



# EU-Korea trade relations in the context of global disruption: political and legal perspectives

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## Abstract

Trade has long been the foundation of relations between the Republic of Korea and the European Union, and the conclusion of a comprehensive free trade agreement between the two sides in 2011 was both a recognition of the value of economic exchange and a catalyst for deeper cooperation in subsequent years. This paper discusses in some detail the governance of trade relations and other aspects of economic cooperation between Korea and the European Union, highlighting the multilayered nature and the expanding scope of legal ties between the two sides. The positive bilateral cooperation occurs however against the background of a changing and increasingly challenging global context. The failure of the Doha Round, the limitations of the World Trade Organization, and the growing concerns about decoupling between the USA and China are all developments that complicate efforts towards trade liberalization and indeed threaten to disrupt global trade significantly. These adverse trends contain particular risks for Korea and the EU, both close allies of the USA and also both economies that are deeply integrated with the Chinese economy. Managing Korea-EU trade relations is therefore becoming both more complicated but also more important, and in conclusion, the paper provides an outlook on these future challenges.

## Introduction

South Korea and the European Union (EU) have a long-standing trading relationship (Park 2020). Indeed, trade is not only at the core of their bilateral relations, but both sides share a very similar outlook in their attitudes to global trade. Korea and the EU

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both believe in the positive relationship between exports and economic growth and therefore have traditionally been strong advocates of progressive trade liberalization, in particular through the World Trade Organization (WTO) (Hanson 1998; Lee and Lee 2019). Consequently, when at the beginning of the twenty-first-century global trade diplomacy in the context of the Doha Round began to falter, Korea and the EU pioneered the negotiation of far-reaching free trade agreements (FTA), and the conclusion of the EU-Korea FTA in 2011 was the first of this new kind of “comprehensive” FTAs that the EU would subsequently sign with many countries around the World (Lee 2011; Hilpert and Park 2022).

The EU-Korea FTA was an important and remarkable milestone, both for the bilateral relationship and in terms of its wider significance. Bilaterally, it constituted a significant deepening of what was already a strong relationship. For the EU, it cemented Korea as the key partner in East Asia—a region of enormous and rising significance (Hilpert and Park 2022; Harrison 2014). Substantially, the agreement went far beyond trade liberalization, including commitments in a range of areas, not least political cooperation. As a first of its kind, the FTA was a blueprint for the EU as it embarked on negotiations with other partners in Asia, including Japan, Singapore, and Vietnam. Especially, the trade and sustainable development provisions of the FTA signed by the EU with Singapore and Vietnam were prepared based on the relevant provisions of the Korea-EU FTA; it provided an advantage in spreading the EU’s trade norms in Asia.

For Korea, the FTA was equally significant, especially in the context of parallel trade negotiations with the USA (Hilpert and Park 2022). Here, it provided Korea, potentially outmatched when dealing with the far more powerful USA, with an opportunity to demonstrate that it had other options, as it were. This helped the Koreans to achieve a kind of balancing of economic power in their relations with both of these larger partners and to achieve better outcomes with respect to either side. Beyond the economic partnership, both sides have also deepened their security cooperation over the past decades, focusing in particular—in the light of the EU’s capabilities in this area—on non-traditional aspects of security (Christiansen and MRichey 2021).

This paper is focused on a legal analysis of the nature and significance of formal agreements between the European Union and the Republic of Korea. In view of the significance of this FTA, this paper provides a detailed account of its provisions, and of the implications it has had for economic relations and the wider cooperation between the EU and South Korea. This includes both political and legal perspectives of this and other agreements that the two sides have signed in recent years, as well as the more far-reaching cooperation that has been agreed in recent years.

The adoption and operation of these legal agreements occur within the wider context of EU-Korea relations and a changing global environment. Therefore, before entering into the formal-legal details, the following section of this paper explores the broader environment of EU-Korea trade relations—an environment that is progressively becoming more complicated in an era of disruption, de-risking, and geo-political rivalry among the major global powers. By way of conclusion, the paper assesses the state of EU-Korea relations in view of both global and bilateral developments and provides an outlook on future challenges.

