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Digitalising Korea - Transformations and Tensions:
The Case of Audiovisual Service Trade and
Intellectual Property Rights

By

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Abstract

Since the 1990s, South Korea has enthusiastically developed and applied digital technologies to every sector of economic and social life, and constructed the most intensively connected society in the world. This thesis explores the impact of ‘Digital Korea’ on the country’s cultural industries, focussing particularly on the main audio-visual industries of broadcasting and film. While the push to digitalise Korea has been enthusiastically pursued by successive national governments with the aim of ensuring that Korea maintains its status as a key world economy as the leading edge of capitalism shifts from an industrial to an information base, to fully understand the forms it has taken and its impacts national initiatives have to be placed in the wider context of shifts in the global trading system.

With the rise of neo-liberalism across the globe and the perceived ineffectiveness of the World Trade Organisation (WTO) in extending multi-lateral trade, both emerging and developed economies have increasingly embraced Free Trade Agreements (FTAs). In line with this trend, South Korea has signed FTAs with the USA, the European Union (EU) and The Association of Southeast Asian Nations (ASEAN). This thesis explores the interplay between national initiatives and global trade through a detailed case study of the US-led FTA with South Korea (KORUS-FTA) focusing particularly on its implications for the Audiovisual Sector and the accompanying, and pivotal, debates around Intellectual Property Rights (IPRs). The KORUS FTA simultaneously opened the Korean market to American audiovisual content and strengthened existing national IPR laws to match the provisions prevailing within the US. Both these moves were opposed within Korea on the grounds that they operated unequally,

to the advantage of the US and the detriment of national production that had, in recent years, enjoyed considerable success in export markets, creating what came to be known as the ‘Korean Wave’.

In addition utilising the extensive corpus of available public documentation the analysis presented here draws on two original research exercises: in depth interviews with experts in international trade and intellectual property rights, conducted in South Korea, the UK and Switzerland (in Geneva, at the WTO Forum 2008), and a web-based survey of a cross section of professionals working in the Korean broadcasting industry.

The results obtained show that while Korean economists followed the government in arguing that signing the FTA with the US was essential if Korea was to remain a major player in the global economy, a majority of those working in the audiovisual sector believed that the terms of the agreement, particularly the imposition of US-style IPR laws, disproportionately favoured US interests and would weaken the strong position the sector had achieved in recent years and impede its future growth.

Acknowledgement

It was difficult to imagine that moment when I started my doctoral studies in 2006. During the first year, I enjoyed attending courses and participating in various seminars irrespective of them being close to my interest area. The second year was productive in the sense that I was able to develop a deep interest in academics. However, I lost my confidence due to some unexpected difficulties that I faced which were beyond the realm of my studies; and started to doubt myself as to whether I would be able to finish my course on time. Then I realized that I am walking on an endless road. I wasn't sure if I have gathered enough knowledge; whether I am capable of achieving this goal. During the third year I was confused as to where I stood with respect to my research and whether I was on the right track. However I tried to move on and started to concentrate on writing up my thesis.

However when I look back, the endless road I assumed earlier offered me innumerable chances to grow, not only in achieving academic knowledge but also personally. In riding these waves for last five years I owe particular thanks to several people. First, there is my supervisor, Graham Murdock. It is an immense honour to study under him at Loughborough University. He was always willing to discuss my ideas, whatever they might be, and he inspired me to achieve my academic potential when I was struggling. He was a wonderful and generous advisor, not only for my doctoral studies but also when I faced unexpected problems. I must say that it was a beautiful opportunity to study under him. His great faith in me is the reason why I should never give up whatever I do.

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Chapter 1

INTRODUCTION

The Republic of South Korea has experienced significant economic growth after the end of the war with North Korea in 1953 and has transformed into a full democracy. Today it is the 4th largest economy in Asia and the 15th largest in the world¹, a member of the United Nations, the WTO, OECD and the G-20 grouping of major economies, and a founding member of APEC and the East Asia Summit. For much of the post-war period, economic growth was fuelled primarily by the export-led expansion of the electronics, automobile and shipbuilding sectors. However, during the 1980s, the Korean Governments actively promoted the development of the broadcasting sector and mainstream Korean cinema. As a result, South Korean productions, including televised drama, films, and popular music, became very popular in Asia and other parts of the world. This phenomenon, often called *Hallyu* or the 'Korean Wave', has swept many countries. The early 1990s also saw a boom in Information Technology that led to the dawn of the Digital Age. Korea was quick to latch on to this boom and as a result of extensive support and promotion by the Government made rapid strides in this sector.

With the emergence of Korea as a global economic powerhouse a number of countries signed Free Trade Agreements (FTAs) with it. The most notable and controversial, the Korea-US FTA (KORUS) was signed with the United States. As a

¹2008 List by the World Bank

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precondition of entering into negotiations the US imposed a number of conditions. This prompted widespread opposition within Korea, from both opposition political parties and the public at large but negotiations went ahead. The FTA was finalized in June 2007 but was only finally ratified by the National Assembly of South Korea in November 2011.

This delay was in marked contrast to the passage of the FTA with the European Union, which was signed on October 6, 2010 and provisionally applied as of July 1, 2011. There are several reasons for this marked contrast. First, as Chang (Chang, 2011) point out, unlike the US, European countries have not played a major role in shaping recent Korean history. Further, Korean people consider Europe to be positive cultural force, an assessment indicated by the fact that it is the first choice for tourism (Ministry of Culture Sport & Tourism, 2011). Moreover, a certain segment of the Korean population looked forward to buying cheaper wine and luxury European cars such those belonging to Mercedes Benz and BMW at a much cheaper price (Jung, 2011). Secondly, in contrast to the mass candlelit protests against US demands that Korea import US beef as a precondition for signing the FTA (a flash point returned to later in this thesis), the Korean people maintained a generally neutral stance towards the Korea-EU FTA. Additionally, Korean media projected a generally positive image regarding the benefits that could be incurred as result of signing the Korea-EU FTA. However, irrespective of the positive view generally taken of the Korea-EU FTA, there was some degree of dissent. Online newspapers, in particular, argued that the effects of the Korea-EU FTA would prove to be more detrimental than the KORUS FTA from Korea's point of view (Ohmynews, 2009). This dissent was, however, nowhere near as widespread as the opposition to the KORUS FTA. With this

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consideration in mind, this thesis debates the KORUS-FTA under four key contexts:

First, the development of Korean national economic policies is based on the assumption that since capitalism in the so-called developed nations is moving from a base in industry towards promoting information and symbolic goods in order to remain among the leading world economies, Korea must make act accordingly. The drive to digitalise has been seen by successive Korean governments as essential to securing this outcome, a conviction reinforced by the experience of the Asian economic crisis of 1997 and the subsequent intervention of the IMF (International Monetary Fund).

Second, the process of digitalisation has coincided in Korea with both acceleration in 'marketisation' and the end of authoritarian government. The result has been a complex interaction between a reorganised economic base, growing social divisions and inequalities, and a resurgence of civil society and popular movements. As we shall see, some significant early applications of digital technologies were generated from the bottom-up rather than the top-down.

Third, the shift in government-driven national visions of Korea's future intersects with the movement within the world trading system, away from multilateral agreements and towards bilateral agreements of which FTAs are the leading example.

Fourth, once governments come to see the future of capitalism as lying with the production and sale of information and cultural goods and services two consequences follow: first, the cultural industries assume an enhanced salience and value as economic sectors. Second, issues concerning intellectual property rights move to the centre of debates about how to maximise returns on the production

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of cultural goods. This issue is invested with added urgency in a context where the digital reproduction and circulation of cultural goods raises new challenges for proprietary control.

1.1. Motivation

The KORUS-FTA was contested across every section of the Korean society, leading to a substantial amount of opposition. Fuelled by the fear of Mad Cow disease, the prospect of import of beef, received particular attention. In contrast, other issues, were largely ignored even though they raised a number of equally pertinent questions. One such issue was of the inclusion of a new regime for IPR within the FTA. This agreement demanded that IPR laws that had been framed within the US by organizations such as the United States Trade Representative (USTR) be applied to US contents and products used and consumed within Korea. However, this issue wasn't quite as emotive as the import of beef since the public was unable to perceive the direct impact of this demand. Thus, this thesis is an attempt to highlight the short- and long-term impact this demand could have, not only on the audio-visual content that can be broadcast within Korea but also on future development and production of Korean-made cultural audio-visual content.

Fig.1.1 summarises the main trends that informed the decision to pursue the KORUS agreement. The dashed oval on the bottom right of the figure represents the main focus of this thesis. Although the issues presented within this thesis can be generalized, Korea is arguably the most suitable candidate to which these issues can be applied, since it can claim to be the nation where digital

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technologies have been deployed more extensively and intensively than anywhere else.

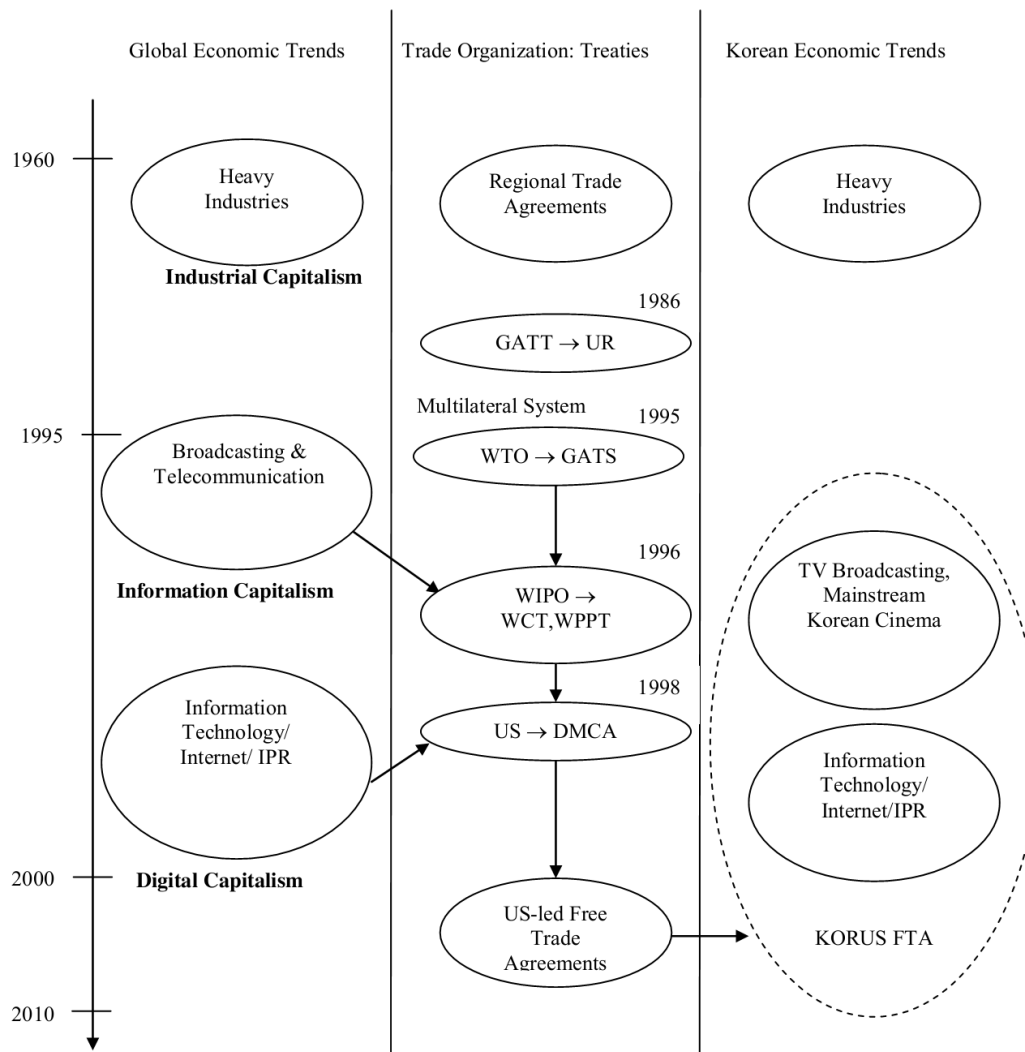


Fig.1.1: Landscape Tracing of the KORUS-FTA as derived from evolving global trends

At the same time, its recent pattern of development and policy choices have been shaped by wider shifts that have impacted in varying degrees on almost every country, i.e. shifts in the global trading system, the widespread faith in digital technologies as an essential engine for the growth of post-industrial capitalism, and the global rise of neo-liberal economic thinking. As mentioned earlier, an analysis of these generic trends and the ways they affected Korea is essential in order to properly contextualise the case study offered here.

1.2. Research Aims

In the light of the above discussion, this thesis aim to look at three objectives:

1. First, to present a detailed account of the arguments surrounding the KORUS-FTA. This analysis will be performed in a two-step manner. First, an examination of the key moments in the formation of Korea's response to shifts in global trading system and the perceived challenges of retaining its status as a leading capitalist economy in an imagined future marked by digitalisation and the centrality of informational and cultural goods. Second, to highlight the strategies pursued by the United States in maintaining its own global economic leadership.
2. To place this case study in a more general context of debates surrounding the shifts in capitalism and the world trading system, the emerging arguments over intellectual property rights and their enforcement.
3. To analyse the impact of the KORUS-FTA on the Korean broadcasting sector where the it has imposed far reaching conditions including:
 - a) The demand that Korea open its broadcasting sector to Foreign Direct Investment.
 - b) The possibility of foreign ownership.
 - c) The removal of the screen quota.
 - d) And, arguably, most important of all, the incorporation of US-made Intellectual Property Rights (IPR) laws into the national legal framework.

As mentioned earlier, recent years have seen the Korean broadcasting enjoy considerable success with an international audience, particularly within East

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Asia, a resurgence represented by the popularity of Korean made television mini-series in its former colonial power, Japan. Not only were the programmes themselves widely accepted and appreciated, they also gave rise to a new form of tourism, where international fans visited the key locations within Korea that were featured in the series. This newfound transnational visibility of Korean-made popular cultural products has been widely greeted as a 'Korean Wave' breaking on foreign shores. However, whether the key provisions within the KORUS-FTA will be able to sustain and provide further opportunities for development and growth of this wave is will it weaken national production is a question that is yet to be explored and will be analysed in detail within this thesis. A related issue also needs to be explored is the whether the KORUS-FTA will leave the national market even more open to annexation by American made programmes.

Other equally pertinent issues related to the new intellectual property regime as suggested within the KORUS-FTA are also explored. The following questions will be also analysed: Is it appropriate for Korean conditions? How far is it likely to reduce copyright violations and piracy? Will a balance be struck between the rights of authors and creative staff, the corporate pursuit of profits, and public interest?

1.3. Thesis Outline

The rest of this thesis is organized as follows.

Chapter 2 presents a comprehensive in-depth analysis of the shift in capitalism and the growth of neo-liberalism worldwide. This analysis also traces

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the emergence of cultural imperialism spurred on by dramatic rise of global hegemony in recent decades.

Chapter 3 explores the transitions within the global trading environment in the last six decades. Based upon recent trends, the Chapter then goes on to identify the framework upon which the KORUS-FTA was framed.

Chapter 4 explains the research methodology and tools adopted in order to analyse the research aims and objectives outlined in Chapter 1. This Chapter discusses the benefits of online surveys using web-based questionnaire and the analysis tools to be applied on to the survey results in order extract answers from the empirical findings and thus to support the proposed hypotheses.

Chapter 5 discusses the transformation of Korea from a nation with heavy-industries as its main driver of economic growth to one that moved to focus on IT, IT-enabled services, and to Broadcasting and Telecommunications as its major thrust area. This Chapter provides an in-depth scene into the current status of Korea as a powerhouse of digital/IT services, the transformation of its media industries, and the effect such a transformation has had on the Korean public in general.

Chapter 6 highlights series of events that led up to the signing of the KORUS-FTA and the key provisions contained therein. Based upon these provisions, a number of relevant issues that impact upon the audio-visual service trade and related Intellectual Property Rights (IPR) issues are identified and further analysed along with possible repercussions.

Chapter 7 focuses on the opinions of the stakeholders viz-à-viz the KORUS-FTA. The Chapter makes an attempt to gauge a balanced opinion of both, the stakeholders who endorse and those who oppose the FTA. A combination of

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statistical and interview data is presented to buttress their respective arguments.

Chapter 8 attempts to obtain the opinion of cultural workers within the media industries who may be directly affected by the KORUS-FTA. A number of hypotheses are proposed which deal with pertinent questions ranging from the future of public broadcasting to the impact on the local IPR regimes. Results of an online survey and quotes from interviews are employed to in order to verify these hypotheses.

Chapter 9 concludes by summarising the arguments put forth within this thesis. These arguments are derived from the theoretical observations made in the earlier part of this thesis and the empirical data presented in later chapters. The general arguments of the thesis are reviewed and suggestions for possible future research avenues are presented.

PART ONE:
KEY CONTEXTS, KEY DEBATES

Chapter 2

TRANSNATIONAL CAPITALISM IN TRANSITION

Over the last three decades global capitalism has undergone an accelerating process of transition, propelled by the intersection of four dynamics of change:

- The shift from an industrial to a service base in the leading edge economies and the consequent increase in the salience of cultural production and intellectual property rights;
- The increasingly central role played by digital communication systems in organising and coordinating production;
- The retreat from state management of the economy and the progressive marketisation of production , informed and legitimated by a revival of neo-liberal economics centred on the promotion of market dynamics as the only feasible way to promote future growth and expansion;
- The globalisation of these processes following the collapse of the Soviet Union and the turn to the market in China and India, and the problems faced by the United States in sustaining world economic and cultural leadership faced with new challengers.;

The case study presented here provides a concrete instance of the ways these intersecting processes of change have operated within the particular context of South Korea. Some aspects of this context are specific and unique but others are more broadly shared. This present chapter sets out KORUS within relevant conceptual debates on the general transformation of global capitalism, and to

demonstrate how a close analysis of this case illuminates and contributes to these debates.

2.1. Digital Capitalism and Cultural Labour

There is now a widely shared assumption among commentators in the leading edge capitalist economies, that the centre of economic gravity, and the locus of future growth and innovation, has moved decisively from manufacturing to services and that, as a consequence, labour is being reoriented from the making of material objects to the production of immaterial goods. Michael Hardt and Antonio Negri speak for many observers when they maintain that “Images, information, knowledge, affect, codes, and social relationships are coming to outweigh material commodities or the material aspects of commodities in the capitalist valorisation process” (Hardt and Negri, 2009). They are careful to add that while this does not mean that “the production of material goods, such as automobile and steel, is disappearing or even declining” it does mean that “their value is increasingly dependent on immaterial factors” such as design and style rather than utility(*op. cit.*). How far this is in fact the case is open to question, but what is not in doubt is that governments around the world have bought into this vision, with two consequences.

Firstly, the ‘cultural industries’, rebranded as the ‘creative industries’ (Hesmondhalgh, 2013), have come to be seen as one of the keys to future economic dynamism. This assumption has gained considerable political purchase not only in capitalist economies with well established media systems, but also in emerging economies wanting to move up the value chain. The Chinese government for example, has announced its intention of migrating from ‘made in

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China' to 'created in China (Keane, 2006), and nominated the 'creative industries as the new 'pillar' sector of the economy. As we will see, recent Korean governments have shared this vision, and actively promoted domestic cultural industries.

Secondly, the new economic salience accorded to symbolic goods has given an added impetus to efforts to strengthen the intellectual property regimes that protect commercial returns on cultural investments.

Disputes over the appropriate balance between the entitlements of producers and authors on the one hand and the rights of users on the other have accompanied innovations in communication systems since the generalisation of printing, but the arrival of digital technologies of copying and exchange have invested them with a new intensity. However, this new terrain of struggle has to be placed firmly in the context of the wider reorganisation of capitalism around digital networks.

Organised horizontally, at grass roots level, as networks of peer-to-peer exchange, they facilitate the circulation of cultural goods outside of the price system and the mobilisation of popular opposition to corporate initiatives. These potentials present new problems for capital accumulation. At the same time, digital networks also play a pivotal role in organising the capacities for command, control and communications that enable capitalist enterprises to operate across an ever expanding range of sectors and geographical locations. This centrality of this new corporate networking had led Daniel Schiller to characterise the emerging formation as Digital Capitalism (Schiller, 2000a).

Other commentators, led by Manuel Castells have preferred variants of the term 'Information capitalism' (Castells, 1999) to signal the centrality of new

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technologies of knowledge generation and information processing to the dynamics of transformation(Sum, 2003). But as Fuchs and Horak have argued within this emerging system, relations of production are not only increasing based on computerised network technologies, they are embedded in a flexible regime of accumulation dominated by transnational organisation intent on consolidating and extending their power(Fuchs and Horak, 2007). It is precisely the impetus to employ digital technologies to expand both the geographical reach and social penetration of market dynamics that Schiller foregrounds. Consequently, his descriptor, 'digital capitalism' is preferred here.

It was clear by the 1990s that maximizing the potential of digital technologies to generate new income streams, would require three conditions to met; the construction of a new technological infrastructure capable of circulating information and coordinating communication rapidly and reliably across multiple sites; the opening up of restricted markets for paid-for personal experiences and entertainments; and the strengthening of legal protections for intellectual property.

As Schiller points out, the 1990s and early 200s saw a complete restricting of the world wide telecommunication system as the old public monopolies were dismantled and markets opened to competition. Policy makers the world over abandoned or diluted polices framed in terms of public service and reoriented regulatory regimes around the maximising corporate freedom the generate returns. As a consequence, the exercise of public control over this critical infrastructural support for national welfare was substantially relaxed while disparities in access widened.

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This marketisation of telecommunications bestowed a double corporate benefit. The new system operators were given a lucrative new arena for profit generation, while their corporate clients who integrated the new networking capacities into their core activities of production, distribution, marketing and administration gained substantial competitive advantages (Schiller, 2000a).

As Schiller points out, in addition to broadening the geographical reach of market dynamics and providing an added impetus to corporate consolidation, the rapid transformation of IT and telecommunications also facilitated a “deepening of the market” by opening up new channels for the commodification of non work time (Rifkin, 2000). Corporations in the business of distributing news and entertainment sought to mobilise the proliferating array of cable, satellite and later, internet, systems, to offer an ever expanding array of ‘commodified’ experiences over a continually expanding range of ‘platforms’ stretched across both ‘old’ media (film, television, radio, and publishing) and emerging sectors (video games, the internet). The extent to which they were able to pursue this strategy of expansion however, depended on the degree to which the relevant markets were open to competition, which depended in turn on the extent which governments had bought into the rhetoric of new liberalism and were pursuing the practical policies of marketisation that it promoted.

2.2. Commodity Fictions and the Myth of ‘Free’ Markets

The discourse of Neoliberalism and its implementation in a raft of marketising policies represents a militant resurrection and reinstatement a conception of economics that dates back to the end of the nineteenth century, but was substantially marginalised in the immediate Post war period by models of strong

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state intervention. In Europe these were organised around conceptions of welfare capitalism. In many emerging economies, including Korea, they mobilised notions of 'the developmental state'.

Modern mainstream economics emerged at the turn of the twentieth century as a self conscious bid to establish the study of economic life as a scientific activity. As Karl Polanyi, one of the most acute observers of this project noted in 1947(Polanyi, 1947), when it had been largely discredited by the experience of the Great Depression, it required three key conceptual moves.

Firstly, the 'economy' had to be presented as a bounded sphere of action, "sharply delimited from other institutions in society" (Polanyi, 1947) whose analysis could then be claimed as an exclusive preserve by the emerging ranks of professional economists. Whereas the pioneers of the political economy , from Adam Smith to John Stuart Mill and Karl Marx, had regarded economic analysis as inextricably bound up with political commentary ,social investigation, and moral philosophy, the new 'economists' saw these areas as beyond their purview to be pursued by the emerging university based disciplines of political science, sociology, and academic philosophy

Secondly, this new 'autonomous zone' was presented as organised around a market system regulated by a self correcting device, the 'hidden hand' , first sketched by Adam Smith in which the sum of the self interested choices of individual actors attempting the maximise their gains would automatically produce the optimum social outcome in terms of the distribution of goods and rewards. Consequently it was seen to operate most effectively is there was the minimum amount of state regulation of economic activity beyond the measures

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necessary to guarantee the security of property, the vigour of market competition, and the transparency of transactions.

Thirdly, since market relations were based on the production and exchange of goods expressly produced to be sold for a price- commodities- the advantages of market systems in delivering consumer choice would be maximised if all goods and services were converted into commodities.

Polanyi dubbed this push to subject all forms of interaction and exchange to the mechanisms of supply and demand, the “commodity fiction” (Polanyi, 2001). In 2001, the year in which he won the Nobel Prize for economics, Joseph Stiglitz, returned to Polanyi’s work, arguing that everything that had happened since had proved Polanyi’s central contention, that “there never was a truly, free, self-regulating market system’, to be absolutely valid (Stiglitz, 2001). Drawing on his experience as the chief economic advisor to the World Bank (a post he had resigned from the previous year) he reserved his strongest criticism for the hypocrisy of ‘market fundamentalists’ working in the field of development, pointing out that; *“while the advanced industrial countries lecture the less developed countries on the vices of protectionism and government subsidies, they have been more adamant in opening up markets in developing countries than in opening their own markets”* and that in preaching the merits of minimal state intervention they conveniently forget to mention that in their own drives drive towards growth *“the governments of today’s industrialised countries took an active role, not only in protecting their industries through tariffs, but also in promoting new technologies”* (Stiglitz, 2001).

The classic ‘free’ trade argument requires the abandonment of all government interventions that either discriminate against imports (by imposing

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tariffs) or subsidise nationally produced goods. It derives its theoretical justification from the idea of 'comparative advantage' originally proposed by the English classical political economist, David Ricardo, in his 1817 book, *On The Principles of Political Economy and Taxation*. Taking England and Portugal as examples, he argued that although Portugal may be able to produce both wine and cloth more cheaply than England, its best interests would be served by concentrating on producing more wine (which England was unable to make in any quantity) and spending the earnings on English cloth which England produced more efficiently. Versions of this argument have dominated debates around international trade ever since. However, as Grant and Wood point out, "however valid [it] may be for ordinary commodities, it breaks down entirely in regard to cultural products" since it institutionalizes "the dominance of a few advantaged producers and prevents governments from taking effective measures to ensure space and choice for a diversity of cultural expression" (Grant and Wood, 2004). Securing this space has been seen by critical political economists of media as central to the promotion of cultural rights.

2.3. The Political Economy of Cultural Rights

Cultural and communication goods pose particular problems for the impetus towards boundless commodification. As Garnham points out they have some of the characteristics of public goods (Garnham, 1990).

Firstly, they may not be not used up in consumption. A paperback book once read can be handed to someone else, donated to a charity shop, or resold to a second hand dealer. It is partly because digital network technologies have substantially increased the possibilities for copying and recirculation that recent

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years have seen (as I will detail later) vigorous attempts , particularly by major United States' rights holders, to extend the scope of copyright laws and ensure international compliance with systems they have designed.

Secondly, in the case of terrestrial broadcasting, where signals can be accessed by anyone with suitable receiving equipment, there is no way to exclude consumers by using price mechanisms. Commercial operators have addressed this impediment in two main ways. Firstly, they have sought to fund their operations primarily through the sale of advertising. Under these conditions, as Dallas Smythe pointed out, audience attention becomes the primary commodity traded in return for advertising fees (Smythe, 1981). Secondly, they have actively pursued alternative means of broadcast distribution, most notably cable and satellite systems where encryption systems allow access to be regulated by price.

But communication goods are 'peculiar' in other, more far reaching ways since they also constitute the primary source of the ideas, analytical frameworks, arguments, and windows into other people's lives and experience, that most people make most use of in their attempts to understand their situation and the world around them and decide how best to act in relation to both their personal choices and competing proposals for collective political intervention. This last point is the key.

In the leading edge economies the consolidation of capitalism was accompanied by the emergence of modern forms of participatory politics, of which the idea of representative democracy has proved to be the most persuasive and enduring. It is the intersection of these two transformative processes, in economic and political life that has provided the major impetus for

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the development of a critical political economy of communications. In contrast to free market economists' insistence on treating the 'economic' as a bounded domain, critical political economy returns to political economy's original project of exploring the interconnections between economic arrangements and the constitutions of social and cultural life. In place of the claim to 'value free' analysis made by the 'free marketeers', and embodied in their deployment of ever more elaborate mathematical formulae (the ruling language of legitimate 'science'), exponents of critical political economy have revived the discourse of 'moral economies' that animated the first wave of political economic analysis from the late eighteenth century onwards. It included Adam Smith, now, misleadingly, claimed as the primary architect of a market economics whose work was profoundly informed by the ethical deliberations he developed as a professor of moral philosophy at Glasgow University. As Jerry Evensky has shown, 'Adam Smith' celebrated by the hugely influential Chicago school of neo-liberal economics is scarcely recognizable as the 'Adam Smith' of the Scottish Enlightenment (Evensky, 2005). From a critical perspective, the important questions to ask when evaluating a communication system are always questions about how far it advances or impedes the realisation of the three cardinal demands announced by the French Revolution, liberty, equality and fraternity, understood as: the opportunity to realise personal potential; equality of social recognition, respect, and inclusion; and the promotion of mutuality and a sense of shared fate.

In an influential intervention Graham Murdock has proposed a model of rights which itemises the cultural and communicative resources required to underwrite personal agency and social participation. He defines these as; the

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right to comprehensive information on events effecting life conditions and chances and the on the decisions being taken or considered by major nodes of corporate and governmental power; the right to authoritative analysis of their causes and likely consequences; the right to access the maximum possible range of debate on the evidence presented and possible options for action ; the right to have one's life and aspirations represented without stereotyping of insult and to have access to a diverse representations of the lives of others; and the right to participate in, and contribute to, the production and circulation of public culture(Murdock, 2006).

Whereas the central figure in the landscape mapped by market economics is the consumer, making personal choices between competing commodities in the marketplace, the key actor in this counter conception is the citizen, whose entitlements to self realisation are accompanied by responsibilities to maintain the quality of collective life as a member of the moral and political community embodied in the democratic ideal.

Concern with the vitality of democratic life has generated two major currents of critique of market fundamentalist approaches to the organisation of public communication systems, both with pedigrees stretching back to the consolidation of commercial journalism and entertainment in the first half of the twentieth century.

The first of these, identifies a profound paradox in the fact that more and more of the cultural resources required for the full realisation of citizenship are commandeered and controlled by corporations owned by entrepreneurs who have no compunction about using their access to the public domain to promote views they favour and marginalise positions they disapprove of. This tension

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between private interests on the one hand and the public interest on the other has been explored across the advanced capitalist economies, including the United States, where there has been vigorous defence of democracy against the corruptions of private ownership, stretching from Upton Sinclair's coruscating attack on the failures of journalism in *The Brass Check* (Sinclair, 1970 [1919]) to the recent work of McChesney. He has also been in the forefront of analysts interrogating the ownership and power of the new multi-media, transnational, conglomerates, operating across the full range of media forms and 'platforms' and across all the major geographical markets (McChesney, 2008) (see (Fitzgerald, 2011)). As we will see, it is the recent push toward marketisation informed by the rhetoric of neo-liberalism that has opened up the spaces that have paved the way for this increased consolidation. As we will also see, it is the leading multi media conglomerates in the US who have played a leading role in lobbying for, and securing, key provisions governing audio visual services that favour their interests in the Free Trade Agreement with Korea (KORUS) which is the focus of the present work. As Jack Valenti, the long standing head of the Motion Picture Export Association (the MPAA) which represents the major US film and television corporations, and who has played a key role in pressing for open international markets and more stringent protections for intellectual property, candidly admitted in 1989;

"The mission of the MPAA can be simply stated: to make sure that American Film, Television and Home Video can move freely and unhobbled around the world in marketplaces that are competitive" (Wasko, 1995).

The second major line of analysis developed within the critical political economy of communication, moves from corporate structures, and questions of

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ownership and organisation, to corporate strategies. The locus classicus for this strand of work is the chapter on the commercialised entertainment industry in the *Dialectic of Enlightenment*, which two leading members of the Frankfurt group of Western Marxists, Max Horkheimer and Theodore Adorno, published in 1947. Written in exile in the United States, where they had decamped following Hitler's consolidation of power in Germany, it argues that the commercial logic informing cultural production, which they saw in its most advanced form in New York and California, inevitably reduces expressive diversity by orienting it around formulae that have already proved their market potential, replacing genuine innovation with endless variations on a set of enduring themes (Adorno and Horkheimer, 1997).

They entitled the chapter, 'Culture Industry', to convey the extent to which they saw cultural production being incorporated into the overarching logic of industrial capitalism, aimed at maximising sales (where the commodity was sold directly to consumers) or revenues where (as in the case of commercial broadcasting, advertisers demanded the maximum possible exposure for their products. This descriptor has since been widely taken up by later writers who have developed and extended the analysis of both the commercial strategies of companies operating in the major media sectors, and the ways the logics that underpin them shape media output and the balances struck between innovation and repetition. David Hesmondhalgh's widely read book, *The Cultural Industries* (Hesmondhalgh, 2013) is a case in point. He may not endorse the aesthetics that inform Horkheimer and Adorno's judgements on specific instances of American popular media production, particularly in the field of popular music, but his general project stands in a direct line of descent from their pioneering work.

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Concerns about the potential abuses of owner power and the commercial push to expressive closure were never simply matters of academic analysis and debate however. In various forms and versions they enjoyed wide currency among certain sections of the political and policy elites of the leading capitalist economies, in the years immediately following the end of World War II.

One of the major issues on the table then was how best to organise the new broadcasting medium of television, now that transmission, which had been suspended for the course of the War, could be resumed. In the United Kingdom, which had just elected a Labour government intent on proving the material and cultural resources for the realisation of full and universal citizenship, it was decided to continue and extend the monopoly that the BBC had enjoyed over radio broadcasting and to reintroduce television as a public service, funded out of taxation, and charged with a mission to 'educate' (in the widest sense of the term) as well as to 'inform' and 'entertain'. In contrast, the United States opted to reproduce the commercial structure that had run radio services, with private station ownership, competition within local markets, and a financial base in advertising sales. Commercial logics were not given an entirely free run however. The statutory regulatory body, the Federal Communications Commission, imposed regulations designed both to limit concentration of ownership and promote diversity of voice.

Underpinning both these settlements was a conception of broadcasting as a public good, not simply in the technical sense that it displayed different characteristics to a commodity, but in the more general sense that it should contribute to the overall quality of democratic life by providing the full range of cultural resources required to support citizenship. This same conception

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underpinned the insistence that the telephone should be a 'universal service' available at a reasonable cost to everyone (no matter where they lived) and managed by a sole publically owned provider, as in UK and Europe, or a regulated private monopoly, as in the US.

It was precisely this conception of communication as a 'service' to citizenship that the drive toward marketisation, initiated by Mrs. Thatcher in the UK and Ronald Reagan in the US in the 1980s, sought to dismantle and displace. This drive drew much of its rhetoric from the revival of neo liberal ideology and its elevation of market relations and consumer choice as the necessary preconditions of economic dynamism.

2.4. The Neo Liberal Coup: The Return of the Repressed

The term 'neoliberalism' was coined by the German Frieberg School (Boas and Gans-Morse, 2009), to describe the renewed promotion of market economics against the interventionist polices that had dominated post war reconstruction and underpinned conceptions of 'welfare capitalism' in the West and the 'developmental state' in many emerging economies. As Wilson has argued, its central rhetorical move is to reassert the centrality of market competition in governing economic, political and social life and present government intervention as both inefficient and unjust, an unwarranted interruption and distortion of relations between producers and consumers freely entered into and to the mutual benefit of both(Wilson, 2004). This principle is then applied within states, to justify marketisation polices that enlarge the operational scope of the private sector at the expense of the public sector, and within the global trading system, to promote the removal of measures designed to protect domestic

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industries. As Dunkley has pointed out, 'rolling back' the states within countries and pressing for 'free' trade between them, operate in tandem, as two sides of the same coin(Dunkley, 2001).

