
</thead>
<tbody>
<tr>
<td>0301</td>
<td>Eels (excluding Anguilla spp. or Glass eel) Sea-bream</td>
<td>10</td>
<td>10</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>30% or ₩1,908/kg whichever is greater 45% or ₩3,292/kg whichever is greater</td>
</tr>
<tr>
<td>0303</td>
<td>Sea bass</td>
<td>10</td>
<td>40</td>
</tr>
<tr>
<td></td>
<td>Croakers (excluding Redlip croaker and Yellow croaker)</td>
<td>10</td>
<td>36</td>
</tr>
<tr>
<td></td>
<td>Alaska pollack</td>
<td>10</td>
<td>30</td>
</tr>
<tr>
<td></td>
<td>Saury (including horn fish)</td>
<td>10</td>
<td>36</td>
</tr>
<tr>
<td>0306</td>
<td>Skate</td>
<td>10</td>
<td>27</td>
</tr>
<tr>
<td>0307</td>
<td>Croakers (excluding Redlip croaker and Yellow croaker)</td>
<td>10</td>
<td>63</td>
</tr>
<tr>
<td></td>
<td>Shrimps and prawns (salted or in brine)</td>
<td>20</td>
<td>50% or ₩363/kg whichever is greater</td>
</tr>
<tr>
<td></td>
<td>Squid (excluding fish meat)</td>
<td>10</td>
<td>24</td>
</tr>
<tr>
<td>0709</td>
<td>Oak mushrooms</td>
<td>30</td>
<td>45% or ₩1,625/kg whichever is greater</td>
</tr>
<tr>
<td>0712</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>0803</td>
<td>Bananas</td>
<td>30</td>
<td>40</td>
</tr>
<tr>
<td>1902</td>
<td>Chinese vermicelli</td>
<td>8</td>
<td>45% or ₩355/kg whichever is greater</td>
</tr>
<tr>
<td>1904</td>
<td>Rice, steamed or boiled</td>
<td>8</td>
<td>50</td>
</tr>
<tr>
<td>2103</td>
<td>Sauces, preparations therefore and mixed seasonings of the following: 1. Capsicum paste 2. Containing 20% or above of Capsicum or garlic or onion or ginger, Or containing 40% or above of any mixture of these</td>
<td>8</td>
<td>45</td>
</tr>
<tr>
<td>4412</td>
<td>Mae joo</td>
<td>8</td>
<td>18% or ₩80/kg whichever is greater</td>
</tr>
<tr>
<td>8479</td>
<td>Plywood, veneered panels and similar laminated wood, of a whole thickness not less than 6 mm, with each ply not exceeding 6mm thickness</td>
<td>8</td>
<td>12</td>
</tr>
<tr>
<td></td>
<td>Chip mounter, Gantry type, maximum mounting speed is not exceeding 55,000cph</td>
<td>8</td>
<td>16</td>
</tr>
</tbody>
</table>
Korea’s Responses to Hong Kong, China’s Additional Questionnaire

Tariffs

1. We note Korea’s effort in bringing down its average bound tariffs from 27.6% in 1996 to 17.2% in 2006 and average applied tariffs from 14.4% in 1996 to 12.8% in 2006, as well as its commitment to continue reducing tariffs in accordance with the UR schedule. We encourage Korea to consider accelerating its tariff reduction plan as far as possible.

Korea has continuously complied with its UR tariff schedule and will make an effort to reduce its tariff rates through active participation in multilateral trade negotiations, such as the Doha Round.

Non-Tariff Measures (NTMs)

2. We note that Korea’s NTMs are applied mainly for reasons of public health, hygiene and sanitation, safety, the environment as well as international obligations. Nevertheless, for the sake of trade facilitation, we encourage Korea to regularly review its NTMs with a view to reducing their use as far as possible.

The Korean government applies non-tariff measures for some sectors to the extent necessary to protect the health of the public and environment, and to conform to international obligations.

Korea seeks to make them not more trade-restrictive than necessary.

For example, for the purpose of enhancing transparency in the establishment and revision of Korea Food a Drug Administration(KFDA) regulations, KFDA notifies the WTO Secretariat of its proposed regulations prior to their finalization and receives comments from stakeholders around the world.

Also, it seeks international harmonization of the content of its regulations. KFDA shares and collects foods and pharmaceuticals-related information by actively participating in meetings and conferences hosted by international organization such as the World Health Organization, the Food and Agriculture Organization and the Codex Alimentarius Committee and by holding bilateral or multilateral talks with officials from foreign government authorities.

The KFDA reflects the resulting collected information in its policy as appropriate.
Services

Health Related & Social Services

3. As stated in the IAP, foreigners are permitted to provide any kind of medical services and afforded equal treatment as Korean nationals as long as they have obtained the appropriate licences. We however note that Korea has neither made any commitments on medical services in its existing GATS schedule nor has it included any new commitments in its offers. Would Korea consider binding its de facto liberal regime on medical services in this round of WTO services negotiations so as to increase the predictability of the regime?

Healthcare services, directly related to health of a country's citizens, are subject to stronger regulation than other service sectors in most countries.

Likewise, in Korea, healthcare services are under the control of the government. Such regulation is needed to improve the quality of healthcare services and suppress excessive expansion of healthcare costs by efficiently allocating healthcare resources.

It is not very clear what kind of medical services are referred to in the question above, but we have submitted a DDA reservation list in which areas that can be liberalized are specified.

Recreational, Cultural and Sporting Services

4. "Foreign Entry": We note that Korea requires a foreigner to obtain recommendations from the Korea Media Rating Board before he can hold or provide a public performance in Korea. The same is required of a Korean who wants to invite a foreigner to hold public performance in Korea. We would like to know whether Korea has any plan to relax the requirements for facilitating free flow of artists and cultural performers.

The current recommendation requirements are the minimum necessary measures to prevent disrupting the domestic market.

For now, we do not have any plans to relax the requirements.

5. "Foreign Entry": We note the following two restrictions on news agencies in Korea, namely

(a) the restriction on foreign investment, i.e. 25% of stock or share; and
(b) the restriction that "any person who is not a citizen of the Republic of Korea or has no domicile in the territory of the Republic of Korea shall not be an operator or an editor of a news agency"

have, to a certain extent, constituted barriers for entry into the market. We would like to know whether Korea has any plans to remove/relax the restrictions.

Korea has been approaching this matter very carefully and with prudence due to various reasons including the social impact that news agencies can have on cultural identity and the public-opinion building process, the divided situation of the Korean peninsula, and the need for maintaining information sovereignty.

Certainly, the current restrictions on foreign investors regarding investment in domestic news agencies will be gradually reduced, taking into consideration the domestic situation.

Due to the present lack of competitiveness of Korean news agencies, enhancing international competitiveness of domestic news agencies is a high priority before Korea opens its news agency market to the full extent.

**Intellectual Property Rights**

6. "Effective Enforcement of IP Rights": We note that the Standing Inspection Team (SIT) under the Ministry of Information and Communication (MIC) has been granted special police powers to ensure the effectiveness of inspection, and conducts inspection against software piracy. We would like to know whether the SIT has also been granted power to arrest and charge the offenders apart from conducting inspection. In this connection, we would like to have a brief account of SIT's work.

The Standing Inspection Team (SIT) has executed an inspection project against software piracy corresponding to the growing necessity of field work in this area. The SIT has been granted special police powers limited to the crimes of the computer program copyright infringement and it is composed of officials from the Ministry of Information and Communication who have expertise and knowledge in the relevant subject area.

According to Article 5.26 of the Act for Agents of the Judicial Police and the Scope of their Work, the SIT executes inspections under the guidance of the relevant prosecutor. The SIT can also enforce examinations arrests, detentions, seizures, searches and verifications with a warrant by a judicial officer.
7. "Effective Enforcement of IP Rights": We note that the Copyright Protection Center was created to conduct systemized and effective anti-piracy activities both online and offline. We would like to have more details about the Centre and how it works to protect copyright.

The Copyright Protection Center was established on April 26, 2005 and belongs to the Copyright Commission, a statutory commission under the Korean Copyright Act. It is run by a staff of 34 persons, and jointly operated by 7 organizations including the Copyright Commission, Korea Music Copyright Association (KOMCA), and Korea Movie & Video Industry Association (MVIA).

Its major duties are as follows:
• carrying out anti-piracy activities for works of music, films, games, and books, among others.
• running a website for piracy reports
• operating an automated online consultation system for the public on copyright and related rights
• researching piracy status

Its anti-piracy activities can be summarized as follows.

(1) Regular crackdowns
• operation of a standing crackdown team: one online team (16 persons), one off-line team (12 persons)
• efforts focused on commercial websites (online) and manufacture of pirated works (off-line)

(2) Special crackdowns, i.e. concentrated crackdown activities targeted on certain special seasons or carried out for certain special policy needs
• Examples are as follows:
  · crackdowns targeted at copy-stores near Universities on the onset of new semesters;
  · crackdowns on pirated cinematographic works on and off-line
  · crackdowns on newly emerging online websites that circulate pirated works (P2Ps, webhards, and UCC, among others.)

  • Operation of a search and tracing system for illegal cinematographic works

**Government Procurement (GP)**

8. First of all, we commend Korea's effort in acting as the convenor of GPEG in 2006. Besides, we appreciate that Korea's approach to GP is to conduct such procurement based on the principles of national treatment, non-discrimination and open competition. We encourage Korea to keep up with its efforts in upholding such important principles in GP.
The Korean government appreciates your thorough understanding of the Korean GP system, and is grateful for the supportive comments you have provided us in this regard.

9. "Accountability and Due Process": it is mentioned that "PPS (the Public Procurement Service) has introduced the Citizen Charter system, conducted opinion polls of customer satisfaction and publish the poll results. PPS created a system designed to provide compensations to customers for unsatisfactory service." We would like to know how the system is designed to provide compensation works, what compensations will be provided to customers for unsatisfactory services and the criteria for determining "unsatisfactory service".

PPS established the "Procurement Service Charter" to provide its customers with the procurement services of highest value.

The Procurement Service Charter consists of a preface, service charters represented by each area (stockpiling, goods purchasing, construction works, construction supervision, and KONEPS service), e-Procurement service practices, procurement service standard, corrective measures, evaluation and recommendations.

When services are unsatisfactory as a result of PPS, compensation is provided as follows:

- For supplier or contractor, in the case of (1) unkind responses; or (2) failure to pay within four working hours after receiving a payment request, phone card or cultural gift certificate valued at KW 10,000 will be provided.

