

Korea and the World Trade Organization: Problems and Prospects

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Abstract

The World Trade Organization, which came into existence at the conclusion of the Uruguay Round, is in charge of administering a plethora of new trade rules. The main thrust of the new rules is to reduce or abolish tariffs and quotas on a wide range of products. Some tariffs and quotas were abolished immediately, but others will not be abolished, or even reduced, for several years. Unfortunately for Korea, several of Korea's major exports, especially in the area of textiles, will continue to face relatively unfavorable tariffs and quotas for many years to come, partly because of the successful efforts of protectionists to delay the implementation of tariff and quota reductions on these goods.

The WTO rules also include some less obvious protectionist measures, most notably in the areas of environmental and labor standards and antidumping. Korean companies stand to be adversely affected by these hidden protectionist measures.

This paper discusses some of the potentially adverse effects that WTO rules are likely to have on Korean companies and makes suggestions for reform.

Introduction

There is a general perception that the Uruguay Round of GATT, which resulted in the creation of the World Trade Organization (WTO), greatly reduced trade barriers, and that world trade is expected to become much more free in the future. The reality may be much different. For one thing, any trade agreement that is more than 22,000 pages long is not about free trade. It is about protecting existing markets for present participants. An

agreement that truly created free trade would not need to be more than a sentence or two in length. All it would have to say is that "As of the date of the signing of this agreement, trade between and among signatory parties will henceforth be completely free of government interference -- no tariffs, no quotas, no nontariff barriers; all trade between consenting adults from different countries shall be completely unregulated."

Unfortunately, the agreement that created the WTO does not say anything like this. Thousands of pages are devoted to slicing up existing markets among existing participants. Several studies have estimated that the WTO agreement will expand trade and employment, which is probably true.¹ But the agreement will also strengthen some forms of protectionism, and the possibility that these tools will increase in importance was not considered by the people conducting these studies.

The rules on government procurement and market access commitments also continue protection for domestic firms. The European Community's Utilities Directive, for example, gives European bidders a mandatory 3 percent price preference on EU contracts in certain cases, and they are free to reject any bid that does not include 50 percent EU content.² Korea excludes EU and EFTA countries from MFN status for its airport and urban transportation projects and will continue to do so until these countries grant Korean companies equal access in these sectors.³

Textiles and Apparel

The Multi-Fiber Arrangement (MFA), which protected the textile and apparel industries in developed countries from foreign competition, is being phased-out over a ten-year period. But the most restrictive measures will survive until near the end of the ten-year period, so free trade in this area is still a long way off.⁴ The most sensitive products will not be integrated until the very end of the ten-year period, in 2005. This "cliff," as it is called, will have a major effect on domestic textile and apparel companies unless something is done to soften the effect of lifting quotas overnight. How many products fall into this "sensitive" category? In the U.S., 89 percent of apparel products, 47 percent of all textile products and 67 percent of all textile and apparel products combined are considered to be sensitive, and therefore not subject to quota expansion for ten years. As of May, 1996, there were 884 quotas in effect in the U.S.A. for individual textile and apparel categories, covering 44 countries and 123 out of 148 CITA (U.S. Committee for the Implementation of Textile Agreements) categories.⁵

During the first stage (1995-97), virtually no product that is currently subject to a quota is to have its quota expanded. In other words, the products where the volume of trade is allowed to increase are products that have never been under quota.⁶ Furthermore, there is no guarantee that trade in this area will be free by the year 2005 because the whole area is subject to renegotiation before the end of the phase-out (which is likely, because of the effect a cliff would have on domestic producers). Korean companies cannot expect a surge in their textile and apparel exports because the transition rules have a safeguard mechanism to prevent such surges. These rules may be applied selectively against countries whose exports may cause serious injury to the domestic industry.⁷

Even if the ten-year phase-in is completed without further alterations, trade in textiles and apparel will still be far from free. In the United States, where these industries are heavily protected, tariffs will still be prohibitively high -- about 18 percent for apparel and about 25 percent on wool and wool-blended fabrics,⁸ compared to an average 3.9 percent tariff rate in developed countries including all product categories.⁹

Quotas during the transition period will also become more restrictive in some cases. Some East Asian countries, including Korea, will be able to increase their exports of certain apparel items by only 1 percent per year.¹⁰ During the initial ten-year period the United States can impose a "temporary" quota on another WTO member if certain imports are causing actual or potential damage to a domestic industry.¹¹ There is very little incentive to restrict domestic producers from requesting temporary quotas. They have everything to gain and nothing to lose by asking for them.

Thus, because of these rules alone, it is accurate to say that the WTO rules greatly restrict trade. But, as we shall see, there are even more reasons to state that the WTO rules place impediments in the road to free trade.

