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COMPARATIVE ANALYSIS OF LEGAL AND ECONOMIC ASPECTS OF THE EU'S FREE TRADE AGREEMENTS WITH SELECTED ASIAN ECONOMIES

Anja Hladnik

Master in International Management

Supervisor:

Prof. Sofia de Sousa Vale, Assistant Professor

Departamento de Economia

ISCTE Business School

Prof. Katja Zajc Kejžar, PhD

Academic Unit for International Economics and Business
(Department Vice Chair)

University of Ljubljana, School of Economics and Business

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**BUSINESS
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LIST OF ABBREVIATIONS

AD – Anti-Dumping

ADA- Anti-Dumping Agreement

AS – Anti-Subsidy

ASCM – Agreement on Subsidies and Countervailing Measures

ASEAN – Association of Southeast Asian Nations

BIT – Bilateral Investment Treaty

CCP – Common Commercial Policy

CU – Customs Union

CM – Common Market

DCFTA – Deep and Comprehensive Free Trade Areas

DG – Directorate-General

ECJ – European Court of Justice

EcU – Economic Union

EEAS – European External Action Service

EEC – European Economic Community

EMU – Economic Monetary Union

EP – European Parliament

EPA – Economic Partnership Agreement

ERTA – European Agreement on Road Transport

EU – The European Union

EUJEPA – European Union – Japan Economic Partnership Agreement

FDI – Foreign Direct Investment

FTA – Free Trade Agreement

FU – Fiscal Union

GATS - General Agreement on Trade in Services

GATT – General Agreement on Trade and Tariffs

GDP – Gross Domestic Product

GPA – Government Procurement Agreement

GVC – Global Value Chain

ICS – Investment Court System

IMF – International Monetary Fund

IMO – International Monetary Found

IP – Intellectual Property

ISDS – Investor State Dispute Settlement

ITO – International Trade Organisation

MEP – Member of Parliament

MFN – Most Favoured Nation

NAFTA – North America Free Trade Agreement

NTM – Non-tariff Measures

OECD – Organization for Economic Cooperation and Development

OLP – Ordinary Legislative Procedure

PCA – Partnership and Cooperation Agreement

PTA – Preferential Trade Agreement

PU – Political Union

QM – Qualified majority

RoO – Rules of Origin

RTA – Regional Trade Agreement

R&D – Research and Development

SPA – Strategic Partnership Agreement

SPS – Sanitary and Phytosanitary

TBT – Technical Barriers to Trade

TC – Trade Creation

TD – Trade Diversion

TDI – Trade Defence Instrument

TFEU – Treaty on the Functioning of the European Union

TGWA – Trade, Growth and World Affairs

TRIM – Trade Related Investment Measures

TRIPS – Trade Related Aspects of Intellectual Property Rights

UN-ECE – United Nations Economic Commission for Europe

WB – World Bank

WTO – World Trade Organisation

INTRODUCTION

One of the most significant developments of the 20th century has been the integration of national economies into a global economic system. The result of this integrating process—often referred to as globalization – has been on a striking increase in international trade. The World Trade Organisation is in charge of a trade system governed by rules based on principles that its 163 members nearly unanimously recognize and uphold. Additionally, individual countries may agree on more detailed rules regarding the trade among them. This is done via free trade agreements, which can be defined as agreements between two or more nations that aim to lower or remove certain trade and investment obstacles as well as promote closer economic relations between the parties (Baldwin, 2014).

The European Union (the EU) is Asia's largest trade partner and a primary supporter of democratic values. Moreover, a substantial volume of foreign direct investments (FDIs) is shared between the two regions. In the Asia-Pacific region, the EU is aware of the importance of potential trade agreements, which have seen strong development and have worked to drive through stagnant trade negotiations. The decision to initiate negotiations with countries outside of the EU on such free trade agreements (FTAs) is focused on sound economic principles to improve market access for EU's businesses in Asia's vastly diverse and competitive markets. Considering the fact that Asia does not have a single umbrella organization that replicates the competences of the EU to control areas, such as trade and investment between its member states, *a mega-regional arrangement* - a treaty between Asia or parts of Asia and the EU - is, at least at this moment, not feasible (Directorate General for External Policies of the Union, 2016).

According to Baldwin (2014) we can observe evolution from 20th century trade focused mainly on trade barriers at the borders to deep Regional Trade Agreements (RTAs), which emerged as the result of international supply chain optimization. Complex operational system of World Trade Organisation (WTO) shifted the focus of international economic policy from multilateral trading regime to RTAs. The expansion of RTAs has thus begun on a global scale. Horn, Mavroidis, & Sapir (2010), classify provisions of agreements into two categories. Deeper-than-WTO (also called »WTO-plus« or »WTO+«) commitments are deepening level of RTA obligations, while still falling under WTO mandate. Provisions beyond the WTO agreements (commonly referred to as »WTO-extra« or »WTO-X«) span a wide variety of policy sectors including investments and environmental and nuclear protection. The degree to which these provisions are contained in trade agreements, as well as their legal enforceability, varies greatly by policy area (Ruta, 2016).

In May 2007, talks were initiated in Seoul on the FTA between the EU and the Republic of Korea (South Korea). After eight formal rounds of negotiations, on 15 October 2009, the FTA was inaugurated by both parties. The agreement was concluded on 6 October 2010 at the EU-Korea summit in Brussels. On 17 February 2011, the EU parliament approved the proposed

FTA which came into effect on 1 July 2011, ushering a new period in economic ties between the EU and South Korea. The EU-Korea FTA represents the first in trade agreement in the new generation and is the most abysmal trade agreement the EU has ever signed and is also the first with a country in Asian region. The deal is ground-breaking both in its extent and in the pace at which it eliminated trade barriers. Besides, the FTA is in the vanguard when it comes to resolving critical non-tariff trade barriers, with a special emphasis on the automobile, pharmaceutical, medical devices, and electronics industries (European Commission for Trade, 2011). The FTA also excludes quantitative import controls and other types of tariffs, taxes, charges, and export restrictions and provides clauses on topics ranging from services and investment, competitiveness, and public procurement to intellectual property protection (Lakatos & Nilsson, 2007).

The European Council has given the mandate to the European Commission to begin talks with Japan in November 2012. In April 2013, the first round of negotiation took place, followed by 18 rounds of consultations which resulted in a diplomatic understanding on 6 July 2017. The writing of the agreement was finalized in December 2017 and then sent by Commission for ratification to the Council in April 2018. The Council approved the pronouncement to sign the Economic Partnership Agreement (EPA) and, on 6 July 2018, proposed the European Parliament's approval. The deal was then concluded at the EU-Japan summit in Tokyo on 17 July 2018. The EU-Japan Economic Partnership Agreement (EUJEPA) is the largest FTA the EU has ever signed, representing up to 30 percent of global gross domestic product (GDP), in terms of market size. It covers obligations not only to trade in goods and services, but also to encourage bilateral investment (Directorate General for External Policies of the Union, 2018a). What distinguishes the EUJEPA is the unique emphasis on agriculture, mostly removed from trade agreements, and an environment where tariffs play a critical role in foreign trade. The EUJEPA is also the initial EU trade agreement which specifically contains the guarantee to Paris Climate Agreement and the corporate governance section, emphasizing the importance of stable economies and its financial sectors (Gruebler, Stehrer, & Reiter, 2019).

The purpose of the master's thesis is to contribute to understanding of the importance of free trade agreements and the way how they can be leveraged by companies in signatory countries. The aim of the thesis is to identify and provide explanation regarding changes in trade, and other economic flows, including goods, services, and foreign direct investments (FDIs) between EU, Japan, and South Korea before and after the implementation of FTAs. The focus on selected trade agreements can be ascribed to the fact that both represent a new generation of trade agreements focusing on new areas, including »intellectual property rights, services, and sustainable development« (Directorate General for External Policies of the Union, 2018a). Additionally, the two economies can be classified as developed, achieving relatively high economic growth and stability. Furthermore, supplementary aim is comparative analysis of legal aspects, focused on analysis of different provision types and changes in trade and investment flows between the EU and partner countries in the case of chosen agreements. Additional objective is to determine and analyse the non-tariff measures which affect trade

agreements and potential areas that present opportunity for maximization of potential benefits from implementation of it.

The main objective of the master's thesis is to answer research questions based on analysis of trade agreements and trade flows between selected countries after the signing of the legal documents. The core of master's thesis is included in Chapter 3 and Chapter 4 where following research questions are being answered.

Q1: What were the main differences between Japan and South Korea Trade Agreement regarding tariff and non-tariff measures?

Q2: Which types of economic relations are supported by enforcement of trade agreement?

Q3: How is structure of trade changed after the signing of the trade agreement?

Q4: How has the dynamic of trade in goods changed after the signing of the agreement?

Q5: How is the trade agreement complexity reflected in changed structure of economic relations?

The master's thesis is based on theoretical and empirical section. The theoretical part is concentrated on the analysis of secondary sources and the analysis of the EU-Korea FTA and EUJEPA from a legal point of view, focusing on structure of content of the documents. In the field of the topic the professional literature, scientific research, and articles by the broad range of authors are reviewed and summarized. In the empirical part, trade flows and their evolution in the EU-South Korea and EU-Japan relations are analysed. Afterwards trade trends are connected with the provision regiments of selected agreements. The effects of trade agreements are explained with the use of statistical analysis based on the secondary data. The first chapter is focused on the theory of economic integration, discussing its effects and compatibility of FTAs with multinational global order and its impacts on global value chain. The second chapter describes EU trade policy and its legislative aspects. The third chapter is focused on comparative legal analysis of selected FTAs, including the analysis of trade relations, tariff, and non-tariff (WTO Plus and WTO Extra) measures. The last chapter provides analysis on the economic implications of the FTAs on signatories. The analysis focuses on changes in trade patterns before and after the entry into force of individual FTAs.

The data presented in the appendix offer abundant potential for further answers to additional research questions. In the legal and economic analysis of individual FTAs, we have only touched the surface and analysed the data on a sectoral basis, the COMEXT portal enables an even more precise breakdown of products and services. We must take into account the fact that the master's thesis is not a cause-and-effect analysis, where the implementation of the FTA would be the cause of changes in the trade structure, but rather an analysis of trade before and after the implementation of the selected agreements.

1 THE THEORY OF ECONOMIC INTEGRATION

Economic ties with other countries are critical in the economy because international integration improves productivity, allows for quicker progress transition, and accelerates economic growth. The theory and analysis of economic integrations evolved in tandem with the growth of cross-national economic cooperation. Immediately after World War II, there was a widespread perception in economic circles, especially in Europe, that the development of economic integration as a result of regional trade cooperation was beneficial to the accelerated growth of prosperity of the countries involved. Until the mid-1970s, economists regarded the phenomenon of economic integration as the best alternative to international trade liberalisation (Farrell, Hettne, & Luk, 2005).

1.1 Definition and objectives of economic integration

In the economic theory, the word »integration« was first used to describe the integration of companies into cartels, business concerns and trusts. The beginning of the phrase economic integration, which represents the interconnectedness of countries in the field of exports and imports of raw materials and semi-finished products, dates back to the 1940s and coincides with the emergence of the concept of economic disintegration. Before then, terms as economic customs unions, partnership, liberalization, and unification have mostly been used in economic sphere, rather than economic integration (Machlup, 1977).

Economic integrations have evolved over time in terms of the degree of collaboration among members, and these developments can be seen in the definitions that appeared at various times. Given the impossibility of free world trade, international economic integration is seen as a step toward free trade. Economic integration as a theoretical term does not have a long history, nor can we talk of a universal meaning for it. While there are several different types of economic integration, the most useful way to think about it is as a scale ranging from loose collaboration at one end to nearly complete merging of national economies at the other (Burgess, 2016).

According to Tinbergen (1954), who was one of the first authors who defined the term economic integration, stated that all processes of economic integration include two aspects. The abolition of unequal and restrictive institutional obstacles and barriers, as well as the introduction of free economic transactions, are the main goals of negative integration. Positive aspect focuses on harmonization and coordination of existing instruments through the »adjustment of existing and the establishment of new policies and institutions endowed with coercive instruments«. Balassa (1961) defines economic integration as »a process and as a state of affairs«. Viewed as a process it can be expressed as »collection of steps aimed at eliminating discrimination between economic units belonging to different national states«. As a state of affair, it can be characterised as »the absence of different forms of discrimination between national economies and its units«. Kahnert (1969) defines it as »the process of the progressive removal of discrimination that exists along national borders«. Both, Balassa and Kahnert, imply that the distinction should be made between economic integration and cooperation. Events that

reduce discrimination among states are referred to as »economic cooperation«, while policies that are aimed at elimination of discrimination can be defined as »economic integration«. Molle (2007) defines economic integration in a similar, but more elaborative, way. The process of economic integration is gradual and can be defined as »progressive elimination of economic frontiers between countries«. El-Agraa (1985) also separates the institute into state of affairs and a process and identifies it as »a discriminatory removal of all trade impediments between participating nations and the establishment of certain elements of coordination between them«. The new philosophy of economic integration has dominated the last thirty years, with the central idea being that integration would provide the most desirable conditions for the free flow of production factors, goods, and services, resulting in income redistribution at both the national and international levels (Kenda & Vito, 1999).

Despite the gaps in these concepts, a clear description of economic integration may be formulated as a bilateral or multilateral trade deal between two or more countries with the aim of developing welfare, which is defined as »the reduction or removal of tariff and non-tariff trade barriers, as well as the coordination of economic, monetary, and fiscal policies with the ultimate objective of achieving full integration« managed by supranational institutions. Numerous empirical studies have shown that increased foreign trade transparency boosts gross domestic product per capita (Marinov, 2015).

Since Adam Smith proposed in 1776 that free trade would be beneficial to a country, most economists believe that free trade increases overall economic welfare. Free trade applies to situations in which a country does not control with tariff and non-tariff measures what its residents can buy from overseas and what they can export to other nations. According to economic theory, the greatest advantage of economic integration is that it encourages nations to specialize in producing and exporting of the items, that are produced most efficiently and importing products that are produced more efficiently elsewhere (Hill, 2021).

Increased productivity in the use of production factors due to amplified market competition, specialisation, economies of scale, increased domestic and external investment, strengthened conditions of trade, and decreased hazard of price undercutting of production factors are among the potential advantages of assured access to a wider international market. Tariffs, quotas, and other non-tariff are at least partly removed by international economic integration, resulting in lower trade costs (Helble & Ben, 2017).

In the context of economic integration, the political and ideological aspects must not be neglected. The relationship between political and economic dimensions of regional integration has been noticed at least since Balassa's pioneering work stating: »From the economic point of view, the basic question is not whether economic or political considerations gave the first impetus to the integration movement, but what the economic effects of integration are likely to be. In some political circles the economic aspects are deliberately minimized and the plan for economic integration is regarded merely as a pawn in the play of political forces (...) Even if political motives did have primary importance, this would not mean that the economist could

not examine the relevant economic problems without investigating the elusive political issues«.
(Balassa, 1961).

The creation of European Economic Community in 1957 was a typical example of achieving a strategic goal, with the primary political purpose of ending the wars between neighbour countries, which culminated in the Second World War. Economic convergence served as a mean for achieving that objective (L. Weil, 1965).

With a formal trade agreement as an expression of intergovernmental cooperation countries are willing to compromise its own sovereignty. Why might the government be willing to compromise the essential part of its entity? Nations participate in trade for the advantages that the greater international markets may offer. Implementation of individual trade agreements results in specific benefits while simultaneously causing a change in the already established status quo trade structure.

1.2 Stages of regional integration

Just as the definition of economic integration has no universal meaning, there is no predetermined level on the precise number of types, phases, and features of specific level of economic integration in economic theory.

According to Balassa (1961), there are five phases of economic integration:

- a) Free Trade Area - for products manufactured within the area, members do not enforce any trade barriers among each other. Each member state, however, maintains its own tariff barriers for trade with third parties. The standard term used for described action is trade integration. Free trade areas are defined in paragraph (8) of article (XXIV) of the General Agreement on Trade and Tariffs (GATT) as follows: »A free-trade area shall be understood to mean a group of two or more customs territories in which the duties and other restrictive regulations of commerce ... are eliminated on substantially all the trade between the constituent territories in products originating in such territories«.
- b) Customs Union (CU) - is a free trade area in which member states impose a single external tariff on goods imported from third countries. The general external tariff can vary depending on the goods, but it must be unified between union members. Paragraph eight (8) of article (XXIV) of the GATT defines a CU as follows: “A customs union shall be understood to mean the substitution of a single customs territory for two or more customs territories, so that (i) duties and other restrictive regulations of commerce ... are eliminated with respect to substantially all the trade between the constituent territories of the union or at least with respect to substantially all the trade in products originating in such territories, and, (ii) ... substantially the same duties and other regulations of commerce are applied by each of the members of the union to the trade of territories not included in the union.”
- c) Common Market (CM) - is a CU that permits free movement of labour and capital within its members. Aside from that, the member-states must abolish all trade barriers (including non-tariff restrictions) and have a certain level of convergence of some economic policies

to be able to reach this level of integration. This is usually referred to as »factor integration«.

- d) Economic Union (EcU) - is a deeper mode of integration where individual countries' monetary and fiscal policies are coherent or even consolidated. In the name of »common market economic policies«, a number of areas is combined, similar methods are developed, and organized financing is given. The end goal is the Economic and Monetary Union (EMU) which is based on a common exchange rate system that will eventually evolve into a common currency that can be used on a common market. A unified monetary and macroeconomic policy coordination among member states is present.

Since Europe, which was a forerunner for the Balassa model, was only just starting the unification process in the middle of the last century, the sequencing and analysis of the later integration stages has received little consideration since then. Balassa's vision of a single market, according to Laffan, O' Donnell, & Smith (1999), underestimated the amount of positive integration required in practice, and equally overestimated the amount of centralization required for an EcU.

Panagariya (2000), stated that the whole integration scheme starts with preferential trade agreement (PTA), which represents the lowest level of integration. It is a contract between two or more states stipulating favoured trade conditions for products manufactured within the preferential trade area which face lesser trade barriers than goods produced outside of it.

Balassa's stages have since been expanded. There are two additional stages in the integration process – fiscal and political union. Fiscal union (FU) is characterised with harmonization of taxes and fiscal sovereignty. On the other hand, the initial change implied is the loss of independent fiscal policy and loss of low tax status for specific member states (Crowley, 2006). The overarching political aim of unification is to create a political union (PU), in which integration takes place in ways that affect national sovereignty as well. No integration culture has yet reached this level, despite the EU's attempts to intensify political integration in an effort to achieve true political union through common citizenship, common foreign politics, security, justice and internal affairs (Marinov, 2015).

Economic integration forms evolve over time, with each higher-ranking scheme containing both features of lower-ranking schemes as well as new components that broaden the complexity and substance of the integration mechanism. Phases may be thought of individual parts that lead to full unification - universal monetary, social, and economic policies, as well as international institutions with legally binding results of decision-making process. The deepness is highly dependent on the willingness and desires of a country to achieve certain level of integration. Insofar as each more progressive form of integration is linked to participating countries withdrawing more national sovereignty, the targets in the integration process are set solely by them.

1.3 Rules of origin

With raw materials and components crisscrossing around the globe to be used as inputs in manufacturing processes all over the world, determining where a specific component comes from is no longer easy task. To assign country of origin to each product, rules of origin (RoO) are necessary.

The International Convention on the Simplification and Harmonization of Customs Procedures (so-called Kyoto Convention) defines RoO as follows: “The specific provisions, developed from principles established by national legislation or international agreements applied by a country to determine the origin of goods.” The definition makes it clear that RoO are essentially criteria for determining where a product was manufactured. While certain standards can be taken from concepts, either presented in national law or international agreements, the implementation of origin rules is always performed at the national level by member states themselves.

The main objective of RoO is the identification of the country of origin and consequently product’s economic nationality, opposed to geographical nationality, which is important in applying rules concerning intellectual property (IP) rights. RoO are used to address a variety of trade policy tools in order to achieve particular national or international policy ambitions. They are crucial for the implementation of additional trade policy interventions such as trade preferences, quotas, anti-dumping measures, and countervailing duties (World Customs Organisation, 2020).

RoO can be categorised into non-preferential and preferential. Non-preferential RoO apply where no trade preference occurs — that is, where trade is done on a most-favoured-nation basis. They are used to differentiate domestic goods from imported products in order to apply other trade control tools such as anti-dumping, countervailing measures, safeguard measures or origin labelling. In order to ensure that RoO do not impose needless trade barriers, WTO Members committed to negotiate harmonized non-preferential RoO. According to the Agreement on Rules of Origin all members would apply identical RoO for all non-preferential purposes, whereas RoO applied in regional and preferential trade agreements would not be affected and harmonized. However, negotiations are still underway (Jones & Wong, 2020).

Preferential RoO define which products shall benefit from the preferences under the individual FTA. They assist in determining the country of origin in order to give goods originating from a signature country a special treatment by enabling products exported from those countries to pay a reduced or a zero-duty rate. This preferential RoO are important to discourage trade deviation, which happens when goods from non-preferred countries are diverted through a free trade partner in order to evade paying customs duty. They are expected to make sure that only products from participating countries get preferential treatment (Brenton, 2011).

1.4 Theories on economic integration effect

Both, the structure, and patterns of international trade have evolved over the past two decades. Economic theory differentiates between static or short-term and dynamic or long-term effects. Additional approach analyses traditional aspect of foreign trade, focusing on exporting and importing countries and global value chain approach, taking into account interconnectivity of specific production processes dispersed around the globe.

1.4.1 Static vs. dynamic approach

According to several theoretician, economic integration theory evolves through two phases, both discussing and taking into consideration the political and economic challenges of the time. The standard theories of economic integration, also referred to as static analysis or old regionalism, describe the potential advantages, and are included in the first level. This approach considers the direct impacts of integration on competitiveness and welfare while assuming constant quantity and quality of production factors and available technology. The second stage, also known as dynamic effect or new regionalism, incorporates changes in economic conditions and trade relationships, focusing on adjustments of production factors, technology, and competitiveness (Rose & Borz, 2016).

Viner (1950) developed the static theory with the principles of trade creation (TC) and trade diversion (TD), arguing that when trade moves »from a high-cost supplier member country to a low-cost supplier member country in the union«, welfare rises. On the other hand, trade diversion reduces overall welfare by forcing trade to move from a »low-cost non-member nation« to a »high-cost union member country«. In practice, Viner's doctrine notes that countries would be encouraged to engage in trade if »the benefits outweigh the costs and if integration results in more trade creation than trade diversion«. Typically, TC refers to a trade that results from an RTA but would not have happened without it. As a result, production process is provided by a more competitive supplier. Having said that, TD on the other hand diverts trade away from a more competitive non-members state supplier to a less efficient supplier inside the RTA (Marinov, 2015).

J. E. Meade (1955) argued that Viner's theory can be applied only under condition of inelastic demand and fully elastic supply. Though, Meade believes that if elasticity of demand can vary, CU could potentially increase the degree of trade even under TD conditions. Viner's statement on trade-diversion CUs has been dismissed on the basis that in his study he focused exclusively on the supply side effects, overlooking the demand side effects (Ushan, Azman, & Azali, 2015).

According to Lipsey (1957), the relative price change triggered by tariff reductions between CU member states effects a productions side as illustrated by Viner and triggers consumption effect resulting in increased trade among members of CU, thus lowering »consumption from countries that are not part of the union«, implicitly applying that even though all TDs are welfare reducing, the positive aspects outweigh negative consequences in certain situations. Lipsey's main contribution was the application of the second-best theory to the study of CUs.

According to the second-best principle, lowering tariffs on a preferential basis as part of a regional integration agreement does not always result in a welfare benefit for individual countries or the world, as long as the discriminatory barriers in other countries remain unaffected (Karakaya & Cooke, 2002).

Kemp and Van (1976) stated that members of CU are able to select a degree of standardised external tariff, which benefits member states, while leaving third countries, excluded from the union, unaffected. The key finding is that there is always a rate at which the value of imports from outside the union remains constant while imports from inside the union increase, resulting in overall welfare increase. Their conclusion was that a newly formed TD customs union could benefit and increase universal welfare of all countries - regardless of the membership in the union (L.Grinols, 1981).

The theory of the dynamic effects of economic integration was first proposed by Balassa (1962) and Cooper and Massell (1965). It added a fresh perspective to the studies in this field. According to Balassa (1962), the main factors affecting the dynamic efficiency of economy are »large-scale markets, technological transition, as well as the influence of integration on market structure and competitiveness, productivity development, risk and volatility, and investment activity«. Schiff and Winters (1998) summarise the definition of the dynamic effects of economic integration as »anything that affects the rate of medium- and long-term economic growth of the participating member states«. The sole obvious negative of dynamic analysis is that, compared to static analysis, there is no precise instrument for quantifying dynamic outcomes over extended time periods with quickly changing components (Marinov, 2015).

Dynamic analysis comes from the characteristics of current global economy. With the world economies being interconnected, the scope of dynamic effects is deeper and the impact on economic processes is larger compared with the static ones. With the shift in global economic conditions, new ideas of economic integration are being established. Since static approach was focused mainly on simple TC and TD, new regionalism is radically different, concentrating on factors defining recent economic integration trends, including private sector participation, an increasing importance of services, foreign direct investment, etc.

1.4.2 Traditional vs. global value chain approach

The concepts of outsourcing and production fragmenting are not brand-new. What is unquestionably different is the magnitude of the phenomena, as well as the manner, in which technical advancements have enabled a fragmentation of production in a way that was previously unthinkable (Costinot, Vogel, & Wang, 2012).

According to traditional theory, which is focused on the theory of comparative advantage, developing countries specialize in »the export of low-tech, low-skill, labour-intensive products«. Developed countries, on the other hand, rely on high-tech, high-skill, capital-intensive development. The traditional approach to foreign trade is focused on individual countries manufacturing goods and providing services, which are then sold to customers in

other countries as finished goods. However, in today's world economy, this form of exchange accounts for just about 30 per cent of all goods and services traded. In fact, global value chains (GVCs) account for roughly 70 per cent of foreign trade today, as services, raw materials, semi-finished and finished products cross national borders multiple times. They are delivered to customers all over the world after they have been integrated into finished goods (Organisation for Economic Co-operation and Development, 2020a).

Antràs (2020) defined GVC as »... a series of stages involved in producing a product or service that is sold to consumers, with each stage adding value, and with at least two stages being produced in different countries. A firm participates in a GVC if it produces at least one stage in a GVC« A typical GVC consists of a lead firm, and a potentially large number of suppliers at various levels, forming a complex, interlinked network of economic activities, including trade in goods, services, investments, movement of ideas and people (Smith & Kulkarni, 2010).

