

# Doing business in south korea



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South Korea continues a process of economic liberalisation and deregulation, but the government has yet to adopt a fully laissez-faire policy where the economy and trade are concerned. The UK TI team in South Korea works actively to lift or loosen the many regulatory barriers that still exist to ease UK-based company enter to the market(UK Trade and Investment, 2009)

### Getting Paid - Terms of Payment

The payment terms you can normally expect in South Korea are “ 100 percent Confirmed Irrevocable Letter of Credit” . Letter of credit (L/C) is that adds the endorsement of a seller’s bank (the accepting-bank) to that of the buyer’s bank (the issuing bank). It provides the highest level of protection to the seller because not only the L/C cannot be canceled (or its terms changed) unilaterally by the buyer (the account party), but also both banks involved in the transaction guaranty its payment on its due (maturity) date.

Letters of credit are the terms you should quote when doing business in South Korea. You are unlikely to obtain deposits with order, or prior to shipment. It may be counterproductive to try to insist on deposits. Letters of Credit are normally opened 4-6 weeks prior to the shipment date. The expiry date of the Letter of Credit will be geared very much to the promised delivery date. It is important therefore that delivery promises are fulfilled or the Letter of Credit will expire (UK Trade and Investment, 2009).

Compared to other types of Letters of Credit, it is suggested to use Standby Letter of Credit (SBLC). Standby Letter of Credit (SBLC) may be more beneficial for trade. The SBLC uses the original documents and the bill of lading in order to obtain payment for the merchandise from a seller to a

buyer. This is all done in different parts and the process concludes when the merchandise arrives at the port. The documents are verified upon arrival of the goods and the process is usually fast and less strict. The beneficiary is ready to produce the documents required.

Unlike other types of Letters of Credit, the process for Standby Letter of Credit is better articulated. For regular Letter of Credit the original documents are passed from the advising bank to issuing bank in order for the latter to verify the process. Verification is therefore the last step and it can take up to ten days. For goods arriving by boat, the process may take longer because the documentation usually arrives after the merchandise. In this case, the bill of lading is given to the shipping company to be able to get the merchandise.

Letters of Credit offer one advantage that SBLC do not and that is the fact that they can be used as means of payment. A SBLC do provide certain protection for the holder in case of non-payment however they do not function the same way as other credit documents. It is therefore not advisable to compare them on these grounds.

Letter of Credit provide equal protection to the buyer and the seller, however the Standby Letter of Credit tend to be more protective of the seller. When documents arrive at the port or airport, based on the International Stand-by Rules, the reviewer of the documentation may take from three to seven days to review it. This is then more beneficial to the seller because the period clear the proceedings quickly enough for them to get the merchandise. Whereas for the buyer, this period may be too short to make sure that the

information is accurate and does not have any errors. There are people that compare SBLC to a blank check when they are issued by order of the buyer.

Standby Letter of Credit are fairly new to the world of international trade, and therefore it is also legally new. The legislations that apply to it may be uncertain and not equally applicable when in comparison to other types of letters of credit.

Dominant power in industry- Chaebol

(Isao, 2004) The chaebol are the large, conglomerate family-controlled firms of South Korea characterized by strong ties with government agencies. The name, which means business association, is properly pronounced jay BOL but the spelling pronunciation chay bol is considered acceptable by Korean speakers. There were family-owned enterprises in Korea in the period before 1961 but the particular state-corporate alliance came into being with the regime of Park Chung Hee (1961-1979). Park modeled this arrangement on the zaibatsu system which developed in Japan during the Meiji Era.

There were significant differences between the zaibatsu and the chaebol, the most significant of which was the source of capital. The zaibatsu were organized around a bank for their source of capital. The chaebol in contrast were prohibited from owning a bank. The Park regime nationalized the banks of South Korea and could channel scarce capital to industries and firms it saw as necessary for achieving national objectives.

The government-favored chaebol had special privileges and grew large. This gave the impression of economic success for the chaebol that was not

always valid. In some cases chaebol grew not because they were profitable but merely because they could borrow vast funds. When the international economy took a downturn these debt-ridden businesses were in trouble. In 1999 one quarter of the manufacturers in South Korea did not earn enough to meet the payments required for their debt.

In recent years there has been the growth of mid-sized corporations which are outside of the chaebol arrangement. For example, Appeal Telecom was started by a former employee of Samsung, Lee Ga Hyung. Appeal Telecom is manufacturing and marketing cell phones and has risen to the top in its field. In Germany the mid-sized corporation make a great contribution to the economy and there is no reason that such firms could not be an important element of the South Korean economy.

The Korean government has indicated its interest in introducing an Anglo-American corporate governance system. However, it seems to be very difficult for the Anglo-American system to take root in Korean soil, which is highly characterized by the lack of dispersion of corporate stock holdings(Isao, 2004).

However, after the IMF crisis, the influence of foreign capital on Korean economy has remarkably increased. The presence of foreign capital has been a decisive influence for the development of the Korean economy.

Political mercurial- Trade Policy

(Klingner, 2006) The South Korean political system will remain divided throughout 2006 between warring progressives and conservatives, impeding

Seoul's ability to implement policies to address foreign investor concerns and regional security challenges.

Questions remain over South Korea's economic policy, with business advocates calling on Seoul to reduce inhibiting regulations, overcome bureaucratic resistance to marketization and articulate its strategy toward foreign investment. Seoul's relations with the US and Japan will remain strained and the country has yet to achieve national consensus on the future form of South Korean society and its role in northeast Asia. President Roh Moo-hyun's political influence is declining, brought on in part by his abrogating some powers early in his presidency, which has increased the relative power of the National Assembly.

