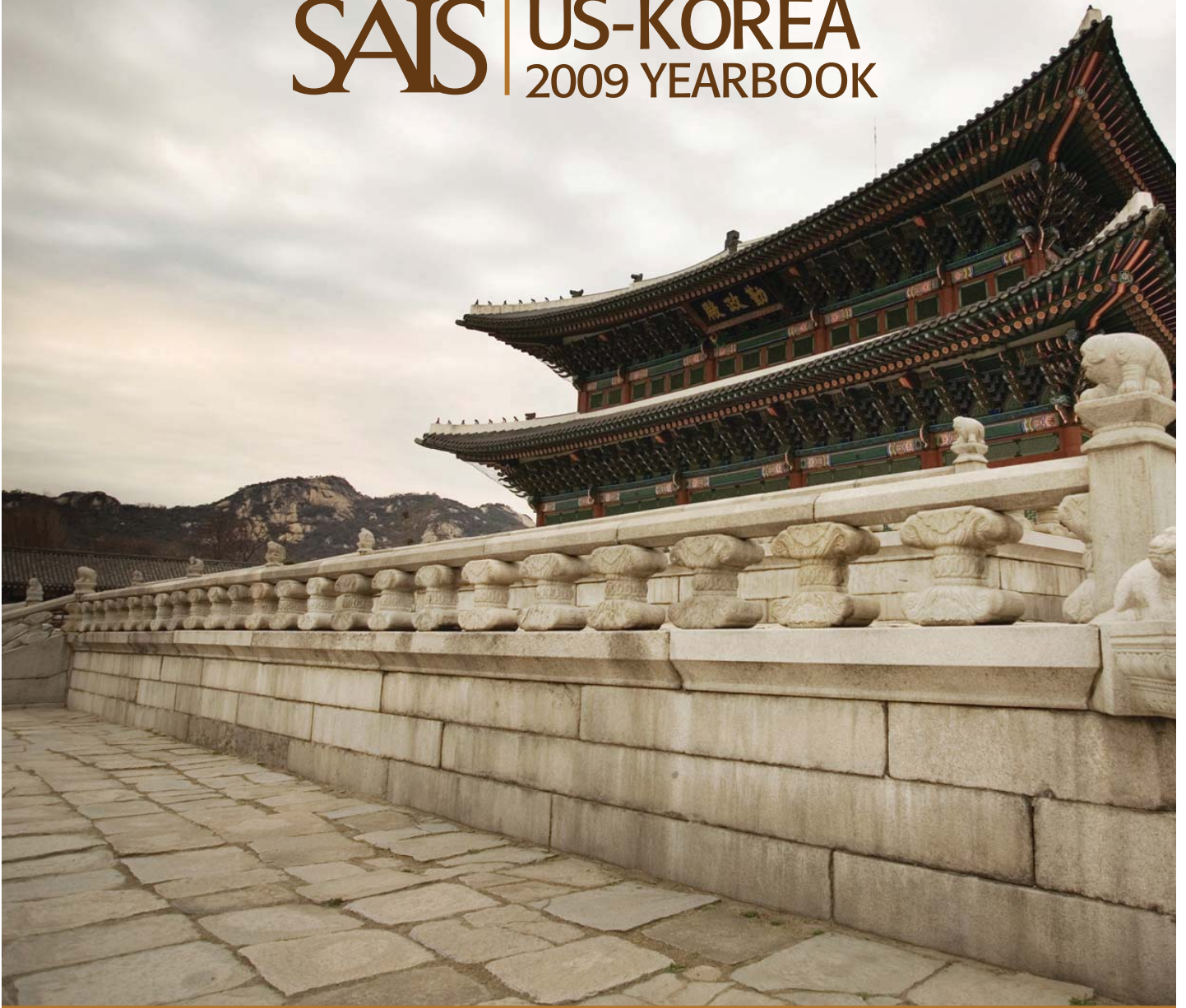


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THE LEGAL HERMIT KINGDOM: THE KOREAN LEGAL INDUSTRY AND ITS OPENING

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I. INTRODUCTION

The Korean economy today is a robust international economy, with its exports slightly outweighing its imports. According to the Central Intelligence Agency *World Factbook*, the total Korean export as of 2008 was \$433.5 billion, while import was \$427.4 billion. The Korean economy was the eleventh-largest exporter in the world, while being the fifteenth-largest economy overall. The Korean economy mainly exports capital-intensive manufactured goods, including consumer electronics, semiconductors, computers, automobiles, and ships, and imports various natural resources, manufactures, and services. The country boasts many internationally well known companies such as Samsung, LG, and Hyundai. Also, according to the Office of the United States Trade Representative, Korea's low or nonexistent tariffs on most manufactured goods invite foreign manufacturers to Korea. Furthermore, companies providing services such as investment banking, consulting, and accounting have all established branches in Korea. Undoubtedly, Korea is a significant center of international economic exchange, with many Korean companies establishing businesses abroad, and various foreign companies coming into the Korean market.

South Korea has also concluded numerous FTAs with prosperous Asian and European economies including Singapore, Thailand, and the EFTA countries (Switzerland, Iceland, Norway, and Liechtenstein). Also, according to a May 2008 report in *Legal Times*, Korean companies have a strong interest in fledgling Asian economies such as Cambodia, Vietnam, and India. Korean companies have a strong presence especially in Cambodia, where new investments are on the rise after decades of brutal communist rule.

Naturally, economic traffic of this scale gives rise to many legal problems, and both overseas-bound Koreans and foreign clients in Korea would benefit greatly from having easily accessible international legal service located in major Korean cities. However, Korea is the last Organisation for Economic Co-operation and Development (OECD) member country to liberalize its legal market, and the recently adopted (in September 2009) Foreign Legal Consultant Act (FLCA), which outlines the procedures for foreign law firms to establish offices in Korea, requires five years before allowing full-scale foreign legal market liberalization in Korea. It is also important to acknowledge that FLCA is applicable only to law firms originating from countries with which Korea has signed an FTA. Because most major international law firms responsible for providing legal service to Korean and foreign clients originate from either the United States or Britain, this means that any meaningful legal market liberalization remains at least six or seven years away. Currently, there are no foreign “lawyers” in Korea. Foreign attorneys in Korea are called “foreign legal consultants” and must be employed by a Korean employer to be active in the country.

