

South Korean FTA Negotiations

Patterns of Negotiation Outside a South Korean Cultural Context?

ABSTRACT

Scholars and practitioners have argued convincingly that there exists a distinct South Korean national style in negotiation. However, recent Free Trade Agreement negotiations between the U.S. and ROK confirm that under certain conditions, national style can be less relevant and quite possibly irrelevant.

KEYWORDS: South Korea, national style, negotiation, culture, Free Trade Agreement

IN 1999, *ASIAN SURVEY* PUBLISHED a paper by Scott Snyder entitled "Patterns of Negotiation in a South Korean Cultural Context."¹ The article contributed to Korean studies and was subsequently referenced in papers arguing for the prominence of a distinct South Korean national style in negotiation. It also influenced those who argue for the existence of distinct South and North Korean national styles in leadership, strategy, management, and social organization.²

This study returns to the original question of national style in negotiation, not to debate it but to ask: under what specific circumstances is it less relevant? The study looks at circumstances in which patterns of negotiation

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1. Scott Snyder, "Patterns of Negotiation in a South Korean Cultural Context," *Asian Survey* 39:3 (May/June 1999), pp. 394–417.

2. For a wide selection, see Jongryn Mo, "Political Culture and Legislative Gridlock: Politics of Economic Reform in Precrisis Korea," *Comparative Political Studies* 34:5 (June 2001), pp. 467–92; Andrew O'Neil, "Confronting the Reality of a Nuclear North Korea: The Challenge of Shrinking Policy Options," *Policy and Society* 23:2 (May 2004), pp. 101–28; Dennis McNamara, *Market and Society in Korea: Interest, Institution, and the Textile Industry* (London: Routledge, 2002); and Brian Bridges, *Korea After the Crash: The Politics of Economic Recovery* (London: Routledge, 2001).

involving South Koreans occur outside of the South Korean cultural context. In doing so, it assesses the conditions under which national styles can be *less* relevant and quite possibly irrelevant, thus exposing significant implications for studies on negotiation and the related fields of leadership, strategy, management, and social organization.

The research is based upon interviews with serving and former members of the ROK (Republic of Korea, i.e., South Korea) Ministry of Foreign Affairs and Trade (MOFAT); the Seoul diplomatic corps; and the KIEP. These interviews were conducted between June 2007 and March 2010 as part of Ph.D. field research at the Asia-Pacific College of Diplomacy, Australian National University (ANU).

NATIONAL STYLE IN NEGOTIATION

The concept of “style” derives from the fine arts, where it is used as a cognitive device to categorize patterns, or typical variables, in cultural artifacts and processes. Style is essentially about choice—a series of choices made within a set of constraints of a physical (matter, motion, space, and time); biological (structure, growth, function, distribution, evolution, and origin); and psychological (perception, cognition, identity, behavior, and interpersonal relationships) nature.³ As these choices recur over a period of time, a pattern emerges that allows for classification.

National style is the classification of processes and objects into categories based upon national origin. The term is used in the arts, sciences, and social sciences to denote typical variables that distinguish artifacts and processes of one nation-state from another. National style occurs across all academic disciplines, even in the physical sciences, arguably the most universal of scholarly fields.⁴

The importance of national style in international negotiation has long been recognized by practitioners. In some of the earliest treatises on diplomatic practice, the characteristic national styles of negotiating partners were

3. Leonard B. Meyer, “Toward a Theory of Style,” in *The Concept of Style*, ed. Berel Lang (Philadelphia: University of Pennsylvania Press, 1979), pp. 4–10.

4. See Jonathan Harwood, “National Styles in Science: Genetics in Germany and the United States Between the World Wars,” *Isis* 38:3 (September 1987), pp. 390–414; and Mary Jo Nye, “National Styles? French and English Chemistry in the Nineteenth and Early Twentieth Centuries,” *Osiris* 2:8 (1993), pp. 30–49.

recorded.⁵ Sir Harold Nicolson's 1939 work *Diplomacy* provides an example of how national style has remained important to modern practitioners. Nicolson contends that unlike the "mercantile" nature of British diplomacy, German negotiators exhibit a "warrior" complex, French negotiators could not observe events that lay "outside their immediate and intense focus," while Italian negotiators forfeit moderation for immediate advantage, exhibiting a style that is "more than opportunist" and "based upon incessant maneuver."⁶

The role of national style in negotiations attracted greater interest with the onset of the Cold War, with the dominant research question becoming how political and ideological beliefs affect negotiating practices.⁷ Within a decade, academic interest had turned toward how culture—the fundamental patterns of behavior and thought that mold perceptions within a society—affects negotiation behavior.⁸ Culture, contends Raymond Cohen, is "an integrated system of basic assumptions, both normative and factual, about the nature of human beings and the social, physical, and metaphysical environment in which they exist."⁹ Such studies attempt to tie specific negotiating behaviors to common cultural traits based on the belief that cultural dissonance is a major cause of negotiation failure between states. It is held that culturally distinct values, verbal and non-verbal signaling, and even perceptions of time and space result in different perceptions of reality and inconsistent conceptual frameworks that contribute to misunderstanding and, ultimately, negotiation failure.¹⁰ Such studies provide a more-structured explanation to the practitioner's experientially based accounts of national style.