In the case redundant visits to PPS are made as a result of the above (1) or (2), transportation fee will be compensated.
* Within the locality: KW 30,000
* Outside the locality: KW 50,000

- For end-user organizations, exemption or refund of procurement service fee is provided for the following
  • Delay in the conclusion of contract exceeding average lead time
  • Case where overdue payment resulting from delayed delivery exceeds the performance bond
  • Failure to fulfill the contract due to the contractor's bankruptcy and/or liquidation

In order to evaluate the implementation of the Procurement Service Charter, PPS commissions an independent organization to conduct a survey:

on customer satisfaction, more than once a year, followed by publication of the
survey results and any improvement measures on its web site;

on customer satisfaction of each department, twice a year, the results of which are reflected in the performance evaluation and implementation of the improvement measures; and

on customer satisfaction in terms of each service, the results of which are reflected in the performance evaluation, thus resulting in an improved system.

In addition, PPS carries out an internal evaluation every quarter that focuses on its implementation of the procurement service and publishes the results on its web site. Following the evaluation towards improvement in each half, a prize is awarded to the team that made the greatest improvements, and bonuses are awarded to employees who displayed excellent performance, with an added advantage towards promotion.

Deregulation/Regulatory Review

10. "Identification and Review of Existing Regulations": We note that a Business Difficulties Resolution Center has been established to receive regulatory proposals and complaints from businesses and to provide one-stop service. We trust that the Center has served as an effective forum to reduce the regulatory burdens on business and would like to know more details such as the composition, terms of reference, mode of operation, etc, of the Center

(1) Organization and Function

The Business Difficulties Resolution Center (BDRC) was set up in April 2004 and led by the Prime Minister to provide a one-stop solution service for clients. The center is composed of eight members including local government officials. The center receives regulatory proposals and complaints from businesses and provides one-stop-service through field surveys and consultations with related ministries and other interested parties.

From its launch in April 2004 until the end of 2005, out of a total 1,017 proposals it accepted, 978 proposals were addressed and 596 (61%) were resolved. In the survey, 77 % of the respondents answered were satisfied with the service they had experienced.

The center has also been evaluated as a successful example of regulatory reform by the five major economic groups.

(2) Work Process

- BDRC’s Process for Addressing Regulatory Reform Suggestions
(3) Type of Complaints

From its launch in April 2004 until the end of 2005, the center received a total of 1,017 proposals and complaints presented by businesses and citizens, out of which 978 were addressed and 596 (61%) resolved.

The analysis tables of the presented complaints are as follows.

<table>
<thead>
<tr>
<th>&lt; The Results of Management &gt;</th>
<th>Completion</th>
<th></th>
<th></th>
<th>In Process</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total</td>
<td>Sub-total</td>
<td>Resolved</td>
<td>Policy reference</td>
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<tr>
<td>1,017</td>
<td>978</td>
<td>596</td>
<td>382</td>
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<table>
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<td>Improvement of Laws &amp; Institutions</td>
<td>Improvement of Practices &amp; Behaviors</td>
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<tr>
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<td>17</td>
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<td>Total</td>
<td>Ministry of Construction and Trans</td>
<td>Ministry of Environment</td>
<td>Ministry of Commerce, Industry and Local Gov’ts</td>
<td>Ministry of Finance and Eco</td>
</tr>
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<td>100</td>
<td></td>
<td></td>
<td></td>
<td></td>
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</tr>
<tr>
<td>Number</td>
<td>portation</td>
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<td>nomy</td>
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<td></td>
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<tr>
<td>1,017</td>
<td>257</td>
<td>80</td>
<td>73</td>
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<tr>
<td>Ratio (%)</td>
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**< Type of Receptions >**

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<td>Ratio (%)</td>
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Korea's Presentation

Purpose: Consideration
Submitted by: APEC Secretariat
I. Economic & Trade Policy Direction

II. Overview of Economic Performance

III. Towards the Bogor Goals

IV. APEC and Korea
Economic & Trade Policy Direction
Strengthening liberalization and international cooperation (1)

- Reaffirming commitment to the WTO system
  - Strengthening the multilateral trading system, specifically the WTO, continues to be Korea’s top priority.
  - As a strong supporter of the multilateral trading system, Korea has been actively participating in the DDA Negotiations.
Policy Directions and Strategies

- Strengthening liberalization and international cooperation (2)
  - Expanding multi-track FTA negotiations
  - Revitalizing inbound and outbound FDI
  - Reinforcing economic and financial cooperation
Korea

Economic & Trade Policy Direction

❖ Policy Directions and Strategies

- Korea’s FTA Initiatives

  ■ Concluded
    - Chile (Entered into force in Apr. 2004)
    - Singapore (Entered into force in Mar. 2006)
    - EFTA (Entered into force in Sep. 2006)
    - ASEAN (Framework, Dispute Settlement Mechanism and Trade in Goods Agreements) (Entered into force in Jun. 2007)
    - The U.S (Concluded in Apr. 2007)

  ■ Under Negotiations
    - ASEAN (Trade in Services and Investment) (Launched in Feb. 2005)
    - Canada (Launched in Jul. 2005)
    - Mexico (Launched in Feb. 2006)
    - India (Launched in Mar. 2007)
    - EU (Launched in May. 2007)
    - Japan (Launched in Mar. 2003)

  ■ Under Governmental Joint Study
    - China (Started a joint study in Mar. 2007)
    - MERCOSUR (Currently finalizing the Joint Study Report)
Policy Directions and Strategies

- Upgrading the transparency of the economic system
  - Advancing the financial market system on a continual basis
  - Improving flexibility of the labor market
  - Upgrading fiscal institutions and the tax system
  - Fostering a basis for an innovation-driven economy
  - Promoting transparency and productivity through IT
Policy Directions and Strategies

- Managing macro-economy stability
  - Managing price stability
  - Laying the foundation for a stable real estate market
  - Fostering a strong financial and foreign exchange market
  - Strengthening efforts for fiscal efficiency
Overview of Economic Performance
## Korea

### Overview of Economic Performance

#### Major Economic Indicators

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<th>2003</th>
<th>2004</th>
<th>2005</th>
<th>2006</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>GDP Growth (%)</strong></td>
<td>3.1</td>
<td>4.7</td>
<td>4.2</td>
<td>5.0</td>
</tr>
<tr>
<td><strong>Unemployment (%)</strong></td>
<td>3.6</td>
<td>3.7</td>
<td>3.7</td>
<td>3.5</td>
</tr>
<tr>
<td><strong>Import (US$ bil)</strong></td>
<td>178.8</td>
<td>224.5</td>
<td>261.2</td>
<td>309.4</td>
</tr>
<tr>
<td><strong>Export (US$ bil)</strong></td>
<td>193.8</td>
<td>253.8</td>
<td>284.4</td>
<td>325.5</td>
</tr>
<tr>
<td><strong>FDI (US$ mil)</strong></td>
<td>6,471</td>
<td>12,792</td>
<td>11,563</td>
<td>11,233</td>
</tr>
<tr>
<td><strong>ODI (US$ mil)</strong></td>
<td>5,575</td>
<td>7,903</td>
<td>9,032</td>
<td>18,435</td>
</tr>
<tr>
<td><strong>FX Holdings (US$ bil)</strong></td>
<td>155</td>
<td>199</td>
<td>210</td>
<td>239</td>
</tr>
</tbody>
</table>
Overview of Economic Performance

Trade with APEC Economies

<table>
<thead>
<tr>
<th>Economy</th>
<th>Volume (US$, bil)</th>
<th>Percent (%)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Japan</td>
<td>51.9</td>
<td>16.8</td>
</tr>
<tr>
<td>China</td>
<td>48.6</td>
<td>15.7</td>
</tr>
<tr>
<td>U.S.A.</td>
<td>33.7</td>
<td>10.9</td>
</tr>
<tr>
<td>Australia</td>
<td>11.3</td>
<td>3.7</td>
</tr>
<tr>
<td>Chinese Taipei</td>
<td>9.3</td>
<td>3.0</td>
</tr>
<tr>
<td>APEC Total</td>
<td>200.5</td>
<td>64.8</td>
</tr>
<tr>
<td>World Total</td>
<td>309.4</td>
<td>100.0</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Economy</th>
<th>Volume (US$, bil)</th>
<th>Percent (%)</th>
</tr>
</thead>
<tbody>
<tr>
<td>China</td>
<td>69,549</td>
<td>21.4</td>
</tr>
<tr>
<td>U.S.A.</td>
<td>43,184</td>
<td>13.3</td>
</tr>
<tr>
<td>Japan</td>
<td>26,534</td>
<td>8.2</td>
</tr>
<tr>
<td>Hong Kong, China</td>
<td>18,979</td>
<td>5.8</td>
</tr>
<tr>
<td>Chinese Taipei</td>
<td>12,996</td>
<td>4.0</td>
</tr>
<tr>
<td>APEC Total</td>
<td>225,349</td>
<td>69.2</td>
</tr>
<tr>
<td>World Total</td>
<td>326</td>
<td>100.0</td>
</tr>
</tbody>
</table>
Risks and Headwinds

Domestic Issues
- Instabilities in the domestic real estate and financial and foreign exchange market
- Slow progress in job growth and income distribution
- Rapidly aging society

Regional and Global Issues
- Uncertainty surrounding the world oil market
- Widening global and regional imbalances
Towards the Bogor Goals
Korea

Towards the Bogor Goals

<table>
<thead>
<tr>
<th>Policy Tools</th>
<th>Approaches to Implement</th>
<th>Areas to be Progressed</th>
</tr>
</thead>
</table>
| Strengthening Liberalization and International Cooperation | • Promoting measures to make progress at the DDA negotiations  
- Seeking to promote a free and open multilateral trading system  
• Reinforcing regional cooperation in APEC  
- Contributing to establishing an Asia-Pacific Economic Community  
• Pursuing multi-track FTAs  
- Expanding FTA networks  
• Intensifying structural reform to establish a fair, transparent and efficient market order  
- Financial Reform  
- Public Sector Governance  
- Regulatory Reform  
- Competition Policy  
• Strengthening capacity building  
- Expanding ODA  
- Strengthening technical assistance  | • Tariffs  
• Non Tariff Measures  
• Services  
• Investment  
• Intellectual Property  
• Implementation of WTO Obligations  
• Rules of Origin  |
Towards the Bogor Goals