This paper addresses the following questions that arise from this situation: First, why has the Korean legal industry been so protected despite the obvious demand for a more open legal market? What are some of its characteristics that have kept it from liberalizing, even when the Korean economy depends heavily on liberal international market?

Second, although it has remained closed so far, the Korean legal sector has finally begun to accept various measures aimed at its liberalization. This leads to another set of questions: What and who have influenced the decision to liberalize the Korean legal market? Also, what institutional processes does the Korean government provide to achieve this liberalization, and how is the KORUS FTA related to it?

Furthermore, legal sector liberalization will have important consequences for Korean and foreign lawyers, as well as domestic and international consumers. Therefore, this paper will also explore some of the possible impacts of liberalization on the Korean legal sector: What kind of service will the newly established foreign law firms provide? What will happen to the Korean law firms that face competition from these foreign firms? And what are the implications for the consumers?

II. KOREA: A LEGAL HERMIT KINGDOM

Countless political, social, economic, and cultural reasons have kept the Korean legal sector closed to the international market. However, it is not feasible to analyze all of these reasons in this paper. This discussion will instead focus on the characteristics of the Korean legal sector itself, and why it has been resistant to legal market liberalization.

The Korean legal sector possesses certain traditional characteristics that make it ill-suited for international competition, leading many of its socially influential members to strongly oppose liberalization. The following discusses some major aspects of the Korean legal profession that have contributed to its current relative lack of international competitiveness.

Legal Training and Lawyers' Role in Korea

In Korean society today, entering the legal profession is a prestigious accomplishment. The Korean Bar Exam is an extremely rigorous examination, allowing only 2 percent of its takers to pass. According to a 2003 study of the American Chamber of Commerce in Korea: "Since 1996, the quota of new lawyers has been raised from 300 per year to the current 1,000 per year, but further liberalization beyond this 1,000 number appears unlikely, at least in the near future. Due to the limits placed on the number of new attorneys accredited each year, experienced counsel is at a premium." The Korean Bar therefore systematically lowers the number of new lawyers, making them a rarity in Korea. For most Korean people, therefore, engaging a lawyer can be prohibitively expensive. According to *Korea Law*, a simple average defense case costs more than \$10,000 (with another \$10,000 if the case is won), while a client in the United States has many more price options because of America's much larger supply of legal professionals.