## Turbulent times: the global context of EU-Korea trade relations

If in the early 2000s, South Korea found itself between the USA and the EU and managed to turn the parallel negotiations with these larger powers to its advantages, and then the 2020s present a significantly changed situation in which the stakes have been raised massively. The intervening decades have confronted both Europe and Korea with major internal and external crises, making the facilitation of trade liberalization both more important and more difficult.

Internally, both the EU and Korea have been distracted by a series of crises from deepening their relationship and expanding access to their respective markets. In Korea, there has been prolonged political turmoil, the impeachment of President Park, followed by early presidential elections and the kind of abrupt changes in political direction that are inherent in a presidential system (Shin and Moon 2017). Over the same period, the critical relationship with North Korea has deteriorated to an almost terminal degree, ending the kind of economic engagement that had earlier led to the creation of the Kaesong economic zone and ultimately indicating the failure of the so-called sunshine policy that had previously governed South Korean attitudes towards the North (Hogarth 2012; Wrobel 2014). Notwithstanding various attempts by South Korean and US administrations to entice the North Korean leadership to abandon its hostile course of action, from “strategic patience” via Donald Trump’s and Moon Jae-In’s summit diplomacy to ever-tighter sanctions and embargoes, North Korean leader Kim Jung-Un has persisted in a departure from previous agreements by advancing the testing of both ballistic missiles and nuclear weapons.

With the risk of escalation of these security threats looming ever larger over the Korean peninsula, it is evident that the focus of the South Korean government is increasingly on regional matters, on the military alliance with the USA, and less on advancing the economic partnership with the EU—which is not a major player when it comes to the search for solutions to the risks posed by North Korea.

More recently, Europe has witnessed a parallel process of securitization and fundamental questioning of the value of economic engagement with adversaries when Russia launched a full-scale invasion of Ukraine, not only creating a humanitarian disaster on an epic scale, but also causing a large-scale refugee movement of refugees fleeing Ukraine, an energy crisis and massive economic disruption for the EU (and other parts of the world). After decades of expanding trade with Russia and large investments into the creation of the infrastructure for fossil fuel imports (e.g., the NORDSTREAM II pipeline project) (Voytyuk 2021; Shagina and Stüwe 2021), the war constituted a stark reminder of the risks associated with dependence on specific markets and supplies, especially in cases with authoritarian regimes (Hadfield 2012).

For both Europe and Korea, and Western countries more generally, these risks are now strongly associated with China (Cha 2023; Baldwin and Freeman 2020), relating to a range of issues from market access, strategic investments, manufacturing supply chains, and availability of raw materials. In the context of an already deteriorating climate for economic exchange, the experience of shortages of essential equipment during the COVID pandemic and the apparent reliance

on China for materials as simple as face masks heightened the awareness among Western decision-makers of the dangers of relying on a single supplier for such goods and the need to diversify accordingly (Baldwin and Evenett 2020; Bas et al. 2023).

The global pandemic and the War against Ukraine have amplified already pre-existing fissures in the system of global trade. Beyond the failure of the aforementioned Doha Round, due largely to differences between industrialized and developing countries, there have also been latent concerns about the link between economic interaction and political coercion in China's relations with other countries, and the strategic and security implications of such behavior (Adachi et al. 2021; Harrel 2018). For example, the Belt and Road Initiative (BRI), China's flagship program of directing infrastructure investments to a swathe of countries across Asia, Africa, and Europe has come to be seen, in Western eyes, as something more sinister than a merely series of mutually beneficial investment opportunities for the countries and firms concerned.

The EU perspectives on the BRI, as well as on the broader rise of China and its increasing global influence, are more nuanced than that of the USA. The EU still seeks to enhance its capacity to welcome rational BRI projects, which includes adopting greater reforms in frameworks for foreign direct investment. More generally, the EU has strengthened its ability to define policies towards China independently from the USA and address the challenges posed by China's ascent. Additionally, China should invest more effort in cultivating a constructive relationship with the EU (Sarsenbayev and Véron 2020). Synthetically, observers and policymakers are now sensitive to the manner in which the BRI and flanking policies appear to expand China's strategic influence in these global regions and the need to respond to the risks associated with such a development (Beeson 2018).

