

KOREA'S FTA POLICY STRUCTURE

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Abstract

The paper introduces Korea's FTA policy formulation and examines who are the main actors, based on the institutional decision-making processes used in the FTA cases with Chile and the US. In order to examine Korea's domestic FTA policy, it is essential to understand the process of its formation and its stakeholders. This paper contends these are chiefly comprised of the government sector (the President and Ministries) and interest groups.

Key words: Free Trade Agreements, Institutions, Interest Groups and FTA Decision-Making Structure

Introduction:

Momentum is building in today's world trade environment towards a combination of multilateralism focused on the World Trade Organisation (WTO), multilateral systems and regionalism based on Regional Trade Agreements (RTAs). Each nation thereby actively reacts to these world economic changes and in particular, utilises Free Trade Agreements (FTA) as an important component of trade strategy. The WTO has recorded over 180 cases as at the end of 2005.¹ South Korea (hereafter Korea) strongly supported the General Agreement on Tariffs and Trade (GATT) and WTO trade negotiations until the wake of the WTO breakdown in Seattle in 1999. This episode has not stopped Korea adopting a more diversified negotiating strategy (Koo 2006, p.142 and Schott 2006, p.1).

Korea has traditionally relied mainly upon overseas markets through an active export strategy to achieve its remarkable economic growth and the total volume of external trade now

¹ Turning to the typology of Regional Trade Agreements (RTA) in force, the most common category is the FTA which accounts for 84 percent of all RTAs. Partial scope agreements and customs union agreements account for 8 percent, respectively (Crawford and Fiorentino, 2005, p.3).

amounts to approximately 70% of its gross domestic product (GDP). Given such imperative reasons, Korea has no option but to proactively forge FTAs in order to maintain its foreign markets since 1998. Two FTAs (Chile and Singapore) came into effect in April 2004 and December 2005 respectively and the country signed an agreement with European Free Trade Association (EFTA) in December 2005 that is expected to be in force later this year. The Korean government² has vigorously announced negotiations with United States since February this year.

Amid that background, the purpose of this paper is to examine the *policy-making mechanisms of FTAs* that have been actively pursued by the Korean government and especially to identify the key players and their roles within the FTA policy-making process. This study therefore, sheds some light on how the FTA policy making process has highlighted the esoteric relationship between the government and private interest groups. As FTA policy is developed through domestic policy processes it is therefore prerequisite to understand the contour of these mechanisms within Korea. Examination of this domestic process reveals the main actors involved in the overall FTA policy-making process. The persuasion of these actors carries equal weight to the institutional policy processes as they ultimately influence the decision making. I will be examining the relationship between international and domestic institutional rationales with added focus on the latter in order to highlight its intricacies. In analysing the FTA policy making structure in Korea, I put forward two cases (Korea/Chile and Korea/US³) and within these discover who really the key, critical stakeholders are.

1. Institutional Characteristics and Structure of FTA

1.1 (International and Domestic) Institutional Rationales

An FTA is an agreement by various governments to remove trade barriers and customs on goods and services between countries, and to ultimately extend trade partnerships. It is characterized by an agreement between countries, as basic units in international law⁴. Therefore FTAs, as shown in *Figure 1*, should specify conditions of the agreement, before being made