As professionals, Korean lawyers often perceive themselves as litigators representing their clients in courts rather than advisors involved in business interests. According to the Judicial Research and Training Institute (JRTI)—the national legal training institute that all new passers of the Korean Bar Exam must graduate to become full legal practitioners—its top graduates most often choose to become judges or prosecutors, in contrast to Western countries, where most top graduates accept law firm or corporate counsel positions. A careful observation of the curriculum offered by JRTI reveals that it focuses largely on traditional legal theory and on preparing its students to become

judges and prosecutors, with relatively few programs designed for private legal practice. Also, JRTI's program traditionally has had a very strong domestic focus; although JRTI now has made its one-semester-long legal English course mandatory, this requirement was only instituted in 2006, while the KORUS FTA was being negotiated. Similarly, a formerly elective course on U.S. law was made mandatory only in the same year.

Consequently, domestic Korean clients, whether corporate or individual, usually do not engage lawyers unless they are involved in litigation and therefore absolutely require legal assistance. While clients in many other countries frequently engage lawyers to solicit their advice on many issues ranging from their court trials to business contracts, Korean clients do not perceive their lawyers as such easily employable business advisers. According to Brendon Carr, an American lawyer working in the Korean law firm Hwang Mok Park, there is therefore almost no domestic demand and supply for nonlitigation corporate legal service. As a result, when international clients seek nonlitigation corporate legal advice in Korea, they must rely on a handful of large law firms that employ few international corporate lawyers, which has proven to be inadequate, as will be discussed in sections below.

The newly opened law schools in Korea are intended to train legal professionals to be competitive in the international legal environment. However, as these schools opened only in 2009, there are currently no Korean legal professionals who graduated from these newly founded Korean law schools. It is also uncertain how these graduates of new law schools will qualify for membership in the Korean Bar Association. Some speculate that the new bar exam that law school graduates will have to take will be as difficult as the existing bar exam, and others believe that the process will be much easier. Overall, it is unclear how graduates from these newly established law schools will change the landscape of Korea's legal profession.

A Weak Industry

The Korean legal system has focused on training few elite litigators and legal academics rather than readily accessible private legal advisers. Although such a system may have sustained the prestige of, and prevented competition for, Korean lawyers, it has not adequately prepared the profession to become a competitive international industry. Korean lawyers have recognized this, and indeed a major factor that has prevented the liberalization of the Korean legal sector is a fear of foreign competition by Korean lawyers (and therefore the

Korean government to a large extent, because a significant portion of public officials and legislators hail from the legal profession). When describing their foreign counterparts, Korean lawyers and media often use adjectives such as “Goliath,” “killer-lawyers,” and “invaders,” as evidenced in the April 2007 article of *Korea Economics Daily* entitled, “An Upward Battle against Goliath Accounting and Law Firms from the U.S.” According to the European Union Chamber of Commerce in Korea (EUCCK), *Trade Issues and Recommendations 2004*, 60.4 percent of all Korean lawyers very strongly opposed the opening of the legal market, while almost all other Koreans and foreigners studied in the report were favorable to the opening. The following examines the current lack of international competitiveness of the Korean legal industry that has led many of its members to strongly oppose legal-sector liberalization.

The Korean legal industry is distinctly disadvantaged compared to their foreign counterparts in the following areas: size, available capital, and international legal expertise. Even a cursory comparison of major Korean and foreign law firms will reveal that, as a result of Korea’s legal training system producing very few lawyers, foreign law firms are indeed “goliaths” compared to their smaller Korean counterparts. The *American Lawyer*, a U.S.-based journal focusing on legal issues and trends, has compared the ten largest Korean law firms with their foreign counterparts. Kim & Chang, the largest law firm in Korea, employs “only” 400 lawyers, while Clifford Chance, a U.S.-based law firm interested in Korea, employs more than 3,800 attorneys worldwide. Also, according to the report, the Korean legal industry is characterized by a very uneven distribution of legal talent among law firms: there is a very large gap between Kim & Chang, the largest firm, and the other major law firms. The second-largest Korean law firm, Kwang Jang, employs 200 attorneys—about half the number of attorneys in Kim & Chang. The smallest of the top ten Korean law firms, Logos, employs a meager 64 attorneys. Therefore, it is reasonable to describe the Korean legal sector as being dominated by five large law firms employing more than 100 attorneys, with other small and mid-sized firms competing for the remainder of the market in Korea. In contrast, the United States and European (particularly British) legal markets are full of law firms employing more than 1,500 attorneys, and there are not one but several largest firms that employ more than 3,000 lawyers, including the aforementioned Clifford Chance, DLA Piper (3,500 lawyers), and Baker McKenzie (also 3,500 lawyers), among others. Even Troutman Sanders, the very smallest of the top 100 American and British law firms surveyed by *The American Lawyer*, employs more than 700 attorneys.