Contemporary diplomatic practitioners maintain a firm belief in the importance of national style. This is encapsulated by Ronald Walker, a former Australian diplomat, in his text *Multilateral Conferences*, in which he notes: "Diplomats are notoriously cosmopolitan, even de-nationalized, and multilateral diplomats

5. See J. R. Grant, "A Note on the Tone of Greek Diplomacy," *Classical Quarterly* 15:2 (November 1965), pp. 261–66; and Roger Boesche, "Kautilya's Arthashastra on War and Diplomacy in Ancient India," *Journal of Military History* 67:1 (January 2003), pp. 9–37.

6. Harold Nicolson, *Diplomacy* (London: Oxford University Press, 1963), pp. 131–53.

7. See Arthur Lall, *How Communist China Negotiates* (New York: Columbia University Press, 1968); Kenneth Young, *Negotiating with the Chinese Communists* (New York: McGraw Hill, 1968); and Wladyslaw Kulski, "Soviet Diplomatic Techniques," *Russian Review* 19:3 (July 1960), pp. 217–26.

8. See Daniel Druckman et al., "Cultural Differences in Bargaining Behavior: India, Argentina, and the United States," *Journal of Conflict Resolution* 20:3 (September 1976), pp. 413–52; and P. H. Gulliver, *Disputes and Negotiations: A Cross-Cultural Perspective* (New York: Academic Press, 1979).

9. Raymond Cohen, "An Advocate's View," in *Culture and Negotiation: The Resolution of Water Disputes*, ed. Guy Olivier Faure and Jeffrey Z. Rubin (London: Sage, 1993), p. 24.

10. Ibid., p. 27.

work in a common culture. Nevertheless, delegations have marked national traits that evolve over time, as the societies themselves change.”¹¹

PATTERNS OF NEGOTIATION IN A SOUTH KOREAN CULTURAL CONTEXT

In “Patterns of Negotiation in a South Korean Cultural Context,” Snyder sought to identify within South Korean society what he termed “dominant and perhaps unique patterns” in behavior that have a bearing on negotiation and conflict resolution.¹² Snyder analyzed the cycle of conflict initiation, escalation, management, and resolution in a selected series of case studies to highlight typical variables in the South Korean approach to conflict management or conflict resolution.

Snyder, as have many other scholars, highlighted hierarchism and collectivism as underpinning the fundamental patterns of behavior and thought that mold perceptions within South Korean society. Hierarchism and collectivism are two facets of the inherited Confucian norms and values that shape strategies of action in contemporary South Korea.¹³ Traditional Korean Confucian social institutions sought to maintain stable political order and social harmony. For the purposes of this study, the Confucian value system can be encapsulated in the order of social relationships outlined by Confucius’s notion of the “Three Bonds and Five Relations” (i.e., ruler-subject, father-son, husband-wife, elder-younger, friend-friend). This framework of social relationships promoted reciprocity, loyalty, virtue, self-cultivation, and morality. Individuals were aware of their position in the social nexus, be it family, clan, kin, school, region, or state, and acted accordingly. Stability was predicated on subservience to seniors and benevolence to juniors. Authority was “tempered by benevolence downward and reciprocal loyalty and submissiveness to the state from below.”¹⁴

11. Ronald A. Walker, *Multilateral Conferences: Purposeful International Negotiation* (Basingstoke, Hampshire, U.K.: Palgrave Macmillan, 2004), p. 228.

12. Snyder, “Patterns of Negotiation,” p. 395.

13. Young Whan Kihl, “The Legacy of Confucian Culture and South Korean Politics and Economics: An Interpretation,” in *Korean Philosophy: Its Tradition and Modern Transformation*, ed. Korean National Commission for UNESCO (United Nations Educational, Scientific, and Cultural Organization) (Seoul: Hollym, 2004), pp. 121–44.

14. Michael Robinson, “Perceptions of Confucianism in Twentieth-Century Korea,” in *The East Asian Region: Confucian Heritage and Its Modern Adaptation*, ed. Gilbert Rozman (Princeton: Princeton University Press, 1991), p. 205.

Despite the momentous political and social upheaval in South Korea of modernization, occupation, national division, and economic development, there remains a distinct Confucian cultural legacy in the contemporary state that acts as an internalized guide to social behavior.¹⁵ As Gilbert Rozman notes, the Confucian legacy remains as “a set of ideals to achieve goals at the individual, community, and state level.”¹⁶

Snyder's study placed this Confucian cultural legacy squarely at the center of conflict initiation, escalation, management, and resolution. He viewed recurrent variables in South Korean negotiations as resulting directly from efforts to destabilize (initiation and escalation) and stabilize (management and resolution) relationships predicated on Confucian mores and norms, both within and external to negotiating teams.¹⁷ Recurrent variables are a series of events that exhibit a statistically significant deviation from an established norm. The recurrent variables that Snyder identified include crisis initiation, brinkmanship, stalling, inflexibility, and moral suasion.

