

Mr Robert Sturdy.
Member of the European Parliament
Vice Chairman of the INTA Committee
Rapporteur on EU-Korea FTA
International Trade Committee
European Parliament
Paul-Henri Spaak Building
Rue Wiertz, 60
B - 1047 - Brussels

Brussels, 11 March 2010

Subject: Services Industry Calls the European Parliament to give its consent for the conclusion of the EU-Korea FTA

Dear Mr. Sturdy,

As you know, the European Services Forum (ESF) is a network of high-level representatives of the European Services Sector committed to promoting the interests of European services and market-opening in services markets throughout the world through international trade in services negotiations.

On behalf of the business leaders of European services companies and our sector specific trade associations (see attached), I wish to express our strong support for the rapid conclusion and implementation of the Free Trade Agreement ("FTA") which has been negotiated between the European Union and the Republic of South Korea.

As you are aware, the services sector is by far the most important sector of the European economy accounting for 71% of EU GDP and 67% of EU employment. Services also account for 23% of total EU trade. South Korea is the EU's ninth largest trading partner. The European Union and South Korea are already important partners in trade in services, with a services trade volume (both ways) of more than €1.1 billion in 2007, resulting in an EU services trade surplus with South Korea worth more than €3.2 billion. This trade has grown by a massive 66% in the last five years.

These figures could be improved even further if the services trade barriers between the two blocs were removed. According to Eurostat's 2007 FDI Yearbook, Korea received €3.5 billion of EU outward FDI in 2005, of which more than 65% came from services sectors. This was however only 2.4% of total EU outward investment - a clear signal that trade and investment conditions for Europe's companies could be greatly improved in South Korea. Freer market access, non-discriminatory regulation and better implementation of regulation need urgently to be put in place in the South Korean market, matched by quicker, more transparent and less burdensome Korean administrative procedures.

The important trade-liberalising commitments made by South Korea in the EU-Korea FTA go far towards securing such improved conditions for EU service-suppliers in the Korean market. Many European services companies and their employees stand to benefit directly, along with numerous manufacturing and agricultural businesses that also depend on services support. The conclusion of such an important headline agreement at the current economic juncture would give a boost to commercial prospects that would greatly enhance the current efforts of the authorities across Europe to restore economic confidence, wealth-creation and jobs. It would also send a wider strategic message, in two ways. First, it would affirm political support for the EU's "Global Europe" initiative, establishing an important precedent for similar FTA agreements seeking the same

liberalising concessions from other trading partners. Second – because the US has yet to ratify its FTA with South Korea of 2007 – it would give the EU a “first mover” advantage in the Korean market. And the FTA would showcase Europe’s determination to keep its markets open and to use trade policy and trade expansion towards overcoming the current financial and economic crisis. For all these reasons, we therefore urge the European Parliament to give its consent to this Agreement so that most the benefits to the EU can be realised as soon as possible, through the provisional implementation of the agreement when appropriate, at the latest before the end of 2010.

Any trade agreement offers a balance of attractions to both sides. There are certain EU interests that have pointed only to potential risks from the EU-South Korea FTA, without regard to its substantial rewards. We do understand the concerns of some manufacturing sectors and we hope that the Safeguard Regulation that the Parliament is now examining will take the necessary measures so as to ensure a level playing field in their sector. However, it must also not be forgotten that the rewards are substantial enough to far outweigh any risks. The FTA will bring benefits focused in those areas of commercial activity where the EU remains most globally competitive, notably the services and knowledge-based skills that are vital for any advanced economy. Based on the 5 past years’ figures of international trade in services between the EU & Korea, we can predict that the net surplus for the EU could reach €6.4 Billion in 2015, if we table on an annual increase of 15%, compared to the current 10%. **The benefit of the implementation of the FTA would then be €+1.5 Billion after 5 years of implementation** (see chart). Given current difficult economic circumstances, there could be no better time to demonstrate to Europe’s business community that the EU is intent on concluding agreements of real significance to the European economy, bringing new market opportunities for the EU’s most advanced sectors, and, with them, new jobs in the EU’s member-states.

We therefore ask Members of the European Parliament to have regard to Europe’s overall comparative and competitive advantage and the wider and economically more significant interests of those sectors of Europe’s economy which stand to benefit most from the Agreement. We urge that these sectors should be given the highest priority in the implementation of the EU’s declared negotiating strategy. To do so, there needs to be a proper assessment of the overall balance of benefits from the agreement, including the enormous potential that it offers to the various services sectors that constitute the backbone of the EU economy. These advanced sectors desperately need further market access abroad, so as to allow EU businesses to deploy their global comparative advantage and support enhanced competitiveness and business development at home.