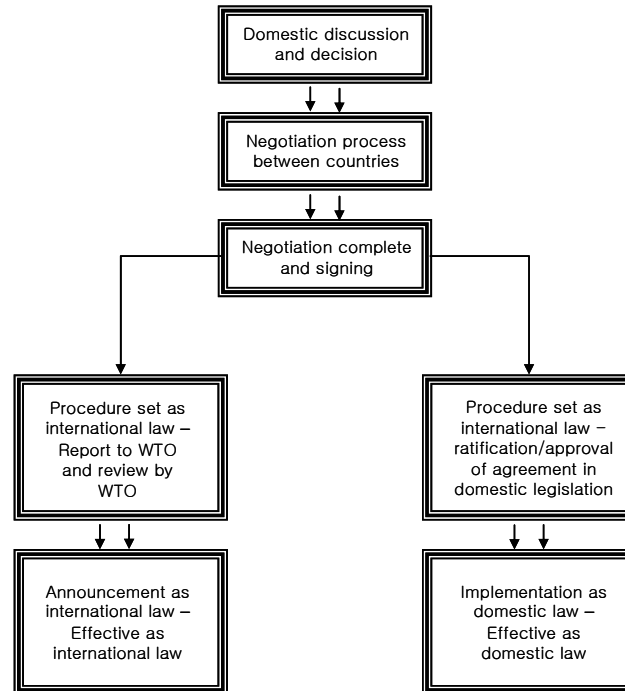
² Korea is currently under negotiation with Japan, Association of South East Asian Countries (ASEAN) and is under examination with Mexico, India, Southern Cone Common Market (MERCOSUR) and United States.

³ These two FTA cases were arguably the most controversial in Korean political history as they were multifaceted in terms of the government, interest groups and political parties involved.

⁴ Of course, an FTA may be created between regional associations other than countries, however even in such cases, countries involved should endow authorities according to any FTA that is effective through procedures of domestic law; hence there is no significant difference from an FTA between countries.

effective as either domestic or international law through their respective procedures. When a Korean FTA is signed, the President should ratify it, thereby binding the country to the terms of the FTA⁵. In Korea⁶, this ratification requires Parliamentary approval⁷.

Figure 1. Legal procedure of contract and Implementation of FTA



The WTO reporting and review processes that are essential for implementing the FTA as international law do not represent any serious barriers between the two interested parties so long as neither country contravenes WTO rules; WTO Members are however permitted to enter into such arrangements under specific conditions even if by their very natures they are discriminatory: this is a departure from the Most Favoured Nation (MFN) principle, a cornerstone of the multilateral trading system. On the other hand, difficulties in each stage may surface that can only be overcome by ratification in domestic law. Because of this, trade negotiations with a partner

⁵ ‘The President shall contract and ratify the agreement, appoint, accept and send diplomats, and declare a war and concluding peace treaty.’ Article 73, Constitution of Republic of Korea.

⁶ ‘The National Assembly is entitled to consent on mutual support/security agreements, important international organizational agreements, amicable trade agreements, peace treaties, and contract/ratification of important financial agreements/legislation that may burden the nation and its people.’ Clause 1, Article 60, Constitution of Republic of Korea.

⁷ In order for FTA to be effective as domestic law as it is in the US or EU, separate domestic legislation may be needed.

must take into account both economic and political perspectives, and any change of trade policy inevitably causes shifts in the relationships among interest groups. Therefore, it is not surprising that interest groups also affect the international trade policy of a country (Marks and McArthur 1990; Frieden 1991; Trefler 1993; Alt and Gilligan 1994; Grossman and Helpman 1994; O'Halloran 1994; Baldwin 1996; Mundo 1999). Notably, in the case of the Korea/Chile FTA, interest groups remained actively involved from the first FTA discussion with Chile to its final ratification into domestic legislation. The importance of domestic procedures for FTA policy-making was duly emphasized.