**Trade Liberalization**

<table>
<thead>
<tr>
<th>Area</th>
<th>Major Achievements Since 2003</th>
<th>Best Practice</th>
</tr>
</thead>
</table>
| **Tariffs** | ■ Bound Tariffs  
  - Reached 91.5% of total tariff lines  
  - Simple average bound tariff rate (import weighted average bound tariff rate) is lowered from 27.6% (15.4%) in 1996 to 17.2% (15.4%) in 2006.  
  ■ Unilateral tariff reduction  
  - Tariffs on major energy items are lowered from 5% to 3% | ■ Transparency of the tariff regime  
  - Relevant information on the tariff system and tariff rate is posted well in advance on the government gazette and website of the Korean Customs Service  
    (http://www.customs.go.kr/eng/). |
<table>
<thead>
<tr>
<th>Area</th>
<th>Major Achievements Since 2003</th>
<th>Best Practice</th>
</tr>
</thead>
<tbody>
<tr>
<td>Services</td>
<td>■ Communication Services : Audio-visual&lt;br&gt;• Percentage of shares by foreign investors in cable broadcasting and program providing business have increased from 33% to 49%.&lt;br&gt;■ Education Services&lt;br&gt;• As of February 1, 2005, domestic universities are allowed to confer joint degrees with foreign universities that have obtained accreditation from foreign governments or authorized accreditation bodies.&lt;br&gt;■ Financial Services&lt;br&gt;• A person who owns the subsidiary of an insurance company as well as a person who runs a insurance company directly in a foreign country can be licensed to conduct an insurance business.</td>
<td>■ Fully committed to make contributions to the progress in multilateral and bilateral service negotiations&lt;br&gt;• Has made commitments in 104 sectors out of 155 sectors under the WTO</td>
</tr>
</tbody>
</table>
### Korea

**Towards the Bogor Goals**

#### Investment Liberalization

<table>
<thead>
<tr>
<th>Area</th>
<th>Major Achievements Since 2003</th>
<th>Best Practice</th>
</tr>
</thead>
</table>
| Investment            | **Enhanced Investment Liberalization and Facilitation**  
  - Fully opened the theatrical animation market since 1 Jan. 2006  
  - Efforts for the liberalization through FTAs  
  **Improving the Investment Environment**  
  - “Plan of Improving Business & Living Environment (2004-2008)”  
    ✓ Among 156 tasks, 108 tasks were completed  
    ✓ IKP (Invest Korea Plaza) was established to provide one-stop service for foreign investors (Oct. 2006)  
    ✓ G4F(Government for Foreigners) website was established (Aug. 2006)  
  **Avoidance of Double Taxation**  
  - Revised existing Double Taxation Treaties with Vietnam, China and Thailand  
  - Signed new treaties with Nigeria and Australia | **Adheres to the MFN principle in its investment policy**  
  **No discrimination between source economies**  
  **Completely opened the capital market, including the bond and stock market**  
  **No performance requirements such as export or local content obligations that are inconsistent with the WTO/TRIMs Agreement** |
Korea

Towards the Bogor Goals

**Trade Facilitation**

<table>
<thead>
<tr>
<th>Area</th>
<th>Major Achievements Since 2003</th>
<th>Best Practice</th>
</tr>
</thead>
<tbody>
<tr>
<td>Standards &amp; Conformance</td>
<td>■ Alignment of standards</td>
<td>■ Publication of the 2nd National Standards Plan</td>
</tr>
<tr>
<td></td>
<td>• As of Dec. 2006, among 12,978 KS which have corresponded ISO/IEC standards, 12,965 KS are harmonized</td>
<td>• Provides a direction for standards and conformance from the year 2006 to 2010</td>
</tr>
<tr>
<td></td>
<td>• As of 2005, regarding food labeling, Korea is in conformity with 3 international standards</td>
<td></td>
</tr>
<tr>
<td>Customs Procedures</td>
<td>■ Paperless trading</td>
<td>■ Reducing the time and expenses required for clearance</td>
</tr>
<tr>
<td></td>
<td>• Launched the Internet-Based Clearance Portal System for customs clearance</td>
<td>• The import cargo release time from the entry in 2006 has been reduced to an average 3.9 days from 9.6 days in 2003.</td>
</tr>
<tr>
<td></td>
<td>• Implemented a Single Window system with 12 key government agencies handling 93% of total import verification</td>
<td>• Reduced Expenses required for customs declaration by approximately over US $ 10 mil. annually.</td>
</tr>
</tbody>
</table>
## Trade Facilitation

<table>
<thead>
<tr>
<th>Area</th>
<th>Major Achievements Since 2003</th>
<th>Best Practice</th>
</tr>
</thead>
<tbody>
<tr>
<td>Business Mobility</td>
<td>Enhanced business facilitation and security</td>
<td>e-Government for Foreigners (G4F)</td>
</tr>
<tr>
<td></td>
<td>• Exemption of visa related fees for D-8</td>
<td>• G4F provides comprehensive information on immigration policies and procedures on the Internet and full information on visa matters.</td>
</tr>
<tr>
<td></td>
<td>• Overall implementation of MRPS entry/depart inspection system in May 2005</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• Abolishment of E/D cards for nationals/registered foreigners</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• The formal launch of the API system for passenger clearance in Sep. 2005</td>
<td><strong>Korea Immigration Brand (KISS)</strong></td>
</tr>
<tr>
<td></td>
<td></td>
<td>• KISS represents innovative brand for the fastest &amp; the most comfortable immigration border service.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• KISS was selected as the winner of UNPSA (UN Public Service Award) for 2007 in the category of public service improvement.</td>
</tr>
</tbody>
</table>
**Korea**

**Towards the Bogor Goals**

- **Other Behind the Border Issues**

<table>
<thead>
<tr>
<th>Area</th>
<th>Major Achievements Since 2003</th>
<th>Best Practice</th>
</tr>
</thead>
<tbody>
<tr>
<td>Intellectual</td>
<td><strong>TRIPs implementation</strong>&lt;br&gt;• In accordance with the TRIPs Article 31 bis, Korea amended the Patent Act to permit the authorization of compulsory licenses.</td>
<td><strong>Acceded to the WIPO Copyright Treaty in 2004</strong></td>
</tr>
<tr>
<td></td>
<td><strong>Granting of IP Rights</strong>&lt;br&gt;• Amended Copyright Act, in 2004, to provide an “Interactive transmission Right” to performers and producers of phonograms as well as copyright holders</td>
<td><strong>Amended the Enforcement Decree of the Copyright Act in 2005</strong>&lt;br&gt;• Facilitating the use of copyright works in the digital field</td>
</tr>
<tr>
<td></td>
<td></td>
<td><strong>Passed Copyright Act amendment bill in 2006</strong>&lt;br&gt;• Granting better protection and reinforcing the protection in the digital field</td>
</tr>
</tbody>
</table>
## Korea

### Towards the Bogor Goals

#### Other Behind the Border Issues

<table>
<thead>
<tr>
<th>Area</th>
<th>Major Achievements Since 2003</th>
<th>Best Practice</th>
</tr>
</thead>
</table>
| Competition  | ▪ Revision of the Fair Trade Act in 2007  
▪ Lowered ceiling on the total amount of shareholding in other domestic companies  
▪ Revised the holding company system  
▪ Extended the expiry date of the right to request financial transaction information  
▪ Strengthened the monitoring system | ▪ Refinement of law/regulations to implement a 3-year Market Reform Roadmap for 27 tasks in the three major areas  
▪ Business groups’ ownership & management structure  
▪ Enhancing transparency in corporate management  
▪ Facilitating competition in the market |
### Korea

#### Towards the Bogor Goals

#### Other Behind the Border Issues

<table>
<thead>
<tr>
<th>Area</th>
<th>Major Achievements Since 2003</th>
<th>Best Practice</th>
</tr>
</thead>
</table>
| **Government Procurement** | ■ **Transparency**  
  - Established Electronic Notice of Tendering through the Government e-Procurement System  
  ■ **Accountability and due process**  
  - Established the subcommittee of the International Contract Dispute Mediation Committee | ■ **Operation of Public Procurement Service (PPS)**  
  - Digitalizes the entire procurement process  
  - Prevents unnecessary contacts between businesses and contracting officials  
  - Minimizes arbitrary decisions by contracting officials |
## Towards the Bogor Goals

### Other Behind the Border Issues

<table>
<thead>
<tr>
<th>Area</th>
<th>Major Achievements Since 2003</th>
<th>Best Practice</th>
</tr>
</thead>
<tbody>
<tr>
<td>Deregulation Regulator Reform</td>
<td>- Strengthening Regulatory Impact Analysis (RIA)</td>
<td>- Preparation of the “Basic Act on Administrative Investigation”</td>
</tr>
<tr>
<td></td>
<td>- Enhancing the Basic Act on Administrative Investigation</td>
<td>- Clarify the process of the administrative investigations</td>
</tr>
<tr>
<td></td>
<td>- Improvement of the regulation registration system</td>
<td>- Publication of “Regulatory Reform Manual for local governments.”</td>
</tr>
<tr>
<td></td>
<td>- Monitoring of regulatory reform</td>
<td>- Provides training programs for local government officials</td>
</tr>
<tr>
<td></td>
<td>- Overhaul of regulations that are outdated due to market changes</td>
<td>- Operation of a government-wide regulatory reform system</td>
</tr>
<tr>
<td></td>
<td>- Continuous overhaul of bundle regulations (RRTF)</td>
<td>- Regulatory Reform Committee (RRC) restraints new and strengthened regulations</td>
</tr>
<tr>
<td></td>
<td>- One-stop-trouble shooting service (BDRC)</td>
<td>- Regulatory Reform Task Force improves bundle regulations involving multiple ministries</td>
</tr>
<tr>
<td></td>
<td>- Regulatory reform of local government and extensive regulatory training</td>
<td></td>
</tr>
<tr>
<td></td>
<td>- Overhaul of quasi-administrative regulations</td>
<td></td>
</tr>
</tbody>
</table>
APEC and Korea
Key Contributions to the Achievement of the Bogor Goals

- Busan Roadmap
  - Setting out an ambitious but practical strategy to accelerate progress towards free and open trade and investment
  - Broadening the scope of the Goals to the behind the border issues
  - Balancing APEC’s efforts to advance free and open trade and investment and other important building blocks for economic development
Key Contributions to the Achievement of the Bogor Goals

- **Capacity Building**
  - Seeking ways to narrow gaps in development and infrastructure (e.g. APII, digital divide, knowledge based economy)
  - Intensifying efforts to strengthen capacity building activities through institutional frameworks (SMEs, women, socio-economic disparity)
APEC and Korea

Korea

Renewed Commitment:
Korea Will

- Seek co-prosperity with APEC members towards an Asia-Pacific Economic Community
- Help to draw a successful conclusion of the WTO DDA negotiations
- Enhance a secure trade environment and trade facilitation
- Ensure that RTAs/FTAs are consistent with WTO rules and support the Bogor Goals
- Seek practical ways to meet the challenges of imbalances in the global economy
- Work together to address capacity building needs
- Make efforts to promote greater effectiveness of APEC
Republic of Korea
APEC IAP PEER REVIEW

THANK YOU

July, 2007
Cairns, Australia
Comments and Questions from Member Economies on the IAP Study Report for Korea 2007

Purpose: Consideration
Submitted by: APEC Secretariat

Third Senior Officials’ Meeting
Cairns, Australia
3 July 2007
APEC Individual Action Plan Peer Review Process
Korea
Comments and Questions from member economies
on the IAP Study Report for Korea 2007

Australia

Chapt 1: Tariffs

1. At the Peer Review session, Australia proposes to question Korea on its tariff policies, including on:
   - agricultural tariffs;
   - import quota arrangements;
   - trade impacts of the special consumption tax on motor vehicles.