There is general agreement that it was the Thatcher government in the UK and the Reagan administrations in the US, together with the major international financial agencies, the IMF and the World Bank that spearheaded the promotion of neoliberal ideas. However, faced with alternative exemplars of growth in which government played a key role they initially faced an uphill struggle. The 1980s, belonged to the East Asian 'Tiger' economies led by Japan and to West Germany where government supported technological innovation had kept it well ahead of international competition. Their success in achieving high levels of economic growth without wholesale neoliberal reforms seemed to demonstrate empirically that neo liberalism was not the optimal solution to stagnation that its proponents promised (Harvey, 2005). In the 1990s however, this situation changed, lending neoliberal argument new plausibility and opening up new spaces where their policy implications could be pursued.

Firstly, the 'financialisation' of capitalism that had begun in the 1970s accelerated during the 1990s. Financial markets came increasingly to be seen as central to the new economic order and governments responded with a wave of deregulatory measure designed to give financial institutions more flexibility in their operations. The strong relations between corporations and banks that had helped fuel economic success in West Germany and Japan were undermined. In the US and the UK, the 'Chinese walls' put in place previously to separate retail banking from speculation in investments were dismantled, a move that paved

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the way for the catastrophic financial crisis that swept across the advanced capitalist economies of the West in 2007-8 .

Secondly, and more immediately visible, the showcase economies of the 1980s all suffered major setbacks. In 1987-8, the Asian economies, including Korea, entered a period of acute economic crisis opening the way for the IMF to demand major programmes of domestic 'structural reajustment' on neoliberal lines, as a condition of being bailed out as they did in Korea. During the 1990s, the Japanese economy collapsed mainly due to weak speculative land and property markets. While the strains imposed by the unification of Germany, and the incorporation of the less developed Eastern economy, meant that the technological excellence it had achieved was dissipated.

Thirdly, in 1994 the international trade arena was transformed. Up until that point, international trade relations had been governed by the General Agree on Tariffs and Trade (GATT) introduced in 1947 which had sponsored a series of rounds of negotiations. The last of these, the Uruguay Round commenced in 1986 and was concluded in April 1994 at a meeting in Marrakesh, at which it was officially decided to replace GATT with a new body, the World Trade Organisation the WTO. The organisation's launch, on January 1st 1995, was accompanied by the introduction of two other major agreements finalised at the Marrakesh meeting, the General Agreement on Trade in Services (GATS) and the Agreement on Trade-Related Aspects of Intellectual Property (TRIPS). The first invested services, including audio visual services, with a new prominence within negotiations, while the second introduced considerations of intellectual property law for the first time. As we will see later in this chapter, GATS has reignited long standing debates around the status cultural products within international trade

and generated conflicts that have helped fuel a shift from the multilateral forum of the WTO to the bi and tri-lateralism of Free Trade Agreements. But before we explore these dynamics further we need to look briefly at the other side of the neo liberal coin, the domestic pursuit of marketisation policies.

2.5. From Ideology to Implementation: Marketisation

We can usefully think of marketisation as a portfolio or tool-kit of policy measures that translates the core tenets of neo liberalism into concrete policy interventions. It is important to distinguish between them because they are not always pursued together or to the same degree.

There are four main strands to the push to marketisation (Murdock and Wasko, 2007).

- **Privatisation:** Selling public assets to private investors
- **Liberalisation:** Opening up hitherto monopoly or restricted markets to new entrants and intensified competition
- **Reorienting regulation:** from the defence of the public interest to the promotion of economic priorities.
- **Corporatisation:** Requiring or compelling organisations still formerly in the public sector to think and behave as though they were private corporations.

Versions of these interventions, in varying combinations, have been increasingly pursued in all the world's major economies. The last three decades have seen the collapse of the Soviet Union and the reincorporation of Russia and its Eastern bloc satellites into the world capitalist system; China's rejection of Maoism and embrace of market dynamics and values; and India's turn from self

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sufficiency to reengagement with global capitalism. At the same time, we have seen the progressive exhaustion of the project of the 'developmental state', which saw nations that had achieved political independence after World War II attempting to accelerate the industrialisation process, and 'catch up with the west', through state directed initiatives, often involving the nurturing of 'national champions'.

As we will see, Korea is a prime exemplar of this process, with a long initial post war period of state directed industrial growth, overseen by a succession of authoritarian military governments, giving way to a concerted push towards marketisation, accelerated in 1994 by Kim Young-sam, Korea's first democratically elected civilian president and generalised by his successor, Kim Dae-jung, under pressure to meet stringent conditions imposed by the International Monetary Fund (IMF) as requirement of the financial bail-out granted to Korea in the wake of the 1997-8 Asian economic crisis.

This altered economic landscape had contradictory impacts. On the one hand it opened up markets in other Asian countries going through the same process, offering new opportunities for Korean media producers, and producing a surge in cultural exports that came to be dubbed, the 'Korean Wave' (a phenomenon we will explore in more detail in a later chapter). At the same time, the convergence of marketisation with the push to democratisation and the associated demands for political elites to be more responsive to popular demands drew renewed attention to long standing questions around control of the media. These flared up during the mass popular protests in 2008 against a presidential decision to reopen the Korean market to US beef imports, which had been banned since 'mad cow' disease had been discovered in Washington State

in December 2003. The decision was strategic and designed to help accelerate the passage of KORUS but it was met with widespread popular opposition

The strategy pursued by the US in negotiating KORUS, and the terms it imposed on these negotiations, can be plausibly interpreted as an attempt to secure the maximum competitive advantage from any agreement that might be put in place. To understand the logic behind this strategy however, we need to locate it within the wider debate about the shifting position of the United States within the organisation of international trade in general, and the trade in cultural goods in particular, prompted by discussion around the notion of 'cultural imperialism'.

2.6. Cultural Imperialism Revisited

In a remarkably prescient passage in the Communist Manifesto, which Marx and Engels drafted in 1848, they argue that capitalism's never ending drive to expand accumulation impels it to strive for global reach, and that this movement is always cultural as well as economic, that ideas and ideals are exported along with material goods.

"The need of a constantly expanding market for its products chases the bourgeoisie over the whole surface of the globe. It must nestle everywhere, settle everywhere, and establish connections everywhere. In the place of old wants, satisfied by the production of the country, we find new wants requiring for their satisfaction the products of distant lands, and as in material, so also in intellectual production. It compels all nations to adopt the bourgeois mode of production: it compels them to introduce what it calls civilisation into their midst. In one word, it creates a world after its own image." (Marx and Engels, 1906[1848])

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This idea, that successful economic globalisation under capitalism always also entails the annexation of culture and imagination, provides the essential point of departure for the concept of cultural imperialism.

The end of World War II ushered in the long retreat from empire as the newly decolonised territories struggled to establish themselves as contemporary nation states, politically independent and capable of modernising economically, and moving towards industrially driven growth. Korea, was one of the colonies (along with Taiwan) that a vanquished Japan was forced to relinquish. With the success of Mao's forces in China and the Soviet Union's expansion of its borders across Eastern Europe, the newly independent nations became stakes, and sometimes counter, in the ideological Cold War between the Communist bloc and Capitalist bloc, led by the United States. Korea was placed at the epicentre of this conflict when Chinese backed forces in the North confronted US supported forces in the South, a conflict that led, after a bloody war, to the partition of the peninsula.

The subsequent combination of the substantial economic aid that the US granted to South Korea, the establishment a permanent ring of military bases in the country, and the influx of Hollywood films and other US popular media artefacts, provided a perfect model of the new American empire in formation under Cold War conditions. This complex, and especially its cultural dynamics, was dissected with particular force and skill by the radical US political economist, Hebert Schiller, whose books, beginning with *Mass Communication and American Empire*, published in 1969, did more than anything else to define cultural imperialism.

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Between 1943 and 1945, Schiller found himself posted to Casablanca, still then a French colony, an experience that exerted a formative influence on his thinking (Murdock, 2006). Observing local people watching fascinated at an outdoors screening of a Hollywood movie, as he noted later, it was already clear that “Although the French were still the reigning colonial power, their rule was coming to a close “ and passing to the US as “the new power”(Schiller, 2000b).

Notwithstanding the subsequent periodic military invasions and incursions mounted to safeguard and secure American strategic and economic interests, Schiller saw this struggle primarily as a battle for hearts and minds waged with mundane consumer and cultural products. As he noted, “*material from the United States offers a vision of a way of life based around a mountain of artefacts, privately furnished and individually acquired and consumed*” (Schiller, 1970). This consumerist vision of abundance and choice was likely to be particularly attractive to the citizens of countries characterised by austerity and the subordination of personal satisfaction to collective ‘development’ required by reconstruction and nation building.

A vivid demonstration of the covert ideological power of everyday imagery was provided by the French scholar, Armand Mattelart, in his book *How to Read Donald Duck*(Mattelart et al., 1975). Written in Chile, in collaboration with one of the country’s foremost novelists, Ariel Dorfman, it dissects one hundred Donald Duck comic books and demonstrates how these seemingly innocent tales incessantly celebrate the search for money, and personal fame and fortune at the heart of the ‘American way’, as the only worthwhile goals in life. Ironically, soon after it was published, the elected government of President Salvador Allende, who was pursuing policies based on a counter conception of public welfare, was

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deposed in a military coup (supported by the US) paving the way for Chile to become a laboratory for the implementation of what Naomi Klein has called the 'shock doctrine' in which US economic 'advisers' take advantage of the disruption to pre-existing institutions to press for neo liberals policies to be introduced at speed and across the board (Klein, 2007).

Elsewhere however, the growing ascendancy of neo liberalism and marketisation was altering the map of global flows in other ways.

Observers who predicted that globalisation would produce an increasing convergence and homogenisation of social identities failed to foresee that increased exposure to western templates was also likely to strengthen allegiances to alternatives that confirmed distinctions and differences and reinvigorated other ways of imagining community. As Anthony Giddens argued:

Western, and more specifically American cultural influence is visible everywhere – in films, television, popular music and other areas...Yet all this is a relatively superficial cultural veneer; a more profound effect of globalisation is to produce greater local diversity, not homogeneity.....Because of its 'push-down' effect ...globalisation tends to promote a renewal of local cultural identities" (Giddens, 2011).

In recently decolonised countries, like Korea, struggling to establish a secure sense of their place in the new global order, questions of national autonomy, culture, and identity were always likely to be particularly salient. Arguably, the collapse of the Soviet Union and the subsequent push by the United States to consolidate its hegemonic global position against the newly rising powers, represented most clearly by China, has reinforced the assertiveness of separation

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and difference as evidence by the resurgence of nationalist and religious forms of fundamentalism (Murdock, 1997).

At a more mundane, less spectacular level, there is now substantial research evidence to support Joseph Straubhaar's analysis of the importance of 'cultural proximity' in organising media preferences. Put simply, when given a choice, people generally prefer to consume cultural products featuring people who look like them and are assumed to share a communality of history and experience. It is this preference that fuels the experiential demand for local production (Straubhaar, 1991). As Chadha and Kavoori have argued, Asia is no exception, with audiences gravitating;

"towards programming choices that appear most relevant or 'proximate' to their own context and...affirm the norms and sensibilities of their particular cultural universe" (Chadha and Kavoori, 2000)

The result, as John Sinclair and his colleagues noted, after surveying the available evidence on the international television market at the end of the 1990s, was that;

"although US programmes might lead the world in their transportability across cultural boundaries, and even manage to dominate schedules on some channels in particular countries, they are rarely the most popular programmes where viewers have a reasonable menu of locally produced material to choose from" (Sinclair et al., 1996).

The vitality of local and regional markets, of which the Korean Wave is a prime example, present problems for Schiller and Mattelart's conception of cultural imperialism. This was based on a strong version of the centre-periphery model, in which cultural materials generated in a few major capitalist economies,

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led by the United States, fanned outwards to weaker 'developing' economies, with little or no reciprocal flow the other way, a view encapsulated in the subtitle title of Nordenstreng and Varis's widely read UNESCO report on the global flow titled, *'Television traffic- a one way street?.....'* (Nordenstreng and Varis, 1974). This view came under increasing pressure from scholars pointing to significant nodes of activity outside of the core capitalist economies. Some of these, the Indian film Industry ('Bollywood') and the popular television serial fictions, *telenovelas*, made in the major Latin American centres of Spanish and Portuguese language production, Mexico and Brazil, were relatively well established. Others, like the 'Korean wave' mentioned earlier, were more recent. Research tracing the distribution and sale of these various media artefact revealed a complex pattern of circuits. Some, including the products of the 'Korean wave' which were consumed primarily within other east Asian societies, including the major markets of China and Japan alongside the lesser markets of Taiwan and Thailand, pointed to the rising importance of regional blocs. The changing distribution pattern for Bollywood movies confirmed the growing significance of diasporic migrant markets, while the export success of Mexican *telenovelas*, within both Latin America and the United States, highlighted the centrality of language communities.

This new, more complex, pattern of flows can be interpreted in two ways. For some commentators, it signals the eclipse of US dominance and the displacement of the vertically configured centre-periphery model by a much flatter model defined by multiple horizontal and intersecting exchanges. Recent discussion in this area has tended to privilege the concept of 'hybridity', the idea that encounters and collisions in the emerging space of transnational flows is

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generating new cultural forms that combine elements appropriated or borrowed from a variety of sources, and that through this process cultural forms originating in the United States and other major western countries are customised and indigenised in significant ways to appeal to local tastes (Newell et al., 2006). The increasing significance of the trade in television programming formats would at first sight to support this argument.

The first wave of cultural imperialist analysis focuses on the unequal flow of finished programming. These might be indigenised imaginatively, through the reinterpretations and negotiated readings imposed by audiences, but they could not be altered at the point of production. In contrast, programme formats can be customised and tailored to fit local conditions (Chalaby, 2012). But do these modifications invalidate the cultural imperialism thesis? Claims that they do face two major problems: firstly, although the details of the programme may be 'localised' by using local actors and settings, the underlying concept, the imaginative template, still originates elsewhere, almost always in the major capitalist centres of programme production. Indeed, the format trade can be seen as confirmation of Horkheimer and Adorno's argument that while the 'culture industry' encourages multiple modifications it leaves core cultural forms unaltered and militates against genuine innovation. Secondly, with the rapid expansion of commercial television services around the world, as a consequence of, programming, on local screens, whatever its origin, is increasingly enveloped by promotions for consumer goods, both in the advertising that surrounds it in the schedules and the expanding opportunities for product placement within the programme itself (Fung and Zhang, 2011). This tendency confirms rather than refutes Herbert Schiller's core argument that it is the ideology of consumerism,

rather than overt political propaganda, that secures compliance to the American version of the 'good life'.

At the same time, a straightforward centre-periphery model is no longer entirely adequate. The case of Korea suggests that the situation is more usefully seen as 'both-and' rather than 'either-or'. Hence while Korea has to some extent managed to establish itself as a significant node within a regional system of flows, it remains entangled in a wider system of exchange in which the United States continues to enjoy significant competitive advantages. One option is to follow Joseph Straubhaar in characterising this as a state of 'assymetrical interdependence' in which "*countries find themselves unequal but possessing variable degrees of power and initiative*" (Straubhaar, 1991). How significant these 'degrees of freedom' are in any specific instance is an empirical question. The answer will depend on national circumstances and in particular, on the balances struck between changing national policy priorities and the evolving strategies employed by the United States to maintain its global competitiveness and cultural reach.

In one of the most comprehensive recent interventions in this debate, Colin Sparks, has dismissed Herbert Schiller's "*Theory of media and cultural imperialism [as] today largely discredited*" arguing that several key developments have significantly altered the global playing field (Sparks, 2012). He cites in particular, the challenges to US power presented by the major emerging economies, led by China; and the increasing investment that countries developing their own cultural industries have in stronger regulation of the internet and increased protection for intellectual property. And he concludes, that in a revised form, that takes these dynamics into account, the idea of cultural

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imperialism remains “*an essential part of the theoretical framework for the study of international communications*”. In the course of making this case he cites the hugely influential definition of cultural imperialism offered by Herbert Schiller’s in his 1967 book, *Communication and Cultural Domination*, as a seminal statement of a position that is now obsolete. For Schiller, cultural imperialism comprised:

“the sum of the processes by which a society is brought in the modern world system and how its dominating stratum is attracted, pressured, forced and sometimes bribed into shaping social institutions to correspond to, or even promote, the values and structure of the dominating centre of power”(Schiller, 1976).

If we identify globalised capitalism as the pivot the ‘modern world system’ this definition fits the Korean case surprising well, from the ‘forced’ compliance with marketisation initiatives imposed by the IMF bail-out and the preconditions for the commencement of KORUS negotiations set by the United States, to the ‘attractions’ of the FTA as perceived by the Korean government and their supporters among the ranks of mainstream professional economists , who , in Korea as elsewhere, were almost universally in favour, since, as Lee has noted, *“few economic policies command as much consensus among economists as the benefits of trade liberalisation”* (Lee, 2010). In marked contrast, the general populations were largely opposed a fact that redirects attention to Johan Galtung’s important argument that analyses of imperialism need to take full account of inequalities within as well as between nations. As he points out, centre and periphery nations are themselves divided socially into centres and peripheries, with the result that imperialism is most often defined by a

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relationship between elite groups in both locations (“the centre in the Centre nation” and “the centre of the periphery”), to the exclusion and often the detriment of those towards the bottom of the social system (Galtung, 1971). As Dani Rodrik has shown, more liberal trade regimes and capital movements tend to weaken the bargaining power of trade unions over wage rates and working conditions and render employment more ‘flexible’ and less secure (Rodrik, 1997). As David Harvey has argued, whatever its concrete consequences in term of economic growth, the globalisation of neoliberalism has been remarkably effective in reinforcing the power and privileges of economic elites and ensuring that they increase still further their share of income and wealth (Harvey, 2005).

But Sparks is absolutely right to identify struggles over the terms of trade in cultural goods as central to the outcome of any negotiations and it to changes in this area that we now turn.

Chapter 3

CHANGING TERMS OF TRADE

This Chapter explores key shifts in the international trading system which organised the framework within which KORUS was negotiated and which shaped the position taken by the United States in fundamental ways. I want to focus particularly on four major changes.

Firstly, the inclusion of services, including the cultural and audio-visual industries, as integral to the international trading system and the establishment of the General Agreement on Trade in Services, under the new organisational umbrella of the World Trade Organisation (WTO), as the institutional mechanism designed to draw up and enforce the new rules.

Secondly, the continuing attempt to define 'cultural' goods as qualitatively different from other goods and the shift in the rhetorical rationale for this claim from 'exception' to 'diversity', a shift institutionalised in the UNESCO.

Thirdly, the United States' increasing discontent with the multilateral processes overseen by the WTO and the turn to Free Trade Agreements with single or a limited number of partners as a way of securing outcomes more in line with US interests

Fourthly, the concerted push to extend intellectual property rights and secure their more effective enforcement, in order to take maximum advantage of the increasing importance of trade in services and cultural goods and address the increased ease of copying and circulating generated by digital technologies.

3.1. Multilateral 'Gridlock' and the Rise of Free Trade Agreements

As I will argue, the KORUS-FTA, and the more general turn to Free Trade Agreements on the part of the United States, needs to be seen in the context of United States' perceptions that the revised multilateral trade arrangements were failing to meet their priorities. Although I concentrate in this chapter on the US it is important to note that the movement towards Preferential Trade Agreements (PTA) of which Free Trade agreements (FTA's) are the most common variant, has become increasingly generalised in recent years as international agencies have become progressively 'gridlocked' and more and more countries have looked for an alternative route to addressing key issues and advancing their interests (Hale et al., 2013) .

By July 2005, 330 PTA's had been notified to the major international agency regulating trade, the General Agreement on Tariffs and Trade (GATT) and the organisation that took over its administration in 1995, the World Trade Organisation (WTO). As Figure 3.1 shows, according to WTO figures, 202 or almost two thirds (61%), has been tabled since the Organisation's establishment. More than a 180 have come into force since then with many more on the table. Of the total 84% are full Free Trade Agreements (as against customs unions or partial-scope agreements) and 75% are bilateral (country-to country) rather than regionally based agreements. Of the major capitalist powers only the EU remained outside the fray of activity in Asia until it changed its policy in late 2006. Negotiations with South Korea started the following year.

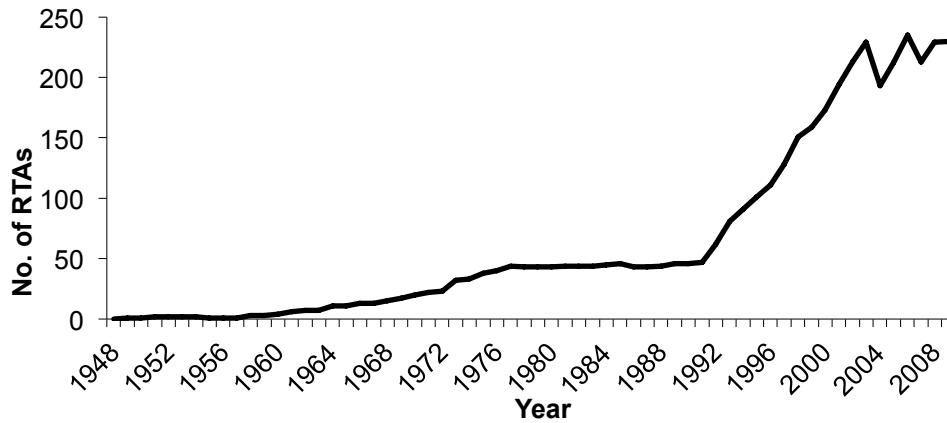


Fig. 3.1: Number of Regional Trade Agreements (RTA's) in force

In most cases the balance of power will lie decisively with the negotiators based in the core capitalist economies. As a consequence, FTA's have attracted substantial criticism from observers who see them as a way for the United States to secure concessions that it had not been able to achieve through multilateral agreements. As Jagdish N. Bhagwati, a former economic policy advisor the Director General of GATT, and a firm supporter of multilateralism, put this argument succinctly when he claimed in 1995 that; *"FTA's have become a process by which a hegemonic powers seeks to (and often manages to) satisfy[sic] its multiple nontrade demands on other, weaker, trading nations better than through multilateralism"* (Bhagwati, 1995).

In the case of Korea, the US gave a clear signal of their intention to secure maximum concessions from the outset of discussions over KORUS by demanding, as a precondition of entering into negotiations, a reduction in the 'screen quota' which required Korean cinemas to show locally produced films on at least 146 days in any one year.

It is important however, not to see this process simply as an exercise in domination. A rounded account needs to also take into account the differential motivation and expectations of the partners to negotiators. In 1988 for example,

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Canada, during discussions over the terms of one of the first bilateral Free Trade Agreements entered into by the United States, again fearing American cultural dominance, succeeded in having its cultural industries exempted (Mosco, 1990). This exemption was then carried over to the wider regional 'North American' agreement (NAFTA) signed in 1995. In contrast, the other signatory to NAFTA, Mexico, seeing the new opportunities of domestically produced programming opened up by US based services targeted at the burgeoning Hispanic population, waived the opportunity for exemption (Galperin, 1999).

We will return to the ambitions, and perceptions of possible advantage, that the Korean government brought to the KORUS negotiations in later chapters, but in this present chapter I want to focus on the increasing problems encountered by the multilateral organisations involved in organising international trade, focusing particularly on the actions and reactions of the other partner to KORUS, the United States, in two areas that are central to this thesis, the trade in audio-visual products and intellectual property rights.

3.2. Mounting Problems of Multilateralism

As we noted in the previous chapter, in 1947, as part of a more broadly based set of international initiatives (which included the International Monetary Fund and the forerunner of the World Bank) designed to reorder and regularise economic relations outside of the communist bloc, the General Agreement on Tariffs and Trade (GATT) was signed into operation. As the term 'tariff' in the title indicated, it required its signatories to reduce customs duties on imports in order to avoid the beggar-my-neighbour protectionist policies that had disrupted the world economy during the Depression preceding World War II. But in pursuit of a

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more open trading system it also sought to address the 'non tariff' barriers to open trade. These included quotas on imports and state subsidies to national production, both of which were central to a number of countries' cultural and communications policies. While GATT established a solid record in reducing tariff barriers, 'non-tariff' measures were poorly handled (Jackson, 1999). As we will see later in this chapter, claims that cultural artefacts and services were unique, on account of their central role as carriers of meaning and social identities, and should be exempted from the terms agreed for other goods emerged as a major focus of conflict between the US and other signatories led by major European countries from the outset and the continuing failure to resolve the issues was instrumental in creating the deadlock in negotiations which accelerated the movement from multilateral agreements to Free Trade Agreements. US exasperation with its inability to secure 'free trade' in cultural goods was compounded by its growing discontent with changes in the overall organisation of negotiations that it perceived as making it increasingly difficult to reach a settlement in line with its interests.

In the 1980s however, the primary emphasis was still on trying to secure a favourable multilateral settlement. Recognising the growing centrality of information and cultural goods, the US pushed for GATT to extend its remit to include trade in services and issues around intellectual property rights (Drake and Nicolaidis, 1992). These demands played a central role in 8th (and final) round of negotiations, initiated at the Ministerial Meeting in Punta del Este in 1986. As this Uruguay Round of talks proceeded it became increasingly apparent that an extended remit would require a new administrative body and after sustained debate about its title and constitution, the World Trade Organisation

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(WTO) was officially launched at the start of 1995 with (as we noted in Chapter 1) responsibility for two additional agreements, the General Agreement on Trade in Services (GATS) and TRIPS. From the outset, it was clear that the organisational framework of the new body posed problems for the pursuit of US interests.

The first problem arose from the rapidly increasing membership. GATT had been part of cluster of institutions devised at the end of World War II by the major Allied Powers, led by the United States, reflecting their economic and political ascendancy. By the mid-1990s the international arena was being rapidly transformed by two major processes. Firstly, decolonisation significantly increased the number of independent states many of whom seized the opportunity presented by multilateralism to come to the negotiating table and contribute to debates on the terms of international trade (Ambassador H.E. MrUjal Singh Bhatia, recorded at *Question Time* at the WTO Public Forum in Geneva on 24th September 2008). Secondly, as the centre of economic gravity within the international system has begun to shift from West to East and from North to South, with the rise of the BRIC countries [Brazil, Russia, India and China], the number of states that matter on key issues has increased replacing a US led hegemony of advanced capitalist states with a growing multipolarity (Hale et al., 2013). Taken together, these shifts make it more difficult for established players to secure their desired outcomes, a situation compounded by two features of the WTO's organisational structure; the voting system and the dispute settlement procedure.

Under the previous GATT arrangement, agreements could be amended by a simple majority vote. Under the WTO structure changes must be endorsed by at

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least two third of the members of the Ministerial Conference, but will apply only to those countries that accept them unless the Conference decides by a three-quarters majority that a proposed amendment is important enough to be applied to all members(Dunkley, 2001) .

In addition to significantly raising the bar for securing agreements to change, the WTO's processes have also been widely criticised for the length of time taken to resolve disputes. A presentation by a member of the WTO's Advisory Centre to the organisation's Geneva meeting on 24th September 2008 confirmed that the adjudication process was taking an average of 18 months and compliance a further 15 months, as against 4-5 months for both processes within US led North American Free Trade Agreement. As Choi noted, securing compliance with dispute decisions was also a problem since countries did not always implement them(Choi, 2009).

In his opening speech at the 2008 Public Forum in Geneva on the 25th September 2008, the WTO director-general, Mr. Pascal Lamy (Lamy, 2009) argued that *"one of the important lessons of the Great Depression, which we must not forget, is that protectionism and economic isolationism, do not work"*.

He strongly supported the case for a multilateral trade system ,debunking the claims made by supporters of FTAs, that a multilateral trading system that runs a round of negotiations' like the Doha Development Agenda (DDA) for 7 years, without closure, is a failed system, and arguing that it takes the equal amount of time to negotiate an FTA. His second line of defense concerned the issue of subsidy reduction. He said:

"To sceptics of the multilateral progress, I would also say: And where is the FTA that has delivered "subsidy" reductions? Isn't the reduction of subsidies

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that distort trade vital to truly levelling the playing field in international trade relations? While FTAs may have their forte in the reduction of tariffs, subsidy reduction surely is not their area of strength. Thus I do not quite frankly see many alternatives to the WTO – as imperfect as the WTO system may be today!"

"Three principal constraints today represent a challenge to our work: the first is the bottom-up approach, under which Members must themselves always take the lead in tabling negotiating proposals and compromise solutions; the second is the concept of a "single undertaking", which implies that in a round of negotiations with 20 different topics, nothing is to be agreed until all is agreed, and the third is decision-taking by consensus, which is reasonably close to unanimity".

He admitted that a negotiating process which combined all three factors mentioned above will be slow, but claimed that these factors were essential for both the legitimacy and balance of any negotiating outcome.

At the same time, in personal interviews I conducted, key actors and experts in international trade relations displayed strong support for multilateral arrangements and expressed reservations about the inequalities built into bilateral systems.

As Professor Sacerdoti, a Member of the Appellate Body of the WTO pointed out (in an interview held on 24/9/2008) because the rules governing multilateral systems apply to all signatories they are able to balance competing claims in an equitable manner through effective disputes procedures. In contrast, bilateral systems only apply to the members they covers and are more subject to unequal power. The perceived advantage of securing 'special' treatment that

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does not extend to competitors can appear as a major gain, but as other interviewees pointed out the negotiation process tends to favour the more powerful party.

As Dr Woo, a Korean economist noted (in an interview held in Seoul on 04/08/2008), the outcome of trade negotiations will inevitably depend on how well the parties prepare for the long and complicated process and how experienced they are. And as Bangladesh's Permanent Representative at the WTO, Dr Bhattacharya pointed out (in an interview held in Geneva on 25/09/2008):

"...whereas rich countries generally field strong support teams with an ambassador and a professional advisory group (made up of economists, financial analysts and other experts) whereas for some less well resourced countries, an ambassador needs to manage all aspects without the help of a professional team. This puts such countries at a distinct disadvantage when it comes to dispute settlement and conflict resolution."

This argument was strongly endorsed by Professor Lee, a leading Korean expert on international relations (in interview held in Seoul on 20/08/2008):

"It is important to consider with whom to negotiate. Hence, in a regional/bilateral trade, which neo-liberal economists supported recently, it is difficult to expect fair trade negotiation. This is especially true when developed countries deal with developing countries. They are in a predominant position when it comes to the lengthy procedures, high costs and due to the control they have on the media. The richer countries are able to manage these matters in a better way than the poor countries so they have more control over the trade negotiation. Therefore, a multilateral system can support developing countries in a better way,

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since in many cases of US led FTAs with developing countries, the unfair trade negotiations led to controversies and more problems for the developing country”.

As Ha-Joon Chang, a well known dissident Korean economist, now teaching at Cambridge University, stressed (in interview held in Cambridge in 2008), unequal power relations also mark the outcome of dispute procedures;

“The opponents of WTO complain about the long winding process of a multilateral system to resolve conflicts. However, developing countries can unify their opinion for a common interest under the WTO system. It is virtually impossible for a developing country to win a dispute within a bilateral system.”

As the WTO's then Director General, Pascal Lamy, told the Organisation's Geneva meeting on the 25th September 2008 however, the system was under severe strain. He pointed to;

"Three principal constraints today represent a challenge to our work: the first is the bottom-up approach, under which Members must themselves always take the lead in tabling negotiating proposals and compromise solutions; the second is the concept of a “single undertaking”, which implies that in a round of negotiations with 20 different topics, nothing is be agreed until all is agreed, and the third is decision-taking by consensus, which is reasonably close to unanimity”.

He was speaking against a background of deadlock in advancing negotiations. By 2005, the round of talks, launched at the Doha Ministerial Conference in November 2001, had been suspended and all major decisions concerning market access postponed. This impasse, together with the track record on dispute settlement, reinforced the impression that multilateralism systems were unlikely to be effective and its rules likely to be flouted (Sally, 2008) giving added impetus to the move to Free Trade Agreements. This shift

was further propelled, on the part of the by the US, by its failure to use WTO mechanisms to resolve the long-running dispute over the terms of trade in audio visual goods and services, and its mounting concern over the protection of intellectual property rights in a changing communications environment.

3.3. Culture Wars: Economies and 'Exceptions'

In the audio-visual sector non tariff barriers to trade typically included government subsidies to local production and distribution, and quotas placing limits on the amount of overseas material shown on national screens. In an effort to eradicate these 'discriminatory' measures, the original GATT agreement had required ,firstly that imported products to be treated in the same way as equivalent domestically produced goods ('national treatment') and secondly that all imported goods good be treated equally ('most favoured nation treatment'). These general provisions gave the United States, whose economy had boomed during the war, a significant competitive advantage over economies that had been severely damaged during the conflict. And as the French delegation saw immediately, there was nothing in the terms of the agreement to stop the provisions being applied to cultural goods.

This was a particularly sensitive issue in France, where a humiliating occupation had reinforced the long standing view that domestic cultural production, and particularly national cinema, was an essential platform for the exploration and expression of national identity. They feared that the GATT provisions would give Hollywood movies a free run to dominate French screens, weakening the domestic production base and corrupting the national language. They therefore lobbied for a "cultural exclusion" clause to be added to the GATT

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agreement, “setting cultural industries apart from its general provisions”(Grant and Wood, 2004). After extended negotiations, and in the face of resolute opposition from the American delegation who wanted cultural goods to be treated like any other commodity, the French secured a significant concession allowing countries to reserve screen time for “films of national origin” and making it clear that these quotas were exempt from the national treatment rules. At the same time, Article IV (d) of the Agreement left the way open for the issues to be returned to at a later date, specifying that screen quotas were “subject to negotiation for their limitation, liberalization or elimination”.

The subsequent history of international trade negotiations can be read, in part, as the story of the United States’ persistent attempts to pursue the option of ‘elimination’ and generalise it to abolish all ‘exceptions’ for cultural goods. However, as we noted earlier, the outcome in any specific case will also depend on the perceptions of their own national interests that other negotiating partners bring to the table.

These problems were evident from the moment the General Agreement on Trade in Services (GATS), which set out to incorporate the full range of activities generated by immaterial labour into the global trading system, was first mooted. The accompanying document, the “W/120 list” (Mattoo and Wunsch-Vincent, 2004) specified the sectors that negotiations could cover. It included audiovisual and communication services, signalling a clear intent to bring cultural products within the scope of multilateral agreements.

Given the increasing centrality of the trade in audio-visual goods and services to the US economy, this move was seen within the US as essential. As the Department of Commerce report on the *Globalization of the Mass Media*,

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published in 1993, confirmed, by 1991 foreign sales of film and television programs were generating a trade surplus worth US\$ 7 billion, double the figure of US\$ 3.5 billion four years before, and second only to the returns from the aerospace industry [quoted in (Galperin, 1999)]. Maintaining, and if possible, extending, this position was an economic priority.

Since “broadcasting is a perfect example of a service” (Grant and Wood, 2004), a conception literally written into the idea of ‘public service’ broadcasting, it was not surprising that the issue of broadcast quotas assumed a prominent place in the negotiations over GATS. Again, the French played a leading role in opposing US efforts to have screen quotas abolished.

The argument for exceptionalism was forcefully restated by Jacques Chirac in a speech to a symposium on European culture in 2005, in which he argued that:

“the World Trade Organisation and the trade discussions that take place there are not the right forum for dealing with issues of cultural exchange “ since “what is at stake is our vision of what it means to be human. The cultural exception is based on a political and moral affirmation of the utmost importance: that there are human activities that cannot be reduced to the status of merchandise” [quoted in (Littoz-Monnet, 2007)].

The counter view was put equally forcefully by Jack Valenti, head of the Motion Picture Association of America (MPAA). As he saw it, the European stance:

“had nothing to do with culture, unless European soap operas and game shows are the equivalent of Moliere. This is all about the hard business of money” [quoted in (Grant and Wood, 2004)].

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This view conveniently equates 'culture' with high culture and ignores the role that popular cultural forms, such as soap operas, can play in exploring shifting identities and their relations to social change.

In an interview with *Le Monde* he was adamant that "*the united States will not sign a GATT agreement which makes culture and exception. There would be commercial war about it if we don't set set competition and free access to markets.*" [quoted in (Magder, 2004)].