In the last thirty years three major developments impacted world economy and its GVCs. Technological revolution with its transportation, information and telecommunication innovations became critical in managing complex GVCs. As a result of two stages of unbundling, significant shifts in world trade have arisen during the past century. Until the late nineteenth century, factories had an integrated manufacturing system, with parts and components manufactured progressively or in separate contiguous units near consumers. Following that, the »first unbundling« of production and consumption was made possible by the substantial decrease in transportation costs. While production was distributed globally, resulting in trade in finished goods, it was also concentrated locally to reduce coordination costs. The model has now been replaced by a new one focused on a multinational network of individual and autonomous suppliers specializing in individual stages of the manufacturing process situated in numerous countries. "Second unbundling" benefited from the dramatic decline in communication and logistics costs, transforming the essence of international trade and investment. Unlike traditional aspect of foreign trade, which is focused mainly on importing and exporting country, GVCs »enable resources to flow to their most efficient usage« through various countries and industries, as well as within sectors and through stages of production. Consequently, GVCs enhance the effects of standard trade on productivity, growth, and employment rates (Amador & Cabral, 2014).

The successive rounds of trade liberalisation have resulted in steadily declining trade and investment barriers. Tariffs have declined, especially for imported goods, and the steady reduction of non-tariff barriers has facilitated foreign trade in goods and services. The creation of the European single market, the North America Free Trade Agreement (NAFTA), Mercosur, the Association of Southeast Asian Nations (ASEAN) Free Trade Agreement, and China's WTO accession created new markets, allowing economies of scale and the further expansion of GVCs (World Bank Group, 2020).

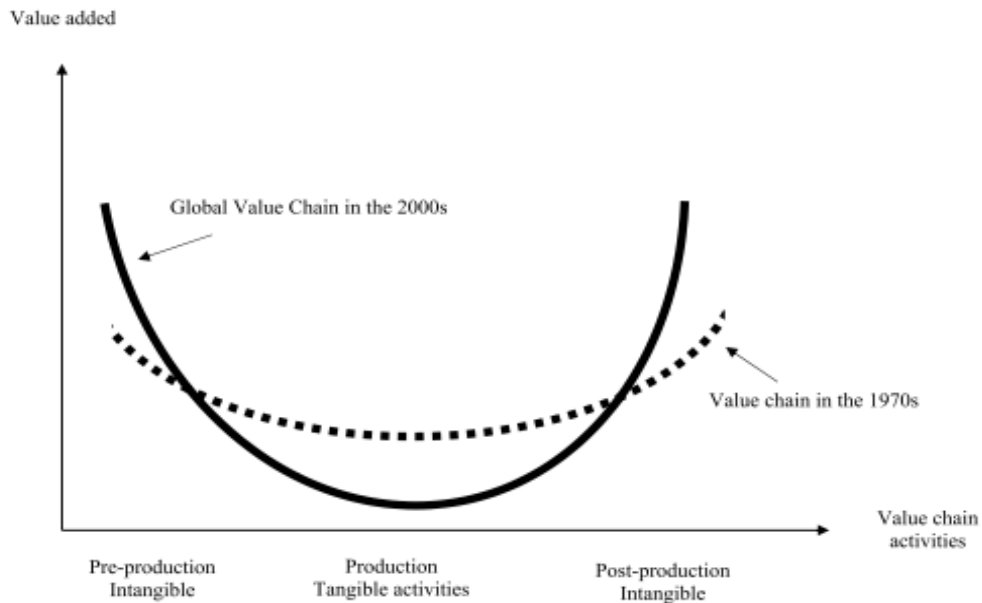
By fragmentation of supply chain, various products may be manufactured in different countries, allowing each step to be completed more effectively and efficiently. More countries can enter the global GVCs in this manner, rather than building the whole supply chain from

scratch, and they can engage and specialize in various industry sectors. Intra-product specialization is only possible when multiple activities in a manufacturing process are physically separable, tradable, and facilitated by technical development (Independent Evaluation Group, 2020). Baldwin and Venables (2013) identify two poles of structures used in global production sharing, with consideration of most production processes with international element being somewhere on the spectrum. The term »spider« refers to the production method of combining various components in no specific order with goal of assembling final or intermediate product. The »snake« relates to the goods moving in a sequence from upstream to downstream with value added at each stage. Regardless of how GVCs are organized, the opportunity to fragment production across national borders leads to »a finer international partition of labour and improved specialization benefits«.

GVCs are typically regulated by lead multinational companies. When it comes to horizontal specialisation, enterprises outsource to specialized businesses that, due to technical leadership or economies of scale, can execute activities more efficiently. Vertical specialisation in GVCs is more common in developing countries. The goal is to reduce expenses, especially payroll, as well as other expenses resulting from laws and regulations (Dünhaupt & Herr, 2020). According to Feenstra (2010), »developing countries have a comparative advantage in simple and low-skilled tasks, while developed countries have a comparative advantage in complicated and high-skilled tasks«.

The so-called »smile curve«, created by Shih (1992), graphically depicts the distribution of tasks as a function of these variables. As seen in Figure 1, it shows how value added differs along various stages in supply chain. The advantages of GVCs will also differ significantly based on whether a country resides at the high or low end of the value chain due to disparities in comparative advantages among the countries that participate in GVCs. According to the smile curve, the activities with the lowest added value are supposed to be in the middle part, while high value-added activities should be located at lower and higher end of the curve (Meng, Ye, & Wei, 2020). Developed countries typically take over upstream high-value pre-fabrication tasks (R&D, design, engineering) and downstream high-value-added post-fabrication tasks (marketing, distribution, sales) in GVCs. Professionals included in this process are typically well compensated, resulting in increased earnings for countries with a high smile curve slope, thereby widening the profit gaps between countries. Developing nations dominate in non-complex manufacturing processes and take over the middle part of the curve, focusing on standardized tasks, where operations can be applied on a large scale. The shape of the curve changes over time and differs by individual sector (Rungi & Del Prete, 2017).

Figure 1: The Smile Curve



Source: OECD, 2013

1.5 Compatibility of FTAs with multinational global order

The modern international trading system arose from the ashes of World War II and was mostly developed by the United Kingdom and the United States. The International Trade Organization (ITO), which was founded with the Havana Charter in 1948 was supposed to constitute the third pillar of reconstruction alongside the International Monetary Fund (IMF) and the World Bank (WB) as a part of the post war process of transforming political and economic cooperation between countries. The implementation of Havana Charter was never realised due to the tensions regarding Cold War and sharp Republican opposition in the US Congress (Van Grastek, 2013).

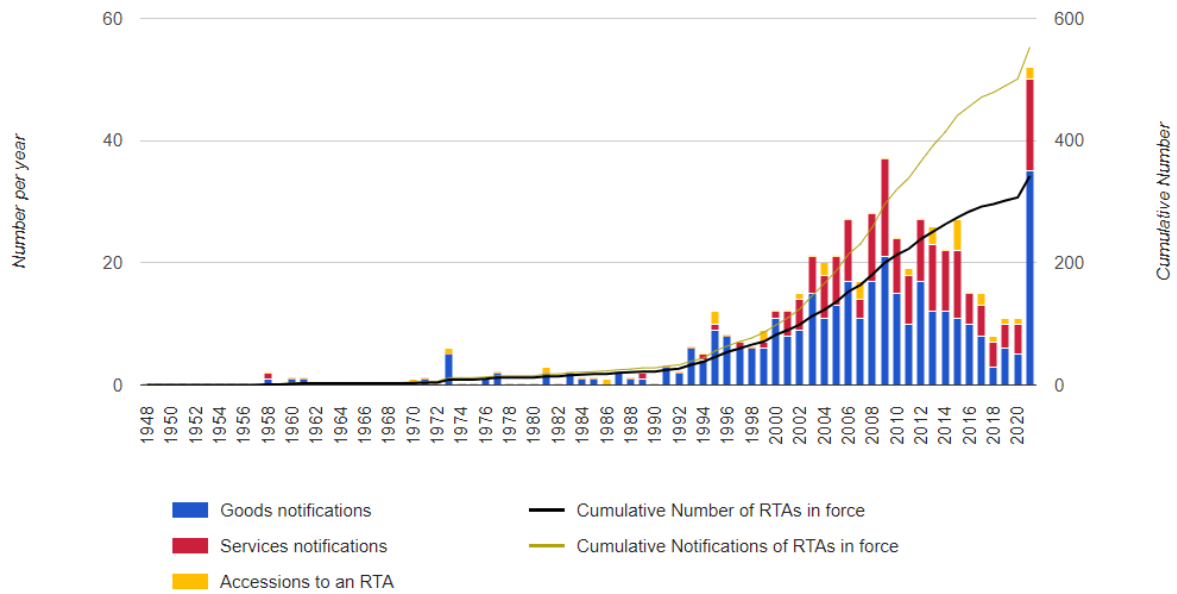
Since the failure of the ITO project, the GATT remained the only applicable mechanism. GATT was shaped after the Havana Charter in Geneva in 1947 as an interim arrangement on customs duty reductions before the ITO would be officially established. The primary objective of GATT 1947 was to provide market access of foreign products in importing countries through liberalisation of cross-border trade, directly effecting limitations such as quantitative restrictions on imported and exported goods. Custom duties and taxes on imported goods crossing the border were defined by schedules of concessions prohibiting countries from modifying terms and conditions unilaterally. Member States have reacted positively to this form of reciprocity, as trade liberalization commitments have resulted in benefits to the national economy. Via the most-favoured-nation (MFN) principle, individual tariff rates have been lowered for all member states. GATT was notably minimalist and liberal in a relationship towards national agreement via »behind the border« approach. Both, domestic tax, and laws shall comply with the GATT's simple non-discrimination policy in the form of »national

treatment«, imposing no discrimination between domestic and foreign products. In practice, this rule avoids the simplest and most straightforward way of substituting behind-the-border non-tariff measures (NTMs) for tariffs, resulting in discrimination of imported goods through tax policy or regulations. The GATT places principle of national treatment among the instruments of negative integration, as all national measures are allowed under a negative condition of protectionist behaviour of member states with the sole intention of jeopardizing the negotiated *acquis* (W. Staiger, 2012).

Although the GATT survived the collapse of the ITO, it lacked a well-defined institutional framework. The GATT supported eight rounds of multilateral trade talks despite having structural and functioning challenges. The Uruguay Round (1987-1994) ended with Marrakesh Agreement (1995) forming the WTO. The WTO integrates the GATT's foundations and provides a long-term structural ground for applying and escalating them (F. Fergusson, 2008). The WTO's ultimate objective is to eliminate trade barriers around the world. This can be accomplished by enforcing binding and non-discriminatory legalisation. In the process of structuring new regulations and guidelines, each member has an equal say. Consensus is used to make choices. The universal aim is to »remove trade barriers in order to promote global trade and economic growth«. The WTO is the legal backbone of the international trading system, with its transparency mechanisms and binding dispute resolution. Companies involved in international trade can rely on a globally consistent set of rules to protect them from unfair discrimination and trade barriers (World Trade Organisation, 2013).

In addition to the WTO's multilateral trading mechanism, many international and bilateral trade arrangements are currently in effect. In recent years, the number of FTAs has increased rapidly imposing new challenges for international trade. FTAs can improve trade between signatures by liberalizing goods and services trade, but they can also result in violation of non-discrimination principle, which represents the core of the WTO system. As a result, such agreements are gradually establishing new rules that regulate trade between their partners, but these exclude all other WTO members. In addition, there are no WTO regulations regarding some of the challenges that FTAs impose on international trade, resulting in growing divergence between WTO and FTAs. This is a new threat for the multilateral trading structure, first because it makes WTO rules less applicable for certain trading partners, and second because WTO members who are not signatures of the FTA network are gradually exempt from these rules (Leal-Arcas, 2011).

Figure 2: Evolution of FTAs in the world (by year of entry into force)



Source: World Trade Organisation (2020).

Since FTAs are an exception to the non-discrimination policy and MFN principle, members of the WTO are allowed to enter into individual agreements under particular criteria outlined in three sets of rules which are exemplified by GATT Article XXIV, the Enabling Clause, and General Agreement on Trade in Services (GATS) Article V (World Trade Organisation, 2020).

Under the Paragraphs 4 to 10 of Article XXIV of GATT, as explained in the Understanding on the Interpretation of Article XXIV of the GATT 1994, CUs and free-trade areas covering trade in goods are established and operated. A formation of CUs and FTAs is allowed under two conditions. First, members should remove »substantially all internal trade barriers« within the union. Additionally, on average, external trade barriers ought to not be raised. Strictly logical approach implicates that Article XXIV would improve global welfare by prohibiting rise of average external tariffs while simultaneously eliminating internal ones. Nonetheless, there has been much discussion in legal and economic academic circles about whether Article XXIV is really as benign as it sounds (Hafez, 2011)

Professionals in generally agree that GATT Article XXIV lacks clarity and permits different approaches to its disciplines. There are two opposing views on how Article XXIV relates to other WTO provisions. The first theory believes that Article XXIV can only be regarded as a »derogation« from GATT Article I (General Most-Favoured-Nation Treatment), implying that RTA parties must adhere to all other WTO requirements. The opposite side argues that the Article XXIV should be interpreted as a »derogation from all WTO provisions«, not just the MFN principle. Furthermore, one understanding of the connection between paragraph 4 of Article XXIV and other clauses of Article XXIV is that paragraph 4 is essentially a basic concept that outlines the conditions that have to be fulfilled for a CU or FTR to be compliant with WTO legal framework meaning that RTAs that meet the requirements of GATT Article XXIV paragraphs 5–9 are WTO-consistent. Additional significant interpretation is that

paragraph 4 is an extra condition that must be fulfilled in addition to those in paragraphs 5 through 9 (Marceau & Julian, 2010).

Another WTO provision that deals with RTAs is the so-called »Enabling Clause«, which is a 1979 GATT ruling on »differential and more favourable treatment, reciprocity, and fuller involvement of developing countries«. Regarding the implementation of the Enabling Clause, paragraph 2(c) states that »developing countries can create regional or global preferential arrangements for the mutual reduction or elimination of tariffs, as well as for the mutual reduction or elimination of non-tariff steps, in compliance with requirements and conditions that may be recommended by WTO Members« (Park & Park, 2010). Certain requirements must be met before the Enabling Clause can be effectively invoked. First, FTAs »shall be designed to facilitate and promote the trade of developing countries and not to raise barriers to or create undue difficulties« for the trade of any other WTO Member. Second, FTAs »shall not constitute an impediment to the reduction or elimination of tariffs and other restrictions to trade on a most-favoured-nation basis«. GATT Article XXIV is much more restrictive than the Enabling Clause. In effect, any FTA formed under the Enabling Clause does not obligate members to remove trade barriers in »substantially all trade«, enabling discussion regarding preferences on a subgroup of goods, disregarding the full eradication of trade barriers. As a result, the Enabling Clause system makes forming and expanding RTAs among developing countries much simpler (Bartels, 2003).

The Enabling Clause can be divided into four sections, all of them representing the possible violation of MFN principle under the pursuit of regional economic integration. According to the WTO Agreement's Preamble »there is a need for positive efforts designed to ensure that developing countries . . . secure a share in the growth in international trade commensurate with the needs of their economic development«. Majority of WTO deals contain provisions for developing-country participants to obtain unique and differential status in order to promote their inclusion into the global trading system – the institute is called »Generalized System of Preferences« (GSP). The GSP allows individual developed countries to give developing-country exports non-reciprocal preferential tariff treatment with unilateral steps that include the removal or modification of entry obstacles to developing-country goods, violating the MFN principle throughout the process (Stamberger, 2003). Another area covered by the Enabling Clause is special and differential treatment (S&D) with regard to non-tariff measures for developing country products. Propositions are discussed multilaterally with the underlying concept of eliminating or reducing non-tariff obstacles to developing-country goods. Regional arrangements between developing countries about tariff and/or non-tariff preferences, with objective of eliminating or reducing entry barriers on developing-country goods within the same region is the third segment of the Enabling Clause. Lastly, special treatment for least-developed countries (LDCs) enables »elimination or reduction of entry barriers« on LCD's goods. The measures in this case are also negotiated multilaterally (Grossman & Sykes, 2006).

GATS Article V (Economic Integration) focuses on liberalisation of preferential trade in services. Any agreement must be designed in compliance with underlying principle to

»facilitate trade between the parties to the agreement and shall not in respect of any Member outside the agreement raise the overall level of barriers to trade in services within the respective sectors or subsectors compared to the level applicable prior to such an agreement«. Unlike GATT article XXIV, GATS article V does not differentiate between CU and FTA. Perhaps, this is due to the conceptual complexities of drawing such a distinction, given that tariffs and quotas play little or just a minor part in the trade in services. Article V:1(a) stipulates that a regional economic integration arrangement must allow for substantial sectoral inclusion, applying there should be no exclusion of any mode of supply. Furthermore, GATS Article V:1(b) states that regional or bilateral agreements liberalizing services exchange shall ensure »the absence or removal of substantially all discrimination« between or among GATS parties by eliminating already established discriminatory measures and/or prohibiting the introduction of new discriminatory measures. Article V:4 also states that a treaty does not result in the construction of additional obstacles within the regional economic zone. Articles V:2 and 3 offer some leeway in determining whether a given economic integration treaty's requirements have been fulfilled. In paragraph 2, flexibility is added by considering »wider process of economic integration or trade liberalization among the countries concerned« (Islam & Alam, 2009).

The relationship between FTAs and the multilateral trade system represented by WTO is complex. The two have a complementary relationship where FTAs can achieve trade liberalization in areas where WTO talks have failed, such as direct investment, competition, and the environment. Discriminatory treatment of FTAs, on the other hand, induces an imbalance in the competitive conditions of trading countries, resulting in unfairness and inequity in trade relations. This could be particularly challenging for developing countries that are not signatories of FTAs and rely on foreign trade and capital inflows for their economic growth. The WTO must learn to exist and evolve in symbiosis with FTAs, because number of multilateral trade agreements is increasing every year and their structure is becoming more perplexed. From the WTO's perspective, the most important thing is to ensure that FTAs are not overly exclusive and discriminatory in their treatment to third parties, while taking advantage of the liberalization impact that FTAs provide (Matasushita, 2010).

1.6 Economic integration impacts on global value chain

According to Baldwin (2014) structure and philosophy behind 20th century foreign trade were significantly different compared to the current international trade trends that occur in 21st century. The essence of twentieth century trade agreements could be summarized as »made-here-sold-there«. Majority of international trade was focused on goods crossing national borders. Consequently, RTAs between states were characterised by trade barriers, concentrated mainly on tariff preferences and rules of origin. Twenty-first century or »deep« RTAs are considering economic effects of GVCs international production networks and concentrating on »made-everywhere-sold-there« complex cross-border flows of goods, services, labour, and capital.

Tariff reduction was a major theme of twentieth-century trade. This is what Baldwin's well-known term »multilateralising regionalism« was all about. Multilateralising regionalism can be described as »making RTAs less preferential« regarding the removal of tariffs on global level (Baldwin, 2014). Trade in the twenty-first century is more complicated due to increasing role of foreign distribution networks in today's environment, resulting in the »unbundling of stages of production across national borders«, including »behind-the-border« measures, referring to a range of non-tariff barriers that exist within states as opposed to at borders, but which can also obstruct trade (Wajda-Lichy, 2014).

Since RTAs are no longer focused exclusively on preferential tariff reduction modern RTAs include deep provisions called WTO-Plus (WTO+) or WTO-Extra (WTO-X) provisions. WTO+ is a term used to describe promises made by WTO members that go beyond obligations of WTO agreements in terms of substance and level of commitment. When a nation applies to join the WTO, it might be asked to make commitments that go beyond the provisions of existing WTO agreements, or to adhere to following regulations that are more stringent than those required by the WTO. WTO-X provisions refer to obligations outside the WTO's scope (Horn, C. Mavroidis, & Sapir, 2010).

Table 1: WTO+ and WTO-X Provisions in RTAs (ordered in terms of frequency)

WTO+ (WTO mandate)	WTO-X (Outside current WTO mandate)
<ol style="list-style-type: none"> 1. Industrial tariffs 2. Agricultural tariffs 3. Customs 4. Anti-dumping 5. Countervailing measures 6. Export tax 7. Technical barriers to trade 8. GATs 9. TRIPs 10. State aid 11. Public procurement 12. SPS measures 13. State trading enterprises 14. TRIMs 	<ol style="list-style-type: none"> 1. Competition policy 2. Intellectual property rights 3. Investment 4. Movement of capital 5. Environmental laws 6. Agriculture 7. Research and technology 8. Regional cooperation 9. Education and training 10. Energy 11. Labour market regulation 12. Industrial cooperation 13. Visa and asylum 14. Cultural cooperation 15. Social matters 16. Financial assistance 17. Consumer protection 18. Information society 19. SMEs 20. Approximation of legislation 21. Statistics 22. Human rights 23. Political dialogue 24. Economic policy dialogue 25. Illicit drugs 26. Money laundering 27. Anti-corruption 28. Data protection 29. Audio-visual 30. Illegal immigration 31. Mining 32. Taxation 33. Health 34. Public administration 35. Terrorism 36. Nuclear safety 37. Innovation policies 38. Civil protection

Source: Atsumi (2013).

As the supply chain has become more internationalized, the system of trade has become more dynamic. Compared to previous decades, when mostly final goods were shipped across countries, global trade has now become qualitatively different. Multinational corporations have developed international manufacturing and distribution networks all over the world and have

engaged in active back-and-forth international transactions, which resulted in increased number of FTAs as a major source of the development of international production networks (Hayakawa, Laksanapanyakul, & Matsuura, 2020).

Several studies recognised positive correlation between GVCs and the depth of FTAs. Antràs and W. Staiger (2012) state that the emergence of offshoring will make it more difficult for policymakers to rely on conventional GATT/WTO principles and regulations, emphasising »shallow integration« to address trade-related issues, such as market access, reciprocity, and non-discrimination. To achieve globally competitive trade policies with respect to offshoring, it is important to achieve »deep integration« – expanding beyond a limited market-access orientation. They argue that the increase in offshoring and its implications for international price determination are likely to erode the efficiency of the GATT/WTO's conventional market-access orientation. In order to optimise GVCs and its operations, the emphasis must turn away from superficial integration and toward specific bilateral agreements between individual countries.

According to Blyde & Faggioni (2017), it is not enough to analyse the influence of FTAs between »importing« and »sourcing« countries; it is also essential to examine the effects of FTAs with third countries in order to investigate the impacts on the formation of supply chains among entities. While a trade arrangement between an importing country and a possible sourcing partner appears to promote the formation of a supply chain between the two, FTA between the importing country and third parties, excluding sourcing country, tends to interfere with the supply chain. The findings show that any additional FTA signed by the importing nation in which the sourcing country does not engage wipes out about 40 percent of the possible growth in trade in value added. As an example, they provide China-Chile FTA, assuming China has 10 different FTAs with other nations, where Chile is excluded from the membership. This situation ensures that an export from China to all of its FTAs can enter with zero tariffs if the product is exclusively manufactured in China, but it will incur tariff duties if it includes raw materials from Chile. On the one hand, the FTA between China and Chile means that when China sources materials used in products for domestic final use or exports to countries outside of China's FTAs, China has a preference to trade with Chile than third country with no FTA. Even though China has a deal with Chile, when it comes to purchasing inputs that will be used in Chinese exports to FTA members, China has little reason to buy from Chile rather than Turkey. For using inputs originating from Chile or any other third country, China's exports to other members of its FTAs would be subjected to additional duties. As a result, apart from the advantages provided by China's own bilateral FTA preferences for Chile, China has no additional value-chain incentive to import inputs from Chile compared to any other third country.

Laget, Osnago, Rocha and Ruta's (2020) research focused on the effects of deep trade agreements on GVC integration among signatures of the individual RTAs. According to their main finding, the depth of RTAs contributes to increased bilateral GVC facilitation. This effect is stronger in sectors with a higher share of value added in overall output, implying that deeper

trade agreements aid countries' integration in higher-value-added industries. This sector focuses mostly on service activities, providing high added value through intangible assets and activities, such as research and development (R&D). Deep FTAs improve the »domestic value-added« quality of exports, primarily through GVCs. Results showed that adding a clause to an FTA raises domestic value added of intermediate stage exports (forward GVC linkages) by 0.48 percent while improving forward linkages especially in complex GVCs, where intermediates cross national border two times or more. The effect on foreign value added of intermediate goods and services (backward GVC linkages) was also positive. With each additional clause in FTA, the value-added increased by 0.38 percent.

The impact of RTAs and bilateral investment treaties (BITs) on GVCs was analysed by Boffa, Jansen, & Solleder (2019). The main finding was that both, RTAs, and BITs encourage backward linkages, but the effect of RTAs with investment provisions is consistently greater than that of BITs. Additionally, only RTAs have an effect, proportional to the depth of the agreement, on forward links. A ground-breaking discovery of the study was that negotiating trade and investment together in the sense of a deep RTA has a higher impact on GVCs integration than negotiating trade and investment separately in the context of an RTA or BIT.

Firms reorganized their manufacturing processes as trading costs plummeted and the digital transformation allowed for improved monitoring which resulted in a supply chain that is distributed across national boundaries in order to take advantage of lower production factor costs. The flow of know-how, capital, goods, and services across high- and low-income countries is beneficial to latest due to systematic transformation driven by participation in GVCs and collaboration with high-income economies (Kowalski, 2015).

The upward trend in global commerce could soon come to a stop. The rest of 2022's trade volumes are projected to be negatively impacted by rising interest rates and the end of economic stimulus programs. Uncertainty in trade developments will persist due to geopolitical issues and commodity price volatility. Impact on the world trade can be signed mostly to following factors: slowed down economic growth, conflict in Ukraine and challenges in global supply chains. The price of energy and basic goods is under further rising pressure due to the situation in Ukraine. In the medium run, increased food and energy costs are anticipated to lead to higher trade values and somewhat reduced trade volumes because of the inelastic worldwide demand for these items. For operations in the global supply chain, risks and uncertainties are still significant. In 2022, supply interruptions from COVID-19 mitigation efforts might persist, and the uncertain state of the global economy is expected to make investments riskier. Additionally, in 2022, long-term tendencies to shorten supply chains and diversify suppliers may begin to have an impact on international commerce. Moreover, recent trade agreements (such as the African Continental Free Commerce Area and the Regional Comprehensive Economic Partnership) could give intra-regional trade more traction. On the other hand, growing transportation costs, logistical hiccups, and geopolitical tensions are expected to continue to have a negative impact on interregional commerce (UNCTAD, 2022).