Chapt 3: Services

We would like to thank Korea for its fulsome and helpful answers to our earlier questions on services. Korea’s answers provided us with sound insights into the liberalisation of services sectors of interest to Australia. Following the Study Report’s circulation and the finalisation of the Korea-USA FTA, we have some further questions.

2. The Study report notes (p5) that Korea’s “service sector has been experiencing a rapid opening up, both multilaterally and bilaterally with the US”. Australia would be grateful for an explanation of Korea’s approach to multilateralising the services commitments it negotiates bilaterally in FTAs to the wider APEC – and WTO - membership. In addition, when can other APEC – and WTO – members expect to benefit from the concessions offered bilaterally or plurilaterally to trading partners under FTAs, and under what conditions?

3. We note the Study Report (p13) refers to Korea introducing a ‘step-by-step’ liberalisation initiative in legal and accounting services where the need to enhance competitiveness through liberalisation is apparent. We would be grateful for an explanation of what this step-by-step liberalisation initiative is. In addition, we would be grateful if Korea were to advise what other professional services sectors will be subject to liberalisation initiatives.

4. What is Korea’s response to the Study Report’s observation (p27) under legal services that an extension of the preferential treatment covered under the Korea-USA FTA would be another desirable option? International business sentiment seems to view restrictions in this area as having a negative impact on foreign investment inflow into Korea.
5. Australia would appreciate advice also on:

- how Korea's Tourism Promotion Act operates and how the standards are set by the Act enforced?
- What progress has Korea make in liberalising its gas market? What are Korea's future plans and timelines for liberalising its gas market?

6. Korea is recognised as having a major maritime industry with some of the world's leading ports, shipping companies and shipbuilding industry. However, we note that this sector has not been covered in Korea’s IAP. Australia would appreciate a presentation on Korea’s shipping and maritime services policies.

**Chapt 5: Standards and Conformance**

7. Korea has made substantial progress in developing action plans to harmonize its vehicle standards with international regulations and to make provision for mutual recognition of the associated testing and conformance processes. Korea also chairs the Vehicle Standards Harmonization Group within the APEC Transportation Working Group. However, there is no reference to this work in Chapter 5 of the IAP, which outlines Korea’s approach to standards and conformance, and Australia would appreciate a short presentation on it.

**RTAs and FTAs**

**Korea-Singapore Free Trade Agreement**

8. We note that 946 tariff lines have been excluded from liberalisation by Korea under this agreement. Can you please advise:

- What volume of trade do these excluded tariff lines represent, and
- Are there plans to liberalise the excluded tariff lines in the longer term (ie, later than 10 years)?

**Korea-United States Free Trade Agreement**

9. Based on the summaries available at the time of writing, Australia notes that in the Korea-United States Free Trade Agreement Korea appears to have:

- allowed US operators to own up to 100 percent of any telecommunications enterprise in Korea, including facilities-based enterprises;
- provided US operators with cost-based access to the services and facilities of dominant Korean phone companies, including their submarine cable stations; and
- agreed to safeguards on regulatory restrictions on telecommunications operators' technology choice.

Does Korea have plans to multilateralise these commitments?

10. Korea has pledged to provide comprehensive assistance to its agricultural sector and other industries adversely affected by the Korea-US Free Trade Agreement.
Could Korea indicate what adjustment pressures it expects to be generated by the FTA and what assistance will be provided, particularly for the beef and dairy sectors?

Will Korea seek to ensure that additional domestic assistance measures are balanced by the trade liberalising effects of the FTA, particularly in the agriculture sector?

11. Could Korea confirm the statement from the US delegation that under the KORUS FTA Korea will eliminate all tariff and non-tariff barriers applying to agricultural products?

Canada

Chapter 1: Tariffs. (Question 45, page 83) Korea notes that it “has a plan to reduce or remove gradually the flexible tariffs in line with the reduction of tariff rates resulting from DDA and FTA negotiations and the necessity to enhance transparency and predictability of the tariff rate policy.” Would Korea please elaborate on how it intends to “reduce or gradually remove” its adjustment duties and autonomous tariff quota’s? Does Korea intend to cease use of adjustment duties and autonomous tariff quota’s? If so, can it provide Canada with a timeframe of how and when this might occur? Would this occur on an MFN basis?

The Report notes that "Korea is a member of the Asia-Pacific Trade Agreement (the former Bangkok Agreement) and provides tariff preferences on 726 items to five economies under its provisions" and that, under its GSTP program, "Korea grants tariff preference on 89 items to 49 least developed economies". Can the Government of Korea provide an indication and a schedule of its plans to extend "duty-free, quota-free" treatment across all tariff items to all LDC members, in a manner similar to that of other OECD Members, and in accordance with the provisions of the Doha Declaration (paragraph 42) and the Decision on Measures in Favour of Least-Developed Countries reached at the 6th Ministerial meeting in Hong Kong?

Chapter 3: Services Sector. Canada takes note of the reference to the rapid opening up of Korea’s service sector with great interest. We look forward to seeing this liberalization reflected in Korea’s next WTO GATS offer.

While Canada has taken note of Korea's efforts to liberalize its services regime, we also note that many sectors remains closed or offers limited market access opportunities for foreign service providers. For example, with respect to environmental services, for CPC 9401, 9402, 9406 and 9409, Korea has carved out all activities except for the following:

- 9401: Only collection and treatment services of industrial waste water under CPC 9401
- 9402: Only collection, transport and disposal services of industrial refuse under CPC 9402.
- 9406*, 9409*: Only environmental impact assessment services under CPC 9406 and 9409.

Could Korea expand its response to question 50 with a view to indicate its sectoral sensitivities to liberalization and whether improvements are likely to result as part of its commitments in the Doha Round in respect to services?
Trade Policy: While we appreciate Korea's response to 15 on Trade policy, we have a follow-up question. In light of the General Principle of non-discrimination contained in the Osaka Action Agenda, could Korea please explain its approach and rationale with respect to the application of the most-favoured -nation treatment in the context of its bilateral free trade agreements. In this regard, we have noted that in the context of the Korea-Chile FTA and the Korea-Singapore, there is no application of the MFN provision.

We note that the IAP Study Report for Korea says that in the United States – Korea Free Trade Agreement, Korea has improved upon its WTO commitments on services, and provided meaningful market access commitments that extend across virtually all major service sectors.

While Canada understands the importance of having strong ties with regional trade partners it has become increasingly apparent that many WTO Members have made service sector commitments in their regional and bilateral free trade agreements that go well beyond their existing GATS Schedules and, in many cases, beyond their GATS offers tabled during the Doha round. This would seem to indicate that there are certain Members who maintain “gaps” between their GATS commitments and their regulatory status quo.

Would Korea therefore provide detail with respect to the relationship between the services commitments it has made in its regional and bilateral free trade agreements and its GATS commitments and offers? Would Korea also provide details on additional commitments it plans to take in its GATS schedule where it has already made commitments in its bilateral FTAs?

Business Services: Legal. The IAP Review states that the Korea-US FTA stipulates that Korea open up its market on a step-by-step basis to permit foreign (U.S.) lawyers to provide foreign legal consultancy services.

Will the new regulations also permit foreign lawyers and law firms to establish a law firm or office (other than a representative office) in Korea?

Will commercial association with, or employment of local lawyers with Korean qualifications, be permitted when the new regulations are in place?

Will the new regulations also apply to foreign (U.S.) patent attorneys? Will there be any changes to Korea's Patent Attorney Act as a result of the conclusion of the FTA with the U.S.?

Business Services: Accounting. The IAP Review reports that "Under the Korea-US FTA (agreed upon on 1 April 2007), foreign (that is, US) accountants shall be allowed step by step to operate in Korea."

Would Korea please elaborate on the new regulations for this sector that will be in place as a result of the Korea-US FTA that will allow foreign (U.S.) accountants to provide accounting services in Korea? Will this regulatory change take the form of a new Act, or an updated version of the current Act regulating accountants in Korea? If the current Act will be changed, what amendments are being considered?

Will the new regulations also apply to foreign (U.S.) tax accountants? Will any changes be made to Korea's Certified Tax Accountant Act as a result of the conclusion of the FTA with the U.S.?

Once the foreseen regulations are in place, is Korea considering extending this preferential treatment to other countries in the context of the WTO GATS negotiations?
Business Services: Engineering. The IAP Review indicates that there are no limitations on local commercial presence for construction enterprises providing engineering services (also making reference to Korea's commitments under Mode 3 of the GATS).

Would Korea please indicate whether a foreign engineer is required to establish an office in Korea in order to provide engineering services?

Business: Other Professional Services. The IAP Review states "While mutual recognition of license for veterinary medicine is not provided..."

Would Korea please clarify this statement - does this imply that mutual recognition agreements on the licensing of veterinarians are not permitted in Korea?

Tourism and Travel related services: With respect to Korea's GATS commitments and revised services offer to supplement information on page 30 of the IAP Study Report (as of May 9, 2007):

In terms of hotel and restaurant services (including catering), Mode 1 is unbound. Would you please clarify why cross-border delivery of services is not currently feasible in Korea? Given the development of, and advances in telecommunications infrastructures, hotel and restaurant services can now be delivered without having to be physically present. Computer-based or on-line reservations and bookings for hotels and restaurants are widely popular. Consulting on matters relating to hotel and catering matters can also be undertaken through the internet.