In the end however, talks ended in stalemate. While proponents of 'cultural exception' did not succeed in getting a specific exemption clause written into the agreement, the final version in 1994 did allow countries to restrict 'national treatment' to service sectors where that had "made specific binding commitments" leaving the way open for the continuation of quotas (Grant and Wood, 2004). Counting the European Community as a single entity, more than forty signatories took advantage of the 'get out' provisions covering audiovisual services, confirming that "*most countries [felt] the need to refrain from GATS obligations in the audiovisual sector in order to be able to continue their cultural policies*" of supporting national production and contributing to national identity (Footer and Graber, 2000). As a 2002 Commission Report noted however, even though the EU had retained "*its freedom of action in terms of preserving and promoting cultural diversity...the fact remains that 75% of European cinemas' income comes from American films*" (European Commission, 2002).

The United States continued to push for the end to exceptions for cultural goods and signalled "its intention to make audio-visual and related services a

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central theme” of the new Doha Round of talks that began in 2001 (Magder, 2004).

Addressing a US committee on commerce and trade in 2001, Bonnie Richardson, speaking on behalf of the MPAA, introduced a new element into the debate:

“Many countries around the world have a reasonable desire to ensure that their citizens can see films and TV programs that reflect their history, their cultures, and their languages .In the past, when their towns might have had only one local cinema and received only one or two TV broadcast signals, the motivation for foreign governments to set aside some time for local entertainment products was understandable. In today’s world, with multiplex cinemas and multi-channel television, the justification for local content quotas is much diminished. And, in the e-commerce world, the scarcity problem has completely disappeared. There is room on the Internet for films and video from every country on the globe in every genre imaginable. There is no ‘shelf-space’ problem on the net.” (Richardson, 2001).

This is a masterly exercise in rhetoric. She concedes the legitimacy of the long standing case for ‘cultural exception’ but argues, with a flourish, that with the advent of the internet it no longer applies and that consequently, screen quotas, one of the key devices historically, for protecting national production, are now redundant. At the same time, as we will see presently, in 1998 the US entertainment industry had successfully secured a major new law protecting one of the key emerging digital distribution formats, DVD’s, from unauthorised copying. There might be “room on the internet for films and video from every country on the globe” but if they originated in the United States they were required to be tamper proof.

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In February 2000, the WTO re-opened negotiations on the basis of an expanded version, GATS 2000, designed to increase market access to a whole range of service sectors. This contained provisions which effectively removed protectionist measures together with all the hurdles to the deregulation and liberalisation of services, including the cultural and audio visual industries.

These moves provoked widespread concern and opposition. The 'exceptional' nature of cultural goods was forcefully reaffirmed within the EU in a 2002 European Commission report which reiterated the long-standing argument that "*cultural works have a special status*" because they are not only "*economic goods and services, which have high potential for creating wealth and jobs*" but also "*vehicles for our cultural identities*" (European Commission, 2002).

The scale of the distrust and opposition, coupled with the ways in which the terms of the GATS 2000 agreement were formulated, meant that it proved not to be the unstoppable 'Trojan Horse', breaking down the walls of national protectionism that prominent members of the US delegation had hoped for.

Firstly, it contained a number of "opt-in" clauses that offered a degree of flexibility to members regarding regulatory sovereignty, opening up spaces that emerging economies with expanding domestic audio-visual markets, could employ as a protective step (Freedman, 2003).

Secondly, the somewhat vague definition of what constitutes a "service" provided additional wriggle room.

Thirdly, the scale of opposition meant that the progress of talks was painfully slow. In the three years from January 2000 when negotiations began, to 2003, only the US and one other country had made commitments in all sub-categories covering the audio visual industries. Then, as we noted earlier, in

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2005 talks were suspended ending the opportunity for the US to exert further pressure.

At the same time, revenues from export markets were becoming more central to the economics of the US film and television industries, partly because production costs were rising and partly because overseas distribution revenues could “*help make up production deficits before programs go into domestic syndication*” (Wasko, 2004). The solution, was for the US majors to refocus on Free Trade Agreements with either one partner or a strictly limited number of partners, where pressures and incentives could be applied in a more targeted manner and in ways that took into account the other parties’ relative bargaining power and political ambitions.

This decision was reinforced by the strengthening of international support for the unique status of cultural goods signalled by the adoption of a new Convention on the Protection and Promotion of the Diversity of Cultural Expressions by the General Conference of UNESCO in October 2005.

3.4. From Cultural ‘Exception’ to Cultural ‘Diversity’

UNESCO was founded in 1945 as part of the ensemble of post war international agencies that included GATT. Although its primary responsibility lay in the areas of heritage protection and fostering international understanding the expansion of the cultural industries inevitably pulled it onto the terrain of economic and trade policy. In 1980, a UNESCO sponsored report on communications recommended the public funding for non-commercial forms of mass communication. The United States interpreted this as another instance of cultural exception taking precedence over market competition and ‘free trade’ and left the organisation in

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1984. The theme embedded in the Report's main title, *Many Voices, One World*, was returned to in a 1995 report, *Our Creative Diversity*, commissioned by the UN General Assembly from a body it had established two years before, the World Commission on Culture and Development. This formally "introduced the concept of 'cultural diversity' as a public good of utmost importance and considered a precondition for the proper functioning of democratic societies" (Graber, 2006). Two follow-up 'World Culture Reports', in 1998 and 2000, expressly identified the growing concentration of cultural power in the hands of a few integrated transnational media groups (led by the US majors) as a major threat to diversity.

The introduction of the idea of 'diversity' into international discussion avoided major problems with the argument from cultural 'exception' that (as we have seen) had dominated previous debate. It moved public discourse from a predominantly negative mode being against American domination, to a much more positive mode, promoting the right to have the full range of voices and experiences represented in the major public media. Cultural Ministers in a number of countries seized on this revised rhetoric. In 1998, they came together in a new forum, the International Network of Cultural Policy (INCP) to discuss how best to advance the case, supported by a second organisation, the International Network for Cultural Diversity, which mobilised creative workers and civic groups (Acheson and Maule, 2004). Formed just before the WTO was launched, this new coalition set out to "*create a safe haven for cultural polices and protect them from WTO disciplines*" (Hahn, 2006). Although not officially linked to UNESCO the coalition was pushing at an open door and in October 2003, the UNESCO General Conference gave the Director General a mandate to draft a

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legally binding convention on protecting the diversity of cultural expression and content. The United States, which had just rejoined UNESCO that year, was vehemently opposed seeing it an unwarranted encroachment on the WTO's sphere of influence. When the final draft of the Convention was put to the vote at the General Conference in 2005 however, they found themselves isolated in opposition with only Israel voting with them. It became binding in March 2007.

At first sight, the Convention seems to represent a resounding victory for the cultural lobby. Firstly, it defined 'diversity' very widely as all "the manifold ways in which the cultures of groups and societies find expression", which embraces all established and emerging media. Secondly, it gives unlimited discretion to signatories to decide "which cultural policy measures they deem appropriate "for ensuring the diversity of cultural expression (Graber, 2006). Thirdly, it requires them to promote its objectives and principals in other international fora. However, as Michael Hahn has argued, it "*by no means put the culture vs trade debate to rest, rather it re-started it*" (Hahn, 2006). Signatories to the Convention who are also members of the WTO are still bound by their agreement to the WTO principle of progressive liberalisation but the document provides no guidance on how conflicts might be resolved.

If the WTO's failure to resolve the issues surrounding the trade in audio-visual goods was one major impetus behind the US's increased pursuit of Free Trade Agreements. A second was its failure to secure a revised intellectual property regime in line with its perceived interests.

3.5. The US Push to 'Harmonise' Intellectual Property Regimes

All decisions concerning the regimes governing Intellectual Property Rights (IPRs) are the result of bargaining between contending interest groups. As Pamela Samuelson has argued, because decisions in this area are always underpinned by local understandings and cultural values, on the roles and rights of artists for example, they are never simply technical or economic. They inevitably touch on question of national identity (Samuelson, 1999). As Renee Malin-Bennet has pointed out however, in recent years debates around IPRs have become increasingly framed by an underling political process through which the leading capitalist countries, that hold the majority of the 'properties' that circulate most widely (in the form of patents, logos, cultural commodities), seek to protect their interests and consolidate their leading position by imposing the regimes they have devised for their situation on less developed economies (Marlin-Bennett, 2005). As a consequence, their rules become generalised as global rules, regardless of how well they fit particular local circumstances. Trade Agreements are one of the primary mechanisms through which this process is achieved. I want to argue here that the IPR terms agreed for the KORUS FTA can be seen as the final step in a sequence of attempts by the US to impose its domestic copyright regime on key trading partners. These have been pursued using both multilateral and bilateral channels.

3.5.1. Multilateral Initiatives: From Berne to WIPO

The first attempt to devise an international copyright regime came in 1886 with the signing of the Berne Convention for the Protection of Literary and Artistic Works which provided protection for published works including books, articles,

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pamphlets, musical compositions, drawings, paintings, and other forms of artistic expression. It was based on the principles of non-discrimination and national treatment requiring signatories to treat domestic and foreign claim holders on an equal basis. Under its terms, protection of artistic expression was limited to the 'work' itself and did not extend either to particular performances or to the "ideas" that may have inspired it or which it included. It offered a minimum protection for fifty years after the lifetime of the author. Three year before, in 1883, a parallel convention, The Paris Convention for the Protection of Intellectual Property (IP) has been introduced to cover patents, trademarks, and industrial designs.

The US did not sign up to the Berne Convention preferring to develop its own parallel and independent system. In the aftermath of World War II it saw the 'soft power' of its cultural and media exports as a key element in the battle to win the Cold War with the Soviet Union and to recruit the newly independent ex colonial states to the ranks of capitalist modernity. Consequently it needed to devise some mechanism for protecting its intellectual property and in 1952, under the patronage of the newly formed UNESCO it came up with an alternative to the Berne Convention, the Universal Copyright Convention (UCC). The UCC was fully consistent with US national copyright laws and demanded that English language works published by U.S. authors be printed in the United States. The widespread perception that its provisions were oriented to US national interests however, led to the UCC attracting fewer signatory members than the Berne Convention (Stalson, 1987), (Richards, 2004).

In the 1960's however, the administration of the Berne and Paris Conventions was rationalized and the two were brought within a single

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organization, the World Intellectual Property Organization (WIPO). Established in 1967 it became part of the UN in 1974. This amalgamation increased the reach and legitimacy of the two Conventions and had the added advantage of being largely self-financing out of the income generated by the fees it charges for patent application services. Since there has been a significant rise in the number of applications submitted, its dependence on country contributions has steadily decreased. WIPO's financial independence, coupled with the fact that the majority of its members were from developing nations, offered a potentially powerful tool for the pursuit of US interests since unlike the IMF and the World Bank it was less easily seen as an arm of US foreign policy.

In 1996, at the Diplomatic Conference on Certain Copyright and Neighbouring Rights Questions held in Geneva on 2-20 December 1996 and attended by more than 700 delegates, WIPO adopted two new treaties: the "WIPO Copyright Treaty (WCT) and the "WIPO Performances and Phonograms Treaty (WPPT)". They were designed to create a new protocol to the Berne Convention aimed at tightening international copyright law to respond to issues arising from piracy on the Internet. They introduced potentially far reaching implications for copying and distributing information on the Internet. However, while signatories were required to adopt implementing legislation to conform to the requirement of the treaties the scope of the legislation introduced in any particular country would depend on the substantive extent of that country's copyright law existing at the time of the treaty, as well the country's own views concerning whether its existing laws already conformed to the requirements of the treaties. This flexibility introduced the possibility of uneven implementation. From the point of view of US business this was a serious drawback. They saw the

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rules governing the new rules as too loose, and the dispute settlement procedures too weak. At the same time, the alternative copyright regime offered by the TRIPS provisions within GATT was also seen as failing to adequately serve their interests. In the case of Korea however, the resulting turn to bilateral bargaining had a longer history.

3.5.2. Bilateral Bargaining

In the early post-war period the US had introduced generous trade terms with emerging economies, including Korea, that it saw as strategically important as allies in the Cold war. As a consequence, Korea built up a trade surplus. In the 1970s however, the US, together with the other advanced Western industrial economies experienced a deepening crisis of accumulation and as its trade surplus steadily declined it took unilateral action. Under Section 301 of the Trade Act of 1974 if a foreign country engages in a practice determined to be discriminatory in the trade of either goods or services or a to impose an unjustifiable burden or restriction on US commerce, the President is mandated to take all necessary steps to eliminate it. Responsibility for developing and coordinating US international trade and overseeing negotiations with other countries was assigned to the newly founded Office of the United States Trade Representative (USTR), instituted in 1979 as part of the Executive Office of the President. A key element in its activities is the compilation of the Annual Special 301 Report, reviewing the adequacy and effectiveness of protections for intellectual property in the US's trading partners and placing those judged to present problems into four categories (McDowell and Hong, 2006):

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- **Priority Foreign Countries:** Are those countries that are seen to have the greatest adverse impact on US trade. These countries 'are subject to accelerated investigations and possible sanctions'.
- **Priority Watch List:** Are those countries or economies that 'do not provide an adequate level of IPR protection or enforcement, or market access for persons relying on intellectual property protection'.
- **Watch List:** Indicates that the USTR has identified these countries as 'meriting bilateral attention to address the underlying IPR problems'.
- **Section 306:** Monitoring follows up on 'bilateral agreements reached with the US to address specific problems raised in earlier reports'.

The US had already demanded changes to Korea's intellectual property regime in 1986, as a condition of renegotiated trade relations. The original Korean Copyright Act of 1957 had established a copyright term of 30 years from the death of the author. A new copyright act enacted in 1986 extended the term to 50 years, the accepted international standard, and provided protection for the full range of established cultural works and for computer programs. This Act however fell short of meeting fully "the standards of protection envisaged in the draft TRIPS" agreement (on Trade Related Aspects of Intellectual Property) then being negotiated within GATT (Song and Kim, 1994) prompting a second revision to the copyright system in 1994, specifying more clearly protection for data bases and extending protection for neighbouring rights from 20 years to 50 years. The US however continued to look for further extensions and in 2004 Korea was placed on the Priority Watch List of countries still not providing an adequate level of copyright protection. As we will see what constituted an 'adequate level', from the point of view of the United States, was one of the

central points of contention during negotiations over the KORUS-FTA, which began in 2005. Although the Agreement was finalized in June 2007 it was not ratified by the Korean National Assembly until November 2011. However, having secured the concessions it required, in 2008 the US moved Korea to the USTR's 'Watch List' category of countries that "merited bilateral attention".

3.6. Adding Value: From TRIPS to TRIPS PLUS

The concessions went some way beyond the provisions agreed in the WTO's agreement on Trade Related Aspects of Intellectual Property Rights (TRIPS) introduced in 2004.

The final terms of the agreement reflected the concerted lobbying engaged in by major companies in the high technology and entertainment industries in the advanced capitalist economies, led by Pfizer Chemical and IBM in the United States. The CEO's of the US companies spearheading this push formed an Intellectual Property Committee and took full advantage of the fact that the Advisory Committee on Trade Policy and Negotiation set up by the USTR was open to their contributions in formulating policies and negotiating strategies and to their suggestions of countries engaged in "unfair trading practices" and whether to subject them to sanctions.

They succeeded in their primary aim of protecting their interests by forging a binding settlement (Sell, 2003) but because the extensions to the global IP regime they put in place applied to "all 153 TRIPS signatories in the same manner, without much regard for the different socio-economic conditions prevailing in them" (Muzaka, 2012) they imposed significant additional constraints and costs on emerging economies. Firstly, as Chang has persuasively

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argued, strengthening to rights of IPR holders has made it more expensive for low income countries to acquire new knowledge since 97% of all patents, copyrights and trademarks are held by rich developed countries. According the World Bank estimates, following the TRIPS agreement, increased technology licence payments will cost developing countries an extra \$45 billion a year, which was nearly half the total foreign aid (of \$93 billion in 2004-5) those countries gave (Chang, 2007b). Secondly, developing countries have to divert funds away from development projects to pay the costs of establishing and running an IPR system that meets the TRIPS requirements. Thirdly, critics argue, although the advanced capitalist economies 'borrowed' freely from each other during their initial push for growth (when IPR regimes were less extensive) (Dutfield and Suthersanen, 2005) they have now effectively kicked away the ladder of innovation and imitation they had climbed themselves (Chang, 2007a) denying developing countries the opportunity to freely borrow ideas and techniques and reducing their chances of ever being able to catch up (Dutfield, 2005).

In the area of copyright, TRIPS introduced three key provisions; the extension of copyright protection for literary and artistic works to the life of the author plus 50 years, and applied copyright to computer software, databases, and to rental rights for sound and visual recordings and compute programmes. From the perspective of countries with less stringent regimes these stipulations introduced significant new areas of compliance but from the point of view of major rights holder they fell some way short of their desired outcome. US companies in particular, wanted an international regime that embodied the two key changes they had introduced into the domestic copyright regime.

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In October 1998, President Bill Clinton signed two new copyright acts into United States' law: the Copyright Term Extension Act (signed on October 27th) and the Digital Millennium Copyright Act (signed the following day). Taken together they represented a significant extension to both the length and scope of copyright provisions.

Clause 8 of Section 8 of article 1 of the United States Constitution grants Congress the power to "*promote the progress of science and useful arts, by securing for limited times to authors and inventors the exclusive right to their respective writings and discoveries*". The first Copyright Act, enacted in 1790, translated the phrase "limited times" into a term of 14 years (from the date a claim was filed) with the possibility of renewal for a further 14 years, providing for a maximum term of 28 years. After that, the work passed into the public domain and could be freely used in the creation of new art works and innovations. In 1909 the renewal term was lengthened to 28 years, measured from the date of publication, effectively doubling the term of copyright to 56 years.

The year before, in 1908, however, a new international agreement, the Berne Convention for the Protection of Literary and Artistic Works recommended an even more generous copyright regime protecting works for the life of the author plus 50 years. The United States did not sign up to the Berne Convention but as it gained increasing international currency pressure mounted within the US for a revision to domestic legislation to bring it into line with the conditions enjoyed by cultural producers in competitor nations. In 1976, a revised Copyright Act followed the Berne precedent and granted copyright protection for the life of the author plus 50 years. In 1993 however, the European Union issued a Directive

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instructing protection to be extended for the author's life plus seventy years. This was intended as temporary measure designed to compensate cultural producers for the interruptions to payments caused by the devastation of the two World Wars. The cultural industries in the United States were in a very different position. The War and its aftermath had been boom years for the film and music industries and had consolidated their international reach and power. However, industry interests were quick to argue that they needed to enjoy the same level of protection as their Continental competitors if they were to maintain their competitive position in world markets. This argument was accepted and in the Senate Report introducing the intended legislation, trade considerations were given pride of place:

"The purpose of the bill is to ensure adequate copyright protection for American works in foreign nations and the continued economic benefits of a healthy surplus balance of trade in the exploitation of copyrighted works...Such an extension will provide significant trade benefits by substantially harmonizing U.S copyright law to that of the European Union" (Keyes, 2002).

Leading figures in the US film and music industry, including the estate of the composer, George Gershwin and the Walt Disney Company, whose exclusive rights to the Mickey Mouse character were close to expiry, engaged in concerted lobbying on the bill's behalf. They received endorsements from a number of members of congress, led by Sonny Bono, who had enjoyed a successful career as a popular singer before entering politics. Support was by no means unanimous however. In a sharply worded dissenting note to the main Senate report, Herb Kohl argued that the powers granted to Congress under the Constitution were originally introduced to balance author's rights against the common good;

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“not for the sole purpose of ...improving the balance of trade with Europe [or] ensuring that the heirs of copyrighted works can enjoy an unfettered income stream from monopoly ...yet [the Act] is justified upon precisely these bases” (US Senate, 1995-96a).

In a second dissenting note, Hank Brown argued:

“Copyright law relies on a delicate balance between rewarding creators and disseminating works for the public benefit...Denying open public access to copyrighted works for another 20 years will harm academicians, historians, students, musicians, writers, and other creators who are inspired by the great creative works of the past” (US Senate, 1995-96b).

The question of whether Congress was reneging on its Constitutional duty to promote the progress of “useful arts” by extending copyright by another 20 years was eventually tested in the Supreme Court in the case of *Eldred v Ashcroft* with the Court deciding in favour of the Act’s constitutionality. Some legal scholars regard this decision as an unwarranted accommodation to business interests. Joshua Mitchell for example, sees US copyright law being “commandeered by a process of industry-sponsored expansion in which Congress and the courts reviewing the legislation have acquiesced and becoming “uncoupled from its constitutionally defined purpose”. A tightly circumscribed right intended to incentivize creativity and the spread of knowledge has instead become an ever-expanding monopoly over creative works and the means by which those works are disseminated” (Mitchell, 2010).

The Copyright Term Extension Act, or as it is often called, after its most vocal congressional advocate, the Sonny Bono Copyright Extension Act (or more colloquially, the Mickey Mouse Protection Act), marked a significant (40%)

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increase the time works stayed in copyright after the author's death, but it did not deal with the issues posed by the new forms of storage and distribution built around digital technologies. These were addressed in the other major piece of legislation signed into law in October 1998; the Digital Millennium Copyright Act (DMCA).

US Entertainment interests have presented each successive innovation in technologies of reproduction as a major threat to their economic viability. As Jack Valenti, the former president of the Motion Picture Association of America, told a congressional panel in 1982, with his trade-mark hyperbole; "*the VCR is to the American film producer and the American public as the Boston strangler is to the woman home alone*" [quoted in (Frankel, 2010)]. When digital video discs (DVDs) emerged as the likely successors to video tape recordings in the mid 1990s, the Hollywood studios were quick to "employ copy protection as they had with the VCR equipping all DVD's with a digital lock that required a software key to unlock, and lobbying for compliance with their devices to have the force of law. This demand was incorporated into the DMCA which made it "illegal to disable or bypass the copy protection on DVD's and other digital media or to traffic in anticircumvention tools. And since 1998, Hollywood has made the locks and held the keys the studios have enjoyed almost complete control over "access to commercial digital media"(Decherney, 2012). This applied not only to consumers but also to companies. If they were not authorised by the studios to use the decryption key DVD's would not play on their machines. Computers running the commercial operating systems developed by Microsoft and Apple were approved users, machines working with the Open Source Linux based operating systems were not. This extension of the traditional reach of copyright

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protection, from contents to technologies, created an additional layer of control; “paracopyright” (Jaszi, 2001).

The DCMA did however introduce a ‘safe harbour’ provision for Online Service Providers (including Internet Service Providers) protecting them from liability for actions by users, providing that they remove offending material (or block access to it) when they are notified of a breach by a copyright holder or their agent. This agreement is open to dispute however. In March 2007, Viacom brought a court case against the file sharing site YouTube, claiming that it was continuing to host unauthorised clips from their entertainment programming. The initial judgment ruled that the site was protected by the ‘safe harbour’ provision, but this was overturned on appeal on the grounds that YouTube knew that users on its site were infringing copyright but had failed to address the issue.

By making any and all attempts to circumvent copy protection illegal however, the DCMA also challenged accepted understandings of fair use. This issue has been addressed by requiring proposals for exemptions to be submitted to the Registrar of Copyrights. They are then opened to public comment and hearings, and if approved, formally issued by the Librarian of Congress whose responsibility it is. In 2010 only six exemptions were approved. The most important allows circumvention of protections on DVDs of commercial motion pictures for; educational uses by film and media studies teachers and students; use in documentary filmmaking and non-commercial video; and incorporating short clips into a new work for the purposes of comment or criticism. However, exemptions only last for three years, after which they have to be resubmitted for consideration with no guarantee of renewal.

3.7. Conclusion

Both of the key provisions embodied in US legislation were incorporated into the final version of the KORUS-FTA. This settlement exemplifies the general trend to TRIPS Plus. In addition there were major concessions on screen quotas and on foreign investment.

In this chapter we have argued that increasing US disillusion with the WTO's two major multilateral fora, TRIPS and GATTs, as vehicles for securing and advancing its interests in the international trading system for information and cultural goods and services, were major factors informing its shift towards Free Trade Agreements with strategic partners, of which the KORUS FTA was the largest at the time it was agreed.

We turn now, in the second part of this thesis to a detailed investigation of the dynamics that informed the Korean government's decision to enter into negotiations, to their assessments of possible advantage, to the deep divisions of opinion their actions provoked, and to the perceived impact of the Agreement on the dominant cultural industry: broadcasting.



**PART TWO:
CHANGING KOREA, CHANGING MEDIA**

Chapter 4

DATA AND METHODS

This Chapter explains the research tools and methodologies adopted within this thesis in order to build a sound foundation for the arguments presented in the previous Chapter. This foundation will serve as a platform in which appropriate analysis methods will be applied in order to verify and justify the empirical findings.

4.1. Sources of Data

This thesis utilizes four main sources of data

- Documentary research.
- Personal observation of World Trade Organization Deliberations.
- Personal interviews with a range of actors, stakeholders and expert commentators in; the international trading system; the Korean broadcasting industry; the Korean copyright system; and the activist community opposed to the KORUS-FTA.
- An on line survey of a cross section of managerial, technical, and creative staff working in the Korean broadcasting industry, based in the capital Seoul.

Documentary Research:

Chapter 4: Data and Methods

In addition to drawing on the full range of secondary literatures, in both English and Korean, in the areas covered by this thesis, the discussion that follows is grounded in an extensive reading of the relevant primary documents prepared and issued by the Korean Government and other agencies representing major stakeholders.

Personal Observation:

In September 2008, I attended the World Trade Organisation meeting in Geneva, Switzerland, observing the deliberations and debates and conducting interviews on and off the record with attendees and participants. The insights gained from this first-hand experience have been invaluable in clarifying key issues and contentions in the area of international trade regimes. I have drawn on this material in the previous chapter.

Personal Interviews:

The discussion and analysis presented here draws on personal interviews conducted with four groups of actors and commentators in five key areas relevant to the thesis.

- Those involved with international trade relations through the World Trade Organisation.
- Executives and creative personnel working in the Korean broadcasting system.
- Personnel working in Korean copyright organisations.
- Activists involved in movements opposed to the terms of the KORUS FTA.

- Leading Korean academic researchers and commentators working in key areas in economics, law, and international relations.

Where possible, and where permission was given, interviews were recorded on audio tape and transcribed. Where permission for full quotation was granted, verbatim extracts appear in the text.

Twenty eight interviews were conducted in total. A full list is provided in Appendix II.

The On-Line Survey of Broadcasting Personnel:

This was the major source of original data. Altogether, 228 staff members working in broadcasting stations in the capital city, Seoul, completed the survey, providing a detailed picture of how personnel in different positions within the broadcasting system and at different stages of their career, saw the changes set in motion by the intersection both by the general processes of digitalisation, marketisation and globalisation, and by the terms of the KORUS FTA.

4.2. Online Surveys: Advantages and Disadvantages

Over the last decade, the Internet has entered into almost every aspect of daily life and professional practice. Research in the social sciences is no exception and online-surveys are rapidly becoming one of the preferred tools in social research (Lazar and Preece, 1999). Most of the acquired knowledge concerning the effective design and use of paper-based surveys translates relatively easily into electronic formats. However, electronic surveys also have distinctive technological and response rate characteristics that affect how they should be

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designed, when they can be used and how they can be implemented (Sohn, 2001). On the other hand, research comparing electronic with postal surveys has shown no substantial differences in the results obtained but has confirmed the advantages of speedy distribution and response cycles arising from electronic delivery (Yun and Trumbo, 2000; Swoboda et al., 1997).

Two major forms of electronic survey have emerged in the last fifteen years. Email based surveys date back to 1986 (Kiesler and Sproull, 1986) while Web-based surveys started in about 1994 (Kehoe et al., 1997). There are several fundamental differences between the two. First web-based surveys offer the ability to automatically verify and store survey responses using database technology and an HTML (hypertext mark-up language) user interface. In contrast, Email surveys and responses, whether embedded directly within an email message or attached as a word processed document, must be manually transferred and entered into storage. Secondly, email is a “push” technology that allows researchers to directly communicate with prospective respondents. Web-based surveys on the other hand, do not provide this option of direct communication.

Five methodological components are critical to successful Web-based surveys. These are (1) survey design, (2) subject privacy and confidentiality, (3) sampling and subject selection, (4) distribution and response management, and, (5) survey piloting (Andrews et al., 2003).

Technically, web-based surveys should be designed to (1) support multiple platforms and browsers (Yun and Trumbo, 2000), (2) prevent multiple submissions (Yun and Trumbo, 2000), (3) have the ability to present questions in a logical or adaptive manner, if needed (Kehoe et al., 1997), (4) provide

multiple opportunities for saving the work in long questionnaires (e.g., over 50 questions) (Smith, 1997), (5) collect both quantified selection option answers and narrative type question answers (Yun and Trumbo, 2000), and, (6) provide a feedback “thank-you” upon completion of the survey (Smith, 1997).

Both email and web-based surveys offer advantages (Andrews et al., 2003). They allow access to large samples cost effectively. Faster turnarounds are possible. There are no answering machines to prevent access to respondents and they can be interactive. The timeframe required to conduct an online survey is relatively short. They are convenient and offer better access to participants. There are also certain other advantages;

- 1) Web-based surveys offer anonymity which can be important when asking questions which have a degree of social sensitivity.
- 2) The participants can be presented with visual and audio stimulus material. This can be advantageous to help respondents better understand the questions in the survey and hence answer them more accurately and fully.

Web-based surveys provide the ability to transfer survey responses directly into a database, eliminating transcription errors. In addition, there are particular advantages associated with web-based surveys that are not offered by email-based surveys.

- 3) They are less confusing. With email-based surveys it has been found that survey completion is dependent upon the email software and on whether the survey is included as part of the email, or as an attached as a document.

- 4) There is need for the respondent to open attachments and hence less chance of response rates being lowered by the suspicion that an attachment may be 'unsafe'.

However, web-based surveys are not without their disadvantages when compared to email-based surveys. They are:

- 1) Not sure who is actually responding.
- 2) Not considered a mainstream research methodology.
- 3) Cannot determine whether a respondent has actually responded to the survey.

Table 4.1 presents a comparison between the two survey methodologies. As can be seen, web-based surveys are more challenging to design and more technically difficult to implement because of these options. However, studies show that those who participate in Web-based surveys may be more experienced, more intense Internet users, and have stronger Internet skill sets than those who do not participate (Kehoe et al., 1997).

The respondents to the survey undertaken for this work were all employed in the broadcasting sector in Korea and were highly skilled internet users. Thus it was both convenient and feasible to design a web-based survey rather than using an e-mail or paper questionnaire format.

Table 4.1: Comparison between Email and Web-based survey methodologies

Design Items	Email	Web-based
Supports multiple platforms and browsers	Yes	Yes
Controls for browser settings	No	No
Prevents multiples submissions automatically	No	Yes
Presents questions in a logical or adaptive manners	No	Yes

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Allows saving responses before completion	No	Yes
Collects open-ended or quantified-option responses	Yes	Yes
Provides automatic feedback with completion	No	Yes
Can apply paper questionnaire design principles	Yes	Yes
Provide automatic transfer of responses to database	No	Yes
Prevents survey alteration	No	Yes
Provides response control and economical displays	No	Yes
Provides researcher control over question presentation	No	Some
Provides for animation, sound, graphics options, etc	No	Yes
Does not require familiarity with survey software	No	Yes
Rapid display to respondent	Yes	Depends
Technical ability to track response source	Yes	No
Technically easy to design and implement	Yes	No

Sample:

In 2001 there were roughly 15,000 people working in the broadcasting sector in South Korea (Korea Press Foundation, 2009). This number has been increasing rapidly since a number of localized, small and medium-sized TV stations are emerging. This survey, however, is focused on employees working at major TV stations based in the capital city, Seoul designed to explore similarities and differences in opinions by gender, age, level of education, experience in the broadcasting sector, total work experience, and job category.

Procedure:

The survey was designed as an online questionnaire using the Bristol Online Surveys (BOS) system which hosts such services for academic purposes. The questionnaire was made available on the website (<http://www.survey.bris.ac.uk/broadcast>) for 14 weeks, from October 5th 2008 to January 14th 2009.

Response Rate:

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A total of 228 respondents visited the website to respond to the questionnaire of whom 224 (N = 224) completed the survey. The online survey system only collected data from respondents who completed the whole questionnaire and left out the incomplete entries hence there was no data missing. However, the website, being based in the United Kingdom and being in English, was unable to display the questionnaire in the Korean language. Hence a Korean version of the questionnaire was also attached in order to help respondents whose English language skills were limited, to understand the questions asked.

Questionnaire design:

The survey questionnaire was designed to explore respondents' perceptions in three broad areas relevant to the present state and future prospects of the broadcasting industry.

The approach is depicted in the diagram shown below in Fig.4.1. As can be seen, the survey begins by asking questions addressing the wider context of changes in the broadcasting industry and then focuses down on issues related to the KORUS-FTA. The seven categories of questions included in the survey are shown in Table 4.2. The first category of questions, from 7 to 15, attempted to find out to what extent respondents agreed or disagreed with the statements related to the state of Korean Broadcasting. The second and third categories of questions, from 16 to 20 and 21 to 24 respectively, asked how digital technology had impacted on the respondent's job and where that impact had been felt. Questions in categories four to seven concentrated on the US led Audiovisual Service Trade Agreement that was ongoing at that time and on the debate on

Intellectual Property Rights. Questions in categories from 1 to 6 had their responses based on a five-point Likert Scale while questions in category 7 used a three point Scale.

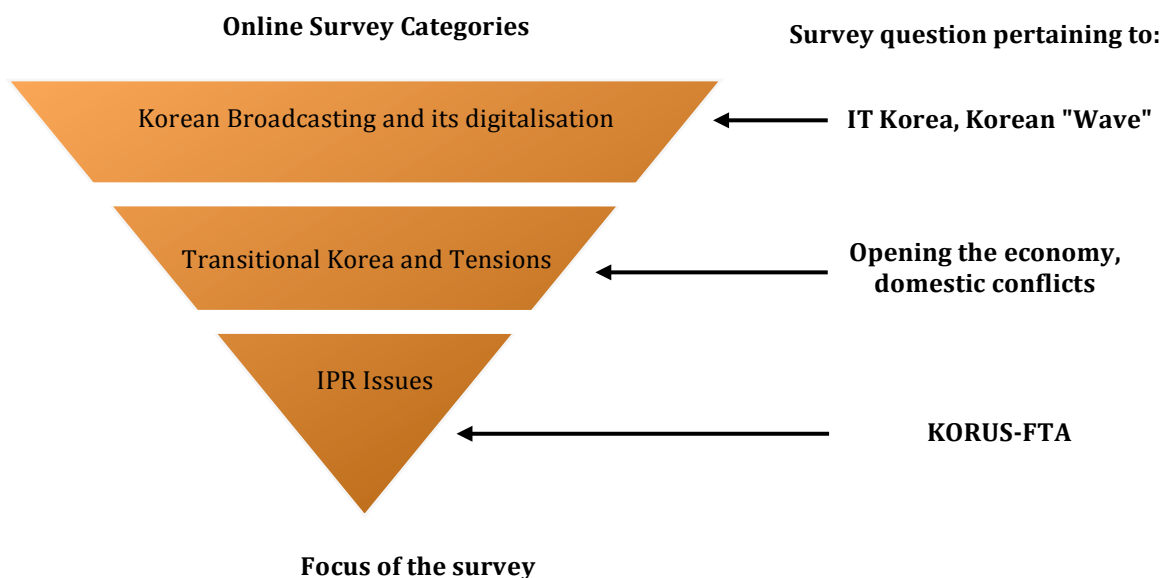


Fig 4.1: Methodology adopted to design the online questionnaire

Table 4.2: Categorization of questions within the survey

Key theme and Category		Sub-category	Question Numbers
Demographic data		Gender, Age, Highest qualification, Current job, Length of current job, Total work experience	1-6
Korean Broadcasting and digitalisation	Category 1	1-1: Korean Broadcasting and digitalisation	7,8,12-15
		1-2: Korean Broadcasting and Contents	9,11
		1-3: Korean Public Service Broadcasting	10,14
	Category 2	Current work and digital technologies	16-20
	Category 3	The impact of digital technologies	21-24
Transitional Korea and tensions	Category 4	4-1: Awareness of FTA	25, 29

		4-2: Opinion on the Korean government and FTA	26-28	
		4-3: Regulation of foreign interests	30	
	Category 5	5-1: The future of Audiovisual service trade	31,32	
		5-2: Foreign contents quota/ownership/privatization	33-35	
		5-3: The effectiveness of national regulation	36	
	Issues of Intellectual Property Rights	Category 6	6-1: Protection of IPR	37,38,40,42
			6-2: US Copyrights	39
6-3: The effectiveness of DRM			41,43	
6-4: Sharing copyrighted materials between users to build audiences			44	
Category 7.		Awareness of IPR law and regulation	45-57	

4.3. Survey Analysis Tools

The survey results were analysed using various analysis tools in order to verify the empirical findings and the hypotheses proposed. The tools chosen were dependent on the type of data obtained and the way in which the results were to be presented. Some of the tools included cross-tabulation, Chi-square tests and Cluster analysis. These analysis tools were executed on the popular Statistical Analysis software, SPSS version 17.0.