2 EU TRADE POLICY

The EU's common commercial policy (CCP), also known as trade policy, has progressed over time to include a wide range of trade-related challenges that fall under the EU's exclusive competence. The EU has tried to liberalize trade since its establishment by eliminating internal trade restrictions, extending, signing RTAs, and actively participating in multilateral trade treaties. Its position in the international trading system is critical not only for pursuing the interests of the EU and its member states, but also for maintaining a free and stable economic environment under the rule of law, allowing the EU and its member states to gain and maintain access to major markets (Woolcock, 2019).

2.1 Legislative aspect of trade policy

The six founding EU member states had signed the 1957 Treaty of Rome, which formed the EU's predecessor, the European Economic Community (EEC), with the aim of endorsing increased trade and investment among member states, while also increasing negotiating power with third countries. Treaty of Rome formed the common market based on four basic principles: the free movement of people, goods, services, and capital. Since the Treaty of Rome had established a CU, focusing mainly on trade in goods, removing customs duties and establishing a unified external tariff to third parties, a CCP was required (Hoeller, Girouard, & Colecchia, 1998). This was in accordance with the GATT, which stipulated that a CU should abolish customs duties and quantitative restrictions on intra-member trade, while also adopting a unified customs tariff in relation to non-members states. Without the CCP's shared approach to trade, the EEC may have faced situations, where external entities would enter the internal market from the EU member state with the lowest tariffs and then benefiting of free movement principle engrained in EEC. In order to avoid that the formation of CCP and partial transfer of national sovereignty to supranational level was necessary. Following the globalization of foreign trade in the 1970s, expansions, and the emersion of the single market in 1986, the CCP became crucial in maintaining EU competition in an increasingly globalized environment (European Commission, 2020b).

The legal framework for CCP started formulating with the European Court of Justice (ECJ) 1971 case *Commission of the European Communities vs. Council of the European Communities on the European Agreement on Road Transport (ERTA)*. The ECJ states that »... each time the Community, with a view to implementing a common policy envisaged by the Treaty, adopts provisions laying down common rules, whatever form these may take, the Member States no longer have the right, acting individually or even collectively, to undertake obligations with third countries which affect those rules. As and when such common rules come into being, the Community alone is in a position to assume and carry out contractual obligations towards third countries affecting the whole sphere of application of the Community legal system. With regard to the implementation of the provisions of the Treaty the system of internal Community measures may not therefore be separated from that of external relations«. The decision paved the way for further CCP development. With the judgement part of national

sovereignty regarding international trade agreements transferred from member states to supranational level of Community. The exclusive competence applies when agreements between member states and third parties may impair or change the framework of general laws (Rosas, 2011). Additionally, ECJ released an opinion on the International Agreement on Natural Rubber in 1979 implying that Community's authority exceeds administrative roles, such as qualitative and quantitative restrictions, and allows it to actively formulate CCP (European Commission, 2020b).

In the 1990s, significant multilateral changes occurred, as the emphasis of foreign trade shifted away from goods towards services, IP, and public procurement resulting in formulation of WTO. To counter radical shifts in the global economy, it became increasingly necessary to put areas under qualified-majority (QM) voting and thereby transfer decision making to the supranational level (Leblond & Viju-Miljusevic, 2019). QM is met under two conditions known as the 'double majority' rule – a total of 55 percent of EU countries in the Council (15 out of 27 member states) vote in favour of the proposal and this 55 percent represents 65 percent of total EU population (The Council of the European Union, 2020).

The Treaty of Amsterdam in 1997 addressed challenges in EU trade strategies. It enhanced the power of Council to determine and expand CCP on services and IP after getting the approval of European Parliament (EP). The Treaty of Nice (2001) determined that agreements including »cultural, audio-visual, educational, social and human health services« remain outside the scope of CCP and fall under the shared competences between Community and its member states (Piris & Maganza, 1998).

EU got single legal personality with The Treaty of Lisbon in 2009 – allowing it to conclude and sign international conventions and agreements in its own name and join international organisations as a member. One of the Lisbon Treaty's key goals was to improve the EU's external action's coherence and effectiveness. The democratic legitimacy was enhanced by granting EP more leverage in determining and approving EU's external policy. Before Lisbon Treaty, EP played only a marginal role in EU trade policy, due to strong political authority of the Council and European Commission, which had the power of initiative, submitting a proposal to the Council for approval. Despite the EP's lack of a formal legislative rights, it was able to become more active through informal networks (Wolfstadter, Becker, & Kreilinger, 2018). The »Luns-Westerterp« protocol was developed by Dutch Foreign Minister Joseph Luns in 1964 as an unofficial agreement between the EP and the Council of ministers to keep the EP updated about accession agreements. Tjerk Westerterp, another Dutch foreign minister, expanded this procedure to include international trade negotiations with third countries and international organisations in 1973. Due to the casual nature of these agreements, the level of detail provided differed depending on the political situation affecting the respective talks. The Single European Act of 1986 modified this, extending process to cover »all significant bilateral arrangements signed by the European Communities« and granting the EP veto power over accession treaties and association agreements, but excluding it from decision making regarding international trade agreements (Ferreira, 2015). Overall, these protocols anticipated the EP's

participation in the negotiating process as follows: For starters, it had the option of holding a plenary debate prior to every negotiating round. Furthermore, continuous communication with MEPs had to be ensured, and before signing an agreement, the EP had to be informed about the outcome of negotiations (Kingston, 2008).

Articles 205-222 Treaty on the Functioning of the EU (TFEU) primarily regulate EU external activity. The legal base for EU trade policy is laid down in Article 207 of the TFEU. The EU legal order distinguishes between exclusive, shared and supporting competences. The term »shared competence« refers to the ability of the EU and its member states to enact legally binding actions in specific area. The member states may only do so if the EU »has not exercised or expressly ceased to exercise« its competence. In supporting competences, main role member states are main players and EU may coordinate, complement, and support their actions, but not enact legislation (Rosas, 2014).

In terms of the CCP, the EU has exclusive authority. The EU, rather than national governments of member states, is solely responsible for formulation of legal framework, negotiations, and implementation of international trade agreements. Article 207(1) defines scope of CCP to »changes in tariff rates, the conclusion of tariff and trade agreements relating to trade in goods and services, and the commercial aspects of intellectual property, foreign direct investment, the achievement of uniformity in measures of liberalisation, export policy and measures to protect trade such as those to be taken in the event of dumping or subsidies«. The scope of CCP has evolved over time and can be categorised in four sets of obligations: trade in goods and services, the commercial aspects of IP, such as patents, public procurement and foreign direct investment (FDI) (European Commission, 2021a). Article 218 of TFEU is the most recent post-Lisbon formal legislative for agreements with third countries or international organizations. The clause distinguishes between three various possible phases of an international agreement's life cycle from initial initiation and negotiation to formal signing with potential modification and suspension of the document. In the case of international trade agreements, the practice is set up with Article 207 TFEU, which cross-refers to Article 218 and establishes additional procedural guidelines. According to Article 218(3) TFEU, the process begins with the Commission or the High Representative of the Union for Foreign Affairs and Security Policy initiating negotiations, depending on the agreement's subject matter. The Council opens the talks and appoints the Union's negotiator after receiving a recommendation from the relevant administrative actor.

According to Article 218(6) and 207(2) of TFEU, the CCP is adopted under ordinary legislative procedure (OLP). The process begins with a Commission's statutory proposal and lasts up to three readings, with the co-legislators having the option to consent on a joint document and thereby end the process at the any stage. The Council has the freedom to initiative (European Parliament, 2020a). That means, that in majority of the cases, neither the Commission, nor the EP can propose new regulations explicitly, but they can ask the Council to do so. Recommendation is submitted by the Commission to the EP and Council, which analyse the proposal. The EP votes first, deciding by simple majority (more than half of all cast), either

amending specific parts of the agreement, rejecting the proposal as a whole, or approving Commission's proposal without changes. Amendments cannot fully alter the structure of the proposal, because doing so will jeopardize the institution's authority. The Commission's stance is strengthened also by the fact that any amendment on which the Commission has expressed a contrary opinion must be adopted unanimously by the Council. As long as the Council has not intervened, the Commission has the possibility of changing its request at any moment (Cabral, 2020). The Council may decide to uphold the EP's decision after it has been adopted, and therefore put statutory act into effect, or it may adopt a new stance at first reading and convey it to the EP for a second reading. The Council's decision is made with qualified majority. The EP and the Council are not bound by any deadlines for completing their first readings. In general, the logic and pattern of the second reading in the OLP are identical. However, there are significant differences between the second and first readings, particularly in terms of deadlines and EP's voting procedures. At a second reading, each of the co-legislators can adopt their position within three months, with possible one month extension. If the decision is not made within time frame the proposal is accepted with the tacit agreement. In terms of second-reading voting majorities, EP approves, opposes, or changes the Council's first-reading status by an absolute majority of its members, currently 353 out of 705 votes in contrast with a simple majority as in first reading. If the EP rejects the proposed Act, it must be reintroduced to the Council, which must decide whether to approve or refuse whole set of amendments - there is no longer any space for alterations of the document among institutions (European Parliament, 2020a). Last step of the OLP is called »conciliation«. Its objective is bringing the process to a satisfactory end by the Commission's promotion of greater coordination between the EP and the Council. It entails meetings between the two co-legislators (EP and Council) in the Conciliation Committee with common goal of finding an understanding. This is the only chance for the approvement and passing of the new regulations. If not approved, the legislative process comes to an end for good (Rasmussen, 2008).

Figure 3: Stages of EU's legislative procedure



Source: Puccio (2016).

The EU is bound by the Treaties to contribute to the »harmonious growth of world trade, the phased abolition of limits in international trade and foreign direct investment, and the removal of customs and other non-tariff barriers« in the relevant region of the CCP. Its CCP approach is based on universal principles and is implemented in accordance with the EU's external action objectives. According to article 207(1) of TFEU uniform principles should be considered specially when it comes to »changes in tariff rates, the conclusion of tariff and trade agreements relating to trade in goods and services, and the commercial aspects of intellectual property,

foreign direct investment, the achievement of uniformity in measures of liberalisation, export policy and measures to protect trade such as those to be taken in the event of dumping or subsidies». Given this level of unity, it is especially necessary for member states to relinquish part of their sovereignty, as the Commission inevitably has more bargaining power when approaching third-country agreements in a more comprehensive and cohesive manner (Keane, Mendez-Parra, & Willem te Velde, 2021).

The Council and EP collectively decide on EU regulations for applying trade policies through internal legislative procedures (Yan, 2015). The Lisbon Treaty further reformed the EU's external policies and recognized the interdependence between foreign and trade policy, resulting in CCP following same set of rules as EU's external policy and enhanced cooperation between foreign and trade policy administrative units, represented by European External Action Service (EEAS), European Commission's Directorate-General (DG) for Trade and DGs for International Cooperation and Development and for European Neighbourhood Policy and Enlargement Negotiations (Directorate General for Internal Policies, 2015).

When it comes to the implementation of internal laws, the Council must proceed unanimously, with the agreement of all representatives of member states. EU countries are not allowed to conclude agreements with non-EU countries that influence EU rules in places where the EU has implemented unique universal rules, such as customs (Crombez & Van Gestel, 2011).

2.2 EU trade strategy

The EU is the world's biggest economy, accounting for more than 20 percent of global GDP. The EU has played a key role in influencing the global trade environment, first and foremost by endorsing the WTO. Given the fact that more than 30 million jobs in the EU are dependent on foreign trade and that 90 percent of global economic growth in the next 15 years is projected to be created outside Europe, economic openness has will continue to provide considerable advantages to the EU (European Parliament, 2020b).

The EU has become increasingly intertwined with foreign markets with 45 implemented preferential trade agreements spanning 77 partner nations and has thus become the world's biggest trade network, followed by China and United States. The EU contributes for about 15 percent of global goods trading. The value of foreign trade in goods is roughly three times bigger compared to service sector, due to the characteristics of certain services, which makes them more difficult to trade across borders (European Commission, 2019).

The EU trade has two aspects – extra-EU, also known as EU trade policy, which includes trade between EU and third countries, excluding trade occurring among member states, and intra-EU, focusing only on trade between EU member states. The variation of proportions of intra- and extra-EU trade across member states can be in some degree attributed to historical ties and geographical position. On average, one third of trade can be attributed to commercial relationship between EU and third parties, while majority, two thirds can be assigned to internal EU market. As seen from table 2, the EU's trade agenda is mostly centred on Asian and North

American economies, with Africa, Latin America, and the Middle East occupying minor roles, not representing major players as EU prioritised export destinations (European Commission, 2021b).

Table 2: Breakdown of extra-EU trade in goods for 2020

Total EU Trade			EU Imports			EU Exports		
	Million €	Share (%)		Million €	Share (%)		Million €	Share (%)
Extra EU27	3,645,933	100	Extra EU27	1,714,224	100	Extra EU27	1,931,709	100
China	585,967	16.1	China	383,397	22.4	USA	352,911	18.3
USA	555,530	15.2	USA	202,619	11.8	UK	277,651	14.4
UK	444,967	12.2	UK	167,315	9.8	China	202,570	10.5
Switzerland	250,990	6.9	Switzerland	108,618	6.3	Switzerland	142,372	7.4
Russia	174,309	4.8	Russia	95,335	5.6	Russia	78,975	4.1
Turkey	132,408	3.6	Turkey	62,551	3.6	Turkey	69,857	3.6
Japan	109,489	3	Japan	54,917	3.2	Japan	54,473	2.8
Norway	90,868	2.5	South Korea	44,075	2.6	Norway	48,600	2.5
South Korea	89,343	2.5	Norway	42,268	2.5	South Korea	45,268	2.3
India	65,178	1.8	Vietnam	34,413	2.0	Canada	33,339	1.7

Source: European Commission (2021a).

EU trade policy dates back to the signing of the Treaty of Rome in 1957. With the following treaties, the EU's trade competences were extended from goods to services and lastly to IP rights. The Lisbon Treaty gave the EU exclusive control over bilateral and multilateral negotiation process on substantive trade and investment arrangements. Since the beginning of the 21st century, the rapid growth of developing economies in the global trading environment has generated considerable instability for the EU. The geopolitical transition, which has seen emerging economies gain more decisiveness and leverage in world markets, has had important consequences for the EU as a global player, as well as its approach to global trade policy. Since 1999, the EU was continuously altering its trade policy with accordance to its future aspirations (Dee & L. Mortensen, 2014).

After the establishment of the WTO in 1995, the EU's foreign trade policy has evolved significantly in response to the evolving complexities of global trade and the global trading environment. The EU's 'managed globalisation' policy (1999-2006) placed the EU as the WTO's leading force for the start of new multilateral trade negotiations. New policy guideline required that globalization regulation should be codified and obeyed. Additionally, international organizations' competences should be expanded, and organizations' own powers strengthened. European policymakers have attempted, and mostly succeeded in codification of globalization's principles and enhanced the competences of many international organisations, including the EU, WTO, the Organization for Economic Cooperation and Development (OECD) and the International Monetary Fund (IMF) (Abdelal & Meunier, 2010). The EU prioritized multilateralism over bilateral trade deals since the WTO and its extended membership were the core of the EU's strategy of utilizing globalization process. In early stages of Doha negotiations EU even introduced memorandum on bilateral agreements. By 2003,

however, the Doha Round had begun to show signs of developing economies establishing themselves, resulting in a slowdown in the WTO's multilateral trade negotiations (Bonciu & Moldoveanu, 2014).

As a response to Doha Round activities becoming increasingly expensive and US's vigorous promotion of various regional and bilateral preferential FTAs with key allies, EU re-evaluated its foreign trade policy in 2006 with the Global Europe Strategy. With the strategy EU identified new key strategic partners, such as South Korea, Japan, India, and ASEAN countries. The EU's dissent with bilateral and regional FTAs came to an end with the new strategy. Global Europe Strategy has gestured a change in the EU's approach to emerging markets, beyond the WTO forum. Recognizing that the emerging economies »were balancing their strong economic development and growth with high barriers to EU exports, the EU intensified its demands, expecting the emerging economies to accept greater responsibilities in favour of market openness« (Maes, 2008).

The Trade, Growth and World Affairs (TGWA) policy was launched in 2010 as a part of Europe 2020 agenda - »a strategy for smart, sustainable and inclusive growth«. TGWA was a reaction to a number of causes. The economic crisis in 2008 deteriorated demand for European goods and increased the EU's dependence on exports, for expansion. Furthermore, forecasts at that time found that by 2030, developed and emerging countries would account for about 60 percent of global GDP, with 90 percent of global demand coming from outside of Europe. As a result, the TGWA plan prioritized protecting the EU's growth and stability in a developing environment, with a focus on ensuring greater visibility for EU goods in conventional markets, while also expanding its scope to new markets (Bendini, 2014). TGWA redirected the EU's foreign trade agenda to »new« privileged policy concerns such as investment, public procurement, and services – implying on EU's preference for bilateral trade over multilateral trade agreements (Dee & L. Mortensen, 2014).

In February 2021 the European Commission published its new trade agenda for the remainder of its mandate. It seeks to establish a path for a 'transparent, sustainable, and assertive' trade policy that expands trade opportunities while preserving the EU's strategic autonomy (European Commission, 2021d). Economic interest remains a critical motivator for maintaining a healthy relationship with other world economies. However, there are significant changes in the current trade policy. Traditionally, the EU's trade policies have focused on increasing trade prospects for European businesses by lifting trade obstacles and ensuring equal conditions for EU companies on foreign markets. In addition to these goals, the EU has promoted other strategic priorities such as civil rights, social and safety standards, environmental protection, and long-term sustainability. These elements, on the other hand, have historically played a supporting role. The new plan emphasizes the importance of the EU's other policy goals and defines EU trade policy as the primary tool for achieving 'EU's open strategic autonomy.' The new trade policy is conservative about taking additional steps on new FTAs or investment negotiations. The focus will be on concluding outstanding negotiations, such as the FTAs with Mercosur, Australia, and New Zealand. Although outlining the EU's

ambitions for expanding the global reach of bilateral agreements, the current plan prioritizes the promotion of the EU's other policy concerns, including climate change and the digital agenda. The EU aims to concentrate more on maximizing the benefits of current trade deals and strengthening its capacity to ensure that trading partners obligations are fulfilled. Additionally, the Commission recommends that the EU takes the lead in resolving the WTO's current crisis and reclaiming its vital role in fostering international trade and governance through establishment of »global commitments on trade and climate, new rules for digital trade« and restoring its system for dispute settlement (Skytte Christoffersen, 2021).

The multilateral sphere of EU is represented by WTO commitments, while the bilateral aspect is represented by the network of FTAs and investment agreements. As a result of CCP, the EU participates in the WTO as a single entity. The European Commission represents the EU in the WTO and other bilateral and multilateral organisations. It is customary to allow the EU delegate to talk on behalf of all EU member states even if individual member states are involved. Furthermore, when it comes to the WTO dispute resolution, the Commission's legal service is the one that defends EU member states in lawsuits brought against them (Brsakoska Bazerkoska, 2012). The »double weight of votes« is the source of the criticism directed at EU representation in the WTO. It is argued that EU votes have double weight since both, the EU as an international organisation and its member states are included in the voting system. Nonetheless, the total number of votes cast cannot go beyond the number of EU member states. Furthermore, since the WTO's organs function on a consensus, WTO questions are almost never put to a formal vote, where the possible EU predominance could come into effect (Ladefoged Mortenses, 2010). FTAs do not exclude the EU from WTO legislations, but they do encourage it to go forward with a trading partner if such WTO requirements are fulfilled. GATT Article XXIV states that trade agreements should involve »substantially all trade«. The general agreement is that the EU cannot join trade agreements that are restricted to certain industries, notwithstanding the fact that there is no specific definition of what comprises all trade (European Commission, 2020b).

2.3 EU trade policy measures

Tariffs are fundamental trade policy measure, however the EU also has a range of non-tariff measures, such as technical barriers to trade, sanitary and phytosanitary measures and others, which will be analysed in the following chapters. As tariffs continue to fall and governments throughout the world impose additional regulatory requirements that impact trade, the importance of non-tariff trade barriers, has grown significantly over the past years (European Commission, 2021b).

Global competition is not necessarily fair, and EU competition law does not apply outside of the EU. In the event of unfair competition from non-EU countries, EU producers can consider filing a trade defence lawsuit with the European Commission to resolve the situation, given that the unfair competition is causing them difficulties. EU trade defence instruments (TDIs) can be thought of as unilateral steps that the EU can use to defend its economy in an open

environment and assures free and fair trade (Directorate General for Trade, 2010). In 2017 and 2018, TDIs were updated and modernised first time after the WTO establishment. The new set of rules increased transparency and predictability, codified certain practices by the ECJ WTO's dispute settlement case law, improved the Commission's ability to deal with retaliation threats and increased effectiveness and enforcement of anti-dumping and anti-subsidy measures (European Parliament, 2018).

TDIs are in accordance with WTO legislative system and therefore cannot be classified as protectionist measures. The MFN principle is one of the founding values of WTO multilateral system. When one country receives preferential treatment, the other Members of WTO shall receive preferential treatment as well. According to the MFN, if WTO Member Country A agrees to lower the tariff on commodity X for 5 percent in negotiations with nation B, which does not have to be a WTO Member, the same tariff rate must be applied to all other WTO Members. It is a concept that forbids giving different treatment to the same goods based solely on their country of origin (UNCTAD, 1999). The principles are upheld by the WTO agreements, but exceptions are covered with three categories of TDIs regarding AD, anti-subsidy, and safeguards. The Anti-Dumping Agreement (ADA) does not make any decisions about the legitimacy of taking AD measures to protect domestic economy. Its emphasis is on how countries can or cannot respond to dumping — it regulates *ex-post* AD activities. The Agreement on Subsidies and Countervailing Measures (ASCM) controls the use of subsidies and the steps affected countries may take to mitigate their impacts. A country may request the termination of the subsidy or the elimination of its harmful consequences via the WTO's dispute-resolution process. Alternatively, the government should conduct its own investigation and, if necessary, levy a countervailing duty on subsidized goods that damage domestic producers. Under the GATT Article XIX WTO members may take a safeguard measure with temporarily restricting imports of specific product in order to protect domestic economy from the product that is causing or imposes a reasonable threat to cause a serious damage to the national economy (World Trade Organisation, 2021).

When imported goods are sold at an unfairly low price, this is known as dumping. AD duties, which are the most widely used TDI in practice, may be imposed by the EU to counteract this. Following an evidence-based complaint from EU producer or on its own initiative, the Commission launches an inquiry focused on three main conditions - are non-EU importers using dumping, has there been material damages for EU economy, and is there a causal connection between dumping and damage. Moreover, the Commission ensures that imposing AD tariffs would not damage the EU interests. The Commission will only impose AD measures if all four requirements have been met (European Commission, 2020a).

Countries have the freedom to subsidize their domestic producers, not including exemptions outlined in ASCM. A subsidy classifies as it, if is restricted to a specific industry, and does not apply to all enterprises, such as assisting small businesses in any industry. The core principle in AS strategy is injury, which means that the EU must show that third-country practices affect its domestic producers. When a complaint is filed, the Commission investigates whether the

goods in question are subject to countervailing subsidies, whether EU industry suffered material damage, and, most importantly, whether there is a causal connection among the damage and the subsidised imports. Lastly, the Commission examines if imposing countervailing measures is in the best interests of the EU. Subsidies that distort the market are targeted by AS interventions, which may be in the form a percentage of the product's price, a fixed premium on a certain value per unit of the product, a minimum threshold import price, or a price undertaking, in which the exporter agrees to sell the product at a higher price rather than face a AS measure (European Commission, 2020b).

Safeguards come into place if an EU sector is impacted by an »unforeseen, sharp and sudden increase of imports«. The fundamental rationale of safeguard measures differs from AD and AS measures since it does not rely on the principle of fairness. As a result, they are used very sparingly. There are four conditions that have to be met in order to implement safeguard measures. The increase in import has to be sharp, the cause of it has to be unanticipated. Increase has to cause or present a threat to substantial damage to domestic economy, which is a higher level of injury than the material injury required for AD and AS. Additionally, safeguards should be in the interest of the EU. When an inquiry finds that safeguard steps are essential, the Commission will enforce quantitative controls and surveillance, such as an automated import licensing scheme, which do not restrict imports. There are two distinct safeguard rule frameworks, one for WTO members (Regulation 2015/478) and the other for non-WTO members (Regulation 2015/755) (European Commission, 2020b). They have *erga omnes* effect and apply to goods of all origins, while AD and AS measures are concentrated on specific nations or even companies (European Commission, 2016).

2.4 European Network of Trade Agreements

The EU has different trade relationship with partner countries depending on interests and priorities. We can identify three main categories of trade agreements. First is already mentioned CU, which is eliminating internal tariff among member states while establishing a common external tariff for foreign importers, who are not a part of the union. Partnership and Cooperation Agreements (PCAs) focus on general aspects of bilateral economic relationships, but do not influence existing customs tariffs. The third group includes Association Agreements, Stabilisation Agreements, FTAs, and EPAs which impact customs tariffs between signatories (European Commission, 2021c). EPAs concentrate on development of needs and promote incremental liberalization in partner countries while the EU provides market access to included parties. Following the Cotonou Agreement (2000), EPAs became the primary tool for facilitating trade between the EU and the African, Caribbean, and Pacific regions. EPAs are in accordance with WTO rules are gradually displacing the EU's unilateral preferential trade system. FTAs in the EU differ a lot depending on stakeholders and policy preferences. Prior to 2006, “first generation” trade agreements, being based on trade in goods and tariff elimination, were negotiated and signed. Deep and comprehensive free trade areas (DCFTAs) are strengthening political ties and planning for economic cooperation with the EU. The “second generation” FTAs emerged after 2006 extending their scope from traditional focus on

elimination of tariffs and quotas to rules regarding trade in services, intellectual property rights, foreign investments, public procurement, and sustainable development (Wruuck, 2019).