In a society in which Confucian norms and mores predominate, a crisis, be it real or manufactured, serves a dual purpose. First, it creates the opportunity for power to be redistributed within a hierarchical relationship. Crisis, and the threat of instability, demands efforts to stabilize the situation. Crisis allows the economic, social, and symbolic capital that reinforces typical disparate social relationships such as ruler-subject or elder-younger to be momentarily displaced, thus permitting negotiation to proceed. Second, crisis creates the opportunity for power to be consolidated within a social group. Crisis, together with the threat of instability, necessitates unity and resolve, which help to overcome internal opposition and reinforce collective behavior. Reflecting this, it is often argued in business and academic studies of negotiation that South Korean negotiators frequently use crisis as a means to commence and/or facilitate negotiation.

The use of brinkmanship in South Korea is closely related to the use of crisis. Essentially, it is a precursor, establishing the conditions for the use of crisis as a means to spur negotiation. Thus, in the South Korean cultural context, it is more than a tactical device. There are multiple examples of the use of brinkmanship in South Korean negotiations. Snyder goes further, suggesting that North Korea's use of brinkmanship may be attributed to

15. Kihl, “The Legacy of Confucian Culture,” p. 138.

16. Rozman, ed., *The East Asian Region: Confucian Heritage and Its Modern Adaptation*, p. iii.

17. Snyder, “Patterns of Negotiation,” pp. 394–417.

similar cultural influences.¹⁸ Many scholars have written on North Korea's use of brinkmanship in negotiations. An early and highly influential example is the personal memoir of Herbert Goldhamer, who was a participant in the 1951 Korean Armistice Conference.¹⁹ However, as Snyder notes, it would require further access to North Korea before a specific cultural link could be established.²⁰

Snyder identifies the use of stalling and inflexibility as further recurrent variables in South Korean negotiations.²¹ Once again, these variables can be linked to efforts to manage relationships predicated on Confucian mores and norms. What may appear as stalling and inflexibility to opposing negotiating partners is more often an attempt to secure internal group solidarity and is thus geared toward stabilization of viewpoints among negotiators for one side. As Snyder argues, the need for internal consensus often requires South Korean negotiators to delay progress until an internal decision can be made.

South Korean negotiating teams are often larger than those of their Western counterparts. This is because in collectivist cultures, decision making requires a degree of consensus, necessitating representation of different interests. It is often the case that in formal diplomatic negotiations, representatives from different government departments are equally represented, each with their own agenda. In comparison, Western negotiators are often delegated authority from other government departments to negotiate on their behalf, with agendas agreed upon ahead of time.

Further, South Korean negotiators are often not delegated authority to undertake key decisions. Western negotiators are generally delegated authority to negotiate the best outcome within a set of margins, whereas South Korean negotiators are often directed to achieve a specific outcome.²² If this outcome cannot be achieved, consultation with higher authorities will be required before an alternative outcome can be accepted. This cultural influence can be somewhat comical. John Kie-Chiang Oh and Bonnie Bongwan Cho Oh note that during Korean negotiations with Japan in the 1950s, the importance of demonstrating subservience to authority placed South Korean negotiators in difficult circumstances: "President [Syngman] Rhee's understandable and

18. Ibid., p. 417.

19. Herbert Goldhamer, *The 1951 Korean Armistice Conference: A Personal Memoir* (Santa Monica, Calif.: RAND, 1994).

20. Ibid., p. 417.

21. Ibid., pp. 411–16.

22. Members of Seoul diplomatic corps, personal communications, Seoul, December 2009.

vehement enmity against the Japanese had much to do with the long stalemates at Korea-Japan meetings. . . . '[N]egotiations' sometimes amounted to the Koreans reading vitriolic statements, which were reportedly drafted by President Rhee himself."²³

The final recurrent variable that Snyder identified in South Korean negotiations is the use of moral suasion.²⁴ Moral suasion is essentially an effort to stabilize and/or consolidate social relationships predicated on Confucian mores and norms. When power is redistributed in a hierarchical relationship, the relationship needs to be redefined. This means that patterns of reciprocity, loyalty, virtue, subservience, and benevolence must again be demonstrated. In the context of negotiations, this is often evidenced by calls to moral conscience. A negotiator will often seek to remind the negotiating partner of their loyalty, subservience, or benevolence, and encourage the partner to act accordingly. Nancy Abelmann, in her text *Echoes of the Past, Epics of Dissent*, provides an example. In negotiations between tenant farmers and a corporate landlord, the negotiated settlement included a condition that representatives of the tenants publish a letter of apology in major newspapers. This apology, which was in addition to a negotiated price for the purchase of land, reinforced the pattern of subservience in the relationship.²⁵ Such behavior can occur regardless of the negotiating partner's awareness of Confucian mores and norms. Essentially, for a South Korean negotiator, it is the conceptual framework within which the social relationship is structured.