The following paragraphs give a brief description of the analysis tools mentioned above.

Cross-tabulation:

Cross-tabulation is one of the most useful analytical tools, widely used in a number of areas such as market research, survey research, business intelligence, engineering and scientific research. Cross-tabulation analysis, also known as

contingency table analysis, is most often used to analyze categorical (nominal measurement scale) data. A cross-tabulation is a two (or more) dimensional table that records the number (frequency) of respondents that have the specific characteristics described in the cells of the table. Cross-tabulation tables provide a wealth of information about the relationship between the variables. Basically, they provide an insight into the nature of interrelation between two variables and the interactions between them.

Chi-square (χ^2) Test:

The Chi-square, which can be used to test differences between two or more actual samples, can help to explore whether there are significant differences (not attributable to sampling error). The sampling error could be termed as the null hypothesis. The computed chi-square value would be compared with a table of significance to test whether the value is large enough to conclude that the difference between the groups is not likely to have been a chance finding.

Hierarchical Cluster Analysis:

Cluster analysis identifies groups of samples that behave similarly or show similar characteristics. In common parlance it is also called look-a-like groups. The groups could be collected together as “clusters” on the basis of common characteristics such as attitudes, viewpoint, purchase propensities, media habits, and so on. There are numerous ways in which clusters can be formed. Hierarchical clustering is one of the most straightforward. The method employed in this work is termed agglomerative clustering. This begins with every case being a cluster unto itself. At successive steps, similar clusters are merged. The

algorithm ends when all the cases are in one cluster. To form clusters using a hierarchical cluster analysis, it is important to select:

1. A criterion for determining similarity or distance between cases
2. A criterion for determining which clusters are merged at successive steps

The number of clusters needed to represent the data. A hierarchical cluster is usually depicted as a *dendrogram*, a tree-structured representation that depicts how individual cases are successively combined together to form clusters. A dendrogram would usually represent three pieces of information. They are:

- Weight - the rough percentage of all individuals that fall within each cluster.
- Compactness - how similar to one another the elements of a cluster are.
- Distinctness - how different one cluster is from its closest neighbour.

A simplified dendrogram is depicted in Fig. 4.2, which points out the factors mentioned above.

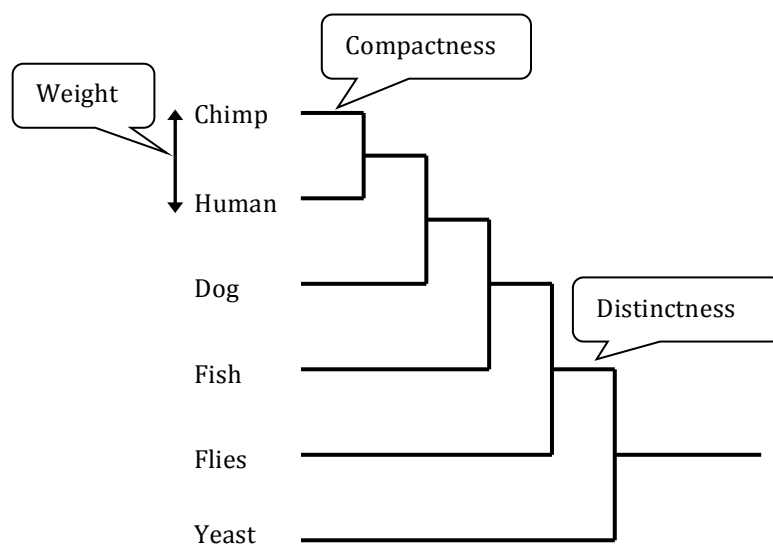


Fig. 4.2: A simple dendrogram

4.4. Summary

The analysis presented in the chapters that follows draws on a multi-method approach. I have chosen to focus particularly on the Broadcasting industry since it has been at epicentre of the changes set in motion by successive governments'

pursuit of digitalisation and marketisation and an enhanced position within the new global trading arena. On the one hand, the export success of Korean popular television programmes has been held up as exemplary instances of the 'Korean Wave'. On the other hand, increased market competition within Korea coupled with the terms of the KORUS FTA has reinforced fears of American cultural domination.

An on-line survey was selected as the most effective way to map opinions and responses across a cross -section of employees working in the Korean broadcasting industry, and to allow for systematic comparisons of similarities and differences in stances and views by age, gender, job type, and career stage. The high completion rate confirms the value of this approach. At the same time, because innovations in broadcasting have been shaped by more general processes of change and the reactions to them it is essential to contextualise them by detailing these wider shifts. In doing this I have drawn not only on the full range of available primary and secondary literature but on personal interviews with a range of observers, activists and stakeholders. Their recounted experiences and observations have been an indispensable resource both in grounding general trends and suggesting lines of interpretation.

Chapter 5

RECONSTRUCTIONS : DIGITAL AMBITIONS AND BROADCASTING FUTURES

The watershed moment in the reconstruction of the post-war Korean economy came with the economic crisis of and the requirements placed on the Korean government as a condition of the International Monetary Fund's intervention to stabilise the situation. This forced reconstruction had two major impacts. Firstly, it accelerated and extended the trend towards marketisation which was already underway. Secondly, it reinforced a growing unease in government with the country's historic reliance on heavy industry and lent additional weight to arguments that the country's economic future required it to become an 'information society' organised around a state-of the-art digital infrastructure and increased capacity in information and cultural production.

After a brief survey of the crisis and its immediate aftermath, the second part of this chapter details successive moves to develop an 'information society' based on advanced digital technologies and a reformed telecommunications system. The third section then turns to the central role of broadcasting.

Broadcasting was pivotal to the process of reconstruction. Not only was it a major test-bed for innovations in digital technologies which reached into the heart of everyday life, and a source of content for new digital devices, it was also, together with the film and music industries, the spearhead of the 'Korean Wave',

a concerted initiative to increase the presence of Korean popular culture in overseas markets.

5.1. Crisis and Restructuring

Prompted by U.S. pressure, the Kim Youngsam government increasingly embraced neo-liberal policies. This shift exacerbated underlying structural problems of economic concentration, debt and mismanagement, which finally culminated in the economic crisis of 1997 (Gills, 2000; Park, 2004).

In the first half of 1997, the economic crisis, which began as a problem of corporate and financial insolvency became more apparent in a series of financial difficulties and bankruptcies that affected the country's leading companies-the *Chaebols*. Korea's foreign debt increased from 43.9 billion dollars in 1993 to 153 billion dollars in 1997. In 1997, foreign reserves held by the central bank were less than 8 billion dollars (Moon and Kim, 2000).

As soon as foreign capital investors perceived the *Chaebol's* difficulties, they began to withdraw their loans. In addition, as shown in Table 5.1, Korea held a large proportion of short-term debt. From 1994, the growth rate of short-term debt increased from 3.8 percent in 1993 to 58.3 percent in 1994 so that the short-term debt exceeded the long-term debt. Finally, the Korean government faced a foreign exchange crisis in late 1997.

On December 3, 1997, the Kim Youngsam government and the IMF (International Monetary Fund) reached an agreement on the terms and conditions of financial assistance. The IMF bailout demanded that the Kim Daejung government implement comprehensive economic restructuring and embrace tight monetary and fiscal policy, financial and corporate sector reform,

trade liberalization and changes in the labour market to increase flexibility. At the same time, the crisis reinforced the growing sense in official circles that the economy needed reduce its reliance on traditional industries and establish a strong presence in the sectors central to the perceived transition from 'industrial' to information' or 'digital' capitalism.

Table 5.1:Trends in Short and Long-Term Foreign Debt (1992-1997) (Unit: Percent)

	1992	1993	1994	1995	1996	1997
Long-Term Debt	56.8	56.3	46.6	42.2	41.7	42.4
Growth Rate	11.0	1.6	7.3	24.9	32.0	17.2
Short-Term Debt	43.2	43.7	53.4	57.8	58.3	57.6
Growth Rate	7.6	3.8	58.3	49.0	34.7	14.1

* Source: Korea Development Institute, 1999: 7.

5.2. Digital Ambitions

For most of the post war period, Korea, lacking natural resources of its own, was heavily dependent on the import of raw materials while industrial growth was export-oriented (OECD, 2000). Successive governments decided which industry to boost. The Park Chunghee government initially promoted light industries based on low-wage labour and financial subsidies. This was followed by a Five-Year Economic Plans fostering heavy and chemical industries(Haggard and Moon, 1990). These initiatives met with considerable success and South Korea rapidly advanced up the league table of developing countries on the basis of its iron, steel, shipbuilding, chemical production

As the economy grew however, technological dependence on advanced countries also increased with most of the machines in industrial plants imported from Japan (Bullard et al., 1998). However this situation changed in the mid

1990s. Firstly, the 'globalisation' policies initiated by the Kim Youngsam Government succeeded in enhancing the international competitiveness of the Korean economy reducing the dependence on Japanese and US based sources. Secondly, the financial crisis of 1997 strengthened the government view that investment in advanced information technologies was central both to economic recovery in the immediate term and continued growth in the longer term.

The Korean government was confident that a 'knowledge-based information society' based on state-of-the-art digital technology would revitalise the economy and enable Korea to become a world leader in Information Technology. This conviction was reinforced by two developments among potential competitors. Firstly, emerging economies, led by China, were taking up a progressively larger share of the global market in the low-end IT technology sector, strengthening the argument that Korea needed to focus on cutting edge innovation. Secondly, other advanced capitalist economies were all making concerted efforts to maintain their own competitive edge in the high-end IT sector. In response to these developments goals the Korean government embarked on an ambitious plan to devise frameworks and strategies to promote digitalisation.

The first framework, the Act on Information Promotion was passed in August 1995 followed by the creation of Korea's first Master Plan for Information Promotion in June 1996 which focused on creating an information society within Korea by the year 2010. But the most ambitious initiative, 'Cyber Korea 21' was launched in March 1999 as a blueprint for a new information society for the 21st century that would form the basis for transformation to a knowledge-based society.

Chapter 5: Reconstructions: Digital Ambitions and Broadcasting Futures

Following the generally favourable reception of *Cyber Korea 21*, the government launched a second blueprint 'e-Korea Vision 2006' in 2002 laying out guidelines, particularly for upgrading the country's information structure and strengthening the information capacity of government institutions and public organizations. Major additional moves towards digitalisation followed.

In February 2004, the 'IT 839 strategy' (often called ubiquitous-IT9-3-9, or u-IT 839) was launched in the early days of the RohMoohyun Government (Feb, 2004) amid deepening concerns over the decreased growth potential of the Korean economy (Ministry of Information and Communication 2005). It set out to present a new strategic vision for the IT industry with the aim of achieving an annual income per capita of USD 20,000. Nine new major IT growth engines, covering both hardware and software areas were designated in March 2003 based on 50 promising next-generation items listed in the Comprehensive IT industry Development Plan drawn up at the end of 2002. Based on this general mapping of future potentials, a development vision and strategy was established for each sector. The Broadband IT Korea Strategy was confirmed in August 2003. The previous "Broadband Convergence Network +9 major new growth engines" development model was expanded and systemized into 8 major services and 3 infrastructures, based on the IT industry value chain, hence the name 'IT 839'.

The IT 839 Strategy which was upgraded to 'u-IT 839' by the Ministry of Information and Communication (MIC) in 2006 included three adjustments to the Information and Communication Technology (ICT) infrastructure. They were the Broadband Convergence Network (BcN), the Ubiquitous Sensor Network (USN) and the deployment of next generation Internet Protocol (IPv6). The BcN, a next generation network, was planned to provide broadband services with

high-quality video and customised Internet content throughout the country while the u-Sensor network was intended to accelerate the adoption of U-life in the day-to-day lives of Koreans.

This was quickly followed by a 3rd Master Plan, 'Broadband IT Korea Vision 2007', outlining the country's strategy for Information Promotion and suggesting an amendment to the Act of Information Promotion which was enacted in 2006².

As Table 5.1 shows, between 2000 and 2005 the share of total GDP accounted for by the IT sector increased by over 50%, from 9.5% to 15%.

Table 5.2: IT Industry's share of GDP and growth contribution ratio*

	2000	2001	2002	2003	2004	2005
Share of GDP	9.5	10.1	11.1	12.3	13.8	15.0
Growth Contribution ratio (%)	32.1	25.2	26.3	51.3	42.6	46.5

* Source : Korea Information Strategy Development Institute (KISDI), Bank of Korea

In the area of electronics, there were a series of key developments: broadband integrated service digital networks, High-Definition television, and advanced manufacturing systems (World Technology Evaluation Centre, 1997). As a result of the cooperation between the government and electronic companies, the world's first chipset used to receive High Definition TV signals and the Code Division Multiple Access standard for mobile telecommunication brought new technology to mobile users(Lee and Lim, 2001)³. In a very short time, Korea became the first country in the world to commercialise Code Division Multiple

² Telecommunications Business Act, Software Development Promotion Act, Computer Program Protection Act, Information and Communications Work Business Act, The Act on Promotion of Information & Communication Network Utilization and Information Protection, etc.

³ According to Lee and Lim, they divided the catching-up process into three types : a path following catching-up, a stage-skipping catching-up, and a path-creating catching-up. The development of the Code Division Multiple Access mobile phone is one of the most successful cases of path-creating catching-up and leapfrogging, which means a shorter but riskier path.

Access technology in mobile phones and in 2001, Korea was the first country in Asia where mobile phone subscribers outnumbered fixed-line customers (Korea Times, 2001).

Following the roll-out of the Broadband Convergence Network (BcN), the previously separated sectors of telecommunications, the Internet and broadcasting became increasingly integrated both technologically, with seamless switching between wired and wireless connections, and institutionally with the formation of a new of a new regulatory body, the Korean Communication Commission (KCC) covering both telecommunications and broadcasting, sector with very different histories of relations to state oversight and market dynamics.

5.3. Reconstructions : Telecommunications and Broadcasting

The government initiated structural reforms in the telecommunications market July in 1990 in response to the rapidly changing environment in the telecommunication sectors and in the expectation that a competitive market would provide more value-added services (KISDI, 2001; Yun et al., 2002). The two major telecommunications business sectors, then known as Korea Telecom, DACOM, and Korea Mobile Telecommunications (now SK Telecom) were liberalised considerably expanding the range of available voice, data, and mobile telecommunications services. As Chang pointed out, the move was a direct result of the monopoly of the market structure by Korea Telecom (KT) coupled with the push from external pressure, such as the agreement of 'Negotiating Group on Basic Telecommunications' (Chang, 1998).

The early 1990s also saw the marketisation of the Korean broadcasting environment. The first terrestrial commercial channel SBS was launched in 1991,

followed by the arrival of cable services. The basis was laid in 1991 with the implementation of a global standard under the Composite Cable Broadcasting Act. By 1993 cable was reaching 4.5 million homes but the financial crisis of 1997 saw many local operators closing down or merging with larger enterprises(Lee, 2002). The 1997 crisis, and reactions to it however, also prompted a significant shift in the governance of broadcasting.

South Korean broadcasting has more often served the interests of those in power than the public, as historically it was controlled by successive authoritarian governments and used for propaganda. Initial efforts to modify existing Broadcasting Acts, to make way for a more democratic and independent Broadcasting Commission, became one of the centres of controversy after the Kim Youngsam led civilian government (*Mun-Min Jeongbu*), had taken over power from the military oligarchy. The proposals prompted a huge political debate (Park, 2004) as a result of which the issues remained unresolved and were inherited by the incoming president, Kim Daejung, head of the so self-styled "People's Government".

The election of Kim Daejung was the first time in Korean history that the ruling party had peacefully transferred power to a democratically elected opposition victor. But he took office in the aftermath of the financial crisis of 1997 and IMF bail-out. One significant strand in the response was a concerted effort to attract foreign investment in all sectors including the media. To facilitate these inwards flows, existing media policies were modified and some new ones proposed to accommodate foreign investors. They included the Foreign Investment Promotion Law and the Broadcasting Law(KERI, 2001).

Subsequently many media companies such as News Corporation, owned by Rupert Murdoch, expressed their interest in investing in the Korean media sector.

As expected, local media companies objected to this move though non-government organizations and academia generally supported it, albeit from different motives. In Parliament, the opposition party disagreed with the ruling party on this new proposal and expressed doubts about the intentions behind the Commission for Broadcasting Reform, which had been established by the government to oversee change (Lee, 2012). Broadcasting labour unions were also opposed and announced the possibility of strikes if the government did not withdraw the proposal immediately.

The vociferous opposition forced the government to postpone the enactment of the Integrated Broadcasting Act by five years. In addition, there was a public debate on the impact that this Act and the arrival of foreign satellite broadcasting companies could have on various Korean media (Lee, 2012). A majority of public opinion felt that the deal would threaten both Korean culture and the nation's broadcasting infrastructure. But finally, the Kim Daejung government prevailed, the Act was passed in 1999, and the Korean Broadcasting Commission was established in 2002 (Kim, 2002).

In response to widespread national sentiment against foreign capital investment(KERI, 2001) foreign investment was capped at 33%, while local conglomerates and press companies were allowed to enter the Satellite Broadcasting market(Korea Information Society Development Institute, 2011).

5.4 Digital Convergence: KBC to KCC

The Korean Broadcasting Commission (KBC) established under the Integrated Broadcasting Act of 2002 followed the model of independent regulation established by the Federal Communications Commission (FCC) in the United States. The KBC was given unprecedented powers of oversight. These covered administrative powers as well as proportionate legislation and jurisdiction (Kim, 2003), including the right to evaluate and approve a license holder. But arguably the core of the KBC's powers were economic and centered on its control over the 'broadcasting development fund' and the charges it levied on the terrestrial, cable, satellites service providers. These were generally up to a maximum of 6% of their annual profit, but under article 22-1 in the New Broadcasting Law of 2000 the home-shopping business was charged a much higher rate.

Since the KBC was formerly independent of the government however, it was generally seen as a symbol of democratization in the broadcasting sector. The broadcasting development fund was also utilized to develop public services such as professional and amateur independent productions, research & development of broadcasting technology, upgrades of access rights for disabled audiences, as well as cultural and arts promotion. Not surprisingly, the extensive powers granted to the KBC attracted criticism from interested parties effected by decisions. There were accusations that the distribution of investment and expenses was unfair and that the management was not efficient and transparent (Lee, 2008a). In the event, the KBC only operated as a separate entity for three terms, after which it was merged with the authorities responsible for overseeing the telecommunications industry to form a new, comprehensive regulatory

agency, which was named the Korea Communication Commission (KCC) in February 2008⁴.

While members of both organizations agreed that an organization equivalent to the FCC in the United States was necessary in an increasingly converged communications environment, its final establishment was a long-winded process due to disagreements about the scope of its responsibilities. Dr. Choi, a Professor of economics, suggested in an article that the Government intervene and propose a set of 'guiding principles', exercise 'strong will' with regards to the formation of policy (9th Broadcasting and telecommunication forum, 15 February 2005), and push for an early formation of the organization. Others went further, arguing that the KCC must take responsibility for five main issues related to media policy namely, universal service, and fair competition, guarantees of diversity, balanced development, and global competitive power. These five issues formed the basis of the initial idea that led to the formation of the KCC(Kim and Park, 2011).

However, convergence remained a controversial issue due to the different expectations surrounding the hardware industries on the one hand and the content industries on the other. Telecommunications was seen as primarily an infrastructural system, providing state-of-the-art information and network technologies for the delivery of business and consumer services. Broadcasting in contrast, was seen as central to the maintenance and promotion of national culture and therefore as a special case, an 'exception', to be nurtured and protected by quotas and other measures.

⁴The Ministry of Information and Communication (MIC) was dissolved on 29 February 2008 and was broken up into the Ministry of Knowledge Economy (MKC), the Ministry of Public Administration and Security(MPAS), the Ministry of Culture, Sports and Tourism(MCST) and Korea Communication Commission(KCC).

At the same time, the new markets for programming opening up as a result of marketisation, both within Korea and across East Asia also repositioned broadcasting as a central 'creative industry' with considerable potential both for domestic income generation export earnings.

5.5 Capitalising on Culture: The Rise of the 'Korean Wave'

From the outset, the prime time schedule of SBS, the first commercial channel, was dominated by fiction and entertainment and by the 1994-5 season these categories made up 74% of its output. In contrast, the main channel of the public service KBS system was still devoting 42% of its output to information programming although this figure dropped sharply to 12% on the second KBS channel which responded to competition from the new commercial operators by matching their schedule profile(Lee, 1997).

The expanded demand for popular fiction and entertainment prompted a rapid rise in imported programming. In 1994, Korea had bought \$19.86 worth of imported material. By the end of 1995 this figure had increased to \$42.82 (Shim, 2006). This pattern of increasing imports was repeated in the film industry as a consequence of deregulation. In 1988, under pressure from the Hollywood majors, the Government had abolished the monopoly on importing and distributing overseas movies previously enjoyed by domestic firms and allowed US companies into the Korean market. The impact was immediate with Hollywood's share of the local market rising from 53% in 1987 to 80% in 1994. At the same time, annual domestic film production fell from 121 in 1991 to 63 in 1994 (Shim, 2006).

The Government intervened to boost local production. In 1994 a dedicated Culture Industry Bureau was established within the Ministry of Culture and Sports and the following year the Motion Picture Promotion Law was passed in the hope of attracting investment into the film industry. The underlying aim, promoted under the banner of 'Learning from Hollywood', was a continuation of the familiar strategy of creating home-grown conglomerates with the market power to compete effectively against US majors in both domestic and overseas markets. Some of the leading *Chaebols*, including Samsung, Hyundai and Daewoo, did move into media production but their participation ended with the 1997 financial crisis. They did however leave behind a much efficiency organised production and marketing system and a pool of young technical, creative and managerial talent.

The financial vacuum left by the migration of the *Chaebols* was filled in the film industry by venture capitalists who saw a new field for investment. Their positive assessment of its potential was confirmed in 1999 when the domestic thriller *Shiri* outstripped the record for cinema audiences previously held by *Titanic*, and earned KBB Capital a return of more than 300% on their original investment. This success was part of a more general shift in audience loyalties. In 1996 foreign, mostly American, films accounted for over three quarters (77%) of all cinema admissions. By 2003, this figure had dropped to less than a half (46.5%) (Jonghoe, 2007). Nor were returns confined to the domestic market. It was clear that there were expanding opportunities for export earnings. But it was in the broadcasting sector, where new markets were being opened up by the rapid commercialisation of television systems across East Asia, including China, where the potential for overseas sales was most extensive.

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In 1997 the 55 episode family drama, *What on Earth is Love?* attracted huge audiences when it was broadcast on China's national channel (CCTV) signalling for many commentators the rise of a new surge of specifically Asian production quickly dubbed the 'Korean Wave' (*Hallyu* or *Hanryu*). Its success lent weight to Joe Straubhauer's notion of 'cultural proximity' (introduced in chapter 2) and his argument that when given the choice, audiences prefer to watch dramas that feature people like themselves within familiar and resonant cultural contexts, in this case a context strongly informed by Confucian values. This position was forcefully reiterated in 2002, by the Japanese analysts Koichi Iwabuchi, who argued that "*For audiences in East Asia, Japanese popular culture represents a common experience of modernity in the region that is based on ...non-West experiences that American culture cannot represent*" [quoted in (Dator and Seo, 2004)]. Arguably however, Korea had the additional advantage of not carrying the legacy of colonial rule and war time aggression (Jung, 2009). This legacy was still raw. It was not until 1998 for example, that Japanese culture was allowed back into Korea.

In 2003 the historic pattern of domination/subjection that had characterised Japan-Korea cultural relations was symbolically reversed when the Korean produced popular drama, *Winter Sonata*, recounting the romantic and career lives four young people, was aired by Japan's national public broadcaster, NHK, and "received a spectacular 20.6 percent programme rating" (Jung, 2009). Korea's increasingly visibility in the Japanese market, coupled with earnings from other East Asian societies and from channels serving Korean diasporic communities generated television exports earnings of US\$ 37.5 by the end of 2003, triple the sum of US\$12.7 for 1999 (Shim, 2006). *Winter Sonata's* success

also confirmed the potential for successful cultural ‘properties’ to generate lucrative ancillary and spin-off products and services. In addition to the range of merchandise based on the show and its male lead, Bae Yong-jun fans wanting to visit the Korean locations gave a major boost to tourism (Lin and Huang, 2008).

The other visible signal of Korea’s arrival as a significant force in the Asian cultural industries was the rise of Korean pop music; K-Pop. In 1992, a vocal group of three teenage boys, ‘Seo Taiji and the Boys’, combined US rap music with other styles, dressed in baggy jeans and baseball caps, and danced while they sang. Their new and distinctive hybrid style was an immediate hit and started a ‘Korean Wave’ in popular music. In 1998 the boy band *H.O.T* (‘High Five of Teenagers’) topped the pop charts in both China and Taiwan and in 2002, the debut album of the girl singer, *BoA*, reached the number one spot in Japan’s major chart. K-pop also fed back into broadcasting with performers moving into acting. In 2004, the TV drama, *Full House*, starring the male singer Rain, became one of the most successful programme exports (Russell, 2012).

Prompted by these successes, concern with the cultural industries moved up the policy agenda, but as Nissin Otmazgin points out, whereas Governments had taken a proactive lead in intervening to develop Korea’s digital infrastructure responses in the area of content were largely reactive, “shaped by the performance of the private sector” (Otmazgin, 2011) and designed give private firms an added boost.

In an effort to capitalise on the growing international reach of Korean Wave the President, Kim Dae Jung (who presented himself as ‘President of Culture’) had allocated \$148.5 to cultural promotion under the auspices of the Basic Law for the Cultural Industry Promotion passed in 1999. Two years later, in 2001,

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The Korean Creative Content Agency (KOCCA) was established to improve the economic and technological bases of cultural production and export. In 2005 the Ministry of Culture and Tourism (which is responsible for cultural policy) announced that it was collaborating with selected universities to develop graduate teaching in cultural technologies and cultural industries. At the same time, cultural policy remained closely aligned with digital policy. In the same year 2005 the Ministry of Information and Communication (which is mainly concerned with technological infrastructure) announced a major tranche of investment designed to make Korea “one of the world’s top five digital content providers by 2010” (Otmazgin, 2011). It specifically earmarked the games industry as the key to achieving this goal a focus that aimed to build on the industry’s already significant contribution. In 2005, although it accounted for only 16.0% of total cultural industry sales, just below broadcasting at 16.1% , it was by some margin, the major contributor to export sales, accounting for 45.7% as against the broadcasting sector’s 9.9% (Jonghoe, 2007).

The success of the Korean wave and the Korean government’s investments were widely seen as a model for other East Asian government to follow. In February 2005, in Taiwan for example, the newly appointed President, Frank Hsieh gave a major speech noting that:

“Our neighbouring countries in Asia have put the audiovisual industry as key item in national development. Their governments are sparing no efforts in promoting this industry. The achievement of Korea is the most impressive. Korea’s audiovisual industry, together with her electronics industry, are two pillars in Korea’ economy. Korea’s success has given us the implication that we should pursue the creative industries”.(Lin, 2011)

Within Korea however, the cultural industries' increasing overseas success, was attracting mixed reactions. Following Keehyeung Lee (Lee, 2008b), we can identify three basic stances; neo-liberal market oriented thinking, cultural nationalism, and critique. The market discourse, which emphasized the double benefits of cultural exports, in generating overseas earnings and enhancing the country's image abroad, received strong backing from government and the business community and constituted itself as the dominant position. The cultural nationalists were also supportive, seeing the Korean Wave as displaying the country's cultural power and restoring national pride. In contrast, critics argued that Korea's cultural success had been bought at the price of capitulating to US cultural domination. As one put it, "*the Korean wave is the embodiment of the West penetrating our bodies*"(Hae-Joang, 2005). They could point to the case of *Dragon War*, the most expensive production in the history of Korean film making, released in 2007. Though based on a traditional Korean legend "*It was filmed mostly in the United States, featuring American actors and actresses who speak in English*"(Jonghoe, 2007).

5.6 Conclusion

As we shall see, these conflicting positions were reproduced in the arguments around the KORUS-FTA, with the Korean government and liberal economists promoting the economic gains from the opening up of the US market for Korean production , including cultural production, and critics expressing fears that the Agreement would erode national cultural sovereignty and perpetuate and strengthen cultural imperialism. But before we examine these positions in more detail, as they were played out on the one hand among key stakeholders and the

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public at large, and on the other among professional broadcasters, we need to trace the institutional career of the KORUS FTA.

Chapter 6

THE KORUS-FTA: KEY PROVISIONS

This chapter outlines the KORUS-FTA and the conditions that led up to its signing. Provisions within the KORUS-FTA that have a direct impact on the audiovisual sector and intellectual property rights within the Korean economy are discussed in detail. An attempt is made to analyse the degree of impact and possible repercussions. A number of pertinent questions are also raised in the light of the opinions recorded, the answers to which are probed in the subsequent chapter.

6.1. The Path to KORUS-FTA

As discussed earlier there was a near-collapse of the Korean economy in 1997. The IMF introduced a stimulus package on the condition that Korea brings in sweeping market reforms. These economic reforms resulted in an influx of foreign investors and foreign direct investment (FDI) worth billions of dollars. American companies were among the major players in almost all sectors of this new liberalized economy and according to the CRS Report for Congress (Manyin and Cooper, 2006), accounted for an estimated 40% of the total value of the shares traded on South Korea's stock exchange.

With the Korean economy opening up, investors from countries, including China and Japan, also started showing a keen interest. Consequently, during the period from 2001-2007, there was a marked reduction in the Korean economy's dependence on US investors. According to (Lee and Kim, 2011), the bilateral trade volume as a share of Korea's GDP decreased from 11.9% in 2001 to 8.6% in

2007. At the same time, China started playing a more significant role in the Korean economy and as a result, the volume of trade went up four fold. China became both Korea's largest trading partner and the most favoured destination for Korean FDI.

These developments reinforced the emerging concern among American economists and observers over the increased control that China was exercising over the Korean economy and ultimately over the entire region. US administrators were also concerned about Korea's growing independence from the US in all sectors, including defense and the economy. To address this situation the US proposed a number of free trade agreements (FTAs) that promised incentives designed to win back the position that they had in the Korean economy prior to 2001 (Manyin and Cooper, 2006). In addition, an FTA would hand the US two important advantages: an institutional presence in East Asia and encouragement to other countries to enter into similar arrangements with the US. According to Claude Barfield of the American Enterprise Institute (Manyin and Cooper, 2006), such an agreement would generate a "domino effect" that would persuade other countries in the region, most notably Japan, to enter into similar arrangements with the US.

On 9th September 2005, the US administration drew up a list of priority foreign countries (PFCs) with which it would start FTA negotiations. The list included Korea. Although the US perceived securing an FTA with Korea as a strategic advantage it was not prepared to enter into an agreement that weakened its economic position. Consequently, it set out a number of preliminary conditions that needed to be resolved before any talks could begin and was emphatic that unless Korea offered acceptable concessions, there would

be no FTA. These conditions were related to (i) import of US beef, (ii) screen quotas for American films, (iii) elimination import tariffs and domestic taxes on American automobiles, and (iv) a host of issues related to the Korean pharmaceutical industry (Lee, 2009).

Predictably, there was vociferous opposition to the stance adopted by the US. The opposition camp included not just political opponents of the government but also interest groups, prominent economists as well as the common public (conflicting views among different elite groups and among the general public will be examined in more detail in the next Chapter).

This atmosphere of anti-Americanism was however largely ignored by the Korean government which already had drawn up a roadmap in 2003 that included a possibility of entering into a free trade agreement with the US. In 2005, after a preliminary review, the trade ministries of both countries held six rounds of talks on the best way to advance the project. Some of these discussions took place during the OECD in May and the APEC in June the same year. Table 6.1 depicts a timeline for the series of talks held regarding the KORUS-FTA.

Table 6.1: Rounds of negotiations for the KORUS-FTA*

Negotiation Rounds	Opened	Closed	Location
1	June 5, 2006	June 9, 2006	Washington DC, USA
2	July 10, 2006	July 14, 2006	Seoul, Korea
3	September 5, 2006	September 9, 2006	Seattle, USA
4	October 23, 2006	October 27, 2006	Jeju, Korea
5	December 4, 2006	December 8, 2006	Montana, USA
6	January 15, 2007	January 19, 2007	Seoul, Korea
7	February 11, 2007	February 14, 2007	Washington DC, USA
8	March 8, 2007	March 12, 2007	Seoul, Korea

*Hong, 2007, p.72, ROK-USA FTA and ROK Choices: Beyond Liberalism

The KORUS-FTA was officially signed in June 2007 and in September 2007, its draft was submitted to the Korean National Assembly for ratification wherein it was finally ratified in November 2011.

6.2. Main features of the KORUS-FTA

The US entered into this agreement with a number of objectives (Vaver, 2006). To satisfy these objectives, a number of provisions were agreed upon which are outlined in several annexes (Manyin and Cooper, 2006). For any FTA, the US adopts a framework that follows the North American Free Trade Agreement (NAFTA) negotiated in 1992–93. The issues covered under NAFTA include:

- Trade in goods;
- Customs matters, rules of origin, and enforcement cooperation;
- Sanitary and phytosanitary measures;
- Technical barriers to trade (TBT);
- Intellectual property rights;
- Trade in services;
- Investment;
- Electronic commerce;
- Government procurement;
- Transparency, anticorruption, and regulatory reform;
- Competition;
- Trade remedies;
- Environment;
- Labor; and
- State-to-state dispute settlement.

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In addition to these, the Korean government also agreed to include agriculture in the pact, including reinstatement of imports of certain types of U.S. beef, and to liberalize screen quotas by cutting in half the number of days on which movie theaters must show domestic films (Vaver, 2006). These were, in fact, pre-conditions set down by the US for FTA talks to commence.

Within the context of this thesis, three issues are relevant. They are related to audio-visual services, telecommunications and intellectual property rights. Stern and Kozo outlined the provisions related to the above sectors as follows:

- Korea agreed to make significant improvements concerning treatment of broadcasting and audiovisual services, including by allowing within three years 100 percent foreign ownership of program providers by U.S. firms, reducing quotas on animation and film, increasing allowable content from a single country, and locking in current content quotas in other areas.
- An Open and Competitive Telecommunications Market—Korea committed to permit U.S. controlled companies to own 100 percent of Korean phone companies, up from a current cap of 49 percent, within two years. The agreement requires the parties to ensure access to telecommunications services. In addition, the agreement requires the parties to ensure that dominant phone companies provide cost-based interconnection and access to essential facilities, including submarine cable landing stations. The agreement also establishes groundbreaking provisions to safeguard operators' technology choices, particularly in wireless technologies, where U.S. service and equipment suppliers have strong competitive advantages.

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- **Greater Protection for Intellectual Property Rights**—The agreement provides standards for protection and enforcement of a broad range of intellectual property rights, including trademarks, copyrights, and patents, which are consistent with U.S. standards and will provide effective protection and enforcement for emerging technologies.

As is clear from the above provisions, it was Korea that was willing to either modify its existing framework or to disregard them in order to accommodate US-made regulations. Details of the changes agreed upon within each of the above-listed sectors are discussed in the following sections.

