

CJK FTA Prospects and Challenges, and the Formation of the Digital Economy

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Introduction

The pandemic of the new coronavirus-disease (COVID-19) has brought economic stagnation to countries around the world, including Japan, China and South Korea. While China launched economic measures of 4 trillion yuan at the time of the 2007 global financial crisis that helped to drive the global economy, in this so-called “Corona Shock” the rise of protectionism in the United States has led to an increase in US-China trade friction, hindering trade and the V-shaped recovery of the world economy. According to the International Monetary Fund’s “IMF World Economic Outlook” released in June 2020, the world economic growth rate in 2020 shows sharp declines as follows: world GDP decreased by 3.0%, Japan's GDP decreased by 5.8%, China's GDP decreased by 1.0%, South Korea's GDP decreased by 2.1%, and US GDP decreased by 8.0%¹. This was worse than the forecast announced in April. The IMF also predicted that world trade would decline by 11.9% due to a significant downturn in demand for goods and services, including tourism. In the world economy as well as in world trade, there is serious concern that the size of the economy will shrink as well. Despite the adverse conditions of the world economy, this paper suggests that Japan should strive to expand member countries of the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP), and liberalization should be promoted through concluding the East Asian Regional Comprehensive Economic Partnership (RCEP) or the China, Japan and South Korea (CJK) Free-Trade Agreement while suppressing the rise of protectionism in order to maintain international economic order. This paper particularly focuses on the CJK FTA. It discusses why it is important to advance the CJK FTA and emphasizes its strategic significance for Japan. Section 2 gives an overview of the negotiation process of the CJK FTA. Section 3 considers the background of the promotion and stagnation of the CJK FTA negotiations. In Section 4, the paper focuses on “e-commerce,” which is one of the more difficult chapters to negotiate in CJK FTA, and analyzes its strategic significance.

2. Overview and history of CJK FTA negotiations

(1) CJK as a De-Facto Economic Integration

The positions of CJK in the world economy have been extremely important in recent years.

1 International Monetary Fund (2020) “World Economic Outlook Update, June 2020.”

In 2019, CJK dominated 24% of world GDP, accounting for about a quarter of the world economy². The CJK market is well above the EU's 17% and close to the US-led NAFTA (USMCA) at 26%. In addition, the CJK countries played an important role in the formation and development of the production network in East Asia, and trade among the three countries is booming.

For example, looking at the Ministry of Finance trade statistics for 2019, in terms of exports China is the second-largest trading partner to Japan (19.1%), almost on par with the United States (19.8%), and South Korea is the third-largest export partner (6.6%) to Japan³. On the other hand, in terms of imports, China is the biggest importer of Japanese goods (23.5%) which is far above the United States (11.0%), the second largest. South Korea is ranked fourth (4.1%). Therefore, China and South Korea have become important trading partners to Japan due to the long-established supply chain centered on industrial products between CJK. This trend is occurring not only in Japan but also in China and South Korea. Therefore, it can be considered that Northeast Asia, centered on Japan, China, and South Korea, has achieved de-facto or market-oriented regional integration⁴. Since 2000, in order to further promote these conditions, each CJK country has come to advocate free-trade agreements based on institution-oriented regional integration through such a means as bilateral or CJK FTAs.

(2) CJK as a De-Jure Economic Integration

① Birth of the CJK Trilateral Summit Meeting

Prior to the economic cooperation of the trilateral framework of CJK, the Asian financial crisis led to the formation of the framework of ASEAN+3 (Japan, China, and South Korea) and the momentum of regional cooperation increased in East Asia⁵. The formation of ASEAN+3 was supported by the active involvement of CJK, especially Japan and China⁶. This momentum was further promoted by regional economic integration through FTAs such as ASEAN + 1 FTA⁷ and RCEP (Regional Comprehensive Economic Partnership) which combined the East Asian Free Trade Agreement (EAFTA) and the East Asian Comprehensive Economic Partnership Agreement (CEPEA). This resulted in the creation of the regional concept of East Asia.

2 Author's calculations using the World Development Indicators of World Bank.

3 See Ministry of Finance of Japan, Trade Statistics Database 2019.

4 Shujiro Urata and Hideyuki Miura (2012) 'Trade and Investment in East Asia Region' Shujiro Urata and Kyosuke Kurita "Asian Regional Economic Integration" Keisoshobo, p.24.

5 In July 1994, an informal foreign ministerial meeting between ASEAN and CJK was held in Bangkok, and the ASEAN explained the concept of East Asia Economic Caucus (EAEC) to the three countries. In response to this, China expressed certain support, but due to strong opposition from the United States, Japan and South Korea could not support it. In March 1995, ASEAN once again called an informal economic ministerial meeting in Thailand, calling for the participation of the three CJK countries. China indicated its willingness to participate, but Japan replied that it would not be able to attend the meeting if the EAEC issue was on the agenda, and eventually the meeting was not held.

6 Takashi Terada (2013) "Constructing and East Asian Concept and Growing Regional Identity From EAEC to ASEAN," Pacific Review, 12 (2), pp.251-277.

7 Each CJK country has bilateral FTA with ASEAN countries and ASEAN as a whole.

At the time of the ASEAN+3 Summit Meeting held in Manila in November 1999, Prime Minister Keizo Obuchi proposed the first trilateral dialogue between Chinese Prime Minister Zhu Rongji and South Korean President Kim Dae-Jung. It took place in the form of a breakfast meeting. The Ministry of Foreign Affairs of Japan viewed the breakfast meeting as an important first step in promoting future dialogue in CJK, and further regional cooperation in Northeast Asia⁸. Prime Minister Zhu Rongji evaluated the trilateral breakfast meeting, saying, "I highly appreciate the achievement of the summit meeting of the three countries with Prime Minister Obuchi's proposal⁹," and President Kim Dae Jung said, "I would like to congratulate the Prime Minister for his good ideas¹⁰." As Wendt pointed out, the summit was considered to be beneficial in forming a common identity among states and taking collective action towards cooperation¹¹.

