



-South Korea-
last updated on 2004-04-14

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GENERAL FEATURES OF TRADE POLICY

With a population of 48 million (2000), and a rapidly growing economy, South Korea is a republic with powers shared between the president and the legislature.

In 2002, South Korea's GDP grew 6,1%, thanks mainly to a sharp increase in domestic and overseas demand for the manufacturing and service industries.

Korea has developed rapidly over the past thirty years, resulting in its transition from a rural, underdeveloped economy to an important player in the world economy.

Moreover, during the past years Korea has moved away from the centrally planned, government-directed investment model toward a more market-oriented one. IMF assistance was important for Korea's recovery from the 1997-98 crisis. To achieve this Korea carried out extensive financial reforms that restored stability to markets.

After the financial crisis the Korean economy was recovering at an unexpectedly rapid pace (more than 9 percent in 2000).

The economic reforms, pushed by President Kim Dae-jung, have helped Korea to expand its economy even though the growth rates have come down from 10% in 1999 to 6% in 2002. Despite the economic reforms already undertaken, the restructuring of Korean conglomerates (chaebols), bank privatization, and creating a more liberalized economy with a mechanism for bankrupt firms to exit the market remain Korea's most important tasks.

EU relations with South Korea are based on the Trade and Co-operation Framework Agreement that came into effect on 1 April 2001. (see <http://trade-info.cec.eu.int/doclib/html/111835.htm>). This is a mixed Agreement, with areas of exclusive Community competence (trade) and areas of mixed competence between the Community and Member States (political dialogue, justice and home affairs, science and technology, industrial co-operation).

Also to be mentioned are an Agreement on co-operation and mutual administrative assistance in customs matters (signed in 1997) and an Agreement on Telecommunications Procurement (signed in 1997).

Trade between the EU and Korea has developed well since the 1990's and the partnership remains strong. Despite a continuous deficit, EU exports to Korea have increased more than imports and the deficit has narrowed.

At the same time EU has remained, along with the US and Japan, the largest foreign direct investor in South-Korea.

The main EU exports to South-Korea in 2002 were power generating machinery, chemicals, transport material and ITA equipment. The main imports from South-Korea to the EU were ITA equipment, transport material, textiles and clothing, and power generating machinery.

In the light of its inherent dependency on foreign trade, Korea has more recently been seeking to participate more actively in the world trade system. Korea's more positive approach to the multilateral system as well as its impressive economic development resulted in its admission to the OECD in October 1996. Korea is a member of the GATT since 1967 and a founding member of the WTO.

In spite of recent liberalisation, foreign companies at times encounter difficulties to enter the Korean market. This is owing to over-burdensome and untransparent regulations and other import barriers. In addition, foreign companies face hard competition from the "chaebol" business conglomerates which dominate all major industries, including the steel, automobile, shipbuilding and electronics sectors.

Trade liberalisation is expressly included as a component of the Stand-By Arrangement agreed between the Korean authorities and the International Monetary Fund. This implicitly acknowledges that insufficient foreign competition on the domestic market has compounded Korea's economic difficulties.

The progressive steps made by the Korean government towards economic reform including liberalisation of trade as well as the consequences of globalisation have met with resistance from parts of the administration and the Korean population. Some manufacturers' lobbying groups, political and media groups have managed to play on this tendency and launched campaigns against imported goods.

The following table is an overview of the tradeflow between the European Union and South Korea

Section	Year	Import(Euro)	Export(Euro)
Animals & animal products	1996	4,162,300	163,716,180
	1997	16,392,960	194,565,240
	1998	71,796,760	121,086,240
	1999	33,315,590	226,328,170
	2000	23,217,940	206,560,460
	2001	56,271,720	189,457,270
	2002	56,391,260	207,496,970
	2003	63,359,780	137,625,390
Vegetable products	1996	11,414,060	131,132,320
	1997	10,037,870	38,173,280
	1998	12,982,220	42,041,170
	1999	12,097,800	68,008,690
	2000	9,817,570	90,778,290
	2001	10,953,470	48,762,020
	2002	13,447,580	66,347,950
	2003	11,360,360	65,117,600
Animal or vegetable fats	1996	65,490	11,276,060
	1997	130,650	9,500,060
	1998	125,990	3,666,860
	1999	66,270	5,469,320
	2000	107,640	8,391,250
	2001	78,140	10,498,970
	2002	127,810	14,085,710
	2003	96,450	22,736,220
Prepared foodstuffs	1996	82,238,530	176,442,380
	1997	83,898,560	212,157,910
	1998	79,450,710	132,869,600
	1999	79,015,900	196,729,720
	2000	89,275,610	264,170,640
	2001	70,718,720	292,065,020
	2002	62,524,030	375,584,870
	2003	52,359,640	265,233,980
	1996	4,155,250	45,281,440
	1997	12,156,360	53,021,640
	1998	17,855,130	28,207,130

Mineral products	1999	44,456,010	60,732,700
	2000	17,046,690	36,009,590
	2001	21,091,810	42,739,410
	2002	35,317,420	66,525,190
	2003	48,233,000	118,099,710
Chemical products	1996	329,618,130	1,250,302,900
	1997	420,076,600	1,476,416,460
	1998	451,312,150	1,100,911,220
	1999	393,255,780	1,449,849,590
	2000	499,821,520	1,898,628,580
	2001	444,290,190	2,025,054,820
	2002	434,159,640	2,219,927,940
Plastics & rubber	2003	398,028,550	2,130,666,520
	1996	588,950,820	325,808,440
	1997	631,633,860	366,834,920
	1998	835,677,290	243,815,160
	1999	897,956,080	366,032,310
	2000	1,047,684,600	478,545,550
	2001	963,305,940	515,748,030
	2002	992,119,320	531,672,130
Hides & skins	2003	1,035,369,500	461,957,040
	1996	101,742,140	681,962,910
	1997	90,415,290	477,688,720
	1998	75,899,260	152,919,160
	1999	75,716,170	280,858,250
	2000	69,600,310	470,935,830
	2001	49,691,450	467,729,910
	2002	39,285,400	446,004,120
Wood & wood products	2003	23,915,030	336,666,300
	1996	19,682,820	60,834,750
	1997	16,379,210	50,551,460
	1998	22,919,870	28,885,160
	1999	35,213,680	40,046,720
	2000	7,577,930	57,653,420
	2001	3,771,130	86,266,640
	2002	2,055,560	142,986,730
Wood pulp products	2003	2,435,600	83,550,320
	1996	37,187,040	194,423,450
	1997	27,931,620	187,920,540
	1998	39,820,360	104,463,180
	1999	36,439,240	165,859,220
	2000	42,632,550	239,828,040
	2001	44,005,670	234,235,280
	2002	47,449,750	279,139,860
Textiles & textile articles	2003	58,358,910	272,827,150
	1996	817,648,550	773,518,350
	1997	1,209,710,960	700,590,010
	1998	1,332,732,340	251,561,000
	1999	1,502,247,020	380,661,820
	2000	1,897,189,050	614,647,210
	2001	1,706,862,740	715,000,880
	2002	1,529,005,180	747,444,540
Footwear, headgear	2003	1,371,770,280	707,975,640
	1996	153,599,920	97,712,450
	1997	130,566,550	97,006,830
	1998	131,079,680	19,989,170
	1999	153,107,600	25,288,210
	2000	187,721,930	40,964,590
	2001	163,699,210	52,939,680
	2002	156,178,550	66,984,220
	2003	128,515,660	66,669,950