South Korea, European states, and EU institutions have also all experienced directly the pattern of China asserting its economic power in response to political disagreements. Chinese embargoes of Korea in response to the deployment of THAAD missile defense systems on the Korean peninsula, the sanctioning by China of EU decision-makers and think tanks in response to criticism of the human rights situation in Xinjiang, and the boycotts of Lithuanian exports in response to its upgrading of relations with Taiwan—these are only the main examples of a general pattern of economic coercion emanating from China in recent years (Lim and Ferguson 2022; Kennedy et al. 2021; Higgins 2022; Ferenczy 2022). As a result, the EU has revised its strategic orientation towards China, recognizing that while being a partnership and competitor, China is also a systemic rival, and introduced a series of measures to combat economic coercion and reduce strategic dependencies.

However, as both Europe and Korea are trying to come to terms with their exposure to Chinese economic power and developing policies to protect their economic security, a wider challenge has emerged in terms of the ever-deepening confrontation between the USA and China. Both of these global powers have descended into what many observers consider a “new Cold War” that has military and economic as well as normative dimensions (Brands and Gaddis 2021). One consequence of this confrontation is the process of mutual de-coupling of their respective economies that both sides are engaged in, spelling an end to globalization as we know it.

Global economic growth throughout from the 1980s to the 2010s was to a large extent based on the integration of the Chinese economy into the Western capitalist system, a process of which China's accession into the WTO in 2003 was a key milestone (Herd et al. 2011). However, in view of the developments outlined above and of the growing distrust between China and Western countries, this process is now being reversed, with both sides increasingly looking to reduce, rather than to deepen further, the integration of their economic systems. This is a complex phenomenon, occurring gradually and selectively, across various sectors and global regions, and there are differences between Western governments, and among firms, in how far and how fast they may want to go in disengaging from China.

Broadly speaking, however, a significantly different emphasis on how to deal with China in this new age has emerged between the USA and its allies: whereas among political elites in the USA, there is a fairly solid and bipartisan consensus that China has emerged as a rival, and that US policy, including on trade, needs to be guided by security concerns about the threat posed by China. On the European side, on the other hand, there is a persistent attitude that—while relations with China are also increasingly viewed through the prism of security concerns—the mutual benefits of engaging with China outweigh the risks. A similar view is taken by the Republic of Korea: cautious about too great a dependence on China for exports, supply of critical materials, and strategic investments, but unwilling to disengage entirely (Friedhoff et al. 2019; Lee 2020). In its doctrine about the South Korea as a “Global Pivotal State,” the government of President Yoon has emphasized inclusiveness and the ambition to work with all powers that adhere to international rules (Park 2023).

The differences in attitudes towards China are generally captured by the contending concepts of de-coupling, de-risking, and onshoring. Whereas de-coupling describes the attempt to progressively cut economic ties with a perceived rival, de-risking is a more modest strategy that seeks to reduce one-sided dependencies in key strategic sectors and to diversify supply lines, without questioning the overall engagement with other powers. Onshoring is, in this context, a policy for firms to re-locate manufacturing or processing of critical components out of the territory of strategic rivals, either to the domestic arena or to friendly jurisdictions, in order to reduce the risk that such facilities fall under the control of rival powers (van Hassel et al. 2022).

There has been much talk of de-coupling in both the USA and China, and policies on either side have reinforced the impression that such a process is indeed underway (García-Herrero and Tan 2020). Take for example the moves by leading US tech firms such as Apple to reduce the share of their product assembly in China and instead increase the relevant facilities in the USA, India, and elsewhere. In China, the idea of “dual circulation,” an economic strategy designed to insulate the domestic economy from dependence on foreign trade and technology, has been a key part of the most recent 5-year plan (2021–2025) and an important element in the official discourse about the future development of the Chinese economy (EIU 2020).