At the summit meeting, President Kim Dae Jung proposed, and it was agreed, that each country's research institutes would conduct joint research on economic cooperation between CJK¹². In response to this agreement, the Research and Development Organization of Japan (NIRA), the Development Research Center of the State Council of China (DRC), and the Institute for International Economic Policy of Korea (KIEP) were selected as research institutes and held their first meeting on economic cooperation between CJK in Beijing in November 2000. Through the joint research, trade and FDI in the region were analyzed and policy recommendations were submitted to the CJK summit meeting in Brunei in 2001 and Phnom Penh in 2002¹³. In addition, at the time of the CJK Summit Meeting held in 2001, China proposed holding the CJK Economic and Trade Ministers' Meeting in order to strengthen economic cooperation¹⁴. With the support of Japan and South Korea, the first CJK Economic and Trade Ministers' Meeting was held in Brunei in

8 MOFA (1999) "Prime Minister Obuchi's ASEAN+3 Summit Meeting" (Outline and Evaluation)," November 28, 1999.

9 At the ASEAN+3 Summit held in Hanoi, Vietnam in December 1998, Prime Minister Obuchi proposed to meet with the leaders of the three countries. While President Kim Dae Jung of South Korea support the idea of Obuchi, China refused it. ("*Asahi Shinbun*" December 17, 1998). At the 1999 ASEAN+3 Summit, China's administrative-level also answered that it would be "difficult", but a few days before the summit, China responded with an "accept" ("*Asahi Shinbun*" November 30, 1999). At that time, China was reluctant to meet with Japanese leaders, because tensions between Japan and China have increased due to laws related to Japan-US defense cooperation (the guidelines). (Lee Jong Won (2019) 'Kim Dae Jung's Initiative for the East Asian Community and Korea-Japan-China Trilateral Cooperation' "Journal of Asia-Pacific" No.36. p.36.)

10 "*Asahi Shinbun*" November 30, 1998.

11 Alexander Wendt (1994) "Collective Identity Formation and the International States," *American Political Science Review*, 88 (2), p. 391.

12 The Research and Development Organization of Japan (2002) "second meeting on economic cooperation between CJK" November 5, 2002.

13 The Research and Development Organization of Japan, the Development Research Center of the State Council of China and the Institute for International Economic Policy of Korea (2003)"Joint research report and policy recommendations on economic cooperation between China, Japan and South Korea" March, 2003.

14 METI Web https://www.meti.go.jp/policy/trade_policy/east_asia/activity/ncs.html, (22 August, 2020 Accessed)

September 2002 to discuss trade, investment and cooperation between the three countries. Following the successful completion of the first phase of joint research in 2002, the joint research proposed to the leaders of the CJK countries was to start a new phase in 2003 with a research theme of "long-term economic vision and medium-term direction of policy" looking for feasible economic impact of the FTA between CJK¹⁵.

② Trilateral Joint Research Project on the CJK FTA

In October 2003, Prime Minister Junichiro Koizumi, Prime Minister Wen Jiabao, and President Roh Moo-hyun held a CJK summit meeting and signed Joint Declarations which included close economic partnership with the aim of concluding a CJK FTA¹⁶. This was the first joint declaration by the leaders of CJK. Issue of the joint declaration was proposed by China. China launched a new executive branch of the central government in China in March 2003, and the aim of China was to promote strengthening foreign relations with neighboring countries¹⁷.

At the summit meeting, a research report was presented by the Trilateral Joint Research Project on the CJK FTA in which the feasibility of a CJK FTA was analyzed for the first time¹⁸. The report showed the results of an economic impact analysis of the CJK FTA using the Computable General Equilibrium (GCG) model. It analyzed that a CJK FTA would boost Japan's GDP by 0.1-0.5%, China's GDP by 1.1-2.9%, and South Korea's GDP by 2.5-3.1%. The report also included the results of a survey of the attitudes of each country's corporate leaders regarding the establishment of a CJK FTA, and showed strong support for a CJK FTA; 85.3% of Chinese, 78.7% of Japanese, and 70.9% of South Korean companies supported the idea. The main reasons that the business sectors agreed with the CJK FTA were common among the three countries, such as "expansion of markets which increases sales of their own products," "reducing barriers to trade and direct investment," and "reducing import costs for raw materials and products."

At the CJK summit meeting held in Vientiane, Laos in November 2004, the "Action Strategy on Trilateral Cooperation" was announced, which included the upgrading of talks from the private sector to the government level in view of the CJK investment treaty¹⁹. With regard to the investment treaty, while Japan and South Korea took a positive stance, China hesitated starting

15 The Research and Development Organization of Japan (2003) "Joint research report and policy recommendations on economic cooperation between China, Japan and South Korea" October, 2003.

16 MOFA (2003) "Joint Declaration on the Promotion of Tripartite Cooperation among the People's Republic of China, Japan and the Republic of Korea" October 7, 2003.

17 "Nikkei Shinbun" October 7, 2003.

18 The Research and Development Organization of Japan, the Development Research Center of the State Council of China and the Institute for International Economic Policy of Korea (2003) "Joint research report and policy recommendations on economic cooperation between China, Japan and South Korea" October, 2003.