Articles of stone, plaster, cement, asbestos	1996	64,241,280	196,184,470
	1997	72,810,360	221,679,460
	1998	104,761,950	89,188,180
	1999	116,964,010	157,520,370
	2000	142,410,920	211,138,050
	2001	178,954,920	261,311,650
	2002	152,437,650	292,560,620
	2003	125,841,570	276,036,900
Pearls, (semi-)precious stones, metals	1996	140,271,940	70,510,250
	1997	196,959,590	104,724,130
	1998	373,268,070	608,958,590
	1999	158,947,930	683,838,110
	2000	153,434,220	491,831,430
	2001	144,048,870	257,068,920
	2002	156,635,350	190,357,830
	2003	134,103,690	135,557,690
Base metals & articles thereof	1996	371,273,390	962,501,860
	1997	375,357,200	857,541,230
	1998	952,585,770	433,227,370
	1999	728,074,490	610,508,880
	2000	948,634,430	812,103,560
	2001	841,737,590	739,657,580
	2002	699,865,650	842,533,440
	2003	644,658,510	870,042,630
Machinery & mechanical appliances	1996	4,797,474,950	5,317,038,310
	1997	5,255,975,070	4,784,989,380
	1998	6,708,252,870	2,711,885,950
	1999	8,595,807,070	3,389,101,560
	2000	13,076,334,180	5,317,685,280
	2001	10,675,054,310	5,405,075,650
	2002	10,866,319,100	5,740,012,160
	2003	11,420,349,680	5,602,528,900
Transportation equipment	1996	1,911,136,940	652,730,480
	1997	2,762,539,460	643,471,350
	1998	3,549,085,870	315,696,450
	1999	4,272,915,770	524,677,250
	2000	5,097,647,500	711,420,730
	2001	4,645,748,030	628,725,040
	2002	5,738,565,550	989,737,020
	2003	6,590,435,750	837,675,910
Instruments - measuring, musical	1996	297,578,580	735,911,230
	1997	286,095,310	743,989,610
	1998	308,596,940	457,284,030
	1999	307,948,020	606,730,440
	2000	461,697,100	774,481,760
	2001	453,865,260	928,507,280
	2002	402,300,410	1,303,258,690
	2003	377,146,590	1,448,623,480
Arms & ammunition	1996	1,526,020	3,324,960
	1997	2,193,110	9,812,750
	1998	1,491,100	15,709,480
	1999	2,893,550	11,047,280
	2000	840,640	9,240,630
	2001	1,258,420	8,322,460
	2002	1,380,320	6,641,470
	2003	1,914,770	5,119,600
Miscellaneous	1996	204,181,040	202,774,040
	1997	202,867,160	195,720,150
	1998	190,979,110	49,061,530
	1999	194,379,010	109,111,770
	2000	222,410,310	172,857,890

	2001	196,717,270	195,976,780
	2002	182,086,960	269,491,770
	2003	155,548,720	236,536,110
Works of art	1996	3,685,480	17,251,490
	1997	5,417,100	16,675,420
	1998	2,839,660	9,696,060
	1999	1,922,030	2,935,220
	2000	1,957,260	3,818,790
	2001	2,021,060	6,295,830
	2002	8,452,000	30,866,630
	2003	7,552,670	21,054,040
Other	1996	44,529,890	55,290,420
	1997	47,893,610	25,733,750
	1998	55,264,940	39,524,860
	1999	43,831,320	55,232,190
	2000	57,759,690	63,101,900
	2001	78,926,710	65,967,250
	2002	72,490,440	60,387,980
	2003	83,504,860	63,386,400

Agriculture and Fisheries
last updated on
2001-11-15

Duties remain high on a large number of high value agricultural products of interest to EU exporters (e.g. wine, liquors, oils, beer, juices, dairy products). Agriculture is the main beneficiary of subsidies in terms of total value of assistance provided. Agricultural products as well as processed food products are still facing a cluster of serious market access difficulties : sanitary and phytosanitary regulations, often applied in an arbitrary and discriminatory way, restrict access for several EU products for example lemons and oranges. The Korean authorities' reluctance to apply the regionalisation principle and deal with the EU as a whole instead of dealing with individual Member States on a national basis further increases these difficulties. A number of agricultural and fisheries products are still subject to a system of non automatic licensing requirements ("recommendations", in fact "import authorisations", having to be issued by the competent ministry and/or domestic industry associations).

Automotive
last updated on
2002-04-20

Korea's automotive industry has been designated a "strategic industry" since 1962. While pursuing an export-oriented strategy the Korean automobile manufacturers continue to benefit from a high degree of (non-tariff) protection of their domestic market which results in extremely low import penetration of the market for passenger cars and LCVs. Vehicle homologation procedures are one of the major impediments to access to the Korean market. After pressure from the European Commission and the US, Korea bound its tariffs at 8% in a letter sent to the WTO on 19 November 1998 saying all of tariff position 8703 was to be bound at 8% from that date (i.e. buses, commercial vehicles and special vehicles were not to benefit from the lower tariff binding). Tariffs on vehicles for the transport of goods will remain unbound. Although the same tax rates are now applied to both domestically produced and imported vehicles, Korea's multi-layered tax system has a multiplying effect and thus a higher incidence on the price of imported vehicles as customs duties are part of the tax base. Customs approval for imports in this sector can still prove to be problematic for importers as vehicles are held up for customs inspections and there is little transparency and consistency in procedures.

Chemicals
last updated on
2001-11-15

The Korean chemical industry has greatly expanded its capacity in recent years, pushing foreigners into niche speciality markets. Korea is also actively seeking foreign capital in the chemical sector. The Korean Agrochemical Management Law has been revised and from 7 December 1996, foreign manufacturers are permitted to formulate and import agrochemical products if they satisfy registration requirements. Article 8 of the working rules of the Foreign Capital Inducement Act prohibits foreign investment for a number of business including the trading of agrochemical.

**Machinery
last updated on
2001-11-15**

The authorisation system for import of second hand capital equipment remains an effective import ban.

The Ministry of Trade, Industry and Energy (MOTIE) is implementing a five year "Plan for the Promotion of the Capital Goods Industry" in order to enhance the technological capability of the Korean industry. The Korean authorities have issued a number of statements specifying that this plan will not violate WTO or other internationally agreed rules.

MOTIE set aside around \$250m to improve domestic technologies used in the production of capital goods, especially manufacturing equipment. This money will be spent on acquiring technologies for parts and components which are currently being imported at high prices. Sectors included in this programme are industrial machinery, automobile production systems, chemical goods, iron, steel and base metal and some fabrics. Several complaints have been recently received from EU suppliers of medical equipment about difficulties experienced with the Korean homologation procedures which include type approval and a sales price approval, each approval procedure being handled by a different party.