By contrast, the EU and South Korea have avoided references to de-coupling from China and indeed emphasized the impossibility or prohibitive cost of such a policy. Instead, the emphasis here has been on de-risking (Jash 2023)—and doing so in a manner that avoids singling out China as the only conceivable risk factor.

Indeed, somewhat ironically, Taiwan has also emerged as a potentially risk location, given its dominant market position in semiconductor manufacturing and its geopolitical vulnerability (Shattuck 2021).

However, against such policies and discourses, the reality remains that the economies of Western powers and China are deeply integrated, and in fact, trade with China has increased both for the USA and the European Union after the downturn caused by the COVID pandemic (Romei 2023; Siripurapu and Berman 2022). This demonstrates that the security-driven attempts to disentangle the economies of Western powers and China are difficult to implement and are so far concentrated in a few, specific economic sectors. Generally speaking, de-coupling and de-risking need to be recognized as medium- to long-term strategies that may in due course deliver both security gains (as well as economic costs) but for the moment are predominantly meaningful as discursive constructions.

These turbulences in global markets and the challenges they pose for EU-Korea trade relations have come at a time that otherwise have seen a considerable strengthening of these ties. Indeed, as we discuss in the following section, both sides have committed themselves to deeper cooperation on a range of key issues, and they have done so not only through declarations and diplomatic statements, but also by signing legally binding agreements. In other words, the two sides have deepened their bilateral relations, despite—or perhaps because of—the adverse conditions created by the disruptions to world trade and global governance. The following section will present in more detail the nature of this deeper engagement in EU-Korea relations, before the subsequent section then discussed the continuing challenges that this relationship has to confront.

## The international law context for EU-Korea cooperation

The main purpose of this section is to discuss legal issues on the three basic Korea-EU agreements. First of all, the legal analysis of the bilateral agreements will be directly related to the suggestion of new possible meanings of the agreements. Second, several possible challenges to the laws for each side will be looked into in the following stage. Finally, we will also discuss the needs for legal changes to manage the challenges.

The EU has a long-standing policy to conclude preferential trade agreements with third countries and other regions within and beyond Europe. In the process, the EU signed FTAs with countries in Asia, including Korea. On the basis of this kind of economic cooperation, the EU has also sought security engagement with a number of Asian countries and can even be seen to raise its status as a potential leader in the international community (Kim 2017).

In this respect, Korea and the EU became important trading partners for each other. Although mainly based on economic matters, the cooperation between the two partners eventually expanded also to cultural activities and other fields. Many aspects of their cooperation have been codified through a number of bilateral legal frameworks. There are three pillars in particular to their bilateral partnership in the areas of political, economic, and security:

- The Free Trade Agreement
- The Framework Agreement (FA)
- The Agreement for the participation of Korea in EU Crisis Management Operations

The rules arising from these agreements provide more direct international legal constraints as well as opportunities for cooperation, compared to multilateral rules such as those arising from membership in the WTO or the UN. The main roles of the Korea-EU bilateral laws are different from these, but they can be applied to some common purposes. Today, the international laws are cohesively becoming more important regarding other issues. These laws could change the paradigm of their cooperation in the future, and the legal framework may become an important new driver for improved cooperation between the two partners.

The Korea-EU FTA (2010) became the fundamental legal tool in providing favorable environments regarding economic relations. This FTA is the first major EU trade agreement concluded after the introduction of the new strategy Global Europe, and it is also the EU's first trade deal with an Asian country. Ever since its establishment, the economic cooperation between the two partners based on the FTA has been improved in many ways. The Korea-EU FTA document consists of 15 chapters, several annexes and appendixes, three protocols, and four understandings (Šedová and Müller 2012).

The two partners have strengthened the partnership based on the Korea-EU Framework Agreement (1996). The amended version in 2010 proclaimed a strategic partnership between them. This bilateral FA consists of ten titles with 53 articles and a technical sub-rule (EUR-Lex 2020). The enhanced law provides the basis for strengthened cooperation and dialogue in various areas. It addresses a wide range of international concerns including the non-proliferation of weapons of mass destruction, protection of human rights, cooperation in the fight against terrorism, climate action, energy security, and development assistance.