6.2.1. Telecommunications

The FTA contains a number of commitments on behalf of Korea that will ensure that U.S. companies have much greater access to the Korean telecommunications market. Regarding limitations on shareholding by overseas interests in facilities-based telecommunications service providers, Korea and the U.S. have agreed on maintaining the current 49% ceiling in direct investments, but allowing up to 100% in indirect investments providing a legal entity that is established in Korea. However, KT and SKT are exceptions to this commitment, and in both companies the direct investment limitation remains at 49%. It will also ensure non-discriminatory cost-based access for U.S. companies to Korea's public telecommunications network, including submarine cable landing stations and new safeguards to help protect technology choice.

It also contains certain obligations for all telecommunications suppliers, including cost-oriented interconnection, dialling parity, competitive safeguards, and resale. These obligations pertain to those areas that are critical for the

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provision of cross-border telecommunications services. The FTA requires Korea to ensure transparency with respect to regulatory processes applicable to the telecom sector, including a commitment that its regulatory body is separate from, and not accountable to, any supplier of public telecommunications services, and that it does not hold a financial interest or operating or management role in any supplier.

Korea and the US also agreed to eliminate tariffs on all IT products, tariffs imposed on 32 (5.8%) products in Korea and 37 (7.3%) products in the U.S are to be gradually abolished in phases of three, five, and ten years.

The KORUS-FTA also demands a relaxation of Korean IPTV regulations for content scheduling, and commercial presence obligation.

As mentioned above, Korea has agreed on maintaining the current 49% ceiling in direct investments, but allowing up to 100% in indirect investments providing a legal entity that is established in Korea. On the other hand, the U.S. continues to limit foreign direct investment from telecommunications operators to 20%, but allows indirect investment on the same basis as in Korea. Hence, although both countries have the same provisions for indirect investment in the case of direct investment the ceiling is 49% in Korea, compared to 20% in the U.S. for suppliers of telecommunications service with radio stations.

In 2002, the Korean government's Mobile Platform Special Subcommittee of the Korea Wireless Internet Standardization Forum (KWISF) launched the Wireless Internet Platform for Interoperability (WIPI). This standard outlines the specifications necessary for providing an environment for mounting and implementing applications downloaded via the wireless Internet to mobile communication terminals. It was an attempt to create competition (or some say

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to block foreign competition) in the mobile application space, since it required a Korean-developed middleware standard on all Korean mobile phones. As a consequence, many US mobile technology companies, like Qualcomm Inc were excluded from the Korean market. The FTA offered an opportunity to end this lock out and the US duly requested the abolition of WIPI in order to encourage 'fair' competition for overseas players in the Korean market.

The impact of the abolition of tariffs on IT and IT-related products is expected to be minimal since most IT products, including mobile phones and semiconductors have been subject to zero tariffs since the late 1990s under the WTO Information Technology Agreement. In addition, tariff elimination is expected to increase Korea's export volume to the U.S. particularly in the markets for LCD monitors and digital consumer goods, such as digital TV sets, which already make up a large share of Korean exports to the U.S.

It is projected that the total number of IPTV subscribers in Korea will climb from 0.3 million in 2008 to 1.6 million by 2011 and 2.2 million by 2015. However, the growth of the domestic IPTV US market, which saw the launch services in 2005, has been sluggish prompting US firms to look elsewhere. Accordingly, the US has used the FTA to push for a relaxation of the Korean IPTV regulations. It was also agreed that flexibility would be provided when it came to future measures such as regulation on contents scheduling, and commercial presence obligation.

By eliminating regulatory obstacles and non-tariff barriers the FTA is expected to substantially improve opportunities for U.S. telecommunications equipment and service providers, especially as South Korea continues to develop its next generation network. Supporters argue that the resulting rise in foreign

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indirect investment is the best way to reinvigorate the domestic telecommunications market. According to the government's final recommendation (Eun, 2007), attracting more overseas investors will have a positive impact on production with the result that the cost of services will go down and the market will be expanded.

Supporters of the FTA also maintain that since the Korea's telecom market is almost saturated Korean telecom service providers need to make a concerted push overseas. The US market is seen as a good starting point since it is the world's largest telecom market and has recorded a higher growth rate than those in the other developed nations. The fact that Korea leads the world in advanced telecom services such as the 3G telecommunications and IPTV is expected to make their foray into the US market easier, with the rapid growth of Asian American communities in the US offering a particular opportunity.

Those opposed to the FTA however, point out that 100% foreign ownership is likely to lead to the privatization of public services and that demands to remove the restrictions that regulators can impose on an operator's technology choice, especially in wireless technology, is likely to deliver little or no economic benefit to the Korean telecom market.

Although in general, the agreements arrived at in relation to the telecom sector under the US led FTA have not generated a lot controversial debate, Korean telecom companies remain anxious about the possible adverse impacts. Areas of concern include: the cost of protecting ownership, less investment on a long-term basis after the relaxation of foreign stock restrictions, and the loss of national control over technical standards.

Even though the revision of policy in this last area seems to promise positive effects such as enhanced global competitiveness and a choice of technique and efficient service from networks, it also means that the core technological knowledge and resulting royalties developed and held by Korean telecom companies, such as the Wibro standard, cannot any longer be protected. In addition, with more and more newer technology coming in from the US, some influential industry figures fear that the development of domestic technology might be adversely affected in future as uncertainties in the telecom market have a detrimental impact on R&D investment (SK Telecom, 2006).

6.2.2. Audio-visual Services

Korea agreed to undertake significant changes in its current audio-visual policy. These changes are listed as follows:

Under Annex I: Ownership and control

- Foreigners will be allowed to be President or editor-in-chief of companies working in this sector, something, which was earlier, not allowed.
- Three years after the FTA comes into effect, a foreign national can hold up to 100 percent of the equity interest in any program provider that is not engaged in multi-genre programming or home shopping.
- U.S. controlled companies can invest up to 100 percent in Korean broadcast program providers (channel operators) after two years.

Quotas

- Korean terrestrial, satellite and cable broadcasting networks will have to reduce/regulate their quota for domestic Korean content.

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- Non-terrestrial sectors will have to reduce their quotas from 25% to 20% for movies and from 35% to 30% for animation.
- The single-country content ceiling rise from 60% to 80%.
- Terrestrial networks, are to devote only 45%, 25% and 60% of their annual programming hours to Korean animation, movies and music respectively. This quota however, is the same as it was before the FTA.

Annex II: Limits accorded to foreign and US corporations.

- Korea reserves the right to adopt or maintain any measure that:
 - a) Limits cross-ownership among media sectors.
 - b) Sets the minimum percentage of issued stocks. This does not apply to program providers.
 - c) Requires the board of directors of the suppliers of broadcasting services to be Korean.
 - d) Requires a platform operator to transmit a public interest channel.
 - e) Requires a terrestrial broadcaster to devote a certain percentage of annual programming hours to newly produced Korean animation. However, this should not impair the level of market access afforded to US animation content.
 - f) Requires a program provider that primarily provides animation programming or multi-genre programming to devote a certain percentage of annual programming hours to newly-produced Korean animation. However, the measure should permit the program provider to provide a greater quantity of foreign content than specified in Annex I.

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- g) Imposes an outsourced production content quota, or a prime time quota. However, such a quota when applied to CATV or satellite broadcaster or program provider would not permit it to provide a greater quantity of foreign content than specified in Annex I.
 - h) Requires a supplier of broadcasting services that provides Video-on-Demand services to store a certain percentage of Korean content. However, such a requirement should not apply when there is negligible consumer demand or,
 - i) Restricts or prohibits foreign retransmitted broadcasting services
- KBC requires that 1% of the annual programming hours of KBS, MBC and SBS and 0.3% of the annual programming hours of Educational Broadcasting System (EBS) be newly produced Korean animation
 - For transparency, the Broadcasting and Telecommunications Convergence Promotion Committee is to design and reform the regulatory framework in the following areas:
 - a) Restructuring the regulatory authority and setting a new legal framework;
 - b) Reviewing the industry's classification system;
 - c) Licensing and authorization of service suppliers;
 - d) Ownership and cross-ownership activities;
 - e) Regulations on business activities;
 - f) Improving technological regulations;
 - g) Realizing universal service
 - h) Addressing the issue of public interest programs in the convergence era

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- Under audiovisual services, Korea reserves the right to maintain any preferential co-production arrangement for film and TV productions and to adopt and maintain any measure criteria for determining whether broadcasting or audio-visual programs are Korean.

A summary of the provisions agreed upon under audio-visual services is listed overleaf in Table 6.2.

With the passing of the Broadcasting Law of 1987, the Korean Broadcasting Committee was established to oversee all broadcasting in the country. One of its main provisions required that television stations allocate at least 10% of their broadcasting hours to news programming, 40% to cultural/educational programming, and 20% to entertainment programming. There were also broadcast content restrictions, theatrical screen quotas, and foreign ownership limitations. Supporters of these regulations contended that they were essential to protect the Korean the audio-visual industry and particularly its cultural role.

However, in 2006, the American Chamber of Commerce and Industry in Korea complained about the strictness of Korean regulations in a range of areas that impacted on US business interests. These included; foreign investors in the service sector, such as advertising; screen quotas, the foreign contents quota in Broadcasting, and the limitations on foreign investment in Cable TV. The Korean government conceded that the regulations were over protective and agreed to relax them. As noted earlier, the Korean government was convinced that opening up the service sector would lead to a competitive market that would stimulate the growth of the economy. It was following these initial concessions, that Korea and the US agreed to negotiate a more comprehensive opening up of the service sector under the auspices of a US led FTA.

Table 6.2: Key issues agreed upon in the FTA for the broadcasting and audio visual sector

<p>Indirect investment by foreigners</p>	<p>Terrestrial:</p> <ul style="list-style-type: none"> • No equity interest <p>Satellite:</p> <ul style="list-style-type: none"> • 33% of the total issued stocks or equity interest <p>CATV:</p> <ul style="list-style-type: none"> • 49% of the total issued stocks or equity interest <p>No later than 3 years after the FTA comes into effect, 100% of the equity interest can be held in a PP not engaged in multi-genre programming, news reporting or home shopping.</p>
<p>Quota of Korean content</p>	<p>Terrestrial:</p> <ul style="list-style-type: none"> • Animation: 45% of the broadcasters annual animation programming hours • Movies: 25% of the broadcasters annual programming hours • Music: 60 %of the broadcasters annual programming hours <p>CATV, Satellite, Program provider:</p> <ul style="list-style-type: none"> • Animation: 30% of the broadcasters annual animation programming hours • Movies: 20% of the broadcasters annual programming hours • Music: 60 %of the broadcasters annual programming hours <p>DMB:</p> <ul style="list-style-type: none"> • Subject to quota contents applied to a satellite broadcasting operator <p>One nation quota:</p> <ul style="list-style-type: none"> • 80% of the terrestrial broadcaster's, cable system operators' ,satellite broadcasting operator's or program provider's quarterly programming hours to be foreign content of a single country
<p>Audiovisual service</p>	<p>Korea reserves the right to:</p> <ul style="list-style-type: none"> • maintain any preferential co-production arrangement for film and TV productions • to adopt and maintain any measure criteria for determining whether broadcasting or audio-visual programs are Korean

The government claimed that an FTA with the US was a good way to establish a bridgehead for Korean communications companies to advance into foreign markets. The US broadcasting market is open to foreign investors who are allowed to take shareholdings up to 20%, but face no limit in making indirect investment. Under the FTA, shareholding ceilings on foreign investors will be removed for Korean program providers (except for news, general services and home shopping).

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Any proposal for opening up the industry is bound to include sensitive aspects, such as reducing the broadcasting quota and distinguishing between digital media and contents distribution. Consequently, according to (Chun, 2006), whenever the US enters an into an agreement in the media sector, it adopts a country specific strategy under which it avoids discussing areas where the country is particularly protective or sensitive. However, if the industry is closed or protected, it tries to convince the trading partner to open up by offering incentives. Thus, as Chun points out, the agreement with Korea differed substantially from those negotiated with other countries such as Chile, Singapore, Australia and Canada.

Clashes are often inevitable however, since in many cases there is a structural asymmetry in the power relations between the partners to the agreement. The US produces a substantial amount of digital content and wants to distribute it on its trading partners' broadcasting networks under the rubric of promoting cultural diversity. However, countries on the receiving end of this push almost always want to protect their domestic culture and may well see US action as an instance of 'cultural imperialism'.

This later view has been given strong support by (Cho, 2007), who has labelled the agreement with the US a “the river of no return” pointing out that while the FTA requires Korea to change over 250 laws while the US is not required to change anything.

By no means all commentators are so pessimistic however, and some have been eager to talk up the benefits of the FTA. According to the KIEP in 2007 for example, after the FTA comes into effect the annual profits for the Korean movie and animation sectors will be bigger than the profit margin of value-added

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services though they concede that the sale of domestic contents will be reduced due to the domestic quota reduction while the foreign program provider's market share is expected to increase from 4.5% in 2008 to 20.0% by 2022. This data however, ignores the independent production and non-terrestrial sectors, which are likely to be affected the most. The program provider's market share has also been analyzed by various research consultancies such as "KBI Focus" in 2007. According to this report, the revised one nation quota will substantially boost the US broadcasting industry by allowing it to flood the Korean broadcasting market with its contents. This analysis is presented in the Tables 6.3 and 6.4.

Table 6.3: Prediction of US channels' dominance by genre

Genre	American channels			Korean channels	The potential market share of American channels (%)
	Accessed Channels	Highly accessible channels	Total		
Cinema(including American drama)	3	12	15	34	70
Animation/children	6	3	9	9	60
Sports	1	4	5	8	40
Documentary	3	1	4	8	70
Women	-	3	3	5	40
Music	3	-	3	9	5
News	3	-	3	3	0
Entertainment's information	-	1	1	2	5
Information/Culture	-	5	5	69	5
Education	-	1	1	9	3
Total	19	30	49	156	

* Source : KIB Focus(2007, p.13)

This table excluded Korean drama due to the low possibility of competition between terrestrial drama and American imports. In addition, the major chunk of profit for Korean drama channels is from terrestrials broadcast.

This table excluded all Korean channels which were cooperating with the US and those catering to the drama, game, public, religion and home shopping genre.

Table 6.4: Prediction of US PPs' market share*

Genre	Sales (million won)	Profit (million won)	Employee	TV rating (%)
Cinema	1,521.3	102.0	221	2.06
Animation	517.6	272.2	152	1.48
Sports	397.9	12.7	110	0.46
Cultured documentary	149.1	0.0	64	0.33
Women	101.7	3.8	42	0.13
Entertainment's information	0.0	0.0	0	0.00
Music	38.4	0.0	11	0.00
Information/Culture	50.8	0.0	44	0.05
Education	0.8	0.0	1	0.00
Total	2,777.6	390.8	645	4.52
Domestic Market share(%) excluding home shopping	27.6	67.4	14.6	33.9
Domestic Market share(%) including home shopping	10.2	11.9	8.4	32.5

* Source : KIB Focus(2007, p.14)

This table is based on 2005 and 2006 financial data

Although supporters of the FTA might argue that Korean consumers will have a broader choice of programs as a result of the agreement there is a strong argument that cultural diversity, and the broadcasting system's ability to speak to the complexity of national conditions, is likely to be reduced.

There is a growing sense in the broadcasting industry that the push for deregulation and the opening up of the market to America without taking the time to establish guidelines to protect Korean contents is changing the industry's operating environment in ways that put domestic broadcasters under increasing pressure.

Additional problems can be foreseen within the provisions of the KORUS-FTA for the audiovisual industry in Korea. First, due to the indirect investment in the program provider sector, program contents will be dominated by cheap American programs especially on pay-TV channels. This will have a knock on

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effect since in order to compete effectively for advertising revenues terrestrial channels are likely to cut down on public benefit output such as educational programming and to start to broadcast similar content. Second, the cinema and animation channels will suffer from cultural invasion due to the increased space accorded to Hollywood movies.

Prior to the signing of the FTA, Korea already had extensive trade relations with the US in a variety of audio visual media sectors. But as the following tables show, these relations were very asymmetric. Looking at the summary data shown in Table 6.8 however, it is clear that the size of the Cinema, TV Network and TV distribution markets in Korea were only a small fraction of the size of the US market. In 2005, all were under 6% with the exception of the Internet advertising market which was double that, at 12.65 %, reflecting its rapid growth in Korea. The market size calculation has been arrived at as follows:

$$\frac{\text{Korean Production Scale}}{\text{US Production Scale}} \times 100 = \text{Market Size}$$

The trade imbalance between Korean and US is illustrated in Table 6.5 below. As can be seen, in terms of exports, the most important sectors were publishing and print. In contrast, the cinema and broadcasting sectors were very weakly represented. In terms of imports from the US however, this order was reversed with the US accounting for 77% of imports in the broadcasting sector and 81.3% in film. Moreover, as per Table 6.6, the cinema and broadcasting sectors had also shown substantial increases in exports between 2000 and 2004.

Table 6.5: Comparison of Korean and the US cultural industry markets (%)*

Industry	Year					
	2000	2001	2002	2003	2004	2005
Cinema	4.61	4.74	4.64	4.51	4.71	4.35
TV Network: Broadcast and Cable	5.09	4.81	5.77	5.74	5.15	4.95
TV Distribution	1.83	2.00	2.17	3.11	3.18	3.22
Music	2.05	2.17	1.91	1.40	1.02	0.79
Wireless/ Outdoor Advertising	3.05	3.37	3.59	3.64	3.44	3.29
Expenditure on Internet advertising access	10.55	11.39	11.97	11.71	12.45	12.65
Magazine/ Publishing	1.15	1.23	1.46	1.36	1.23	1.12
Newspaper	6.762	6.49	6.94	6.67	6.24	5.90
Book	8.98	8.63	7.56	5.91	5.53	5.12
Casino	1.12	1.75	1.77	2.38	2.02	1.82
Total	4.28	4.44	4.63	4.73	4.64	4.53

Report of the Ministry of Cultural Tourism, 2006, p.9

The calculation of the market share has been done as follows:

$$\frac{\text{Export/Import in each sector}}{\text{Total Export/Import}} \times 100 = \text{Market Share Percentage}$$

Table 6.6: Trade with the US (million \$)*

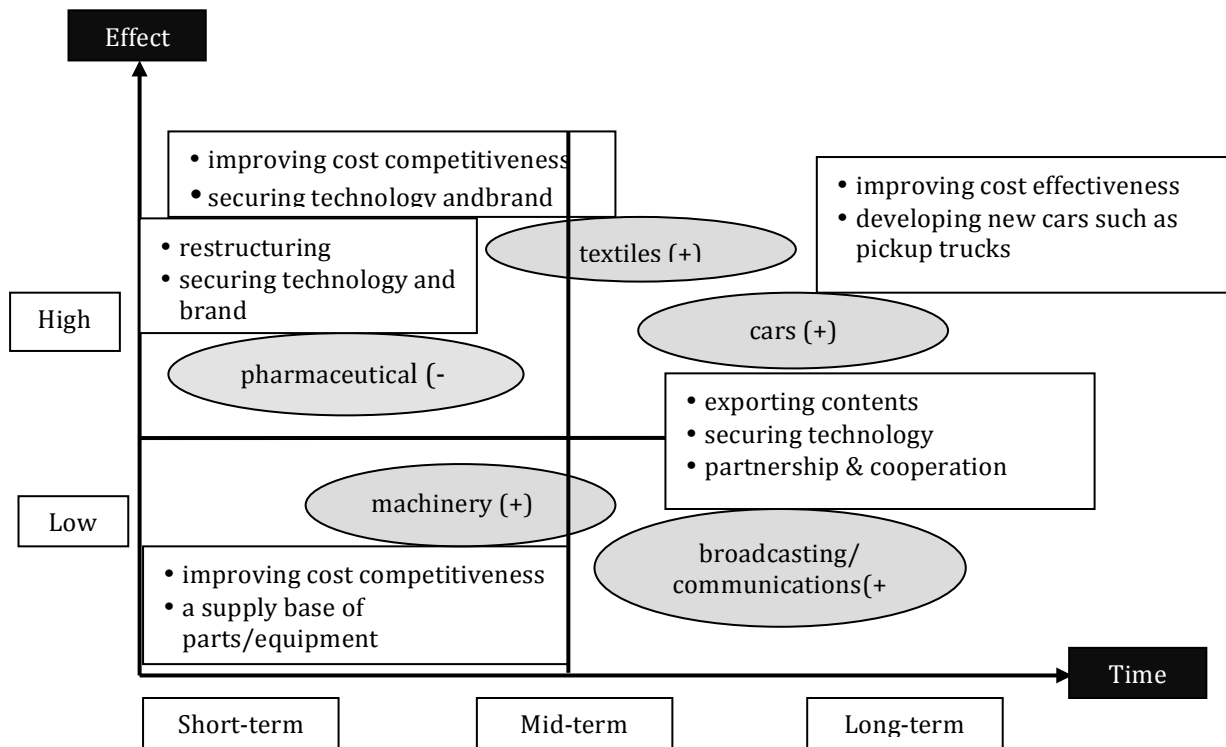
Category	Year									
	2000		2001		2002		2003		2004	
	Export	Import	Export	Import	Export	Import	Export	Import	Export	Import
Game	-	-	-	-	26.75	53.53	10.35	50.23	23.65	57.84
	-	-	-	-	19.0%	33.2%	5.7%	30.2%	6.1%	28.2%
Cinema	0.01	28.89	1.22	34.90	0.68	41.13	4.49	45.99	2.36	51.82
	0.2%	62.0%	10.8%	71.9%	4.6%	81.7%	14.5%	78.1%	4.1%	81.3%
Broad-casting	0.10	29.56%	0.11	13.53	0.55	15.63	0.12	21.83	1.40	24.14
	1.4%	73.9%	0.9%	66.2%	2.6%	62.3%	0.4%	77.8%	2.2%	77.6%
Music	3.00	2.01	1.03	2.61	0.88	2.78	0.14	2.24	0.64	2.03
	32.5%	26.7%	13.8%	29.1%	19.2%	27.5%	4.0%	22.5%	12.8%	24.7%
Publishing	33.38	50.95	35.83	63.49	45.47	64.21	41.65	60.45	55.64	62.90
	52.0%	43.0%	52.8%	44.2%	59.9%	44.1%	55.0%	40.6%	59.5%	41.3%
Print	31.60	16.27	33.15	16.21	30.93	9.20	33.23	10.52	34.09	11.86
	21.5%	22.9%	22.6%	22.1%	48.9%	11.9%	44.9%	16.0%	38.4%	15.8%

*Report of the Ministry of Cultural Tourism, 2006, p.12

Consequently, by 2004, imports in the cinema sector were about 20 times larger than the content being exported. A similar scenario can be observed for the broadcasting and the gaming sectors, where the disparity was around 35 and 4.5 times respectively.

It is clear that the imbalance in audiovisual service trade depicted above can be expected to worsen after the KORUS-FTA comes into effect.

Finally, calculations by the Samsung Economic Research Institute (SERI) estimate that compared to other sectors, broadcasting and communications will be net gainers from the FTA, with low negative impacts offset by the chance to export contents and secure technological knowhow by establishing partnerships and tie-ups with US-based companies (see Fig.6.1 below).



Source: Samsung Economic Research Institute, seriworld.org, April 30,2007

Fig.6.1 FTA impact by industry

Arguably, this is a rather too optimistic an assessment since it is difficult to see how opening up the Korean broadcasting market on the terms specified by the FTA will not have substantial long term impacts on the industry.

6.2.3. Intellectual Property Rights (IPR)

The most outstanding provisions within the KORUS-FTA with regards to IPR, specially, those covering the broadcasting and telecom sector include:

- Online Service Provider liability: encouraging Korea to have a more effective system for combating high levels of online copyright infringement.
- Enforcement against Internet piracy: Korea agreeing to make Internet piracy a law enforcement priority.
- Enforcement against book piracy.
- Protection of temporary copies: Korea committing to make holding temporary copies such as those held in the RAM of the computer a violation of copyright laws.
- Technological protection measures: Korea agreeing to make amends in its legal framework to safeguard the technologies that rights holders use to control access to and use of their works.
- Exclusive rights to sound recordings: obliging Korea to bring all means of distribution of sound recordings to the public within the scope of the exclusive rights of recording producers.
- Extension of term of copyright protection: Asking Korea to extend the term of copyright protection.

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- Contractual rights: obliging Korea to allow right holders to exercise economic rights in their own names.
- Protection of encrypted signals: committing Korea to provide civil and criminal remedies against those who decode program-carrying satellite signals without authorization.
- Statutory damages: asking Korea to supplement its system of civil damages for copyright infringement with a framework of pre-set damages to act as a deterrent against infringers.
- Other civil remedial provisions.
- Outlawing “camcording”.
- Ancillary offenses.

During the 1980s, Korea was a developing economy and borrowed ideas from a range of developed countries including Japan. It was allowed to do so since the advanced nations believed that it would never be able to catch up with them economically. However, after it became a member of the WTO and the IMF, Korea’s economic growth accelerated rapidly due to expanding trade and the concession that it had enjoyed as developing country when it came to copyright exemption, was removed.

After the spurt in economic growth from the mid-1990s, Korea began to prosper, and as in other developed countries rising incomes stimulated an increased demand for leisure services, including foreign content in both the cinema and the broadcasting sector. However, foreign suppliers were apprehensive about the weak copyright protection prevalent in Korea and demanded that the laws be tightened before releasing their content. In response, the relevant legal framework was modified and the Korean media industry was

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flooded with overseas content, particularly from the US. However, this development was not without its share of criticism. According to Prof. Kim, Communication Department, Seoul, South Korea (interview in Seoul, 14/08/2008), opening up the market in such a way leads consumers, especially the young, to be bombarded with a steady stream of foreign and US broadcast content, not all of which was of a high quality. In addition, in his view, the rising tide of foreign content will have an adverse influence on local PPs since in order to compete with powerful overseas corporations they will have to reduce their costs, thereby driving down the standard of domestic production. Prof. Park, Assistant Professor, College of Law, Seoul, South Korea (interviewed in Seoul, on 08/08/2008), pointed out that foreign content employs different age ratings to Korean productions and that this might lead to unsuitable content being accessible to young consumers, adding that age rating might also be a problem with electronic commerce related digital contents.

Kim, a lawyer, (interviewed in Seoul on 14/08/2008) pointed out that the copyright laws in Korea are less strict than those prevalent in other developed countries like Japan and the US so that activities which are perfectly legal in Korea, such as inserting copyrighted music clips as background music in programs, might turn out to be illegal in these countries. He maintained that these disparities might prevent some Korean PPs from exporting their content to these countries reinforcing existing imbalances between imports and exports of media content.

Underlying much of the expert commentary in this area is recognition that the advent of the era of digital information presents a paradox. On the one hand, it has led to more violations of IPR. On the other hand, the ease with which

digital content can be distributed and shared has led to the rise of what some enthusiastic commentators have termed “digital democracy” or “digital freedom”. There is no doubt that much data which could not be easily located or accessed in the analogue age is now both more easily accessible and more open to appropriation, alteration and combination. At the same time, when transformation and distribution goes beyond a certain point, it leads to the misuse of 'fair use'. Recently, the US asked Korea to take concrete steps to control IPR violations by modifying its current IPR laws. In response, in 2008, the Ministry of Culture Sports and Tourism announced a new bill to protect digital contents and unify the Copyright Commission and the Computer Program Protection Commission. The legislative articles contained in this bill are highly protective and more restrictive than the earlier so called 'super copyright' provisions (Inews, 2008). The reason for these further strictures is that they were required by the US under the terms of the FTA and are based on the criteria used for listing countries under Super 301.

The bill covered almost all aspects related to copyright infringement and proposed a number of remedies. However, there were three key issues that generated considerable discussion among activists, who considered them to be highly intrusive and impinging on prevailing definitions of “freedom”. They can be listed as:

- 1) Shutting down a web site which hosts illegal content.
- 2) Suspension or interception of any user's account if they are actively involved in transmitting or duplicating illegal contents.
- 3) Intercepting the networks of Online Service Provider (OSP's) who are actively involved in the distribution of illegal contents.

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According to Woo there is good cause for anxiety over these provisions since by ceding the power to decide on copyright infringement cases to the Executive/Administration the new amalgamated Commission charged with overseeing copyright compliance potentially gives the government the ability to intervene to monitor and control not only users but also OSPs(Woo, 2008).

To counter this potential, Kim has argued that the government must define certain criteria within the bill in order to protect 'fair use' and forestall the possibility that its provisions might be abused and executed arbitrarily(Kim, 2006). He bases his arguments on the claim that in a digital environment, the issue of user's rights has become as significant as creator's rights. Up until now, the general view in Korea has been that the creator (a person, a company or an interest group) may hold the rights to particular content and may distribute it in return for payment , but that that there has to be a certain level of freedom for common users on the internet as well .

In support of this general principle, the social activist (Kim, 2006) argued that stricter IPR laws are more to the benefit of corporations in accumulating capital rather than to the benefit of the artist. Hence, he maintains, although there is a legitimate role for IPR provisions in protecting the rights of creators and promoting knowledge and original production in order to develop the cultural industries, the current IPR system is being unduly manipulated in the interests of accumulating capital. The rise of "exclusive rights" presents a particular problem since exclusivity leads to information being monopolised by a small minority and a widening of the information gap.

One of most important steps towards stricter copyright laws was copyright extension. According to (Park, 2007b), as a result of this regulation Korea will be

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additionally charged about 2,111 hundred million won in the coming 20 years. In the print sector alone, the additional payment for copyrights will be around 679 hundred million won, with the US taking about 12% of this sum. These calculations are in marked contrast to the optimistic prognosis promoted by the Korean government in the KIEP report, cited earlier, which envisage the country's GDP increasing after the FTA with US. Park has also pointed to a number of problematic sentences in the side letter concerning IPR within the FTA. In particular, in relation to the reinforcement of IPR execution, there are no definitions that contain the terms "each party" or "both parties" although it is perfectly possible that there might be incidents of copyright infringement or illegal duplication of Korean content within the US. Rather all of the agreements include the term: "Korea will strengthen enforcement..." (The United States Trade Representative, 2009). This is clearly a one-way street.

Park, Assistant Professor, College of Law, Seoul, South Korea, (interviewed in Seoul on 08/08/2008) also maintains that the government backed vision of IT Korea has been blown up out of all proportion since while it is true that Korea has a well developed infrastructure, despite the publicity surrounding the 'Korean Wave', the contents business market is not as well founded as it might be due to the lack of proper regulations and a sound legal framework. The social activist, Oh, speaking on behalf of users (interviewed in Seoul on 06/08/2008), argues that after the FTA, IPR laws have become so suffocating that internet users and information sharing websites can be sued for even the smallest of reasons. In support of his claim he offers the case of *ARFICA*, a popular information sharing website, which although used for the illegal distribution of copyrighted content also played a significant social role by

facilitating the sharing of strategic information, such as news in real time , during the candle-light protest movement .

Another focus of controversy has been SORI-BADA, the first P2P system in Korea which was introduced in 2000 and became instrumental in promoting independent and minority music artists. Music companies however were adamantly opposed to its model of free distribution of music in Korea and forced it to shut down under a court order in 2002. These corporate moves are strongly contested by social activists like Oh who insists on 'free information and freedom to use' as well as supporting fair use. In his opinion, DRM weakens rather than strengthens practices of fair use because sustaining the system is expensive and the common user/consumer has to pay the bill thereby contributing more towards building capital than benefitting creators. Consequently, recent IPR-related disputes are more for the right of control.

According to Dr. Seo, Senior Research Associate, Copyright Commission, Seoul, South Korea (interviewed in Seoul on 04/09/2008, there is a global trend towards lengthening the term of copyright. As (Lessig, 2004)points out, digital technologies give new life to copyrighted material after it passes out of its commercial life making it possible to preserve and assure universal access. However, extensions of copyright may prevent such digitalization and thereby risk losing that piece of knowledge forever. Korea did have a shorter life of copyright life but following the global trend the copyright extension laws are now on par with the global standard.

The amended copyright laws in Korea are much more focused on the rights holder rather than on the creator or the user. An asymmetry reinforced by the fact that there are no support systems like the MCPS (Mechanical copyright

protection society)-or the PRS (Performing rights society) active in UK devoted to promoting the interests of artists and performers and distributing funds.

Despite the tightening up of intellectual property provisions large-scale piracy has persisted in Korea down to the present. According to a 2008 piracy study published in May 2009 by the Business Software Alliance, even though the rate of piracy came down to 43% in 2008 (from 46% in 2004), piracy losses have gone up to 622 million dollars from 506 million dollars over the same period (KBS News, 2008). After the development of the domestic software industry, Korea has begun to appreciate the negative effects of piracy more.

Arguably, the major cause of online piracy has been ignorance, particularly among young users. In response, there has been much discussion of how to educate them to not only respect copyright laws but also to promote fair use. The Government did try to educate the young about the drawbacks of piracy but at the same time entered into a discussion with experts in the area to design tougher laws to control infringement. However, following the US led FTA the level of protection under copyright laws has become much stricter and wider than that needed domestically and this has led to large scale opposition. Critics of the new provisions claim that regulations such as control of access rights and executive process, which the US demands to be enforced, are not relevant in the Korean society.

Recently, the concept of "DRM-free" became popular in Korea since music companies admitted that the strict use of DRM only offered limited profits whereas free-use played an important role in expanding the overall music market, especially among young consumers. However, the companies are still in

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the process of considering new technologies in order to distinguish between free and paid services.

According to the Bipartisan Trade Promotion Act of 2002, one of the principle trade negotiating objectives of the US is “ensuring that the provisions of any multilateral or bilateral trade agreements governing intellectual property rights, reflect a standard of protection similar to that found in (United States Law 2004). This statement clearly implies that the aim of the FTA was to impose protection standards current under US laws, such as the DMCA, on Korea. Stronger protection implies stronger enforcement of IPR through civil, administrative and criminal enforcement mechanisms.

According to (Nam, 2006), such a provision had a very a strong impact on Korean IPR laws since the level of protection was much higher than that needed for Korean society. Further, because the scope of protection was not determined through internal consultation, Korea failed to strike a balance between protection and limitations or exceptions to these rights.

Chapter 7

STAKEHOLDER RESPOND:

CONTESTED PROJECTIONS, DIVIDED RESPONSES

This Chapter aims to analyse the impact of the KORUS-FTA on various stakeholders. Interviews, quotes and statistical data are also presented in order to support their arguments.

7.1. Promotion: Government

The Korean Government's decision to actively seek to secure and FTA with the United States was informed by three considerations; geopolitics; the waning of enthusiasm for regional collaboration; and perceptions of economic gain.

As Gary Snyder has plausibly argued, faced with its increasing economic reliance on China (which had become its major trading partner) the Korean Government saw an FTA with the United States as a way of positioning itself as the principal balancing force within the region, standing between the two superpowers (Snyder, 2009).

The second impetus came from the declining commitment to regionalism. At their meetings in 1996, the Asia-Pacific Economic Cooperation organisation (APEC) had rejected FTA's in favour of a strategy of open regionalism in which trade liberalisation would be pursued collectively rather than unilaterally. The following year, during the 1997 economic crisis, Japan proposed an Asian

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Monetary Fund (AMF). This was met with strong opposition from the United States and never carried forward. For Korea, the IMF bail-out was a potent reminder of the continuing centrality of the US in the global economy. In response, President Kim Dae-jong, who assumed power in 1998, began to consider FTA's as a more effective way of promoting exports than open regionalism and established the Office of Minister of Trade to explore options. In 2003 it began negotiations for an FTA with Japan, and in 2005 it signed an FTA with Singapore and opened talks with Malaysia, China, Australia and Canada. But an Agreement with the US held out the promise of the most extensive economic gains.

This supposition was supported by Korea's favourable trade balance with the US. In 2002, the US was running a trade deficit of 13.0 billion US dollars with Korea. In 2011 this figure had risen to 13.3 billion. With the success of Samsung televisions and Hyundai cars, the trade gap was particularly wide in the areas of 'computers and electronic products' and 'Transportation equipment' (Tong and Tung, 2012). An FTA seemed to offer a way of building on this favourable base and extending it to other sectors while securing preferential entry to the US market.

