

Designing Economic Integration of East Asia: An Outlook of the Korea-China Free Trade Agreement

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The Korea-China Free Trade Agreement finally arrived at its preliminary settlement, in the 14th round of negotiations, held on November 10, 2014. This FTA is expected to function as an essential stepping-stone for future trilateral trade agreement between China, Japan and Korea. Further, it is anticipated to considerably contribute to shaping an integrated economic community for East Asia. Therefore, it assigns a diplomatic task of reconciling the speed of growth and harmonizing different systems of the three countries; it is beyond the matter of simple market invasion. This short paper aims to track the process to the settlement of the Agreement and analyze its sectorial substances, from the viewpoint of strategic and diplomatic dynamics in East Asia. The author thereby attempts to suggest a direction of future discussion towards joint subjects of cooperation.

Keywords: KC FTA, Economic Integration, CJK FTA, RCEP, FTAAP, China, Japan, Korea

1. Introduction

On November 10, 2014, the preliminary settlement of the Korea-China Free Trade Agreement (“KC FTA”) reached in Beijing. It was adopted after 14 negotiations lasting over 30 months. Through this FTA, both countries have paved way for the economic integration of East Asia. In particular, Korea secured the

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opportunity to boost trade competitiveness by connecting to the vast economic potential of China, a fast growing engine of the global market. Further, KC FTA is expected to be the basis for future trilateral FTA between China, Japan and Korea (“CJK FTA”). KC FTA has also receive negative evaluations. While some expect that KC FTA would briskly accelerate the economy and trade cooperation between the two countries,¹ others opine that the actual contents of the Agreement are selective and vague in spite of long negotiations.² In any case, however, there are no denials about the influence of KC FTA in East Asia, toward its integration as one economic community, hence its importance in the global community.

The primary purpose of this research is to dynamically analyze the broad shape of the FTA in and around East Asia. It will also suggest future prospects and directions. This essay consists of five parts including Introduction and Conclusion. Part two will discuss the outline of China’s FTA policy in relation to security and diplomacy in East Asia thereby, defining context of KC FTA. Part three will examine the process to the current settlement of KC FTA. Taking all these into consideration, Part four will speak of sectorial substances of the KC FTA.

2. Background

So far, China has not significantly considered the counterpart country’s economic size,³ industrial structure⁴ and economic interdependence,⁵ in the FTA policy-making.⁶ In other words, China’s primary mandate was not focused on opening markets or trade promotions, but on natural resources or geopolitical factors of other countries when making FTA-related decisions.⁷ Some statistics show that China would rather concentrate on their natural resources including petroleum or geographical proximity to China, even putting up with slight economic loss.⁸ Although China-Hong Kong/Macao and China-South America/EFTA/Middle East FTAs were to pursue service trade and investment or seek market exploitation,⁹ most of the FTAs that China has signed until now include crucial noneconomic purposes, *e.g.*, securing natural resources with Chile, Gulf Cooperation Council and Iceland; considering national security as well as economic benefits with

ASEAN; and seeking both natural resources and diplomatic ramifications with Pakistan, Australia, New Zealand and Southern African Customs Union.¹⁰ Such stream is relevant to strategic plans of the US which is evidenced at her intervention into regional conflicts such as Scarborough-Huangyan dispute, Diaoyu-Senkaku dispute, and South China Sea dispute.¹¹

This trend is connecting to China's current efforts to conclude the trilateral FTA with Korea, Japan and ASEAN.¹² If signed, China could extend to approximately 90 percent of the East Asian market; thereby effectively impeding American dominance; recovering economic hegemony of the region.¹³ However, there are a few critical obstacles for this blueprint. One of the noticeable examples is the recent escalation of political tensions between China and Japan.¹⁴ The FTA with Korea will be a run-up to attract Japan into the trilateral FTA.

3. Sequence

In 2004, the bilateral FTA between Korea and China began its discussion stage. In September 2004, at a Korea-China summit which took place at the ASEAN-plus Three meeting, two countries agreed to launch an unofficial joint research for two years, starting 2005.¹⁵ Then, the Korea Institute for International Economic Policy ("KIEP") and the Development Research Center of State Council of China ("DRC") commenced joint research to analyze overall effects of the KC FTA.¹⁶ The unofficial joint research was completed in 2006, drawing a conclusion that the FTA would be mutually beneficial.¹⁷ In November 2006, at the 18th APEC Ministerial Meeting, two countries decided to upgrade to an official study, jointly conducted by government, business and academia.¹⁸ The study began in March 2007, sitting five meetings until June 2008.¹⁹

The Americans could not just be idle observers in these series of events. The US declared her participation in the Trans-Pacific Partnership ("TPP") Agreement, targeting countries around the Asia Pacific region²⁰ including Japan.²¹ This roadmap was interrupted by the global economic crisis, which hit before the 6th meeting between Korea and China was held.