Renegotiation

Another recurrent variable, not identified in Snyder's article but relentlessly repeated in texts on South Korean commercial negotiation, is the related phenomenon of post-agreement negotiation or the renegotiation of agreed texts.²⁶ The propensity for this to occur in commercial negotiations with Korean counterparts leads certain writers to conclude that such negotiations do not actually begin until an agreement has been signed. As noted

23. John Oh, *The Korean Embassy in America* (Seoul: Hollym, 2003), p. 61.

24. Snyder, "Patterns of Negotiation," p. 404.

25. Nancy Abelmann, *Echoes of the Past, Epics of Dissent* (Berkeley: University of California Press, 1996), pp. 134–35.

26. It should be noted that renegotiation of agreed texts in the context of North Korea is covered extensively in Scott Snyder, *Negotiating on the Edge: North Korean Negotiating Behavior* (Washington, D.C.: United States Institute of Peace, 1999).

by Jeswald Salacuse, "For Americans, signing a contract is closing a deal; for many Asians, signing a contract might more appropriately be called opening a relationship."²⁷

In a society where Confucian norms and mores predominate, the ritual expression of reciprocity, loyalty, virtue, self-cultivation, and morality is inherently more important than words on a page reiterating the same. Accordingly, negotiations establishing the relationship, and the concomitant hierarchical status, need to be reinforced through ritual or symbolic expression. As much as this may appear to be the renegotiation of an agreed text to the non-Korean observer, it may appear to the Korean negotiator as merely the demonstration of benevolence, submissiveness, or reciprocal loyalty in the fulfillment of an ongoing relationship.

To sum up, existing studies have identified a series of recurrent variables in South Korean negotiation: the use of crisis, brinkmanship, stalling, inflexibility, renegotiation of agreed texts, and moral suasion. To reiterate, recurrent variables are events that exhibit a statistically significant deviation from an established norm. As in any statistical measurement, there are also events that do not exhibit these recurrent variables. Equally, there may be circumstances in which South Korean negotiators are less likely to exhibit the same recurrent variables. These circumstances deserve attention. When do patterns of negotiation involving South Korean negotiators occur *outside* a South Korean cultural context?

PATTERNS OF NEGOTIATIONS *OUTSIDE* A SOUTH KOREAN CULTURAL CONTEXT

At 1 A.M. on April 2, 2007, top-level negotiators from the United States and South Korea struggled to conclude negotiations for a comprehensive bilateral Free Trade Agreement (FTA). The deadline for the talks had been extended twice. To South Korean negotiators, each deadline had appeared to be the last chance. Each deadline had initiated a crisis *within* the Korean side and, it appeared, also *between* the sides. Pressure had been mounting since the U.S. had publicly indicated that the agreement was likely to fail. On April 30, White House spokesperson Tony Fratto in an email statement released to the press had remarked, "The talks are not going well. Unless the negotiations show

27. Jeswald W. Salacuse, "Intercultural Negotiation in International Business," *Group Decision and Negotiation* 8:3 (May 1999), p. 224.

some sign of progress in the next few hours this agreement will most likely not come together.”²⁸ Since the release of the statement, the negotiations stood on the brink of collapse.

South Korea was the largest economic partner to negotiate an FTA with the U.S. since the North American Free Trade Agreement (NAFTA) went into force in 1994. Studies have shown that a KORUS (Korea-U.S.) FTA, as it is known, could add more than US\$10 billion–\$12 billion to America’s gross domestic product (GDP).²⁹ But the FTA was seen by supporters in the U.S. as being more significant than the dollar value alone. It was described as central to efforts to reinvigorate the wider bilateral relationship in political, security, and economic terms. As noted by U.S. Trade Representative Ron Kirk at the U.S.-Korea Business Council:

. . . the potential effects of this FTA extend far beyond the economic realm. This Agreement will help to strengthen our bilateral alliance at a crucial time in global political affairs. While some Congressional leaders have continued to voice concern over specific elements of the FTA, they have told the President time and again that they are interested in expanding America’s strong and proven partnership with South Korea. And they see this Agreement as one way to do so.³⁰

The relationship, which had suffered from waning support because of generational change, was the focus of widespread demonstrations in Seoul during 2002–09. Essentially, support for the FTA and the wider alliance was presented as a “moral” issue in Korea.

The deal was reached seven hours before the final opportunity for President George W. Bush to notify Congress of his intention to sign an FTA with South Korea. “Fast-track” trade promotion authority, which would expire on July 1, 2007, required U.S. negotiators to submit the proposed text to Congress by April 2 (Washington time) for a mandatory 90-day congressional

28. “White House Says S. Korea Trade Talks Not Going Well,” Reuters (Washington, D.C.), March 30, 2007, <<http://www.reuters.com/article/2007/03/30/us-ba-usa-korea-trade-whitehouse-idUSWAT00723920070330>>, accessed June 28, 2008.

29. Office of the U.S. Trade Representative (USTR), “Korea-U.S. Free Trade Agreement,” in *Free Trade Agreements*, <<http://www.ustr.gov/trade-agreements/free-trade-agreements/korus-fta>>, accessed December 20, 2009.

30. Ron Kirk, “Remarks by Ambassador Ron Kirk at the U.S.-Korea Business Council, USTR, *Transcripts*, November 5, 2009, <<http://www.ustr.gov/about-us/press-office/speeches/transcripts/2009/november/remarks-ambassador-ron-kirk-us-korea-busine>>, accessed December 20, 2009.

review in return for an up or down vote. This was an inflexible deadline. Failure to meet the deadline would mean the FTA would become mired in congressional politics and unlikely to pass.