Clearly, no final conclusion about these firms’ competitiveness can be drawn by

merely observing the number of employed attorneys. In fact, Korean law firms were able to maintain their competitiveness because the size of the Korean legal market demands only so many lawyers. However, as the industry is about to enter direct competition with giant foreign law firms, the number and variety of employees become important factors. As in any other business, hiring more skilled and reputable attorneys means a higher capacity to build a wider client base, and therefore produce more revenue, which leads to greater capital for future investment. Employing more lawyers in many different capacities and practice areas also means more stability: when one branch performs poorly due to specific sector conditions, other well-performing branches are able to offer support and advice in order to ensure firm-wide survival. Currently, Korean law firms do not have enough employees or capital to competitively invest in newly opened markets—the current number of attorneys employed by Korean law firms might have been enough for the domestic market, but it will certainly be deficient in the much bigger global market where foreign firms are already well established and in fierce competition among themselves.

Besides these problems of personnel and capital, Korean law firms clearly lack international outreach and presence. Major Korean law firms tend to stay in Seoul, refusing to reach out and build a more diverse client base with what small number of attorneys they have. For example, the aforementioned Kim & Chang has a large cluster of office buildings in central Seoul, having concentrated all of their employees in one city. In contrast, foreign law firms tend to establish a larger number of smaller offices scattered around the world. For example, DLA Piper has nearly 90 offices throughout Europe, North America, Africa, Middle East, Oceania, and Asia. According to a February 2008 article by Brian Rupp and Jae En Kim in the *National Law Journal*, such strategy of having multiple offices on multiple continents allows these law firms to offer “fully integrated, one-stop international legal service that can meet the local needs as well as provide them with global know-how and resources...and reduce the cost and inconvenience to client companies.” Therefore, besides the massive personnel and capital available, Korean law firms lack the capability and international presence required to offer large-scale global corporate transaction services for international clients.

There are notable exceptions as several mid-sized and smaller Korean law firms have actively engaged foreign markets and established offices in Vietnam, Cambodia, and even non-Asian markets, such as Russia and Britain. However, according to a December 2008 report of *Law Times*, there are two important deficiencies in these law firms’ international outreach efforts, besides the fact

that their overseas outreach began too late (the earliest overseas office of a Korean law firm was opened in 2005). First, the larger law firms that are the most experienced and familiar with corporate transactions (such as Kim & Chang and Kwang Jang) are still overly focused on domestic markets. Although smaller law firms such as Yulchon and Logos have aggressively explored overseas markets, they are relatively limited in resources and personnel compared to their larger and better-known counterparts such as Kim & Chang and Kwang Jang, and find it much more difficult to maintain offices that can compete with foreign law firms already established in these markets. For example, according to Logos, its Vietnam office in Ho Chi Minh City employs only three Vietnamese lawyers advising Korean companies in Vietnam. While these lawyers are known to be talented and experienced, there are currently more than 1,500 Korean companies in Vietnam engaged in an equally diverse variety of industries. The situation is similar in China. Despite the fact that there are many Korean law firms in China, many Korean attorneys interviewed by *Legal Times* has stated that viable competition with major international firms in China is still unlikely because of the unmatched size of capital and personnel in these foreign firms and their advantage of having established their offices much earlier. Second, despite the fact that two Korean law firms, Logos and Dae-Ryuk, have opened offices in Moscow and London, respectively, access to other major non-Asian economic markets and non-Korean corporate clients still remains painfully limited to Korean law firms; hardly any major foreign corporation has solicited legal service from a Korean law firm regarding non-Korean market issues, according to an expert of the Korean Bar Association of Seoul. This is in contrast to the influence and acknowledgment enjoyed by many U.S. and British law firms that have already established an international reputation independent of their countries of origin, firms from whom clients willingly solicit legal advice despite the fact that their business matter may not have much to do with the United States or Britain.