1.2. Institutional Framework for Korea's FTA policymaking process

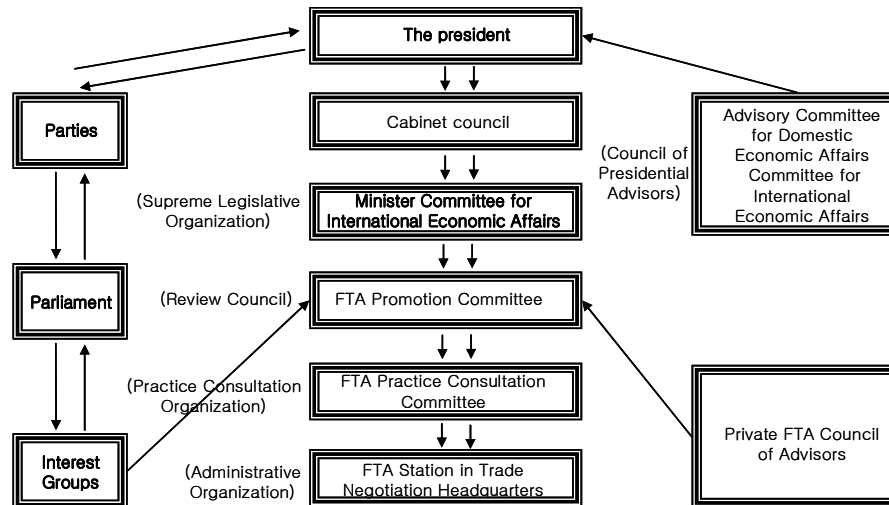
Here, I briefly introduce overall the FTA policy procedure and also analyse this formulation in order to explain the functions of key actors. The executive side of Korea's official FTA policy-making process is, as shown in *Figure 2*, comprised of political parties, the national assembly and relevant interest groups. Of these, the government's role⁸ is very significant because it is responsible for most of the trade policy, except legislation⁹. A *Cabinet Council* organized with the President, Prime Minister, and Ministers of each Ministry is a constitutional organisation that discusses important policies under the President's authority. Policy-managing officials of each Ministry put forward proposals in the policy-making process. If necessary, consultation among officials from relevant Ministries takes place. The resulting agenda is assessed by a policy review council and policy committee, then adjusted and reviewed by a Ministerial Committee for economic affairs. Finally, it is presented to a Cabinet council or economic policy control committee before being decided on by Presidential sanction¹⁰.

Figure 2. Korea's FTA policy-making process

⁸ Government is comprised of the President, Prime Minister, and Ministers of each portfolio. The Prime Minister manages each Ministry under order of the President, and each Minister supports the President to execute policies decided upon by the President and government.

⁹ Even in case of agenda in which legislation is necessary, presentation to the Parliament through government legislation is possible by an exception.

¹⁰ If not reviewed by a Cabinet council, agenda originating from each Ministry is usually confirmed by a policy review council and policy committee.



First of all, according to the Free Trade Agreement Procedure Regulation (official presidential order) announced in June 2004, the official Korean government FTA promotion organization is the FTA promotion committee¹¹ (hereinafter ‘promotion committee’). This is comprised of the director of trade negotiation headquarters as Chairman, and 15 first grade civil servants in related ministries such as the Ministry of Finance and Economy, the Ministry of Foreign Affairs and Trade, the Ministry of Agriculture and Forestry, the Ministry of Commerce, Industry and Energy, the Ministry of Maritime Affairs and Fisheries, control committee of state affairs, the Ministry of Planning and Budget, and the Government Information Agency as its members (see *Figure 2*). An FTA branch of the Ministry of Foreign Affairs and Trade’s Trade Negotiation headquarters was formed in late 2004, and comprised of four divisions: FTA policies, regional negotiations, FTA product negotiations, and FTA service negotiations. It has an administrative role as well as executing tasks for the promotion committee. In addition, to listen to and reflect opinions of related industries and experts in FTA contract process, a Private FTA Council of Advisors, comprised of 30 representatives from various academic and industrial fields, was formed under the promotion committee. An agenda reviewed by the promotion committee is decided by the *Ministerial Committee for International Economic Affairs*¹². In August 2004, this committee was formed under an Advisory Committee for Domestic Economic Affairs to carry

¹¹ The promotion committee’s main responsibilities include establishing an FTA’s basic direction and promotion strategy, selecting partners, and preparing the agreement. It also reviews domestic policy related to the FTA. The FTA Practice Consultation Committee has a trade negotiation mediator as its chairman, is comprised of directors of relevant departments, and aims to oversee the effective execution of tasks.