19 MOFA (2004) "The Action Strategy on Trilateral Cooperation among the People's Republic of China, Japan and the Republic of Korea" November 27, 2004.

negotiation on the investment treaty, considering such issues as intellectual property measures²⁰. While CJK had difficulties in terms of political relations, they had still fostered a stable relationship in terms of economic relations; however, the condition changed drastically in 2005. When Prime Minister Koizumi took office in 2001, his visit to Yasukuni Shrine, which honors Japanese some consider to be war criminals, caused relations with China and South Korea to deteriorate, and the summit between Japan and China was unilaterally rejected by China. Moreover, the visit triggered thousands of anti-Japan demonstrators to protest in Chengdu, Beijing, and Shanghai. The protests were described as the biggest anti-Japanese protests in China since diplomatic relations between the countries were normalized in 1972. The situation with Korea was no better, as tensions flared up involving the disputed island of Takeshima. In March 2005, the Shimane Prefectural Assembly passed an ordinance defining “Takeshima Day,” and in response to this, the Korean government lifted the ban on tourists entering Takeshima. These dispute with China and Korea could have left Japan isolated in North East Asia; and no CJK summit meetings were held from 2005 to 2006.

However, in 2006, Prime Minister Shinzo Abe made a visit to China soon after he took the prime ministership²¹. This was the first visit from a leader of Japan in five years. In December 2006, at the CJK Economic and Trade Ministers' Meeting held in Cebu, Philippines, the three economic and trade ministers agreed to formally negotiate an investment treaty agreement. At the meeting, while China proposed starting the negotiation of a CJK FTA, Japan hesitated, considering the domestic politics related to agriculture. Moreover, Japan emphasized the significance of rules such as protection of intellectual property measures and claimed that an investment treaty should be set ahead of CJK FTA negotiations. Prime Minister Wen Jiabao visited Japan in April 2007 and President Hu Jintao visited Japan in May 2008, confirming the direction of “strategic mutual benefit” in the 2008 joint statement²².

In addition, South Korean President Lee Myung-bak also visited Japan in April 2008, and at a summit meeting with Prime Minister Yasuo Fukuda, Japan and South Korea agreed to expand into a more mature partnership and open up the “Japan-Korea New Era” by recognizing their history, having a vision for the future, and contributing to the international community together²³. Amid the improvement of CJK relations, at the CJK summit meeting held at the ASEAN+3 Summit in Singapore in November 2007, the three countries agreed that the future Trilateral Summit would take place outside the framework of ASEAN-related meetings, holding one summit each in Japan, China, and South Korea respectively²⁴. In December 2008, a stand-alone type CJK Summit was held for the

20 “*Nikkei Shinbun*” November 29, 2004.

21 “*Nikkei Shinbun*” December 9, 2006.

22 MOFA (2008) “Joint Statement between the Government of Japan and the Government of the People's Republic of China on Comprehensive Promotion of a "Mutually Beneficial Relationship Based on Common Strategic Interests” May 7, 2008.

23 MOFA (2008) “Japan-Korea joint press announcement” April 21, 2008.

24 MOFA (2007) “Japan-Korea-China Summit” November 20, 2007.

first time in Dazaifu, Fukuoka Prefecture, Japan, which was different from conventional summits that had been held on the sidelines of other international conferences such as ASEAN+3²⁵.

In October 2009, the Trilateral Joint Research Project on the CJK FTA published its final report. More than six years had passed since the research started in 2003. In the report, in light of the global financial crisis of the previous year, it was emphasized that the establishment of an optimal production network in East Asia would be possible only after liberalization of trade and investment between CJK. At the same time, the policy recommendation included the proposal that the Trilateral Joint Research Project on the CJK FTA be upgraded to a governmental level. In response to these recommendations, the leaders of the three countries reached a consensus during the second CJK Summit in Beijing, China in October 2009, to have a Joint Study Committee for a CJK FTA among government officials, business and academic participants²⁶. In addition, at the same meeting, it was agreed they would establish the Trilateral Cooperation Secretariats proposed by President Lee Myung-bak.

(2) CJK FTA Joint Study

In May 2010, the first meeting of the Joint Study Committee for a CJK FTA consisting of members of government officials, business and academia was held in Seoul, South Korea²⁷. The deputy ministers from each country attended, and it was confirmed that the work to explore the feasibility of a CJK FTA should be completed by 2012. At the CJK summit meeting held the same month, the leaders of the three countries showed their desire to deepen the CJK FTA. Sharing the recognition that the role of CJK would play an increasingly important role in Asia's driving of the world economy after the global financial crisis, the leaders adopted "Cooperation Vision 2020" to develop relations among the three countries over the next 10 years²⁸. While China's Minister of Commerce Chen Deming had a positive attitude that the CJK FTA would contribute to the expansion of domestic demand in Asia, Kim Jong-hoon, the trade minister of South Korea, was cautious about starting negotiations²⁹. As a result, though the three countries recognized the significance of CJK FTA, they did not share common views toward CJK FTA. In the end, the Joint Study Committee for a CJK FTA met seven times in total, and the report was submitted in December 2011, earlier than the

25 In Japanese Foreign Ministry's terminology, from November 1999 to November 2007, the eight meetings held as an extension of the ASEAN-related meetings were the "Japan-China-Korea Summit Meeting", and the independent meetings after December 2008 were "Japan-China-Korea Summit". When it is "held at the time of another international conference" such as ASEAN+3 related conferences, it is distinguished as "Japan-China-Korea Summit Meeting", and as an institution that has been institutionalized as a single conference, "Japan-China-Korea Summit".

26 MOFA (2009) "Joint Statement on the Tenth Anniversary of Trilateral Cooperation among the People's Republic of China, Japan and the Republic of Korea" October 10, 2009.

27 "Nikkei Shinbun" May 6, 2010.

28 MOFA (2010) "Japan-China-ROK Trilateral Summit Trilateral Cooperation VISION 2020" May 30, 2010.

29 "Nikkei Shinbun" June 6, 2010.

initial deadline³⁰. The report noted the following things that the FTA should consider: (1) comprehensiveness and high standards, (2) harmonization with World Trade Organization (WTO) rules, (3) equilibrium of profits, and (4) sensitivity to the impact on domestic industry³¹.