There was no doubt that concluding FTA with Korea was a crucial task for China. If the FTA between China and Korea progresses positively enough to give

momentum to their mutual interactions, meanwhile, the entry barrier for Japan to the fields that Korea holds the comparative advantage would be aggravated. It would also, consequently, weaken the Japanese position in future China-Japan or CJK FTAs negotiations. Economic dominance of a country is directly related to diplomatic leverage in that region. In fact, from the very moment that KC FTA became an official agenda, concern in Japan was constantly voiced on losing the export market to Korea.²² This concern is reasonable considering that Korea's exports to China already account for 25 percent of its total exports.²³ Today, China has been the largest trade and investment partner of Korea for years. Korea is also China's fourth largest trade partner.²⁴ Japan has been recently floundering due to continuing natural disasters, the explosion of nuclear power plant, economic deprivation and criticisms over her unethical historical perspective. In this atmosphere, the rapid market sharing between China and Korea may deprive Japan of motivation to propel into economic cooperation in East Asia.

At all events, two summits of April 30 and May 28, 2010 broke the deadlock between Korea and China.²⁵ After several preparatory meetings from March 2010 to March 2012, negotiations on the free trade agreement began on May 2012, in Beijing.²⁶ China had to consider these sophisticated situations, while Japan developed a positive attitude toward TPP.²⁷ With this environment, at the 7th round of negotiations held from September 3 to 5, 2013, China and Korea declared the conclusion of the first stage of FTA talks, eliciting agreement in basic guidelines.²⁸ As a result, China and Korea have finally concluded substantive negotiations on FTA, at the 14th round of negotiation, in November 2014.²⁹

4. Analysis

A. Unfulfilling Outcomes

China's dilemma percolated through the contents of KC FTA. It has a wide scope which establishes independent sectors for finance and communications, ranging from intellectual property to services and investigations. Yet, considering that it has taken time in reaching the preliminary settlement, KC FTA is not so rich in content.³⁰ This is firstly evident from the speed of tariff reduction. Both parties have agreed to eliminate its tariffs on approximately 90 percent of trade items

within a period of 20 years,³¹ which is a longer period than stipulated in Korea's previous FTA with the US (10 years).

Moreover, the scope of items covered by KC FTA is not vast. Only 42 percent and 52 percent of imports are subject to immediate tariff eliminations for China and Korea, respectively. In particular, 30 percent of the agro-fishery products (614 items) including rice have been even excluded from concessions. Looking at items accompanied by Tariff Rate Quotas and partial tariff reductions, nearly 60 percent (670 items) of products from primary industry are exempt from tariff elimination.³² In the manufacturing sector, high value products such as household appliances, functional clothes, leisure supplies and healthcare items are now open to free trade.³³ However, automobiles, which have been a prime concern of two countries, were omitted from concessions. In addition, tariffs on LCDs are to be eliminated within 10 years, not immediately.³⁴

Agricultural products have been sensitive items all along. Although the agricultural structure of China and Korea is not significantly different, Chinese products would be more competitive in Korean market, due to lower price. In particular, Korean farmers were strongly against opening domestic agricultural markets to cheaper Chinese imports and intensely demanded for antidumping measures.³⁵ The same can be said of automobiles. China has been concerned about the gap of tariff rates for automobiles between the two countries. Also, Korea was anxious about automobile companies in Europe using their factories in China to seek extension of car exports to Korea.³⁶ There were no intensive negotiations for these contentious conflict points; the two countries excluded sensitive items from concessions.³⁷

In relation to services and investigation sector, KC FTA adopts a positive approach, listing the areas to be opened, instead of a negative approach which lists the areas that are to remain unopened. As a matter of fact, it is hard to expect that the liberalization of investment will cause considerable change in financial markets of the two countries. Most of the Chinese capital flowing into Korea is mainly concentrated on real estate, stock and bond, rather than manufacturing or service industries.³⁸

B. Amicable Outcomes

KC FTA allows certificate of origin exemption for a product priced USD 700 or

less, and preferential tariff applications within one year from imports in the event of the absence of origin certificates.³⁹ It also adopts mediation measures and imposes duties to perform settlement measures to resolve the conflicts regarding various non-tariff barriers.⁴⁰ The ‘safeguard measures’ came in to relieve damages of domestic companies, as well as its prohibition of abuse to protect the export companies.⁴¹ In particular, to ensure predictability of antidumping measures, KC FTA lays down a preliminary notification period of seven days, and imposes obligations to make efforts to mediate mutual settlement and avoid final ruling.⁴²