**Pharmaceuticals
last updated on
2001-11-15**

Korea has signed only parts of the GATT zero-zero agreement (which eliminates customs duties on pharmaceuticals and sole-use pharmaceutical intermediates) thereby enabling itself to continue charging customs duties on finished pharmaceutical products (harmonised system 30.03 and 30.04 tariff headings). Heavy discrimination between imported drugs and locally manufactured drugs through reimbursement has been noted.

Foreign pharmaceutical companies operating on the Korean market are authorised to register and market drugs irrespective of whether they are manufactured in Korea or imported. However, in practice, imported drugs are not included in the Korean Medical Reimbursement Schedule. In fact, there is no profit margin allowed to hospitals, clinics and pharmacies when they dispense an imported drug which is reimbursed, whilst they earn a significant profit margin when they dispense a drug manufactured in Korea.

**Services - Financial
last updated on
2001-11-15**

Banking:

Access by foreign banks to the Korean market continues to be subject to a number of restrictions, including market access problems as well as problems in their operations. Some of them are legal restrictions which may not cause important problems in the short term to EC banks operating or wishing to operate in Korea ; on other occasions, problems arise from the specific features of banking regulation in Korea and domestic banks.

Insurance:

Deregulation of motor vehicle insurance premiums has allowed insurers to raise premiums. Banks have begun to sell individual annuity products together with insurance firms and investment trust companies. The main problems faced by EC insurance companies in Korea stem more from the tight and exhaustive regulation of insurance business in Korea, which is not transparent. It is in most instances applicable in the same manner both to foreign as well as to domestic insurance companies ; these regulations affect in particular the ability of foreign insurance companies to operate with full freedom in those areas where they are most competitive.

Securities:

The membership fee for the Korea Stock Exchange remains prohibitive, such that no foreign securities firm has yet obtained a seat on the KSE.

In 1994, there were 32 domestic securities firms. There were 11 branches of foreign securities companies operating in Korea of which 6 were EU firms, 26 foreign representative offices of which 6 were EU and four joint ventures.

Starting from June 1997 foreigners are allowed to invest in non-guaranteed long-term bonds on a limited basis for maturity periods of more than three years to be issued by small firms and non guaranteed convertible bonds (CBs) of large enterprises.

As a result of the financial services agreement Korea has eliminated limits on foreign equity participation in local securities firms and relaxed conditions for access of securities firms, including discriminatory capital requirements.

Services - Tourism and Travel
last updated on
2001-11-15

According to Korean statistics, Koreans spent \$2 billion more abroad than foreign tourists spent in Korea; which amounted to 11% of the trade deficit for the period April/November 1996. The Korean government has embarked on a travel austerity campaign and has imposed a prohibition on tour operators established in Korea not to advertise tour programmes abroad. touroperators are also confronted with unexpected tax investigations.

Shipbuilding
last updated on
2001-11-26

South Korea now rivals Japan for the title of the world's largest shipbuilder. The top five companies in the Korean shipbuilding industry are all owned by the "chaebol". Since July 2000, the Commission and the Republic of Korea have engaged in bilateral consultations to avoid potential trade disputes in the shipbuilding sector. The Commission is expecting measurable progress soon to avoid further action taken by the EU in the absence of satisfactory solutions. Intervention by the Korean Government in the domestic shipbuilding industry whereby subsidies are given to Korean shipbuilders to help solve financial problems or avoid bankruptcy when investing in new capacity has caused concern for European shipbuilders.

Telecommunications Equipment
last updated on
2001-11-15

Finally, the Korean government made Dacom, the second largest Korean operator, abolish a "buy-Korea" provision in its internal procurement rules and Korea Telecom started inviting European suppliers to begin qualification procedures. Both, European industry and the Commission will continue to monitor closely the implementation of this agreement.

Textiles and Leather
last updated on
2001-11-15

A state authorised body - the Korean Export Import Association of Textiles - has been delegated control of trade in silk products. Imports for retail sale are banned in the case of spun silk and silk yarn. Fabrics with a silk content of less than 85% may be imported but only with a bank approval and with the approval of the Korean Association (which anecdotal evidence from EU exporters indicates is virtually never given).

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TARIFFS AND DUTIES

Korea has undertaken an almost continuous process of tariff reduction since its adoption of outward oriented policies in the early 1960s. However, duties remain high compared to other OECD countries. Most duties are assessed on an ad valorem basis. Specific rates apply to a few goods while both ad valorem and specific rates apply on a few others. Tariffs and taxes are payable in Korean Won before goods are permitted to clear customs. After acceding to the OECD, the Korean Government introduced a concessionary tariff programme for developing countries.

After the implementation of the Uruguay Round, approximately 90 percent of Korea's tariff lines were bound (almost all agricultural tariffs and 90% of tariffs on industrial products). As a result, Korea will be able to raise duties above the bound rates or impose quantitative restrictions only under very narrowly defined circumstances (i.e., the same conditions applicable to other developed countries). The explicit reason for not binding the remaining 10% of tariffs on industrial products was the possibility to provide protection either to new industries or industries in difficulty. Tariffs remain unbound for several products of interest to EU.

The significant margin between applied and bound rates is used by Korea to provisionally increase duty rates as safeguard measures through the imposition of "adjustment duties" which were previously applied for a six month period and then reviewed, and are since 1997 in force for twelve months. Every year a schedule of adjustment duties is therefore adopted. It is in general only publicised no more than 4 to 5 days before its entry into force. This uncertainty on duties and the resulting lack of predictability of themselves limit business opportunities for foreign suppliers.

There have been significant modifications for tariff quotas. A number of new quotas have been introduced and the rates on a series of previously existing quotas have been lowered. In addition, Korea introduced tariff quotas for 67 categories of agricultural products, in accordance with its WTO commitments to tariff quantitative restrictions on these products.

The management of these tariff quotas involves associations of the domestic industries producing products competing with the imported products covered by the quotas or using this imported products. The allocation of access to the tariff quotas and possible adjustments in the volume of the quota (opening of a quota, increase, decrease) or in the applied rate are made on the basis of "recommendations" issued by these associations.

The WTO Trade Policy Review notes that this management system implies "potential conflicts of interest" which is an understatement. EU firms interests are negatively affected in different ways by the system. As mentioned above this system's lack of transparency and lack of predictability can limit business opportunities. Foreign firms operating in Korea or their customers can be discriminated for the access to lower cost inputs allowed by tariff quotas.

The predominant role of the big domestic conglomerates ("chaebols") on the Korean market is in many cases an additional structural impediment to market access. The distribution system especially is dominated by wholesalers which abuse their dominant position by demanding large discounts from companies. Companies are obliged to supply wholesalers, which means that they are at the mercy of bargains over which they have no control.