You will find attached a detailed sector-by-sector assessment of the benefits to Europe’s services industry of the agreement, as negotiated.

We remain at your disposal should you seek further explanations of the attached assessment.

Yours sincerely,



Pascal Kerneis
Managing Director

Cc: Shadow Rapporteurs; Trade coordinators.

The European Services Forum (ESF) is a private sector trade association that represent the interests of European services industry for International Trade Negotiations in Services. It comprises major European service companies at the CEO level and European service sector federations covering service sectors like financial services, tourism, telecommunications, maritime transport, business and professional services, distribution, postal and express delivery, IT services, energy services and the audio-visual industry (see list of members in the web-site: www.esf.be). It is estimated that ESF membership covers approximately 80% of Extra EU services exports and investments. ESF members employ more than 90 million workers, are present in more than 200 countries and provide services to hundreds of millions of consumers in Europe and around the world. The European Union is by far the largest exporter of international trade in services (26% of world share).

European Services Forum Assessment of the benefits Of the EU-Korea FTA Negotiations for the European Services Industry

The European Services Forum has assessed in detail, sector by sector¹, the draft agreement that has been negotiated between the European Union and the Republic of South Korea. Despite Korea being a developed country, market access and national treatment (i.e. liberalisation) for foreign competitors remains up to now heavily restricted. Korea's commitments under the Uruguay Round WTO General Agreement on Trade in Services (GATS) represent insufficient progress towards full market opening, and the interesting offer in the current GATS negotiations is pending to the conclusion of the Doha Round. Similarly, although significant concessions can be registered, the recent FTA between Korea and the US (KorUS) failed to address market access and national treatment (namely, equal treatment toward foreign and domestic providers) for foreign businesses as fully as necessary. And this agreement is not yet ratified and hence not implemented.

Europe's services industry therefore seeks an outcome which genuinely adds to progress made in the WTO and in KorUS, i.e. an agreement that is both "GATS plus" and "KorUS plus". We believe that the EU-Korea draft agreement is offering these additional components that will truly allow European service companies to increase their business activities with Korea and in Korea, improving their regulatory regimes, igniting new jobs in Europe and strengthening the position of the EU in this Asian country.

It needs to be highlighted that contrary to trade in goods where data can be easily collected at the borders, commitments in trade in services and investment are much more difficult to measure. Impact of the negotiations are behind the border, often of regulatory nature, sometimes specifically directed to European suppliers so as to remove a market access barrier, sometimes binding an existing legal practice so as to ensure legal security to the investor through the international treaty that is the FTA. Trade negotiations in services and investment are about creating the right conditions for potential new business opportunities. It is therefore impossible to put exact figures in tons or values, but the impact of the FTA commitments in services will be very important, and the amazing trend in the increase of export from European companies to Korea will no doubt continue thanks to the FTA¹, specially since in 2007 the development of trade in services from the EU with Korea (+30%) lagged behind with the rest of the world (+36%). The room for improvement in trade in services is important. Only 1.4% of total EU export of trade in service went to Korea (although this represent 20% of Korea total trade in services imports). Should the Agreement be implemented, the EU increase of trade in services with Korea should follow a realistic path of 15% per year (compared to the current 10%), which would bring the **net trade in services surplus up to more than € 6.4 Billion in 2015, making an added value of the implementation up to € 1.3 Billion in five years.**

The comments below offer a summary of the real benefits that European services businesses will reap once the Agreement comes into full implementation:

1) Legal services

¹ The order of the sectors is the same than the one used in the UN Classification list used by WTO members in the GATS Negotiations (WTO – MTN.GNS/W/120).

Korean negotiators have finally agreed to give EU lawyers the treatment that they had agreed for US lawyers in the KorUS², i.e. an opening up in three phases:

- (1) From the date of entry into force of the FTA, Korea will allow an EU law firm to establish a representative office in Korea, and EU-licensed lawyers to provide legal advisory service on the laws of the jurisdiction in which they are qualified and on public international law as foreign legal consultants in Korea.
- 2) After two years, Korea will allow a representative office to conclude a specific cooperative agreement with a Korean law firm to jointly deal with a case in which domestic and foreign legal affairs are mixed, and to share profits derived from the case.
- (3) Within five years of entry into force of the FTA, Korea will allow EU law firms to establish a joint venture firm with Korean law firms. Korea may impose restrictions on the proportion of voting shares or equity interests of the firm. Such joint venture may employ Korean-licensed lawyers as its partners and/or associates.