Furthermore, chapters regulating norms and economic corporations carry many trailblazing contents which could be a model for future trade negotiations and agreements. In relation to competition, KC FTA prescribes: transparency; procedural impartiality; principle of nondiscrimination; adoption of competition law to public enterprises; and cooperative obligation between competitors. It assures disclosure of related statutes and deliberation, right to state opinion and present evidence, right to apply for retrial and national treatment in case of law enforcement.⁴³

Regarding “intellectual property rights” (“IPR”), KC FTA assures stronger protection of substantive rights including patent, trademark and copyright, compared to that of TRIPs. To be specific, it provides civil/criminal execution of high level, compensation claim of record producer, technical protection measures for copyrights and neighboring copyrights, and protection of rights management information. In particular, KC FTA guarantees exclusives rights of broadcasting business operator, which have not been fully approved due to incomplete domestic legislation. In addition, it assures disclosure of related statutes and adjudications, distraintment and termination of infringing items, and statutory damages mechanism.⁴⁴ The IPR sector of KC FTA embodies the most detailed and consolidated regulations among the FTAs that China has adopted so far.⁴⁵

Regarding ‘environment,’ KC FTA provides a separate chapter. It stipulates a high-level protection of the environment; assigns duty to obey multilateral environmental agreements and establishes an environmental protection committee. It is noteworthy that China agreed to extend scope of this chapter to provincial governments.⁴⁶ For the first time, China gave assent to setting up specific duties and installing environment committee.⁴⁷ KC FTA also includes an independent chapter for e-commerce, which provides voluntary guidelines for a customs-free

practice for electronic transmissions, electronic authentication and digital signatures, personal information protection and paperless trading.⁴⁸ Moreover, from now on, should conflict arise regarding e-commerce, an implementation committee for KC FTA will determine the situation and seek breakthrough, instead of the WTO or any other international dispute settlement system.⁴⁹

KC FTA also expresses a separate chapter on 'economic cooperation.' This was not included in Korea's previous FTAs with the US and the EU. Both agreed to institutionalize various economic cooperation reflecting interests of two countries and develop cooperative project for each fields. This chapter covers numerous fields including small and medium sized enterprises, information and communication, energy and resources, textiles, science and technology, maritime transportation, pharmaceutical, tourism, and government procurement.⁵⁰ This chapter also provides varied regulations to protect small and medium sized enterprises and merchants.⁵¹

5. Conclusion

Rather than focusing on market invasion towards Korea, China is expected to precede Korea-China FTA guardedly and constantly monitor the situations of Japan. How much to concede and mediate the interests for the maintenance of the corporative orders inside East Asia would be the top priority to China. A pressing problem exists because Korea has been playing an important role in the US-led security alliance along the Asia-Pacific region.⁵² Recently, Korea signed the FTA with the US, officially expressed interest in participating in TPP⁵³ and *de facto* renounced the recovery of wartime operational control from the commander of the US Forces in Korea.⁵⁴ KC FTA would thus be a turning point for Korea to be a stabilizer of newly arising bipolar system in East Asia. Moreover, China's actual influence on Korea is getting stronger. Taking KC FTA as an opportunity, it would bode well for Korea to consider taking a close stance to Regional Comprehensive Economic Partnership ("RCEP") or Free Trade Area of the Asia-Pacific ("FTAAP") rather than TPP. In this case, it is in the better interests of Korea, to make mutual cooperation with China to create a platform to benefit people of both countries, rather than paying attention to just market opening.

Eventually, KC FTA or CJK FTA should not remain in a stage of simple free trade agreement. In the past, Germany and France successfully reconciled with each other after decades of cooperation through the European Coal and Steel Community.⁵⁵ The two countries allowed a transnational organization to manage coal and steel which established the ground for their economic power. It consequently dispelled mutual hostility and created common interests. Because of their territorial disputes and historical discords, unfortunately, China, Japan and Korea are not well intermingled at this stage.⁵⁶ In order to stray from such a difficult voyage, the three countries should struggle for their common interests through constituting an integrated economic community, as Germany and France did.⁵⁷ Such organization will supplement each other's weakness.

Korea-China FTA might function as a bridgehead for such an integrated economic community. In order to design economic integration, it is necessary to set up the direction of future discussion towards coordinating the speed of growth and harmonizing their systems, and then discuss about specific market invasion. There are several titles in the cooperation agenda for East Asian countries such as currency, environment, food, information technology, energy, railroads and gas pipe connection. Taking a step further in the current FTA agenda, a long-term plan contributing to joint subjects of cooperation is urgently required.