Within one week after the negotiations concluded, press reports indicated that the U.S. would seek renegotiation. In mid-June, the U.S. made a formal request to renegotiate sections of the agreement. While South Korean negotiators since the press reports first emerged had persistently refused to renegotiate, on June 19 South Korea accepted the U.S. request for further discussion. In March 2009, during confirmation hearings, Kirk, the incoming U.S. trade representative, noted in incongruously moral terms that the negotiated KORUS FTA “simply isn’t fair” and needed to be renegotiated.³¹ Finally, on June 27, 2010, both sides agreed to begin working level talks on the FTA. The talks were labeled “adjustments” rather than “renegotiation.”³²

The vignette above challenges the assumption that specific negotiating behaviors can be tied to common cultural traits. Indeed, if one were to switch the actors, the vignette would make more sense. It was the U.S. that initiated crisis after crisis as deadlines approached. It was the U.S. that used brinkmanship as the final deadline drew near, letting it be known that the negotiations were near collapse. It was the U.S. that used inflexibility, stalling, and moral suasion to pressure the South Korean side into renegotiation of an agreed text. All of these approaches/variables have been characterized as recurrent for negotiations by South Koreans. The vignette suggests that in this and similar circumstances there may exist patterns of negotiation involving South Koreans that occur outside of a South Korean cultural context.

To determine if this was the case, survey and interview data were collected from a series of officials who have either directly participated or played supporting roles in the negotiation of South Korean FTAs. Interviews were also conducted with members of the diplomatic community in Seoul who had engaged South Korean officials in working out economic and trade issues. This included both states that had negotiated or were negotiating an FTA with South Korea, as well as those that had not. Also feeding into the data were background interviews conducted with academics and former officials.

31. “Obama’s Trade Pointman Vows Strict Enforcement,” Agence France-Presse (Washington, D.C.), March 9, 2009, <<http://www.google.com/hostednews/afp/article/ALeqM5jknb2iC4xEnQUFxQI93HByXsMzBw>>, accessed December 20, 2009.

32. He-Suk Choi, “Obama Pledge Boosts KORUS FTA,” *Korea Herald* (Seoul), June 27, 2010, <<http://www.koreaherald.com/business/Detail.jsp?newsMLId=20100627000251>>, accessed June 30, 2010.

The Context of FTAs

FTAs are trade policy instruments characterized by the preparation, negotiation, and implementation of a legally binding international agreement designed to remove barriers to trade in goods and services. In certain circumstances, FTAs are also used to regulate investment, as well as environmental and labor provisions between participating states. An important aspect of bilateral FTA negotiations is their relative novelty. The modern FTA is a fairly recent phenomenon. While certain FTAs, such as the Australia-New Zealand Closer Economic Relations Trade Agreement (ANZCERTA), implemented in 1983 and the U.S.-Israel FTA, concluded in 1985, pre-date the modern variety, the vast majority of FTAs now in effect were concluded after 1995. This exponential upsurge stemmed from several factors: the implementation of NAFTA in 1994, political and economic expansion of the EU, successive failures of efforts to boost multilateral trade liberalization—and the fear of being left out. When the World Trade Organization (WTO) was formed in 1995, only 124 regional trade agreements had been reported to it and its predecessor, the General Agreement on Tariffs and Trade (GATT).³³ As of July 2010, the total number of trade agreements in force reported to the WTO was 279.³⁴

South Korea was a late entrant into the FTA race. It commenced negotiations for its first FTA with Chile in December 1999. These were concluded in October 2002, and after an agonizing domestic journey the FTA went into effect in April 2004. Before this, South Korea was one of only two WTO member economies that did not have an FTA. Since overcoming the challenges of its first FTA, South Korea has pursued several with varying degrees of success.

The use of crisis in South Korean FTA negotiations on the surface would appear to be endemic. South Korean FTAs have been marked by a highly ambitious agenda and an equally strong level of domestic opposition; the Chile FTA reflected this balance. Negotiators sought market openings for South Korea's efficient manufacturing industries, at the same time seeking to protect the country's inefficient but culturally sensitive agricultural sector

33. WTO members are required to report negotiation and accession to regional trade agreements under several WTO agreements, including the Enabling Clause, the General Agreement on Trade in Services (GATS) Article V, and GATT Article XXIX.

34. "RTAs Notified to the GATT/WTO," *Regional Trade Agreements [RTAs]-Information System*, WTO, December 20, 2009, <<http://rtais.wto.org/UI/PublicMaintainRTAHome.aspx>>, accessed December 20, 2009.

from increased competition. The sensitivity reflects the fact that agriculture plays an important role in Korean cultural traditions, with many individuals having direct or family connections to rural hometowns. Domestic opposition to the South Korea-Chile FTA was such that the South Korean National Assembly failed three times to ratify the agreement. The opposition was highly organized around three core groups—farmers, non-governmental organizations (NGOs), and labor unions. Action included substantial public demonstrations and political and media campaigns.

Widespread, sometimes violent, often highly disruptive demonstrations erupted at the height of Korean opposition to the KORUS FTA. Writing in April 2007, a South Korean English-language daily, the *Korea Herald*, noted that Seoul had experienced nearly one public anti-FTA demonstration every day since negotiations were announced in February 2006.³⁵ The demonstrations also took on more extreme forms, including a highly publicized incident of self-immolation by a taxi-driver surnamed Heo. The incident received widespread coverage and drew attention to public opposition to the FTA.³⁶ While anti-trade demonstrations are an accepted component of contemporary trade negotiations in both the bilateral and multilateral context, South Korean demonstrators are notable for being vocal and active.