Agriculture and Fisheries

Tariff Levels

960278- *high duties* [2001-07-18]

Korea accepted the binding of agricultural tariffs, but duties remain high on a large number of high value agricultural products of interest to EU exporters e.g. wine (15%), liquors (20%), oils, beer (30%), juices (30-57%, diary products like milk (40%), butter (94%, in WTO quota 40%).

Automotive

Tariff Levels

960159- *high bound tariffs* [2001-07-05]

Tariffs on passenger cars were bound at 80% which allowed the Korean Government to raise tariffs as necessary without having to offer compensation to their trade partners. As a result of bilateral consultations, Korea agreed to take certain steps to improve access for imported motor vehicles whereby the applied tariffs on passenger cars were reduced to 8 percent beginning January 1, 1995, following a prior reduction of 15 to 10 percent in 1994. However, this tariff remained bound at 80 percent with no reduction foreseen following conclusion of the Uruguay Round. This would allow the Korean Government to raise them if necessary without having to offer compensation to their trade partners. The tariff rates for a range of utility vehicles and motorcycles are bound at 16% and those on engines and most

parts, at 13%. Tariffs on vehicles for the transport of goods remain unbound. A letter has been sent to the WTO on 19 November 1998 saying all of tariff position 8703 was to be bound at 8% from that date (i.e. buses, commercial vehicles and special vehicles were not to benefit from the lower tariff binding).

Textiles and Leather **Tariff Levels**

● 960152- *high wool tariffs* [2001-07-19]

Korea applies high tariffs on wool products (our most important exports in textiles). In July 1993, following pressure from their domestic industry, the South Korean Authorities proposed to introduce "adjustment duties" on a range of goods including three categories of wool products. The trade affected by these tariffs is significant and they are a matter of particular concern to Member States. In 1993, EU exports of the woollen fabrics concerned to South Korea represented 73 million ECU. Some 75% of these exports came from Italy with the other major supplier being the UK (11%). On 29 December 1993, the Korean government decided to apply adjustment duties (for whole of 1994) to a number of products - including a tariff of 19% on wool fabrics. The previous tariff was 8-9%. As of May, 1996 adjustment tariffs are 13-17% on woollen fabric, 26 % on cotton fabric and 30% on linen. The 1995 tariffs were also at a reduced rate (17% and 15% depending on wool content) (Tariff Rate 1994 - 96) - Korea shall harmonise and bind virtually all tariffs on textile products at least at the level of the US proposed rates; 7,5% for man-made fibres, 15% for yarns, 30% for fabrics and made-ups goods. 2001 tariffs for wool fabrics are at 13%.

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TRADE DEFENCE INSTRUMENTS

Korea is currently imposing safeguard measures on garlic and antidumping duties against:

China, P.R. for Choline Chloride, Disposable Lighters, Disodium Carbonate, Electric Alkali Manganese Batteries, Shavers, and Ferro-Silico Manganese.

Chinese Taipei for Pre-sensitized Printing Plate, Polyvinyl Alcohol, and Alkali Manganese Batteries.

Germany for Carbonless Self Copy Paper and Electric Shavers.

Japan for Electric Shavers and Compound Sizing Agents.

Netherlands for Electric Shavers.

Russian Federation for H-Beams.

Singapore for Alkali Manganese Batteries.

United States for Choline and Chloride Ethanolamine.

Anti-Dumping Measure

● 010004- *Customs delays* [2004-01-22]

Customs clearance lead times are high compared to other markets. In 1992, Korea agreed to undertake a number of short and long-term measures to improve customs and import clearance procedures. To date, these reforms have proceeded slowly and progress has been limited. It appears that the procedures are considerably more difficult for final goods than for raw materials or for intermediate goods. Furthermore, getting goods out of port can cause difficulties for importers. The problems here lie more often with the Korean import clearance agencies rather than with the Korean Customs Service (KCS). In early 1994, new legislation was passed to facilitate the streamlining and automation of customs clearance procedures. The implementation of the Act has produced some increased requirements and administrative burdens, although in general procedures are improving. Customs Clearance lead times have been reduced from over 3 weeks to 15 days. Although progress has been made, this is still high compared to other markets. The progress of customs reforms is being continuously monitored in a working group chaired by Korean and US customs officials. From January 1996, the pre-application system was introduced and domestic and foreign certified test results are being recognised. Another comprehensive reform of customs procedures was

carried out, which entered into force on 1 July 1996 and continues to be monitored in the light of the previous problems.

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NON TARIFF BARRIERS

One of the major sources of difficulty for EU exporters is the Korean legislation on standards and conformity assessment.

In 1992, Korea agreed to undertake a number of short and long-term measures to improve customs and import clearance procedures. To date, these reforms have proceeded slowly and progress has been limited. It appears that the procedures are considerably more difficult for final goods than for raw materials or for intermediate goods.

Furthermore, getting goods out of port can cause difficulties for importers. The problems here lie more often with the Korean import clearance agencies rather than with the Korean Customs Service (KCS).

Government regulations require the submission of very detailed product information as part of testing, certification and registration procedures (e.g., the ingredients of food products by percentage). This business-confidential information is sometimes not given sufficient protection, and may even fall into competitors' hands. The Korean government responded to this danger in April 1994 with the law of Administration Regulation and Civil Service. This made clear that it was a civil servant's duty to protect commercial secrets described in documents submitted to the government. According to the Korean Ministry of Finance, protection has increased considerably as a result.

The Korean system of technical standards and conformity certification constitutes a significant impediment to market access by its complexity and lack of transparency for foreign suppliers and is mentioned by EU firms operating in Korea as most serious barrier for most sectors.

This legislation results in technical difficulties and additional cost burdens for foreign exporters that decrease their ability to compete with local manufacturers and therefore constitute a market access barrier.

The Korean government still encourages local procurement. Korea has completed its accession negotiations to the WTO Government Procurement Agreement. The country has been obliged to implement the WTO Government Procurement Agreement (GPA) since 1 January 1997. Korea has agreed to cover goods and services procurement (including construction) by central government entities, sub-central entities and many government-owned commercial enterprises (including the Korea General Chemical Corporation).

Government procurement needs are formulated by the ministries and industries concerned, then screened by the Ministry of Trade and Industry to determine if the needs can be met by local sources. If not, MOF allocates the necessary foreign exchange.

Registration, Documentation, Customs Procedures

● 960167- *EC certificate of origin* [2001-06-28]

Korean customs refuse to accept the EC certificate of origin. Korean customs do not recognise the EC as a country of origin and refuse to accept the EC certificate of origin. This means that in order to justify EU country of origin status, Community countries are required to furnish additional documentation and follow further procedures, which can be a source of difficulties for EU suppliers. Korea's "Detailed Rules for the Control of Product Origin", established in 1991 provided rules of origin for 675 (essentially agricultural and food) products by 1993, calculated on an HS 4-digit basis. When these rules are not sufficient to establish the origin of a product, its country of origin is regarded as that country in which important parts are produced or in which important processes occur. It is reported that in order to establish products' origins, the Korean authorities have requested exporters to submit information as to the origin of all parts that constitute more than 5% of the FOB price of the end product, i.e. almost every part of a product including even the most commonly traded types of parts.