Both sides also commit to cooperate and exchange views in the context of regional and international fora and organizations. These may include the United Nations (UN), the International Labor Organization (ILO), the Organization for Economic Cooperation and Development (OECD), the WTO, the Asia-Europe Meeting (ASEM), and the ASEAN Regional Forum (ARF). The FA also promotes cooperation in sectors vital to economic growth, such as science and technology, innovation, education, and the environment (Kim 2014). They are important parts of this agreement and are also directly related to the philosophy of the Korea-EU FTA.

The agreement establishing a framework for the participation of Korea in EU crisis management operations (2014) created new cooperation opportunities between the partners (Kim et al. 2023a, b). The agreement consists of just four sections with 16 articles and basically constitutes a third-party invitation to participate in EU crisis management operations. It also sets out the status of Korean personnel who may be dispatched to command elements in the case that a Common Security and Defence Policy (CSDP) operation is implemented. This bilateral agreement entered into force in December 2016.



According to the provisions in this agreement, both sides will exchange information and take decisions on the invitation, contributions, and even the costs or budgets of such operations. The Korean government is expected to appoint a National Contingent Point of Contact (NPC) and a Senior Military Representative (SMR) to represent its national contingent in such operations. Although the FA already provided some rules on common policy or dialogue on the security issues, the two partners created a more direct legal basis for joint actions in this field, which also includes peace-keeping operations. Considering European concerns about the security implications related to terrorism and migration, as well as the more general threats related to North Korea, this agreement has a broad applicability that is expected to benefit both sides.

Regardless of this cooperation on security matters, the Korea-EU relationship has developed mainly in the area of economic relations, based above all on the Korea-EU FTA. In addition, as WTO members both sides also cooperate in the context of multinational laws for trade and investments. The package of WTO agreements<sup>1</sup> is a general legal framework for their trade since the WTO system. It generally regulates the international economic exchange and also provides for a dispute settlement mechanism.

Korea and individual EU member state countries may also have bilateral agreements for certain aspects of their relations. For example, Korea and the Czech Republic signed several bilateral agreements since 1989, including one about the establishment of a bilateral trade office (Kim 2015a, b).<sup>2</sup> EU member states are developing and expanding the cooperation partnership with Korea in various fields in the context of the wider EU trade policy, based on detailed regulations of the bilateral rules between the two countries.

With the multilateral international laws which Korea and the EU member states signed in the global level, the partners may make bilateral rules which can be applied only on the Korea-EU level as mentioned above. In this case, many of the legal points in the Korea-EU bilateral agreements can be based on the principles of the multilateral international laws. However, the bilateral laws may provide some specific promises with the legal basis only for the partners. Therefore, the multinational laws which were mentioned above and the bilateral laws are under the legal principle of the “general and special laws relation.”<sup>3</sup>

Multilateral international laws may have the permission provisions for the possibility of the “special law” in their structure (Kim B, Kim H and Shin 2023). For example, the WTO system provides fundamental rules for the function of FTAs. When a WTO member enters into an FTA through which it grants more favorable

<sup>1</sup> The WTO’s agreements are the outcome of the Uruguay Round negotiations which included a major revision of the original General Agreement on Tariffs and Trade (GATT). The Uruguay Round also created many other laws for dealing with trade in services, relevant aspects of intellectual property, dispute settlement, and trade policy reviews.

<sup>2</sup> The KOTRA trade building was established in Prague in 1990 under the agreement.

<sup>3</sup> Special laws can be firstly applied to a certain issue than general laws under the principle if the special laws do not have different rules. Therefore, a certain regulation by a special law which is different from the regulation of general laws can be applied for the parties of the special law.



conditions to its trade with other WTO member parties to that agreement than to other WTO members' trade, it basically departs from the non-discrimination principle defined in Article I of GATT and other rules. However, WTO members can enter into such FTAs under specific conditions, which are spelled out in three sets of rules: Article XXIV of the GATT, the so-called Enabling Clause, Article V of the GATS (Park 2002). The Korea-EU FTA is based on Article XXIV of the GATT and other related WTO rules. Therefore, the two partners of the bilateral FTA and the WTO members, Korea and EU, have justifiable exceptions to provide favorable trade conditions from the major principle of the multilateral WTO rules (Winters 2011).