Another dimension of international legal practice involves foreign clients seeking legal service in Korea. However, as JRTI has traditionally focused on domestic law and has adopted mandatory English language and U.S. law courses only very recently, it has traditionally produced legal professionals unable to directly interact with foreign clients unfamiliar with Korean culture and language. Also, JRTI has yet to offer courses on other foreign languages and laws. While other Korean industries report up to 50 percent of their employees being able to interact directly with their foreign clients, the Korean legal profession estimates that less than 10 percent of its professionals are able to interact with foreign clients without third-party assistance. And as a result of

still-existing restrictions on foreign lawyers in Korea, the country as a whole has not been able to attract many foreign lawyers. In addition, most foreign legal advisers currently available in Korea are concentrated in a handful of firms in Seoul (Kim & Chang, Sejong, Kwang Jang, Yulchon, and few others). Yet, the level of specialization offered by even these top law firms is nowhere near the international standard. For instance, Sean Hayes, an American attorney working in Korea, recalls an incident where a Korean attorney specializing in litigation was appointed to lead a team working on a corporate transaction issue of which he had no prior experience, an event “unimaginable” in reputable international law firms.

Therefore, even in 2009, most Korean law firms still lack the international presence and experience to advise Korean and foreign clients in need of legal service. As a result, even indigenous Korean clients such as Samsung, LG, and others often rely on foreign law firms when in need of international legal service, while foreign clients in Korea are constantly dissatisfied with the quality of international legal service in Korea.

The Korean legal industry, therefore, is too small, overly domestic, too late, and too limited in exploring major international markets compared to their foreign counterparts. Despite the few Korean firms that have ventured into overseas markets and have had relative success, it is still a weak international industry largely incapable of supporting other sectors of the Korean economy in their global competition, forcing them to rely on foreign law firms that enjoy solid reputations as authorities on international legal issues.

III. THE REASONS FOR INCLUSION OF THE LEGAL SECTOR IN THE KORUS FTA

Despite its weakness discussed above, the Korean legal sector has been included in KORUS FTA negotiations. This section will examine the major reasons why this legal hermit kingdom is finally willing to open itself to the international market: foreign dissatisfaction and Korean consumer demand for a more open legal market.

According to the Office of the United States Trade Representative, “Under the FTA, nearly 95 percent of bilateral trade in consumer and industrial products would become duty free within three years of the date the FTA enters into force, and most remaining tariffs would be eliminated within 10 years.” The

sectors affected include agriculture, financial service, textiles, pharmaceuticals, investment, and government procurement and contract, among others. Virtually every sector included in the FTA has received close attention from interested constituencies, and the legal sector is no exception. This section surveys three major interests that demand liberalization of Korean legal market.

Widespread Foreign Dissatisfaction

The uncompetitive international legal service in Korea has raised the ire of many international clients with an interest in Korea—perhaps extremely so. According to a survey conducted by the European Chamber of Commerce in 2004, in which 150 major foreign companies operating in Korea participated, 91.3 percent desired full opening of the market and an astounding 97.3 percent believed that Korean law firms fall behind world standards in the area of corporate law. When the United States government was negotiating KORUS FTA, it perceived this dissatisfaction. Indeed, the service sector, including legal service, was one of the major areas of American strength during the negotiations (while being weak on other sectors, such as automobiles)—and according to an April 2007 article in the *Maeil Business News*, it was the United States that strongly insisted on having negotiations on the legal service sector, while Koreans have been overly cautious broaching the matter.

Korean Consumer Demand

As discussed already, many Korean consumers are forced to rely on foreign law firms for international legal service. According to *Korea Economic Daily*, Korean consumers are a major force lobbying for a cheaper and liberalized legal service. Large Korean companies are able to afford legal services offered by prestigious foreign firms, but mid-sized and smaller companies are forced to rely on inadequate international service provided by domestic Korean law firms. Besides such business concerns, Korean companies often feel that it is unfair for lawyers to enjoy heavy protection while they have to compete internationally. In his book *Legal Reform in Korea*, Tom Ginsburg describes the sense of alienation that many Korean clients feel towards their lawyers. According to Ginsburg, Korean clients often describe their lawyers as having a “guild mentality” aimed at avoiding competition by preventing the legal system from training more lawyers and opening up the legal market. Consequently many Korean consumers feel that the legal sector must face these market mechanisms to be able to better understand the situation faced by their clients who have been competing within liberal international market conditions for decades.