In addition, Korea accepted that the lawyers coming from the EU will be allowed to use their Home Title, which was a requirement from the EU private sector (**KorUS +**). Indeed, the title that foreign lawyers must normally use according to Korean legislation is “Foreign Legal Consultant –FLC” which do not sufficiently indicate to clients that the providers do have law degree and qualifications in their countries of origin.

These are major achievements for the legal services sector, which will allow European Law firms to extend their scope of activities in Korea. Only few countries in the world are offering these possibilities to law firms.

2) Architects services

Architectural services have been included in the EU-Korea FTA, in a similar way as they have been included in the KorUS agreement. This means notably that there is no restriction for European architects to establish in Korea. The obligation to have a local establishment by a juridical person (mode 3) to be able to provide cross-border architectural services has not been entirely removed, but Korea has taken additional commitment, allowing cross-border services and movement of European architects through joint contracts with Korean architects, as well as through the possibility to acquire a Korean architect licence by passing simplified examination.

3) Computer Related Services

On computer related services (CRS), the parties agreed that the FTA’s Regulatory Chapter should use the text proposed by the EU in the WTO negotiations on CRS. This is an important aspect of the commitments for this sector, as it recognises a large scope of the understanding of the sector (see Art 7.25 of Chapter 7 of the agreement). As for the market access in that sector, all barriers have been lifted, i.e. European CRS companies can export across the border without setting up, can provide services to Korean in the EU and can establish themselves in Korea without any restrictions. Horizontal commitments allowing movement of key business personnel (that include business visitors, intra-corporate transferees, graduate trainees, contractual services suppliers and independent professionals) have also been taken by Korea, which is of particular interest to EU companies which are interested in sending IT experts in Korea, notably on a contract services supplier’s basis.

² KorUS in this document refers to the Free Trade Agreement signed between South-Korea and the United States of America in April 2007 (- not ratified yet). The ratification and implementation of the EU-Korea FTA in advance of the US-Korea Agreement will place European companies in a better competitive advantage to their US competitors. This is an opportunity that should not be missed.

4) Postal & express courier services

There also the achievement is essentially similarity to KorUS, including a “side letter” similar to the KorUS (“confirmation letter”) on express delivery services reform. Hence, in this letter, the Commission obtained from Korea to undertake to amend the *Postal Service Act*, related laws, or their subordinate regulations, so as notably to increase the scope of private delivery services that are permitted so that the area of monopoly would be reduced in particular for the distribution of “parcels”. Furthermore, the Commission succeeded in negotiating a “Review Clause” in the side letter that will permit the monitoring of Korea’s commitment on this matter **(small KorUS +)**. There was a fear that Korean government would drag on with the reform of the Postal services act.

For domestic courier supply, European companies will have the possibility to buy a local existing licensed company to have access to that market, which is key to give to their operations in Korea a sufficient dimension that would make the investment profitable. Should they wish to get a new Greenfield trucking business license for domestic courier supply; the request remains however subject to an economic need test.

5) Telecommunication services

On telecommunication services, Korea agreed to give KorUS parity: The FTA will allow European operators to have a 100% capital ownership of a subsidiary two years after the entry into force of the agreement, a major improvement on the current foreign equity cap of 49%. The investment will however have to be made through a locally registered company (i.e. a subsidiary, not a branch).

The Agreement includes other important commitments that should foster a more open and liberalised telecommunications market. For example, it will ensure non discriminatory access for European companies to Korea’s public telecommunications network, including submarine cable landing stations, and it includes new safeguards to help protect technology choice.

The Agreement contains strong obligations for all telecommunications suppliers, including cost-oriented interconnection, dialing parity, competitive safeguards, and resale. These commitments represent significant progress in areas critical to the provision of cross-border telecommunications services (see Sub-Section D of Chapter 7 of the agreement).

Further, the Agreement requires Korea to ensure transparency with respect to regulatory processes applicable to the telecom sector, including a commitment that its regulatory body is separate from, and not accountable to, any supplier of public telecommunications services, and that the regulatory body does not hold a financial interest or operating role in any supplier.