(4) Before the Negotiations Started

2011 was a year in which the movement of world mega FTAs began to accelerate rapidly. This was triggered by the announcement of Japan's intent to participate in the Trans Pacific Partnership Agreement (TPP) negotiations at the APEC Summit held in Honolulu in November 2011³². After Japan expressed its interest in participating in the TPP, Canada and Mexico also announced their participation in the TPP negotiations, and ASEAN confirmed its policy to establish a working group on Regional Comprehensive Economic Partnership (RCEP) at the ASEAN Summit in the same month. The EU also agreed to start negotiations on a Japan-EU Economic Partnership Agreement (EPA)³³.

The CJK Investment Agreement was signed at the Fifth CJK Summit held in Beijing on May 12, 2012. The summit also included a statement in the joint declaration that it would make preparations to start the CJK FTA negotiations within the year³⁴. On May 2, just before the summit, China and South Korea agreed to start negotiations on a China-Korea FTA. This implied that Japan could be at a disadvantage in negotiations at the CJK FTA. While the start of the CJK FTA negotiations was actively promoted by Prime Minister Wen Jiabao in China, South Korean President Lee Myung-bak, on the other hand, claimed that the China-Korea FTA should be prioritized. President Lee was reluctant to start CJK FTA negotiations³⁵.

Though the CJK's diplomatic relations had improved, Japan-Korea relations deteriorated due to President Lee Myung Bak's visit to Takeshima on August 10, 2012. Moreover, anti-Japanese protests frequently occurred in China, triggered by the acquisition of the Senkaku Islands by the Japanese government. A spokesman for the Chinese Ministry of Commerce argued that the Japanese government's actions would adversely affect the CJK FTA³⁶. There were growing concerns that the conflicts over the Senkaku Islands and Takeshima would affect the start of the CJK FTA negotiations; however, the three countries reached the common recognition that economic issues should be

30 MOFA (2011) "Joint Study Report for an FTA among China, Japan and Korea" December 16, 2011.

31 "*Nikkei Shinbun*" December 16, 2011.

32 Hideyuki Miura (2012) "The Domestic Policy-Making Process under the Democratic Party of Japan government: Japan's Participation in the Trans-Pacific Partnership Agreement" *Journal of Asia-Pacific Studies*, No. 18.

33 Hideyuki Miura (2020) "The Political Economy of Agricultural Trade Negotiation" *Keisoshobo*.

34 MOFA (2012) "The Fifth Trilateral Summit Meeting among The People's Republic of China, the Republic of Korea and Japan Joint Declaration on the Enhancement of Trilateral Comprehensive Cooperative Partnership" May 13, 2012.

35 Akihiko Tamura (2012) "Japan-China-Korea FTA" *JC Economic Journal*, July 2012, Japan-China Economic Association.

36 "*Nikkei Shinbun*" September 19, 2012.

proceed separately from territorial disputes³⁷.

As mentioned above, the Korean FTA had been reluctant about a CJK FTA at first, with the China-Korea FTA being its top priority. However, when the Park administration took office after the 2012 South Korean presidential election, President Park took initiatives advancing the CJK FTA, which took into account the fact of Japan's participation in TPP negotiations³⁸. For its part, China was concerned that they would be removed from the framework of the US-led free trade agreement covering the Asia-Pacific region. As a result, though the conflict over the Senkaku Islands had intensified, China eagerly led the discussions on the start of CJK FTA negotiations. At the East Asia Summit held in Phnom Penh, Cambodia on November 20, 2012, due to the deterioration of diplomatic relations, the regular CJK summit meeting was not held. Instead, the start of CJK FTA negotiations was declared by the CJK Economic and Trade Ministers³⁹.

(5) As Negotiations Continued

In response to the declaration of the start of talks, the first CJK FTA meeting was held in Seoul in March 2013 to discuss the issues and modalities of the negotiations. The CJK FTA was positioned as the foundation of RCEP and the three countries aimed to conclude an agreement during 2014. Regarding the negotiation approach, working groups were set up in 10 fields such as trade and investment⁴⁰. Intellectual property measures, which Japan stressed the importance of, were to be discussed at a Meeting of Experts Group under the Working Group. Though Japan had proposed that intellectual property measures be discussed at the Working Group level, China was reluctant and expressed its disapproval⁴¹. At the Fifth CJK FTA negotiation meeting, it was decided that a new working group would be established to discuss the three issues of e-commerce, the environment, and cooperation and capacity building⁴².

Yet as talks continued, the relationship between Japan, China, and South Korea worsened after Prime Minister Abe's visit to Yasukuni Shrine on December 26, 2013, and the summit-level talks were put on hold in May 2012. Negotiations continued, although exchanges between leaders stopped. Two weeks before the sixth round of negotiations held in November 2014, the bilateral FTA between China and Korea was virtually concluded. In response to this, China and Korea proposed a

37 "Nikkei Shinbun" September 19, 2012. Kenji Goshima, Deputy Minister for Economic Affairs, Ministry of Foreign Affairs, said, "we will make preparations so that practical matters do not become a bottleneck." He also emphasized the idea of separating FTA negotiations and political issues separately. .

38 "Nikkei Shinbun" March 16, 2013.

39 MOFA (2012) Press Release on the Launch of the FTA Negotiations among China, Japan and Korea" November 20, 2012.

40 Established working groups (10 fields: trade, investment, services, trade rules, customs cooperation, competition policy, rules of origin, general rules such as dispute resolution, Sanitary and Phytosanitary Measures, technical barriers to trade), expert meetings (2 fields: intellectual property, e-commerce)

41 "Nikkei Shinbun" March 28, 2013.