This positive overall projection was concertedly promoted in government reports and announcements. The estimates of the likely impact on the telecommunications and broadcasting industries were mixed however. While profits were expected to rise in the telecoms sector and the extension of the copyright period to result in increased fees, the reduction in the broadcasting quota was expected to lead to decreased profits.

Further, the government's predictions remain relentlessly positive showing that even after opening the broadcasting and telecom markets and conceding quota reductions, production and profits in both sectors are expected to continue to increase for the next 15 years, as shown in Table 7.1.

Table 7.1: Korean government's prediction of the effect of FTA*

Effect on Sector	Yearly Mean	1-5 Years	6-10 Years	11-15 years**
Service Industry				
Broadcast quota reduction <i>Profit Decrease</i> (in 100 Million Won)	26.9	25.0	27.0	28.6
PP market open <i>Production Increase</i> (in 100 Million Won)	328.6	5.0	179.1	801.7
<i>Profit Increase</i> (in 100 Million Won)	113.4	1.7	61.8	276.5
Extension of the copyright period copyright fee payment (in 100 Million Won)	71.3	28.2	71.6	82.4
Telecommunication open <i>Production Increase</i> (in 100 Million Won)	693	176	830	1,073
<i>Profit Increase</i> (in 100 Million Won)	303	77	363	469

*Source: National Assembly Report on Korea-US FTA, 2007, p.21

** Fee for copyright payment: 'yearly mean' implies 20 years later, 16-20 years 103.2 hundred million Won

7.2. Endorsement: Business and Economists

The generally upbeat projections promoted by Government found strong endorsement among the business community and the ranks of neo-liberal economists. In 2005, the government published the result of survey canvassing the opinion of the business sector (as shown in Table 7.). It revealed very high levels of support for the KORUS FTA (ranging from 75% to 87%) across a range of major professional organisations.

Table 7.2: Survey results showing agreement levels

Association	Time survey taken	Agreement Level
Federation of Korean Industries	November 2004	87%
The Korean International Travel Association	December 2004	75%
Korea Gallup	February 2006	80%
Korea Federation of Small and Medium Business	February 2006	80%

This endorsement by business was supported by prominent economists like (Kwak, 2007) who argued that signing an FTA with a powerful nation like the US would make Korea a part of the inner circle of economic nations reshaping the world economy. This, he claimed, would benefit Korea not only on the global economic stage but also in political, defence and diplomatic circles. He claimed that since the US was aiming to dictate the terms of global economic expansionism Korea could not afford to be left out. In support of his argument, he presented the estimates of the likely effect of the FTA on various sectors of the Korean economy shown in Table 7.3 below. While these predicted 'significant' impacts in the areas of agriculture and pharmaceuticals it saw only moderate consequences for key areas within the service sector and no adverse impacts in two key export industries: automobiles and electronic, information and communication goods.

Table 7.3: Possible Effect of FTA on different Sectors of the economy*

Sectors		Effect on export	Effect on import	Effect on domestic business
Agriculture		none	significant	significant
Product	Textile/Clothes	significant	none	None
	Automobiles	insignificant	insignificant	None
	Electronics/ Information Telecommunication	moderate	insignificant	None
	Pharmaceutical	none	significant	significant
Service	Finance	none	significant	moderate
	Education	none	significant	moderate
	Law/Medicine	none	moderate	moderate

*Kwak(2007) www.seri.org, Park(2006, 104)

Kwak's general conclusion was supported by Dr. Choi, Senior Researcher in Economics, at the Korea Culture & Tourism Institute (interviewed in Seoul on 07/08/2008). He argued that although the WTO offered positive ways of encouraging global trade, securing a final agreement was difficult due to interventions from powerful countries like China. Hence, bilateral trade especially FTAs, were a more practicable way forward.

He mentioned that, "*Protectionism would never benefit the people nor upgrade their lifestyle*", adding that, "*The Korean government had pursued protectionism for over 30 years but without much success.*"

In support of his argument, he pointed out the adverse effects on the quality of service due to the government's protection of the automobile and electronic industries by charging higher tariffs on the products of foreign rival companies.

At the same time he lodged a caveat, arguing that "*opening the economy is a good idea only if the timing is right, otherwise Korea could lose the edge in global competitiveness*". In his opinion, "*there was a need to consider which sectors can be opened and up to and what extent*" since as the figures shown in Table 7.3 show, estimates of the likely strength and direction of impact varied considerably from sector to sector.

7.3. Dissent: Academic Scepticism

Support for the FTA was by no means universal among economists however. Chang, a well-respected figure in the profession rejected the data published in the reports issued by the state-run Korea Institute for International Economic Policy (KIEP) calling them "fabricated" (Chang, 2007b). He claimed that the

government had not released complete and true figures to the public but had concealed and manipulated the data in their report in order to bolster their case for FTA. He claimed that the available research suggested that there was no direct relationship between open trade and economic growth, and argument also endorsed by (Rodriguez and Rodrik, 2001).

In June 2008 *The Korea Times* published interviews of three eminent economists: Cho Soon, Honorary professor at Seoul National University, Lee Kyung-tae, Head of the Institute for International Trade, Korea , and Choi Chang-kyu, Professor at Myongji University , canvassing their views on the likely impact of the KORUS-FTA (Yoon, 2008).

Professor Cho, who had served as deputy prime minister for economic affairs and governor for the Bank of Korea, criticized the Lee Myung-bak administration for blindly pursuing the KORUS-FTA, arguing that Korea was seeking to emulate the world's largest economy without giving enough consideration to the pros and cons. He said:

“After signing an FTA with the United States, Korea is pushing for many FTAs simultaneously. When all these agreements are signed, Korea's external economic policies will be tightly bound to many countries –It will have no such thing as external economic policies.”

He further added that:

“The U.S. economy shouldn't be a model for Korea. Neo-liberalism has lost validity as a policy. If Korea adopts the model, its economy won't sustain the weight and the society would suffer endless implosion.”

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Lee criticized the Korean administration for its lack of transparency and legitimacy while pursuing the KORUS-FTA claiming that Korea had ended up paying a high cost by neglecting public opinion on the issue. He said:

"In the case of the Korea-U.S. FTA, they suddenly announced beginning the negotiation without an open discussion, making people wonder why. The opposition to the import of the U.S. beef comes from the government's failure to show transparency in the procedure."

He further adds that:

"Focusing only on bilateral agreements could make Korea deficient of a long-term vision and roadmap on the integration incorporating East Asia."

Professor Choi, criticized the Korean government's intention to raise the exchange rate of the Won against the Dollar (as part of the KORUS-FTA policy); claiming that a weakened Won will have a negative effect on consumer prices, and on the recovery of the domestic economy. He said:

"The unprecedented huge current account deficit of the United States resulted in weakening of the greenback (dollar). Increasing demand from India and China after economic growth and the speculative global liquidity targeting oil, crops and raw materials, made oil and other raw material prices soar."

He was also against the government exerting pressure on the Central Bank. He said:

"The foreign exchange rate policy aims at stabilizing the foreign exchange market by diminishing volatility as well as maintaining an appropriate rate. For this, it is better to respect the central bank, which is more politically independent compared with the administration."

Over the course of the KORUS-FTA negotiations, a number of other Korean scholars raised substantial concerns about its possible general consequences for the Korean broadcasting industry, and the effect of adopting a revised IPR framework based on US-based laws.

A number of Korean academics analysed the possible impacts on Korean broadcasting, its production market, contents business, and public broadcasting services (Kang, 2006; Lee, 2007; Lee and Kim, 2007; Kim et al., 2006; Kwon, 2007; Lim, 2006). They were largely of the opinion that the overall impact would be negative. They argued that since the domestic industry was a relatively new and inexperienced player when it came to a working within a fully open and liberalised business environment, it could not realistically expect to operate on a basis of parity with the US which was already an established and a powerful cultural superpower. They argued that the Agreement would put the US in an even stronger position to rapidly inundate the local broadcasting sector with its own cultural content. In addition, there were more immediate objections to the way the US had conducted trade negotiations and set conditions.

Kang was strongly of the opinion that the Korean government should not turn a blind eye to the strong-arm tactics adopted in previous US-led FTAs, particularly when it came to the broadcasting sector arguing that;

“The public value for broadcasting should be protected from this severe global trade negotiation onslaught.”

Lee S.H., Lee S.W., Kim C.W. and Lim D.W. examined the influence of foreign broadcasting contents and capital. Based on their analysis they highlighted the growing sense of insecurity prevalent within the Korean broadcasting sector as a

result of the negotiation tactics adopted by the US within the KORUS-FTA. Lim gloomily concluded that:

“The almost unregulated inward flow of foreign content and a high cap on the programming quotas [would] allow US-made programmes to dominate the Korean broadcasting sector since the amount of content produced and exported by the US is significantly higher.”

Kim P.H., Lee K.S. and Jung D.N. focused on the social impact of the KORUS-FTA which they viewed as a mechanism to promote globalization and neo-liberalism. They evaluated its likely effects along a number of dimensions. Firstly, they argue that it should not be seen simply as a trade agreement but should be placed firmly within the geopolitics of the region and the strong economic, political and military relationships between US and Korea, and understood as an “economic-military annexation” or “synchronizing regime” (Kim et al., 2006). Second, they argued strongly that since the US is the senior partner in this alliance, it will capitalize on its dominant position during the negotiations to secure an unequal agreement which will operate to maximize the benefits accruing to them. They go on to warn that the Korean economy should be prepared for a worst-case scenario in which the US forces the opening up of certain sectors, including broadcasting. Under such circumstances, they argue that Korean broadcasting stations as well as public service broadcasting services need to remain insulated from negotiations in order to uphold the public interest (Kwon, 2007).

The legal scholar D.Y. Park analysed the position adopted by the US Trade Representative in the KORUS-FTA negotiation within the context of the global trend represented by TRIPS and laid the blame for Korea’s weak position in

relation the US demands firmly at the door of the Korean government. It was, he argued, the government's responsibility to frame a sound legislative framework that takes account of the social implications of likely changes in the IPR regime and the audiovisual service trade. But, he noted, as a consequence of compressed economic growth since the Korean War, the government had paid insufficient attention to the relevant issues in the past with the result that Korea now lacked both adequate experience and global weightage in resolving IPR conflicts around global negotiation tables (Park, 2007a).

Other legal commentators however were more critical of US motivations and demands. Bang S.H and Lee J.S drew attention to the fact that the IPR provisions to be included within the KORUS-FTA were based on the Digital Millennium Copyright Act (DMCA), a copyright law framed in the US for the US domestic market (Bang, 2007; Lee, 2006b). They saw little justification for imposing a US-based settlement on the Korean domestic market when two global standards, the WIPO Copyright Treaty (WCT) and the WIPO Performances and Phonograms Treaty (WPPT) were already in effect. But they warned, the Korean government should prepare to amend its own copyright framework in order to match the requirements of the DMCA.

After assessing the likely shifts in control over the flow of information and content in cyberspace once the KORUS-FTA and the incorporation of the DMCA comes into effect. Lee D.H. concluded that the government needs to take these impacts into account in negotiations (Lee, 2006a):

"The impact of including IPR within the provisions of the KORUS FTA can be easily predicted. Thus the Korean government should be in a position to

comprehend the positive and negative aspects of the US led FTA then accordingly develop negotiation strategies.”

7.4. Opposition: Popular Protest

Feelings of anti-Americanism had been on the rise among Korean youth since the tragic incident when two Korean middle school girls were accidentally killed by a US army vehicle in 2002 and the soldiers involved were acquitted by a US military court. However, it was the controversial beef import policy that mobilized this sentiment in mass street demonstrations.

Protests began in early 2008, when the Korean government reversed the ban on the import of US beef which was banned earlier in 2003 due to the outbreak of the 'Mad Cow' disease. Hundreds of thousands of people gathered on the streets of Seoul, holding peaceful candlelight rallies to protest against the Government's decision to allow the import. The level of protest was on a very large scale due since the issue affected almost every section of the society.

Popular concern increased after the public broadcasting company, *Munhwa Broadcasting Corporation* (MBC) carried an edition of their current affairs programme, “*MBC PD Note*” on April 29 2008 critiquing the decision. The leading conservative newspapers, *Chosun*, *Donga*, and *Joongang*, immediately responded by vigorously attacking the programme in a series of editorials (Lee et al., 2010). This concerted assault reignited long standing concerns about the concentration of ownership of these papers in the hands of three elite families (the Bang, Kim and Hong families) and the consequent distortion of democratic debate. The argument moved to broadcasting when President Lee appointed a personal friend as head of the public 24 hour news channel, *YTN*. The subsequent protest

by journalists against government interference garnered widespread support among those protesting the lifting of the ban on beef imports. As Lee, Kim and Wainwright argue, although the immediate target of the mass protests that filled the streets of major cities in 2008 was the beef issue they were underpinned by a more general popular anxiety over the social and cultural impact of “Korea’s neoliberal turn”(2010: 359). In this context, the arguments over media can be seen as symptoms of a growing disillusion with the subversion of the promise of democratisation and the persistence of ‘business as usual’.

This disillusion was particularly prevalent among Korean youth, who played a central role in successive street protest again government, since as Lee has argued, *“those born between the mid-1970s and reached adolescence in a rapidly democratising society, [with] no experience of the authoritarian past. For this generation, political freedom is a given”* (Lee, 2006c). They were also more likely to be distrustful of the United States and its motives with an opinion poll in 2003 revealing that over a third (35.4%) of those in their 20’s nominated the United States as their ‘least favoured country, as against only 5.3% of those in the 50s who grew up in landscape marked by the extensive military and economic support the United States gave to South Korea in the post war period (Lee, 2006c).

Lee’s government attempted to quell the protests with a heavy-handed approach. Police used water cannons against peaceful candlelight rallies and blocked the road leading to the Blue house⁵ to prevent protesters from demonstrating in front of it. As a result, popular support for the government

⁵Executive office and official residence of the President of the Republic of Korea

declined sharply and criticisms of the authoritative and closed nature of his administration began to gather momentum.

Lee's iron-handed approach earned sympathy for the protestors among the wider Korean society and the scale of protests grew. Consequently, the protests began to engulf the FTA negotiations. The Korean government's over-reaching efforts to satisfy US demands prior to the signing of the FTA (of which the agreement to lift the ban on the import of US-produced beef was the most visible signal) were widely taken as a clear indication that the US would dictate terms of the KORUS-FTA. As one of the candlelight protestors said in an on-the-spot-interview to *OhmyNews*(Chang, 2011):

"The Korean people did not give power to Lee Myung-bak to run the government like this. He is attempting to address certain institutes through a process of governmental privatization. But who takes over these institutes? 2MB (a derogatory nickname for President Lee), the Chaebol, the wealthy Koreans? Only the top 5 percent of the Korean government are the ones who will benefit from this type of strategy."

The protestor claimed that the FTA will improve the Korean economy, but he suspected the actions of President Lee. Another protestor at the same demonstration said:

"We are here to demonstrate the power of the people. We are fighting 2MB because he does not accept the thinking of the public. 2MB brings back memories of twenty years of intense struggling. Korean history has shown us that Korea can always be made stronger by fighting together against bad leaders"

Within the same article, Kim, a human rights activist pointed out that:

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"Lee Myung-bak rules Korea similarly to Chun Doo-hwan and Roh Tae-Woo. His government is a pack of lies and it has had problems from the very beginning."

The above comments point to a clear lack of popular support for President Lee and his policies. This stance was not only confined to activists. A survey carried out by the Council on Foreign Relations (Kim, 2011) during the US beef protests (Feb. 2008 to May 2008) shows that overall public support for the KORUS-FTA (Fig. 7.1) fell from 75.4% to 45.4% while opposition grew from 22.3% to 43.7%. Similarly, the level of support for ratification of the FTA (Fig. 7.2) plummeted from 53.5% to 29.8% while the level of opposition shot up from 24.5% to 58.6%.

Another interesting point of note is that the time taken, from the point of announcing the start of negotiations for an FTA to the point where it was officially signed, was just one and a half years. Given this appearance of haste, and the suspicion that the agreement was being railroaded through, it was however perhaps not surprising that many sections of the society were apprehensive about the negotiations. An opinion poll taken during the FTA negotiations showed that 52% of the public were sure that the signing it would harm the nation and up to 90% were of the opinion that the Korean and US governments were moving too fast with the negotiations and should slow down (Song, 2006; Woo, 2006).

The graph shown in Fig. 7.3 below depicts the variation in public opinion on the FTA over a 10 month period (Lee, 2010). It clearly shows that public opinion was sharply divided a year after negotiations on the FTA commenced.

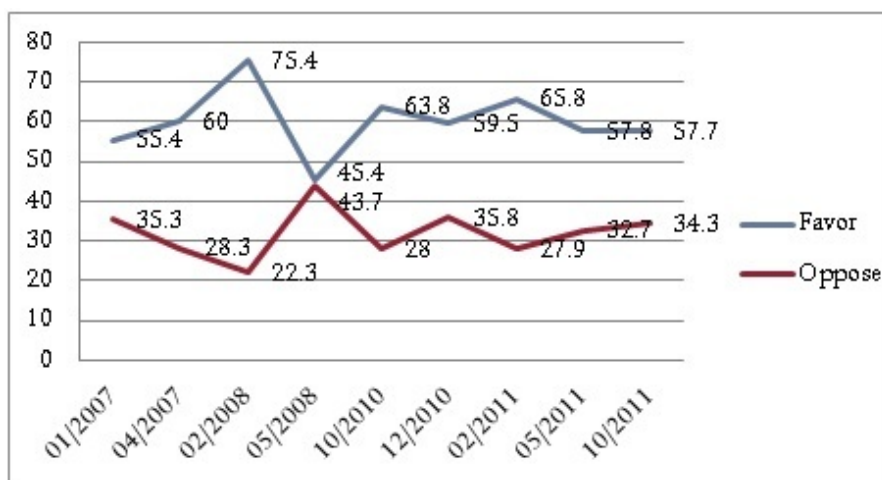


Fig. 7.1: Koreans' general attitude towards KORUS FTA

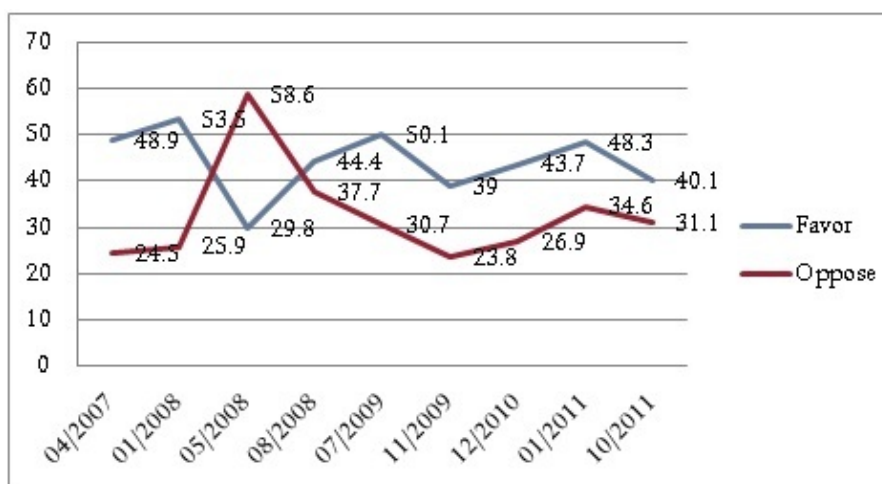
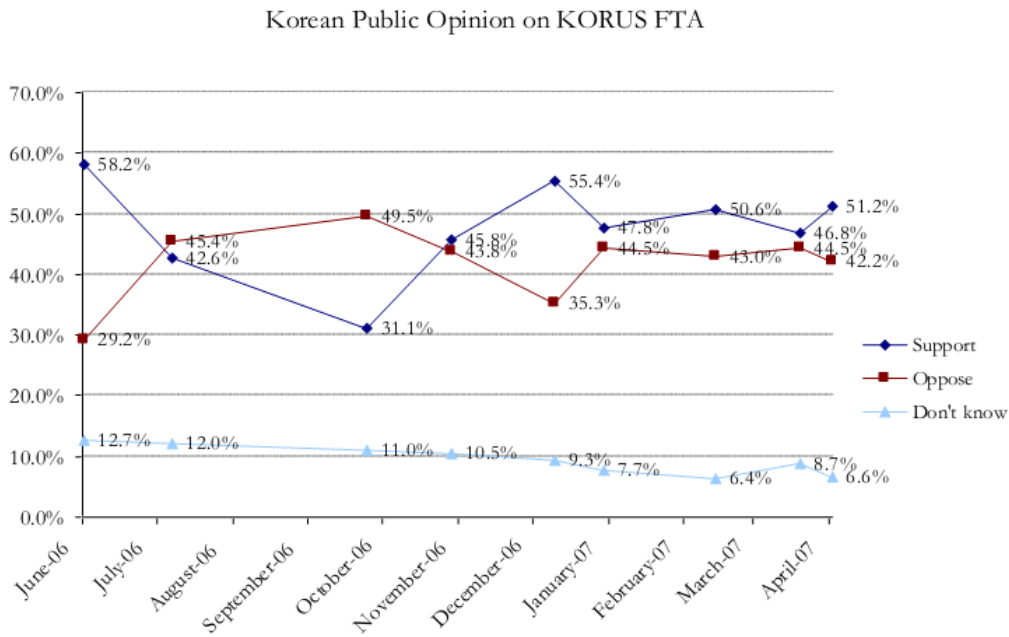


Fig. 7.2: Koreans' attitude toward KORUS FTA ratification

Source: A report by Kim Chi-wook, Assistant Professor, University of Ulsan, Korea⁶

Other figures published by Korea International Trade Association (KITA) in December 2004, (Lee, 2010) indicated that while 75% of the Koreans were in favour of the FTA before negotiations were announced, this support plummeted once negotiations were underway and never regained the initial level of support.

⁶How a Shift in South Korean Attitudes and Electoral Politics May Trip Up the KORUS FTA
 Korea's Election 2012: Public Opinion, Politics, and Implications for U.S.-South Korea Relations, Publisher:
 Council on Foreign Relations Press, Release Date:November 2011



Note: The polls were conducted during the period from June 2006, when the first round of the negotiation was taking place, to April 2007, which was right after the FTA was concluded. The poll was conducted by a different public opinion research institute. The Media Research with a sponsorship of *HankookIlbo* conducted the poll in June 3rd, 2006 (N = 1,000); the Korea Research with *Munhwa Broadcasting Service (MBC)* in July 9th, 2006 (N = 1,000); the *Hankook Research* with the Ministry of Finance and Economics in September 26th 2006 (N = 1,000); the *Korea Times* in October 31st in 2006; the Gallup Korea with the FTA Industry Alliance in December 12th in 2006 (N = 1,000); the Media Research with *HankookIlbo* in January 1st, 2006(N = 1,000); the *Hankook Research* with Seoul Broadcasting Service (SBS) and *JoongAngIlbo* in February 15th, 2007 (N = 10,000); and The Media Research with Korea Broadcasting Service (KBS) in April 4th, 2007 (N = 1,000).

Fig. 7.3: Changes in Korean Public Opinion on KORUS FTA during the negotiation (June 2006 - April 2007)

Press Reporting:

Perhaps not surprisingly, coverage of the beef protests in US media was largely disparaging with both *The Washington Post* and *The New York Times* publishing editorials that unequivocally criticized the reaction of the Korean public. A *Washington Post* editorial labelled the reaction as "irrational" claiming that "health fears are compounded by nationalism"(The Washington Post, 2008). Similarly, an article in *The New York Times* claimed that the controversy "is the latest test of whether their leaders can resist pressure from superpowers like the United States, even if that pressure is legitimate, as is the case in the beef dispute"

(Choe, 2008) Coverage in the domestic Korean press however, was more variable.

Major conservative newspapers such as *Chosun*, *Donga* and *Joongangran* a series of articles (Lee et al., 2010) exploring the motive behind the protests. They adopted a pro-government stance and attributed the protests to “a spooky story about mad cow disease” which had been disseminated by politically-biased sources intent upon criticizing the government’s policies. However, as the scale of the protests grew larger and more widespread, these newspapers changed their stance and began to criticize the government’s high-handedness and the lack of appropriate response to the protests. When the protests evolved into street marches and calls for impeachment however, they again shifted their position and began to criticize the legality of the protests, claiming that they were being orchestrated by “behind-the-scenes” players (Lee et al., 2010).

This shifting stance on the part of the conservative newspapers can also be seen in the editorials they published. Whereas an editorial published in the *Chosun*, dated 7th Feb 2001, was titled, “[Government] must let people know the danger of mad cow disease” the leader run on 6th May 2008 was headed, “Politicians should not be involved in the fake disturbance around mad cow disease”. Such a complete turn-around in attitudes to government can be attributed to the type of government in power at the time the editorials/articles were published. The 2001 editorial was published during the Roh regime which was considered liberal while the 2008 editorial was published during the Lee regime which was largely conservative in nature and had blamed the mad cow scare on a ‘spooky story’. As a protestor commented, in an interview with *Kyunghyang* (11/06/2008):

“Under the Roh regime, these conservative newspapers raised questions about mad cow disease but completely changed their tone under the new government. If the press were functioning normally, hundreds of thousand people would not protest like they are today.”

In contrast, liberal and progressive media such as *Hankyoreh* and *Kyunghyang* were largely sympathetic towards the protestors. In their support, they published articles documenting the problems in beef processing procedures in the US, the connections between the US state and the beef industry, the potential dangers of mad cow disease, and the political problems in the negotiation process between the Korean and US government (Lee et al., 2010).

Progressive newspapers also differed from their conservative competitors in their stance towards the way the KORUS-FTA should be dealt with in the light of the US beef protests. While conservative newspapers advocated that the issue of US beef import and KORUS-FTA be dealt with separately, liberal newspapers were of the view that the issue of US beef could be leveraged to win concessions within the KORUS-FTA that would protect Korean beef producers and consumers. When the protests intensified however, liberal newspapers began to focus more on the government’s response towards the protestors and the consequent violent suppression.

The Korean press also drew on expert commentary selectively in order to support whichever stand they had adopted. Those opposed to the FTA cited critical scholarly research. Those in favour, tended to prioritize research sponsored or published either by government bodies or by organizations with a more positive attitude towards US businesses. Looking back on the coverage after the event however, activists were firmly convinced that even the

progressive media had failed to provide adequate analysis or contextualisation. As J.W.Kim, a leading activist with the *Left21* group, complained (Interviewed in Seoul on 26/02/2013) :

“Major media sources are neither analysing the potential issues in depth nor are adequately focussing on the underlying conflicts. This is typical of Korean political culture.”

Another leading activist, K.D.Kim, associated with the *No FTA* campaign, argued that this lack of objective investigation was a direct consequence of the politically polarised nature of the press.

“It is well-known that President Lee and his administration is very pro-US and hence any criticism and public debate about the KORUS-FTA is either suppressed or misrepresented in the media. Fortunately, mainstream media resisted such a move. However, opposition to the KORUS-FTA was projected along ideological and political lines, that is, if you oppose the FTA then you support the opposition party.” (Interviewed in Seoul on 26 February 2013).

As we noted earlier, at the start of the KORUS-FTA negotiations, most of the press supported the KORUS-FTA and chose to play down the negative aspects. However, with the rise of public opinion against the FTA, particularly as a result of the US beef import and screen quota issues, some of newspapers changed their stance to being against the FTA. Consequently, at the time the on-line survey of broadcast workers was conducted, a clear division had emerged regarding the likely impact of the KORUS-FTA (Kim and Hwang interviewed in Seoul on 26/02/2013).

In the next chapter I draw on the findings of the survey to examine how they saw the Agreement and its likely impact on their working conditions and on the

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industry as a whole, and to explore variations and divisions of opinion and their roots in difference in social locations and professional experiences. This is then followed up with material from more recent interviews with broadcasters conducted after the Agreement was in place and operational.

Chapter 8

CULTURAL WORKERS RESPONSES:

CONTESTED BROADCASTING FUTURES

This Chapter aims to analyse the impact of the KORUS-FTA on the audiovisual sector and the inclusion of IPR issues within the ambit of the agreement. This analysis is as per the research aims outlined in Section 1.2. The theoretical foundation to satisfy these aims is formed in the previous Chapters. A combination of resources which included interview data, statistics and online survey data are then used to verify the theory.

The theoretical concerns and the related data are further exploited to propose a number of hypotheses that offer a new perspective on the impact of the KORUS-FTA. Finally, attempts are made to validate the hypotheses with the help of various analysis tools.

8.1. Attitudes to the KORUS-FTA

The respondents were asked in general about the impact of the KORUS-FTA on Korea. 85.6% respondents agreed that bilateral agreements such as the FTA had a greater impact than multilateral agreements such as the WTO and GATT.

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42.4% respondents were of the view that the KORUS-FTA has more drawbacks than benefits for Korea.

The respondents were also critical of the government's role within the KORUS-FTA with most of the respondents (70.8%) harbouring a negative view of the Korean government policies on FTA negotiation, its explanation to the public and the level of openness.

Regarding the impact of the KORUS-FTA on the audiovisual sector, 62.4% were of the view that the inclusion of audiovisual services within the agreement will have far-reaching consequences on Korean broadcasting. Most of them (80.2%) held an opinion that audiovisual service trade agreement will allow more than necessary foreign contents quota on TV, greater foreign ownership and the privatization of public channels. On the other hand, a substantial number of respondents (37.1%) disagreed with the argument that current broadcasting regulations and policies in Korea were unnecessarily hostile to foreign interests.

In addition to the observations made above, the theoretical foundation built in the previous chapters also gives rise to issues based on which two hypotheses can be proposed. These hypotheses can then be verified by applying appropriate analysis tools on the obtained interview/survey data.

Hypothesis 1: *Support for bilateral trade agreements like KORUS-FTA within the broadcasting sector have largely come down, not only as a result of nature of the audiovisual provisions contained within the agreement but also due to popular resentment against the Korean government's policy towards the agreement coupled with anti-Americanism.*

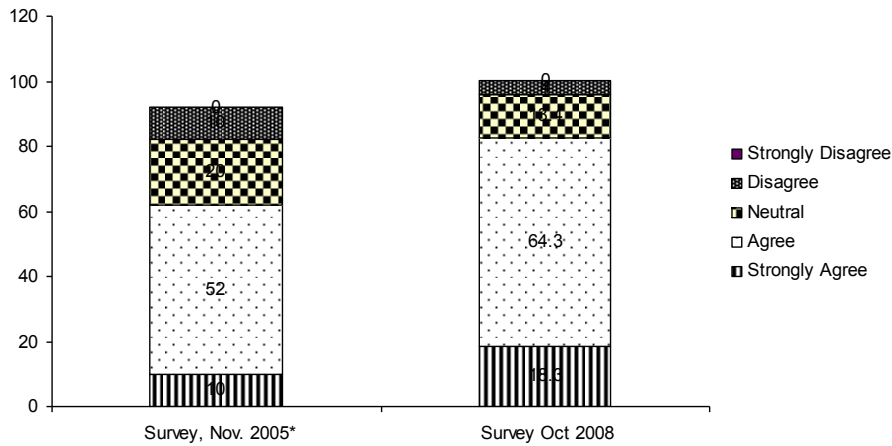
Justification:

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Interviews with a broad spectrum of people such as prominent economists, trade officials and social activists clearly indicate a high level of criticism directed at the government's actions regarding the KORUS-FTA. As pointed out, they questioned the government's eagerness and its timing in pushing through with the agreement without fully analysing its repercussions on the Korean society as a whole.

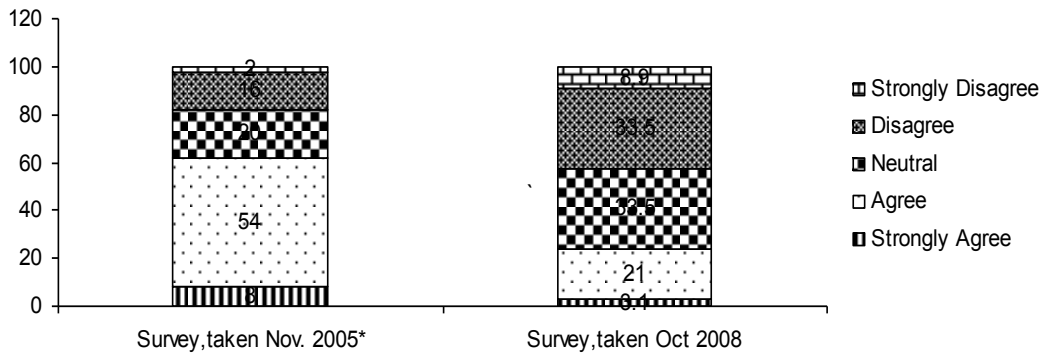
In addition to the figures shown in Fig. 7.1 and 7.2, another useful statistic obtained from the Ministry of Culture and Tourism, shown below in Fig.8.1, was compared with the results obtained within the survey undertaken as part of this thesis. It can be clearly seen that the number of respondents who believed that the impact of the KORUS-FTA on the broadcasting sector would be significant went up from 62% (10% "strongly agree" + 52% "agree") to 82.6% (18.3% "strongly agree"+ 64.3% "agree"). Similarly, the number of respondents who believed that the KORUS-FTA will have a positive impact on the Korean broadcasting sector plummeted from 62% (54% "strongly agree" + 8% "agree") to 24.1% (21% "strongly agree"+ 3.1% "agree"). It is important to note that the timing of the second survey was immediately after the beef protests in June 2008. Therefore, it can be deduced that this reduction of support to KORUS-FTA within the broadcasting sector was also due to the rising popular dissent against the government and not just due to the audiovisual provisions contained within the agreement alone.

The FTA has a significant effect on the Broadcasting Sector



(a)

The FTA will have more positive effects than negative



(b)

* “ Analysis of the impact on the openness of the cultural industry due to Korea-US FTA”, a report from the Ministry of Culture and Tourism, Nov. 2005.

Fig 8.1 : Comparison of the responses obtained before and after signing of the KORUS-FTA

One of the major contributors towards the surge in anti-Americanism was the *PD Notebook* current affairs programme which was broadcast on MBC in April 2008 during the candle-light vigil. This programme extensively focused on the issue of beef imports from the US, the social opposition to it and the fear of mad cow disease. There were extensive debates regarding the government’s policies, public opinion and safety issues. The government did not approve of such an extensive coverage thus the producers who were involved in the programme were prosecuted and accused of misleading the people about food

safety(Go, 2008).This government action led to widespread opposition among the broadcasting community and ultimately towards the KORUS-FTA.

Verification:

In order to verify that the difference in the survey results from November 2005 to October 2008, depicted in Fig. 8.1, is genuine and not due to chance or a sampling error, a Chi-square test is done.

In *Test1*, the Chi-square value of 51.165 is greater than the value in the Chi-square table for P= 0.05 at Df=3, which is 7.82. Thus the difference between the two data sets cannot be due to chance or a sampling error. Similarly, in *Test 2*, the calculated Chi-square value at P=0.05, Df=4, is again more than the value in the Chi square table, which is 9.89.

Test 1:

Table 8.1: Difference between values obtained in the two surveys

Bilateral agreements such as the FTA have a greater impact on the Korean broadcasting business than multilateral agreements such as the WTO and GATT*			
	Observed N	Expected N**	Residual
Strongly agree	41	22.4	18.6
Agree	144	116.5	27.5
Neither agree nor disagree	30	44.8	-14.8
Disagree	9	40.3	-31.3
Total	224		

*Question 25

** Obtained from converting percentage values

Table 8.2: Chi-square calculation

Test Statistics	
Chi-Square	51.165 ^a
Df	3
Asymp. Sig.	.000
a. 0 cells (.0%) have expected frequencies less than 5. The minimum expected cell frequency is 22.4.	