We have noted that Korea does not currently have any commitments in respect of beverage serving services for consumption on the premises. However, we note from Korea's revised services offer that it will take commitments in respect of beverage serving services without entertainment. Would Korea please explain why rail and air transport related facilities are excluded from these proposed commitments?

To note: In respect of Korea’s Responses to IAP Questionnaire (as of January 31, 2007), page 99 lists a question from Mexico as it relates to tourism and travel-related services. The response on page 100, however, relates more to a Recreational, Cultural and Sporting Services question, which is missing in the document. The actual response to Mexico’s question appears to be the one reflected in the IAP Study Report (page 30).


Canada would be grateful if Korea could provide more information on how the system to protect geographical indications works and whether any changes are foreseen.

Chapter 11: Implementation of WTO Obligations / Rules of Origin. Beyond the matter of Korea's application of Rules of Origin in bilateral agreements, can the Government of Korea provide an indication of how they ensure that preferential rules of origin applicable to imports from LDCs are transparent and simple, and contribute to facilitating market access?

Original Questions Submitted:

Chapter 3: Services; Improvements in Korea's Approach to Trade in Services since 1996: Temporary Entry and Stay of Service Providers.
We find coverage of the Treaty Trader (D-9) visa somewhat confusing. The phrase "foreign professionals who desire to carry on an enterprise or to participate in trade and other commercial enterprises after founding their companies in Korea" would appear to imply that traders must establish a business in Korea. The second part indicates that the category includes "foreign citizens who wish to work for private or public organizations in Korea in order to install/repair import machinery", etc. "or to supervise building ships and industrial plants". This would seem to imply that after-sales service is covered by the D-9 visa. Would Korea please further clarify the nature of the services covered by the D-9 category?

Chapter 3 (f): Environmental Services
Is Korea open to the provision of environmental services by foreign service providers for all sub-sectors? Can foreign service providers provide environmental services on a cross-border basis?

Chapter: Transparency
Korea provides that it "has tried to ensure that all laws, regulations and related procedures are available to the public". Please provide clarification as to the extent of Korea's efforts in this regard.

As a general comment, we note further that Korea refers to 10 complaints that it has filed, and has responded to 10. The WTO website currently places Korea as having launched and responded 13 complaints, respectively.

Chapter 7: Korea's General Approach to Intellectual Property Rights in 2006 TRIPS Implementation
Canada has introduced an access to medicine regime which permits the authorization of compulsory licenses in accordance to Article 31bis of TRIPS. Canada is currently in the process of reviewing our regime. We would be grateful if Korea could provide more information regarding the amendments which it made to its Patent Act to permit the authorization of compulsory licenses in accordance with Article 31bis of TRIPS.

Korea indicates in its report that “[i]n 2004, the Copyright Act was amended to provide ‘Interactive Transmission Rights’ to performers and producers of phonograms as well as copyright holder”. Canada would be grateful if Korea could provide more information regarding what is meant by “Interactive Transmission Rights”.

Korea indicates in its report that “[i]n 2005, the Ministry of Culture and Tourism (MCT) has amended the Enforcement Decree of the Copyright Act to facilitate the use of copyrighted works in the digital environment.” Canada would be grateful if Korea could provide additional information as to how the amendments facilitate the use of copyrighted material in the digital environment.

Chapter 8: Competition Policy
Regarding the “Revision to the Guideline on Reviews of Abuse of Market Dominance” (page 6), please elaborate on the revisions indicating the competition law rationale for the changes? What have your experiences been to date in these areas?

With regards to the MRFTA containing provisions on the ban on cross-shareholding and cross debt guarantee (page 20), please advise what has been the impact to date of the bans on cross-shareholding and cross debt guarantee, the ceiling on total amount of shareholdings in other domestic companies, and restriction on the exercise of voting
rights by financial/insurance companies belonging to large business groups. Is the MRFTA sufficiently robust to effectively and meaningfully address these issues? Do these ownership structures continue to pose a threat of abuse in certain sectors? What are the remaining Chaebol issues to be dealt with?

Has the Korea Fair Trade Commission (KFTC) conducted an ex-post assessment of the Clean Market Project? What has been the follow up to the project? Have there been changes in the relationship between the KFTC and regulators?

Hong Kong, China

Chapter 4: Investment

1. We note the expert's overall assessment that Korea has adhered to the MFN principle in its investment policy, and committed to further liberalization of remaining restricted sub-sectors. We look forward to substantive liberalization actions to be taken by Korea.

2. Grateful if Korea could elaborate on the 'extension of liberalization provisions in FTAs" to APEC economies as appeared in its reply to Question 82 in the Experts' report (page 103).

Chapter 5: Standards and Conformance

3. We note the efforts of Korea in aligning Korean standards with international standards. We also note that Korea is already a member of the mutual recognition arrangements of various specialist regional bodies. We look forward to continuing and increasing alignment of Korean standards with international standards.

Chapter 6: Customs Procedures

4. The adoption of electronic technology to facilitate document clearance, the operation of a "single window" system for handling imports and the widespread use of electronic clearance procedures as described in the Report are highly commendable and can serve as a good reference for Customs Administrations.

5. We note that a unified e-trading infrastructure is currently under construction and the Super-web system was introduced. We would like to obtain more information on the two items for reference.

6. We note that the Korea Customs Service has developed a roadmap for integrity. We would like to know more details about the "roadmap for integrity". Is there any benchmarking exercise or use of monitoring tools, like performance indicators included in the roadmap?
Chapter 8: Competition Policy

7. We note that Korea is making efforts to strengthen institutions to promote and protect fair business competition (including legislative reform) and to build organizational capacity on enforcement. Such efforts are conducive to achieving the APEC goal of enhancing competitive business environment in the region.

Chapter 12: Dispute Mediation

8. We appreciate that Korea is a staunch supporter of the WTO dispute settlement system, and its firm belief that the latter should be used as the main mechanism for resolving disputes with its trading partners.

RTAs/FTAs

9. We note that Korea attaches importance to multilateral liberalisation. We also note from the Study Report that Korea aims to become a major FTA hub through proactive FTA negotiations. We recognise that high-quality FTAs consonant with WTO provisions could help facilitate the promotion of the multilateral trading system (MTS) and accelerate the attainment of the APEC Bogor Goals of free and open trade and investment. Nevertheless, we believe that the MTS can be complemented but not substituted. We hope that the attention of WTO members would not be distracted away from the Doha Development Agenda negotiations.

Japan

(General)
1. In Korea’s response to Question 11 of the IAP Questionnaire, Korea mentioned “more than 90% of all import and exports according to tariff line” in connection with the degree of liberalization in bilateral FTAs while Korea, in the paragraph 1 of Annex 2 to the Korea ASEAN FTA, employed trade volume as well as tariff line in order to define the maximum ceiling (10%) of its Sensitive Track. What is Korea’s position on whether tariff line or trade volume would be appropriate to measure the degree of liberalization in the bilateral FTAs?

(Reference: Quoted question and answer)
Q11: What proportion of Korean imports and exports would receive preferential access once the agreements already concluded come into effect and assuming also the successful conclusion of those FTAs under active negotiation?
A: With respect to the degree of liberalization in bilateral FTAs Korea aims to achieve liberalization in substantially all the trade as referred to in GATT Article 24. More than 90% of all import and exports according to tariff line would receive preferential treatment.

(Reference: the paragraph 1 of Annex 2 to the Korea ASEAN FTA)
The number of tariff lines which each Party can place in the Sensitive Track shall be subject to a maximum ceiling of:
(i) Korea and ASEAN 6: 10% of all the tariff lines and 10% of the total value of imports from Korea or from the ASEAN Member Countries as a whole, as appropriate, based on 2004 trade statistics;

(Services)
2. In audio visual Colum of the chapter 3, Communication services, it is stated that “The number of channels possible for retransmitting foreign broadcasts was increased from 10% to 20% of total operating channels in 2006”.

1) Japan would like to clarify whether the number of channels possible for retransmitting foreign broadcasts is regulated by certain domestic laws and regulations or not. If so, please specify the names of the laws and regulations, and articles pursuant to this measure.

2) Japan would appreciate it if Korea could elaborate outline of the regulations and plans for further deregulation.

3. We would like to know the reason why there is no IAP for Maritime Transport sector though there are IAPs for all the other modes. We request Korea to make IAP for Maritime Transport sector as well.

(Government Procurement)

4. The Report points out, ‘foreign investment in the government procurement market is constrained and probably in decline’ (P46). What is Korea’s view on this assessment and how does Korea think it can enhance the openness of the government procurement market to foreign suppliers?

5. Japan commends that Korea is a pioneer in terms of the introduction of e-procurement known as KONEPS. Could you share with us the difficulties Korea has faced in advancing and operating the e-procurement system?

Mexico

1. Mexico would like to know how does Korea manage to reach a balance between the government decision to negotiate an FTA and the social impact that this implies? Could Korea further explain on the assistance programme to support those industries which are affected by trade liberalization?

2. According to Korea, what are the reasons behind the fact that its government procurement market has a very reduced participation of foreign operators?

3. Regarding the outward processing zone (OPZ) provision negotiated under the Korea-US FTA, could Korea further elaborate on:
   - The kind of sectors/products covered by this provision
   - The type of rules of origin foreseen for such products
   - The verification mechanism applicable to OPZ products to ensure origin compliance

Chinese Taipei

Q1. The IAP study report pointed out that Korea’s economic growth is expected to slow down from 4.76% in 2002-2006 to 4.5% in 2007, partly because of a slowdown in the growth rate of consumption and exports. What type of policies will your government implement to boost the engine of economic growth?
Q2. Korea’s rapidly aging population and low birth rate will affect its labor supply, savings, consumption, and economic growth. Does Korea have any quantitative assessment of the demographic shift that can be offered to other APEC member economies that have similar situations?

Q3. What are the main obstacles that the Korean government has encountered in promoting the liberalization of core regulations? Have these problems been solved satisfactorily?

Q4. Several of our industrial associations have indicated that the import tariff that Korea imposes on some imported goods is too high. For instance, the tariff on green tea is 513.6% and on non-green teas is 40%. We would thus like to ask whether Korea is considering lowering tariff on imported goods for which the present applied rate is higher than 8%, or whether there exists plans to lower import tariff.

Q5. How would Korea’s trade policies be set in order to give priority consideration for or to meet the requirements of WTO, FTA agreements, and the APEC Bogor Goals?

Q6. Since one of Korea’s FTA policies is to sign FTAs with large, advanced economic blocs and emerging markets, how does Korea view and evaluate the FTAAP?