42 "Nikkei Shinbun" September 5, 2014.

target liberalization rate to Japan based on the agreement between the two countries. However, the quality of the China-Korea FTA was very weak; it promised to eliminate tariffs on about 90% of items over 20 years and there were few mentions of specific items. For these reasons, Japan rejected the proposal from China and Korea because the standards were too low, and as a result, the target-setting of the liberalization rate was postponed. As mentioned above, it was confirmed that diplomatic and economic issues should be dealt with separately among the three countries, but it was considered difficult to conclude the negotiation within 2014, which was the original goal⁴³.

Under these circumstances, TPP negotiations were largely agreed upon on October 5, 2015 in Atlanta, Georgia, in the United States. The conclusion of the TPP reminded the leaders of CJK of the importance of economic partnerships again, and provided an opportunity to hold a summit meeting for the first time in three and a half years⁴⁴. The Annex of the Summit Declaration included the text that CJK FTA should aim for a high level of liberalization like TPP and have strict intellectual property protection measures. In addition, the three leaders agreed to promote cooperation in areas such as electronic commerce, technological innovation, and facilitation of corporate activities.

In the midst of slow progress in the CJK FTA negotiations, President Donald Trump, who took office as President of the United States on January 20, 2017, insisted upon a policy of "America first" in his inauguration speech, and at the same time he instituted drastic changes in economic and foreign policy⁴⁵. Immediately after taking office, President Trump announced that he would withdraw from the TPP and instructed the US Trade Representative (USTR) to shift its trade policy to bilateral-based negotiations⁴⁶. In March 2018, U.S.-China trade frictions escalated after the announcement of the enforcement of sanctions against China based on Article 301 of the US Trade Law. It had reached the sphere of economic war as symbolized by a tariff increase battle between the two countries.

Meanwhile, Prime Minister Li Keqiang announced that he would promote cooperation with neighboring countries and advance the conclusion of the CJK FTA amid the rise of protectionism. He said he was prepared to strengthen relations with Japan and South Korea and avoid the siege of China while the relations with the United States deteriorated⁴⁷. However, in recent years, Japan and South Korea had had problems regarding export control, and also Japan and China had had problems regarding the next-generation 5G communication standard. Under such circumstances, in December 2019, at the CJK summit meeting held in Chengdu, China, participants

43 "Nikkei Shinbun" January 30, 2014.

44 "Nikkei Shinbun" October 31, 2015.

45 White House (2017a) "The Inaugural Address, Remarks of President Donald J. Trump – As Prepared for Delivery" January 20, 2017.

46 White House (2017b) "Presidential Memoranda, Presidential Memorandum Regarding Withdrawal of the United States from the Trans-Pacific Partnership Negotiations and Agreement" January 23, 2017.

47 "Nikkei Shinbun" March 15, 2019.

agreed to accelerate the CJK FTA negotiations; however, there are still many issues surrounding Japan, China, and South Korea's deepening cooperation.

After all, ever since the CJK FTA negotiations were initiated, there have been 16 negotiations, and an agreement has remained elusive. Not only have they not reached an agreement in areas such as market access and intellectual property measures, which were initially considered difficult, but negotiations in areas that were thought to be simple, such as electronic commerce, have also been strained.

3. Background of the Promotion and Stagnation of CJK FTA Negotiations

The CJK FTA negotiations took a considerable amount of time before being launched, and they have faced the prospect of having no conclusion even after the negotiations began. Though the three countries have been facing major challenges in diplomatic relations, they have been gradually advancing the CJK negotiations. In this section, I will try to examine the reason behind the promotion and stalling of the CJK FTA negotiations.

1) Background of the Promotion of CJK FTA Negotiations

Analyses have determined that the factors of economic crisis and competitive regionalism were the triggers behind the progress of cooperation in CJK and FTA. First, in general, economic crises are often described as a trigger for initiating FTAs. Agawal pointed out that the momentum for new trade agreements came from shocks (structural changes) such as the economic crisis⁴⁸. For this reason, it was considered that economic crises were the factors that promoted CJK cooperation and FTAs by the three countries. For example, as the momentum of regional economic integration in East Asia increased following the Asian financial crisis that occurred in 1997, the intra-regional trade ratio increased in East Asia, and the countries in the region actively concluded FTAs⁴⁹. The structural changes in the economic and political system after the Asian financial crisis contributed to changes in awareness and the diffusion of new policy ideas⁵⁰. Higgott said the background for the rapid rise in FTAs in East Asia was closely related to the decline of US economic hegemony in the region⁵¹. Especially in the wake of the Asian financial crisis, the United States did not exert any initiative, and as a result, East Asian countries turned to bilateral FTAs to secure preferential access

48 Vinod Aggarwal and Shujiro Urata ed., (2006) "Bilateral Trade Agreements in the Asia-Pacific: Origins, Evolution, and Implications" Routledge, p.3.

49 Mamoru Nagano (2003) "Inter-Regional and Intra-Regional Trade in East Asia: Recent Developments and Aggregate Bilateral Trade Elasticities" *Journal of Economic Integration*, 18-1, pp. 105-125.

50 Acharya, Amitav (2000) "The Quest for Identity: International Relations of Southeast Asia," Oxford University Press.; Higgott, Richard A. (2007) "The Theory and Practice of Regionalism in East Asia: Peter Katzenstein's Value Added," *Journal of East Asian Studies*, Vol.7, No.3.

51 Higgott, Richard A. (2004) "US Foreign Policy and the Securitization of Economic Globalization," *International Politics*, Vol.41.

and create a more diversified export market⁵². CJK FTA negotiations were sought under similar circumstances, but once the Asian financial crisis subsided, the momentum slowed down. Yoshimatsu considers that the global financial crisis that occurred in 2008 as well as the Asian financial crisis, also increased CJK's economic interdependence⁵³. However, at the end of the 2000s, an FTA network centered on ASEAN was constructed, and interest in the realization of mega-FTAs throughout East Asia began in earnest. Because there were differences in the way of thinking among the countries in the region including Japan and China, the movement to advance an FTA in East Asia slowed⁵⁴. Certainly, with an economic crisis such as the Asian financial crisis and the global financial crisis, the cooperation of the three countries by CJK was greatly promoted; however, as Zhang argued, it stagnated once the crisis was over⁵⁵.