¹² This committee has the deputy Prime Minister for Economic Affairs/Minister of Finance and Economy as its chairman, and Ministers of Agriculture and Forestry, Commerce, Industry and Energy, Trade Negotiation Headquarters, State Affairs, and the presidential chief of Economic Affairs as its members.

out Presidential consultation for collective planning and promotion strategies of major international economic policies.

As well as the Vice-Minister of Economic Affairs as its chairman, this committee includes *civil members*¹³ such as chairmen of the Federation of Korean Industries, the Korean Chamber of Commerce and Industry, Korean International Trade Association, and the Korean Federation of Small and Medium Business *to represent the industry standpoint*. Further discussion and suggestions on Korea's FTA policy will be likely among civil professional members. Policy suggestions put forward by this committee can directly affect Korean government policy-making processes through the President; therefore the future role of the committee may be significant. It is worthy to note that within this system, interest groups¹⁴ can partake in the government FTA policy-making process. Government foreign economic policy is usually accepted by political parties. Political parties¹⁵ play an advisory role to the President in the FTA policy-making process. Interest groups opposing the FTA must attempt to lever the support of political parties using voting force due to the ratification powers of the National Assembly. In this way the interest groups exert indirect influence on policy. Beneficiaries of the FTA however are given the more direct role of being Advisory Committees.

In this analysis of Korea's institutional domestic FTA policy-making structure, three key players become apparent. First, the Korean government, for its decisiveness in pursuing and signing FTA with partner countries. Second, political parties play an important representational role for interests groups wishing to have a line of communication to the government and ultimately to the President. Third, interest groups, whose incomes are influenced by the FTA outcomes, have a vested interest in the government's international trade policies. In the following section I shall look at these two cases in more detail.

1.3. The government side

1.3.1. The President

¹³ However, this committee has made no significant influence on Korea's FTA policy-making process since its foundation. Suffice it to say that it is practically nominal at the moment. As the Secretariat of the Advisory Committee for Domestic Economic Affairs is recently strengthened, however, new expectations of the roles of the committee are generated.

¹⁴ It seems anti-FTA groups are invisible in the government FTA policy process.

¹⁵ Political parties and interest groups are the main political intermediaries in democracies, linking citizens to government, representing their members and providing them with a means of political participation and with information about government and policy.

Although the President¹⁶ is seen as one of the most influential factors in Korea's FTA policy-making, Cabinet members and Presidential staff provide assistance. The President relies on his staff in the Blue House, the executive mansion of the president, as well as his Foreign Minister and ministry officials. This, however, has established a foreign policy elite in Korea, although the progress of democratization is making this elite less autonomous and insulated than ever before. The role of President for FTA evolution is very important; in the Korea/Chile case, former President Kim Dae Jung showed very limited support and did not achieve a FTA. On the other hand, current President Roh Moo Hyun has taken a very active role that led to the ratification of the Korea Chile FTA and ongoing negotiation in the Korea/US FTA case. Therefore, the President's position on any given FTA case can ultimately be a precursor to its success or failure.

1.3.2. Ministries

Trade policy formulation and implementation involves several ministries. The Ministry of Foreign Affairs and Trade (MOFAT) has primary responsibility for international trade negotiations, as well as formulation and implementation of trade policy. Other ministries are involved according to their spheres of responsibility. The Ministry of Foreign Affairs and Trade (MOFAT), as its name suggests, is the key agency managing foreign affairs and trade in Korea although it normally works with FTA-related divisions such as the Ministry of Finance and Economy, Ministry of Commerce, Industry and Energy, Ministry of Agriculture and Forestry, national policy research organizations and carefully selected civil organizations. It plays therefore a more significant role than other agencies in foreign economic policy formulation. MOFAT is in charge of the establishment, conduct, promotion and regulation of foreign policies on trade and *trade negotiations*. It appears that MOFAT has executive powers to formulate FTA policy because MOFAT's primary responsibility has long been the creation and implementation of industrial and foreign trade policy. MOFAT created an International Trade Policy Bureau (the Korea Institute of International Economic Policy) which has responsibility for multilateral and bilateral trade negotiations. However, MOFAT interacts most heavily with export-oriented industries and consequently its policies favour export-oriented producers over import-competing industries. MOFAT routinely exchanges views and shares economic and trade information with leading business groups, such as the Korean Chamber of Commerce and Industry (KorCham), the

¹⁶ The current Constitution basically adopts a presidential system of 'checks and balances' between the executive and the legislature, even though it incorporates some elements of a cabinet system (Moon, 1999, p.117).