● 960249- *Customs/tax inconsistency* [2001-06-28]

Inconsistency between the regulations concerning the calculation of transfer prices between the Customs Office

and the Office of the National Tax Administration. Foreign companies who import intermediate products or finished products to their Korean subsidiaries often find themselves caught between the regulations of the Customs Office and the Office of the National Tax Administration. On the one hand, ONTA may perceive the transfer price to be too high, representing an attempt by the foreign investor to avoid paying corporate income tax in Korea, while on the other hand the customs Office may consider the transfer price to be too low and thus an attempt to avoid import duties payable. Audits from either office, and procedures to address allegations of wrongdoing are both time consuming and costly. A number of subsidiaries of European companies were severely penalised early in 1996 by the Customs Authorities who claimed that intermediates and finished products were imported at low transfer prices, thereby avoiding Korean import duties. The Customs officials used a formula for calculating the deemed proper landed price which started from an allegedly unrealistic assumed margin on sale. Indeed, their assumed margins were one tenth of that allowed by the Ministry of Health. Apart from the concern that European companies feel about this approach by the Customs Authorities which limits profits they may earn, they are equally concerned that the Office of National Taxation (ONTA) has adopted a calculation in the settlement of recent alleged cases of "Permanent Establishments" which works from the opposite premise. The Tax officials claim that profit is underdeclared and they make their calculations based on minimum profits that they would expect Korean companies to earn in the sector, thus ignoring the extra costs a European importer has to bear, including freight, import duties and agents commissions. As Korean Customs and Tax officials have not acknowledged the validity of their separate calculations in the past there is a legitimate concern that European subsidiaries may be doubly taxed.

● 960250- *origin marking* [2004-01-12]

The country of origin labelling is required for all commercial shipment imported into Korea. The Korean Customs Service (KCS) publishes a list of the country of origin labelling requirements by HS code number.

The Overseas Trade Administration Regulation (4th December 2001 - notice number 2001-137) establishes a general principle of marking of origin of imported or exported goods.

In principle, place of origin should be marked upon imported goods by printing, stenciling, branding, moulding, etching, stitching, or the like.

However, where marking of origin in abovementioned methods is not appropriate or could damage the goods concerned, place of origin could be marked using stamping, label, stickers, and tag.

● 990068- *customs brokers monopoly* [2003-12-12]

Freight forwarders who usually clear customs in the name and on behalf of the owner of a merchandise are allowed, in Korea, neither to employ brokers or agents nor to clear customs themselves. Only the importer, i.e. the Korean owner of the merchandise may hire customs agents to carry out the customs clearance. Whereas the law permits, in theory, customs clearance by the importer directly, exporters seem to be facing a de facto exclusivity of brokerage associations dealing with customs clearance. Customs brokers are usually paid a lump sum by the importing party for their services including customs duties and ancillary clearance costs. Importers complain that clearance costs are highly opaque and insufficiently specified.

Standards and Other Technical Requirements

● 960263- *dual price labelling* [2003-04-10]

The so called "dual price labelling" requirement imposes the indication of the final price and the ex-factory price for products, listed in the Korean Standard Industry classification (from 50110 to 52699) of the MOCIE (about 42 types of wholesales) and its related Acts (about 54 items), manufactured in Korea or imported. This requirement for imported products has been re-adjusted so that the requirements are now similar to those for imports to the EU.

Agriculture and Fisheries

Registration, Documentation, Customs Procedures

● 000022- *Single warehousing obligation* [2002-04-25]

Importers of alcoholic beverages are concerned by the additional costs and logistical problems associated with the Korean government's stipulation that they must operate from a single warehouse in the same district as that which issued the licences. The Koreans cite the disruption of the distribution system and the effects on tax revenue as reasons for maintaining this condition.

The requirements have been changed in so far as the importers are no longer restricted to just one warehouse in the same district as the one which issued the licence, but may operate two such warehouses.

The Ministry of Finance and Economy let know that the law will be changed in the second half of 2002 to permit importers to site warehouses where they like. Confirmation from the National Tax Service is awaited.

Quantitative Restrictions and Related Measures

● 990058- *citrus fruit* [2001-07-19]

Oranges and lemons from Spain have been denied access to the Korean market since 1991.

On 22 January 2001, the Korean Minister of Agriculture told European Commissioner Fischler that the import approval procedure was in the final stage. Subsequently, Commission Services were informed that import approval would still take between 1 to 3 years.

● 990059- *pig meat* [2001-07-19]

Import of pig meat (cured ham) from Spain is not allowed. In January 2001, the Korean Agriculture Minister met with Commissioner Fischler and informed him that the import approval procedure was at its final stage. Following the Foot and Mouth Disease outbreak in Europe, Korea delayed the approval procedure further even though there have been no FMD outbreaks in Spain. Korea has sent a questionnaire to all 11 Member States which have had no FMD outbreak. When the reply is received from Spain the Korean authorities are expected to solve this problem rapidly.

● 000023- *Dual licensing requirements* [2002-04-29]

The spirits industry is concerned that companies that sell both bottled in Korea and bottled in the EU products must operate as separate entities with separate business licences, warehouse and financial/distribution mechanisms, rendering the system highly cost-inefficient. Operators need, for example, to issue separate invoices on products which are technically the same. Merging bottled in Korea and bottled in the EU into a single business entity would aid distribution and simplify the issuing of licences.

Dual licencing arrangements are no longer a problem for spirit producers: the issue has nearly been resolved.

● 010015- *Import ban on gelatine* [2001-07-18]

The Commission has received reports that customs clearance has been denied to products containing gelatine and other meat by-products because of an alleged risk of infection from BSE. An internal statement of the Korean government issued on 12 February 2001 states that meat and by-products from the countries where BSE contamination has been reported are banned temporarily for sale and importation. The barrier is a result of the extensive interpretation of these provisions by the Korean customs authorities which runs counter to the recommendations of the World Health Organisation of December 2000 by which tallow and gelatine are considered safe provided they are prepared according to an appropriate production process.

Standards and Other Technical Requirements

● 960267- *hides and skins quarantine* [2003-02-05]

After some haggling between Italian and Korean authorities, Korea suddenly accepted the Italian health certificate for Hides and Skins.

Therefore, all legal and procedural requirements for the importation of Hides and Skins are fulfilled.

- After the discussions in the 16th Ministerial Meeting in June 2002, progress in this issue has been made.
Apparently, the issue is solved.

Other Non-Tariff Measures

● 990030- *apples and pears* [2001-08-02]

Import duties (at 50 for pears and 46,5% for apples) and compulsory storage delays through monopoly holders are still excessively high in order to protect local production.

● 020049- *labelling requirements for alcoholic beverages* [2002-05-27]

On 27 February 2002, the Korean National Tax Service (NTS) announced modifications to the existing labelling requirements for alcoholic beverages. Originally to apply to goods imported after 1 April, the deadline for compliance has, however, been extended to 1 July 2002.

According to the new labelling requirements of the NTS, liquor products which are released from the factory or customs-cleared on April 1, 2002 and thereafter, will be required to apply different labels for home consumption, discount store sale, duty-free and military supply, along with different warning phrases.