Although bilateral agreements such as the FTA may regulate many issues between Korea and the EU countries, specific agreements between Korea and individual EU member states can still be useful—they can provide for favorable arrangements between the partner countries as long as these are permitted by EU law (Eeckhout 2006). Trade and investment agreements remain an exclusive competence of the EU, and the EU treaty, the FTA, and other agreements are therefore the legal basis for relations between Korea and individual member states.

## Perspectives for deepening formal cooperation

The international laws may stimulate some changes of national laws for better or more cooperation from both sides. As an example, there are several regulations that have provisions concerning FTAs in Korea. Customs Act and Act on the Investigation of Unfair International Trade Practices and Remedy against Injury to Industry (Trade Remedy Act) are the major substantive laws. These laws provide several special articles regarding FTAs. For example, Article 22–3, 22–4, 22–5, and 22–6 in the Trade Remedy Act are special provisions related to FTAs.<sup>4</sup> There are also special laws regarding FTAs such as “Act on Special Cases of the Customs Act for the Implementation of Free Trade Agreements.”

Many other domestic laws which have already existed and are not directly related to the Korea-EU international issues, such as FTA topics, can be changed by the establishment of the international laws. For example, the Korean government changed various domestic laws with the launching of the two major FTAs, the Korea-EU FTA and the Korea-US FTA, during 2008–2012. It is because the government realized that the domestic rules had to be harmonized with the principle of the international laws.

Also, there were discussions for legislation of a general law regarding the processes of FTA negotiations and their execution (Park 2008). Korea enacted the Trade Treaty Conclusion Procedure Act on December 30, 2011, and implemented related legislation in 2012. Under this law, the Korean government introduced the

<sup>4</sup> 22–3 (Safeguard Measures by Free Trade Agreements with Foreign States), 22–4 (Abatement of Implementation of Safeguard Measures against FTA Counterparts), 22–5 (Trade Damage Support Measures on Increase in Import of Special Goods following FTA), 22–6 (Cooperation with Foreign State after FTA).

first legal mechanism for collecting opinions, coordinating disagreements, and allocating roles between various government agencies and actors, which can be evaluated as an important legislative measure that constitutes the overall basis of the Korean government's negotiation, conclusion, and implementation of trade treaties in the future (Lee 2012a, b).

These domestic legal changes and adjustments are also evident in the case of the Korea-EU FTA. Representatively, efforts have been made to discuss ways to improve domestic laws in the Korean environment and labor sector regarding the implementation of the Korea-EU FTA, but not many efforts have been made to link it to other fields, comprehensively review improvements in domestic laws on the implementation of the Korea-EU FTA, or establish alternatives (Bae 2021). However, as the EU pressured Korea based on the above provisions, it became a catalyst for Korea to join the three core international labor organizations in 2021, which is expected to have a significant impact on related domestic labor laws and labor policies in the future.

In the point of the national laws, Korea is still in need of more legal changes to comply with the standards under the international laws and agreements. Therefore, the Korea-EU legal exchange or cooperation is also needed in this dimension. The cooperation in this sector also requires an intense exchange of human resources in the field. However, it is imperative to note that the legal exchange and cooperation should be done step by step to maximize the chance of success.

The main function of international law between Korea and the EU should first focus on economic cooperation, but it is also expanding towards security and peacekeeping. International law will be a useful tool for coming up with solutions to complex and sensitive problems, as the areas of cooperation between the two countries are gradually expanding in accordance with new functions of bilateral law.

According to Title II of the Korea-EU FA, both sides will engage in dialogue and cooperation on political issues such as "Countering the proliferation of Weapons of Mass Destruction" and "Small Arms and Light Weapons." These activities are meant to promote peaceful solutions to international or regional conflicts and to strengthen the UN and other international organizations.<sup>5</sup> The EU CSDP operations can be practiced in third countries and may occur somewhere in Northeast Asia based on decisions of the EU and/or the international community. The agreement may therefore have some practical significance in the context of possible future peacekeeping missions on the Korean Peninsula.