Table 3: Evolution of EU Trade Agreements

“New Generation” FTA	“First generation” FTA	Economic Partnership Agreements with ACP countries
<ul style="list-style-type: none"> • EU-South Korea FTA (2011) • EU-Colombia-Peru-Ecuador FTA (2017) • EU-Central America Association Agreement: Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua and Panama) (2013) • EU-Canada Comprehensive Economic and Trade Agreement (2017) • EU-Japan Economic Partnership Agreement (EPA) (2019) • EU-Georgia DCFTA (2016) • EU-Moldova DCFTA (2016) • EU-Ukraine DCFTA (2017) • EU-Singapore FTA + Investment Protection Agreement (2019) • EU-Vietnam (2020) 	<ul style="list-style-type: none"> • Economic Area Agreement: Norway, Lichtenstein, Iceland (1994) • EU-Switzerland (1972) • Mediterranean: Jordan (2002), Palestine (1997), Tunisia (1998), Morocco (2000), Lebanon (2003), Egypt (2003), Algeria (2005), Israel (1996), Turkey Customs Union (1996), Syria (1977) • West Balkans: EU-Northern Macedonia SAA (2001), EU-Albania SAA (2006), EU-Montenegro SAA (2008), EU-Serbia SAA (2009), EU-Bosnia and Herzegovina SAA (2008), EU-Kosovo SAA (2016) • EU-Mexico Global Agreement (2001) • EU-Chile Association Agreement (2003) 	<ul style="list-style-type: none"> • EU-Pacific: Fiji (2014), Papua New Guinea (2009) • EU-CARIFORUM: Antigua & Barbuda, Belize, Bahamas, Barbados, Dominica, Dominican Republic, Grenada, Guyana, Jamaica, St. Kitts & Nevis, Saint Lucia, St. Vincent & Grenadines, Suriname, Trinidad & Tobago (2008) • EU-Eastern and Southern African (ESA) Subregion: Madagascar, Mauritius, Seychelles, Zimbabwe (2012) • EU-Central Africa EPA: Cameroon (2014) • EU-South African Development Community (SADC) EPA: Botswana, Lesotho, Namibia, South Africa, Swaziland (2016), Mozambique (2018) • EU-Ghana Interim EPA (2016), EU-Côte d'Ivoire Interim EPA (2016)

Source: European Commission (2021).

The evolution of EU trade network is represented in Table 3, from which we can observe that the expansion of EU network started with first generation FTAs with countries, such as Norway, Lichtenstein, Iceland, Switzerland, Tunisia, and Turkey which have geographical and historical ties with Europe and EU but are not part of the EU organisation. EPA with African, Caribbean and Pacific countries emerged in 2008, when EU signed the CARIFORUM agreement. EPAs further expanded to Pacific and other African Countries. The era of new

generation FTAs started in 2013 with the signing of EU-Central America Association Agreement and is still ongoing due to the fact that the world is more interconnected than ever.

In the recent years we can observe the focus on establishing deep trade relationships with Asian countries, since Asia is becoming powerhouse of global economy. For this specific reason, the EU-South Korea FTA, which is classified as first EU new generation FTA and the EU-Japan Economic Partnership Agreement – one of the most recent ones - will be analysed in following chapters.

3 COMPARATIVE LEGAL ANALYSIS OF SELECTED TRADE AGREEMENTS

The EU is Asia's largest trade partner and a primary supporter of democratic values. Moreover, a substantial volume of FDI is shared between the two regions. In the Asia-Pacific region, the EU is aware of the importance of potential trade agreements. The decision to initiate negotiations with countries outside of EU on such FTAs is focused on sound economic principles to increase European businesses' access to Asia's diversified and competitive markets (Directorate General for External Policies of the Union, 2016). The focus of analysis on EU FTAs with Japan and South Korea can be ascribed to the fact that both represent a new generation of trade agreements focusing on new areas, such as IP rights, services, and sustainable development. Furthermore, the two economies can be classified as developed, achieving relatively high economic growth and stability.

3.1 Trade relations

The development of trade relations between Asian countries and EU has been fast and steady in the past decade. In the following chapter we are going to discuss how diplomatic and economic ties between EU and chosen Asian economies evolved over time.

3.1.1 South Korea

Korea was largely a closed economy prior to 1963, with high unemployment and inflation, as well as significant budget and balance of payments deficits. Korean trade policy was strongly export-driven from 1963 onwards and continued for decades thereafter, with government funding for main industries such as petrochemicals, steel, semiconductors, transportation, and shipbuilding. With the implementation of the Comprehensive Liberalisation Policy in the 1980s, Korea started to liberalize its economy and continued to do so in the 1990s. For a while, Korea's trade policy was solely based on multilateral agreements within the WTO system (Betts, Giri, & Verma, 2017). With the start of the Doha round in 2001, Korea shifted its emphasis to FTAs in order to improve its competitiveness on foreign markets. This emphasis on FTAs also gave Korea more motivation to drive through critical economic changes, moving away from policies driven by the government in the direction of free market. Focusing on FTAs has resulted in the liberalization of Korea's national market, especially in the automobile,

agriculture, and service sectors. The accomplishments of previously signed FTAs have boosted interest and demand for FTAs among Korean businesses (Lee, 2012).

The EU and Korea established formal diplomatic ties in 1963. Korea's dramatic progress in the second half of the 20th century boosted its attractiveness as an economic and political ally for Europe. Adoption of several agreements that formed a basis for economic cooperation strengthened both sides' trade ties in the 1990s. The EU and Korea signed a Framework Agreement for Trade and Cooperation, as well as a Joint Declaration on Political Dialogue, in 1996. This is a »third generation« cooperation arrangement that allows for close coordination on matters like trade and economic policies among signatories, as well as policy issues, including money laundering, culture, information and communication. Korea was not the first developing Asian country to enter into a legally binding partnership arrangement with the EU, but it was the first developed Asian country to do so, compared with other developed nations, where relationships were based on political agreements (Lee, 2012). The Agreement on Cooperation and Mutual Administrative Assistance in Customs Matters was signed the following year, with the main goals of creating a fair economic playing field and exchanging information on customs regulations. As WTO representatives, the EU and Korea have also signed the Agreement on Government Procurement (GPA). The GPA was signed for the first time in 1979, and the most recent revision went into effect in April 2014. Its aim is to »open up government procurement markets among its signatories by introducing guidance on transparency and non-discriminatory procedures for public tenders«. The Cooperation Agreement Concerning Anti-Competitive Activities was signed in 2009, with the aim of improving antitrust enforcement by encouraging collaboration and cooperation between both sides' competition authorities (Civic Consulting, 2017). In 2010, the EU and Korea agreed to cooperate more closely on a range of topics, including commerce, investments, sustainable development, and international peace and stability. In May 2010, the EU and Korea signed a new Framework Agreement on Trade and Cooperation, which replaced the 1996 agreement and now represent legal base for EU-Korea relations (Harrison, 2013).

In May 2007, talks were initiated in Seoul on the FTA between the EU and Korea. After eight formal rounds of negotiations, on 15 October 2009, the FTA was inaugurated by both parties. The agreement was concluded on 6 October 2010 at the EU-Korea Summit in Brussels. On 17 February 2011, the EU parliament gave its approval to the FTA. The agreement came into effect on 1 July 2011, ushering a new period in economic ties between the EU and South Korea. The EU-Korea FTA represents the first trade agreement in the new generation and is the most abysmal trade agreement the EU has ever signed and is also the first with a country in Asian region. The deal is ground-breaking both in its extent and in the pace at which it eliminated trade barriers. Besides, the FTA is setting a trend in resolving critical non-tariff trade barriers, with a special emphasis on the automobile, pharmaceutical, medical devices, and electronics industries (European Commission for Trade, 2011). The FTA also excludes quantitative import controls and other types of tariffs, taxes, charges, and export restrictions and provides clauses on topics ranging from services and investment, competitiveness, and public procurement to IP protection (Lakatos & Nilsson, 2007).

The EU–Korea FTA was the EU's most significant FTA in the early adoption period in terms of substance, but also in terms of the leading role it played in the EU's strategy and legal system. It was the first new generation FTA to be implemented under the Global Europe Strategy. It was also the EU's first trade agreement, ratified under the Lisbon Treaty's revised rules and with the full participation of the EP within the ordinary legislative procedure. The acceptance and ratification mechanism for this FTA has undeniably set a precedent for subsequent EU FTAs to come, as well as paved the way for greater participation of the EP in the process. Furthermore, it placed certain obligations on the Commission, such as a additional monitoring requirements or a promise to include certain clauses in future FTAs (Harrison, 2013).

3.1.2 Japan

Despite being severely weakened by the atomic bombings of Hiroshima and Nagasaki, as well as other Allied air attacks, Japan was able to rebound from the horrors of WWII, and by the 1960s, it had risen to become the world's third-largest economic body after the USA and Soviet Union. The name used for Japan in this period is “economic miracle” due to resurrection and surged growth of its economy. The Ministry of International Trade and Industry, which was key player in the country's economic recovery established a synergy between the government and the private sector in order to increase industry efficiency. Power over technology imports and later control over all of Japan's imports was given to the ministry (Kenichi, 2006). Official EU-Japan relations started in 1959, when the Japanese ambassador to the European Coal and Steel Community, the European Atomic Energy Community, and the European Economic Community, was appointed as the world's first delegate for European Communities. Nevertheless, it took additional 15 years for the European Communities' representation in Tokyo to be created, demonstrating that the parties' contacts were shaky in the early years. Bilateral ties were heavily affected by trade and economic considerations at the time. Economic frictions dominated Euro-Japanese relations in the 1960s and 1970s. Increasing Japanese exports, especially to Europe, in sectors and industries deemed significant by Europeans, as well as persistent trade deficits in European Communities, heavily influenced the bilateral cooperation agenda (Porto, 2018). While attempts to correct the trade deficit were the main aspirations of bilateral relations in the 1970s and 1980s, 1990s The Joint Declaration on Relations between the European Community and its Member States and Japan, also known as The Hague Joint Declaration (1991) marks new era. The paper established a structural basis for increased dialogue and collaboration among nations. In December 2001, the EU and Japan agreed on a Joint Action Plan for EU-Japan Cooperation, which listed more than 100 areas where bilateral projects should be pursued. Four core parts of this initiative were promotion of peace and security, improvement of economic and trading partnership, proactively tackling social and cultural challenges and bringing together people and communities. It was criticized for being too expansive, because it included too many geopolitical issues confronting today's globalised environment (Berkofsky, 2012). In 2003, the EU named Japan as one of its »strategic partners«, but the two countries at that time had yet to convert their mutual interests into a close strategic relationship that would enable joint policies and initiatives to address global issues and find solutions to shared problems (Islam S. , 2009). Partners have agreed to

improve their scientific relationship after signing a Science and Technology Cooperation Agreement in 2009. The agreement served as the foundation for determining shared research objectives, such as energy and the environment, where collaborative research activities will be beneficial for both participants (European Commission, 2020d). In July 2018, Japan and the EU signed Strategic Partnership Agreement (SPA) in parallel with Economic Partnership Agreement. The SPA is a mechanism that strengthens the overall relationship between signatories in over 40 fields of mutual concern, including digital, transportation, energetics and social-demographic challenges. It also establishes a regulatory framework for bilateral as well as foreign and regional collaboration. The aim of negotiating an SPA was to improve diplomatic ties between the EU and Japan while also bolstering their strategic relationship with the objective of forming an umbrella arrangement that would cover current cooperation and help it develop (D'Ambrogio, 2019). Compared to Joint Action Plan, SPA provisions are also general, emerging concerns about whether the SPA is just a symbolic agreement in which signatories could see a separate future, but have prioritized signing at the same time as the EPA due to convenience (Sekine, 2020).

Korea and Japan are rivals in several markets but nevertheless share a few similarities with the EU, such as geographical distance, linguistic differences, and a lack of historical links, but have adopted separate trade policies through FTAs. Furthermore, both regard the EU to be a significant sector for trade. In the European market, South Korean goods such as automobiles and electronic devices had a major competitive edge over comparable Japanese products. Troubled with the effect of the EU-Korea FTA on Japanese businesses, the Japan Business Federation considered the EU-Korea FTA as a major stumbling block, urging Japan to negotiate its own FTA with the EU (Tyszkiewicz, 2013).

The European Council has given the mandate to the European Commission to begin talks with Japan in November 2012. In April 2013, the first round of negotiation was held. Following 18 rounds of consultations, the parties reached a diplomatic understanding on 6 July 2017. The text of the agreement was finalized in December 2017 and then sent by Commission for ratification to the Council in April 2018. The Council approved the decision to sign the EPA and, on 6 July 2018, proposed the EP's approval. The deal was then concluded at the EU-Japan Summit in Tokyo on 17 July 2018. The EUJEPA is the biggest bilateral trade agreement the EU has ever signed, representing up to 30 percent of global GDP, in terms of market size. It covers obligations not only to trade in goods but also to provide services and to encourage bilateral investment (Directorate General for External Policies of the Union, 2018b). What distinguishes the EUJEPA is the unique emphasis on agriculture, mostly removed from trade agreements, and an environment where tariffs continue to play a crucial role in foreign trade. The EUJEPA is also the first EU trade agreement with which specifically contains the guarantee to Paris Climate Agreement and the corporate governance section, emphasizing the importance of well-functioning economies and a stable financial sector (Gruebler, Stehrer, & Reiter, 2019).

3.2 Tariff measures in selected free trade agreements

Article XXIV(8)(b) of GATT 1994 expressly mandates the gradual elimination and final abolition of customs duties between the parties of an FTA with objective of liberalisation of »substantially all the trade«. While the exact definition of the term is debatable, it is widely accepted that the »liberalization of 90 percent of trade between the parties« satisfies the criterion. Parties have ten years from the day the FTA enters into action to comply with this provision (Hijazi, 2008). The EU-Korea FTA has abolished customs tariffs on almost 98.7 percent of the goods since 2011. EUJEPA eliminated 99 percent of EU tariffs and 97 percent of Japan tariffs. The sensitivity of the agriculture sector explains the marginally lower figure for Japan. Nevertheless, Japan has made major compromises in terms of tariff rate quotas and/or tariff reductions on the 3 percent of tariff lines that have not been completely liberalized. Furthermore, the lower figure is partially offset by Japan's substantial efforts to fix a large number of non-tariff initiatives (European Commission, 2018). In terms of tariff liberalization, both FTAs are without a doubt compliant with WTO requirements.

3.2.1 Tariff Provisions in the EU-Korea FTA

Reduction or elimination of tariffs is one of the main objectives of every FTA in order to facilitate stronger trade and commercial ties among the signatories. The EU-Korea FTA is no exception. Prior to the FTA, trade between the countries was subjected to MFN tariffs. The EU exports to Korea were facing comparatively high customs duties, on average 6.8 percent and immense 48 percent on agricultural products. However, tariffs for Korean exporters were relatively lower in the EU, averiging on 5.2 percent and 15.4 percent for agricultural products (Directorate General for External Policies of the Union, 2010).

Content concerning customs duties is covered in Chapter 2 of the Agreement and the corresponding Annex 2-A. Article 2(5) represents the legal core for tariff elimination. Despite the objective of establishing free trade area among signatories, full and instant elimination of customs duties was applicable only for items in Category 0, defined in Annex 2-A Party's Schedule. While the majority of duties was abolished upon the FTA's entry into effect, the agreement stipulates a steady process during which tariffs that were excluded from immediate liberalization are steadily lowered until their full elimination, according to Schedule. The parties established base rates that were in effect at the time the Agreement went into full effect, and they specified measures of tariff reduction for individual items, until the relevant customs duties were fully eliminated. According to Article 2(5)(3) when one of the signatories unilaterally reduces their MFN-tariff for specific good after an agreement enters into force, the MFN rate replaces base rates defined in the FTA, but only when newly formed MFN tariff is lower than customs duty rates defined in accordance with Schedule in Annex 2-A.

Goods are divided in 20 cathegories, each with different percentage of annual tariff reduction. While trade in certain products is instantly liberalized, the complete elimination of customs duties on highly sensitive goods, especially agricultural products, may take up to twenty years.

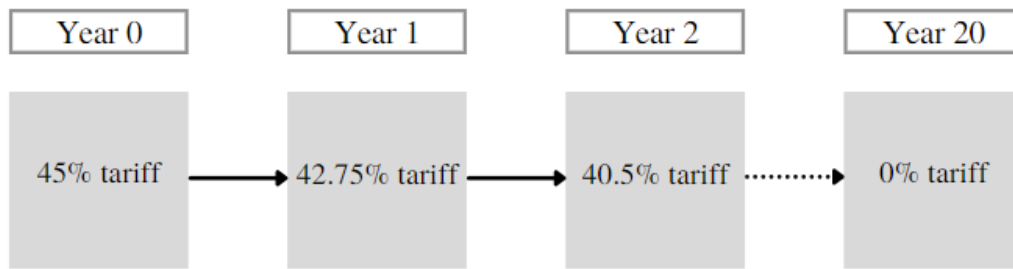
The relevance of the agriculture sector for the country explains the preferential care of agricultural goods. Korea has suffered with food shortages in the past, and as a result, the government has heavily shielded its agriculture industry (Civic Consulting, 2017). On the day the FTA went into effect, high tariff rates on several vegetable goods were reduced to zero. For example, vegetable roots have some of the highest levies, 887.4 percent, which should be abolished over a 15-year period. Tariffs on specific bean species were phased out over the course of five years, commencing at a rate of 607.5 percent. A few tariffs are still quite expensive, even after the implementation of FTA. Bell type sweet peppers has a tariff rate of 270 percent or 6,210 won/kg, whichever is higher. The staging category E is an indicator that base rate will stay unchanged even after FTA enters into force.

Due to its defensive tactics justified by the Common Agricultural Policy, the EU frequently excludes a substantial number of agricultural tariff lines from bilateral discussions. For example - beef, sheep, goats, poultry, dairy, rice, barley, certain fruits and vegetables, rice, sugar, wine and tobacco are frequently included in these protected products. Both parties are getting rid of a lot of their agricultural tariff lines. In fact, almost all agricultural tariff lines between signatories are enclosed. 90.7 percent of Korean tariffs on industrial products were abolished when the agreement went into effect. Within three years, the percentage had risen to 95.8 percent, and within seven years, it had reached 100 percent. Eventhough the scope of tariff reduction is enormous there are still some delicate sectors, for instance automotive, where tariffs were being loosened gradually, over a seven-year period (Directorate General for External Policies of the Union, 2010).

The base rate must first be examined, followed by the determination of the category in which the relevant goods are classified, in order to determine the exact customs duty applicable and the period of time before complete liberalisation is realised. The product category defines the amount of time that should pass before the specific product can be sold on market without additional tariffs. The reason for varying time phases is to give the affected industries sufficient flexibility to make institutional changes in order to reduce the direct and indirect costs of liberalization. Slower and controlled liberalization can make for more moderate labor market reforms.

If we look at an example of Asian variety pears which can be classified in staging category 20 with base rate of 45 percent, implying that EU importers have to pay 45 percent tariff rate in the first year of the FTA. After the first year, duties on pears will be reduced over a twenty year term, resulting in tariff reduction of 2.25 percentage points per year. That means that in the second year of FTA implementation the customs duty on pears will be 42.75 percent, in thrid year 40.5 percent so on, until, after twenty years, tariffs on product are fully eliminated.

Figure 4: Gradual elimination of tariffs on Asian variety pears under EU-Korea FTA



Source: Own research.

Article 2(5)(4) provides signatories with possibility of hastening the pace and extending the scope of tariff elimination on imports between them after three years since FTA implementation. If this possibility is exercised, newly negotiated customs duties overrule base rates and staging categories specified in Annex 2-A Schedules. Article 2(6) represents a standstill clause, prohibiting parties to increase active tariffs, or imposing any new ones - ensuring constant elimination of tariff barriers between Korea and the EU. Existing tariffs must be eliminated, and new duties cannot be enforced.

3.2.2 Tariff provisions in the EUJEPA

Since both nations, EU and Japan are members of WTO, MFN tariffs applied for mutual trade before implementation of EUJEPA. Prior to the FTA, EU exporters to Japan were facing relatively low tariffs compared with Korean tariff legislations before FTA, averaging for 2.5 percent. On the other hand, tariffs for agriculture goods were significantly higher, around 13 percent. However, tariffs for Japanese exporters of non-agricultural goods were relatively higher in the EU, averaging on 4.2 percent, but lower for agricultural goods, with tariff rate of 10.3 percent (Frenkel & Walter, 2017).

The tariff elimination steps, substance and rationale behind EUJEPA are equivalent to the EU-Korea FTA and its tariff clauses. The EUJEPA's Chapter 2 and its accompanying Annex 2-A represent core on customs duty framework. Goods are divided into 11 annual reduction tariff categories. Legislative foundation for tariff abolition is Article 2(8), which is in the essence equivalent to article 2(5) of the EU-Korea FTA. What differentiates specific article is inclusion of clause potentially being activated if one party signs trade agreement with third country and provides it with a greater tariff cut, higher quotas, or some other more favourable treatments than that offered under the EUJEPA. The condition embedded in Article 2(8)(4) is that action has to »...affect the balance in the EU's or Japan's market of such goods«. If the condition is fulfilled signatories should strive to ensure that affected party obtains at least the same preferences as third party did with trade agreement. Parties shall begin an evaluation »within three months of the date of entry into force of the international agreement« with the other party, and execute it »with the aim of completing it within six months of the same date«. This rule only applies for specific products identified with additional indicator S in the Annex 2-A, implying that goods marked with specific indicator are a subject to additional agricultural safeguard measures.

In the case of agricultural items, Japan will gradually erase 85 percent of tariff lines on EU exports. Substantial reductions in customs tariffs for the EU's key food exports, such as pork, wine, beef, pasta and chocolates, to Japan are part of this. The agreement excludes some delicate items such as rice, seaweed, and whale meat. During the transition phase, both signatories committed to eliminate all tariffs on industrial items. Most significantly, the EU will liberalize its automobile market after a seven-year transition period for Japanese vehicles and a seven-year period for Japanese vehicle parts between coming into force and liberalization. In areas including chemicals, textiles, clothing, metals, plastics, and jewelry, Japan will immediately reduce tariffs on EU producers (Directorate General for External Policies of the Union, 2018a).

From the analysis of the EU-Korea FTA and EUJEPAs Articles relating to tariff measures we can conclude that both Agreements are essentially similar. The Korean arrangement is split into several more divisions with differing tariff rates, resulting in differences in the number of categories between the Agreements. Even if the EUJEPAs does not have such a breakdown when it comes to tariff classes, the deal is much more comprehensive in the classification of specific agricultural products for which it uses a special S annotation. These products could potentially be a subject to protectionist procedures in case of negative effects, resulting from newly formed trade agreements between either EU or Japan and third party, on the trade stability of a given product between the signatories.

3.3 Non-tariff provisions (WTO Plus and WTO Extra)

NTMs are the second critical factor of trade strategy in FTAs. Owing to their varied composition, technological structure, and dynamic impacts on traded volumes, costs, and quality of exports and imports, these are more difficult to identify and comprehend. NTMs, in contrast to tariffs, which raise tax revenue, only consume resources, and therefore reduce overall wellbeing. As a result, lowering and/or reducing NTMs among parties is critical for the full effect on value added and GDP growth (Tarver, 2021). NTMs are described as one of the major concerns in the Commission's 2006 Global Europe strategy, which sparked the transition from multilateralism to bilateralism. The document states that »reducing tariffs remains important to opening markets to Europe's industrial and agricultural exports. But as tariffs fall, non-tariff barriers, such as unnecessarily trade-restricting regulations and procedures become the main obstacles. These are often less visible, more complex and can be more sensitive because they touch directly on domestic regulation«

The EU-Korea FTA's Chapter Two includes a segment on NTMs supplemented by clauses in the Annexes on NTMs for specific sectors. Same content is covered by Chapter 7 in EUJEPAs. Both Agreements integrate Article III of the GATT 1994 on national treatment and reasserts the signatories' rights and responsibilities under the Agreement on Technical Barriers to Trade (TBT) and the Agreement on Sanitary and Phytosanitary (SPS) measures, which are most common NTMs in trade agreements (Ghodsi, Grübler, Reiter, & Robert, 2017). Although specific Agreements are embedded into FTA, they extend beyond the parties' obligations

defined by WTO. The inclusion of additional clauses on TBT and SPS is due to the possibility that national treatment would address the issue of openly discriminatory practices and protectionist legislation (Harrison, 2013).

To assess the effects of the FTAs, it is necessary to ascertain the segments in which the treaties cover provisions and an extent to which mutual obligations are legally enforceable. Vaguely described commitments, as well as promises that parties are only superficially committed to are unlikely to be effectively evoked in a dispute settlement.

The legal terminology must be examined in order to properly comprehend whether the provision is legally enforceable or not. The degree of legal enforceability can be defined by an examination and analysis of legal language and international law concepts. One of the prerequisites for an agreement to be a treaty, according to Article 2 of the Vienna Convention on the Law of Treaties, is that it is »governed by international law«. The language used in a contract can reveal the extent to which such purpose exists. The desire to establish a legal commitment differs from the desire to establish a moral duty or political connection. Words of commitment, such as »shall«, »agree«, »undertake«, and similar expressions, exemplify the political and moral commitment, while references to »rights« and »obligations« are, of course, also evidence of a desire to form a legally binding partnership. Terms like »should« and »will« are not typically used to convey such an intention (Horn, C. Mavroidis, & Sapir, 2010).

An ambiguous wording in legal documents does not benefit the defendant in a dispute but gives possibilities for the legally more perceptive side to interpret the document in their favour. Additional issue is that regulations can be enforced formally through dispute resolution process as well as politically. In such a circumstance, the inclusion of a provision in an agreement may still be significant since it may aid the signatories in managing expectations. While the legal firmness of the language may not be relevant to the enforceability of the provision, it appears acceptable to believe that it aids signatories in maintaining their informal implementation of the agreement.

The provision is considered legally enforceable when the wording employed is »sufficiently explicit and binding«. Same applies if a clause has not been omitted from an FTA dispute resolution process (D'Ambrogio, 2019). According to WTO dataset, which includes analysis of FTA provisions between WTO members, as well as agreements signed between WTO members and non-members, the provisions are classified in three main categories:

- a) The provision is not mentioned in the agreement or not legally enforceable,
- b) The provision is mentioned, legally enforceable but explicitly excluded by dispute settlement provision,
- c) The provision is mentioned and legally enforceable.

For the purpose of this analysis, the first and second group of provisions will be identified as not legally enforceable, while the third group will be considered as legally enforceable. The ratio behind the decision is that provisions from first and second group are not enforceable with dispute settlements mechanisms presented in individual FTAs, but through the WTO dispute

settlement procedures. The detailed description of WTO+ and WTO-X provisions can be found in Appendix 1.