In the notification made by Korea to the TBT Committee of WTO, the rationale for the new requirements is the "Establishment of order in the distribution trade of liquor".

Currently, Korean language back labels must include the name of the product, name, address and telephone number of the importer, country of origin, alcoholic strength, volume, names of additives (if any), lot code (or date of bottling), brand name, sales licence number and return and exchange office. There is also a mandatory health warning, which may appear on the front or back label or on a separate sticker. The shortest of three optional statements translates into English as "Excessive consumption of alcohol may cause liver

cirrhosis or liver cancer and is especially detrimental to the mental and physical health of minors". An additional statement is required, to the effect that the sale of alcohol to those under 19 years of age is prohibited.

Sanitary and phytosanitary measures

960260- South Korea- Additives certification [2004-09-10]

Generally Korea does not recognise tests and certifications of the exporting countries. There exist however very few exceptions (which required in most cases formal agreements such as the agreement with the US in September 1995 on motor vehicles or the mutual recognition agreement with New Zealand). Korea may insist on testing all parts at some length, (up to three months for a radio) and require samples of all parts. All of these cumbersome procedures increase manufacturers' costs. For example, cosmetics and skin care products are practically prohibited from sale in Korea if they contain ingredients new to Korea even though they may be sold freely elsewhere. Similarly, importation of food products is limited to products which contain ingredients listed on the Korean Food Additive List. This list is in itself extremely restrictive in that it contains 438 chemical compounds which are supposed to cover numerous food product ingredients. The Korean government is trying to expand this list by revising it.

960262- South Korea- Bovine products [2004-09-10]

When the Korean Ministry of Health and Welfare introduced restrictions on British products containing bovine ingredients and new documentation requirements in April 1996 it flagrantly disregarded a provision which was recently included in the revised Foreign Trade Act . This provision stated that consultations with exporting countries have to be held before remedial measures are undertaken.

In 1999 problems still remain for export of beef products from countries having or having had problems with the BSE (mad cow disease). Import into Korea from these countries is still prohibited and will be prohibited forever. This is particularly unfair for several European countries, which have taken very strong measures to solve this problem.

Regarding other meat products, problems still exist for the import of pork, although more slaughterhouses have been recognised.

Countries banned: Franc, UK, ...

- General statement on BSE SPS Committee March 2004

960266- South Korea- Regionalisation [2004-09-10]

Phytosanitary requirements for agricultural products significantly hamper access to the market and require very costly and time consuming efforts to collect up to date information on market access conditions for these products. for the most substantial problems see fiches (423), (1326), 1327) and (1329):

Other problems include:

Korea only recognises Luxembourg and Denmark as free from Mediterranean Fruit Fly (MFF), and refuses to extend this recognition to other countries in the northern part of the EU.

Sweet peppers and tomatoes from the Netherlands have been denied access to the Korean market, because Korea refuses to recognise the Netherlands as free from blue mould disease.

More generally, Korea refuses to apply the regionalisation principles of the WTO SPS Agreement, and still insists on treating each of the 15 Member States separately and individually on phytosanitary matters.

960269- South Korea- Sanitary requirements [2004-09-10]

Several EU food products faced specific market access difficulties because they did not meet certain sanitary requirements. Most cases have a common feature : the lack of tolerance margins in the different quantitative limits implied by these requirements (e.g. maximum minerals residues for mineral water : some waters sold in the EU could not pass Korean tests; flavoured teas sold in the EU could not be marketed in Korea because their moisture content exceeds by 0.2% the maximum limit - 8% - set by the Korean regulations; beers without added CO₂ cannot be sold in Korea because the pressure in containers is below a Korean minimum limit, while such beers can be sold in the EU).

960270- South Korea- Excessive food quarantine [2004-09-10]

Food products have to undergo a detailed quarantine inspection, every year for the same product manufactured by the same producer and imported by the same importer, which implies that each individual importer of the same product has to follow the inspection procedure on his own. A new inspection is furthermore required when the same product is imported in containers of different sizes. The time required for detailed quarantine inspection appears excessive (25 days).

960272- registration/approval problems [2002-06-04]

According to EU industry, there are two main problems in relation to importing cosmetics into the Korean market

-----1- time-consuming, expensive and repetitive registration procedure,----- First imports of new product are required to submit to the Institute of Health and Environment (IHE) the formula, the certificate of free sale, 5 pieces of each product. The IHE checks the formula and gives its approval within 58 days maximum. When the size of the product is below or over 150 ml, 2 inspections are needed. The same procedure is applied once a year for each already imported product. However the local products do not require systematic inspection and only need to provide a few references. Such registration procedure does not exist in the EU or USA where market access is free under responsibility of the producer

-----2- lack of confidentiality and cumbersome procedure for price approval

-----The Ministry of Health (MOH) requests confidential information in the cases of inspection and change of price. Sales are subject to prior information on and authorisation of price structure. Changes of retail prices are subject to approval as well.

Several meetings have been held with Commissions services, most recently on 5th November 1996. The issue was also discussed with the Korean side on the occasion of a Korea-EU Consumers Association Forum, which was organised by the EU Delegation in Seoul in December 1996.

According to information from EUCCK, the issue has been solved in 1998 and 1999 by deletion of legislation imposing such burdensome registrations, inspections and approvals.

Other Non-Tariff Measures**960286- pricing and reimbursement discrimination [2002-06-04]**

Heavy discrimination between imported drugs and locally manufactured drugs through reimbursement has been noted. Conditions applying to the reimbursement of drugs by the Korean National Health Insurance Scheme and the profit margins allowed for hospitals are significant obstacles for EU suppliers. Foreign pharmaceutical companies operating on the Korean market are authorised to register and market drugs irrespective of whether they are manufactured in Korea or imported.

In July 1999, the Korean authorities included imported pharmaceutical products on the reimbursement schedule.

However the pricing and reimbursement criteria are non transparent and companies had to accept significant price reductions (30-70%) to achieve this, as well as a pricing system that did not reward innovation.

On 15 November 1999, the MoHW issued detailed plans for refund of real transaction costs of medical insurance drugs: the Actual Transaction Price (ATP) system should eliminate practices that discriminate against the use and distribution of imported products.

In April 2000 Korea started to implement a new pricing system for innovative medicines, the so-called A-7 pricing method based on the average of prices in 7 advanced countries.

However, companies have to explain the reasoning behind these prices to the authorities, which would take the final decision.

Thus, applications has to be supported by documentation proving cost-effectiveness and the therapeutic effects of these medicines as well as detailed cost for research and other related data.

Nevertheless, it would seem that the new A-7 and therapeutic comparison formulas are not applied in a transparent and equitable manner: during the last months there would have been several cases which illustrate Korea's failure to comply with its commitment to apply the A-7 pricing method for innovative products.

On the other hand, the same problems have also occurred in the reimbursement side, where some companies have been forced to decrease their prices for some of their innovative products for which reimbursement was rejected or established below the agreed A-7 price.