The promotion of CJK cooperation and FTAs was also affected by the competitive regionalism factor. For example, as Japan showed its interest in participating in the TPP negotiations, China and South Korea took a positive stance toward the CJK FTA negotiation⁵⁶s. China was shocked at the time; not only because Japan moved forward to participate in the TPP negotiations, but also by South Korea ratifying an FTA with the United States, because China wanted to remove the influence of the United States while preventing China's isolation from the Asia-Pacific region. The reason why Japan did turn to TPP was because of competition with Korea, which had already concluded FTAs with the US and EU. South Korea had also completed a joint study on the China-Korea FTA in 2010, and started negotiations for a China-Korea FTA. Japan increasingly worried about a situation where Japan was left behind as South Korea prioritized the China-Korea FTA over the CJK FTA. As a result, it is argued that the China-Korea FTA acted as the CJK FTA's stepping stone⁵⁷. In this way, with the CJK FTA functioning as a competitive regionalism factor, Japan and South Korea wanted to avoid the negative effects of the trade diversion. In addition, it can be considered that it was a foreign policy goal of China to minimize the influence of the United States in the Asia-Pacific region.

(2) Background of the Stagnation of CJK FTA Negotiations

Needless to say, the diplomatic factors surrounding Japan, China, and South Korea have

52 Aggarwal, Vinod K. and Koo, Min Gyo (2009) "Economic and Security Institution Building in Northeast Asia: An Analytical Overview," Springer Verlag.

53 Hidetaka Yoshimatsu (2016) "Critical Junctures and Institution-building: Regional Cooperation on Free Trade and Food Security in East Asia" *Pacific Review*, 29-5, pp. 693-715.

54 Junichi Sugawara (2012) "Regional Economic Integration in the Asia-Pacific Region and Japanese Strategy" *Journal of Mizuho Research Institute* 2012, II, pp. 1-22.

55 Muhui Zhang (2019) "The China-Japan-Korea Trilateral Free Trade Agreement: Why Did Trade Negotiations Stall?" *Pacific Focus*, 34-2, pp. 204-229.

56 "Nikkei Shinbun" December 11, 2011.

57 Yang Li, Weijie Feng and Yanxi Huang (2013) "The Potential of China-Japan-South Korea Free Trade Agreement" *East Asia*, 30-3, pp. 199-216.

affected the stagnation of cooperation. For example, Prime Minister Abe's visit to Yasukuni Shrine in 2013 worsened the relationship between Japan and China, and Japan and South Korea, which made difficult to find an opportunity to hold a summit meeting. However, even in such an environment, the negotiator in charge of CJK FTA thought that political confrontation and trade negotiations were different, and that negotiations should proceed as planned⁵⁸. So even as the diplomatic relations between the three countries deteriorated, negotiations did not stop. In this section, I would like to analyze what the causes that influenced the stall of CJK FTA negotiations were other than diplomatic factors.

First, it is thought that the decrease in economic interdependence between Japan and China or between Japan and South Korea became a factor which led to stalled CJK FTA negotiations. In recent years, Japanese companies have been aggressively expanding overseas to promote procurement of parts and materials in local markets, which has reduced trade between Japan and China or Korea. Because of this, the value of China's trade with South Korea exceeded that of Japan with China. Moreover, because China itself has been globalized in recent years, intra-regional trade with East Asia has declined, and FDI by Japan in China has also declined⁵⁹. As a result, as mentioned above, not only has Korea prioritized the China-Korea FTA over the CJK FTA, China has done the same⁶⁰.

Second, domestic political factors negatively affected negotiations. In each country, there are items that cannot be compromised. For example, 70% of goods sent to China are subject to tariffs, but even though reducing tariffs in China would be beneficial to Japanese export industries, China is unlikely to oblige. On the other hand, for Japan and South Korea, cheap agricultural products imported from China could damage domestic agriculture. In order for Japan to limit the impact of imports of agricultural products from China and South Korea on domestic farmers, domestic actors lobbied strongly in opposition to CJK FTA negotiations⁶¹. In addition, the liberalization of imports of textile products, consumer goods, electrical and electronic equipment from China, and the liberalization of imports of machinery and electrical and electronic equipment from Japan have become sensitive issues in South Korea. Since South Korea has a large trade deficit with Japan, and also imposes 60% tariffs on high-tech products and automobile parts from Japan, South Korea was concerned that the elimination of tariffs would further increase the gap. Furthermore, while Japan wanted a high-quality and standardized FTA including intellectual property measures, China was reluctant to agree to this because China believed that carrying out domestic reforms is difficult. Signing a CJK FTA would create competition and put great pressure on

58 "Nikkei Shinbun" January 30, 2014.

59 Kan Kimura (2014) "Northeast Asian Trilateral Cooperation in the Globalizing World: How to Reestablish the Mutual Importance" *Journal of International Cooperation Studies*, 21-2/3, pp. 41-61.

60 "Nikkei Shinbun" January 4, 2014.

61 Miura (2020)

Chinese companies, not only in manufacturing industries such as petroleum, chemicals, automobiles, machinery and electronic equipment, steel, and shipbuilding, but also in the service industries such as finance, telecommunications, and construction. In this way, it can be considered that CJK's FTA negotiations stalled due to domestic political factors in each country.