Q7. In the experts’ “IAP Study Report—Korea 2007,” p. 130, under the 3rd point of “Health Related & Social Services,” in the 3rd paragraph, Korea provides the reply, “…we have submitted a DDA reservation list in which areas that can be liberalized are specified.” What is meant by “DDA reservation list”?

Q8. We note the IAP’s reference to Korea working to increase the scope of incentives for investment, and that the MOIC is in the final stage of approving a list of incentives, which includes measures such as cash grants for companies, financial support for foreign workers, etc. Please explain the policy rationale for Korea providing incentives to attract investment. Will Korea consider promoting it as an important measure for attracting foreign investment to be employed by all APEC member economies? If so, how can Korea avoid the possible misallocation of resources, and what is the possibility of this measure becoming an APEC-wide race on incentives?

Q9. In the 4th Chapter, the last paragraph on page 32 stated "Under the FIPA, unless otherwise provided in other laws, foreign investors and foreign invested companies are accorded equal treatment to the nationals or corporations of the Republic of Korea." Please provide more details about these "other laws”

Q10. If a shipment of counterfeit or pirated goods has been identified, we wish to know whether the Korea Customs Administration provides on request to the rights owner the information concerning the shipper, exporter, importer and the quantity of counterfeit or pirated goods. If the answer is positive, what are the legal provisions for doing so?

Q11. Ref: Chapter 8, pp. 42-43
The report, besides mentioning the reform of business groups' ownership and management structure, also mentions two policy items: the equity investment limit in domestic companies and the monitoring of intra-group transactions. However, the report does not refer to the empirical effect of facilitating competition via implementing the above measures. Since the measures are related to industrial policy, we would like to suggest that further explanation be provided on how the KFTC will handle conflicts between competition policy and industrial policy.

Q12.
Chapter 10: Deregulation/Regulatory Review
Firstly, on Page 46, it is mentioned that the Basic Act on Administrative Regulations (BAAR) provides the legal basis for conducting RIA (Regulatory Impact Assessment) for any proposed regulation or ordinance, and that 8 elements need to be addressed in an RIA. We would like to know whether or not there is some sort of “model template” being developed for writing such an RIA report? It seems to us that any one of the 5 so-called conditions (on Page 48) would trigger the mandate for undertaking an RIA, and that if this is so, the fifth condition on the list might often involve a lot of value or priority judgments. How would that help in deciding matters?

Secondly, in terms of institutional arrangements, on Page 48, it is said that the RRC (Regulatory Reform Committee) and RRTF (Regulatory Reform Task Force) complement each other under the direction of the Prime Minister. We would like to know in what way do the two agencies complement each other? In other words, the division of labor between the two agencies is not that clear. Meanwhile, it is said that the RRTF focuses on practical problems encountered by firms, especially those “bundle issues” involving cross-agency responsibilities. However, the BDRC was also set up as a one-stop solution to take care of complaints and regulatory proposals from businesses. How do they differ from each other in terms of jurisdiction? What is the main function of BDRC?

What plans, if any, are being made once the operations of both agencies (RRC and RRTF) expire in 2008? Why there should such an expiration be imposed? After 2008, which government agency would be the oversight entity for the RIA process?

Finally, on Page 47, it is mentioned that the Internet is used extensively to improve access to regulations. We would like to know whether or not the RIA process has also been facilitated via a website that is open to the general public as well as foreign businesses?

Thailand

1. IAP Chapter 3 (a:4): Business Services: Engineering
Under this heading, Korea only provided information related to construction engineering services. Can Korea please provide information regarding other engineering services such as electrical engineering, electronics, industrial engineering or mining, in particular, whether or not the conditions or limitations on investments and qualifications of service providers differ from those governing construction engineers? If so, could Korea provide further information regarding requirements in these areas?

2. IAP Chapter 3 (j): Recreational Cultural and Sporting Services
Under Operational Requirements for this service sector, Korea states that current entry requirements do not permit foreign business operators of daily newspapers, news agencies and broadcasting stations in Korea. In this regard, could Korea
please clarify whether these services are state-run monopolies or does Korea also allow the Korean private sector to operate such businesses?

United States

Section 2: Developments since last IAP

1. Page 8 of the report states that “Korea’s aim is to develop an innovation driven economy where new technologies and creative talents are the engines of future economic growth.” However, Korea recently has undertaken efforts to sharply curtail expenditures on innovative pharmaceuticals and medical devices under its National Health Insurance (NHI) system, removing the incentive for Korean companies to develop innovative medicines of their own and negatively affecting the ability of international research-based health technology providers to sell into the Korean market. What are Korea’s plans regarding including pharmaceuticals and other medical technologies in its drive to develop an innovation-driven economy? How will Korea strike an appropriate balance between the desire to curtail health care expenditures as its population ages rapidly and the desire to reward innovative medicines with appropriate reimbursement?

Chapter 5 – Standards and Conformance:

2. On page 35 one of the goals listed for the second National Standards Plan is to “remove technical barriers to trade by improving the national conformity assessment system.” What are the improvements that are being envisioned? Are there specific sectors being targeted for improvements, or is the entire system being improved?

3. We appreciate the information provided regarding Phase I of the APEC MRA for Conformity Assessment of Telecommunications Equipment. Could Korea also provide information on Phase II?

Chapter 8 – Competition Policy

4. The discussion of competition policy states that the Korea Fair Trade Commission (KFTC) establishes “fair business practice” between large and small-and-medium sized enterprises (SMEs) through a policy of creating an environment where they are encouraged to cooperate. How does this enforcement policy fulfill the Bogor goal of enhancing the competitive environment to increase consumer welfare? Is this policy separate and distinct from the other four policies listed in the report that are aimed at “securing consumer benefits?” What factors does the KFTC evaluate in determining whether a business practice is “fair”?

Chapter 9 -- Government Procurement

5. We are interested in the reference in the report to seeking “active involvement of the international contract dispute mediation committee”. Please explain the role and authority of this committee. Is it an impartial body that is independent of the procuring entities?

U.S. Comments

Korea-US Free Trade Agreement
It should be pointed out in this section that the KORUS FTA is by far the most comprehensive FTA that Korea has ever entered into, covering a much wider range of agriculture and services sectors than previous Korean FTAs while also addressing numerous non-tariff measures.

**Corrections and Discrepancies**

1. **Korea-US Free Trade Agreement** -- Correction: Regarding U.S. access to Korea’s agricultural market, the United States Trade Representative’s summary of the agreement indicates the following correction to the Study Report should be made on page 13, under the bullet point for agriculture:
   - **agriculture**: Tariff rate quotas for such products as skim and wholemeal [should be whole milk powder], cheese ...

2. **Correction**: On page 13, the report states that under the US-Korea Free Trade Agreement “the US also agreed to eliminate tariffs over three years for passenger vehicles larger than 3,000 cc over five years.” The words “over five years” should be deleted, as to reflect the agreement accurately and clearly.

3. **Correction**: On page 14, in the 12th bullet point describing expanded access to government procurement, recommend specifying that the “government procurement agreement” stated is the WTO Agreement on Government Procurement.

4. **Assessment of Korea’s IAP (Chapter by Chapter) (Page 18) – Discrepancy**: In “Chapter 1: Tariffs” the paragraph above Table 1-1 (Summary of Korea Tariffs) states that “the simple average applied tariff for agricultural products in 2004 was 47.9%.” This ostensibly does not agree with the number in the chart which is 51.6%; 51.6% is in line with the 52% that the United States understands to be accurate.

5. **Outward Processing Zone (OPZ) (page 13)**: The text currently overstates the language in the US-Korea FTA. “The two countries will establish a Committee on Outward Processing Zones on the Korean Peninsula and designate such zones at a later date. This provides a foundation for enabling goods produced in certain areas of North Korea such as the Kaesong Industrial Complex to be recognized as South Korean originating goods under the FTA”.

It should be corrected to read as follows:

The FTA establishes a government-to-government committee to review whether conditions on the Korean Peninsula may be appropriate for further economic development through the establishment and development of outward processing zones. The Committee will meet one year after the FTA enters into force and on an annual basis thereafter, and will set the criteria that must be met before goods from any outward processing zone may be considered originating goods for the purposes of the FTA, and thereby eligible to receive preferential treatment under the Agreement. Language in the Agreement notes that such criteria would include, but not be limited to, improved labor standards and practices and progress toward the denuclearization of the Korean Peninsula. Any decision made by the Committee with respect to whether goods from an outward processing zone should qualify as originating goods would serve as a recommendation to the Governments of Korea and the United States, which in turn would need to obtain legislative approval for any amendments to the Agreement with respect to the outward processing zone.
## ABAC