Korean authorities have started to issue reimbursement guidelines for innovative medicines (no reimbursement guideline is known so far for local products). However, not a single company has seen any such reimbursement guidelines, although they exist and they seem to be arrived at in the most opaque fashion. There has been no consultation at all with the industry in this process which is non-transparent and might lead again to discriminatory attitudes against non domestic products.

On 1 July 2000, the Korean government announced the implementation of the separation of dispensing and prescribing (SDP), a reform that was postponed several times due to the pressure of medical practitioners, until it was finally approved at the end of 2001.

In fact, there is no profit margin allowed to hospitals, clinics and pharmacies when they dispense an imported drug which is reimbursed, whilst they earn a significant profit margin when they dispense a drug manufactured in Korea. For locally manufactured medical products, hospitals and pharmacies are allowed a profit margin of de facto 25% (which is the difference between the purchase and the reimbursement price, i.e. the "Hospital Index Price

(HIP)". For imported medical products, hospitals are not allowed any margin since they are reimbursed at the real purchase price (which must be invoiced). The Medical Insurance Federation (MIF) has laid down reimbursement criteria which are not publicly disclosed. Therefore it is difficult for foreign companies to claim that reimbursement criteria discriminate against imported drugs.

If fully implemented along with the ATP system, the SDP might be helpful to avoid these discriminatory practices.

Standards and Other Technical Requirements

960273- certification [2002-06-05]

Before granting a marketing authorisation, the Korean authorities used to require applicants to repeat clinical trials already conducted elsewhere in the world.

On 22 December 1999, the Korean Food and Drug Administration (KFDA) released new regulations in order to reflect the ICH guidelines, which remove the need for local clinical trials to be conducted, provided the company can prove that the product is not ethnically-sensitive. If this proof cannot be provided, a bridging study will have to be conducted.

Although this is a move in the right direction, the Korean regulation still refers to and require "Korean ethnic" data when ICH5 specifies "Regional ethnic" data, and therefore companies are still required to provide Korean ethnic data on a case by case basis. This leads to unnecessary delays in registration and uncertainty.

The International Conference on Harmonisation (ICH) of Technical Requirements for Registration of Pharmaceuticals for Human Use aims at making recommendations on ways to achieve greater harmonisation in the interpretation and application of technical guidelines and requirements for product registration in order to reduce or obviate the need to duplicate the testing carried out during the research and development of new medicines. The objective of such harmonisation is a more economical use of human, animal and material resources, and the elimination of unnecessary delay in the global development and availability of new medicines whilst maintaining safeguards on quality, safety and efficacy, and regulatory obligations to protect public health.

970171- Cosmetics [2002-06-06]

Difficulties concerning import procedure for cosmetics into Korea.

Time-consuming, expensive and repetitive registration procedures. The first batch of a new product must be analysed by a government approved laboratory. There is a 30-40 day quarantine for the entire batch until the testing is completed which delays the marketing of the product. There is a quota for the tests. Each company may only submit 20 products for testing every two weeks which is usually extended to 3 weeks. Importers of new products are required to submit the formula, the certificate of free sale, and 5 pieces of each product to the Institute of Health and Environment (IHE). The IHE checks the formula and gives its approval within a maximum of 58 days. When the size of the product is above or below 150 ml, two inspections are needed. The same procedure is applied once a year for each already-imported products. However, local products do not require systematical inspection and need only to provide a few references. Such registration procedures do not exist in the EU or USA where market access is free under the responsibility of the producer.

Discriminatory treatment between local producers and importers, especially within the framework of inspection procedures. Request from the industry to change the cumbersome procedure for price approval. The Ministry of Health (MOH) requests confidential information in the cases of inspection and changes of price. Sales are subject to prior information on and authorization of, price structure. Changes of retail prices are also subject to approval. A new set of measures have recently been taken by the Korean authorities within the framework of the Anti-import campaign.

New requirements for testers labelling with complete information in Korean (Name and number of manufacturer/importer, name of product, ingredients, weight, batch number and country of origin. Testers are not intended for retail sale and have, therefore, not been fully labelled in the past. As all cosmetic labels have to be approved prior to use and approval takes around 45 days, immediate compliance with the new requirement means withdrawal of the testers from the counters. (As an example, during the whole of February no Chanel counter was able to use any other tester /point of sale material.) Although the Pharmaceutical Law does not specify that testers should be labelled, the Korean Food and Drug Administration (FDA) insists that this continues.

In Korea, advertising of cosmetic products is regulated by the Pharmaceutical Affair Law. This law established that advertising for cosmetics should not be exaggerated. However, it appears that the FDA has abused the implementation of this clause. Firstly, it has designated catalogues and information brochures as advertising materials. Secondly, the body responsible for deciding whether publicity is exaggerated, is the Korean Cosmetic Industry Association (KCIA), a body made up of domestic cosmetic companies. Not surprisingly, KCIA has recently deemed the brochures published by foreign cosmetic companies as exaggerated and some importers have been fined and forced to remove all

brochures from their counters.

According to information from EUCCK via EU delegation in Seoul, the issue seems to have been solved in 1998 and 1999 by deletion of legislation imposing such burdensome registrations, inspections and approvals.

Moreover, the anti-import campaign seems to be disappeared: the new president Kim Dae Jung who entered office in 1998 has adopted a slogan of globalization.

Services - Business **GATS Specific Measures**

● 990034- *legal services ban* [2003-03-26]

Korea's door remains firmly closed to foreign lawyers. Foreign law firms are not permitted to open stand-alone offices in Korea or to establish alliances with local Korean firms. In this, Korea is an anomaly within the Asian region and indeed, as a significant world economy, within the world.

Presently, Korea's legal service market is closed to direct participation by foreign firms since the Korean Ministry of Justice does not yet permit foreign law firms to practise foreign law in Korea.

Foreign citizens are required to sit for the Korean judicial or bar exam if they want to become a licensed attorney, and as yet there are no licensed non-Korean attorneys, according to the Korean Bar Association.

Services - Construction & Engineering

GATS Specific Measures

● 990036- *dredging* [2004-01-13]

The Korean Construction Industry Basic Act lays down the same regulations for domestic and foreign companies. In order to conduct business in the domestic market, all companies including foreign companies must be registered.

However, the qualification for dredging companies requires a huge amount of materials, in practice, which is acting as a trade barrier against foreign companies.

Therefore, foreign dredging companies are not allowed to participate in public works as subcontractors of Korean companies.

According to the Korea Specialist Construction Association, there is no foreign company conducting dredging business in the local market.

Article 13 of enforcement of Construction Industry Basic Act indeed establishes that all dredging businesses require the following conditions:

- Technology Requirement: Any company involved in the dredging business should have more than 5 experts including 3 specialists in civil engineering and 2 specialists in construction machinery.
- Capital requirement: more than 1 billion won to be a legal entity, more than 2 billion won for personal businessmen.
- Equipment requirement: more than two kinds of dredging vessels, a tugboat, anchor barge and a minimum office size.

For a foreign company it is economically impossible to comply with these requirements directly, but certain European firms rent vessels on a charter basis to Korean firms.