From this, it could be concluded that crisis initiation and/or manipulation in order to redistribute power in a hierarchical relationship, or to consolidate and reinforce internal collective behavior, would easily become a feature of South Korean FTA negotiations. However, this has not been the case. Interviews with officials who have either directly participated or played supporting roles in the negotiation of South Korean FTAs suggest that far from encouraging crisis initiation and/or manipulation, anti-FTA demonstrations have encouraged a crisis-management approach.³⁷ This has taken two forms.

First, from the earliest stages of negotiations in the South Korea-Chile FTA, negotiators sought to increase the level of transparency in negotiations.³⁸ All subsequent FTA negotiations have reflected unprecedented transparency, including pre-negotiation consultations with industry, NGOs, and the public; press access; and an increased number of media briefings on FTA

35. "Reason Must Prevail," *Korea Herald*, April 9, 2007.

36. "S. Korean Man Attempts Self-Immolation against FTA with U.S.," *The Hankyoreh* newspaper, April 1, 2007.

37. Members of Seoul diplomatic corps, personal communications, Seoul, 2008.

38. KIEP, personal communications, Seoul, February 2008.

progress. Second, the psychological pressure on negotiators resulting from the demonstrations has increased internal cohesion within negotiating teams, decreasing the need to initiate crises to help consolidate power. The pressure on negotiators has created an “us versus them” approach vis-à-vis demonstrators, in which internal solidarity within the negotiating team is maintained at a high level.

Demonstrations by agricultural groups can have a strong effect on the average South Korean psyche. As noted above, many South Koreans have unique sentimental connections to the land.³⁹ At the height of South Korea’s industrialization (1970–95), an average of 380,000 people per year left the agricultural sector to find better employment in cities.⁴⁰ Reflecting traditional customs, during festivals such as the Lunar New Year and Chusok, the Korean thanksgiving day, South Koreans by the millions empty the major urban centers and head to their hometowns, where this rural connection is reinvigorated. Rural ties, it is clear, play an influential role in political support for farmers in the wider population.

Anti-FTA demonstrations, in particular those in support of farmers, had a deep impact on South Korean personnel involved in negotiations for the KORUS FTA. Key personnel in advisory bodies such as the KIEP were harangued beyond the point of common decency.⁴¹ They became accustomed to a regular routine of journalists seeking comment on every aspect of the negotiations. However, these participants also had to put up with threatening phone calls, mail, and emails.⁴² In certain circumstances, this even included death threats. The impact on negotiators was palpable, with several noting that they suffered “severe stress.”⁴³

As with crisis initiation, brinkmanship, as a precursor to establishing conditions in which crisis can be used to commence and/or facilitate negotiation, is less common in South Korean FTA negotiations. Indeed, in interviews with officials connected to South Korean FTA negotiations, the vast majority viewed brinkmanship as a tactical measure, considered it counterproductive and futile, and refuted the suggestion that it could be culturally significant. This is not overly surprising.

39. Ibid.

40. OECD (Organization for Economic Cooperation and Development), *Review of Agricultural Policies in Korea* (Paris: OECD, 1999), p. 35.

41. KIEP personal communications.

42. Ibid.

43. Seoul diplomatic corps, personal communications, February 2008.

South Koreans involved in FTA negotiations are overwhelmingly international in their outlook. In no way can they be narrowly seen within a distinct South Korean cultural context. More than 75% of interviewees had undertaken postgraduate studies abroad, and a preponderance of those involved in FTA negotiations had made at least three trips to the target country in advance of talks. They shared a high degree of familiarity with and cultural understanding of Western cultural tradition. Further, interviewees from the diplomatic corps who interact with South Korean economic negotiators on a regular basis recognized no specific instances of cultural miscommunication. Interlocutors of South Korean diplomatic practitioners in Seoul recognized that instances of cultural miscommunication occurred less frequently in the context of trade than in other areas.⁴⁴ Given the personnel involved, this is hardly surprising.

Indeed, so strong is this international outlook that in certain circumstances South Korean negotiators have taken on identities that are wholly unrepresentative of traditional Korean values and customs. In preliminary Korea-ASEAN (Association of Southeast Asian Nations) FTA negotiations, the ASEAN side on several occasions failed to respond to South Korean requests. In many East Asian cultural traditions, silence indicates a polite, negative response, which gives “face” to the requestor. Silence is used to avoid direct conflict and to demonstrate respect. However, in the Korea-ASEAN FTA, the South Korean side understood silence to indicate acquiescence to their requests, which was not the case. According to South Korean participants, it was thought that shared cultural traditions and customs did not extend to formal trade negotiations. The Koreans had assumed that the “international norms” of Western cultural tradition in trade negotiations would apply.⁴⁵ Reflecting this, it is not surprising that South Korean negotiators also viewed brinkmanship negatively and as a purely tactical measure. They did not demonstrate one of the key typical variables in the South Korean approach to conflict management or conflict resolution.