Korean Lawyers

Recently, a rapidly growing minority within the Korean legal profession has expressed its support for legal-market liberalization under the terms of KORUS FTA. These lawyers argue that the Korean legal market must be opened to competition to acquire new skills and competitiveness in order to better serve their clients. According to the 2004 study conducted by the Seoul Bar Association regarding the market liberalization, a significant minority (42%) agreed to market liberalization or believed that it will have an overall positive impact on the Korean legal sector. Many of these lawyers also expressed the opinion that the Korean legal sector needs to expand its areas of service into the international sphere in order to improve the industry's competitiveness and to give more opportunities to future Korean lawyers, whose numbers will increase due to the new law school system in Korea.

IV. THE FOREIGN LEGAL CONSULTANT ACT

Although KORUS FTA includes the legal sector in its list of negotiation areas, it does not provide specific processes that law firms must adhere in order to fully engage the Korean market. The Korean government therefore passed the Foreign Legal Consultant Act (FLCA), in order to specify steps and procedures that foreign law firms seeking entrance into Korea must follow. The act provides a five-year, step-by-step process that will ultimately liberalize the Korean legal market. It was adopted in September 2009, but major law firms from the United States can benefit from the act only after the KORUS FTA is ratified, which had not happened by the end of 2009.

According to the Ministry of Justice of Korea, the act has three stages. During the first stage, it will allow foreign lawyers and law firms to open branches in Korea as "foreign legal consultants" and advise clients on the law of their home jurisdictions, public international law, and international arbitrations, but not Korean law. After two years, the second stage will be in force, in which foreign law firms will be allowed to enter into specific business agreements with Korean law firms to handle cases that involve both domestic and foreign legal issues. Finally, within five years, foreign law firms will be permitted to establish joint ventures with Korean law firms and hire Korean-licensed lawyers as partners or associates. As one can see, FLCA is designed to promote a very gradual process of legal-market liberalization spread over several years. FLCA has been adopted

as a compromise measure between constituencies interested in full liberalization and the Korean legal profession, which demands a slower time frame of market liberalization.

V. POSSIBLE POSITIVE AND NEGATIVE IMPACTS OF LEGAL MARKET LIBERALIZATION

Therefore, full legal-market liberalization will take at least several years to become a reality. However, once it has been achieved, it is expected to have enormous consequences for both foreign and Korean clients, as well as the legal sector itself. There will be both positive and negative consequences for all parties involved, and a careful analysis of both pros and cons must be carried out before adoption of market liberalization. The following section shows that market liberalization will have both positive and negative impacts for the parties involved in the process.

Korean Law Firms and Lawyers

Once foreign law firms establish themselves in Korea, foreign law firms will target the following areas: Korean domestic clients, Korean corporations seeking overseas business, and international clients in Korea. Currently, Korean law firms in Seoul employ only a handful of international attorneys. After five years of FLCA and the ratification of the FTA, Korean law firms will have to employ more international attorneys who can interact with foreign clients, and will be compelled to establish additional offices internationally in order to retain their current Korean clients who have overseas branches in foreign markets.

Also, an influx of foreign lawyers will force Korean lawyers to expand their areas of service, and build new niches in order to remain competitive in the market. Rather than insisting on their primary role as litigators, Korean lawyers will gradually begin to see themselves as readily accessible business and private consultants who advise on virtually every aspect of corporate and individual legal life—corporate contracts, market consulting, and other areas that may not involve going to the court, and therefore were previously perceived to be less prestigious.

As with all market openings, however, there may be negative consequences as well. Currently many conservative Korean lawyers are gravely concerned about the possibility of over-globalization. The legal sector is unique in that its

services are based on a country's law, which is a product of its unique history and culture. The common law, upon which much of the world's commercial law is based, is an entirely different tradition from that of Korea, which is based on civil law. Each country has developed its unique legal traditions to suit its circumstances. Because many young Korean lawyers who hope to lead international careers are currently engaged in learning a legal system that originates from a foreign culture, it is reasonable to be concerned that there may be confusion, compromise of legal integrity, and overall dilution of the Korean legal system. Also, because of its complexity, understanding a legal system requires an extensive amount of study and effort. Learning how to benefit a client by utilizing the legal system may well require a lifetime. Faced with a very difficult challenge of having to learn two different legal systems simultaneously, some Korean legal professionals may find it necessary to compromise their competence in Korean customs and laws in the process of becoming more international.