As the legislature becomes a more co-equal branch of government, it will increasingly be able to constrain the president. Yet, the legislature will remain largely deadlocked by partisanship. Political differences will become even greater as the parties strive to distinguish themselves to an increasingly apathetic electorate during the run-up to the nationwide local elections in May and the December 2007 presidential election.

Neither the ruling Uri Party nor main opposition Grand National Party (GNP) will gain the support of a majority of the legislature or electorate. Moreover, the Uri Party is likely to split after the May elections due to growing internal factionalism. As a result, government policies will continue to be reactive and inconsistent, and partisan confrontation will substitute for political dialogue.

Politics will dominate debate over controversial issues such as tax increases, trade negotiations, regional development, foreign relations and inter-Korean engagement. While the national economic recovery is gaining sufficient momentum to be less sensitive to short-term political fluctuations, it will remain susceptible to business concerns over legislative gridlock and political volatility.

Despite country's politic highly volatile and unpredictable, foreign investors can lay out clearly and fairly the advantages of an FTA. In other words, taking advantage on the facilities provided by South Korea without prejudice to any one sector's treatment and seek to minimize the impact of its onerous and unnecessary labor and environment provisions. The FTA sets an unfortunate precedent on labor and environment that ought to be strenuously resisted. Beyond this valid criticism, however, the landmark FTA offers foreign investors businesses and workers major new opportunities.

### Anti-Dumping Policy

(Ahn, 2008) Some foreign governments have invoked anti-dumping and safeguard measures to set some export restrictions against certain imported products from South Korea. Most of them involved anti-dumping duties. Steel, petrochemicals, electrical goods and electronics, and textiles were among the most frequently targeted items.

The External Trade Act stipulates investigations by the Korea Trade Council on whether a product is being imported into the country in such increased quantities as to cause "serious injury, or threat thereof, to a domestic industry". Domestic producers or the relevant government agency in charge

of the industry concerned may request the imposition of anti-dumping duties.

The Law on Investigation of Unfair Trade Practices and Safeguard Response to Injury to Domestic Industry, implemented in May 2001, requires the KTC to determine whether to launch an investigation into an alleged unfair trade practice within 30 days after it receives a petition and to conduct its investigation into alleged injury to the local industry in an expedient manner. The law also transferred the power to impose penalties against an unfair trade practice, following the commission's final ruling, to the KTC.

An amendment to the law enacted in January 2004 and implemented in October 2004 allows the KTC to extend its investigative power to foreign countries' trade practices and systems if they are held in violation of international trade rules and believed to cause present or potential injury to South Korean industry. The same amendment also set safeguard procedures for imports from new WTO member countries and free-trade-agreement partners. In addition, the maximum amount of a fine against violations of the law, such as an import of goods infringing intellectual-property rights, was raised to 30% of sales from 20%.

As anti-dumping policy has played a more important role in trade policy, so it has attracted growing interest from both academics and policy-makers alike. These have included both economists and lawyers. Important issues to be address include the following. Whether or not dumping is harmful and, therefore, whether or not anti-dumping laws are needed.



What constitutes “ fair” trade and whether antidumping laws prevent fair competition from taking place. Whether the spread of anti-dumping is a form of backdoor protectionism that is gradually taking the place of more traditional forms of protectionism and threatening the expansion of world trade that has taken place over the past half century.(Nigel, 2008).

Therefore, foreign companies need to study the pricing level of the same range of product they were to bring in so that it doesn't create dissatisfaction and injured host domestic product demand.

### A Variety of Grievances

(Ahn, 2008) Table 9 shows that foreign companies in Korea have registered a variety of grievances from 2001-2006, and subsequently demanded timely and effective aftercare services. In 2006, tax-related complaints accounted for the largest proportion and showed the sharpest increase of any type of grievance compared to previous years. In the past, the most frequently registered complaints, those related to labor-management relations, have now relatively declined. This is largely attributed to improvements made to stabilize Korea's labor-management culture. Changes made to the FDI system and a reduction of incentives consequently resulted in a rise in customs and trade, investment incentive, and procedure-related grievances.

The number of tax and tariff-related grievances rose by 24. 6 percent, while customs and trade-related grievances increased sharply by 76 percent.

Those relating to investment incentives rose 20. 0 percent during the six-year period from 2001-2006. Though the ratio on the whole was relatively low, what is particularly noteworthy is a 150-percent increase in

environment-related grievances from 4 to 10 cases. Though we foresee a tightening of regulations in this area, more preemptive measures do need to be taken.

Labor-management grievances in 2002 accounted for the highest ratio with 106 cases, a number which fell to 38 in 2006. Aside from labor and management-related grievances, 2006 also witnessed numbers in investment process-related grievances, finance and foreign exchange grievances, and those dealing with construction and land dropping 12.9 percent, 16 percent, and 15.8 percent, respectively. Operation and distribution complaints, private sector disputes, and those related to insurance and welfare also saw drastic respective drops of 70.6 percent, 54.5 percent, 66.7 percent in the number of related grievances.

Again, the decrease in the number of complaints filed came as a result of changes implemented through regulatory reform affecting permit acquisition, the streamlining of construction and land, operations and distribution (the authorization of discount warehouses), and plant location. As a result of the actions instituted to improve the investment environment for foreign multinationals, grievances related to living conditions, power and water have also dropped drastically (Ahn, 2008). This shows that there are improvements due to an effective aftercare service in effort of South Korea's government to pursue their foreign direct investment.