REFERENCES

1. Kit Tang, *Why China-South Korea Trade Pact is a Win-Win*, CNBC (Nov. 11, 2014), available at <http://www.cnbc.com/id/102172163#> (last visited on Feb. 5, 2015).
2. Kwanwoo Jun, *South Korea-China Trade Deal: Less Than Meets the Eye*, WALL ST. J., Nov. 18, 2014, available at <http://blogs.wsj.com/korearealtime/2014/11/18/south-korea-china-trade-deal-less-than-meets-the-eye> (last visited on Feb. 5, 2015).
3. E.g. gross domestic product ("GDP"), GDP per capita, trade volume.
4. E.g. proportion of agriculture or service industry among GDP.
5. E.g. export ratio, foreign direct investment ratio.
6. In-Koo Lee & Hyun-Jun Cho, *An Empirical Analysis on Determinants of China's FTA Policy* [중국의 FTA 추진 결정요인 실증분석] (available only in Korean), 20 J. NORTHEAST ASIAN ECON. STUD. [동북아경제연구] 185-206 (2008).
7. *Id.* at 194-8.
8. *Id.* According to the regression results empirical analysis based on probit model, counterpart

- country's geographic distance from China, its endowment of natural resources, and its historical/political connection are major determinants, while economic factors are not statistically significant.
9. Hyun-Jun Cho & In-Koo Lee, *Political-Economic Purposes and Determinants of China's FTA Policy* [중국 FTA 정책의 정치경제적 목적과 결정요인] (available only in Korean), 19 J. NORTHEAST ASIAN ECON. STUD. [동북아경제연구] 43-72 (2007).
 10. Il-Young Lee, *The Third Way for Korea-China FTA* [한중 FTA가 가야 할 제3의 길] (available only in Korean), The official website of GS&J Institute (Mar. 5, 2012), available at http://www.gsnj.re.kr/report/board.php?code=pds&kind=REP&no=124196&stext=&stitle=&page=6&list_cnt=10&Category1= (last visited on Feb. 5, 2015).
 11. Guoyou Song & Wen Jin Yuan, *China's Free Trade Agreement Strategies*, 35 WASH. Q. 111-13 (2012).
 12. *Id.* at 116.
 13. S. Madhur, *China-Japan-Korea FTA: A Dual Track Approach to a Trilateral Agreement*, 28 J. ECON. INTEGRATION 380 (2013).
 14. *Id.* at 386. For details, see J. Politi, *US Top Trade Official Presses Japan on 'Barriers,'* FIN. TIMES (Aug. 19, 2013), available at <http://www.ft.com/intl/cms/s/0/58c095ac-08e9-11e3-ad07-00144feabdc0.html#axzz3QyLh4arP> (last visited on Feb. 5, 2015).
 15. For details, see *China-Korea FTA timeline*, The official website of Korea Ministry of Trade, Industry & Energy, available at <http://www.fta.go.kr/cn/info/2/> (last visited on Feb. 5, 2015).
 16. *Id.*
 17. *Id.*
 18. Staff writer, *China, ROK agree on FTA feasibility study*, XINHUANET (Nov. 18, 2006), available at http://news.xinhuanet.com/english/2006-11/18/content_5345112.htm (last visited on Feb. 5, 2015).
 19. *Supra* note 15.
 20. Huang Pu Ping Li [皇甫平丽], *The Real Intention behind the United States' Proactive Promotion of TPP* [美国积极推动TPP意在瓦解东亚共同体] (available only in Chinese), LIAOWANG [瞭望] 58 (Dec. 6, 2010) available at <http://www.lwgcw.com/NewsShow.aspx?newsId=16992> (last visited on Feb. 20, 2015).
 21. K. Hughes, *U.S. Presses Japan on TPP Compromises*, JAPAN TIMES (Apr. 4, 2014), available at <http://www.japantimes.co.jp/news/2014/04/04/business/u-s-presses-japan-on-tpp-compromises/#.VNTENU39nIV> (last visited on Feb. 5, 2015).
 22. Ho-Sun Chung, *Reason of Japanese Media's Anger towards Korea-China FTA*, SBS NEWS (May 7, 2012), available at http://news.sbs.co.kr/news/endPage.do?news_id=N1001180884 (last visited on Feb. 5, 2015).
 23. Kwanwoo Jun, *South Korea Economy Weighed by Slowing Exports to China*, WALL ST. J. (Oct. 30, 2014), available at <http://www.wsj.com/articles/south-korea-economy-weighed->