Foreign Law Firms

It is expected that various foreign law firms and lawyers will arrive in Korea once its legal market is liberalized. Large international law firms, such as Paul Hastings, Akin Gump Strauss Hauer and Feld, and DLA Piper, originating from the United States and Britain are especially hopeful that the FTA with Korea will be signed quickly because they expect the Korean market to be a success. These law firms have well-known Korean clients such as Hyundai and LG, and expect that their new offices in Korea will gain their further trust and offer convenience.

However, while some members of the Korean Bar Association fear a sudden influx of a large number of international lawyers into Korea, foreign law firms claim that such fear is unfounded; since the Korean market is still not as large as China or Japan, many law firms will focus on consolidation in these markets, with Korea being a secondary consideration. One example is O'Melveny & Myers, a U.S.-based international law firm with a very strong presence in China and Japan. According to Howard Chao, the firm's head of international practice, "Right now we have a lot of resources in China and Japan, and we're trying to get those markets right." Therefore, while it is reasonable to expect a number of law firms to establish new offices in Korea, it is still uncertain how many law firms are really interested in the Korean market. Furthermore, it is still to be seen whether these international law firms would choose to eventually practice domestic Korean law—an opportunity that remains more than five years away anyway.

One main concern that international law firms have is the difference between Korean and common law culture. In common law countries, legal service is often sought for writing contracts and providing other commercial expertise. However, Korea has a culture in which law is something to be afraid of: Koreans often perceive law as the last resort for their problems, and the involvement of legal professionals often implies mistrust between the involved parties. The foreign law firms in Korea therefore may have to resolve such cultural differences by employing various local experts and adopting alien practices that may compromise the firms' business modus operandi. Adjusting to an entirely new legal culture therefore requires substantial investment and effort on the part of these law firms. Compounding this problem is the exclusive characteristic of the Korean legal profession. The Korean legal profession is notorious for consisting of an extremely disproportionate number of professionals who graduated from certain elite universities. Gaining access to this exclusive network may require substantial capital contribution and involve uneven hiring practices that compromise the firm's ability to tolerate diversity. Law firms that establish their practice too hastily in Korea, therefore, may find the Korean legal market unprofitable and leave after much loss.

Domestic Korean Consumers

Although foreign law firms will be able to establish offices in Korea, Korean consumers whose legal needs are domestic will not directly benefit from these foreign lawyers. However, there are indirect benefits. It is likely that domestic consumers will enjoy a "push down" effect; if top Korean law firms lose their international practice (although very small in proportion to the entire legal industry, it can be quite lucrative to individual law firms) to their new foreign competitors in Korea, they are very likely to lower the price of their service in order to court smaller and less wealthy clients who traditionally relied on smaller law firms and individual legal practitioners. Less wealthy companies and individual consumers therefore may be able to afford prestigious legal representation previously unavailable to them.

However, the consumers might be negatively affected from the legal-market opening as well. According to a May 2008 article in *Chosun Ilbo*, once FLCA reaches its third stage and allows foreign law firms to hire domestic Korean lawyers, foreign law firms may offer much higher salaries and benefits to their potential recruits. Because of their larger capital, foreign law firms may be able to afford to do so, while Korean law firms will have to struggle ever harder to attract even talented domestic lawyers, let alone talented international attorneys.

This competition to secure legal talent may translate into higher fees for clients, denying access to top-level legal service to more consumers than the current system. Some experts pessimistically predict that this will ultimately result in polarization of legal service, with wealthier clients enjoying monopolistic access to talented domestic and international legal counsel, while the higher cost of these firms may discourage less wealthy clients from hiring them. This will ultimately result in further stratification of the Korean legal market between poor and wealthy clients, and alienate less wealthy clients from these law firms, and also from the legal system itself.