The Antidumping Rules

Before the WTO, only about 40 countries had antidumping laws.¹² Now, all 120+ signatories have agreed to incorporate antidumping laws into their trade policies. This would be good news if the WTO's antidumping rules liberalized trade. But they do not. In fact, it would not be inaccurate to state that there cannot be such a thing as a "good" antidumping law, if by "good" one means an antidumping law that reduces trade barriers and furthers free trade. That is because all antidumping laws must necessarily result in barriers to trade. The WTO's antidumping provisions include some arbitrary

methodological rules that relate to the computation of antidumping margins and injury determination, and exporters and consumers have much cause to be concerned that these rules may result in overzealous use of the antidumping provisions by protectionists to reduce trade.¹³

A foreign producer can be found guilty of dumping if it either sells its product on some domestic market for a price that is less than the price in its home market, or if it sells for less than the cost of production. Because of the method by which the cost of production is computed, it is possible to be found guilty of dumping -- and therefore subject to antidumping penalties -- even when the company under investigation actually sells at a profit. That is because of the rather peculiar definition of the cost of production.¹⁴ Foreign companies can be found guilty of dumping in the United States market even if they sell their product for the same price in all markets because of shifts in exchange rates¹⁵ and because average prices are compared to individual sales prices.¹⁶

As tariffs and quotas shrink in level of importance, the WTO's antidumping rules will take on increased significance. In all likelihood, they will become the protectionist's tool of choice. Domestic producers that no longer have the option of running to their national government to demand a higher tariff or a more strict quota can now demand that an antidumping investigation be launched against some foreign producer that is competing too aggressively -- or too efficiently. The result will be a long and expensive investigation that costs the foreign producer perhaps millions of dollars, with a high likelihood that it will raise its prices even if it is found not guilty of dumping. Thus, the general public -- consumers -- stand to lose while the special interest that asked for the investigation to be started -- domestic producers -- wins.

Countries that are either aggressive competitors or low-cost producers will in all likelihood be the main targets of these antidumping investigations. Korean producers are both. Thus, Korean producers stand to lose disproportionately as a result of the widespread acceptance and use of antidumping laws. Here are some of the Korean industries that have been the target of antidumping actions initiated by U.S. companies in recent years. The dates listed represent the dates the U.S. International Trade Commission issued its most recent report on the item in question.

Static Random Access Memory Semiconductors	1997
Collated Roofing Nails	1997
Oil Country Tubular Goods	1995

Carbon Steel Butt-Weld Pipe Fittings	1995
Polyvinyl Alcohol	1995
Saccharin	1994
Stainless Steel Butt-Weld Pipe Fittings	1993
DRAMs of One Megabit and Above	1993
Flat-Rolled Carbon Steel Products	1993
Steel Wire Rope	1993
Sweaters with Madmade Fibers	1992
Welded Stainless Steel Pipes	1992
Circular, Welded, Non-Alloy Steel Pipes and Tubes	1992

Korea as a Protectionist Country

Some of Korea's trade practices have been labeled protectionist. The WTO rules will likely chip away at Korea's protectionist practices, although it remains to be seen to what extent the rules will eliminate such practices. If Korea's economy can be opened up significantly, it will have an adverse effect on the Korean companies that will be unable to compete in a relatively free market, but liberalizing trade will have a positive overall impact on Korea's economy. So some companies and industries will lose as a result of liberalized trade, at least in the short-run, but there will be more winners than losers. Unfortunately, it is the losers who have tended to have the ear of the legislature, not only in Korea, but in every country.

Korea became the fifth largest manufacturer of motor vehicles in 1994. Yet it imports less than 0.3 percent of the cars sold in Korea. It has been accused of harassing people who own foreign vehicles with tax audits but has promised to phase out the tax forms that require taxpayers to disclose the make of their vehicle. It imposes taxes on cars that discriminate against U.S.-made cars, which have larger engines. It had a blatant anti-import campaign during the mid-1980s. There is a widespread perception that U.S. automakers do not have the same access to the Korean market that Korean automakers have to the U.S. market.¹⁷

Korea maintains relatively high tariffs on a large number of high-value agricultural and fisheries products. In addition to high tariffs on distilled spirits, Korea imposes an "education tax" on distilled spirits that was as high as 120 percent in 1995.¹⁸ U.S. companies have argued that the combination of tariffs and nondiscriminatory value-

added taxes on agricultural and manufactured products make it difficult or impossible to compete in the Korean market.¹⁹ According to the WTO rules, the duties on certain Korean food products will be reduced by 40 percent in 10 equal installments between 1995 and 2004.²⁰ It is also reducing tariffs to zero on some paper products, toys, steel, semiconductors and pharmaceuticals. Tariffs on manmade fibers are to be reduced to 7.5 percent, 15 percent for yarns, 30 for fabrics and made-up goods and 35 percent for apparel.²¹