Table 4: Legal enforceability of WTO+ and WTO-X provisions in EU-Korea FTA and EU-Japan EPA

	Provision is not mentioned
	Provision is not legally enforceable
	Legally enforceable provision

		EU-Korea FTA	EUJEP A
WTO+	Industrial tariffs		
	Agricultural tariffs		
	Customs		
	Anti-dumping		
	Countervailing measures		
	Export tax		
	Technical barriers to trade		
	GATS		
	TRIPs		
	State aid		
	Public procurement		
	SPS measures		
	State trading enterprises		
	TRIMs		
WTO-X	Competition policy		
	Intellectual property rights		
	Investment		
	Movement of capital		
	Environmental laws		
	Labour market regulation		
	Cultural cooperation		
	Audio-visual		
	Public administration		

Source: WTO (2021).

As can be seen from Table 4, there is generally speaking a very high degree of coverage in both EU-Korea FTA and EUJEP A. If we first analyse WTO+ provisions which go beyond obligations of WTO agreements in terms of substance and level of commitment, we can observe that they cover a large spectrum in both treaties. The majority of WTO+ provisions is legally enforceable, apart from AD and CV measures in both FTAs and SPS measures in the case of EUJEP A. There are, however, a few important differences between the two sets of agreements in terms of coverage. The main difference can be found for SPS measures and Trade-Related Investment Measures (TRIMs). While SPS measures in EU-Korea FTA are legally enforceable, they cannot be part of dispute settlement under the EUJEP A. Furthermore, WTO+ provisions regarding TRIMs Agreement are included and legally enforceable only in EUJEP A, but not mentioned in EU-Korea FTA.

In EUJEPAs the level of ambitiousness of both parties is unprecedented when it comes to liberalisation of FDI. For example, states place implementation requirements on investors, requiring them to act in a specific manner or accomplish particular objectives in the host economy. While such actions can frequently be acceptable with the argument of economic growth and national policy goals, some types of performance criteria are known to »impair the investment environment and distort competition« and have therefore been forbidden under the TRIMs as well as several BTAs and RTAs. The EUJEPAs have the most extensive list of banned performance standards to date, which applies not just to goods, as in TRIMs, but also to services. These obligations provide »legal certainty for both parties' businesses by enhancing the degree of liberalization on both economies« (European Commission, 2018).

The difference between agreements is especially noticeable in the category of WTO-X obligations, which fall outside the WTO's scope. We can observe that EU-Korea FTA covers larger scope of WTO-X provisions, including audio-visual, cultural cooperation, labour market regulation and investments, even though most of them are not legally enforceable. They are addressed in the last protocol of the FTA. On the other hand, EUJEPAs include provisions regarding public administration, which are legally binding and not addressed in EU-Korea FTA. We can observe that investments in EU-Korea FTA are covered with WTO-X provisions concentrating on liberalisation of investment. In the case of EUJEPAs, the original intention of the signatories was to comprise an investment protection chapter, however the subject was later detached. Following a lengthy discussion in the EU about the severe shortcomings in the private Investor-State Dispute Settlement system (ISDS), particularly in the context of the CETA, the Commission has proposed the creation of an Investment Court System (ICS), which would be designed as a precursor to a future Multilateral Investment Court. Second, the European Court of Justice's May 2017 Opinion on the EU-Singapore FTA reaffirmed that »investment protection is a shared competence of the EU and its Member States«. Taking into account the two separate ratification procedures in the EU for agreements that fall under scope of shared competence, this resulted in a logical divide between the EPA, which is »EU only agreement« and the investment section which will be a future »mixed agreement«. Bilateral talks are currently under place in order to reach an agreement on investment protection (Pereira, 2019).

3.4 Legal analysis of Free Trade Agreements

The EU has broad jurisdiction in the field of the CCP, which is limited by internal rules, principles of law and the forces of international commercial law. Its obligations and bargaining power are affected by significant shifts in the development of other legal instrument, in particular the relationship between the legal orders of EU and WTO. Nevertheless, rapprochement with the WTO is crucial in the light of globalisation, which is ultimately the trend and reason behind concluding new generation of FTAs. In this section, the effort of legal comparison of EU-Korea FTA and EUJEPAs will be made. The legal structure and content of selected agreements will be analysed for trade in goods, services, FDI, IP rights and dispute

settlement, trying to pinpoint main similarities and differences among selected trade agreements.

3.4.1 Trade in goods

The objective of Chapter 2 titled National Treatment and Market Access for Goods of the EU-Korea FTA is to »progressively and reciprocally liberalise trade in goods« through elimination of both, customs tariffs and NTBs. As mentioned earlier in chapter on tariff barriers, the majority of customs tariffs on products were eliminated the day the agreement went into effect. The remaining customs levies were phased out over a period of time to allow domestic producers to adjust to lower tariffs. Within five years of the agreement's implementation, virtually all customs charges on industrial items had been eliminated. From the Annex 2-A we can observe that transitional periods of more than seven years exist for a small number of very sensitive agriculture and fishery goods. The pact excludes rice and a few other agricultural items, none of which the EU exports in large quantities. In Section C the agreement includes basic WTO regulations on NTBs, such as national treatment, import and export restrictions, rules on public procurement etc.

The EU-Korea FTA is the first EU trade agreement to incorporate precise sectoral discipline on NTBs (European Commission, 2021e). Annexes 2-B to 2-E to the agreement with Korea contain extensive provisions on measures in the four sectors: consumer electronics, motor vehicles and components, chemicals, and pharmaceutical items. In the case of consumer electronic products, which are regulated with Annex 2-B the parties mostly concurred to tie their domestic regulations on international regulations. According to Footnote 2 of Annex 2-B, except in cases where there are no applicable international standards or one of the parties decides to »diverge from the international norm for valid reasons, such as safety or other public interest considerations«, domestic regulation in the EU and Korea should be fairly comparable following the adoption of these regulations and therefore no longer represent an impediment to cross-border commerce. Prior to the agreement's implementation, consumer electronics exporters were required to replicate time-consuming and costly testing and certification procedures in order to sell on international markets (European Commission for Trade, 2011). According to Article 3 in Annex 2-B after a transition period, the parties agreed to accept suppliers' declarations of compliance for the majority of items rather than needing third-party certification, which will considerably cut costs and bureaucracy, contributing to further liberalisation.

Article 3(a) of Annex 2-C assures that partially aligned standards, as well as selective approval of other countries' standards, are used to overcome regulatory barriers to trade in automobile goods. With Appendices 2-C-2 and 2-C-3 signatories also stated clearly which specific United Nations Economic Commission for Europe (UN-ECE) standards they would accept as equal to their domestic regulations, as well as which specific UN-ECE standards would serve as the foundation for regulatory harmonisation. Manufacturers would no longer have to tailor their goods to specific markets, allowing them to completely benefit from the economies of scale

that result from implementation. In terms of internal taxes and pollution controls, MFN clause is included in Article 5, granting that either party is obligated to apply to the FTA partner any benefit given to a third party. The aim of this clause, we may claim, is to avoid market access compromises from eroding as a result of successive, more favourable FTAs with third nations. Article 10 has its own set of laws for resolving disputes. Disputes including motor vehicles and parts thereof will be treated as a matter of urgency, and time spans for consultations, panel trials, and complying with orders will be to 75 days compared to standard dispute resolution procedures, which takes 120 days.

Pharmaceutical products and medical devices are regulated with Annex 2-D. FTA focuses on two topics specifically. For starters, more straightforward price decisions favour exporters with the new FTA regulations. Korean health agencies and EU member states, regulate the price at which medicines are refunded. However, there are concerns about the lack of accountability and transparency in the price-setting process (European Commission for Trade, 2011). Article 2 establishes guidelines that ensure »fair, transparent, and non-discriminatory« pricing and compensation. Manufacturers, in particular, will be able to request »price adjustments« meaning, they will have the ability to negotiate higher rates and the right to be heard prior to any *ex officio* price change by the government authorities. Additionally, the Annex specifies transparency standards for domestic policies affecting compensation and pricing process. These clauses, though, are not legally binding, because they are all written in best-effort wording, such as »to the extent possible«. The rules surrounding chemicals with Annex 2-E, which is nothing more than a list of many obligations to aspire for collaboration, are the least enforceable, creating zero to little legal effects.

Via collaboration and counselling sessions, various working groups for specific sectors and committees formed under, the FTA seek to further eliminate trade barriers. Working groups have been established for each of the four sectors to facilitate not only the adoption of universal rules, but also to deter trade disputes before they occur. At that end, the parties have agreed to keep each other informed of any trade-related measures and collaborate on them in order to reach mutually acceptable outcomes.

It is no secret that using a previously established EU-Korea FTA as a standard was a crucial strategy for EUJEP. Despite having low tariffs, the Japanese market had considerable statutory and informal NTBs. The agreement achieved high degree of trade liberalisation. The majority of tariffs on industrial items were abolished when the agreement went into effect. Given that Japan already had relatively low import tariffs, this action did not have great consequences for them, but it positively impacted European importers. The corresponding rates of tariff reduction varies, reflecting the extremely diverse forms of the tariff elimination schedules in Annex 2-A for each Party.

In the case of agricultural goods, Japan will gradually erase 85 percent of tariffs on EU exports. The EU's key food exports to Japan, such as pork, wine, beef, pasta, and chocolates, are seeing considerable reductions in customs tariffs. The agreement excludes some delicate items such as rice, seaweed, and whale meat (European Commission, 2018).

Annex 2-C of the EUJEPA guarantees that Japan and the EU intent to entirely line up to the international standards on product safety and environmental protection of motor vehicles, indicating that export testing and certification will not be required for trade of motor vehicles opening the door to further international standard setting. Several UN-ECE rules are contained within Annex 2-C. Additionally, safeguard clause is included in Article 18 of Annex. The EUJEPA addresses a variety of standards, technical requirements, and administrative matters. In the areas of medical devices, textile labels, motor vehicles, and medicines, Japan is aligning itself with international norms. This legislative reform is boosting exports by alleviating the financial and administrative burden that dual testing and extensive conformity assessment procedures impose on businesses. Chapter 7 covers TBTs. The nomenclature of international standard-setting bodies is the most notable aspect in it. As a result of this, and in conjunction with the NTBs list remedies, this TBT Chapter successfully resolves difficulties that would have required NTM sectorial annexes on electronics, medicines, textiles, and chemicals, as it is done in EU-Korea FTA.

The NTB reductions brought by the EU-Korea FTA share certain similarities with the EUJEPA. Korea designated UN-ECE as the relevant standard-setting organization for automobiles and created an internal process to guarantee that standards remain aligned with those of the EU in the future. In addition, both agreements decreased the cost of third-party testing and improved policy cooperation in SPS and TBT measures. The main difference between the agreements is the structure. While EU-Korea FTA addresses measures of specific sectors in separate annexes, EUJEPA focuses on the majority of measures for specific sectors in the chapter of TBT and SPS, with specific annex just for motor vehicles.

3.4.2 Trade in services

The EU, South Korea, and Japan are WTO members who have made obligations under the General Agreement on Trade in Services (GATS). Leading economies, on the other hand, see the GATS as just a beginning in developing a global basis for services trade. Its liberalization promises fall well short of what many WTO members believe is required to effectively decrease service trade barriers. The EU-Korea FTA and the EUJEPA expand on the GATS agreements established between nations.

At the time of its provisional application, the EU-Korea FTA was seen to be the most ambitious FTA ever agreed by the EU in terms of service liberalization conditions. Increased market access to the South Korean market for services was a top objective for the EU, owing to the relative competitiveness and openness of EU markets compared to Korean providers (Jurenas, 2013). Chapter 7 of the FTA covers trade in services, establishment, and electronic commerce. Telecommunications, environmental services, transportation, shipping, construction, financial, postal and professional services, such as legal, accounting, engineering and architectural services are all included in the agreement's Annex 7-A.

In the area of legal services, the EU goal throughout the discussions was to gain Korea's promise to enable EU businesses to expand their appearance (Ahn, 2010) Since the FTA's

implementation, for instance, EU-based law firms have been permitted to open representative offices in Korea to help foreign investors and local customers with issues involving non-Korean law elements. Representative offices of EU legal firms were authorised to engage in cooperation with Korean law firms and allowed to establish joint ventures with Korean businesses.

South Korea allows a foreign entity owned or controlled by EU telecommunications providers to own »100 percent of the voting shares of Korean-based providers of public telecommunications services, with the exception of KT Corporation and SK telecom Co., where ownership is limited to 49 percent or less due to national importance and protectionism of these companies«. Furthermore, Korea enabled EU satellite television providers to offer televisions and radio signal transmission services across national borders without the necessity for a commercial relationship with a domestic telecom operator, which was a significant benefit to EU providers.

When it comes to financial services, we can see that EU Member States take varied measures, which may be ascribed to the FTA's positive list approach. The agreement between the twenty-one Member States and Korea to grow their direct insurance markets for space launches, commercial aviation, and marine shipping pertains to the insurance for the international transport of commodities. Risk management services became available in South Korea and certain EU countries with the entry of FTA into force. Twenty EU member states and South Korea agreed to let financial institutions from each other's countries to exchange financial data and information across national borders, as well as to offer advisory and other support services.

The EUJEPAs Chapter 8 is titled »Trade in Services, Investment Liberalization, and E-commerce«, and it covers trade in services. Some industries and concerns are expressly excluded from the scope of the agreement, just as they are in the EU-Korea FTA, for cross-border trade in services. These services include audio-visual, cabotage in maritime transport services, air services, government procurement and subsidies. In the contrast to EU-Korea FTA, EUJEPAs includes denial of benefits in Article 8.13, which states, that if Japanese or EU legal entity is owned or managed by an individual or juridical person of a third country, either the EU or Japan may withhold benefits to an enterprise. Additional two conditions apply and have to be satisfied simultaneously in order to activate effects of this article. Firstly, the denying party accepts or keeps measures against the third country that are relevant to international peace and security, including human rights protection. Secondly, the measures prohibiting transactions with specific third country have to be already implemented or in the process of implementation in the country that starts the process of benefits denial in the section of services.

Chapter 8 is further divided in different sections. Section E is titled as Regulatory framework and includes six different subsections, for special service sectors. Subsection 1 focuses on postal and courier services.

In general, the subsection two on telecommunications services encompasses all of the rights and obligations included in the EU-Korea FTA. The subsection 6 on international marine

transport services includes requirements to preserve »free and non-discriminatory access to international maritime services, as well as ports and port services«. New financial services, self-regulatory organizations, payment and clearing systems, and transparency are all covered in the financial services part, which includes particular definitions, exclusions, and disciplines. It also has particular laws governing insurance services provided by postal organizations.

Both FTAs lay forth the fundamental principles under which bilateral services trade is governed. Non-discriminatory treatment, including MFN and national treatment, are one of the principles. National treatment principle states that all sectors shall »receive treatment no less favourable than that accorded by a Party to its own similar services«. In putting out the timeline of these obligations the approach of FTAs is different. While EU-Korea FTA adopts a positive list method, EUJEPA uses negative list approach. According to the positive list, each party must specify the sorts of services for which it would grant national treatment and market access to providers from other parties. According to negative list approach, only those types of services for which the parties are unwilling to give national treatment and market access should be included. Furthermore, neither agreement calls for governments to privatize or deregulate any public services – they retain the right to carry any privately delivered services back under the control of the public sector.

3.4.3 FDI

In Chapter 8, section B, titled Investment liberalisation, the EUJEPA includes clauses that aim to liberalize FDI between signatories. In comparison to domestic firms with Article 8(8) on national treatment and third nations with MFN provision in Article 8(9), the Chapter facilitates the creation and operation of businesses in each Party's territory by providing market access and non-discriminatory treatment. Furthermore, Articles 8(10) and 8(11) prohibit the requirement of top management or board members to be of a certain nationality as well as performance requirements, such as local elements or technology transfer, as prerequisites for the formation and/or functioning of firms.

The Parties' obligations are subject to certain constraints. As a general principle, the Parties' authority to regulate in order to accomplish legitimate public policy objectives of public health, safety, environment etc. is affirmed in Article 8(1)(2). Annex I and II of Annex 8-B, which deals with reservations for present and prospective measures, list the sectoral constraints for delicate sectors. As a result, current measures cannot be »updated, modified, or replaced by a Party in such a way that the regime applicable to firms already established in that Party's area is worsened«.

The liberalisation of FDI would be incomplete without the deregulation of capital and payments necessary to create and sustain investments. The agreement contains Chapter 9, which guarantees the »free movement of capital, payments, and transfers between the parties for the purposes of the transactions liberalized under the agreement«.

The area of performance requirements is a zone where both sides committed to an extraordinary level of aspiration. Countries place »performance requirements« on investors, requiring them to act in a specific way or accomplish particular objectives in the host economy. While such dealings can often be tolerable in terms of economic growth, some types have a reputation of hurting the investment climate and distorting competition and have thus been outlawed by the WTO TRIMs as well as various FTAs (Nikiema, 2014). In Article 8(11) the EUJEPA includes a detailed list of banned performance standards. By banning additional non-subsidized performance requirements, investors are satisfied with the enhanced market entry conditions.

We can draw the conclusion that the aforementioned responsibilities give both parties' companies legal clarity and utmost openness regarding any current or future restrictions that may apply. The investment environment's stability and predictability are typically a crucial component in attracting, keeping, and growing FDI flows. This is especially true in the present global environment, where investment policy is becoming more complicated and unclear as protectionist measures gain traction.

3.4.4 Intellectual property rights

The EU-Korea FTA reinforces both the EU's and South Korea's obligations to maintain the terms of the WTO Trade-Related Aspects of Intellectual Property Rights (TRIPS) Agreement, as well as other international treaties on the protection of IP owners. Chapter 10 covers IP rights in general and is supplemented by Annexes on Geographical indications for agricultural products and foodstuffs (10-A), Geographical indications for wines, aromatised wines, and spirits (10-B). Copyright, patents, trademarks, service marks, designs, layout-designs (topographies) of integrated circuits, geographical indications, plant varieties, and protection of concealed knowledge are all included in the agreement.

For example, the Copyright section includes a clause on author's rights, which expire 70 years after the author's death; the right before the implementation of the FTA legally enforceable for just 50 years (European Commission for Trade, 2011). The same chapter also contains rules that make it simpler for EU rights holders to be fairly compensated for the use of their music or other cultural works in South Korea and vice versa. The importance of geographical indicators is emphasised in EU-Korea FTA. Subsection C of the Section B covers geographical indicators and protects domestic goods of specific geographical origin when they are being exported. Under the agreement, 160 geographical indications from the EU are protected in Korea and 64 geographical indications from Korea are protected by the EU law.

Parties must make »all reasonable efforts« to comply with Articles 1 through 16 of the Patent Law Treaty, according to Article 10(33) of Subsection E on patents. Article 10(35) includes the extension of the duration of the rights conferred by patent protection for pharmaceutical and plant protection products, which have to be subjected to an administrative authorisation or registration procedure before being put on their markets. The parties must agree on a period of extension to »compensate the patent owner for the reduction in the effective patent life as a consequence of the initial authorization«. The length of the rights provided by patent protection

cannot be extended for more than five years. The parties must ensure the confidentiality and non-disclosure of data supplied for the purpose of obtaining an authorisation to market of pharmaceutical and plant protection goods, according to Articles 10(36) and 10(37). Data exclusivity for pharmaceutical products is five years and for plant protection products ten years.

EUJEPa covers IP rights in Chapter 14. Throughout the whole Section B, Subsection 1 the extensive copyright measures that strengthen copyright protection are listed. Subsection 7 includes provisions on trade secrets and undisclosed test, which is not covered by EU-Korea FTA. Under the Article 14(35) both signatories have agreed to extend the period of patent protection for pharmaceutical and agricultural chemical goods for maximum five years. Furthermore, there are minimal standards, such as a six-year duration for regulatory test data protection for medicines and a ten-year duration for regulatory test data protection for plant protection. Article 14(20) includes specific restrictions for trademarks on preparatory activities that are considered infringements, while Article 14(31) deals with »protection of product appearance«, particularly when it comes to unregistered designs or discriminating regulations.

Articles 14(22) to 14(30) address provisions for geographical indicators. EUJEPa recognizes the unique status of over 200 European agricultural goods with a distinct geographical origin and provides them with the same degree of protection in the Japanese market as they have in the EU today. The goods covered by geographical indicators protection are covered with Annex 14-B and include Roquefort, Aceto Balsamico di Modena, Prosecco, Tiroler Speck, Polska Wodka, Queto Manchgo, Lubecker Marzipan, Irish Whiskey and others.

We can observe that both FTAs build on the provisions of WTO TRIPS Agreement. In the sphere of IP rights, both FTAs' goals go beyond the parties' WTO obligations and, in some circumstances, have a direct influence on IP rights standards. The importance and special status of pharmaceutical and plant products is emphasised in both agreements. Given the high level of protection for agricultural products, both FTAs agree to maintain the integrity of particular geographical indications, a concern for food producers who want to emphasize the provenance of the location where their goods are produced. The main difference between the agreements is that EUJEPa includes chapter on trade secrets and undisclosed tests. The extent of protection for this IP rights is detailed in Article 14(36), and there are a number of exclusions that define what is not deemed a breach of trade secrets – backwards engineering, third parties using the data in ways that are authorised by laws or regulations, use of workers' abilities developed throughout the employment. The inclusion of this content can be attributed to the fact that the EP and the Council enacted a regulation on June 8, 2016, in response to a proposal by the Commission, with the goal of harmonizing national legislation in EU nations against the illegal acquisition, disclosure, and use of trade secrets. The aspects included in 2016 Directive are merely reiterated by this specific chapter (Bonadio, McDonagh, & Sillanpaa, 2020).

3.4.5 Dispute Settlement

The goal of the dispute resolution provisions of both FTAs is to guarantee that the agreements' rights and duties are followed to the letter. Dispute settlement in EU-Korea FTA is covered in

Chapter 14. The dispute resolution method of the agreement is based on the WTO Dispute Settlement model however the procedures are substantially speedier (Betts, Giri, & Verma, 2017). Article 14(3) in Section B states that the consultation between the parties is the initial phase in the procedure, with the goal of obtaining a solution. Consultations must take place within 30 days of the request's submission date and must be completed within 30 days of the request's submission date. According to Article 14(3)(4) the deadline can be shortened to 15 days, when it comes to emergency matters.

If the parties are unable to reach an agreement, the matter is sent to an arbitration tribunal. The panel is made up of three experts chosen by the parties or by lot from a pre-determined list. The arbitration procedure is described with Section C in particular chapter. The panel receives submissions from the parties, has a public hearing, can receive written submissions from interested people or corporations telling the panel of their views, and renders a binding judgement within 120 days, or 60 days in the cases of emergency of its establishment. Subsection B covers actions that need to be taken after the ruling of the panel. The party that has broken the agreement has a »reasonable length of time to comply with the agreement, which is negotiated by the parties or determined by an arbitrator«. According to Article 14(10) the party in breach of the agreement must have fixed the problem by the end of the compliance period, and if the complaining party believes the defending party is still in breach of the agreement, the problem can be sent back to the panel. The complainant can impose commensurate punishment if the panel deems that the other party is still in violation.

EU-Korea FTA includes a mechanism for the parties to employ to resolve market access issues caused by non-tariff measures. The goal of this process is to find a »rapid and effective solution« to a market access difficulty, not to examine the measure's lawfulness. Annex 14-A to Chapter 14 deals with mediation mechanisms. A mediator is mutually agreed upon by the parties or picked by lot from a list agreed upon in advance to assist the parties under the procedure. The mediator meets with the parties and provides an advising opinion and a solution within 60 days. The mediator's recommendation and opinion are not legally binding. The parties can accept them or use them as a starting point for a solution. Furthermore, the mediation mechanism does not restrict the use of other dispute settlement methods during or after the mediation process.

Table 5: Comparison of Key Features of Dispute Settlement Systems in selected FTAs

	EU-Korea FTA	EUJEPa
Exception from coverage	Anti-dumping and countervailing duties, global safeguard measures, SPS measures, competition policy	Anti-dumping and countervailing duties, global safeguard measures, SPS measures, competition policy, subsidies, IPR, corporate governance, SME, regulatory cooperation, and good regulatory practices
Number of panellists	3	3
Time from panel establishment to ruling	150 days	150 days
Alternative procedure	NTB Mediation	NTB Mediation

Source: Own research.

EUJEPa, like the EU-Korea FTA, establishes a process for preventing and resolving disputes between the parties that is effective, efficient, and transparent. Just as in EU-Korea FTA the Regulations of Procedure for the Panel, which covers specific rules on panel procedures, the Code of Conduct for Panellists, and the Mediation Mechanism are all included in Chapter 21 of EUJEPa. The core of the dispute settlement content is highly similar in both FTAs. The differences are presented in Table 5. From the analysis we can observe that EUJEPa’s scope of exceptions is greater, compared with EU-Korea FTA. While both agreements exclude anti-dumping and countervailing duties, global safeguard measures, SPS measures and competition policy from general provisions of dispute settlement, EUJEPa additionally eliminates IP rights, corporate governance, small and medium enterprises provisions and regulatory cooperation and good regulatory practices. Competition, subsidies, and state-owned enterprises provisions are all excluded from the bilateral dispute settlement system, as is customary in competition law agreements (European Commission, 2018). For the exclusion of regulatory cooperation and good regulatory practices from dispute settlement we can conclude that decision was made due to the nature of these specific provisions, which is clearly cooperative, not strictly obligatory.

4 COMPARATIVE ANALYSIS OF ECONOMIC IMPLICATIONS

The subsequent section provides analysis of the economic implications of the FTAs for signatories. The analysis focuses on changes in trade patterns between the EU and South Korea, and the EU and Japan before and after the entry into force of individual FTAs. The analysis is limited in time to the period between 2005 and 2020.

The main objective of any FTA is the elimination of trade obstacles, of which tariffs are the most obvious. That is no exception in the analysed FTAs. In 2011, the majority of import duties between EU and Korea were eliminated. On July 1, 2016, the remaining ones—aside from a small selection of agricultural products—were eliminated after five years since the FTA

implementation. Since the EU-Korea FTA went into effect bilateral commerce and investment have grown significantly. In 2021, there were 107.3 billion EUR in total bilateral trade in goods, an increase of 70.8% from 2011 (European Commission, 2022). The industrial sectors that made up 95.9% of all bilateral commerce between the EU and Korea in 2021—machinery and appliances (33.9%), transportation equipment (18.9%), and chemicals (15.1%)—remain heavily concentrated in bilateral trade. Since the agreement's entry into effect ten years ago, bilateral commerce in agricultural goods has steadily grown, reaching 3.9% in 2021. Agriculture-related exports from the EU to Korea increased from 5.3% in 2011 to 7.6% in 2021. Transport (25.7%), royalties and license fees (15.2%), and telecommunications, computer, and information services (14.1%) comprised the majority of the EU-Korea service trade in 2020. Bilateral services trade increased by 72.2% between 2011 and 2020, reaching €18.6 billion in 2020. The EU is still South Korea's largest foreign direct investment, after only Japan and the United States (European Commission, 2017).