Third, the prioritization of CJK FTA in each country has declined. As mentioned earlier, Japan was hesitant to initiate CJK FTA negotiations at first due to opposition from domestic actors such as agricultural groups. Despite this, Japan joined the CJK FTA negotiations because there were growing concerns that Japan would be left behind as the China-Korea FTA concluded. At the same time, Japan prioritized TPP over a CJK FTA. South Korea for its part has been reluctant from the beginning of FTA negotiations involving Japan, and as a result, it can be said that South Korea prioritized bilateral FTA negotiations with China. China hoped that CJK FTA would bring larger markets and more advanced technologies from Japan and South Korea⁶². Since the Chinese economy has slowed down and has entered into the so-called “new normal” in recent years, China sought domestic industrial and economic reforms through CJK FTA.

However, Zhang argues that China has lost its interest in CJK FTA for two reasons⁶³. First, CJK FTA was aiming for a high quality and standardized FTA led by Japan. At the CJK summit held in November 2015, Japan successfully included the phrase “comprehensive and high level” in the CJK FTA with a nod to the high liberalization level of TPP. Japan actively promoted the inclusion of this phrase, but since China strove to avoid such a high level of liberalization to reduce negative impacts on domestic industry, it was difficult for them to accept Japan’s demand. For example, the tariff elimination rate of the China-Korea FTA was about 90%, which was a looser standard than the TPP. At the China-Korea summit meeting held in October 2015, China's Prime Minister Lee Keqiang proposed that the China-Korea FTA should be the model of a CJK FTA or RCEP rather than the TPP⁶⁴.

Secondly, China has become reluctant to advance the CJK FTA because China’s interests have shifted from CJK FTA to RCEP. RCEP, which includes a number of developing countries in South East Asia and is considered to have a lower standard than CJK FTA, is likely to conclude sooner than CJK FTA. Since CJK sought for high standards as mentioned above, China prefers RCEP to a CJK FTA. In addition, the Belt and Road Initiative (BRI) that China has newly advocated is “looking to the West and South” rather than “looking to the East” and places a higher priority on ASEAN countries than Japan and Korea. For these reasons it seemed that China’s interest in CJK FTA had declined, however, the condition in China has changed in recent years, especially after the Trump administration in the United States announced that it would impose sanctions on China under Article 301 of the US Trade Law in March 2018, which caused trade friction between

62 Zhang (2019) p.220.

63 Zhang (2019) p.220.

64 “*Nikkei Shinbun*” November 2, 2015.

the United States and China. Under such circumstances, Prime Minister Li Keqiang emphasized cooperation with neighboring countries, especially Japan and South Korea, and promoted the conclusion of the CJK FTA in order to avoid restraints from the United States⁶⁵.

(3) The Strategic Significance of CJK FTA for Japan

As described above, CJK FTA has many diplomatic and economic issues, but it is of great strategic importance for Japan to realize a high-level CJK FTA at an early stage. Kuno points out three reasons why CJK FTA is significant for Japan⁶⁶. First, the CJK FTA will help upgrade the production network in East Asia. Second, with the enforcement of the China-Korea FTA, improving access to the Chinese market has become an urgent matter for Japanese industries. Third, the realization of high-level economic integration by CJK is essential for achieving an ambitious level of integration in the RCEP and the Asia-Pacific Free Trade Area (FTAAP). In particular, the standards of RCEP with developing countries in ASEAN is likely to be kept lower than that of the TPP, and it is important that CJK FTA takes the initiative to aim for a high-quality FTA.

In recent years, not only in the United States but also in Japan and Europe, market-distorting measures such as industrial subsidies and state-owned enterprises and mandatory technology transfer policies by third-party countries like China have become a problem. To deal with those issues, Japan's Minister of Economy, Trade and Industry Hironari Seko proposed a Trilateral Trade Ministers' Meeting by the Ministers for Trade in Japan, the United States and the EU. On December 12, 2017, the first meeting was held to jointly deal with these market-distorting measures on the occasion of the 11th WTO Ministerial Meeting⁶⁷.

The agenda of the trilateral trade ministers' meeting includes non-market-oriented policies and practices by third countries, such as industrial subsidies, state-owned enterprises, forced technology transfer policies, WTO reforms, digital trade and e-commerce. The specific name of the third country was not mentioned, but it was clearly targeting China. Although Japan, the US, and Europe have different views toward these market-distorting measures, all three have been jointly urging China to improve market-distorting measures through international forums such as the OECD, G7, and G20, as well as the Trilateral Trade Ministers' Meeting. It may be possible that CJK FTA also can take that role. However, one of the most conflict-causing issues in the current CJK FTA negotiations is the treatment of e-commerce.

4. The Formation of an E-Commerce Rule

65 "Nikkei Shinbun" March 15, 2019.

66 Arata Kuno (2016) "Reexamination of strategic importance of CJK FTA negotiations" Journal of International Trade and Investment, Winter 2016/No.106.

67 METI (2017) "Joint Statement of the Trilateral Meeting of the Trade Ministers of Japan, the United States and the European Union" December 12, 2017.

Since the adoption of the “Declaration on Global Electronic Commerce” at the WTO Second Ministerial Meeting held in May 1998, the WTO, OECD, UNCITRAL, and APEC have discussed the legal disciplines or regulatory frameworks for e-commerce⁶⁸. Although the formation of a multilateral framework has not yet been concluded, the Australia-Singapore FTA, which was signed in 2003, established the e-commerce chapter for the first time. Since then, regulations focusing on e-commerce have been incorporated into FTAs in each country. The EPA signed by Japan also includes an e-commerce chapter, starting with Japan-Switzerland EPA, Japan-Australia EPA, Japan-Mongolia EPA, CPTPP and Japan-EU EPA. In CPTPP, it clearly mentioned the three new perspectives of e-commerce as follows: “protecting the free flow of information across borders,” “preventing governments of CPTPP member countries from requiring the use of local servers for data storage,” and “preventing governments of CPTPP member countries from demanding access to an enterprise’s software source codes.”