Test 2:

Table 8.3: Difference between values obtained in the two surveys

On balance the positive impacts of the FTA will outweigh the negatives*			
	Observed N	Expected N**	Residual
Strongly agree	7	17.6	-10.6
Agree	47	123.0	-76.0
Neither agree nor disagree	75	43.9	31.1
Disagree	75	35.1	39.9
Strongly disagree	20	4.4	15.6
Total	224		

*Question 29

** Obtained from converting percentage values

Table 8.4: Chi-square calculation

Test Statistics	
Chi-Square	175.978 ^a
Df	4
Asymp. Sig.	.000
a. 1 cells (20.0%) have expected frequencies less than 5. The minimum expected cell frequency is 4.4.	

Thus both tests prove that the difference between the two data sets is not due to chance or a sampling error, proving that the data obtained is authentic, which in turn verifies the hypothesis.

Hypothesis 2: *It is the younger, less-experienced respondents working in the broadcasting sector who are most critical about the inclusion of audiovisual services within the KORUS-FTA and the level of transparency adopted by the Korean government.*

Justification:

This hypothesis can be explained by observing the chronology of certain events: the schoolgirls incident with the US army vehicle which occurred in 2002, the US

beef controversy which occurred in April-June 2008, and the timing of the survey which was undertaken in October 2008.

As mentioned previously, the first two incidents served as catalysts to give rise to a wave of anti-Americanism among young people, mostly school and college students. This resentment overflowed and subsequently engulfed the KORUS-FTA.

It is thus plausible that some of the respondents within the survey were those who were actively involved in the protests during their student life but were now employed within the broadcasting sector. Inclusion of audiovisual services within the KORUS-FTA again gave rise to the impression that the agreement would encroach upon their professional career and would have a detrimental impact, both on their career and on the sector. Feelings of pessimism were also strengthened by the Korean government's over-reaching attitude towards the US during the KORUS-FTA negotiations and a heavy-handed approach towards the Korean society in general. This policy was similar to the government's approach towards earlier incidents. It is thus logical to interpret that the criticism of the KORUS-FTA and the surrounding issues by the younger respondents stems from their earlier feeling of anti-Americanism.

Interviews with candle-light protestors and human-rights activists also depict a high degree of suspicion as to whether the government had public interest in mind. Further, they also criticized the autocratic style of functioning by President Lee, going so far as to accord him a derogatory nickname.

Verification:

To verify this hypothesis, a combination of cross tabulation and cluster analysis was used. The cross tabulation was utilized to obtain the level of disagreement to the government’s policies towards the KORUS-FTA. The cross tabulation tables indicated which category of respondents had the highest level of disagreement. Two such cross tabulation tables are depicted below. Table 8.5 shows the response in terms of age while Table 8.6 shows the response in terms of the total work experience in the broadcasting sector. Next, only the level of disagreement (in percentage) for each respondent category for each relevant question was extracted out from the cross tabulation tables and their mean was computed. The average level of disagreement for the respondents is shown in Table 8.7. After this step, cluster analysis can be done to find out which categories of respondents were most similar in their views.

Table 8.5: Response according to age

The government has done a good job in explaining the implications of the FTA for the audio-visual industries*				
	less 30	30 to 50	over 50	Total
Agree	2	2	1	5
	3.7%	1.3%	6.7%	2.2%
Neutral	10	16	2	28
	18.5%	10.3%	13.3%	12.5%
Disagree	42	137	12	191
	77.8%	88.4%	80.0%	85.3%
Total	54	155	15	224
	100.0%	100.0%	100.0%	100.0%

* Question 27

Table 8.6: Response according to total experience in the broadcasting sector

The government has done a good job in explaining the implications of the FTA for the audio-visual industries*				
	Less 4 years	4 to 10 years	Over 10 years	Total
Agree	1	1	3	5
	2.3%	1.4%	2.8%	2.2%
Neutral	8	9	11	28
	18.6%	12.2%	10.3%	12.5%
Disagree	34	64	93	191
	79.1%	86.5%	86.9%	85.3%
Total	43	74	107	224
	100.0%	100.0%	100.0%	100.0%

* Question 27

Table 8.7: Level of disagreement according to different response categories*

	Age			Work Experience		
	less than 30 years	Between 30 to years	Over 50 years	Less than 4 years	Between 4 to 10 years	More than 10 years
Average level of Disagreement*	53.25	66.15	56.65	54.07	60.82	66.82

* Questions 26, 27, 28 and 30

Cluster Analysis:

Table 8.8: Proximity Matrix for Cluster formation

	Age < 30 years	Age 30-50 Years	Age >50 Years	Work Exp <4 years	Work Exp 4-10 Years	Work Exp > 10 years
Age < 30 years	0.00	166.41	11.56	0.67	57.30	184.14
Age 30-50 years	166.41	0.00	90.25	145.92	28.40	0.44
Age >50 years	11.56	90.25	0.00	6.65	17.38	103.42
Work Exp <4 years	0.67	145.92	6.65	0.00	45.56	162.56
Work Exp 4-10 years	57.30	28.40	17.38	45.56	0.00	36.00
Work Exp > 10 years	184.14	0.44	103.42	162.56	36.00	0.00

Table 8.8 shows the Euclidian distance between the different cases included in the analysis. The lesser the Euclidian distance, the closer the match between cases. The grey-shaded cell is the lowest value in the table and therefore

indicates the closest matching case. These closely matching cases would occur as a single cluster in the hierarchical analysis. This is depicted the dendrogram below (Fig. 8.2).

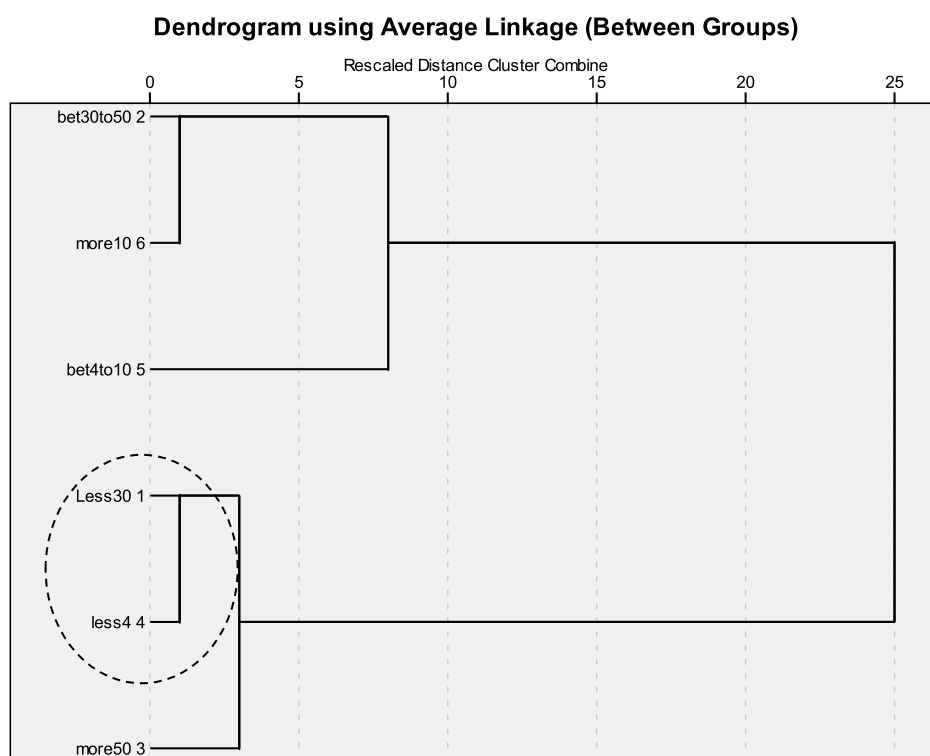


Fig.8.2: Dendrogram Showing Young and Less Experienced Respondents in the Same Cluster

The dotted oval highlights the fact that younger less-experienced respondents (less than 30 years of age and having a work experience of less than 4 years) occur in a single cluster thus showing the similarity in their opinion. Thus it can be deduced that younger less-experienced respondents working the broadcasting sector were more likely to be critical of the KORUS-FTA and the government's policies on FTA which thus verifies the hypothesis.

8.2. Attitudes to IPR Regimes

Respondents were asked about their level of awareness regarding Intellectual Property Rights currently applicable within the Korean audiovisual sector; their level of effectiveness and relevance. Opinion was gauged on the likely impact of

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including Intellectual Property issues within the KORUS-FTA on the Korean audiovisual sector in general and their work profile in particular. The following results were obtained.

When questioned about the current DRM policy in place within Korea, more than half (56.25%) of the respondents were satisfied with the current framework and the level of protection offered to digital creativity rights within the Korean broadcasting sector. 88.0% of the respondents were of the opinion that IPR needs to be protected and that piracy and digital creativity need to be managed by a strong localized government body. Obviously, the same categories of respondents were clearly against (53.7%) the inclusion of IPR within the KORUS-FTA. Quite a large number of respondents felt that the IPR laws framed within the US by the USTR were too restrictive and were not applicable to the Korean scenario. This observation was deduced when two related queries were put forth. (i) When asked whether the US was justified in extending the period of copyright protection after death of an author from 50-75 to 70-95 years, 41.5% of the respondents replied in the negative. (ii) When asked about their opinion on whether file sharing of copyrighted material should be made legal around 61.6% of the respondents were in agreement.

Based upon the results of the online survey, the following hypothesis could be made.

Hypothesis 3: *Respondents who create new content/work in the creative sector would oppose the imposition of US-made IPR laws on the Korean broadcasting sector and would support the deployment of localised IPR laws that are framed by a government body.*

Justification:

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The broadcasting sector is obviously eager to sustain the Korean Wave. This is only possible if Korea sustained the current level and rate of production of high-quality content and protected their value with appropriate IPR laws. It has been revealed during the course of several interviews (for example: J.H. Kim, a producer in Korean Broadcasting System, interviewed on 14/08/2008; J.C. Kim, a producer in Munhwa Broadcasting Corporation, interviewed on 12/08/2008) with producers that Korean-made content had its own distinctive style and adopts a unique methodology when it came producing content which makes it so successful. It can thus be inferred that such producers will find US-framed IPR laws ill-suited to be applied to their content. They would prefer an IPR framework that takes into account the uniqueness of the Korean-made content and allow appropriate freedom to improvise.

This view is also supported by academics, lawyers and researchers. For instance, a lawyer (see Section 6.4.5) specifically pointed out during an interview that certain activities during programme production that are legal within Korean-made IPR laws will become illegal once the US-designed IPR framework takes over. He was clear in his opinion that the overly-restrictive nature of US-designed IPR laws would curtail the creativity currently visible within Korean-made content which in turn, might prove to be detrimental to the Korean wave.

Verification:

Within the broadcasting sector, it is the production department that creates content. Thus respondents working in the production department were picked as candidates to verify this hypothesis. Cross tabulation was performed on the responses obtained by the respondents for the questions in the relevant

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category. The level of agreement for each question was extracted and the mean was calculated as per the job category and total experience of the respondents. The mean indicated as to which type of respondents had the highest levels of agreement to the questions posed in this category of the survey. After this step, hierarchical cluster analysis was carried out to find out the category of respondents having the most similar views.

Two sample cross tabulation tables pertaining to one of the questions in the relevant category are depicted below. Table 8.9 shows the response in terms of the job category while Table 8.10 shows the response in terms of the total work experience in the broadcasting sector. The average level of agreement (in percentage) to the questions relevant to this hypothesis is shown in Table 8.11. As can be seen, all of the respondents largely agree to the questions relevant to this hypothesis but the average level of agreement is highest for the respondents working in the production department.

Table 8.9: Response according to Job Category

Digital Creativity needs to be protected by a government body*					
	Administration	Reporting	Technology	Producing	Total
Agree	33	91	28	28	180
	76.7%	82.0%	77.8%	87.5%	81.1%
Neutral	9	12	5	4	30
	20.9%	10.8%	13.9%	12.5%	13.5%
Disagree	1	8	3	0	12
	2.3%	7.2%	8.3%	0.0%	5.4%
Total	43	111	36	32	222
	100.0%	100.0%	100.0%	100.0%	100.0%

* Question 27

Table 8.10: Response according to total experience in the broadcasting sector

Digital Creativity needs to be protected by a government body*				
	Less 4 years	4 to 10 Years	Over 10 years	Total
Agree	36	57	89	182
	83.7%	77.0%	83.2%	81.3%
Neutral	6	13	11	30
	14.0%	17.6%	10.3%	13.4%
Disagree	1	4	7	12
	2.3%	5.4%	6.5%	5.4%
Total	43	74	107	224
	100.0%	100.0%	100.0%	100.0%

* Questions 26, 27, 28 and 30

Table 8.11: Level of agreement according to different response categories

	Current Job				Work Experience		
	Administration	Reporting	Technology	Producing	Less 4 years	4 to 10 years	Over 10 years
Average level of Agreement*	86.03	86.8	83.33	88.53	85.26	83.76	88.8

Cluster Analysis:

Table 8.12 shows the Euclidian distance between the different cases included in the analysis. The grey-shaded cell is the lowest value in the table and indicates the closest matching cases.

Table 8.12: Proximity Matrix for Cluster formation

	Administration	Reporting	Technology	Production	Less than 4 years	Between 4 and 10 years	More than 10 years
Administration	0.000	0.593	7.290	6.250	0.593	5.153	7.673
Reporting	0.593	.000	12.041	2.993	2.372	9.242	4.000
Technology	7.290	12.041	.000	27.040	3.725	.185	29.921
Production	6.250	2.993	27.040	.000	10.693	22.753	0.073
Less than 4 years	0.593	2.372	3.725	10.693	0.000	2.250	12.532
Between 4 and 10 years	5.153	9.242	0.185	22.753	2.250	0.000	25.402
More than 10 years	7.673	4.000	29.921	0.073	12.532	25.402	0.000

The dendrogram shown in Fig. 8.3 provides a very interesting observation. The dashed oval shows that it is the respondents associated with production and with more than 10 years of experience who are clubbed together in a single cluster. This implies that it is the senior personnel employed in the creative departments who most strongly believe that a Korean-based government body should frame regulations for protection of intellectual property.

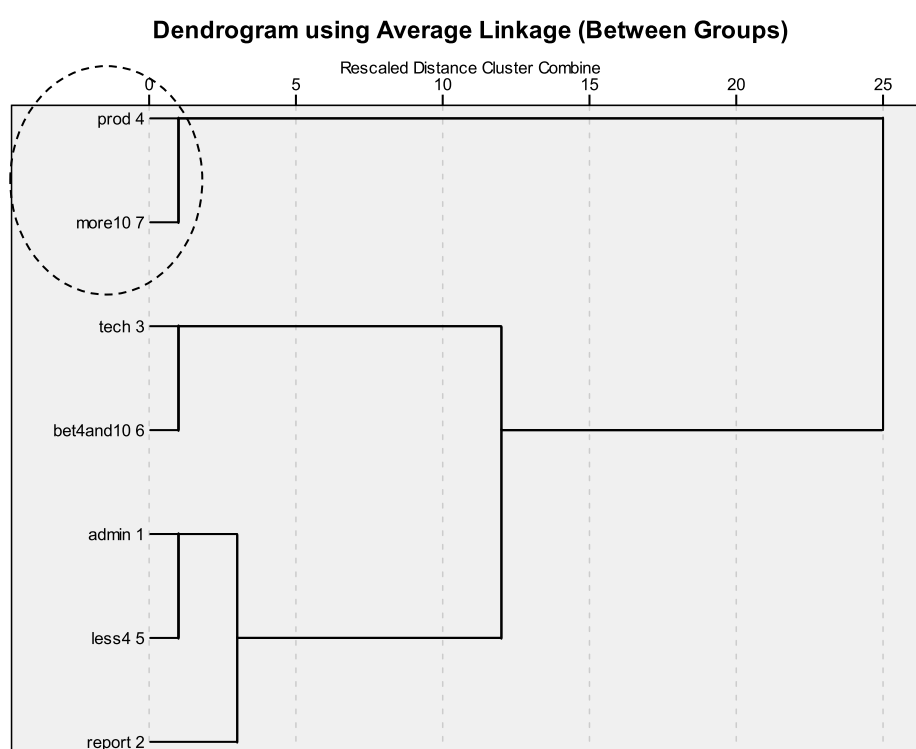


Fig 8.3: Dendrogram Showing Respondents from the Production Department and with More than 10 Years of Experience in the Same Cluster

Correspondingly they can be assumed to be critical of the imposition of the US-led IPR framework on the Korean audiovisual sector. The fact that it is the more experienced respondents who opposed this move is significant since it would have been these very respondents who would have been instrumental in initiating the Korean Wave in the 1990s. They feel that if the Korean-made IPR

laws have served their purpose well during the initial phases of the Korean Wave, there was simply no need to adopt an alien IPR framework.

Dr. Seo's opinion (see interview in Section 6.2.3) also gives credence to this hypothesis by pointing out that Korean copyright laws are now on par with global norms and thus the imposition of US-designed IPR laws on Korean-made content is futile.

8.3. Perceptions on the future of Public Service Broadcasting

It is obvious that digital technologies combined with increased competition and the resulting proliferation of private channels places Public Service Broadcasting (PSB) under increased pressure to maintain audience share and justify its continuing existence. However, the interactive nature of digital technologies offers (a) new forms of publicity and promotion via file sharing (b) new ways of extending the channel's presence in everyday life and the range of services it offers via its website, and (c) new ways of involving and engaging audience by helping to forge a closer relationship between viewers and programme makers.

These perceptions were verified with the help of the responses obtained for Questions 10, 14, 15 and 44 which are presented in Tables 8.13 to 8.21.

When asked about the future of PSB, about three-quarters (74.6%) of the respondents agree that the service is likely to come under increasing challenge in the future (Table 8.13). However, a majority of them are also of the opinion that adoption of newer tools and technologies is necessary if the service is to stay competitive. For instance, a high majority (87.9%) of the respondents agreed that newer methods to obtain contributions and feedback from viewers were necessary in order to improve the quality of services offered (Table 8.16).

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Further, about 67.4% of the respondents felt that the success of the PSB in future will depend on the use of technologies such as providing online information about the service on its website (Table 8.18). Finally, about 61.6% of the respondents were of the opinion that promotion of the service by employing techniques such as file-sharing can help build audiences and should be promoted rather than discouraged (Table 8.20).

However, the responses obtained for the questions mentioned above, gives rise to another interesting hypothesis as follows:

***Hypothesis 4:** Older respondents are pessimistic about the future of PSB. Conversely, it is the younger respondents who are most optimistic about the aforementioned developments.*

Justification:

The premises for making this hypothesis is the fact that older respondents have lived through the commercialization of the TV system and are aware of the increasing pressures on the service. They feel that the proliferation of newer tools and technologies pose a new challenge since the audience has a broader choice when it comes to content/programmes. Further, they feel that trade agreements such as the KORUS-FTA would impose further constraints thereby either sidelining the service or changing it beyond recognition which, in turn, could lead to rejection by its audience.

Younger respondents, on the other hand, can be considered to be 'digital natives' who have grown up with the technologies and see their potentials. Further, they are comfortable using the latest gadgets and technologies and find it a much more natural way to communicate and express their opinions. With the

rise of social networking tools such as Facebook and Twitter, the younger respondents practically 'live' in an online world. Therefore, they are much more aware of the advantages offered by these technologies and can foresee the benefits that PSBs can avail of by employing these technological tools.

Verification:

Question 10 is the key here since it attempts to obtain a direct opinion about the future of PSB from the respondents of the survey. For further analysis, Table 8.15 was derived from Tables 8.13 and 8.14. Looking at the shaded values in this table, it is clear that highest level of agreement is exhibited by the older respondents (more than 50 years old and have been working in the broadcasting industry for more than 10 years with agreement values of 86.7% and 77.6% respectively). These statistics clearly prove that older professionals are pessimistic about the future of the PBS in the face of increasing challenges from private channels, new technologies and trade agreements.

To verify the second part of the hypothesis, responses to questions 14, 15 and 44 were considered. Even though these questions attempt to gauge the opinion about the impact of new technologies on the PSB, however, the responses can be analysed in a broader context in order to gauge the opinion of the respondents regarding the challenges faced by the service.

Initially, a combination of cross-tabulation and mean computation was performed. The cross-tabulation was then utilized to obtain the level of agreement to questions 14, 15 and 44. Only the level of agreement (in percentage) in each respondent category for each relevant question was extracted out of the cross-tabulation tables and their mean was computed. The

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shaded value in Table 8.22 clearly indicates that the highest percentage of agreement to the above-mentioned questions is exhibited by the youngest category of respondents (aged less than 30 years). This statistic verifies the second part of the hypothesis that younger respondents are optimistic about embracing newer technologies and feel that such tools will improve the services offered by PSBs.

Table 8.13: Response according to age

Public Service broadcasting is likely to come under increasing challenge in the coming years*				
	less 30	30 to 50	over 50	Total
Agree	40	114	13	167
	74.0%	73.5%	86.7%	74.6%
Neutral	4	13	0	17
	7.5%	8.5%	0%	7.6%
Disagree	10	28	2	40
	18.5%	18.0%	13.3%	17.8%
Total	54	155	15	224
	100%	100%	100%	100%

*Question 10

Table 8.14: Response according to total experience in the broadcasting sector

Public Service broadcasting is likely to come under increasing challenge in the coming years*				
	Less than 4 years	4 to 10 years	Over 10 years	Total
Agree	31	53	83	167
	72.1%	71.6%	77.6%	74.5%
Neutral	4	8	5	17
	9.3%	10.8%	4.7%	7.5%
Disagree	8	13	19	40
	18.6%	17.6%	17.7%	17.8%
Total	43	74	107	224
	100%	100%	100%	100%

*Question 1

Table 8.15: Average level of agreement (in %)*

	Age			Work Experience		
	less than 30 years	Between 30 to years	Over 50 years	Less than 4 years	Between 4 to 10 years	More than 10 years
	74.0%	73.5%	86.7%	72.0%	71.6%	77.6%

*Question 10

Table 8.16: Response according to age

As broadcasting professionals we should welcome more contributions from viewers *				
	less 30	30 to 50	over 50	Total
Agree	48	136	13	197
	88.9%	87.7%	86.8%	87.9%
Neutral	5	9	1	15
	9.3%	5.8%	6.6%	6.6%
Disagree	1	10	1	12
	1.8%	6.5%	6.6%	5.5%
Total	54	155	15	224
	100%	100%	100%	100%

*Question 14

Table 8.17: Response according to total experience in the broadcasting sector

As broadcasting professionals we should welcome more contributions from viewers *				
	Less than 4 years	4 to 10 years	Over 10 years	Total
Agree	38	63	96	197
	88.4%	85.1%	89.7%	87.9%
Neutral	5	4	6	15
	11.6%	5.4%	5.6%	6.7%
Disagree	0	7	5	12
	0%	9.5%	4.7%	5.4%
Total	43	74	107	224
	100%	100%	100%	100%

*Question 14

Table 8.18: Response according to age

In the future, a channel's success will depend as much on what its website offers as on the programmes it makes. *				
	less 30	30 to 50	over 50	Total
Agree	38	104	9	151
	70.4%	67.1%	60.0%	67.4%
Neutral	12	23	3	38
	22.2%	14.8%	20.0%	17.0%
Disagree	4	28	3	35
	7.4%	18.1%	20.0%	15.6%
Total	54	155	15	224
	100%	100%	100%	100%

*Question 15

Table 8.19: Response according to total experience in the broadcasting sector

In the future, a channel's success will depend as much on what its website offers as on the programmes it makes. *				
	Less than 4 years	4 to 10 years	Over 10 years	Total
Agree	29	51	71	151
	67.5%	68.9%	66.4%	67.5%
Neutral	9	14	15	38
	20.9%	18.9%	14.0%	16.9%
Disagree	5	9	21	35
	11.6%	12.2%	19.6%	15.6%
Total	43	74	107	224
	100%	100%	100%	100%

*Question 15

Table 8.20: Response according to age

File sharing of copyrighted material between users can help build audiences for programmes and channels and should not be prosecuted *				
	less 30	30 to 50	over 50	Total
Agree	36	92	10	138
	66.7%	59.3%	66.7%	61.6%
Neutral	10	30	2	42
	18.5%	19.4%	13.3%	18.8%
Disagree	8	33	3	44
	14.8%	21.3%	20.0%	19.6%
Total	54	155	15	224
	100%	100%	100%	100%

*Question 44

Table 8.21: Response according to total experience in the broadcasting sector

File sharing of copyrighted material between users can help build audiences for programmes and channels and should not be prosecuted *				
	Less than 4 years	4 to 10 years	Over 10 years	Total
Agree	25	45	68	138
	58.1%	60.8%	63.6%	61.6%
Neutral	11	15	16	42
	25.6%	20.3%	14.9%	18.8%
Disagree	7	14	23	44
	16.3%	18.9%	21.5%	19.6%
Total	43	74	107	224
	100%	100%	100%	100%

*Question 44

Table 8.22: Average level of agreement (in %)*

	Age			Work Experience		
	less than 30 years	Between 30 to years	Over 50 years	Less than 4 years	Between 4 to 10 years	More than 10 years
	75.33	71.36	71.16	71.33	71.6	73.23

*Questions 14, 15, 44

8.4. Perceptions of the Korean Wave

The Korean Wave or ‘*Hallyu*’ has recently been one of the focal points of debate within the Korean broadcasting industry, especially in the light of increasing competition from larger industries such as those from the US and the UK as well as application of restrictions on the import of Korean-made television content by countries such as China and Japan. Therefore, an attempt was made in this section to gauge the opinion of the respondents regarding this scenario. The response to question 11 provides a direct insight into the opinion of the respondents regarding the Korean Wave. However, in order to obtain a deeper understanding of the perceptions regarding this scenario, questions 9 and 33

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were also taken into consideration which places the situation in a broader context, projecting an optimistic as well as a pessimistic scenario respectively.

Predictably, there is almost equal division in the opinion regarding the peak of the Korean Wave. As shown in Table 8.23, 38.8% of the respondents agree that the Korean Wave is past its peak while 37.5% of the respondents disagree with the fact. Similarly, 35.2% of the respondents agree that Korean TV programmes will become more high-quality and consequently more competitive in the future, while an almost equal number (38.8%) of the respondents disagree with such an optimistic scenario (See Table 8.24). Conversely, when queried about the impact of foreign imports on the Korean broadcasting industry, a large number of respondents (67.8%) agreed that the impact will be substantial while only a very small percentage (8.48) of the respondents dismissed the impact as negligible, as shown in Table 8.25. This indicates a very pessimistic outlook towards the Korean broadcasting industry, with space for national production and exhibition shrinking in the future. This could be particularly true in the light of trade agreements such as the KORUS-FTA, which includes a provision for the audiovisual sector as discussed in detail within Section 6.2.1.

Table 8.23: Response to Question 11

	The 'Korean Wave' is now past its peak.		
	Agree	Neutral	Disagree
Count	87	53	84
Percentage	38.8	23.6	37.5
Total respondents	224		

Table 8.24: Response to Question 9

	Korean TV programmes will become more competitive in the global marketplace in the coming years.		
	Agree	Neutral	Disagree
Count	79	58	87
Percentage	35.2%	25.8%	38.8%
Total respondents	224		

Table 8.25: Response to Question 33

	Will there be an impact of allowing foreign quota on TV on the future of the Korean broadcasting industry?		
	Yes	Cannot say	No
Count	152	53	19
Percentage	67.8%	23.66%	8.48%
Total respondents	224		

However, in order to isolate the category of respondents who were most pessimistic about the Korean Wave, cross-tabulation was performed on the responses obtained for the above-mentioned questions. The statistics are presented in Tables 8.26 to 8.28. Close observation of the data in these tables depict that it is the most-experienced broadcasting professionals who have cast the most doubts on the sustainability of the Korean Wave in the light of the challenges faced. Table 8.26 proves that it is respondents with more than 10 years of work experience who are the most confident (42.1%) that the Korean wave is past its peak. However, in order to analyse this scenario in a broader context, the respondents were further probed on their opinion about the quality of Korean TV programmes and the impact of imported TV content on the Korean broadcasting sector which have a direct impact on the Korean Wave.

When presented with an optimistic scenario (as shown in Table 8.27) that Korean TV programmes have become more high-quality and hence competitive on a global scale, a large percentage (40.1%) of highly experienced respondents disagreed. Similarly, when asked about the possible impact of imported TV

content on the Korean broadcasting industry (a pessimistic scenario), a very high percentage (66.3%) of highly-experienced agreed that the impact would be significant (Table 8.27).

The above statistics clearly show that highly-experienced broadcasting professionals are doubtful about the sustainability of the Korea wave in the near future. This doubt can possibly be due to a number of factors such as: (i) Degradation in quality, with claims that the content produced is too shallow, westernised and ignores traditional Korean culture, (ii) Rapidly escalating production costs, repeated and formulaic plots, and tendency to use the same group of popular stars over and over again, (iii) Imposition of a cap by neighbouring countries such as Japan, China and Taiwan on the amount of Korean-made content that could be broadcast (Cain, 2013).

However, another interesting fact that is visible in Table 8.26, is that it is the youngest category of respondents (assuming that they are the ones with the least work experience) who are confident that the Korean Wave is still ongoing (perhaps due to the surging popularity of Korean pop music or K-pop in a large number of countries within Asia and beyond). Therefore, it can be safe to generalise that the younger less-experienced broadcasting professionals are comparatively more optimistic and confident about the strength and sustainability of the Korean Wave in contrast to older, more-experienced professionals.

Table 8.26: Response according to total experience in the broadcasting sector

The 'Korean Wave' is now past its peak.*				
	Less than 4 years	4 to 10 years	Over 10 years	Total
Agree	16	26	45	87
	37.2%	35.1%	42.1%	38.8%
Neutral	8	19	26	53
	18.6%	25.7%	24.3%	23.7%
Disagree	19	29	36	84
	44.2%	39.2%	33.6%	37.5%
Total	43	74	107	224
	100%	100%	100%	100%

*Question 11

Table 8.27: Response according to total experience in the broadcasting sector

Korean TV programmes will become more competitive in the global marketplace in the coming years*				
	Less than 4 years	4 to 10 years	Over 10 years	Total
Agree	12	24	43	79
	27.9%	32.4%	40.1%	35.3%
Neutral	14	23	21	58
	32.6%	31.1%	19.8%	25.9%
Disagree	17	27	43	87
	39.5%	36.5%	40.1%	38.8%
Total	43	74	107	224
	100%	100%	100%	100%

*Question 9

Table 8.28: Response according to total experience in the broadcasting sector

Will there be an impact of allowing foreign quota on TV on the future of the Korean broadcasting industry?				
	Less than 4 years	4 to 10 years	Over 10 years	Total
Yes	27	54	71	152
	62.8%	72.9%	66.3%	67.8%
Cannot Say	10	18	25	53
	23.3%	24.4%	23.4%	23.7%
No	6	2	11	19
	13.9%	2.7%	10.3%	8.5%
Total	43	74	107	224
	100%	100%	100%	100%

*Question 33

8.5. Negotiating Changing Circumstances

The KORUS FTA finally took effect at the end of 2011. At the beginning of 2013, I conducted interviews with a cross section of broadcast professionals to explore how they saw the Agreement's impact just over a year after the new conditions operating in the industry began to become visible.

Questions of Copyright:

When Saint Augustine prayed for a life of chastity he famously added the proviso, 'but not yet'. As E.K Hwang, a producer with the Korean Broadcasting System, recounted, equivocation continues to be the dominant consumer stance towards intellectual property rights.

"In general, we agree that copyright has to be protected. But we also prefer to visit free download service websites. This sounds very contradictory. However, I believe that the reason why ordinary users prefer free services is due to lack of a secure and fair payment system. Further, finding high quality content for free is an incentive. Another feature is procrastination wherein a user will download content for free today and will simply convince himself to become a legal downloader from tomorrow. People also believe that the police investigation is not fair and simply an unlucky user will be charged."(Interviewed in Seoul on 27/02/2013).

Questions of Cultural Imperialism:

In December 2011, a month after the implementation of KORUS FTA, the Lee Myung-Back Government, launched another marketisation initiative and licenced four new general service broadcasting companies in the face of

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concerted opposition from opposition parties. As E.K. Hwang noted, these additional channels opened up new spaces for overseas programming.

“Four new general service-broadcasting companies have been launched in 2012 and they cannot possibly produce all the programmes by themselves. That is, the Korean broadcasting market is bigger, and needs more programmes from foreign countries.” (Interviewed in Seoul on 26/02/2013)

J.W.Kim, an activist in the *Left21* movement, sees the four new pay-TV channels as an open door for US producers.

“This is an expected situation (launching of four new pay TV channels) and is perfect timing for U.S-based media companies to increasingly sell their low quality but expensive programmes within the Korean broadcasting market. Moreover purchase of an increasingly large number of foreign programmes will prove to be detrimental to the domestic production environment in the long run.” (Interviewed in Seoul on 26/02/2013).

This assessment was endorsed by S.J.Kwon, the Chief Producer at Digital TV station, a well placed industry ‘insider’, who points to additional impetus to the market created by the 2012 switch-over from analogue to digital transmission.

“Korea switched to a digital broadcast network from analogue in 2012 hence digital technology would significantly change the broadcasting market. And I can see the changes within the pay TV market since my current position; I involve buying or distributing programmes. Most pay TV businesses prefer American programmes such as reality TV shows, drama, talent-show programmes etc. Since KORUS-FTA allows full foreign indirect investment, domestic programme providers

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are worried about American programmes flooding the Korean broadcasting network.” (Interviewed in Seoul on 27/02/2013)

This situation could be seen as a classic instance of cultural imperialism, but as C.W.Beak, a journalist working for the *Munhwa Broadcasting Corporation* observed, the concept no longer enjoys widespread currency in contemporary debate:

“There is no serious discussion or awareness about promotion of cultural imperialism under the KORUS FTA. Even academically, the theory or concept became old-fashioned since most of the Koreans feel proud that Korean Culture or cultural products including Korean broadcasting programmes “invade” the other cultures then make profits abroad. The new administration has just emphasised that the Korean Wave will be the key engine driving the growth of the Korean economy in future.”

“Moreover the common public can buy foreign products due to FTAs and watch foreign programmes, particularly US programmes. In other words, the majority of people are simply following a trend without considering the impact on cultural identity or its economic effect.” (Interviewed in Seoul on 27/02/2013).

At the same time, as Kwon argued, his experience as a Chief Producer for a major channel had confirmed his impression that cultural goods remained ‘exceptional’ and unlike other consumer commodities and that Korean audiences continued to prefer domestically made programmes:

“It is true that a Korean consumer can buy various foreign-made goods at a much cheaper price than before. For example, cars, cosmetics, branded clothes and

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accessories, fruits and food-items which cannot be produced in Korea. However it is very hard to believe that US-made programmes are good or recommendable to the Korean viewers. In fact, almost American programmes have a very low TV rating. I think, the Korean audience tends to watch more Korean drama, talk shows and K-pop music shows on TV than foreign-made programmes.” (Interviewed in Seoul on 27/02/2013).

As Hwang noted however, copyright payments are pushing up the price of premium important programming for channels:

“The cost of US-made programmes is quite high due to the high copyright fees. Its effect is already visible in case of channels like OCN (a pay channel for Hollywood movies), which are already under a crisis.” (Interviewed in Seoul on 27/02/2013).

As H.Sun, a journalist for *Media Daily*, the leading outlet for broadcast business news, pointed out, rising costs might lead to increased consolidation in the industry, with channel ownership becoming concentrated in fewer hands:

“There is obvious polarization between big and rich MSOs (multi System operators) and small-to-medium SOs. For example, CJ enterprise is a major MSO which invests not only in indoor productions but also pay a lot for expensive foreign programmes.” (Interview in Seoul on 27/02/2013)

A significant move towards greater concentration of ownership would be likely to have a major impact on diversity of cultural expression, as channels competed even more vigorously for audience share.

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Concerns were also expressed about the short-termism and profit orientation of inward American investment in the industry, a concern reinforced by experiences in the financial sector. As Sun argued:

“When the US demanded full direct investment within the Korean broadcasting sector, the Korean media was against such a provision and vehemently opposed it. During negotiations, only indirect foreign investment was agreed upon. But the key worries still remain, for example foreign capital investment would be short-term and profit-centred. US-based corporations would never invest and contribute on a long-term basis to the Korean broadcasting market. We have witnessed the case of Lone Star and Korea Exchange Bank which damaged to Korean economy. Further, Korea is not as good at ISD (Investor State Dispute) as the US is.” (Interviewed in Seoul on 27/02/2013).