- by-slowing-exports-to-china-1414649110 (last visited on Feb. 5, 2015).
24. For details, see *Trade Volume between China and Korea*, The official website of Korea International Trade Association, available at <http://stat.kita.net/stat/world/major/China-Stats08.screen> (last visited on Feb. 5, 2015).
 25. Staff reporter, *Wen calls for FTA negotiations between China and S. Korea*, XINHUANET (May 30, 2010), available at http://news.xinhuanet.com/english2010/video/2010-05/30/c_13323566.htm (last visited on Feb. 5, 2015).
 26. Staff writer, *China, ROK Start Talk on Free Trade Area*, XINHUANET (May 2, 2012) available at http://news.xinhuanet.com/english/business/2012-05/02/c_131563703.htm (last visited on Feb. 5, 2015).
 27. Reiji Yoshida, *Abe declares Japan will join TPP free-trade process*, JAPAN TIMES (Mar. 16, 2013), available at <http://www.japantimes.co.jp/news/2013/03/16/business/abe-declares-japan-will-join-tpp-free-trade-process/> (last visited on Feb. 5, 2015).
 28. Seungki Yoo, *S. Korea, China Complete First-Stage FTA Talks*, XINHUANET (Sept. 6, 2013), available at http://news.xinhuanet.com/english/world/2013-09/06/c_132697746.htm (last visited on Feb. 5, 2015).
 29. Zhancheng Ma, *China, ROK Conclude FTA substantive negotiations*, XINHUANET (Nov. 10, 2014) available at http://news.xinhuanet.com/english/china/2014-11/10/c_133777967.htm (last visited on Feb. 5, 2015).
 30. *Supra* note 2.
 31. ROK Ministry of Trade, Industry & Energy, *Detailed Explanation on Korea-China FTA*, available at http://www.fta.go.kr/webmodule/_PSD_FTA/cn/doc/1_description.pdf (last visited on Feb. 5, 2015).
 32. *Id.*
 33. *Id.*
 34. *Id.*
 35. Tong-hyung Kim, *Korea-China FTA Could Deal Fatal Blow to Farmers*, KOREA TIMES (Jan. 13, 2012), available at http://www.koreatimes.co.kr/www/news/biz/2012/01/123_102816.html (last visited on Feb. 5, 2015).
 36. Staff writer, *Korea-China FTA Posing Threat to Korean Automakers*, BUS. KOREA (Oct. 28, 2014), available at <http://www.businesskorea.co.kr/article/6992/potential-threat-korea-china-fta-posing-threat-korean-automakers> (last visited on Feb. 5, 2015).
 37. *Supra* note 31.
 38. Dong-kyu Kim & Hye-ran Hyun, *Korea-China FTA: "Promoting National Interest by Market Extension... Yet Worries Towards Farmers and Fishermen,"* YONHAP NEWS (Nov. 10, 2014), available at http://www.yonhapnews.co.kr/bulletin/2014/11/09/0200000000A_KR20141109029500003.HTML (last visited on Feb. 5, 2015).
 39. *Supra* note 31.
 40. *Id.*

41. *Id.*
42. *Id.*
43. *Id.*
44. *Id.*
45. *Id.*
46. *Id.*
47. *Id.*
48. *Id.*
49. *Id.*
50. *Id.*
51. *Id.*
52. ERIC Y. J. LEE, A SELF-PORTRAIT OF KOREAN DIPLOMACY [韓國外交의 自畫像](available only in Korean) 176-7 (2009).
53. Whan-woo Yi, *Korea to Join US-led Trade Pact*, KOREA TIMES (Nov. 29, 2013), available at http://koreatimes.co.kr/www/news/biz/2013/11/602_147148.html (last visited on Mar. 1, 2015).
54. Ji-hye Jun, *Allies agree to maintain status quo on OPCON*, KOREA TIMES (Oct. 24, 2014), available at http://koreatimes.co.kr/www/news/nation/2014/10/113_166894.html (last visited on Mar. 1, 2015).
55. European Coal and Steel Community (ECSC), Encyclopedia Britannica, available at <http://global.britannica.com/EBchecked/topic/196004/European-Coal-and-Steel-Community-ECSC> (last visited on Mar. 1, 2015).
56. HONGBING SONG, CURRENCY WAR IV: AGE OF WARRING STATES [货币战争IV: 战国时代] (2012).
57. K. Alter & D. Steinberg, *The Theory and Reality of the European Coal and Steel Community*, Working Paper No. 07-001 at Buffett Center (Jan. 2007), available at http://www.bcics.northwestern.edu/documents/workingpapers/Buffett_07-001_Alter_Steinberg.pdf (last visited on Feb. 5, 2015).