As noted, stalling and inflexibility can be tied to efforts to secure internal group solidarity in the South Korean cultural context and are a recurring variable in South Korean negotiations. However, stalling and inflexibility do not appear to be a common variable in FTA negotiations. In South Korea, these are highly goal-oriented. An agreement to commence negotiations only

44. Ibid.

45. KIEP personal communications.

occurs after two pre-negotiation processes are completed. A joint feasibility study is undertaken, which demonstrates the potential costs and benefits of the proposed FTA. Consultations with domestic stakeholders begin, which demonstrates the level of public and industry support. Accordingly, implicit in the decision to commence FTA negotiations is an awareness of the costs and benefits and a clear understanding of the objective.

The Foreign Ministry will then convene a whole-of-government task force dedicated to the negotiations. Specialists from the ministries of agriculture, labor, the environment, industry, and more are seconded to positions in the Foreign Ministry. Specific-purpose secondment increases the object-orientation of participants. With a high level of political support, these secondments can be considered helpful to careers; thus, they help focus attention on the goal.

Further, trade negotiators in the South Korean foreign affairs bureaucracy are accorded a high level of importance, giving negotiators a certain level of prestige.⁴⁶ In comparison, in many partner countries trade is not accorded a similar level of prestige but is considered secondary to the political aspect of the relationship.⁴⁷ South Korean negotiators are generally chosen from among the ablest candidates in the public service human resource pool; most of those interviewed were highly educated and widely experienced.

Essentially, those participating in South Korean FTA negotiations are highly educated, skilled and ambitious, and are firmly focused on completing their task. They enjoy a degree of government political support. This at times may place them at odds with the wider population's views on FTA negotiations. It may also place them outside the South Korean cultural context in FTA negotiations. Stalling and inflexibility are not generally seen as the tactics of highly educated, skilled, and ambitious negotiators who enjoy a degree of government political support.⁴⁸

As noted, the renegotiation of agreed texts relates to the propensity of South Korean negotiators to seek changes to agreed conditions after a contract has been signed; this can be traced to the cultural phenomenon of symbolic demonstration of benevolence, submissiveness, or reciprocal loyalty in the fulfillment of the ongoing relationship. Once again, this is not a recurrent variable in South Korean FTA negotiations.

46. Ibid.

47. Seoul diplomatic corps, personal communications, February 2008.

48. Jonathan Cohen, "When People Are the Means: Negotiating with Respect," *Georgetown Journal of Legal Ethics* 14:3 (Spring 2001), pp. 767–69.

The renegotiation of agreed texts occurs predominantly in commercial negotiation. This is because diplomatic negotiations place greater pressure on the maintenance of reputation, meaning that seeking to renegotiate an agreed text imposes a penalty on credibility. The difference lies in the enforceability of commercial contracts under domestic law, as opposed to the lack of effective enforcement mechanisms in international law.⁴⁹ While requests for renegotiation do occur, they are both infrequent and often justified by extenuating circumstances. Although they employ various trade and industry specialists as well as diplomats, FTA negotiations are always coordinated and administered by diplomats and follow standard diplomatic procedure.

Further, the vast majority of FTAs contain provisions that prevent damage to domestic industry such as snap-back tariffs, which raise tariffs after a certain amount of produce has entered the market. This level of foresight reduces the need to renegotiate. FTAs also contain provisions specifically designed to allow for post-agreement or annual consultations. States can and do seek changes to agreements within this framework.

Contemporary FTAs also maintain a high public profile, which reinforces the importance of credibility and reputation. In South Korea, public influence on foreign affairs policy was traditionally insignificant, but it has substantially expanded since FTA negotiations began. Hoon Jaung notes that it was not until the 2002 presidential elections and the accidental deaths of two South Korean schoolgirls in an off-base U.S. military training exercise that the public began to show increased interest in influencing foreign policy.⁵⁰ Hoon contends that prior to the 2002 presidential election, “foreign policymaking remained in the secret garden of the president, who was largely insulated from democratic control and public involvement.”⁵¹ The high public profile of FTAs, in combination with the increased public interest in foreign affairs, means that credibility and reputation have subsequently played an important role in South Korean FTA processes, including negotiation.

Moral suasion refers to the use of morally based arguments in negotiation in an effort to stabilize and/or consolidate the social relationship. It involves calls to reciprocity, loyalty, virtue, subservience, benevolence, and other features of Confucian social thought. In FTA negotiations, moral suasion did

49. Andrew Guzman, “The Design of International Agreements,” *European Journal of International Law* 16:4 (September 2005), p. 580.

50. Hoon Jaung, “Foreign Policy and South Korean Democracy,” *Taiwan Journal of Democracy* 1:2 (December 2005), p. 51.

51. Ibid.

play a large role, but along a different trajectory. Rather than placing an emphasis on the values listed above, interviewees stressed Western economic ideals: mutual benefit, trade efficiency, trade volume growth, and Pareto improvement. The latter refers to a reallocation of goods that makes at least one party better off and makes no parties worse off. It is not a stretch to say that the vast majority of interviewees viewed reciprocity and loyalty as being a function of mutual benefit, virtue as a function of efficiency and trade volume growth, and subservience and benevolence as a function of Pareto efficiency.