Furthermore, with the influx of many U.S.- or U.K.-trained lawyers and the competition they bring, some negative aspects of Western legal culture might take root in Korea. Lawyers in the Western legal market are often criticized for their overly commercialized behavior and outlooks. Stories of class-action lawsuits that bring little real benefit and deepened psychological damage to clients and enormous financial benefit to the involved legal professionals are often cited in the United States as some of negative impacts that lawyers make on society. Also, Western legal culture is criticized by many observers for creating unnecessary frictions between various social groups and over-codification of social conventions in the form of complexly written legal contracts. Internationalizing the Korean legal market increases the likelihood that such negative practices of the Western legal system will be imported into Korea. As a result, it might adversely affect the unique social atmosphere and conventions that exist among the Korean people.

International Consumers

There are two types of international consumers: first, Korean companies and individuals who have interests in foreign countries and therefore need foreign legal counsel, and second, foreign companies and businessmen who have commercial interest in Korea. Both types of international legal consumers will greatly benefit from foreign law firms in Korea. Overseas-bound Korean consumers will no longer need to travel abroad in order to benefit from legal service provided by international law firms. Korean consumers in need of international legal counsel often travel to Hong Kong and Tokyo because these cities offer a wide range of international legal service, unlike Seoul. Once foreign law firms are allowed to open offices in Korea, such costly travel will be unnecessary and Korean consumers will enjoy an easier access to international law firms.

Foreign consumers interested in Korea will also be able to enjoy a wider range of international legal services once foreign law firms are established in Korea. These foreign consumers will no longer have to engage Korean law firms that offer inadequate international legal service, and will be able to comfortably interact with legal advisers who better understand their situation both legally and culturally. Also, by being able to hire one firm to handle both overseas and domestic legal services, consumers will no longer incur the additional transaction costs that arose from having to hire and coordinate between two firms: one Korean and one foreign. Also, according to an April 2007 article in *National Law Journal*, international clients who are concerned with “commercial issues, they really would like someone right next to them” because of the sensitive nature of commercial issues, and having a lawyer’s office close to one saves various costs such as traveling.

Despite these benefits, some international consumers may nevertheless suffer some negative consequences. According to Hyun Dong Lee, an international corporate attorney working for Samsung Group, there is a certain Western hegemony in the international legal market. Law firms headquartered in common law countries such as the United Kingdom and the United States currently dominate the market, and in fact, these firms are much more likely to establish their presence in Korea than law firms from civil law countries such as France, Germany, or China. According to Lee, these law firms tend to appeal to American or British courts, where their long experience gives them a great advantage. American and British domination of the legal market in Korea is a very uncomfortable prospect for companies from non-common-law countries, such as China and Russia. For these clients, American law firms in Korea may be actually more difficult to deal with than Korean ones. These clients would have to deal with a law firm that is used to an entirely different legal system, and in the case of international conflict between the United States and their home countries, an infinite amount of unseen and costly complications may arise.

VI. CONCLUSION

South Korea’s status as a legal hermit kingdom is finally about to come to an end through the adoption of the FLCA in September 2009 and the potential ratification of KORUS FTA in the near future. The purpose of the Korean legal sector in Korean society has traditionally been very different from that of its Western counterparts, and as a result the industry has become ill-prepared for international competition while still enjoying domestic prestige

and influence. This has been widely recognized by members of the Korean legal profession, and they have been vocal in their efforts to prevent the legal-sector liberalization. However, there has also been widespread domestic and foreign dissatisfaction with the legal service in Korea, and major domestic and international interests have been constantly demanding a more open legal market in Korea. Consequently, the legal sector finally has been included in KORUS FTA negotiations, and upon its ratification, will follow the steps specified in the FLCA towards full liberalization. The FLCA provides a time frame of five years to institute gradual market liberalization, which allows Korean legal professionals time to prepare for this change. Once the legal market is fully liberalized, both domestic and international consumers are likely to benefit from it, while many also fear negative consequences such as higher fees, influx of low-quality foreign lawyers, unemployment for many domestic Korean lawyers, and other negative impacts that have been discussed.

Overall, the legal-market liberalization is a mixed blessing; for every possible benefit, there is also potential harm. However, it still remains to be seen what impacts the liberalization will have on the legal sector and the Korean society. Unlike other sectors, the Korean legal sector has traditionally produced many of the country's political and economic elites, and therefore, great changes in the sector are likely to have very extensive effects throughout the Korean society. In the end, Koreans and foreigners will have to work together to enable legal-market liberalization to bring about positive effects for all those involved.



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