

JD STUDENT, LAW, KOREA

As Korea completes the transition from a developing country to a newly industrialized economy, significant changes in its trade practices will necessarily ensue. Through intensive research in Korea, I plan to assess these changing patterns in international trade, focusing on the manner in which Korea's trade laws and institutions will adapt to new market conditions. The research project will include an account of Korea's range of "coercive" forces that are stimulating reform of trade and finance law. The project will conclude with a look ahead to possible systemic changes in the structures and laws of Korea's trading institutions. In closing, I will outline the broader goals of my project and the affiliations that I have established to facilitate my research.

The recent emergence of Korea's economic system is characterized by several unique factors. First, the process of industrialization began in a devastated infrastructure after the Korean War. The economic condition was exacerbated by the influx of impoverished refugees from the North. Also, the division of the country split into halves the deficient resource base of the Korean peninsula. There was an overwhelming fear of risk. Korea risked further economic decline into severe poverty.

To offset these risks, a uniquely Korean economic system arose, one which demonstrates a high degree of cartelization and conglomeration in its corporate structures coupled with governmental controls over the most important trade and finance mechanisms, such as tariffs and barriers. Simply stated, the economic planners felt that this tightly controlled system was the only way to stimulate growth and avert risk simultaneously. Korea's industrial revolution gave rise to incredible growth rates in GNP and exports, and subsequently, Korea earned the distinction of engineering an economic miracle.

Despite rapid economic success, critics commented that Korea's economic system was founded on inherently anticompetitive and restrictive practices. For instance, the Korean government imposes strict import restrictions on dairy products, even though Milk from New Zealand costs one-sixth that of the Korean product. Furthermore, the business and trading practices of the large, diversified conglomerates, known as *chaebol*, are coming under increased scrutiny. In essence, there is a fundamental difference in the way Korea and its Western partners conduct trade, and the argument against the Korean model centers on restrictive trade practices that make it virtually impossible for foreign traders to gain a foothold in the market.

The call for liberation of Korea's markets is gaining intensity. Already, visible reforms are underway, and many in Korea agree on the need for fundamental change in the *chaebol* system. In my research, I will identify several legal and extra-legal sources of "coercive" influence on Korea's trade and finance practices. First, the recent formulation of the World Trade Organization has created a legal forum in which trade diplomats can address a broad range of restrictive practices. There is the distinct possibility that this broadening of the General Agreement on Tariffs and Trade could initiate market reforms in Korea. Second, changes can be effected through bilateral negotiations. For example, during the presidency of Chun Doo Hwan, the United States prodded the Korean government to liberalize imports. Although economists debate the net impact of the resulting changes, it is undisputed that both sides agreed to a list of 104 items that were effectively "liberalized." Finally, the impetus for market reform in Korea may come from within its own borders. Acknowledging the international criticism of anticompetitive trade practices and the possible detriments to its own industries, the Korean legislature passed the Monopoly Regulation and Fair Trade Act. Article 15 of the Act proscribes a broad range of unfair trade practices, and Article 20 limits vertical restraints on trade.

The combination of these "coercive" factors has the potential to radically alter the trade and finance practices of Korea. Ultimately, I plan to assess the resulting changes. My research will include the relevant historical backdrop and a discussion of the "coercive" factors already operative in Korea.

Furthermore, an analysis of changing patterns in the international trade and finance law of Korea would have virtually unlimited applicability. First, Korea's trade practices closely parallel those used in other Asian countries such as Japan. Also, alterations in the Korean model could serve as a guide rule for other regional reforms of trade and finance law. Because Korea is undergoing the process of systemic change, it is the ideal location to assess the global trends.

My project has several ambitious goals. Primarily, I would like to publish my final product in a law journal with the intent of educating readers to the sensitivities of Korean trade and finance practices. My membership on the Temple Law Review will give me immediate access to the editorial board of that journal. Eventually, I hope to apply my research to a career in international trade and finance law. In particular, the project would have strong applicability to a position in a governmental arm that deals with trade policy between nation states.

To prepare for the project, I have already laid the foundation for meaningful research. First, I have secured an affiliation with Professor Chan-Hyung Chung at the College of Law of Korea University. (Please see attached Letter of Intent). Professor Chung has agreed to guide my project through regular meetings to discuss the progress of the research. He has also suggested attendance in relevant courses such as International Business Transactions, GATT and World Trade Policy, and Korean Civil Law Systems. As a research fellow, I will have access to all the necessary library materials at Korea University. Professor Chung also has close ties to the law firm of King & Chang, which has a substantial practice in international trade and finance. An affiliation with the firm would enable me to see trade and finance transactions in action.

In addition, I am supplementing my law school curriculum with private instruction in Korean language with Mr. Chang Bong Lee, the former Director of the Korean Language Program at the University of Pennsylvania. Having grown up speaking a mixture of both Korean and English at home, I have acquired basic conversational skills. My language instruction will focus on advanced conversational skills and on the written language with an emphasis on the Chinese characters associated with law and business. As suggested in the application materials, I am also considering enrolling in a Korean language program during my stay in Korea. I have researched the curriculum at Yonsei University, which offers a range of language classes and international trade courses.

After having spent six months in Seoul teaching English, I also have a group of friends and family on which to rely. Specifically, my Uncle, Mr. Sae Hyong Cho, is currently a Representative in the National Assembly and a ranking member of the Min-ja Dang (the "Democratic Liberty Party"). He has agreed to introduce me to officials in governmental agencies such as the Economic Planning Board, which compiles its own reports and data on international trade issues. These resources will be central to the success of my project.

Finally, the rigorous process of research has already begun. Parts of my project overlap with a research article that I am completing for the Temple Law Review. In that article, I addressed issues in international antitrust disputes, and I can use this knowledge as a base for future research. In addition, I have organized my law school curriculum around subjects relevant to my project. Currently, I am enrolled in International Law and Commercial Transactions. Next semester, I plan to take International Investment & Trade Policies and Antitrust. I have also started to read and condense resources here to bring abroad. Through this concerted effort, I hope to be prepared to make the most of my research project.