NEGOTIATION TYPE AND THE IMPACT ON CULTURAL CONTEXT

Raymond Cohen believes that culture plays a prominent role in negotiation and dismisses the possibility that there exists an international diplomatic culture of highly educated, sophisticated, like-minded elites who can overcome cultural differences. He notes that the diversity between national negotiating teams and even within them in contemporary diplomatic interaction differs vastly from the archaic elitist traditions of early 20th century diplomacy.⁵² However, even Cohen recognizes that, “doubtless in long running negotiations over highly specialized topics such as the law of the sea, arms control, *and trade*, supercultural attitudes are fostered among participants.”⁵³ The term supercultural attitudes refers to the set of common values, behaviors, modes of verbal and non-verbal communication, and perceptions of identity and purpose formed between negotiators of different cultural backgrounds. These arise under conditions of subject specificity, common purpose and background, and long-duration. FTA negotiations are a particularly neat fit to these conditions.

FTA negotiations clearly demonstrate a high degree of subject specificity. Trade negotiations are complex and rarely left to generalist diplomats. FTA negotiations require specialists, or at least constant specialist advice, in order to proceed. The very fact that many states clearly divide their ministries of trade from their foreign affairs ministries supports the idea that a high degree of subject specificity is inherent in trade negotiations. Even in amalgamated ministries, such as in Canada, Australia, and South Korea, the division

52. Raymond Cohen, *Negotiating across Cultures: International Communication in an Interdependent World* (Washington, D.C.: United States Institute of Peace, 1997), p. 20.

53. Idem, “An Advocate’s View,” p. 37.

between those responsible for trade negotiations and the rest of the ministry is distinct.

The majority of participants in FTA negotiations also demonstrate common purpose and background. FTA negotiations were originally designed to bring together states with similar levels of economic development, removing negotiation obstacles that existed at the multilateral level. The early trend toward FTAs generally involved states with advanced economies and similar development levels. These states shared a common sense of identity and purpose. Subsequently, states that pursued FTAs did so for a variety of reasons, including the pursuit of political goals and the desire to thwart competitors from obtaining market advantage. Regardless of the rationale for pursuing an FTA, the majority of these states shared the goals of free market liberalization and trade volume growth. This has certainly been the case for South Korea.

FTA negotiations also bring together people with similar backgrounds. Trade negotiators, and in particular the large coterie of specialist advisors, often have similar educational and professional backgrounds. This is particularly relevant in the case of South Korea, where there is a significant benefit to be accrued from postgraduate study in the U.S. Further, trade negotiators and advisors in any particular FTA negotiation are often known to each other through the preparatory work. Most FTAs are negotiated only after a scoping or feasibility study has demonstrated that the accord would be economically beneficial and politically feasible. These studies usually take around one year to complete, involve academics and government trade specialists, and require substantial coordination among future negotiating partners.

Finally, FTA negotiations are generally of long duration. While diplomatic interaction between any two states is an ongoing process, in most cases, individual diplomats spend a limited amount of time at a given post, usually three to four years. Accordingly, on a personal level, the level of interaction between diplomats and the members of the foreign ministry with which they deal is limited in duration. In comparison, FTA negotiations can last substantially longer, requiring specialists to interact with foreign counterparts constantly from the initial pre-negotiation period to conclusion and implementation.

This time range can be significant. Preparation toward a KORUS FTA commenced well before the official launch of negotiations on February 2, 2006. Indeed, pre-negotiations appear to have been substantial. Many observers concluded that South Korea's unilateral concessions on beef, automobiles, pharmaceuticals, and quotas for the screening of non-Korean

films were connected to the launch of FTA negotiations.⁵⁴ Economic studies that would have required interaction between the two sides can be traced back to 2001.⁵⁵ In June 2010, during a meeting between South Korean President Lee Myung-bak and U.S. President Barack Obama, it was stated that both leaders would seek to have the FTA ratified in time for their next scheduled meeting alongside the G20 Summit in November 2010. Accordingly, a high degree of familiarity between participants would be expected. Such long-running negotiations, and the fact that participants share professionally similar backgrounds, would conceivably contribute to the fostering of supercultural attitudes among participants.

CONCLUSION

This paper does not question the existence of a distinct South Korean national style in negotiation. Indeed, during the research it was found that a majority of respondents who negotiated regularly with South Koreans on non-trade and non-FTA issues generally agreed with existing studies. They confirmed that in the course of their negotiations they had experienced behavior that resembled the recurrent variables of crisis initiation, brinkmanship, stalling, inflexibility, renegotiation of agreed texts, and moral suasion.

However, the present research does question the wholesale application of national style to all instances of negotiation. There are certain circumstances in which national style is less relevant. These include conditions in which supercultural attitudes are established, notably negotiations that demonstrate subject specificity, common purpose and background, and a long duration. South Korea's FTA negotiations are a sample of one type that meets these conditions. FTA negotiations are subject-specific. South Korea has to date shared a high degree of common purpose and background with its partners. It has also followed the general pattern of pre-negotiation economic study followed by negotiations of an intermediate duration. Under these circumstances, existing studies of South Korea's national style in negotiation are considerably less relevant.

54. Wonhyuk Lim, "KORUS FTA: A Mysterious Beginning and an Uncertain Future," *Asian Perspective* 30:4 (October-December 2006), p. 179.

55. United States International Trade Commission (USITC), *U.S.-Korea FTA: The Economic Impact of Establishing a Free Trade Agreement (FTA) between the United States and the Republic of Korea*, Investigation no. 332-425 (Washington, D.C.: USITC, September 2001).

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