Services - Financial **GATS Specific Measures**

● 030030- *Sharing of back-office functions* [2003-02-24]

Korea has adopted a segregated Banking system clearly separating Banking Business from Securities Business.

European Banks mainly coming from a Universal Banking System have adapted themselves to the Korean System by setting-up separate securities companies besides the Bank Branches.

According to the interpretation of Korean law, all non-marketing related functions like Human Resources, Controlling, Legal & Compliance, Credit and IT will have to be held for each entity.

Due to cost reasons it prevents smaller market participants from market entry or will in the future lead to the closure of rather unprofitable entities.

Especially for Credit and Compliance it is necessary to be informed about the dealings of

each entity, while serving the same client. Only than risks for the respective "shareholder" of branch and securities company and potential risks of breaches of regulations can be controlled effectively.

● 960188- *capital requirement* [2004-03-30]

In the view of Korean authorities only the Korean branches of Foreign Banks are regarded as Financial institutions. As foreign Banks are working as a global organisation they are sharing resources globally and regionally in order to be able to deploy resources economically and to bring expertise to places where needed.

Foreign banks are required to capitalise each branch, which domestic banks are not required to do.

Furthermore, foreign Bank Branches in Korea are required to keep Dotation Capital (Capital A), it is the core measure to determine various Lending and Trading caps and therefore limits the extent of banking business a foreign Bank can conduct in Korea. Capital is indeed the basis for most business ratios, which stringently regulate the banking business.

Many OECD countries have adopted the « global equity » already acknowledging the set-up of globally operating banks. The non-acceptance by Korean Regulators of the "global equity concept" limits foreign banks business through the fixed local donation capital; its increase and in particular decrease is not at the foreign banks discretion. Floating working capital accounts with Head Offices are not permitted.

The operation of foreign banks is restricted as well (funding in local currency, provision of mortgages).

Shipbuilding

Subsidies

● 960173- *Subsidies & below-cost prices* [2004-02-05]

EU shipbuilders have been facing unfair competition from Korean shipyards for several years. Commission investigations covering the period from January 1997 to November 2000 showed that these unfair practices took the form of governmental subsidies through export schemes and restructuring aids. These subsidies have caused strong adverse effects to the EU shipyards in the form of negative effects on market share, capacity utilisation and employment, price undercutting, price depression and lost sales. Two further investigations have confirmed the conclusions of the first report.

After several months of bilateral negotiations, the European Community and the Republic of Korea signed an Agreement on shipbuilding called "Agreed Minutes" on 22 June 2000. This agreement was considered to be a main instrument to prevent trade dispute in this sector and to work for mutually acceptable solutions. However, Korea refused to implement the provisions of the Agreement and in particular those related to pricing.

Therefore, in 2000, a procedure pursuant to Council Regulation 3286/94 (the Trade Barriers Regulation "TBR") was launched against subsidies granted to Korean shipbuilding companies. The investigation showed that Korea has granted substantial amounts of subsidies, through export schemes granted by the state owned Korean Export-Import Bank (KEXIM) and through restructuring subsidies (i.e. debt forgiveness and debt-to-equity swaps) granted by state-owned or stated-controlled financial institutions. Furthermore there was evidence that the subsidies in question were causing adverse effects to the EU shipyards. The intervention of the Korean Government in the domestic shipbuilding industry whereby subsidies are allegedly given to Korean shipbuilders to help solve financial problems or avoid bankruptcy when investing in new capacity has caused concern for European shipbuilders. Korea's shipbuilding capacity is expected to expand. Artificial subsidies are prevalent in the Korean shipbuilding industry in the form of interest rate differentials.

- After an ultimate attempt to find an amicable solution failed, the Commission decided to initiate the WTO dispute settlement proceeding against the Korean practices in October 2002. As no issue has been resolved after three rounds of consultations in the framework of the WTO, the Commission requested the set-up of a dispute settlement panel in June 2003.

The Panel on Korean subsidies to shipbuilding was established on 21 July 2003. The Panel will address both export subsidies (by the Korean Export-Import Bank) and actionable (restructuring) subsidies provided to the Korean shipbuilding industry.

The EU sent it first submission to the panel on December 22nd 2003 and a panel decision is expected mid 2004 and in case of an appeal the final decision should be taken early 2005.

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INVESTMENT RELATED BARRIERS

EU exports and investment in Korea have increased since 1997 but since 1998, EU has important trade deficit with Korea. EU has urged Korea to address long standing market access issues, in order to give the right sign to the business community.

Since the outbreak of the "Asian Crisis" the Korean Government has changed its approach towards foreign investment. In order to attract badly needed investments, the Government changed its emphasis from control and regulation to promotion and support. Korea has already relaxed a number of important restrictions on foreign participation in the economy. Further liberalisation along these lines has also been pledged.

Portfolio investment in Korea has been liberalised; The ceilings on aggregate foreigners' equity ownership and individual foreign ownership were eliminated.

All limits on foreign investment into the government, corporate and special bond markets have been lifted.

A number of other restructuring measures are being taken which will further remove or attenuate distortions in the economy. The capital account is being progressively liberalised in three stages between July 1998 and 2000.

Korea does not routinely limit the repatriation of funds, but it reserves the right to do so in exceptional circumstances, such as situations which may harm its international balance of payments, cause excessive fluctuations in interest or exchange rates, or threaten the stability of its domestic financial markets.

Foreign investors in Korea perceive that the Office of the National Tax Administration may be used to accomplish economic objectives other than its task of collecting taxes. For example, individuals that imported foreign cars have sometimes been identified through the car license-plate numbers and subsequently subject to tax-audits. This practice, or at least the perception of it, has kept imports of foreign cars at a very low level.

The Office of National Tax Administration has a bad record in the area of discriminatory tax audits of foreign firms, firms importing foreign products or even physical persons having purchased a foreign car.

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IPR

Korea had to implement all provisions of the TRIPs Agreement by 1 January 2000. It appears that some shortcomings continue to exist in respect of the legislative framework to protect and enforce IPR (lack of protection for clinical drug test data, lack of full retroactive protection for pre-existing copyrighted works and pharmaceutical patents, problematic amendments to Korea's Copyright Act and Computer Program Protection Act, lack of coordination between Korean health and IPR authorities on drug product approvals for marketing, and continued counterfeiting of consumer products). Nevertheless, the major problem lies with the lack of effective enforcement of IPR, notably in the copyright, trademark and geographical indications sectors. Piracy and counterfeiting led to massive losses both of European right holders and of Korean ones. European and Korean authorities have recently agreed to take this matter up through enhanced co-operation on IP matters.

During recent years, the Korean government has devoted much effort to improve the situation. Especially, revising and improving the related legal framework has shown a considerable progress in comparison to the international standards such as WTO/TRIPs.

However, production, marketing and export counterfeit goods is still widespread and overt. Foreign investors still find it difficult and burdensome to go through the Korean legal procedures for enforcement of their rights and lament at the lack of information regarding the remedies available to them.

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OTHERS

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