In addition, Article 12 of the "Protocol Concerning the Definition of Originating Products and Methods of Administrative Cooperation" in the Korea-EU FTA provides for the possibility of a special treatment for the Kaesong Industrial Complex (KIC) in North Korea. Also, Annex IV of the protocol sets out the details of setting up a Committee on Outward Processing Zones (OPZs). According to this provision, the Committee will discuss the criteria for OPZs like the KIC, and the special

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<sup>5</sup> Furthermore, the provisions on the "most serious crimes of concern to the international community" and "Cooperation in combating terrorism" can also be useful to establish the common policy on the peacekeeping issue in the area.

treatment of the zone under the rules of the FTA.<sup>6</sup> The provisions for a special treatment in the FTA have the capacity to soften political tensions in this area (Kim B and Kim H).

The Korea-EU agreements can be used for new sensitive issues such as human rights and development assistance. Title V of the FA is on the sustainable development issue. With the accordance of the international rules such as the Sustainable Development Goals (SDGs) by the UN, the parties will make more detailed cooperation projects under the FA rules. Of course, some provisions of the EU crisis management operations agreement can be also used in indirect ways for the purpose. The FTA rules are sometimes related to human rights issues or even development issues. For example, many FTAs have owned labor-related rules in their provisions, and the working conditions at the KIC have been a subject of debate. It contains firm commitments to multilateral labor and environmental standards.<sup>7</sup>

To globalize the KIC with strengthening inter-Korean trade, upgrading the working condition of North Korean workers is essential (Lefkowitz 2006). Here, the European standard for the working conditions and human rights issues will provide a certain direction. Even if the level is too high for the North Korean government to achieve at the moment, the Korea-EU cooperation working with the consideration of the human rights issues in North Korea may make progress, and the cooperation will provide a gate for North Korea to open in the long-term perspective.

Recently, development policy is an emerging topic in Korea. Official development assistance (ODA) concerns the support that advanced countries provide in terms of loans, technical aid, and other instruments to developing countries or international organizations. While Korea only recently changed its status from being a recipient of foreign aid to that of being a donor, its experience as a donor country remains short, and an awareness of the needs of development projects can still be improved (Lee 2010). The considerable experience of the EU and its member states in this field may provide a positive influence on Korean efforts in the area of development policy, which will help Korea secure a significant presence in the international community.<sup>8</sup>

Another example of a further deepening in the relationship is the agreement on a digital partnership which was reached in June 2023. This partnership, which is part of the EU's wider economic security strategy, covers more systematic cooperation in the areas such as semiconductors, high-performance computing (HPC) and quantum technology, beyond 5G and 6G, online and digital platforms, artificial intelligence, and cybersecurity. The new partnership involves the setting up of a ROK-EU Digital

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<sup>6</sup> Korea is driving their FTAs to promote the constructive engagement with North Korea by extending trade preferences to the products from the KIC. The Korean government thought that the FTAs could be useful for the stability of the Korean Peninsula.

<sup>7</sup> If the Korean FTAs have better labor regulations in the KIC, they will be more helpful to extract some solutions for the labor environment or the human rights issues in North Korea.

<sup>8</sup> The EU has established the "European styles" in the administrative, the judicial and even human rights and development fields, from many agreements and laws for the cooperation such as the Treaty of Lisbon in 2007.

Partnership Council which will meet on a regular basis to explore further opportunities for cooperation in this field (European Commission 2023).

Across all these areas, the promise of greater cooperation between the EU and Korea has to contend with the worsening external environment—the lack of effectiveness of global governance regimes, the weakening of international organizations, and the increasing number of issues on which China and the USA are opposing one another. Russia’s War against Ukraine has simultaneously blocked any kind of meaningful decision-making in the United Nations Security Council and deeply disrupted global trade as a result of wartime aggression and Western sanctions. Given how both the EU and Korea are committed to, and depend on, multilateralism and open trade, these global developments are contrary to their interests, and it remains difficult to predict whether the EU and Korea, perhaps together with like-minded middle powers, will be able to overcome these disruptions to the international order that has favored their cooperation and trade in the past. The following section will analyze the likely impact of these challenges in greater detail.