Federation of Korean Industries (FKI) and the Korean Federation of Small Businesses (KFSB). . MOFAT has operated 16 trade policy and private-sector advisory groups since 1998, which receive views on trade policy direction and strategies in sectors such as agriculture, automobiles and telecommunications. Of course, in the FTA Korea/Chile and Korea/US FTA these affiliations gave them the very important role and domination of the agenda-setting and negotiation process with both countries.

1.4. The political parties within the National Assembly

The Executive relies on obtaining National Assembly approval of its foreign economic policies. Generally the government obtains this support without much difficulty and the role of the political party amounts to supporting the government's foreign economic policy. However, the first Korea/Chile FTA ratification process was markedly different as passing the Bill through the National Assembly was extremely difficult despite the governing party having a clear majority of seats. The parliament is supposed to play an important role as a democratic controller of executive power and has Constitutional powers in FTA policy-making, notably *ratification* powers. It is this ratification process that attracted the influence of domestic interest groups in the FTA policy-making process. Only recently a round of negotiations for the Korea/US FTA resumed without the prior knowledge of the Korean political party. Hence, Korean political parties generally do not directly affected FTA policy overall, as the party system itself has a very weak connection with voters, who incidentally may be interest groups either for or against FTAs. Their main formal role is to exercise their ratification power in the national assembly.

1.5. Interest groups

In any international negotiation, the political motivation of interest groups is a function of what they stand to gain or lose economically from the policies. Those who stand to lose should block or try to alter any international agreement, whereas those who may profit from it should push for its ratification. Interest groups certainly influence Korean FTA policy, just as they have influenced virtually all policies since 1987. The consequences of pressure applied by producer interests have been dramatic. The public and interest groups have therefore begun to exert more pressure and influence upon the process of formulating and executing Korea's foreign policy, including policy dealing with the country's FTA (Kihl, 1999, p.118). Interest-group pressure, in combination with an accommodating parliamentary decision-making process, resulted in the ratification difficulties of the Korea/Chile FTA. There are two interest groups; those who benefit

from FTAs and those who lose. Lacking from this equation are alternative support mechanisms for those who lose their income from the FTA. The Korean government communicates directly with the large *chaebol* corporations effectively but not with those who oppose FTA policy, especially agricultural sectors. By only having communication with the government through the relatively weaker Ministry of Agriculture and Forestry (MOAF), these groups face inequality in the official Korean FTA policy framework. So instead, they try to influence their lawmakers who have a veto and ratification powers.

In both the Korea/Chile and Korea/US FTA cases, opponents from agricultural sectors and supporters in large corporations attempted to influence government FTA policy. They differ, however, in their political apparatus. As opponent groups lack a certain channel of communication with the government during the FTA policy making process, they find themselves limited to street demonstrations and contacting their constituent Members of Parliament (MPs) rather than contact with a political party that actually supports their interest. On another hand, supporters enjoy not only formal channels such as the FTA policy making structure but also informal meeting with key ministries and even the President. Therefore, actual key interest groups taking part in FTA policy making are its supporters, rather than its opponents who are blocked by the institutional structure.

Conclusion

In this paper we have looked especially at the domestic institutional framework for FTA policy making. The domestic structure of FTA policy making is far more crucial and dynamic to the overall process than international dimensions. Based on these two case studies, the key stakeholders in the domestic Korean FTA policy structure are the government sector (the President and Ministries), and interest groups. Each has varying degrees of power upon the domestic FTA structure. Further empirical research using future and/or upcoming case studies would make it possible to further support and validate this model of institutional framework.

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