There is no official comprehensive ex-post report for economic effects of EUJEPa. Because of growing knowledge of the EUJEPa, great progress has been made in utilizing the tariff advantages stated in 2020. The EUJEPa's overall preference utilisation rate (the »PUR«) reached 63.3% in 2020, up from 53.5% in 2019. PUR for agriculture and allied commodities remained strong, at 93.6% (85.3% in 2019). PUR for industrial goods reached 45.6% in 2020, growing proportionately faster than PUR for agricultural products. However, there is plenty of space for development in the industrial sector. EUJEPa has proven to be the core of the EU-Japan economic relationship, with goods trade between the two countries returning to pre-pandemic levels in 2021, exceeding 125 billion EUR (European Commission, 2020c).

4.1 Trade in goods

The following section examines the evolution of bilateral goods trade between signatories of the FTAs under consideration, highlighting sectoral differences. The chosen time frame is divided into two stages, one beforehand the FTAs went into effect and one afterward, for the purpose of a before/after comparison of the economic effects. The vertical lines in the following figures are used to illustrate the beginning of the entry into force of the EU-Korea FTA in July 2011 and EUJEPa in February 2019. The COMEXT database was used to obtain statistics on goods trade on an annual basis (Appendix 2 and Appendix 3). The former database is maintained by Eurostat, the European Commission's official statistical office, and is based on national statistics produced by Member States following uniformed and generally harmonised criteria. We will consider two years before and after the agreement's entrance into effect for addressing the structural shifts upon the enforcement of the FTAs.

4.1.1 Traditional trade in goods

We can observe from Figure 5 that trade volume between EU and Korea increased for almost 40 percentages from 54 billion EUR in 2005 to 90 billion EUR in 2020. Sharp drop in years 2008 and 2009, in both, exports and imports can be attributed to global financial crisis, which is followed by quick recover to pre-crisis trade levels. From 2009 an upwards trend in exports

stands out, which is continuing until 2015. Compared to exports, the movement, and volumes of imports of Korean goods are far more constant and stable. Over the observed period the value of exports from EU to Korea more than doubled from primary value of 20.2 billion EUR to 45.6 billion EUR. Therefore, a preliminary examination of the data indicates that exports have increased during observed period. Figure 5 also shows that rapid export growth began even before FTA implementation and may be affected by anticipation effects. Most noticeably, in the EU's trade balance with the South Korea, there was a shift from deficit before the agreement to surplus after its enforcement. Trade balance in that period was positive for the first time since the beginning of observed period in 2005. As mentioned earlier, imports and exports behave differently. After the FTA came into effect, imports remained basically unchanged, and began to pick up again in 2013, while exports were increasing steadily through period 2009-2015.

Figure 5: EU exports to and imports from South Korea between 2005 and 2020 (EUR, billion)



Source: Own representation, based on COMEXT (2021). Note: The vertical line denotes the start of the EU-Korea FTA's preliminary application.

The deal between EU and Japan was concluded at the EU-Japan Summit in Tokyo on 17 July 2018 and the EUJEPA came into effect in February 2019, hence the limitations in data analysis of the FTA implementation. Furthermore, COVID-19 pandemic disrupted already established trade patterns in 2020, which we have to take into account while analysing trade between EU and Japan. From the Figure 6 we can observe that trade differences among imports and exports are diminishing throughout observed period. Increasing trend in trade after 2012 coincides with the start of FTA talks between Japan and the EU in November 2012, which triggered positive expectations on both sides, and could lead to increased trade volumes between parties. However, regression analysis and a longer time period would be needed to establish the causal relationship between trade and EUJEPA implementation.

Figure 6: EU exports to and imports from Japan between 2005 and 2020 (EUR, billion)



Source: Own representation, based on COMEXT (2021). Note: The vertical line denotes the start of the EUJEPAs preliminary application.

To account for the impact of changes in GDP and business cycle dynamics, we calculate income elasticities of imports, so-called YEM index. The YEM index is calculated as the percentage change in imports relative to the percentage change in GDP. We have collected the data regarding EU's GDP and value of EU imports for the period 2005-2020. Furthermore, we have calculated percentual growth of EU's GDP and imports to selected countries on year-to-year basis. For EU-Korea we performed the calculations for time period 5 years before the implementation and 5 years after the implementation of the FTA. We can observe that before implementation the average YEM index was -0.36. However, the YEM index after the implementation is valued at 0.48. The result indicates that the average growth of EU imports after the implementation of FTA is higher than in the 5-year period before, relative to the GDP growth. With EUJEPAs we performed the calculations for 2 years before and after its application. YEM average index before 2018 was 6.7 and after 1.38 – indication that average growth of EU imports decreased after the EUJEPAs presumably due to unprecedented economic situation in 2019 and 2020 when COVID-19 impacted all world economies. Furthermore, the dataset methodology adopted by COMEXT changed in year 2016 therefore significant change in imports can be attributed to that fact.

Table 6: Income elasticities of imports before and after the implementation of EU-Korea FTA and EUJEPA

	EU-Korea FTA	EUJEPA
Pre-FTA average	0,30	6,70
t-5	0,30	
t-4	-7,26	
t-3	3,17	
t-2	4,34	12,07
t-1	-2,35	1,33
t=0	1,41	0,74
t+1	-5,53	1,42
t+2	2,06	1,35
t+3	1,77	
t+4	-3,21	
t+5	7,24	
Post-FTA average	0,47	1,38

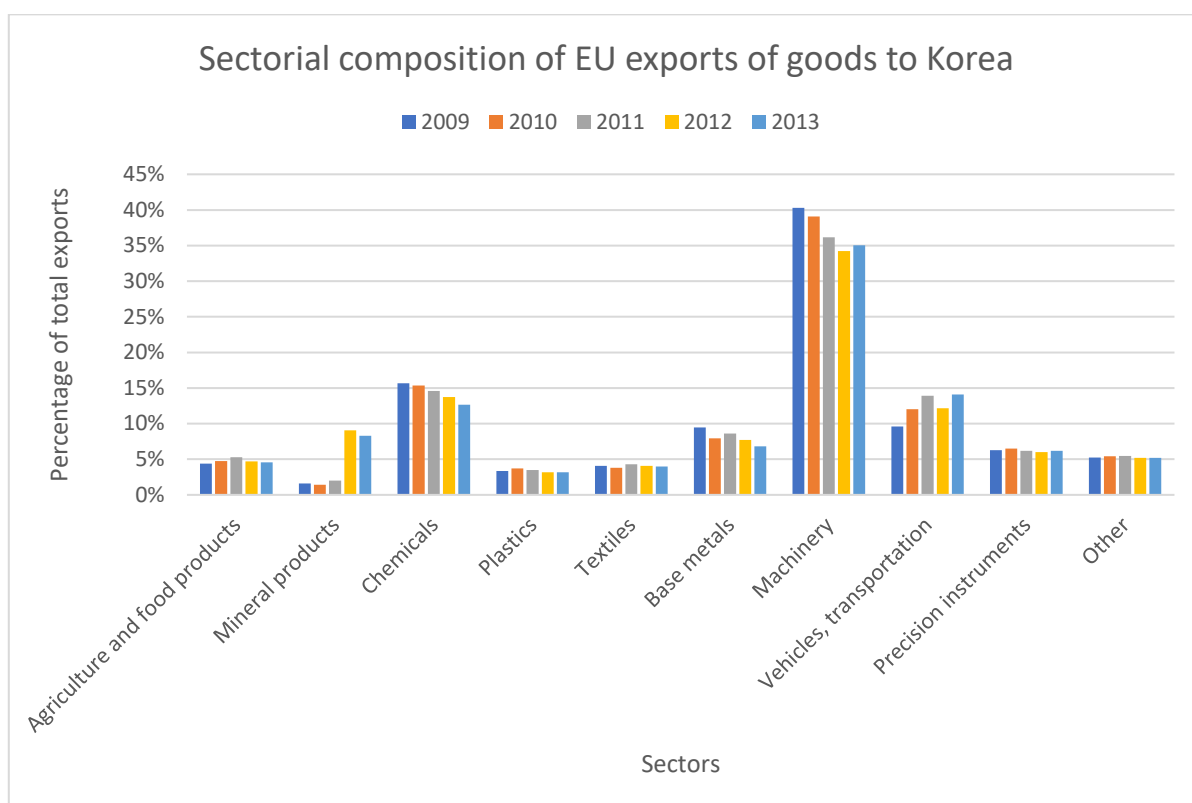
Source: Own calculations (2022).

4.1.2 Sectorial composition of trade

We will examine and analyse the evolution of sectorial exports and imports in this part of the dissertation. For this, we used the COMEXT database to extract data with the CN nomenclature, which defines 21 sections, presented in Appendixes 4-7, which we then categorized into ten major sectors based on commonalities. For a more detailed analysis of sectoral trade, we set two years before and after the implementation of the agreement as a research period. When looking at the composition of exports and imports, we have to keep in mind that a percentage rise or reduction in sectorial composition does not always mean that exports or imports have increased or reduced in absolute terms - maybe specific sectors just did not expand as quickly as other industries.

Figure 7 shows the composition of EU exports to South Korea based on 10 industries that we defined earlier, over a 5-year period before and after the FTA's implementation. Despite its relative decline in importance, machinery remains the EU's most important export industry, accounting for 35.04 percent of total goods exports in 2013. The vehicle sector's share has increased nearly for 45 percent from 2009 to 2013, and it is now placed second rather than third as in the beginning of the analysed period. Chemical sector has lost 3.04 percentage points from 2009 to 2013 and dropped from second to third place, which can be attributed to increase of the market share of vehicles. The share of base metals and its products dropped from 2.67 percentage points and presented 6.81 percent of total exports to South Korea in 2013. The biggest percentage increase can be observed in the sector of mineral products which increased their market share from 1.61 percent to 8.31 percent, making them the EU's fourth largest export sector in 2013.

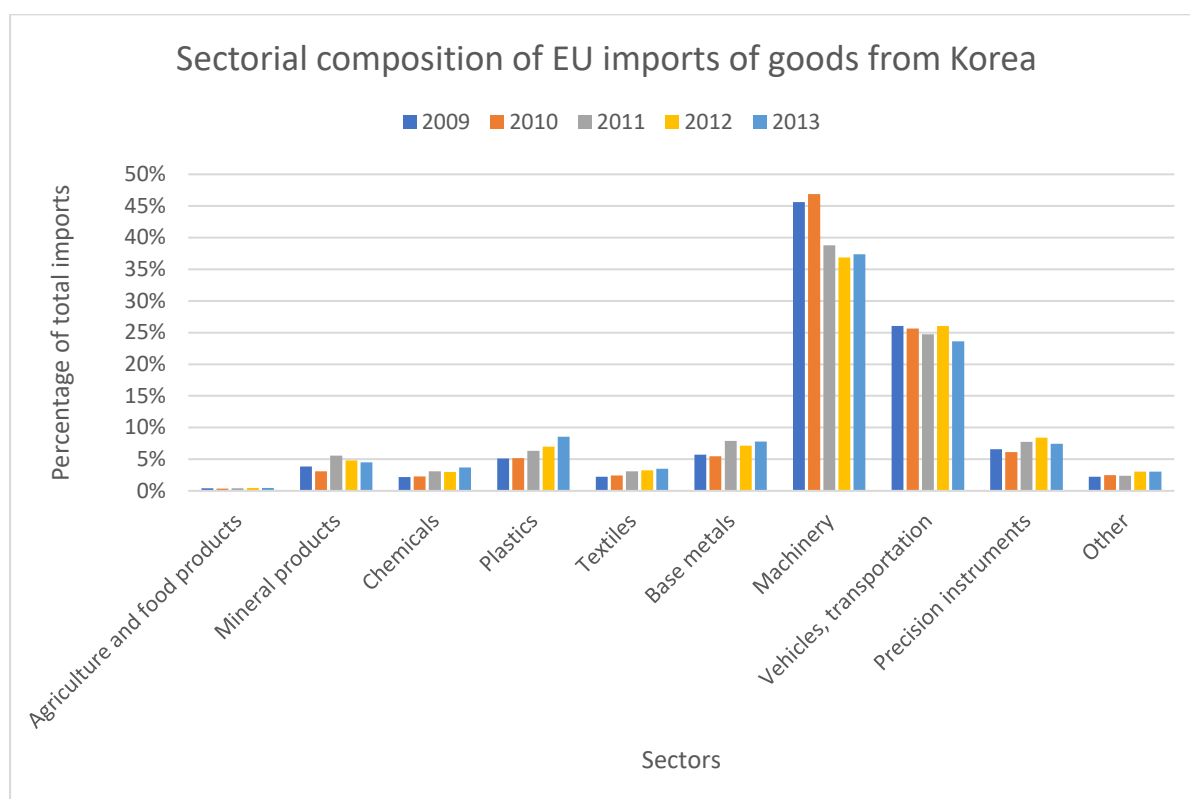
Figure 7: Sectorial composition of EU exports of goods to South Korea for trade between 2009 and 2013



Source: Own compilation, based on COMEXT database (2021).

Changes in the composition of EU imports from Korea have also occurred, as shown in Figure 8. Machinery and electrical equipment were by far the most significant import sector in 2009, with a share of over 45 percent, but its importance has fallen to around 37 percent in 2013. We can also observe drop in the share of vehicle imports from South Korea, which decreased for 2.46 percentage points but still represent the second largest import industry sector. We can observe 3.41 percentage points increase in the plastics sector. Even though chemical and textiles industry sector do not represent a large share of imports their segment was increasing steadily throughout observed period of time.

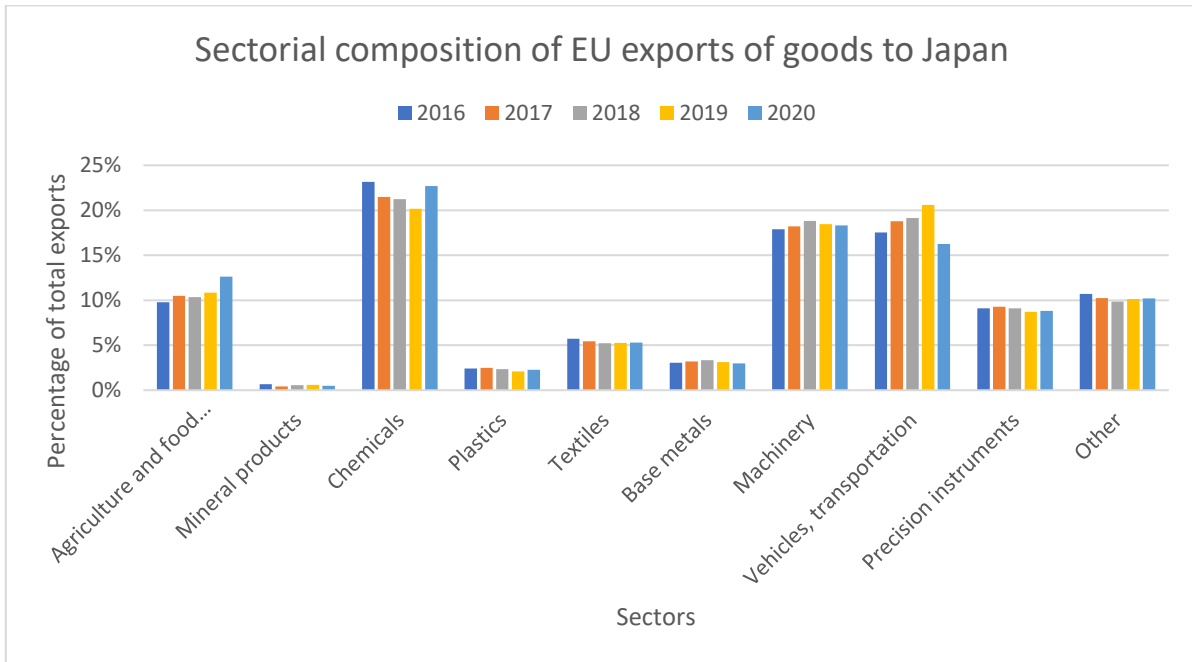
Figure 8: Sectorial composition of EU imports of goods from South Korea for trade between 2009 and 2013



Source: Own compilation, based on COMEXT database (2021).

When it comes to empirical analysis of trade flows with Japan, we are aware of the fact that sectorial analysis will be limited in its scope due to the fact that EUJEPA was implemented only in February 2019. Figure 9 shows the composition of EU exports to Japan based on last 5 years. It shows that chemical products are the most important export industry, accounting for 22.7 percent of total exports, followed by machinery (18.31 percent) and vehicles (16.25 percent). We can observe trend of steady increase in the agricultural sector throughout period 2016-2020. The vehicle sector was the largest component of exports in 2019 with 20.59 percent share, but it decreased for 4.36 percent in 2020 due to the impacts of COVID-19 crisis.

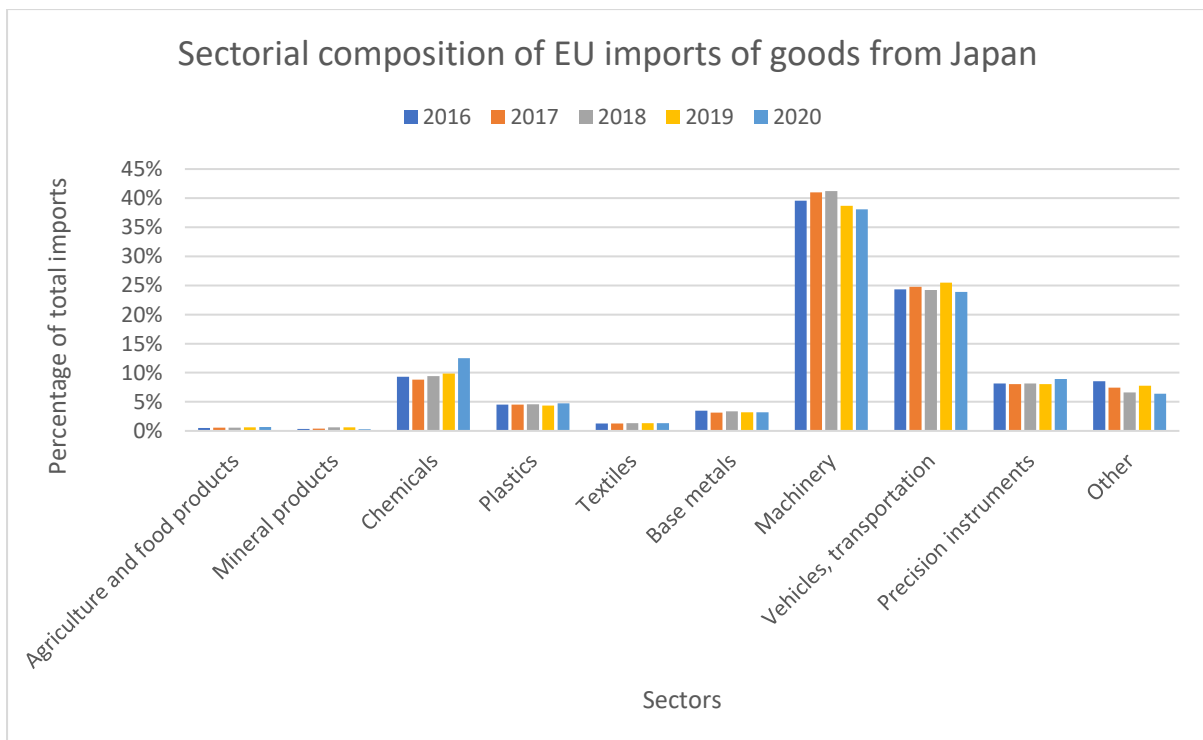
Figure 9: Sectorial composition of EU exports of goods to Japan for trade between 2016 and 2020



Source: Own compilation, based on COMEXT database (2021).

Sectorial composition of EU imports from Japan can be seen in Figure 10. Machinery sector represents the largest sector of EU imports from Japan with 38.08 percent of total imports in 2020, followed by vehicles (23.90 percent) and chemical sector (12.51 percent). The structure of imports is relatively stable throughout observed period. Minor changes can be observed in the chemical industry, where imports increased for 2.64 percentage points in the last year.

Figure 10: Sectorial composition of EU imports of goods from Japan for trade between 2016 and 2020



Source: Own compilation, based on COMEXT database (2021).

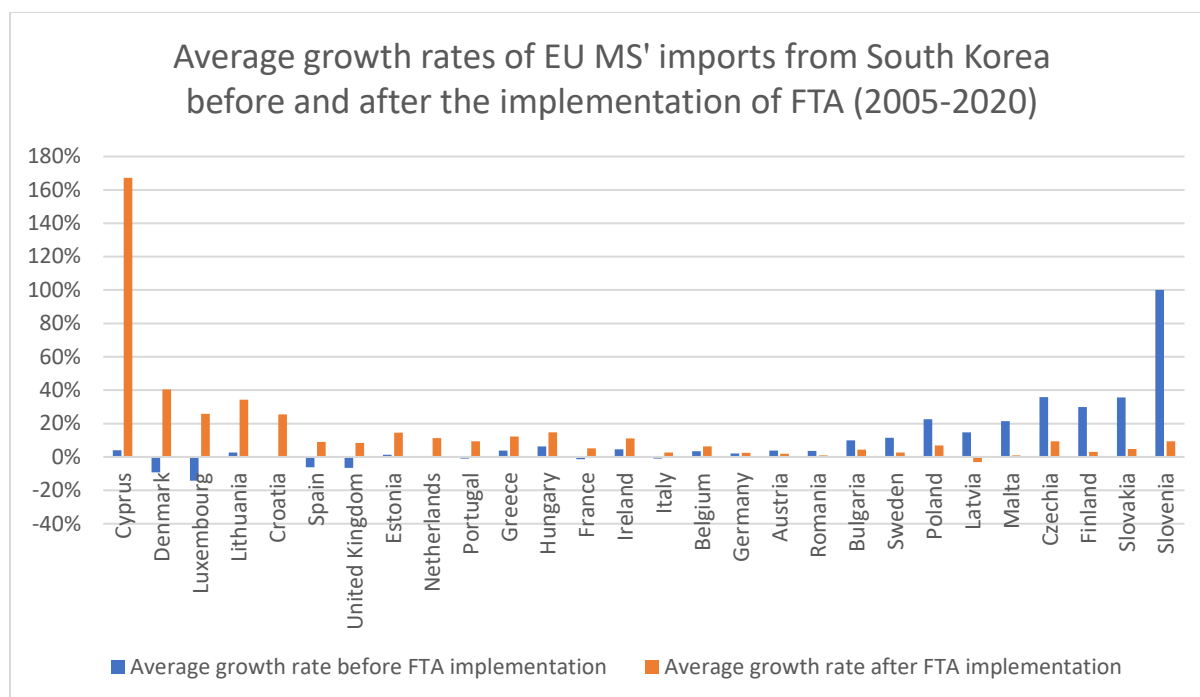
From the sectoral analysis, we can see that the composition of both imports and exports from Korea and Japan is quite similar, as is the movement of the values of individual sectors. The bulk of the import and export side consists of machinery, vehicles and the chemicals sector on Japanese side, and the plastics sector on the Korean imports side. Furthermore, the noticeable differences in trends can be attributed to the agricultural sector and its products, as their exports to Japan are constantly increasing over the years, which is not noticeable on the export side to Korea. Moreover, we can observe a higher diversification in EU exports to Japan, compared to exports to South Korea indicating that proportions among sectors are more balanced, and the total export is not based and concentrated only on few largest sectors.

4.1.1 Trade of EU Member States

Only commerce between Korea, Japan, and the EU as a whole had been assessed up to this point. As a result, the following sections will focus on the evolution of trade between all EU member states and previously analysed Asian economies. We based our calculations on absolute values of trade for specific EU countries between 2005 and 2020. Furthermore, calculations regarding growth rates for individual year were made. Additionally, we divided data series into two sections – before and after the implementation of specific FTA – and calculated average growth rate for each of them in order to observe the changes in trade that occurred after the FTA implementation. See Appendix 8 for average growth rates of trade for South Korea and Appendix 9 for Japan. The dataset considering trade with Japan after the implementation of FTA is limited due to the fact that the length of timeseries is noticeably shorter compared to the one used in before-FTA calculations, which covers around 10 years. Moreover, the year 2020 was included in the analysis, which is the year when COVID-19 pandemic had started which had significant and unprecedented impact on global value chains and trade.

Figure 11 shows average growth rates of South Korean imports from EU member states before (years 2005-2012) and after the implementation (years 2013-2020). The largest average growth occurred to Cyprus (from 4% before to 167% after), Denmark (from -9% before to 41% after), Luxembourg (from -14% before to 26% after) and Lithuania (from 3% before to 34% after). On the other side of the scale we can observe countries where the average growth rate of South Korean imports decreased significantly after the FTA implementation, for example Slovenia (from 100% before to 9% after), Slovakia (from 36% before to 5% after) and Finland (from 30% before to 3% after).