**Issues and requests relating to foreign trade and investment – R.O.K.**

<table>
<thead>
<tr>
<th>Category</th>
<th>No</th>
<th>Issue Details</th>
<th>Requests</th>
<th>Governing Laws</th>
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<tr>
<td>Tariffs</td>
<td>(1)</td>
<td>High tariff rates</td>
<td>- It is requested that the government will review the tariff rates.</td>
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<td>The current import tariff rate of 8% is the highest among the south east Asian countries. Foreign business enterprises manufacturing in R.O.K. incorporating imported materials are faced with a serious competitive disadvantage.</td>
<td>- It is requested that both GOK and GOJ ratify Japan-R.O.K. FTA as soon as possible.</td>
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<td>-- Machineries (HS Chapters 84, 87, 90, 91) R.O.K. 8%; Japan 0%</td>
<td>- It is requested that GOK reduces the tariff rate down to the level of developed economies.</td>
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<td>-- Bearings (HS 848210 Ball bearings and 848220 Roller bearings) R.O.K. 13%, 8%, Japan 0%, Thai 10%, Singapore 0%, Australia 5%-10%</td>
<td>- It is requested that the tariff rate is reduced from the current 8%.</td>
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<td>The ongoing 8% tariff is still debated at the Congress, without, however, any sign of its reduction. The negotiation on the Japan-R.O.K. FTA remains suspended.</td>
<td>- It is requested that the tariff rate is reduced from the current 8%.</td>
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<td>Import tariffs on auto parts from Japan is extremely high at 8%, seriously affecting the competitive strength of Japanese affiliated business entities.</td>
<td>- It is requested that the tariff on cameras is repealed.</td>
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<td>The tariff rate for camera is high at 8%.</td>
<td>- It is requested that the tariff on cameras is repealed.</td>
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<td>Import tariffs on photographic films and paper compared to Japan are high. For example, finished photographic films (R.O.K.:8%, Japan:0%, U.S.:3.7%, Australia:5%, Chinese Taipei:0%, Thai:20%, PRC:Max128.6 yuan/m2)</td>
<td>- It is requested that the tariffs are removed.</td>
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<td>The tariffs are high on watches at 8% (5% on movements)</td>
<td>- It is requested that GOK reduces and repeals the tariffs.</td>
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<td>Import tariff on aluminium products is high at 8%. Example, Compressors for car air-conditioners (R.O.K. 8%, Japan 3%, U.S. 5%).</td>
<td>It is requested that the tariff rate is reduced.</td>
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<td>Import tariff on cotton fabric (exported from Japan) is high, impeding the sales expansion in the high quality material. Example: Cotton fabrics (plain weave, unbleached, and twill, bleached: (HSNo.5208-11.0000, 5208-12.0000, 5208.13.0000, 5208-23.0000, 5803): (R.O.K.: 10%; Japan 5.6% or 4.4% + 1.52yen/m2 whichever is greater, U.S. 7-10.5%, EU 8%, Chinese Taipei 7.5%, PRC 10%)</td>
<td>- It is requested that import tariffs are reduced.</td>
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<td>Oil import was liberalized in March 1996, with the repeal of the provisional law concerning import of specified oil products by institution, by introducing the market economy principle and exposing the domestic industry to competition from imports. However, as regards the heavy oil C, high tariff of 3,410 yen/kl, tantamount to embargo, is levied, effectively closing out imports. At the deliberative council held in December 1999, tariff on crude oil was reduced only for four years beginning 2002 from 215 yen/kl to 170 yen/kl, and also the heavy oil C from 3,410 yen/kl to 3,202 yen/kl, which however is still sticking out like a sore thumb, creating nothing but a tariff barrier.</td>
<td>- For industries, relying upon the heavy oil C as its basic energy source, to survive the severe competitions from abroad, it is imperative to reduce production cost by purchasing low cost heavy oil C from overseas. For this reason, it is requested that the high tariff on the heavy oil C is repealed or reduced to 390 yen/kl at most.</td>
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<td>R.O.K. import duty is still high concerning paper products: It was fixed at 5% in 2002, and fixed at 2.5% in 2003.</td>
<td>- While import duty for the majority of the paper products has been lowered to 2.5% since the year 2003, it is requested that the import duty is totally reduced to zero as soon as possible.</td>
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**(Actions)**

- On 31 July 2001, the list reducing tariff rates on 87 items of digital TV related products (reduction by 85%) was published. These products not manufactured in R.O.K. comprise of surface wave and digital television machinery & equipment.
- On 20 March 2002, Japan-R.O.K. FTA Joint Study Committee was convened.
- In October 2003, it was mutually agreed to begin negotiation for ratification of Japan-R.O.K. Free Trade Agreement which it is hoped will remove tariff barriers.
- In December 2003, the talk on Japan-R.O.K. FTA was initiated.
- In August 2003, according to the “2003 Tax Reform Draft” released by Ministry of Finance and Economy (“MOFE”), the conditions for tax reduction/exemption in the Free Trade Area and Free Tariff Zone will be the same as those for
Economic Free Zone and the capital goods imported will be duty free for three years, if ratified by the Congress.

- The tariff rate of 6% was reverted to 8% on aluminum plate, sheet and base (HS7606), which were excluded from the applicable products in the 2004 Tariff Quota Items.
- Effective 1 January 2004, the tariff rate was increased from 6% to 8% on aluminum plate, sheet and base (HS7606), which were excluded from the applicable products in the 2004 Tariff Quota Items.
- It has been made clear that the R.O.K. side is seeking establishment of the grace periods for removal of import tariffs, 8.4 years for transportation equipment, 7.6 years for general machinery, 6.6 years for electric appliances, 6.6 years for chemicals, 6.4 years for electronics, 5.7 years for steel and 2.9 years for textiles in the report titled "R.O.K.-Japan FTA and its effect by business sectors and its measures" released by Korean National Economic Persons Association. The Report suggests the need to secure the grace periods in the sensitive sectors, such as motor vehicles and general machinery, to reinforce collaboration and assistance to materials and parts industries, and to support medium-to-small-scale industries, since the repeal of import tariffs is bound to invite the decline in domestic prices, 12-15% in electronic industry, 7-10% in motor vehicles, and the rise in imports, while oppressing the domestic industries, including the medium-to-small industries. According to the Report, its impact is negligible on steel and semiconductor sectors.
- On 26 November 2004, Korean Confederation of Trade Unions ("KCTU") went into a time-limit strike, to seek prevention of the ratification on Japan-R.O.K. FTA Agreement.
- Since November 2004, the negotiation on Japan-R.O.K. FTA has been suspended.
- Effective 1 January 2005, the tariff rates on parts for plasma display panel and LCD panel have been raised from the current 0% to 2.5% or 4%.
- In November 2005, Federation of Korean National Economic Persons Association released report on "Bill on Industrial Collaboration between the parts industries of both countries. The Report states that the ongoing tariff rates of South Korea are higher by 5.7% and 3.7% on parts and raw materials, respectively, compared to those of Japan.
- On 13 December 2005 the ASEAN-R.O.K. Framework Agreement on FTA was signed.

(Improvement)
- The diversification plan for imports from Japan was totally repealed as of July 1999.
- Since 1 July 1999, tariffs on 876 items of machinery products have been reduced or exempted as follows:
  -- Group A: those used for research and development by business entities --- 276 items (reduced by 80%);
  -- Group B: those used for factory automation --- 446 items (reduced by 50%)
  -- Group C: those for high-end technology and defense industry --- 154 items (reduced by 30%)
- Since 1 January 2000, tariffs have been reduced on ITA products. Further tariff reductions or exemptions have been made on 253 items of machinery & equipment activities (mainly testing and measuring instruments).
- In August 2001, Department of Industry and Energy amended the FTZ Act to permit trading firms not engaged in manufacturing to bring in foreign products into FTZ.
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<td>- Since April 2002, cameras have been added to items eligible for tariff reduction, namely, electronic products manufactured abroad incorporating materials and parts originating in R.O.K.. Also tariffs have been exempted on imported products which are re-exported combined with export products.</td>
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<td>- From 1 July 2003, it was decided to eliminate the tariffs on 12 items of the main basic materials such as iron ore and naphtha, and to reduce tariffs by 80% for one year on 289 items, including 44 items of materials used for research and development.</td>
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<td>- From 1 July 2003, it was decided to lower the tariff rates on 475 items which are used for factory automation, by 40% for large scale industry, and by 50% for small and medium scale industry.</td>
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<td>- Under the policy to introduce indirect capitals, various infrastructure related projects are being promoted, provided, however that the equity share ratio of foreign capitals is held down to less than 50% on some business sectors.</td>
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<td>- While privatization of infrastructure related projects is being promoted, approval criteria for power generation, transmission /sales and distribution, as well as market and distribution are held down to less than 50%</td>
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<td>- There remains an additional condition that ownership of voting shares by foreign investors must be smaller than the largest domestic shareholder.</td>
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<td>(Improvement)</td>
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<td>- Welcome efforts have been directed toward simplification of procedures related to foreign investment, expansion of liberalization and deregulation in foreign investment.</td>
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<td>- In the case of the electric power business being operated by the governmental investment agency, the deregulation of the foregoing applies, excepting nuclear power generation. All the rest have been liberalized.</td>
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<td>- On the power generating sector, the total of the generating equipment purchased from Kepco, Inc. cannot exceed 30% of the total domestic power generating equipment.</td>
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<td>(2) Restrictions on entry into the communicatio sector</td>
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<td>- Entry of foreign capital is restricted in two communication sectors, namely, wired telephone and telecommunication and wireless telephone and telecommunication.</td>
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<td>- It is requested that GOK repeals the restrictions.</td>
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<td>(Regulation concerning Foreign Capital Inducement Act and Introduction of Technology, Article 5)</td>
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<td>- The upper limit is set at 49% for the equity share ratio in the electric communication industry by foreign investors. (Foreigners are prohibited from holding more than 49% of the total issued shares in Korea Electric Communication Public Cooperative and furthermore, the equity share ratio of a single foreign shareholder must not exceed 15%.)</td>
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<td>- Effective from 9 April 2001, the upper limit of the foreign equity share ratio in Korea Telecom has been raised to 49% from 33%.</td>
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<td>(3)</td>
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<td>Restrictions to access the won foreign exchange market</td>
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<td>- Investment from abroad on R.O.K. bonds and shares is extremely complicated because won cannot be purchased abroad.</td>
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<td>- The complete freedom of residents in respect of foreign exchange has been substantially achieved with various deregulation programs being implemented in 3 stages. However, access to the R.O.K. won foreign exchange market by non-residents has not yet been approved, with the only exception of the NDF transaction. While there is an increasing demand for hedging the won currency by non-residents, and hence the NDF market is steadily growing, there is a limit to what the NDF alone can achieve. -- Reference: NDF (Non Deliverable Forward) means a transaction based upon a &quot;synthetic&quot; forward contract on a non-convertible or thinly traded currency in an immature foreign exchange market or where transactions are restricted on non-residents. These generally settle in the investor's own currency with terms set by mutual agreement by and among the parties against an agreed posted exchange rate on the due date in yen, in U.S. dollars, etc.</td>
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<td>- Transactions in won currency are not yet liberalized for the non-residents. For non-residents, transactions in won are approved only on normal dealings under the free won account as approved by the legislative provisions.</td>
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### Improvement
- In April 1994, forward dealings in foreign exchange was liberalized based on the principle of actual demand, and liberalization of the NDF in R.O.K. won was carried out.
- Since 2002, R.O.K. has liberalized foreign exchange in three stages.
- Internationalization of the won currency is now being implemented to permit normal transaction denomination of the R.O.K. won currency, non-resident's settlement in won currency through the free won account, and liberalization of carrying-out abroad the won currency.