The Political Backlash:

President Lee had an established track record of clamping down on dissident and critical media outlets. As S.J Kwon, noted;

“Many of the so-called progressive websites that propagated a “liberal” opinion were shut down during President Lee’s administration and the journalists and producers associated with him were left out of work.” (Interviewed in Seoul on 27/02/2013)

The most prolonged confrontation between the government and media workers however, concerned mainstream broadcast journalism rather than on line commentary.

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Kim Jea Chul a member of the inner circle surrounding President Lee, was appointed president of *Munhwa Broadcasting Corporation* (MBC) which, as we noted earlier, had broadcast a current affairs programme questioning the decision to lift the ban on American beef imports. Once in office, Kim dispatched dissident employees to local branch or marginal departments, and shut down flagship current affair programmes such as *'News Who'*. The journalists who had provided critical coverage of the 'mad cow' issue during the KORUS FTA negotiations, were a particular target. In response, the MBC Union decided strike on Jan 25 2012. It was unprecedented and longest strike in MBC's history but was discontinued by the Union on July 17 2012(Woo, 2012).

As Hwang recounted in his interview, this intervention, widely seen as politically motivated, has led to deterioration in the relationship between broadcasters and government and place critical reporting under greater pressure.

"It is still too early to say if there is huge impact or not because the agreement has recently taken effect in November 2011. But there was a huge impact on employers who work for Korean Broadcasting Stations. In early 2008, at the beginning of Lee's administration, there were large-scale demonstrations and violent protests against the KORUS FTA. Many scholars, journalists, producers, writers as well as civilians investigated and criticised the provision contained within the KORUS FTA. Particularly, TV stations such Munhwa Broadcasting Corporation (MBC), Korean Broadcasting System (KBS) and YTN also reported the forceful suppression of these protests. They also criticised the imbalance within the agreement and highlighted potential problems."

"Consequently, journalists, producers and writers involved in such news reports were fired. In response, the associated labour unions went on strike. At MBC,

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the striking workers claimed that the firing by President Kim Jea-Chul was at the behest of President Lee. They demanded a return to 'true and fair journalism. The MBC had the longest strike in its history and was joined in by KBS and YTN. Such a response can be considered to be revenge against the government crackdown on the employees working in the broadcasting sector who were simply doing their jobs." (Interviewed in Seoul on 26/02/2013).

This incident is a powerful reminder of the need to see changes in broadcasting within Korea as the product not only of the unfolding, and interacting, dynamics of digitalisation, marketisation and globalisation of the parallel processes of democratisation and official responses to it.

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CONCLUSION

Figures for the second quarter of 2013 showed Samsung, one of Korea's largest *Chaebols*, cementing its position as the world's largest manufacturer of smart phones. It was responsible for half (50.3%) of all global shipments and accounted for almost a third (30.4%) of the global market, more than twice the 13.1% market share of its nearest rival, the major US company, Apple (Epstein, 2013). The year before, a video of the Korean K-pop star, Park Jae-Sang, known by his stage name PSY, performing a distinctive dance to his hit song, 'Gangnam Style', had become the most viewed posting in the history of YouTube and the first to surpass one billion views. By July 2013 that figure had increased to 1.7 billion, confirming it as a world-wide phenomenon, a position underlined by two widely publicised iconic moments. In the summer of 2012, the Secretary General of the United Nations, Ban Ki-moon, was filmed learning the dance during a visit from PSY and a few months later, Barak Obama performed it at the party to celebrate his inauguration for a second term as President of the United States.

At first sight these very visible successes would seem to vindicate the policies pursued by successive South Korean government we have examined in this thesis, based on the argument that guaranteeing future domestic and export growth requires a shift in the centre of economic gravity, from a reliance on heavy industry to a form of capitalism based on state-of-the-art digital infrastructure and the expansion of the information and cultural industries at the

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level of both hardware and content. A closer look however reveals continuing tensions, anxieties and struggles.

In the previous chapter we explored the ways these tensions are perceived within one central sector of the cultural industries, broadcasting, drawing on a major on-line survey of broadcasting workers coupled with personal interviews. But the shifting market situation of broadcasting and its impact on the working lives and aspirations of broadcast professionals can only be adequately understood by placing it in the context of the wider dynamics that have and are shaping it.

We have argued that these dynamics are the product of three intersecting currents of change –digitalization, marketization and globalisation- and ways the governments of the United States and South Korea have responded to them. We have chosen to focus particularly on the long and often acrimonious debate surrounding the terms of the KORUS-FTA for two reasons. Firstly, as we have argued, its provisions, particularly in the areas of overseas ownership, foreign programming and intellectual property have wide ranging implications for the future of Korean Broadcasting and the Korean cultural industries more generally. Secondly, it provides a very productive point of entry into the analysis of the changing terms of the relations between the United States and the rising economies of South East Asia and the intersection between the ambitions of those economies, to become major players in the emerging global trading system, and the efforts of the United States to shore up its position as the world's leading economic power in the face of growing challenges, particularly from China. South Korean is at the epicentre of this realignment as a key strategic

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counter in the region with continuing strong relations with the US and a country that now counts China as its major export market.

The organisation of this thesis has followed the explanatory logic advocated by C Wright Mills, of moving between levels, combining detailed analysis of specific sites of action (in our case broadcasting) with accounts of the general contexts shaping these instances and the ways the dynamics they set in motion reconstruct the fields on which everyday action is played out (Mills, 2000).

As we noted in Chapter 5, from the late 1990s Korean broadcasting has been at the forefront of a cultural export drive, dubbed the 'Korean Wave', that saw domestic programming gain increasing international currency, particularly within South East Asia, where the rapid expansion of commercial television services across the region, including within China, had substantially boosted demand for content. This export success lends strong support to Joe Straubhauer's argument that when given a choice audiences prefer to watch programmes featuring people and settings that resonate with their experience. In the case of Korea, the value of this 'cultural proximity' was reinforced by the clear demarcation from Japan, the former regional colonialist and war time aggressor. Within Korea the 'Wave' was widely seen as a successful exercise in 'soft power' projecting national cultural onto the global stage. At the same time, changes to the organisation of the broadcasting sector were generating anxieties. The Integrated Broadcasting Act, which finally became operative in 2002, after a five year delay, granted more freedom to overseas investors. By bringing the regulation of broadcasting and telecommunications into a single consolidated entity, The Korean Communications Commission, established in 2008, repositioned broadcasting in terms of industrial policy rather than cultural

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policy. As we noted in Chapter 3, the United States had fought long and hard in international bodies to abolish the 'exceptions' granted to cultural production on the grounds that it played a central role in supporting national cultures, and have it treated on the same terms as any other industry. The provisions included in the draft of the KORUS-FTA represented a significant move in this direction. They allowed a single foreign country to account for up to 80% of the quarterly programming on terrestrial, cable and satellite systems, a concession that massively favoured the United States as the major supplier of popular programming. From three years after the Agreement came into operation foreign investors were permitted to own up to 100% of the equity in Korean programme providers unless they were engaged in either home shopping or multi-genre programming. The settlement arrived at also insisted that Korea adopt the more restrictive intellectual property rights regime, with its substantial extension of the term of copyright, that the United States had introduced internally at the urging of entertainment industry interests.

The original survey of 228 Korean broadcast professionals reported in Chapter 8 was conducted in 2008 before these terms finally came into effect at the end of 2011. As we noted, comparison of our results with other survey data revealed increasing criticism of the way the Korean government had handled negotiations and responded to popular concerns and protests and a sharp decline in support. The flash point had been the mass mobilisation against the resumption of US beef imports, originally suspended because of the perceived health risks posed by an outbreak of 'mad cow' diseases, a concession widely seen as a government gesture designed to oil the wheels of the KORUS-FTA negotiations. As we noted, broadcasters found themselves at the centre of the

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conflict when the government moved to prosecute producers at the television channel MBC after an edition of their current affairs programme *P.D.Notebook* had raised questions about the resumption of beef imports.

There was wide agreement among participants in our survey on the general trajectory of future changes to the broadcasting system with very substantial majorities agreeing that there would be more foreign programming on Korean screens and increased overseas investment. But there was also considerable ambivalence with some respondents expressing deep seated anxieties about the impact of KORUS-FTA while other were more optimistic and inclined to see opportunities. These differences were not random. They mapped onto age, experience and occupational position.

Older respondents tended to be more pessimistic. They were more likely to see challenges to the future of public service broadcasting as a counterweight to commercial and pay-TV services. They were also more likely to believe that the peak of the 'Korean Wave' had passed. At the same time, a significant number of respondents (40.1%) with over 10 years experience in the industry thought that Korean programming would be able to maintain its competitive position in the global market. The fact that an equal proportion disagreed and predicted decline, points to the uncertainties within the industry about its longer term future.

On intellectual property rights there was strong general support among our respondents, particularly those in creative as opposed the managerial jobs, for a regime that protected the rights of content producers and covered digital creativity. But there was also widespread agreement that such a regime should be devised and administered by a national body, sensitive to local conditions, rather than being based on made-in-the-USA provisions that might not be

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appropriate to national circumstances. Compliance with the general international IPR provisions that Korea had signed up to was seen as sufficient without taking on board the US push to go beyond them and install TRIPS-Plus measures. The need to take account of local conditions emerged clearly in responses to the question on file sharing with the majority of respondents taking the view that the potential boost to audience interest and engagement generated by the peer-to-peer exchange of copyrighted material outweighed the possible loss in income from sales and should not be prosecuted. Moves to integrate broadcasting more closely with the internet by supporting programming with a major web site presence also received strong endorsement though younger respondents tended to be more positive about the potential, with 70.4% of those under 30 seeing websites as central to the future of broadcasting as against 60% of those over 50.

By the time I conducted the follow-up interviews with broadcasters in 2013, the KORUS-FTA had been in operation for just over a year and the impacts were becoming more evident. The tone of comments was markedly more pessimistic as respondents saw the provisions of the agreement intersecting with national policies to reduce diversity. They saw the introduction of new pay-tv services significantly increasing the reach of American programming by generating a demand for product that the domestic industry was unable match. They pointed to the short-termism of US investment in the industry and expressed strong doubts about its contribution to the long term development of programming. They noted that copyright payments were forcing up the price of imported US programming placing them beyond the reach of smaller operators and accelerating the concentration of the industry in the hands of the major companies.

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Underlying these criticisms of specific impacts was a more general concern, that by endorsing the US view that the 'cultural industries' are first and foremost industries the Korean government had eroded broadcasting's ability to reflect the full diversity of national life and culture while significantly enlarging the space available for the presentation of images and narratives that celebrated the American way of life and its core values.

As we saw in Chapter 7, this view received significant support from academic analysts of broadcasting who warned that under the provisions of the KORUS-FTA Korean producers were entering a contest between two structurally asymmetric partners and the possible gains from the opening up of US market would be more than offset by the rapid increase in the volume of US produced material on Korean screens. These criticisms were informed by widespread concern about the loss of national sovereignty and compliance with US interests, anxieties that took a more general form in the mass protests against the removal of the ban on imports of US beef, which saw popular support for the KORUS-FTA plummet from 75% to 45% within a matter of months.

In our opening discussion of core concepts we revisited the debate around cultural imperialism and retrieved the definition provided by offered by Herbert who argues that it is most usefully seen as :

“the sum of the processes by which a society is brought in the modern world system and how its dominating stratum is attracted, pressured, forced and sometimes bribed into shaping social institutions to correspond to, or even promote, the values and structure of the dominating centre of power” (Schiller, 1976).

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As we noted , this definition fits the Korean case surprising well , from the compliance with marketization initiatives imposed by the IMF bail-out to the preconditions for the commencement of KORUS negotiations and the key clauses inserted on inward investment and foreign ownership, programme quotas, and intellectual property. Though one can plausibly argue that successive Korean governments were to some extent ‘forced’ to reshape domestic institutions and policies in response to external pressures, the evidence presented in this thesis strongly suggests that they were also ‘attracted’, even seduced into compliance by their own ambitions. The result was a convergence of views and interests

Firstly, Korean governments had already begun to move towards a more marketised economy before the 1997 crisis. The requirements for ‘restructuring’ imposed by the IMF as a condition of the bail-out certainly accelerated this shift towards neo-liberalism but they did not initiate it. Secondly, Korean governments shared the US government’s growing conviction that the successful capitalist nations of the future would be based not on traditional heavy industries but on the promotion of industries centred around the production and application of informational, knowledge and cultural goods and the construction of advanced digital infrastructures capable of coordinating economic activity and raising its efficiency at every level. Thirdly, both the governments of both the US and Korea sought to position themselves to best advantage in a rapidly shifting global arena.

When negotiations around the KORUS-FTA commenced, Korea enjoyed a substantial surplus in its overall balance of trade with the US. The roll-out of government sponsored digital initiatives was establishing the country as the most intensively digitalised in the capitalist world with a cluster of new digital

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equipment industries. The success of the 'Korean Wave' had fostered hopes that potential exports of hardware might be matched by rising exports of cultural products. It was against this background of real achievements and rising expectations that we need to view the Korean government's relentlessly positive promotion of the benefits of the KORUS-FTA and its acceptance of US demands.

A full explanation however also needs to take account of the geopolitics. As we have argued, the IMF intervention and the terms it imposed provided a sharp reminder of the continuing centrality of the US in the global economic system. Added to which, South Korea and the US remained closely bound together militarily by the continuing threat posed by North Korea. At the same time, China was emerging as Korea's leading trading partner. Rising US anxieties about the rise of China's economic and political power offered South Korea the opportunity to present itself as the honest broker, mediating between the two contemporary superpowers.

For the US, reinforcing its preeminent position was an increasingly urgent priority. In pursuit of this goal US companies needed to extend their geographical reach, the range of sectors they were allowed to operate, and their freedom of operations. This required the global trading system to be reorganised. The creation in 1995 of a new umbrella body, the World Trade Organisation (WTO) to regulate the system and adjudicate on disputes was pivotal to this project. As we have seen, in response to the growing recognition of the importance of services, including audio visual services, to the future of advanced capitalism, the WTO extended the potential reach of multilateral agreements to the whole of the service sector (by replacing the General Agreement on Tariffs and Trade (GATT) with a General Agreement on Trade in

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Services (GATS). It also paid particular attention to control over informational and expressive goods by incorporating issues around intellectual property rights into bargaining over the terms of international trade for the first time through the launch of the Trade Related Aspects of Intellectual Property Rights system (TRIPS). As we have argued however, this new regime turned out to be a double edged sword.

On the one hand it offered a potential mechanism through which the US could negotiate entry into existing and emerging markets on more favourable terms and extend the range of sectors included in agreements. At the same time however, the increasing number of countries joining the Organisation made securing compliance with US interest increasingly difficult. Issues of national cultural proved to be a particular sticking point. As we have argued, disputes in this area have a long history stretching back to the launch of the modern world trading system in the aftermath of World War II with countries, led by France, fearing that their cultural distinctiveness was being eroded by the ascendancy of American popular media insisting that cultural production should be excluded from the normal terms of trade agreements and that national government be allowed to continue to subsidise national production and impose quotas on imports of foreign material. In the post-colonial era these long standing opponents of the 'free trade' in cultural goods found new allies among nations that had recently achieved national independence, often as a result of bitter decolonisation struggles, and for whom questions of nation building remained an urgent priority. This emerging coalition successfully lobbied UNESCO to endorse a convention on cultural diversity which had the clear purpose of protecting national cultural policies from WTO disciplines (Hahn, 2006). This

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initiative was primarily rhetorical but it pointed to a continuing and deepening division between the proponents of 'free trade' and the advocates of cultural exceptionalism that played a pivotal role in the eventual breakdown and suspension of negotiations within the WTO. The resulting gridlock was instrumental in accelerating the shift in US strategy from multilateral bargaining to negotiating agreements signed with either one partner or a limited number of partners. Free Trade Agreements (FTAs) were on the leading edge of this shift. Limiting the number of negotiating partners was assumed to increase the likelihood of securing an agreement on favourable terms since the US could bring the full weight of its economic position to bear and hold out the prospect of privileged entry to its domestic market. It was hoped that this promise of a 'special relationship' would help overcome sticking points, including resistance to the further opening of cultural markets to US products and companies, and secure 'harmonisation' with the more stringent intellectual property rights regime that the US had introduced domestically at the urging of the leading entertainment companies.

In the case of the KORUS-FTA the Korean government's lifting of the ban on beef imports and the concession agreed on inward investment, screen quotas, and intellectual property rights suggest that this strategy was successful. But to interpret these concessions as solely the outcome of US pressures is again to ignore the central role assigned to 'attraction' in Schiller's conception of cultural imperialism. As we have seen, the Korean government, supported by analyses produced by some of the country's leading neo-liberal economists, predicted substantial gains from the agreement. Added to which, the fall-out from the 1997 economic crisis had undermined efforts to secure new trade agreements within

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the South East Asian region, giving added impetus to the Korean government's own turn towards FTA's.

This account also supports Johan Galtung's argument, quoted earlier, that imperialism needs to be seen less as a relation between 'nations' and more as a relationship between elite groups in both locations ("the centre in the Centre nation" and "the centre of the periphery"), to the exclusion and often the detriment of those towards the bottom of the social system (Galtung, 1971). Recent evidence from Korea bears this out.

Digitalisation was introduced in Korea as elsewhere, with the promise that it was both economically necessary, to secure future growth, and socially beneficial, as a mechanism for securing social inclusion based on universal connectivity. But as we have seen, the push to build 'Digital Korea' was conducted within a policy framework that pursued marketization policies grounded in neo-liberal ideology. The result has been widening levels of inequality. A recent survey of available statistics noted that between 2009 and 2010, the Gini coefficient (the standard international measure of income inequality) increased from 0.494 to 0.503 (where 0 is a measure of perfect equality and 1 a measure of perfect inequality). Over that same period the average per capita income earned by the top tenth of the population rose by 5.3% while low income earners saw their earnings fall by 4% (Yi-geun, 2012). This growing gap is being driven by job cuts at a number of major companies, the widening differences in the wages paid to employees in small and medium sized enterprises as against larger concerns, and the increasing in irregular employment. As a consequence, as the OECD noted, in its 'Economic Survey of Korea 2012', "income inequality has risen to the top of Korea's policy agenda"

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(OECD, 2012). It identifies the poor productivity in the service sector, which is still only half that in manufacturing, as a major problem to be addressed, but its recommended solution, 'strengthening competition', runs the risk of compounding rather than ameliorating inequality.

It is precisely this situation of deepening social divisions and escalating social problems that calls for a broadcasting system capable of addressing the issues in all their complexity, mapping the range of everyday experience, and subjecting competing explanations and policy proposals to rigorous scrutiny and open debate. Our survey findings and interviews however suggest that many of those within the industry seeing this ambition as increasingly unachievable with critical commentary being submerged in a rising tide of imported programming and domestic product aimed at maximising audiences at home and abroad. Their concerns have since been underlined by government moves to close down dissenting voices signalled most forcefully by the appointment of a member of the president's inner circle as president of MBC and the subsequent strike of its employees described in the last chapter. This suggests that rather than entirely displacing the 'developmental state' constructed under authoritarian rule, with its strong central direction of both economic life and public expression, the double move towards marketization and democratisation has created a new variant of the dual system characterised in Andrew Gamble's memorable phrase as 'free market/strong state' (Gamble, 2011)

9.1. Future Directions

As we noted at the outset, this thesis is based on a detailed case study and as with all cases it is to some extent a one-off, distinctive in its particularity. At the

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same time, as we have also argued, it raises issues that have a wider resonance and application and suggest more general lines for future inquiry.

Culture as Industry and Expression: One of the major threads running thorough the account offered here has been the escalating tension between conceptions of cultural production as a space of expression, for personal visions and social and national identities, and an industry that is becoming increasingly central to economic growth as advanced capitalism moves from a foundation in manufacturing to a basis in informational and expressive goods. We have charted the way this tension has been played out in the successive debates on cultural ‘exceptionalism’ in international trade fora and highlighted its centrality to arguments around the acceptable limits of intellectual property regimes, where the rights of creators (and the companies that hold the rights to their work) are pitched against the perceived need to foster innovation by allowing creative borrowing and re-use. There is now a substantial literature on these issues but it is conducted primarily by legal professionals and is largely separated from debate on the future of public culture more generally. This division is replicated within cultural studies whose practitioners rarely engage with the legal literature. The case of the KORUS-FTA presented here confirms that this academic apartheid is singularly unhelpful in untangling the complex re-composition of public culture in the digital age. Arriving at a more adequate analysis requires us to develop a new interdisciplinarity that draws on all the relevant available material.

Relocating Cultural and Broadcasting Policy: The case of the KORUS-FTA confirms the pivotal role now being played by FTA's in the on-going reorganisation of the global trading system. At the time it was signed it was the largest such agreement the US government had entered into. Since it came into force the US has opened negotiations with the European Union in pursuit of an even more extensive agreement. As we have argued, the widespread consensus that control over the production and circulation of informational and expressive goods and services is central to securing competitive advantage in the era of Digital Capitalism has pushed debate around the organisation of cultural production to the centre of discussions of economic policy as well as cultural policy. This suggests that analysis of cultural policy, including debates around the future of broadcasting, can no longer be conducted with reference solely to national situations. They need to be placed firmly in the context of the shifting play of power within the global trading arena and the pressures this exerts and the opportunities it presents.

New Varieties of Capitalism: South Korea is often held up as an example of a country that has moved from the classical model of the 'developmental state', in which an authoritarian government selected and supported national economic 'champions' and imposed strict limits on civil society expression, to an economy based around market dynamics, a democratic polity based on competitive party rule, and a vigorous civil society. The account offered here however suggests a more complex picture. Firstly, the government continued to play a central role in fostering the drive towards digitalisation. Secondly, some of the most successful companies in the hi-tech sectors, are old established Chaebols like Samsung, who

Chapter 9: Conclusion

have moved into new areas. Thirdly, while digital technologies have provided new resources for popular expression and mobilisation within civil society, the successive clashes between broadcasters and the government at MBC offer a pointed reminder that the government retains a strong impetus to control the central arenas of the public sphere and marginalise dissent. This in turn suggests that we need to challenge both the binary rhetoric at the heart of neo-liberalism, which pitches 'free' markets against state management, and prevailing academic models of varieties of capitalism (Hall and Soskice, 2001), and develop a more nuanced analysis that explores the shifting combinations of market dynamics and government intervention and control across the full range of cultural and informational activity. This would allow comparative analysis to incorporate a range of countries that have moved towards more marketised forms of organisation only relatively recently (including Korea, Taiwan and China) alongside the more familiar contrast between Anglo-American and Rhineland models.

Revisiting Imperialism: The Korean case presented here lends support to two strands in current debates around cultural imperialism. On the one hand the success of the Korean wave in South East Asia confirms the need to incorporate regional markets and cultural proximity into any analysis of contemporary transnational flows. On the other, the account of the negotiations around the KORUS-FTA offered here underlines the continuing utility of Herbert's Schiller's characterisation of cultural imperialism as a point of convergence between pressure and attraction, and Johan Galtung's insistence that analyses of the winners and losers from this encounter place class divisions firmly at the centre.

Chapter 9: Conclusion

It is ironic that Park Jae-Sang's K-pop video, 'Gangnam Style', with which we began this Conclusion was originally intended as a satirical comment on the possessive individualism of the rich residents of an upmarket suburb of Seoul. As it travelled across the multiple platforms offered by digital media, this social content was largely stripped away, lost in translation. It is precisely the responsibility of critical academic analysis to go beyond the easy reproduction of fashionable schemas, however attractive, and demonstrate how cultural activity, at every level, is shaped by deep seated structural shifts that intersect and combine to generate new spaces, new pressures and new exclusions. I hope the analysis offered in the preceding pages of this thesis has gone some way to meeting this challenge.

Appendix I: Online Survey Questionnaire

Survey Parameters:

Number of respondents: 228

Number of completed surveys: 224

Number of incomplete surveys: 4

Expected number of respondents: 500

Response rate: 45.6%

Launch date: 05 Oct 2008

Close date: 14 Jan 2009

Questionnaire:

Audiovisual service trade and TRIPs at the digital age

First a few questions about yourself to ensure that this survey accurately reflects the broadcasting work force

The broadcasting work force

Questions here as on your page 1 but arrange the categories horizontally across the page

1. Sex

- Male Female

2. Age

- Under 21
 21~30
 31~40
 41~50
 51~60
 over 60

3. Final Educational qualification

- High School
 Graduate from College
 Bachelor Degree
 Master's Degree

Appendix I: Online Survey Questionnaire

- PhD

4. Current job

- Administrator
- Announcer
- Camera crew
- Engineer
- Floor Director
- Journalist
- Producer
- Researcher
- Reporter
- Writer
- other

5. How long have you been in your current job?

- Less 1 year
- 1~3 years
- 4~6 years
- 7~10 years
- Over 10 years

6. How long have you worked in broadcasting altogether?

- Less 1 year
- 1~3 years
- 4~6 years
- 7~10 years
- Over 10 years

Category 1. Korean Broadcasting and my view

Here are some of the things people have said about Korean broadcasting. How far do you agree or disagree with each of the statements

7. Korean broadcasting is adapting well to digital convergence and making good use of the new opportunities they offer.

- strongly agree
- agree
- neither agree nor disagree
-

Appendix I: Online Survey Questionnaire

disagree strongly disagree

8. New services (like on demand and catch up) offer valuable new sources of potential revenue

strongly agree agree neither agree nor disagree disagree strongly disagree

9. Korean TV programmes will become more competitive in the global marketplace in the coming years.

strongly agree agree neither agree nor disagree disagree strongly disagree

10. Public Service broadcasting is likely to come under increasing challenge in the coming years.

strongly agree agree neither agree nor disagree disagree strongly disagree

11. The 'Korean Wave' is now past its peak

strongly agree agree neither agree nor disagree disagree strongly disagree

12. Interactive technologies offer valuable new ways of engaging audiences

strongly agree agree neither agree nor disagree disagree strongly disagree

13. The future of broadcasting lies with the Internet and mobile phones

strongly agree agree neither agree nor disagree disagree strongly disagree

14. As broadcasting professionals we should welcome more contributions from viewers

strongly agree agree neither agree nor disagree disagree strongly disagree

15. In the future , a channel's success will depend as much on what its website offers as on the programmes it makes.

strongly agree agree neither agree nor disagree disagree strongly disagree

Category 2. My current work and digital technologies

Thinking now of your own recent experience, how has much impact has the roll out of digital technologies had on

16. Digital technologies for daily work

extremely important very important somewhat important
not very important not at all important

17. Training of digital technologies to upgrade my work

extremely important very important somewhat important
not very important not at all important

18. Technological knowledge for my work

extremely important very important somewhat important
not very important not at all important

19. How to use the digital technologies in order to choose my role

extremely important very important somewhat important
not very important not at all important

20. Good ability of digital technologies and good promotion

extremely important very important somewhat important
not very important not at all important

Category 3. The impact of digital technologies

How great would you say the impact has been in the following areas

21. Programme making

extremely important very important somewhat important
not very important not at all important

22. Publicity and promotion

extremely important very important somewhat important
not very important not at all important

23. Distribution

Appendix I: Online Survey Questionnaire

extremely important very important somewhat important
not very important not at all important

24. Audience and market research

extremely important very important somewhat important
not very important not at all important

Category 4. The US led Free Trade Agreement in Audiovisual Service Trade

One of the key changes in the broadcasting environment in recent years has been the signing of the US led Free Trade Agreement (FTA) in Audiovisual Service Trade. How far do you agree with the following comments?

25. Bilateral agreements such as the FTA have a greater impact on the Korean broadcasting business than multilateral agreements such as the WTO and GATT

strongly agree agree neither agree nor disagree
disagree strongly disagree

26. Overall the Korean government has struck a good deal in negotiations with the USA

strongly agree agree neither agree nor disagree
disagree strongly disagree

27. The Government has done a good job in explaining the implications of the FTA for the audio visual industries

strongly agree agree neither agree nor disagree
disagree strongly disagree

28. Korea has no choice but to open its audio visual markets more fully to the US

strongly agree agree neither agree nor disagree
disagree strongly disagree

29. On balance the positive impacts of the FTA will outweigh the negatives

strongly agree agree neither agree nor disagree
disagree strongly disagree

30. Current broadcasting regulation and policy in Korea is unnecessarily

hostile to foreign interests.

- strongly agree agree neither agree nor disagree disagree strongly disagree

Category 5. FTA in audiovisual services for the Korean broadcasting

How important do you think the following issues around the FTA in audiovisual services are for the future of Korean broadcasting?

31. The future of advertising

- definitely probably not sure probably not definitely not

32. The future of Public Service broadcasting

- definitely probably not sure probably not definitely not

33. Foreign contents quota on TV

- definitely probably not sure probably not definitely not

34. Foreign ownership

- definitely probably not sure probably not definitely not

35. The privatisation of public channels

- definitely probably not sure probably not definitely not

36. The future effectiveness of national regulation

- definitely probably not sure probably not definitely not

Category 6. Korean broadcasting and Intellectual Property Rights

One of the central issues now emerging concerns the consequences of recent and proposed changes to Intellectual Property Rights for creativity and diversity in broadcasting. How far do you agree with the following view?

37. Protecting Intellectual Property is vital to the future of the broadcasting business

Appendix I: Online Survey Questionnaire

strongly agree agree neither agree nor disagree disagree strongly disagree

38. National protection for Intellectual Property Rights needs to be stronger

strongly agree agree neither agree nor disagree disagree strongly disagree

39. The US` proposal to extend the period of copyright protection after the death of an author from 50-75 years to 70-95 years should be welcomed as an important stimulus to creativity

strongly agree agree neither agree nor disagree disagree strongly disagree

40. Piracy of copyrighted material in any form must be eradicated.

strongly agree agree neither agree nor disagree disagree strongly disagree

41. The current arrangements for Digital Rights Management are working well.

strongly agree agree neither agree nor disagree disagree strongly disagree

42. Digital Creativity needs to be protected by a government body

strongly agree agree neither agree nor disagree disagree strongly disagree

43. The Korean Broadcasting Service is well placed to protect Digital Creativity Rights.

strongly agree agree neither agree nor disagree disagree strongly disagree

44. File sharing of copyrighted material between users can help build audiences for programmes and channels and should not be prosecuted

strongly agree agree neither agree nor disagree disagree strongly disagree

Category 7. Intellectual Property issues from the US led FTA

Appendix I: Online Survey Questionnaire

Listed below are some of the intellectual property issues arising from the US led FTA. For each one can you say whether you feel that you know enough its implications for your job and for the broadcasting business in general or whether you would like to know more?

45. Extension of copyright

know enough Would like to know more can't decide

46. Reduction of digital library articles in Agreements

know enough Would like to know more can't decide

47. Acceptance the exclusive rights for 'Temporary Storage' ; this dose not allow to save even temporarily at computer RAM when users download

know enough Would like to know more can't decide

48. Reinforcement of technical Safeguard

know enough Would like to know more can't decide

49. Reinforcement of responsibility for online service providers and offer providers' identity

know enough Would like to know more can't decide

50. Restriction of compulsory execution for public interest by government

know enough Would like to know more can't decide

51. Reinforcement the patents infrastructure between investors and government

know enough Would like to know more can't decide

52. Extension of Patent Rights

know enough Would like to know more can't decide

53. Exclusive Right for Data

know enough Would like to know more can't decide

54. Abolition for the article of an offense subject to complaint

know enough Would like to know more can't decide

55. legal damage compensation system

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know enough Would like to know more can't decide

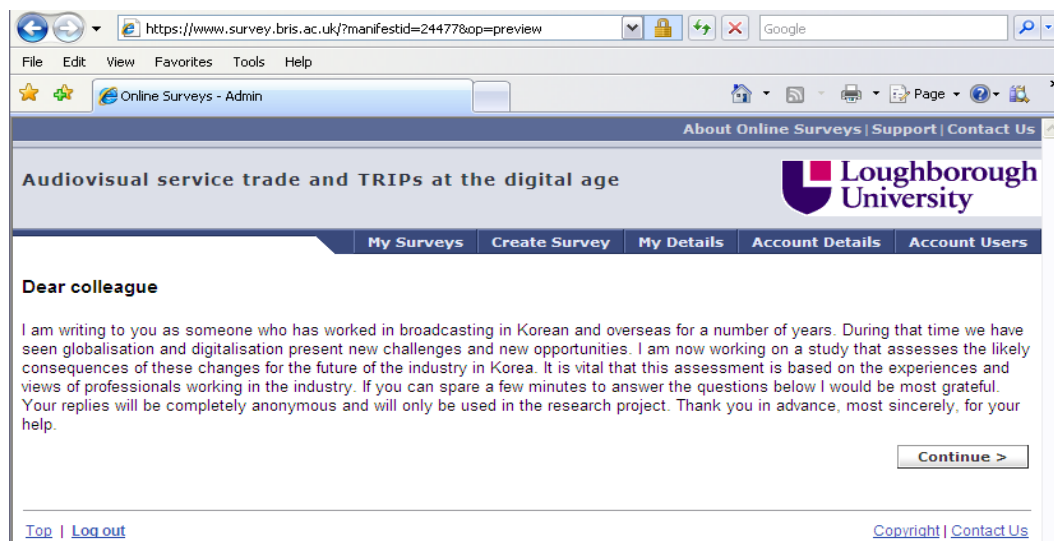
56. Over the transom of relief procedure

know enough Would like to know more can't decide

57. Rights for resolution of disputes

know enough Would like to know more can't decide

Website Snapshot:



Appendix II: List of Interviewees

Name	Designation/Location
Beak, C.W.	Journalist, <i>Munhwa Broadcasting Corporation</i>
Bhatia, U.S.	Ambassador, Permanent Representative of India to the WTO
Bhattacharya, D.	Ambassador, Permanent Representative of Bangladesh to the WTO
Chang, H.J.	Professor of Economics & Politics, Cambridge, UK.
Cho, H.Y.	Professor of Sociology Department and NGO Graduate School, Seoul, South Korea
Cho, S.H.	TV Broadcasting Station, Producer, Seoul, South Korea.
Choi, J.H.	Legal Affairs Officer, TV Broadcasting Station, Seoul, South Korea.
Choi, J.I.	Senior Researcher/PhD in Economics, Korea Culture & Tourism Institute, Seoul, South Korea
Hwang, E.K.	Producer, Korean Broadcasting System
Kim, H.C.	Law & Policy Research Team manager, Korea Software Copyright Committee, Seoul, South Korea
Kim, J.H.	Producer, <i>Korean Broadcasting Sytem</i> , Seoul, South Korea
Kim, J.C.	Producer, <i>Munhwa Broadcasting Corporation</i> , Seoul, South Korea
Kim, J.W.	Activist, <i>Left21</i> group
Kim, K.D.	Activist, <i>No FTA</i> campaign
Kim, S.J.	Professor of Communication Department, Seoul, South Korea
Kim, W.K.	Legal Affairs Officer, TV Broadcasting Station, Seoul, South Korea
Kwon, S.J.	Chief Producer, <i>Digital TV</i> station
Lee, H.Y.	Professor of Division of International Relationship department, Seoul
Lee, N.P.	TV Broadcasting Station, PhD Researcher, Seoul, South Korea.
Min, E.J.	Head, Legal Development Section, Geneva, Switzerland
Oh, B.I.	Activist, Korean Progressive Network, Seoul, South Korea
Park D.Y	Assistant Professor, College of Law, Seoul, South Korea.
Pierola, F.	Advisory Centre on WTO, Geneva, Switzerland.
Sacerdoti, G.	Professor, Member of the Appellate Body, WTO
Seo, D.J.	Senior Research Associate, Copyright Commission, Seoul, South Korea.
Sha, H.K.	TV Broadcasting Station, Producer, Seoul, South Korea.
Sun, H.	Journalist, <i>Media Daily</i>
Veit, W.	Director, Friedrich Ebert Stiftung, Geneva, Switzerland.
Woo, S.H.	Economist and Lecturer, Seoul, South Korea.

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