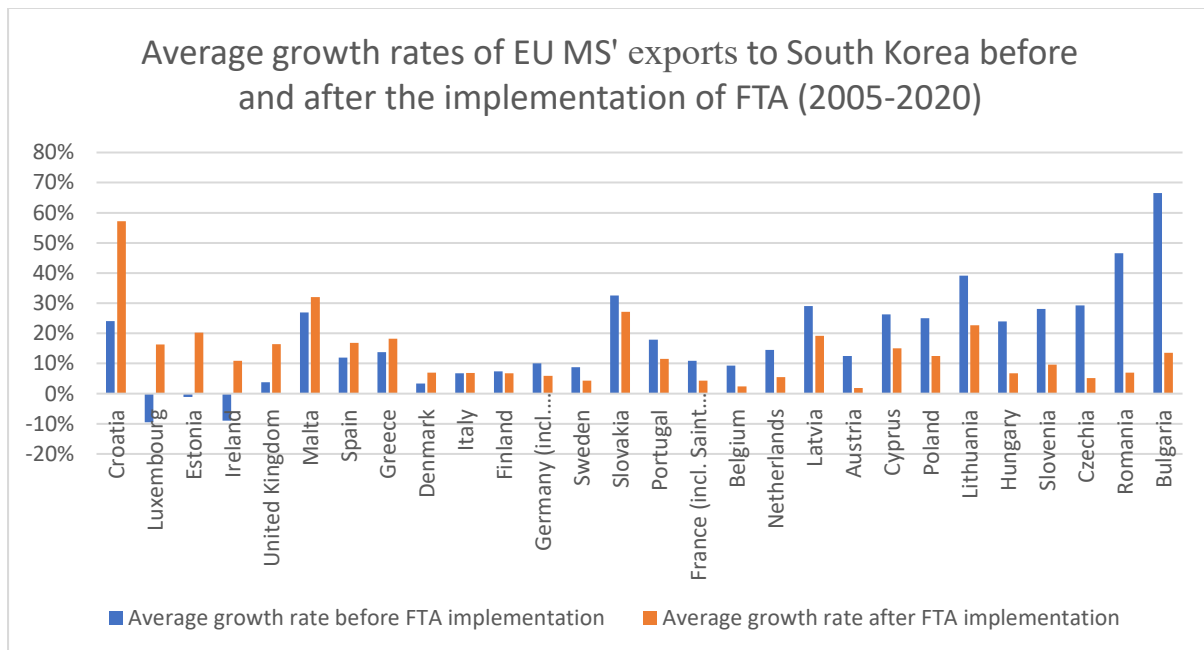
Figure 11: Average annual growth rates of EU MS' imports from South Korea before (2005-2010) and after (2011-2020) the implementation of the FTA



Source: Own compilation, based on COMEXT database EU trade since 1995 by CN sectors (2021).

Figure 12 represents average growth rates of EU member states exports to South Korea before (years 2005-2012) and after the implementation (years 2013-2020) of FTA. Countries with the biggest increase of average growth rate after the FTA implementation are Croatia (33 percentage points increase), Luxembourg (26 percentage points increase) and Estonia (21 percentage points increase). Decrease in average growth rate of exports to South Korea can be observed with Bulgaria (53 percentage points decrease), Romania (40 percentage points decrease) and Czech Republic (24 percentage points decrease).

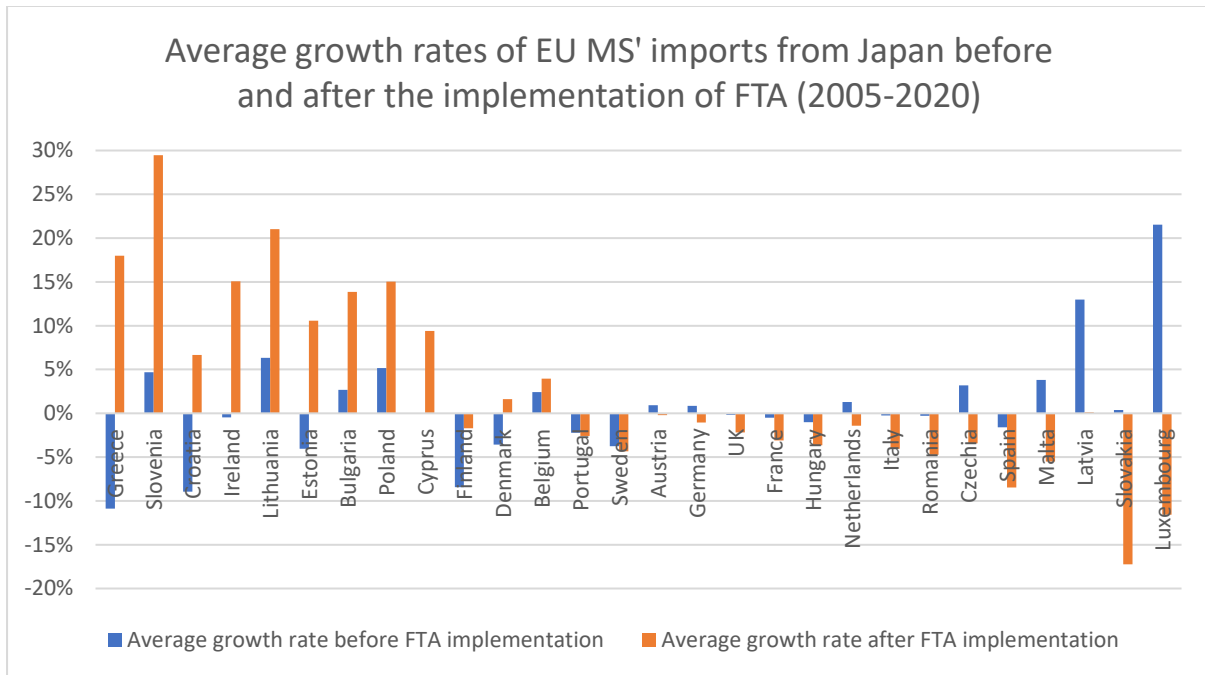
Figure 12: Average annual growth rates of EU MS' exports to South Korea before (2005-2010) and after (2011-2020) the implementation of the FTA



Source: Own compilation, based on COMEXT database EU trade since 1995 by CN sectors (2021).

Figure 13 shows average growth rates of EU member states imports from Japan before (years 2005-2018) and after the implementation (years 2019-2020). The largest change occurred to Greece (from -11% before to 18% after), Slovenia (from 5% before to 29% after), Croatia (from -9% before to 7% after) and Ireland (from 0% before to 16% after). On the other side of the scale we can observe countries where the average growth rate of Japanese imports decreased significantly after the FTA implementation, for example Luxembourg (from 22% before to -12% after), Slovakia (from 0% before to -17% after) and Latvia (from 13% before to 0% after). As stated earlier we have to take into account limitations of data series after the implementation of the EUJEP.

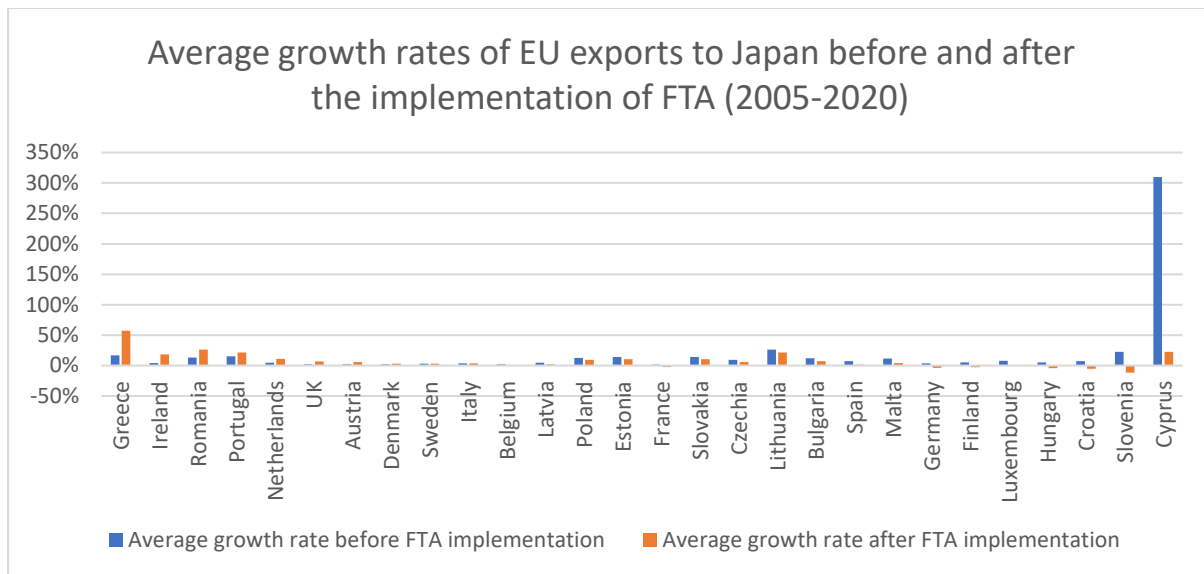
Figure 13: Average annual growth rates of EU MS' imports from Japan before (2005-2017) and after (2018-2020) the implementation of the FTA



Source: Own compilation, based on COMEXT database EU trade since 1995 by CN sectors (2021).

Figure 14 represents average growth rates of EU member states exports to Japan before (years 2005-2018) and after the implementation (years 2019-2020) of FTA. We can observe that Cyprus had the biggest average growth rate before FTA implementation due to significant increase in exports to Japan from 2013 (0.5mio EUR) to 2014 (20.6 mio EUR). Countries with the biggest increase of average growth rate after the FTA implementation are Greece (41 percentage points increase), Ireland (14 percentage points increase) and Romania (13 percentage points increase). Decrease in average growth rate of exports to Japan can be observed with Croatia (13 percentage points decrease), Slovenia (34 percentage points decrease) and beforehand mentioned Cyprus (287 percentage points decrease), which can be explained by sharp decrease in the years that followed 2014 significant increase in exports. Countries with negative growth rates were not able to take advantage of the potential provided by the implementation of the FTA.

Figure 14: Average annual growth rates of EU MS' exports to Japan before (2005-2017) and after (2018-2020) the implementation of the FTA



Source: Own compilation, based on COMEXT database EU trade since 1995 by CN sectors (2021).

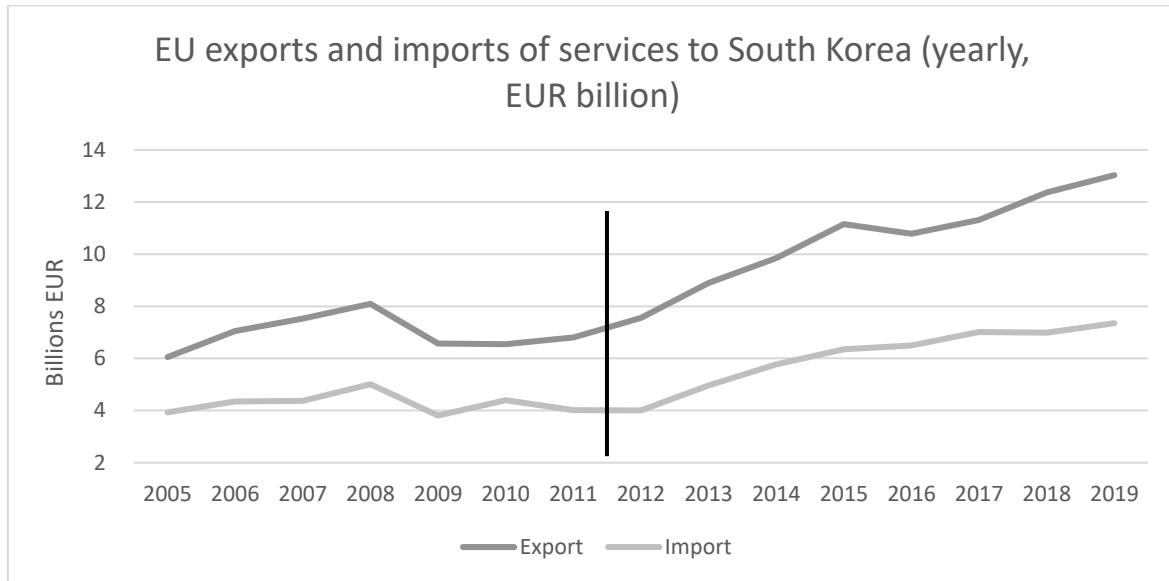
From the analysis conducted above we can observe that Greece and Ireland increased their average percentage growth of both, imports from Japan and exports to Japan after the implementation. In contrast, while average growth rate of imports from Japan to Slovenia and Croatia increased significantly, the change was not followed by simultaneous growth in exports to Japan – we can observe that countries recorded biggest drop of growth after the FTA implementation in the group of EU member states.

4.2 Trade in services

The following section examines economic trade in services among EU and Korea and Japan. Since the data from Eurostat can be acquired only from year 2010 onwards, we obtained our dataset from International Trade in Services Statistics created by OECD. Statistical dataset is divided into two categories – EBOPS 2002 and EBOPS 2010 classification. The empirical analysis before 2010 was conducted with the use of EBOPS 2002 classification, while the EBOPS 2010 dataset was used for analysis from years 2010 to 2019. The data for 2020 was not yet available at the time of analysis.

Movement of EU exports and imports of services to/from South Korea throughout observed period was aligned, as seen from Figure 15. Following already observed patterns discussed in previous chapter, trade volume on export and import sides was increasing moderately until sharp decline in 2009 due to financial crisis. From 2012 onward the increase in trade was quite rapid, which can be attributed to improvements in economic environment. Moreover, from the analysed data we can observe that trade volume increased after the implementation of FTA. Furthermore, trade surplus of EU is significantly bigger in the after-FTA era, compared to period before implementation.

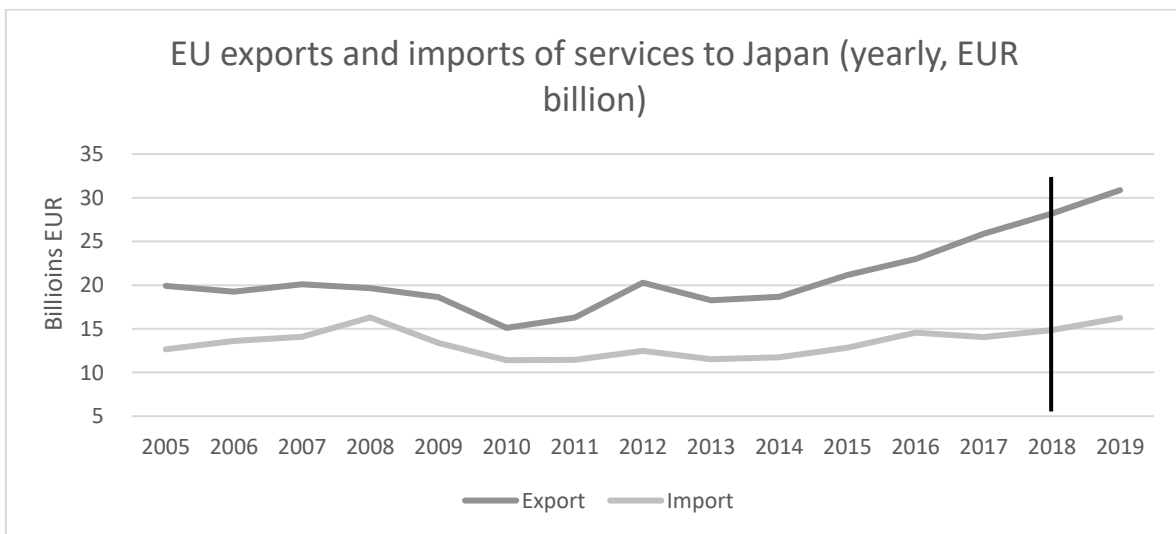
Figure 15: EU exports and imports of services to South Korea between 2005 and 2020



Source: Own research, based on OECD EBOPS database (2021). Note: The vertical line denotes the start of the EU-Korea FTA's preliminary application.

Trade volume of services between EU and Japan is significantly bigger compared to EU-Korea. While value of EU exports to Korea currently sits at around 13 billion EUR, the value of EU exports to Japan measures approximately 31 billion EUR. EU services imports from Korea represented almost 8 billion EUR, while imports from Japan in the same period valued at 16 billion EUR. From the Figure 16 we can observe that movement of service trade was relatively constant in before-crisis period. The decline in volume of trade can be seen from 2008 onward, with turnover point in 2010, with the sharp increase of EU exports to Japan in year 2012. Trade surplus in services started to increase in 2016, where we can observe gradual and steady increase of value in EU exports to Japan, while the trade volume of services imports remains more constant throughout observed period.

Figure 16: EU exports and imports of services to Japan between 2005 and 2020



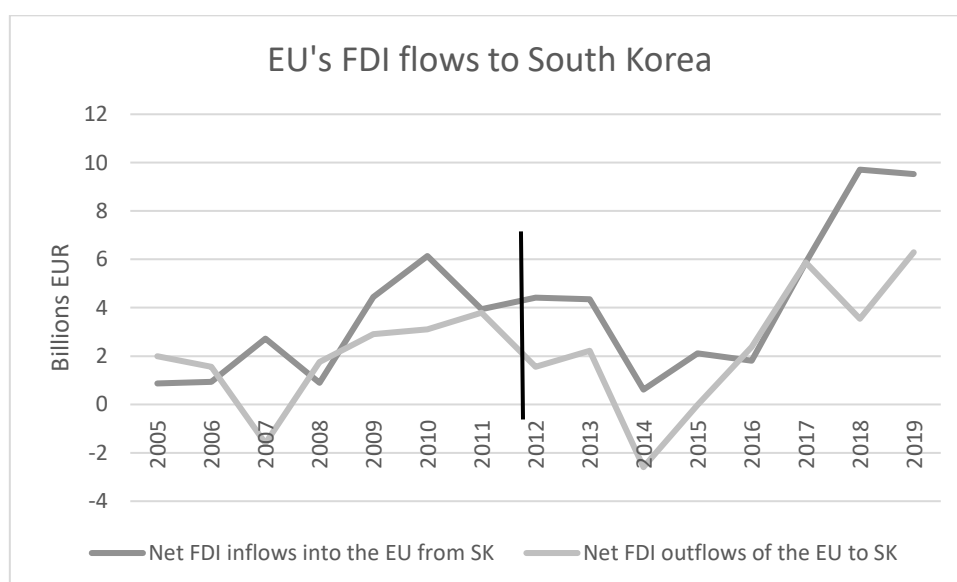
Source: Own research, based on OECD EBOPS database (2021). Note: The vertical line denotes the start of the EU-Japan FTA's preliminary application.

4.3 Foreign direct investment flows

EU's FDI flows to Japan and South Korea will be discussed in following chapter. We have obtained dataset from International Trade in Services Statistics created by OECD. The dataset is based on OECD directional methodology – the direct investment flows are classified according to whether the reporting economy's investment is directed outward or inward.

From Figure 17 we can observe that movement of inward and outward net flows of FDI is not synchronised. We can observe the peak of South Korean investments in the EU in years 2018 and 2019, when the total value of net capital inflows was around 10 billion EUR. Compared to South Korean investments to EU, the volume of EU's investments to South Korea is lower. The highest net outflow in the observed period can be identified in 2017 with 6 billion EUR. The values of net outward investments are negative in 2007 and 2014, meaning that South Korean companies' equity and lending to EU parent companies surpassed the value of EU's equity in South Korean affiliates.

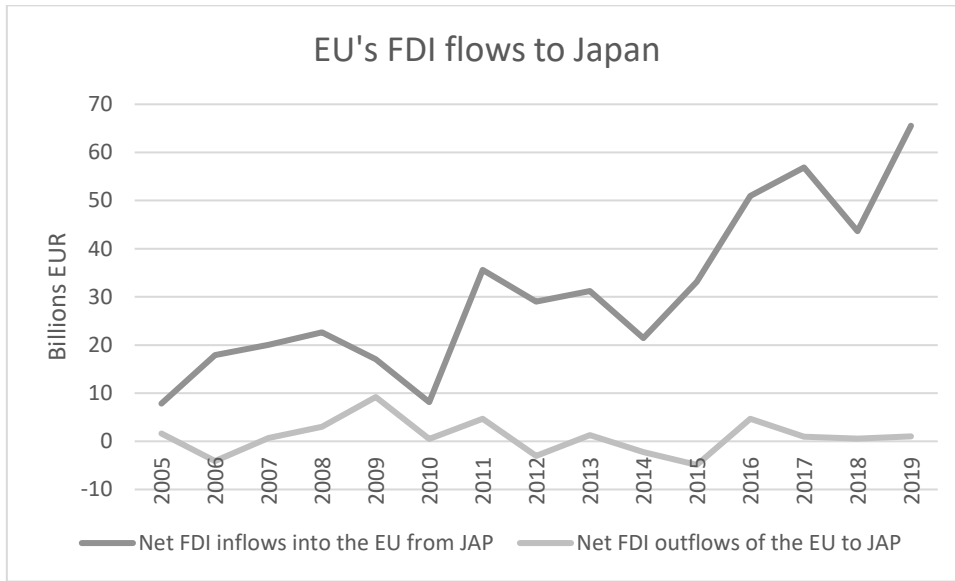
Figure 17: EU's FDI flows with South Korea between 2005 and 2020



Source: OECD, 2021. Note: The vertical line denotes the start of the EU-South Korea FTA's preliminary application.

EU's inward and outward flows with Japan are presented in Figure 17. The trendline of inward investments is upward sloping, indicating that Japanese direct investments to EU in absolute terms are generally increasing throughout observed period. The values of outward investments are significantly lower than inward investment flows. Negative values can be observed in years 2006, 2012 and 2015. Compared to EU-South Korean FDI flows the absolute value of investment flows is significantly bigger in the case of Japanese FDIs with Europe. To conclude, there was no increase of outward FDI throughout the observed period.

Figure 18: EU's FDI flows with Japan between 2005 and 2020



Source: OECD, 2021. Note: The vertical line denotes the start of the EU-Japan FTA's preliminary application.

CONCLUSION

The development of trade relations between Asian countries and EU has been fast and steady in the past decade. In the master thesis I tried to contribute to understanding of the importance of free trade agreements and the way how they can be leveraged by companies in signatory countries. The main objective of thesis was to identify and provide explanation regarding changes in trade, and other economic flows, including goods, services, and FDIs between EU, Japan, and South Korea before and after the implementation of trade agreements.

Even though both FTAs represent a new generation of trade agreements, focusing on new areas, including intellectual property rights, services, and sustainable development I tried to pinpoint the main differences regarding tariff and non-tariff measures of the analysed FTAs.

Article XXIV(8)(b) of GATT 1994 expressly mandates the gradual elimination and final abolition of customs duties between the parties of a free trade agreement with objective of liberalisation of “substantially all the trade.” From the analysis of the EU-Korea FTA and EUJEPA Articles relating to tariff measures we can conclude that both Agreements are essentially similar. The Korean arrangement is split into several more divisions with differing tariff rates, resulting in differences in the number of categories between the Agreements. Even if the EUJEPA does not have such a breakdown when it comes to tariff classes, the deal is much more comprehensive in the classification of specific agricultural products for which it uses a special S annotation. These products could potentially be a subject to protectionist procedures in case of negative effects, resulting from newly formed trade agreements between either EU or Japan and third party, on the trade stability of a given product between the signatories.

Non-tariff measures (NFM) are the second critical factor of trade strategy in FTAs. Owing to their varied composition, technological structure, and dynamic impacts on traded volumes, costs, and quality of exports and imports, these are more difficult to identify and comprehend. We can conclude that there is a very high degree of coverage in both EU-Korea FTA and EUJEPA. WTO+ provisions which go beyond obligations of WTO agreements in terms of substance and level of commitment, we can observe that they cover a large spectrum in both treaties. The majority of WTO+ provisions is legally enforceable, apart from anti-dumping (AD) and countervailing (CV) measures in both FTAs and SPS measures in the case of EUJEPA. There are, however, a few important differences between the two sets of agreements in terms of coverage. The main difference can be found for SPS measures and Trade-Related Investment Measures (TRIMs). While SPS measures in EU-Korea FTA are legally enforceable, they cannot be part of dispute settlement under the EUJEPA. Furthermore, WTO+ provisions regarding TRIMs Agreement are included and legally enforceable only in EUJEPA, but not mentioned in EU-Korea FTA.

The difference between agreements is especially noticeable in the category of WTO-X obligations, which fall outside the WTO’s scope. We can observe that EU-Korea FTA covers larger scope of WTO-X provisions, including audio-visual, cultural cooperation, labour market regulation and investments, even though most of them are not legally enforceable. They are

addressed in the last protocol of the FTA. On the other hand, EUJEPA includes provisions regarding public administration, which are legally binding and not addressed in EU-Korea FTA. We can observe that investments in EU-Korea FTA are covered with WTO-X provisions concentrating on liberalisation of investment. In the case of EUJEPA, the original intention of the signatories was to include an investment protection chapter in the EPA, however the subject was later detached.

Regarding non-tariff barriers reductions, the EU-Korea FTA shares certain similarities with the EUJEPA. Korea designated UNECE as the relevant standard-setting organization for automobiles and created an internal process to guarantee that standards remain aligned with those of the EU in the future. In addition, both agreements decreased the cost of third-party testing and improved policy cooperation in SPS and TBT measures. The main difference between the agreements is the structure. While EU-Korea FTA addresses measures of specific sectors in separate annexes, EUJEPA focuses on the majority of measures for specific sectors in the chapter of TBT and SPS, with specific annex just for motor vehicles.

Both FTAs lay forth the fundamental principles under which bilateral services trade is governed. Non-discriminatory treatment, including MFN and national treatment, are one of the principles. National treatment principle states that all sectors shall receive treatment no less favourable than that accorded by a Party to its own similar services. In putting out the timeline of these obligations the approach of FTAs is different. While EU-Korea FTA adopts a positive list method, EUJEPA uses negative list approach. According to the positive list, each party must specify the sorts of services for which it would grant national treatment and market access to providers from other parties. According to negative list approach, only those types of services for which the parties are unwilling to give national treatment and market access should be included. Moreover, in terms of public services, both accords uphold Member States' rights to keep public services public, and neither requires governments to privatize or deregulate any public service at the national or local level - the authorities of member states maintain the power to bring any privately delivered services back under the jurisdiction of the public sector.

Both FTAs build on the provisions of WTO TRIPS Agreement. In the sphere of IPR, both FTA goals go beyond the parties' WTO obligations and, in some circumstances, have a direct influence on IPR standards. The importance and special status of pharmaceutical and plant products is emphasised in both agreements. Given the high level of protection for agricultural products, both FTAs agree to maintain the integrity of particular geographical indications, a concern for food producers who want to emphasize the provenance of the location where their goods are produced. The main difference between the agreements is that EUJEPA includes chapter on trade secrets and undisclosed tests. The extent of protection for this IPR is detailed in Article 14(36), and there are a number of exclusions that define what is not deemed a breach of trade secrets - reverse-engineering; uses of the information by third parties as permitted by laws or regulations; use of workers' abilities developed during the course of their employment; disclosure of the information to exercise free expression rights of the individuals.