On the satellite related services, in addition of the interesting achievement in getting what is in the KorUS (see above), the EU negotiators succeeded in getting cross border commitments for the satellite broadcasting after a transitional period still to be determined **(KorUS +)**.

6) Construction services

The construction sector has been fully liberalised to reach KorUS parity, allowing European construction companies to do business in the same conditions than Korea companies. In particular, the Commission finally obtained that the compulsory subcontracting system, which was applied to contractors registered as general contractors, will be removed. This will allow European companies to operate a project by their own if they wish to do so.

7) Distribution services

Korea agreed to commit with the EU to a higher level of commitments than those taken in the KorUS, since most of the sub-sectors are fully open (Commission Agent's services; Wholesale Trade services; Retailing services; Franchising) **(KorUS +)**. Even the restriction currently imposed on European distribution companies to sell some products (cars & motorbikes, telecommunication materials, fresh food and alcohol) will be removed on many products, and if some restrictions are maintained like economic needs tests before authorisation, the criteria are listed in the commitments.

European distribution companies very much welcome these commitments that will allow them to do business in Korea and with Korea in an open and sound environment.

8) Environmental services

In environmental services, the Koreans have accepted to offer not only the opening of business to business operations (like in KorUS) but also to open the non-industrial activities. This means that European companies will be allowed to provide services like sewage services, waste management services, sanitation and similar services, environmental testing and assessment services, soil remediation and groundwater purification services, environmental consulting services, etc. to non-industrial companies and to private customers. It will also be possible for EU companies to negotiate public-private partnership agreements with the local authorities in Korea to get a long term concession for waste treatment, which is not in the KorUS. **(KorUS +)**.

Given that European environmental companies are well advanced and have a comparative advantage in many of the sub-sectors listed above, the new possibilities given by the agreement are extremely well appreciated and will allow increased business opportunities.

9) Financial Services

Absent the Agreement, Korea's regulatory framework for financial services contains many rules discriminating against foreign service suppliers and effectively denies EU businesses national treatment, i.e. the more favourable treatment given to Korean domestic suppliers. Moreover, restrictions exist across all individual financial services sectors (banking, insurance and securities). For example, for securities firms, major restrictions exist on cross-border supply; for insurers, restrictions on supply of Marine, Aviation and Transport and reinsurance products remain major impediments; and the banking sector faces onerous lending requirements and other limitations. Korea also maintains sweeping restrictions on cross-border supply of financial services from the EU to Korea by restricting the ability of financial services suppliers to process customer data on a cross-border basis. Without the ability to transfer data where needed, the operations of international providers are highly compromised.

The FTA provides an important remedy, with strong market opening effects. As in KorUS, Korea's commitment to the EU guarantees that 2 years after the FTA's entry into force, EU companies will be able to transfer abroad and process data pertaining to Korean clients. Banking sector representatives in ESF strongly welcome this commitment. Additionally, the Commission also succeeded in ensuring that the broadest possible group of EU financial services businesses benefit from the FTA; commitments apply not only to "financial institutions" (as in KorUS) but to "financial services suppliers" of all kinds, from all financial services sectors. This allows companies that are specialised in data transfer and processing but that are not banks to benefit from the agreement. **(KorUS +)**.

10) Transport services

An ambitious deal on **Maritime Transport** has been negotiated with Korea, which is an obvious KorUS Plus, since this sector was not even included in that agreement. In particular **Road transport** commitments have also been negotiated when related to international shipping companies, which allow the European shipping companies (once licensed) to transport by road their containerised freight up to their final client. **(Important KorUS +)**

Auxiliary Air Transport Services have also been negotiated, like ground-handling services, which is in parity with KorUS. Ground-handling services are important to European airlines so that they can operate their own services if they wish to do so, as well as to European Air Cargo and Express delivery companies that usually operate their own system.

ⁱ EU export and net surplus of trade in services with Korea the last five years in € Billions (2003-2007): **+66%**
The benefit for the EU trade balance with Korea has increased by **100%** in five years.

2003		2004		2005		2006		2007	
Export	Net Surplus								
4.3	+1.6	5.6	+2.3	5.9	+2.4	6.7	+2.7	7.2	+3.2

Source : Eurostat, notably a special number of Statistics in Focus (N° 31/2009) on « Trade in services with South Korea – Surplus for EU in 2007