### Standards and Conformance

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<th>Category</th>
<th>No</th>
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<td>(1) Safety Approval unique to R.O.K.</td>
<td>- The legislative provisions of motor vehicles in R.O.K. are quite unique, much different from those adopted by U.S., E.U. and Japan. Motor vehicles destined to R.O.K. must have costly different specifications.</td>
<td>- It is requested that the standards and specifications provided in the legislative provisions are deregulated between Japan and R.O.K..</td>
<td>Korea Development Institute Notice</td>
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<td>- Because the electromagnetic interference regulation approval for digital camera in R.O.K. differs from that of the major economies, extra cost and time are required.</td>
<td>- It is requested that the report by the test sites abroad is approved in R.O.K..</td>
<td>Electrical Appliance and Material Safety Control Act (Safety Approval)</td>
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<td>3 Standards and</td>
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<td>Multiple marking requirements</td>
<td>- Product safety related standards and approval systems are diversified in R.O.K. involving various markings, such as KS for machinery, EK for safety of electrical equipment, EMI or EMI/EMS for EMC, and MIC for electric wave and telecom. It is complicating indeed to respond to each requirement.</td>
<td>- It is requested that all markings are integrated into a single mark, such as the CE marking of EU.</td>
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<td>Conformance</td>
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| Implementation of intellectual property rights ("IPRs") | 4  | (1) Copy and counterfeit products        | - Counterfeit products are being manufactured and sold in R.O.K.. In the R.O.K. repair market such counterfeit products are reported to be sold at half the prices of authentic products at retail level. Drastic measures are required to cope with such inroads of counterfeit products, rather than seeking solutions on a case-by-case basis.  
- Cases are reported on infringements of design and patent rights by skiwear made in China and brand apparels made in R.O.K..  
- Counterfeit products manufactured in PRC is sold in the domestic market.  
- It looks as if a certain part used for revamping motor cycles (a cowl for 125 cc) is a design piracy.                                                                                                                                 | - It is requested that a more vigorous policy is taken in R.O.K. to prevent the infringements of intellectual property rights, particularly through an intensified enforcement of such preventive measures.  
- It is requested that transparency and effectiveness are ensured in the enforcement and procedural steps taken, pursuant to the TRIPs agreement under WTO.  
- It is requested that the legislative provisions are updated and upgraded.                                                                                                                  | - Trademark Act, Articles 50 and 65  
- Copyright Act Article 3 and 91  
- Act Concerning Unfair Competition and Trade Secrets, Article 2 And 3.                                                                                                               |

**Actions**  
- In the Report published in 2001, The General Public Prosecutors Office uncovered the fact that the number of indictment for violation of intellectual property rights has been rapidly growing, as the crack down has been tightened:  
  - During 2000, 42,798 persons were indicted for violation of intellectual property rights. (1,528 persons were arrested.)  
  - The number of indicted cases has been increasing, 1995-13,683 persons; 1996-15,766 persons, 1997-16,796 persons, 1998-17,369 persons, of which copyright infringements of computer programs, music albums, and video were the most numerous  
  - The number of illegal copying that Korea Software Property Council ("SPC") charged during one year period in 2002 was 1,289 cases, down by 30% approx. compared to the preceding year.  
  - Imports from R.O.K. represented an overwhelming 76% of all imports whose entries to Japan were suspended for suspected infringements of intellectual property rights.  
  - In January 2002, Special Investigation Team ("SIT") was established in Ministry of Information & Communication ("MOIC").  
  - In April 2003, Amended Copyright Act prohibiting, among others, Production and Distribution of Circumventing Devices for Technological Protection Means passed the Congress.
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<td>- The Working Level Talk Council for Protection of Industrial Property is established in the Coordinating Room of the Office of Prime Minister to tighten protection of intellectual property rights.</td>
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<td>- In January 2004, the U.S. downgraded R.O.K. from the previous “Watch List” to “Priority Watch List” under Special Section 301 of U.S. Trade Policy.</td>
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<td>- On 24 February 2004, Korean Intellectual Property Office (“KIPO”) released its 7 Largest Policy Matters and 40 Implementing Matters, pursuant to the “Basic Plan on Industrial Property Policy” to realize its goal for becoming an “IPR Power Nation”. Solidifying the foundation for protection of patents, trademarks and design rights forms the basis of the major promotion items.</td>
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<td>- KIPO opened “Cyber Intellectual Property Protection Center” at (<a href="http://www.kipo.go.kr/ippc">http://www.kipo.go.kr/ippc</a>) to accept real-time consulting service on issues concerning infringement of intellectual property rights on the web. Its aim is to promote mediation and adjustment of industrial disputes over the intellectual property rights through the reinforcement of expert consulting staff and on-site investigative staff.</td>
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<td>- GOK has taken a positive stance in enlightening the public by employing TV media and cyberspace, even animated pictures, in order to annihilate production and distribution of illegal goods and to crack down on the counterfeit, copy goods, through construction of the effective collaboration system by and among the local autonomous body, prosecution, police force, and customs bureau.</td>
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<td>- On 31 October 2005, The Seoul Japan Club proposed to GOK that it widens the scope of its water’s edge cracking down on illegal imports to include patent rights, industrial design, esthetic design, etc., on top of trademark and copyrights now being addressed by GOK at the water’s edge.</td>
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<td><strong>Improvement</strong></td>
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<td>- On 18 October 2003, the Act was enforced to delegate the police right to the Special Investigative Team (“SIT”) of Ministry of Information Communication.</td>
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<td>- The penal provisions on infringement of intellectual property rights have been tightened by extension from five years to seven years the period of imprisonment with forced labor.</td>
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<td>- The Act concerning prevention of unfair competition and protection of trade secrets was amended (promulgated on 20 January 2004 and enforced on 21 July 2004). The provisions to prohibit the dead-copy were incorporated in Article 2.1(1). The same provisions have obviated the need for the common knowledge and the confusingly similar requirements and are substantially the same as Article 1.1.3 of the Act to Prevent Unfair Competition of Japan. Under this Act, the product configurations are expressly recognized as the object of protection, making it possible, even before the goods attain the status of common knowledge, to prohibit any unauthorized use, and counterfeit act, and to protect the product configuration widely.</td>
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<td>- The Design Act was renamed as Design Protection Act (as promulgated on 31 December 2004 for enforcement from 1 July 2005), and the notion of the creativeness of design has been expanded to include not only domestic but foreign designs which are of public knowledge, while the design of law creativity is made no longer capable of registration.</td>
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<td>(2) Insufficient protection of trademarks</td>
<td>- Trademarks of others already established, famous, and well known, can be registered by others by simply changing the product classification.</td>
<td>- It is requested that the examination system is improved for protection of the famous trademarks.</td>
<td>- Trademark Act (Article 7(1)10)</td>
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<td>- In January 2003, R.O.K. deposited an instrument of accession to WIPO to join the Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks and it took effect in R.O.K. in April 2003.</td>
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<td>- In December 2003, &quot;Act to prevent Unfair Competition and Protection of Trade Secrets&quot; (&quot;ACPROTS&quot;) was amended by incorporating the prohibition of the practice of cyber squatting, etc.</td>
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<td>- Pursuant to ACPROTS, KIPO conducted its investigation into unfair competitive practices, including the misuse of famous trademarks owned by others. In addition, based upon the provisions enabling KIPO or regional autonomous bodies to recommend cracking down on any infringing party and to suspend its infringing conduct or to remove or dispose of the infringing products, KIPO with the collaboration of the regional autonomous bodies are supervising and directing jointly the cracking down of the counterfeit products. KIPO at the same time is also giving a periodical orientation and training program to enhance the officials' ability to clamp down on the counterfeit products.</td>
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<td>- It is the KIPO's policy to establish the trademark examination manual, and streamline it by type and class, in order to enhance the integrity of its examination.</td>
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<td>Government</td>
<td>5</td>
<td>Procurement</td>
<td>Designation of the local enterprises by the Consortium Leader</td>
<td>It is requested that GPB permits participation of a foreign bidder as a Leading Manager in all consortium projects.</td>
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<td>In a tender by Government Procurement Bureau (&quot;GPB&quot;) for a New Transport System or a Container Inspection Equipment cases, it is provided that an R.O.K. domestic enterprise must act as the leading manager to form a Consortium, regardless of the fact that the R.O.K. party has neither experience nor technology on the equipment, which involves a new technology. It is a big risk to have an inexperienced party without technology and a proven performance to act as the Consortium Leading Manager and discourages foreign bidders from participating in the project.</td>
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<td>Deregulation/</td>
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<td>Regulatory Review</td>
<td>(1) Heavy tax burden</td>
<td>It is requested that GOK deregulates its taxation system and restrictions.</td>
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<td>- Value Added Tax (&quot;VAT&quot;) upon import into R.O.K. is high. VAT of 10 % is imposed on the sum of taxable value plus duty, SCT, Special Tax for Fishery and Farming Villages, and Educational Tax. Educational Tax of 0.5% on revenue (in the form of received interests, commissions, guarantee fees) is imposed. This is severely burdensome. Some taxes are irrationally imposed not only for profits but on revenues.</td>
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<td>(2)</td>
<td>Labor-management agreement and practices overprotective of employees</td>
<td>- While the employer/employee relationship systems require further review, the following are the major factors negatively affecting promotion of investments in R.O.K. by Japanese affiliated business entities: 1) As it now stands, workers have nothing to lose regardless of what they do, such as making outrageous demands, walking out over a prolonged period of time, or taking other radical measures; 2) The difficulty persists in any attempt to change to a rational level the past agreements and practices excessively favoring workers; and 3) The solution of heated issues by intervention of public agents tends to be influenced by the excessive demands of unions in its final proposal. - It is requested that the government and its various agencies will take steps to correct labor-management agreement excessively favoring workers and to control radical labor disputes. - In the event revision of labor-management agreement cannot be resolved amicably by talks between the parties and brought to the Committee on Labor Affairs (&quot;CLA&quot;), it is requested that CLA will review all aspects of the issues, not just the workers' side but also the total perspective of the working conditions of the business entity in concern so that the final solution is also acceptable to the business entity. - There are numerous legislative provision which are inadequate or ambiguous. It is requested that legislative provisions are revised in such a way that they are clearly defined and well prepared, while being compatible with the international norms and practices, ' - It is requested that the principle of &quot;No Work, No Pay&quot; is fully observed so that no wage payment is made during the walkout period. (Labor Union and Labor Related Adjustment Act (Articles 44))</td>
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**Actions**
- Dismissal for the purpose of reorganization being introduced seems to have a dubious efficacy, as witnessed in the case of Hyundai Motor Company.
According to the research conducted by the Federation of Korea Industries published in July 2003, the greatest reason (37%) for the foreign-funded enterprises to consider the retreat from R.O.K. was the employer/employee relationship.

- During the first half of 2003, The Foreign Investment Ombudsman received 210 cases of complaints, of which 50 cases (representing 24%) related to the employer/employee relationships.
- After the currency crisis, the labour disputes are increasing in number. During 2002, 321 cases were brought about, 4 times as much as the level of 1996.