Considering the importance and economic value of e-commerce in the CJK FTA negotiations, at the 11th CJK Economic and Trade Ministers' Meeting held in October 2016, three countries decided to launch the Trilateral Working Group Meeting for the Joint Study “Trilateral Cooperation on E-Commerce” and a Trilateral Countries Secretariat (TCS) has been appointed as the coordinator of this research project⁶⁹. The joint study was intended to contribute to the creation of a digital single market for the entire region. Initially, the discussion on e-commerce appeared it would lead to easy agreement among the three countries, but in recent years, because China introduced a number of data protectionism measurements, Japan has demanded the formation of stricter e-commerce rules in CJK FTA, which discourages China from being involved.

In December 2017, 71 of the 164 WTO member countries and regions issued a joint statement on e-commerce at the WTO 11th Ministerial Meeting held in Buenos Aires, Argentina. In this statement, the participating countries agreed to start joint exploratory work towards future WTO negotiations on the trade-related aspects of e-commerce⁷⁰. WTO member countries that did not sign this statement also participated and discussions based on this began in March 2018 toward the formulation of rules on e-commerce. At the informal meeting of Ministers on the WTO e-commerce initiative at the margins of the World Economic Forum Annual Meeting in Davos, Switzerland in January 2019, a joint statement saying “commencing WTO negotiations on e-commerce is a significant step towards updating international trade rules in line with how modern business is done” was announced. Since then, negotiations have begun in earnest, and 78 countries and regions are currently participating⁷¹.

68 WTO (1998) “The Geneva Ministerial Declaration on global electronic commerce” WT/MIN(98)/DEC/2, May 25, 1998.

69 METI (2016) “The Eleventh Japan-China-ROK Economic and Trade Ministers’ Meeting” October 31, 2016.

70 WTO (2017) “Joint Statement on Electronic Commerce” WT/MIN(17)/60, 13 December, 2017.

71 METI (2019) “Joint Statement on Electronic Commerce” January 25, 2019.

In June 2019, at the G20 Summit, which was the first summit chaired by Japan and held during the US-China trade conflict, an agreement was reached to start the “Osaka Track⁷².” The “Osaka Track” is a process of developing international rules concerning the digital economy, especially movement of data and e-commerce. At the World Economic Forum Annual Meeting on January 23, 2019, Prime Minister Abe announced the launch of the “Osaka Track” at the G20 Summit and advocated the concept of “DFFT (Data Free Flow with Trust)⁷³.” The DFFT is a commitment for achieving free flow of data while ensuring trust in privacy and security. The movement called “data protectionism” has been expanding mainly in emerging countries such as China, and there has been a large gap between the G20 member countries regarding the rules of es-commerce and free flow of data.

The data protectionism advanced by China was the reason why Japan called for the formation of international rules for data flow. With the rapid growth of e-commerce and electronic payments, a huge amount of data is accumulating in China, and with regard to its use, China enforced the Cybersecurity Law in June 2017 and strengthened its own data regulations. In China, there are restrictions on cross-border transfer of data necessary for business (personal information or important data). China is also enacting a new law called the Data Security Law. Based on this new law, penalties can be imposed if the state monitors data collection and determines that it compromises national security.

In South Korea, in order to prevent cross-border personal information moving overseas, as a general rule, individuals must be informed of certain purposes and items regarding the use of personal information and consent must be obtained. The EU began enforcing the General Data Protection Regulation (GDPR) in May 2018 with the aim of strengthening the protection of personal information. Already, developed countries such as the United States, Japan, Canada, and New Zealand have been recognized by Europe as countries with sufficient personal data protection standards, and personal data within the EU can be sent to those countries with a relatively simple procedure. On the other hand, it is difficult for China to be recognized by the EU as a country with the same level of personal information protection legislation as the GDPR. However, in July 2020, the Court of Justice of the European Union invalidated the EU-US information transfer rule called the Privacy Shield. The views between the US and EU are not fully unified. There is still a huge gap between the EU, which emphasizes individual privacy, and the United States, which allows active data utilization in both the public and private sectors.

Under these circumstances, the United States is proposing to the member countries in the Asia-Pacific Economic Cooperation (APEC) to review the Cross-Border Privacy Rule (CBPR). The United States seems to be aiming to make rules independent from the APEC framework and exclude

72 MOFA (2019) “Osaka Declaration on Digital Economy” June 28, 2019.

73 MOFA (2019) “Speech by Prime Minister Abe at the World Economic Forum Annual Meeting: Toward a New Era of Hope-Driven Economy” January 23, 2019.

China, which collects data under unique regulations. In recent years, there have been many conflicts between the US, which promotes the free flow of data, and state-led China, which strictly regulates movement of data based on national interest, at international forums such as APEC⁷⁴. This has resulted in stagnating discussions. The US-led formation of new international rules in terms of data flow to restrain China could result in a new confrontation between China and developed countries. Consequently, China could become an increasingly protective country in terms of data flow.

5. Conclusion

The CJK FTA negotiations started in 2012 under the environment of competitive regionalism. Initially, countries aimed to conclude the trilateral agreement in 2014, however due to various factors hindering negotiations such as diplomatic, economic and political issues, there is little prospect of concluding CJK FTA. Japanese companies currently are also under pressure to deal with the US-China trade conflict. For the time being, Japanese companies are adopting a strategy called “China Plus One;” maintaining the production bases in China while producing in other countries as a hedge against risk. In view of the importance of e-commerce and its economic value, it is essential for the three countries to cooperate not only in CJK FTA but also in WTO e-commerce negotiations in order to accelerate the creation of international rules for the digital economy. Digital connectivity will enable business continuity even with the disruptions caused by the spread of COVID-19. Each country has its own concerns about the digital economy but it is still important for Japan to take a role of leading a rule-making of the digital economy. CJK cooperation has a historical background of progressing in the face of world economic crisis. Even today, under this Corona Shock, we should apply the lessons which we have learned in the past.

74 “*Nikkei Shinbun*” March 15, 2019.