Korea also imposes quantitative restrictions on some agricultural and fishery products. Some of these restrictions have been lifted or reduced as a result of the Uruguay Round negotiations. Its minimum import quota on beef is being raised from the 1995 level of 106,000 tons to 225,000 tons by the year 2000. In 2001, it will remove all non-tariff barriers to the importation of beef.²²

Uruguay Round negotiations also resulted in Korea's agreement to phase-out restrictions on the importation of beef jerky, offals, frozen pork, frozen chicken, oranges, orange juice, dairy and whey products, apples and apple juice, grapes and grape juice and other fruit juice. However, restrictions remain on a number of other products, including certain fruits, grains, fruit juices, beef, pork, seafood, poultry, dairy products and paper. It has agreed to lift its import ban on rice and establish a quota that increases from 51,307 tons in 1995 to 205,228 tons by 2004. Its quota on oranges is 25,000 tons in 1997 and expands by 12.5 percent annually thereafter.²³

Korea has more than eighteen laws that allow relevant ministries to impose a quota or a ban on certain products, including beef, chicken, pork, peanuts, rice and barley. Uruguay Round negotiations commits Korea to phasing-out these restrictive trade practices.²⁴

Korea continues to maintain various secondary barriers that effectively prohibit the entry of many high-value or processed agricultural products. It has arbitrary, unscientific or discriminatory phytosanitary and sanitary measures that continue to restrict the import and sale of many previously liberalized products, such as chilled, vacuum-packed meat, frozen sausages, raisins, confectionery products, frozen poultry and pet food.²⁵

Korean import clearance is often a problem, especially for final goods. There are problems getting imports out of port because some clearance procedures are excessively slow and arbitrary. New legislation was enacted to facilitate the streamlining and automation of customs clearance procedures.²⁶ Most Asian countries clear imported agricultural products in just 3 or 4 days, but it can take up to 4 weeks in Korea, which means that the agricultural products are often rotten by the time they clear Korean customs.²⁷

Although Korea has reduced some formal import barriers, it has erected more subtle secondary barriers that effectively prevent the liberalization of trade. The single most cited secondary barrier is its standards, testing, labeling and certification.²⁸ Regulations that are supposedly intended to protect health and safety often deviate substantially from international practices in both method and substance. These rules do not appear to be based on any scientific principles or risk assessment, and are often drafted in such a way that they affect only imported goods.²⁹ It frequently fails to meet its obligations to notify trading partners of its regulations, which it is required to do under the GATT Agreement on Technical Barriers to Trade, which it joined in 1980.³⁰

Suggestions for Korea

Korea is disproportionately adversely affected by the quotas on apparel and textiles. Thus, it would be in Korea's best interest to see that the quotas are completely lifted on apparel and textiles at the end of the initial ten-year period in 2005. This suggestion is easier said than done. There will be tremendous pressure from some developed countries, including the United States and various Western European countries, to continue this "temporary" protection. Korea must be uncompromising in its opposition to such continuation, and should start now to develop a strategy for combating this abuse of free trade. It should get together with the other countries that are adversely affected by these quotas and present a united front against these western protectionists.

Korean companies and industries will continue to be attacked by producers in other countries that feel the heat of Korean competition. The antidumping laws will be their likely weapon of choice, since the tariff and quota weapons are shrinking in terms of importance. There is really no way to protect against this kind of abuse, so Korean companies will have to learn to live with it until the antidumping laws can either be repealed outright or have their teeth removed.

Korea should resist the urge to use the antidumping rules to feather the nests of its own domestic producers at the expense of the general public. Antidumping is a negative-sum game. The losses exceed the gains. Domestic producers, which have political influence, stand to gain at the expense of the powerless general public. Enforcement of the antidumping provisions is an abuse of government power, and should be avoided.

A study by the U.S. International Trade Commission estimated that the net welfare losses (gains of domestic producers less losses to the general public) resulting from the use of the antidumping laws in the United States was between \$1.59 billion and \$1.85 billion for 1991 alone.³¹ This welfare loss represents only the direct effects that antidumping law enforcement has on the economy. The mere existence of such laws puts a dampening effect on price competition and raises barriers to entry that some foreign suppliers cannot overcome. Thus, the total adverse effects of antidumping laws are much more than this study indicates.

