

KOREA



Korea's Global Ambitions

Once known as a place to invest, Korea's outbound asset flow is introducing its lawyers to the global stage.

By Howard Stock

Korea is a bright light in Asia. In terms of trade volume, Korea is one of the top 10 economies in the world and boasts the largest global market share in semiconductors, televisions and displays, smart phones and shipbuilding industries, and it is the fifth largest global market share in automobiles and petrochemical industries.

Additionally, "Korea is the leading Asian country creating and distributing some of the most popular content for entertainment and digital media," says Paul Rhee, senior foreign attorney and partner in Yoon & Yang's antitrust and competition practice group.

The Korean economy is heavily dependent on international trade, says Haneul Jung, foreign attorney, Shin & Kim, and is naturally a strong advocate of free trade agreements (FTAs). "As of June 2015, Korea has concluded a total of 15 FTAs, of which 11 have already been ratified," Jung says. "Korea's FTA network connects 52 countries around the globe, including the

United States, China, and the European Union, covering approximately 73.5% of the global economy in terms of total GDP."

Korea is currently negotiating or conducting feasibility studies on at least 12 new FTAs, Jung says. Korea is also one of the most active participants of the newly emerging multilateral FTAs, or the so-called "mega-FTAs," including the Trans-Pacific Strategic Economic Partnership ("TPP") and the Regional Comprehensive Economic Partnership. "Expansion of Korea's FTA network would definitely introduce more business opportunities," he says.

Jaemin Jeon, partner, Shin & Kim says that to stay competitive in Asia's rapidly evolving market, Korea understands that its economy has to evolve. "This is especially true as the Korean economy is currently trapped between developed economies and developing ones," he says. "In order to escape from this predicament, referred to as the 'nutcracker position,' Korea is making tremendous efforts to re-establish itself as an

innovation hub in Asia."

To accomplish this, Korea must start creating new categories of market in which it can design and produce leading content and products that will be the forefront of the global economy and not just follow, Rhee says, with a particular focus on fostering startups and small and medium-sized companies with a strong technology base.

Certainly the investment seems to be there. Globally, IMD World Competitiveness Yearbook 2015 ranked Korea second in terms of both higher education and R&D expenditure per GDP. "Korea's efforts towards deregulation and R&D investment are expected to expand, both in terms of volume and diversity, to reinvigorate the Korean economy and maintain Korea's competitive edge in the global market," Jung says.

Japan and China are two of Korea's closest economic partners. "Inevitably, Korea's economy is closely intertwined with those of Japan and China," Jeon says. "An increase in Korea's global export will generally increase Korea's imports from Japan, because many of Korea's major producers, especially the electronics and car makers, rely on Japanese components. Likewise, the economic growth and stability in China will lead to an increase in China's investment into Korea's capital market and real estate market." China has become the second largest holder of Korea's government bonds, and Chinese companies have been active in acquiring Korean companies in various industries ranging from consumer products, cosmetics, information technology companies to online game developers.

Korea's economic cooperation with China and Japan is expected to also open up new opportunities for Korean companies, Jung says. "With the recently concluded Korea-China FTA in place, Korea will gain competitive advantage over most other countries vis-à-vis China's 1.4 billion consumer market."

However, as Rhee says, "Korea is sandwiched between the two leading Asian powerhouses with great economic dependence to both, but at the same time it competes fiercely in many leading industries globally."

To stay ahead of the game, the incumbent Park Geun-Hye administration has two economic policy missions: fostering Korea's "creative economy" and attaining the "economic democratization," a political slogan that suggests Korea's national economy should be managed and used for the benefit of the general public, rather than for the benefit of the conglomerates. "Many of the recent changes made in Korea's regulatory landscape have resulted from Korea's endeavor to chase these two rabbits at the same time," Jeon says.

These efforts have led to deregulation in several sectors, such as healthcare, finance business, and renewable energy. But policymakers have also made considerable efforts to ensure a level playing field between market competitors, passing several new bills to regulate chaebol's, or literally "wealthy clans,"

referring to multinational companies. "Deregulation should mean more business opportunities for both domestic and foreign companies," Jeon says.

Additionally, Korea's regulatory landscape is changing to promote new high-tech industries in Korea, such as cloud computing and renewable energy, which will provide business opportunities to both domestic and foreign companies, Rhee says.

Last year, Korea attracted approximately \$19 billion in foreign investment, of which \$11.2 billion went into the service sector, while approximately \$7.6 billion was invested in manufacturing.

In the first quarter of 2015, Korea's outbound investment amounted to approximately \$7.7 billion. Most of Korea's outbound investments were made in North America (46.1%) and Europe (19.5%), while investments in Asia and Latin America decreased. The most significant increases in Korea's outbound investment were made in the wholesale and retail businesses, which increased by 320.5% from the first quarter of

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—JAEMIN JEON, SHIN & KIM

2014, and finance and insurance businesses, which increased by 108.7% over the same period.

Korean law firms have traditionally focused on domestic and inbound practices, but triggered by the recent surge of outbound investment activities of Korean companies, major Korean law firms are quickly establishing their outbound practices, Jung says. "Acquisition of foreign companies by Korean investors, especially acquisition of foreign real-estate properties, has already become a major source of revenue," he says. "As a result, the international legal community will witness a growing presence of Korean law firms in international arbitration."

Korea is faced with several challenges for the next decade: its low birth rate and aging population may dampen consumption and slow down economic growth, Jeon says. "Nevertheless, Korea maintains robust economic prospects—according to the OECD, Korea's GDP growth rate is expected to increase from 3.5% in 2014 to 4.1% in 2016, which is higher than OECD average of 1.8% and 2.6% in 2014 and 2016, respectively," he says.

Last but not least, "Korea's prospects can never be discussed without taking into account a possible reunification between South and North Korea," Jeon says. "Although any prediction at this point would be premature, the reunification of the two Koreas will certainly open up opportunities on the global scale." ■