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APPENDICES

Appendix 1: Detailed description of WTO+ and WTO-X provisions

Table 7: Detailed description of WTO+ and WTO-X provisions

WTO+	Industrial tariffs	Tariff liberalization on industrial goods; elimination of non-tariff measures
	Agricultural tariffs	Tariff liberalization on agriculture goods; elimination of non-tariff measures
	Customs	Provision of information; publication on the Internet of new laws and regulations; training
	Anti-dumping	Retention of Antidumping rights and obligations under the WTO Agreement (Art. VI GATT).
	Countervailing measures	Retention of Countervailing measures rights and obligations under the WTO Agreement (Art VI GATT)
	Export tax	Elimination of export taxes
	Technical barriers to trade	Affirmation of rights and obligations under WTO Agreement on TBT; provision of information; harmonization of regulations; mutual recognition agreements
	GATS	Liberalisation of trade in services
	TRIPs	Harmonisation of standards; enforcement; national treatment, most-favoured nation treatment
	State aid	Assessment of anticompetitive behaviour; annual reporting on the value and distribution of state aid given; provision of information
	Public procurement	Progressive liberalisation; national treatment and/or non-discrimination principle; publication of laws and regulations on the Internet; specification of public procurement regime
	SPS measures	Affirmation of rights and obligations under the WTO Agreement on SPS; harmonization of SPS measures
	State trading enterprises	Establishment or maintenance of an independent competition authority; non-discrimination regarding production and marketing condition; provision of information; affirmation of Art XVII GATT provision
TRIMs	Provisions concerning requirements for local content and export performance of FDIs	

(Table continues)

Continued

WTO-X	Competition policy	Maintenance of measures to proscribe anticompetitive business conduct; harmonisation of competition laws; establishment or maintenance of an independent competition authority
	Intellectual property rights	Accession to international treaties not referenced in the TRIPs Agreement
	Investment	Information exchange; Development of legal frameworks; Harmonisation and simplification of procedures; National treatment; establishment of mechanism for the settlement of disputes
	Movement of capital	Liberalisation of capital movement; prohibition of new restrictions
	Environmental laws	Development of environmental standards; enforcement of national environmental laws; establishment of sanctions for violation of environmental laws; publications of laws and regulation
	Labour market regulation	Regulation of the national labour market; affirmation of International Labour Organization (ILO) commitments; enforcement
	Cultural cooperation	Promotion of joint initiatives and local culture
	Audio-visual	Promotion of the industry; encouragement of co-production
	Public administration	Technical assistance; exchange of information; joint projects; Training

Source: World Trade Organisation (2011).

Appendix 2: EU exports and imports of goods and its trade balance with South Korea in the period 2005-2020 (EUR)

Table 8: EU exports and imports of goods and its trade balance with South Korea in the period 2005-2020 (EUR)

Year	South Korea			
	Imports	Exports	Trade balance	Total trade
2005	34,588,748,424	20,239,438,025	-14,349,310,399	54,828,186,449
2006	40,948,765,811	22,815,272,289	-18,133,493,522	63,764,038,100
2007	41,676,157,536	24,719,283,771	-16,956,873,765	66,395,441,307
2008	39,740,308,908	25,494,843,027	-14,245,465,881	65,235,151,935
2009	32,471,726,681	21,599,185,550	-10,872,541,131	54,070,912,231
2010	38,502,413,094	27,961,303,099	-10,541,109,995	66,463,716,193
2011	35,793,359,969	32,514,509,369	-3,278,850,600	68,307,869,338
2012	36,810,871,208	37,815,332,754	1,004,461,546	74,626,203,962
2013	35,096,751,104	39,911,061,383	4,814,310,279	75,007,812,487
2014	37,640,157,616	43,207,640,835	5,567,483,219	80,847,798,451
2015	41,250,749,928	47,786,938,579	6,536,188,651	89,037,688,507
2016	40,116,974,922	44,045,633,675	3,928,658,753	84,162,608,597
2017	48,820,927,078	50,123,867,509	1,302,940,431	98,944,794,587
2018	50,579,354,857	50,335,043,897	-244,310,960	100,914,398,754
2019	51,995,385,906	47,618,075,855	-4,377,310,051	99,613,461,761
2020	44,575,611,925	45,605,655,008	1,030,043,083	90,181,266,933

Source: COMEXT (2021).

Appendix 3: EU exports and imports of goods and its trade balance with Japan in the period 2005-2020 (EUR)

Table 9: EU exports and imports of goods and its trade balance with Japan in the period 2005-2020 (EUR)

Year	Japan			
	Imports	Exports	Trade balance	Total trade
2005	73,479,998,539	43,604,568,260	-29,875,430,279	117,084,566,799
2006	77,399,392,305	44,574,082,036	-32,825,310,269	121,973,474,341
2007	78,955,687,203	43,690,255,665	-35,265,431,538	122,645,942,868
2008	76,177,244,975	42,347,220,000	-33,830,024,975	118,524,464,975
2009	58,232,839,575	35,931,906,152	-22,300,933,423	94,164,745,727
2010	66,862,075,517	43,948,048,715	-22,914,026,802	110,810,124,232
2011	70,281,822,018	49,019,987,432	-21,261,834,586	119,301,809,450
2012	64,857,104,158	55,612,011,247	-9,245,092,911	120,469,115,405
2013	56,532,814,299	53,980,360,533	-2,552,453,766	110,513,174,832
2014	56,466,764,397	53,322,157,894	-3,144,606,503	109,788,922,291
2015	59,690,281,236	56,537,640,543	-3,152,640,693	116,227,921,779
2016	65,861,813,941	58,044,615,515	-7,817,198,426	123,906,429,456
2017	68,488,340,795	60,543,249,429	-7,945,091,366	129,031,590,224
2018	70,080,202,415	64,862,422,579	-5,217,779,836	134,942,624,994
2019	73,823,719,757	70,054,756,077	-3,768,963,680	143,878,475,834
2020	56,058,616,143	55,663,975,382	-394,640,761	111,722,591,525

Source: COMEXT (2021).

Appendix 4: Composition of EU imports from South Korea in period 2009-2013 (EUR)

Table 10: Composition of EU imports from South Korea in period 2009-2013 (EUR)

CN sections	2009	2010	2011
Agricultural and food products	126,999,571	146,178,329	147,391,703
Live animals; animal products	71,936,690	77,021,440	65,153,791
Vegetable products	13,724,499	15,089,716	17,043,388
Animal or vegetable fats and oils and their cleavage products; prepared edible fats	1,032,527	1,361,272	2,740,697
Prepared foodstuffs; beverages, spirits and vinegar; tobacco and manufactured substitutes	40,305,855	52,705,901	62,453,827
Mineral products	1,249,597,341	1,192,509,478	1,989,884,194
Products of the chemical or allied industries	704,441,385	872,079,869	1,094,882,098
Plastics and articles thereof; rubber and articles thereof	1,659,716,542	1,983,473,987	2,254,506,567
Textiles	718,271,750	935,078,629	1,096,632,148
Textiles and textile articles	659,424,018	859,756,267	1,007,783,092
Footwear, headgear, umbrellas, sun umbrellas	38,328,229	45,631,472	46,702,398
Raw hides and skins, leather, furskins and articles thereof	20,519,503	29,690,890	42,146,658
Base metals and articles of base metal	1,849,645,516	2,094,880,140	2,813,745,782
Machinery and mechanical appliances; electrical equipment	14,763,704,154	17,978,187,649	13,825,359,871
Vehicles, aircraft, vessels and associated transport equipment	8,431,988,497	9,833,525,459	8,810,790,572
Optical, photographic, cinematographic, measuring, checking, precision, medical or surgical instruments and apparatus	2,135,612,503	2,339,605,971	2,765,960,258
Other	716,205,648	960,821,942	851,843,446
Wood and articles of wood	2,646,821	2,268,023	1,689,788
Pulp of wood or of other fibrous cellulosic material	87,689,519	87,110,150	125,503,527
Articles of stone, plaster, cement, asbestos, mica or similar materials; ceramic products; glass and glassware	136,937,496	191,671,957	177,948,728
Natural or cultured pearls, precious or semi-precious stones, precious metals, metals clad with precious metal	217,116,778	326,290,949	127,332,787
Arms and ammunition; parts and accessories thereof	2,790,811	10,567,558	9,766,482
Miscellaneous manufactured articles	146,011,759	224,706,963	268,543,088
Works of art, collector pieces and antiques	123,012,464	118,206,342	141,059,046

(Table continues)

Continued

CN sections	2012	2013
Agricultural and food products	170,501,394	161,161,370
Live animals; animal products	69,972,007	52,186,651
Vegetable products	19,959,300	22,274,116
Animal or vegetable fats and oils and their cleavage products; prepared edible fats	3,473,896	2,141,090
Prepared foodstuffs; beverages, spirits and vinegar; tobacco and manufactured substitutes	77,096,191	84,559,513
Mineral products	1,752,329,035	1,584,712,028
Products of the chemical or allied industries	1,094,726,757	1,303,511,527
Plastics and articles thereof; rubber and articles thereof	2,552,709,786	2,992,039,658
Textiles	1,178,552,515	1,216,983,266
Textiles and textile articles	1,051,825,352	1,080,924,767
Footwear, headgear, umbrellas, sun umbrellas	47,747,899	41,854,707
Raw hides and skins, leather, furskins and articles thereof	78,979,264	94,203,792
Base metals and articles of base metal	2,608,019,926	2,735,457,269
Machinery and mechanical appliances; electrical equipment	13,478,792,248	13,093,863,170
Vehicles, aircraft, vessels and associated transport equipment	9,524,881,764	8,266,728,028
Optical, photographic, cinematographic, measuring, checking, precision, medical or surgical instruments and apparatus	3,066,907,761	2,603,479,571
Other	1,113,013,628	1,070,457,783
Wood and articles of wood	1,677,247	3,002,840
Pulp of wood or of other fibrous cellulosic material	118,928,812	109,983,702
Articles of stone, plaster, cement, asbestos, mica or similar materials; ceramic products; glass and glassware	169,061,459	172,042,685
Natural or cultured pearls, precious or semi-precious stones, precious metals, metals clad with precious metal	389,184,454	310,109,536
Arms and ammunition; parts and accessories thereof	15,818,141	10,191,876
Miscellaneous manufactured articles	277,241,846	315,090,272
Works of art, collector pieces and antiques	141,101,669	150,036,872

Source: COMEXT based on database EU trade since 1995 by CN sections (2021).

Appendix 5: Composition of EU exports to South Korea in period 2009-2013 (in EUR)

Table 11: Composition of EU exports to South Korea in period 2009-2013 (in EUR)

CN sections	2009	2010	2011
Agricultural and food products	930,024,831	1,308,761,628	1,701,046,115
Live animals; animal products	267,899,359	379,682,289	741,636,947
Vegetable products	121,506,747	254,026,580	181,765,209
Animal or vegetable fats and oils and their cleavage products; prepared edible fats	74,024,848	73,595,619	78,873,234
Prepared foodstuffs; beverages, spirits and vinegar; tobacco and manufactured substitutes	466,593,877	601,457,140	698,770,725
Mineral products	340,451,724	387,537,392	651,047,480
Products of the chemical or allied industries	3,324,861,425	4,234,885,017	4,702,858,616
Plastics and articles thereof; rubber and articles thereof	710,018,174	1,024,491,104	1,120,156,949
Textiles	861,732,505	1,054,400,201	1,378,951,580
Textiles and textile articles	474,567,702	545,798,303	696,620,654
Footwear, headgear, umbrellas, sun umbrellas	54,754,406	70,626,054	95,022,070
Raw hides and skins, leather, furskins and articles thereof	332,410,397	437,975,844	587,308,856
Base metals and articles of base metal	2,008,875,388	2,195,312,639	2,784,669,952
Machinery and mechanical appliances; electrical equipment	8,539,875,502	10,795,673,007	11,668,249,003
Vehicles, aircraft, vessels and associated transport equipment	2,032,913,401	3,325,665,567	4,489,104,875
Optical, photographic, cinematographic, measuring, checking, precision, medical or surgical instruments and apparatus	1,332,853,586	1,789,071,341	1,992,742,847
Other	1,111,855,628	1,500,447,604	1,768,237,669
Wood and articles of wood	80,382,087	87,641,333	115,007,725
Pulp of wood or of other fibrous cellulosic material	226,556,214	322,099,468	315,215,957
Articles of stone, plaster, cement, asbestos, mica or similar materials; ceramic products; glass and glassware	272,629,829	289,523,071	304,256,621
Natural or cultured pearls, precious or semi-precious stones, precious metals, metals clad with precious metal	73,682,708	196,630,945	308,573,911
Arms and ammunition; parts and accessories thereof	6,029,599	5,956,800	9,015,220
Miscellaneous manufactured articles	245,647,658	309,397,828	296,847,926
Works of art, collector pieces and antiques	206,927,533	289,198,159	419,320,309

(Table continues)

Continued

CN sections	2012	2013
Agricultural and food products	1,755,424,378	1,817,635,277
Live animals; animal products	624,212,380	515,577,836
Vegetable products	242,377,011	426,502,594
Animal or vegetable fats and oils and their cleavage products; prepared edible fats	83,876,080	90,562,918
Prepared foodstuffs; beverages, spirits and vinegar; tobacco and manufactured substitutes	804,958,907	784,991,929
Mineral products	3,397,069,054	3,294,503,892
Products of the chemical or allied industries	5,146,121,133	5,013,822,492
Plastics and articles thereof; rubber and articles thereof	1,185,338,682	1,249,944,170
Textiles	1,520,329,277	1,582,942,615
Textiles and textile articles	736,065,207	749,048,254
Footwear, headgear, umbrellas, sun umbrellas	123,676,191	141,677,807
Raw hides and skins, leather, furskins and articles thereof	660,587,879	692,216,554
Base metals and articles of base metal	2,893,624,941	2,699,762,561
Machinery and mechanical appliances; electrical equipment	12,814,939,948	13,882,407,944
Vehicles, aircraft, vessels and associated transport equipment	4,545,022,611	5,578,384,258
Optical, photographic, cinematographic, measuring, checking, precision, medical or surgical instruments and apparatus	2,242,225,096	2,449,649,461
Other	1,941,396,773	2,053,629,190
Wood and articles of wood	140,173,693	186,088,370
Pulp of wood or of other fibrous cellulosic material	318,919,475	307,144,507
Articles of stone, plaster, cement, asbestos, mica or similar materials; ceramic products; glass and glassware	344,983,551	354,048,438
Natural or cultured pearls, precious or semi-precious stones, precious metals, metals clad with precious metal	243,678,536	344,397,995
Arms and ammunition; parts and accessories thereof	4,623,064	5,891,333
Miscellaneous manufactured articles	353,901,173	396,707,606
Works of art, collector pieces and antiques	535,117,281	459,350,941

Source: COMEXT based on database EU trade since 1995 by CN sections (2021).

Appendix 6: Composition of EU imports from Japan in period 2016-2020 (in EUR)

Table 12: Composition of EU imports from Japan in period 2016-2020 (in EUR)

CN sections	2016	2017	2018
Agricultural and food products	352,585,049	377,640,997	391,851,278
Live animals; animal products	66,727,832	62,165,344	56,076,360
Vegetable products	70,719,327	68,946,872	65,695,294
Animal or vegetable fats and oils and their cleavage products; prepared edible fats	35,760,934	51,914,277	59,908,625
Prepared foodstuffs; beverages, spirits and vinegar; tobacco and manufactured substitutes	179,376,956	194,614,504	210,170,999
Mineral products	216,302,664	288,258,867	426,354,935
Products of the chemical or allied industries	6,207,951,391	6,103,162,955	6,654,612,700
Plastics and articles thereof; rubber and articles thereof	3,010,195,994	3,119,611,480	3,242,478,496
Textiles	834,055,984	880,798,128	935,293,507
Textiles and textile articles	739,655,311	784,084,743	830,504,406
Footwear, headgear, umbrellas, sun umbrellas	64,161,454	63,340,476	67,963,188
Raw hides and skins, leather, furskins and articles thereof	30,239,219	33,372,909	36,825,913
Base metals and articles of base metal	2,328,673,800	2,161,718,836	2,376,465,744
Machinery and mechanical appliances; electrical equipment	26,343,534,116	28,319,673,147	29,203,293,607
Vehicles, aircraft, vessels and associated transport equipment	16,190,591,214	17,107,920,680	17,162,120,224
Optical, photographic, cinematographic, measuring, checking, precision, medical or surgical instruments and apparatus	5,422,787,770	5,550,194,676	5,776,441,869
Other	4,869,123,007	4,302,861,304	3,767,372,941
Wood and articles of wood	6,705,247	7,926,207	7,222,659
Pulp of wood or of other fibrous cellulosic material	194,636,122	187,900,911	169,038,319
Articles of stone, plaster, cement, asbestos, mica or similar materials; ceramic products; glass and glassware	736,368,080	761,720,364	795,631,726
Natural or cultured pearls, precious or semi-precious stones, precious metals, metals clad with precious metal	2,722,774,703	1,863,797,961	1,196,601,392
Arms and ammunition; parts and accessories thereof	24,824,398	25,288,337	20,460,024
Miscellaneous manufactured articles	765,144,803	1,045,646,940	1,196,069,783
Works of art, collector pieces and antiques	418,669,654	410,580,584	382,349,038

Table continues

Continued

CN sections	2019	2020
Agricultural and food products	447,795,625	382,350,196
Live animals; animal products	67,800,017	48,045,991
Vegetable products	70,873,754	61,513,891
Animal or vegetable fats and oils and their cleavage products; prepared edible fats	63,223,238	56,681,993
Prepared foodstuffs; beverages, spirits and vinegar; tobacco and manufactured substitutes	245,898,616	216,108,321
Mineral products	479,067,718	155,143,576
Products of the chemical or allied industries	7,375,466,598	7,102,509,321
Plastics and articles thereof; rubber and articles thereof	3,267,035,947	2,678,470,905
Textiles	1,003,514,150	764,971,207
Textiles and textile articles	885,378,161	668,267,708
Footwear, headgear, umbrellas, sun umbrellas	82,028,673	62,674,717
Raw hides and skins, leather, furskins and articles thereof	36,107,316	34,028,782
Base metals and articles of base metal	2,397,033,793	1,810,472,448
Machinery and mechanical appliances; electrical equipment	28,903,567,120	21,610,164,329
Vehicles, aircraft, vessels and associated transport equipment	19,020,315,740	13,566,065,534
Optical, photographic, cinematographic, measuring, checking, precision, medical or surgical instruments and apparatus	6,017,976,645	5,050,764,564
Other	4,829,910,774	2,903,589,053
Wood and articles of wood	6,824,384	6,203,615
Pulp of wood or of other fibrous cellulosic material	180,463,490	148,484,235
Articles of stone, plaster, cement, asbestos, mica or similar materials; ceramic products; glass and glassware	792,420,710	584,738,102
Natural or cultured pearls, precious or semi-precious stones, precious metals, metals clad with precious metal	2,136,130,434	690,806,345
Arms and ammunition; parts and accessories thereof	24,997,347	22,805,018
Miscellaneous manufactured articles	1,199,721,689	1,133,500,453
Works of art, collector pieces and antiques	489,352,720	317,051,285

Source: COMEXT based on database EU trade since 1995 by CN sections (2021).

Appendix 7: Composition of EU exports to Japan in period 2016-2020 (in EUR)

Figure 19: Composition of EU exports to Japan in period 2016-2020 (in EUR)

CN sections	2016	2017	2018
Agricultural and food products	5,827,796,442	6,456,149,097	6,782,276,913
Live animals; animal products	2,137,400,022	2,328,236,652	2,419,199,743
Vegetable products	593,382,509	544,897,889	567,118,156
Animal or vegetable fats and oils and their cleavage products; prepared edible fats	290,898,557	307,705,351	297,597,418
Prepared foodstuffs; beverages, spirits and vinegar; tobacco and manufactured substitutes	2,806,115,354	3,275,309,205	3,498,361,596
Mineral products	390,626,359	264,831,099	367,729,452
Products of the chemical or allied industries	13,812,583,932	13,246,965,300	13,926,477,437
Plastics and articles thereof; rubber and articles thereof	1,436,320,429	1,524,409,747	1,539,330,864
Textiles	3,403,818,132	3,345,289,989	3,416,279,686
Textiles and textile articles	1,914,089,612	1,890,165,085	1,975,270,848
Footwear, headgear, umbrellas, sun umbrellas	431,420,273	411,844,601	403,869,388
Raw hides and skins, leather, furskins and articles thereof	1,058,308,247	1,043,280,303	1,037,139,450
Base metals and articles of base metal	1,818,775,433	1,975,154,165	2,181,445,859
Machinery and mechanical appliances; electrical equipment	10,677,319,283	11,217,495,046	12,336,334,580
Vehicles, aircraft, vessels and associated transport equipment	10,461,823,708	11,571,222,693	12,538,962,441
Optical, photographic, cinematographic, measuring, checking, precision, medical or surgical instruments and apparatus	5,423,339,626	5,721,850,823	5,972,716,579
Other	4,040,257,250	4,002,936,392	4,077,440,467
Wood and articles of wood	1,125,679,952	1,174,098,089	1,096,732,962
Pulp of wood or of other fibrous cellulosic material	514,245,224	520,320,667	488,012,517
Articles of stone, plaster, cement, asbestos, mica or similar materials; ceramic products; glass and glassware	474,082,860	480,494,286	511,395,903
Natural or cultured pearls, precious or semi-precious stones, precious metals, metals clad with precious metal	765,517,140	796,321,140	967,710,663
Arms and ammunition; parts and accessories thereof	12,005,619	13,079,697	14,328,678
Miscellaneous manufactured articles	749,533,739	703,817,280	758,990,997
Works of art, collector pieces and antiques	399,192,716	314,805,233	240,268,747

Table continues

Continued

CN sections	2019	2020
Agricultural and food products	7,694,319,101	7,066,220,270
Live animals; animal products	2,545,132,336	2,240,300,212
Vegetable products	622,674,054	493,633,737
Animal or vegetable fats and oils and their cleavage products; prepared edible fats	332,830,790	273,393,710
Prepared foodstuffs; beverages, spirits and vinegar; tobacco and manufactured substitutes	4,193,681,921	4,058,892,611
Mineral products	429,292,895	279,981,678
Products of the chemical or allied industries	14,314,642,731	12,689,252,225
Plastics and articles thereof; rubber and articles thereof	1,493,427,782	1,273,180,111
Textiles	3,741,949,839	2,952,206,654
Textiles and textile articles	2,142,167,996	1,654,665,479
Footwear, headgear, umbrellas, sun umbrellas	423,244,637	315,936,987
Raw hides and skins, leather, furskins and articles thereof	1,176,537,206	981,604,188
Base metals and articles of base metal	2,210,245,003	1,674,832,889
Machinery and mechanical appliances; electrical equipment	13,116,953,495	10,236,352,097
Vehicles, aircraft, vessels and associated transport equipment	14,623,877,177	9,085,149,367
Optical, photographic, cinematographic, measuring, checking, precision, medical or surgical instruments and apparatus	6,182,259,391	4,932,489,311
Other	4,640,844,630	3,731,149,456
Wood and articles of wood	1,113,722,786	1,039,034,135
Pulp of wood or of other fibrous cellulosic material	600,723,741	404,403,998
Articles of stone, plaster, cement, asbestos, mica or similar materials; ceramic products; glass and glassware	517,393,229	429,619,838
Natural or cultured pearls, precious or semi-precious stones, precious metals, metals clad with precious metal	1,219,230,597	1,055,888,522
Arms and ammunition; parts and accessories thereof	22,126,746	17,285,893
Miscellaneous manufactured articles	766,511,649	615,872,765
Works of art, collector pieces and antiques	401,135,882	169,044,305

Source: COMEXT based on database EU trade since 1995 by CN sections (2021).

Appendix 8: Average growth rates of South Korean imports to EU countries and its exports to Korea before and after the implementation of the FTA (2005-2020)

Table 13: Average growth rates of South Korean imports to EU countries and its exports to Korea before and after the implementation of the FTA (2005-2020)

	Imports from Korea		Exports to Korea	
	Average growth rate before FTA implementation	Average growth rate after FTA implementation	Average growth rate before FTA implementation	Average growth rate after FTA implementation
Austria	2%	4%	6%	13%
Belgium	6%	4%	6%	9%
Bulgaria	5%	10%	37%	67%
Cyprus	124%	4%	20%	26%
Czechia	25%	36%	18%	29%
Germany	-1%	2%	9%	10%
Denmark	11%	-9%	5%	3%
Estonia	6%	1%	13%	-1%
Finland	17%	30%	6%	7%
France	0%	-1%	6%	11%
United Kingdom	4%	-7%	11%	4%
Greece	3%	4%	17%	14%
Croatia	23%	0%	36%	24%
Hungary	3%	6%	18%	24%
Ireland	8%	5%	8%	-9%
Italy	-1%	-1%	7%	7%
Lithuania	26%	3%	34%	39%
Luxembourg	-2%	-14%	6%	-10%
Latvia	4%	15%	25%	29%
Malta	14%	21%	23%	27%
Netherlands	3%	0%	8%	15%
Poland	13%	23%	19%	25%
Portugal	2%	-1%	18%	18%
Romania	3%	4%	29%	47%
Sweden	5%	11%	7%	9%
Slovenia	55%	100%	17%	28%
Slovakia	20%	36%	21%	33%
Spain	0%	-6%	16%	12%

Source: Own calculations based on COMEXT database EU trade since 1995 by CN sections (2021).

Appendix 9: Average growth rates of Japanese imports to EU countries and its exports to Japan before and after the implementation of the FTA (2005-2020)

Table 14: Average growth rates of Japanese imports to EU countries and its exports to Japan before and after the implementation of the FTA (2005-2020)

	Imports from Japan		Exports to Japan	
	Average growth rate before FTA implementation	Average growth rate after FTA implementation	Average growth rate before FTA implementation	Average growth rate after FTA implementation
Austria	1%	0%	2%	6%
Belgium	2%	4%	2%	0%
Bulgaria	3%	14%	12%	7%
Cyprus	0%	9%	310%	23%
Czechia	3%	-3%	9%	6%
Germany	1%	-1%	4%	-4%
Denmark	-4%	2%	2%	3%
Estonia	-4%	11%	14%	10%
Finland	-8%	-2%	5%	-3%
France	0%	-3%	2%	-2%
United Kingdom	0%	-2%	2%	7%
Greece	-11%	18%	17%	57%
Croatia	-9%	7%	8%	-5%
Hungary	-1%	-4%	5%	-4%
Ireland	0%	15%	4%	18%
Italy	0%	-4%	4%	3%
Lithuania	6%	21%	26%	21%
Luxembourg	22%	-12%	8%	0%
Latvia	13%	0%	5%	2%
Malta	4%	-6%	12%	4%
Netherlands	1%	-1%	5%	11%
Poland	5%	15%	13%	9%
Portugal	-2%	-3%	15%	21%
Romania	0%	-5%	13%	26%
Sweden	-4%	-4%	3%	3%
Slovenia	5%	29%	23%	-12%
Slovakia	0%	-17%	14%	10%
Spain	-2%	-8%	7%	2%

Source: Own calculations based on COMEXT database EU trade since 1995 by CN sections (2021).