If Korea decided to implement an aggressive antidumping policy similar to that of the United States, net welfare losses to the Korean economy would likely be much greater, proportionately. The \$1.59 to \$1.85 billion net welfare loss the United States suffered (in 1991 dollars) represents only 0.03 percent of its GDP. However, the United States depends on foreign trade much less than most other countries, so its losses, as a percentage of GDP, are likely to be less than the losses that would be suffered by Korea if it implemented a similar unwise policy, because Korea depends much more on international trade than does the United States.

The solution to this potential problem is for Korea to adopt a policy of nonuse. It should simply refuse to use the WTO's antidumping provisions to protect its domestic producers at the expense of the general public. ANY use of the antidumping laws results in a net welfare loss, so the only logical conclusion is to not use them at all, regardless of what the rest of the world is doing.

Because Korea is a country that is full of low-cost, competitive producers, it is likely to be a major target of protectionists who use the antidumping laws as weapons of protectionism. While the best solution is to abolish the antidumping laws, and thus remove this major protectionist weapon, repeal is not likely in the short-run, since so many influential industries in so many countries stand to gain by their continued existence.

One way some foreign producers have found to circumvent these laws is to set up shop in the countries that use these laws to protect themselves from foreign competition. Nissan, Honda and other Japanese companies have opened manufacturing operations in the United States, for example, with the result that any products made in these U.S. locations are not subject to the antidumping laws. Antidumping laws apply only to products made in foreign countries, so products made domestically are automatically exempt, although there are some domestic content rules that might trip up such plans.

Interestingly enough, the domestic producers that have been using the antidumping laws to protect themselves -- General Motors, Ford and Chrysler, in the case of the U.S. auto industry -- are facing even greater competition domestically because of this trend of foreign auto makers establishing plants in the United States. It may not be possible or feasible for every Korean industry that is faced with antidumping law actions to set up shop in the United States or elsewhere. It is often inefficient to do so because of economies of scale, and so forth. But it is one short-term solution that can be used to circumvent the antidumping laws in some cases.

Another partial solution to the evils of the antidumping laws, a market solution, is to establish countervailing groups to offset the influence of the various domestic protectionists. For example, the domestic steel industry may want protection against the importation of foreign steel, but the domestic auto industry wants all the cheap foreign steel it can get, so the influence of the domestic steel producers can be offset against the interests of the domestic auto producers, provided the auto producers are sufficiently organized. This phenomenon -- the partial offsetting of industries that use foreign imports against other domestic industries that are threatened by foreign imports -- has had some limited success in the United States.³² Domestic importers of foreign autos formed a lobby to offset the influence of the domestic auto industry. Retail clothing stores formed a pressure group to offset the influence of the domestic apparel industry. Steel using industries used their influence to counterbalance the influence of the domestic steel industry.

It would be in the best interest of the Korean general public as well as the Korean economy if Korean policymakers stopped coming up with ways to circumvent the WTO's attempts to reduce trade barriers. Tariffs should be reduced or even eliminated to the extent possible. All quotas should be abolished. More subtle trade barriers, such as

phony health standards and excessively long waits at the ports of entry, should also be eliminated. Such a shift in Korean trade policy requires a shift in the thinking of the bureaucrats who manage Korea's trade policy. Rather than beginning from the premise that it is their duty to assist Korean businesses whenever possible, they should start from the premise that it is their solemn duty to protect consumer interests, which also happen to be the interests of the general public. The result will be lower prices, a wider selection of products and increased economic growth. Free trade is always the best policy.

Footnotes

¹ Schott, 16-33; Francois et al.; GATT; OECD.

² Schott, 68.

³ Ibid.

⁴ Ibid., 55.

⁵ U.S. General Accounting Office, 3.

⁶ Ibid., 2.

⁷ Schott, 57.

⁸ Ibid., 58.

⁹ Ibid., 61.

¹⁰ Ibid., 58-59; Cline.

¹¹ U.S. General Accounting Office, 3.

¹² Schott, 78.

¹³ Ibid., 12.

¹⁴ Kaplan et al.; Bovard.

¹⁵ McGee (1994): 96-98; Palmeter; Kaplan et al.

¹⁶ McGee (1993):519-21.

¹⁷ United States Trade Representative, 220-221.

¹⁸ Ibid., 209.

¹⁹ Ibid.

²⁰ Ibid.

²¹ Ibid.

²² Ibid., 210.

²³ Ibid., 211.

²⁴ Ibid.

²⁵ Ibid.

²⁶ Ibid.

²⁷ Ibid., .

²⁸ Ibid.

²⁹ Ibid., 213.

³⁰ United States Trade Representative, 1995 National Trade Estimate Report on FOREIGN TRADE BARRIERS, 213.

³¹ United States International Trade Commission, x.

³² Destler.

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