## Challenges for future cooperation

Although the Korea-EU bilateral trade agreements are useful in many respects, the partners have to confront a number of challenges. The challenges can be related to the changes in international trends or certain policies of the member states. For example, “Brexit” has been a particular issue that has affected to the EU’s political and legal system—it is evident that Brexit has not only affected Europe but also the international community more generally (MacShane 2016). This situation will have a significant influence also on non-EU members such as Korea. Therefore, new laws were needed for the Korea-UK relationship, and the trade field is the most essential area for the “new law relation.” The Korea-EU FTA may change in a form that excludes the UK, and new treaties must be legislated as substitutes. Korea and the UK established the bilateral FTA in 2019 that seeks to maintain the existing trade arrangements post-Brexit (Pereira 2019). The Korea-UK FTA will be a new trade law for the bilateral economic activities of the non-EU partners.

A greater challenge is the global rivalry related to the Indo-Pacific—a region that has emerged as a space for geo-political and geo-economic rivalry between all the main powers (Pugliese 2023). Korea is strengthening its strategic clarity in this regard by officially expressing support for the USA and a willingness to cooperate with the USA and the Quad powers with regard to the Indo-Pacific strategy and participating in related strategies. The EU also announced its “Strategy for Cooperation in the Indo-Pacific” in September 2021 (European Commission 2021), providing a foundation for further expansion of the cooperation between Korea and the EU.

A more immediate concern for Korea and its allies in the Asia-Pacific is the security issues surrounding North Korea. While the North Korean missile and nuclear program and the sanctions that have been imposed on the regime as a consequence are long-standing issues for the international community, the situation also causes serious disruption to the trade activities of the East Asian economies, specifically South Korea. The two Koreas consented to guarantee business environments in

certain special areas such as the Kaesong Industrial Complex (KIC). Although the results have been mixed, largely because the KIC is deeply intertwined with the fractious political relations between the two Koreas, the complex started as a peacekeeping project based on the promotion of inter-Korean economic cooperation. Therefore, the complex can still be subject to inter-Korean agreements and national laws of the two Koreas. Furthermore, if Korean trade laws cover non-economic issues, it poses another assignment for the next step. Almost every Korean FTA has special treatment rules to recognize the products from the Complex in North Korea as South Korean products (Kim and Lim 2020).

Beyond “local” issues with global ramifications such as Brexit, North Korea, and the Indo-Pacific, the greatest challenge for the continuation of favorable ties between Korea and the EU lies in the deterioration of international relations more generally. For two middle powers like the EU and South Korea (Haine and Salloum 2021; Lee 2012a, b) who have depended on, but also contributed to, a global order that facilitated the massive extension of trade liberalization and multilateral cooperation in the past, the increasingly adverse environment for continuing this process is a serious threat.

Especially the abovementioned rivalry between the USA and China—a conflict which increasingly also involves economic means—implies both for Korea and for the EU higher costs and major risks. Both sides are expected by their US allies not only to confront China on issues of regional security but also to address their dependence on China for raw materials and manufacturing supply chains. However, doing so, while prudent in the long run, is likely to lead in the short term to confrontations with China, the need to move to other suppliers and markets, and accept the higher costs and reduced revenues that come with that. There are already examples of the detrimental effects that such policies can have, for example in the way in which China has introduced export bans on the raw materials needed for the production of batteries in response to limits imposed by the USA, EU, Japan, and Korea on the exports of essential machinery required in the production of semiconductors (Liang and Marsh 2023; Haeck 2023). The long-standing efforts by the USA to block infrastructure and services sold by Chinese firms such as Huawei and ByteDance (TikTok) are part of this wider development that also implies difficult choices for their allies (Espinoza 2023; Hosain 2019). The USA-China rivalry has indirectly affected the EU-Korea trade relationship and legal framework. As the two countries lead global competition, they can prioritize trade relations as a means of diversifying economic partnerships. However, it is predicted that the degree of these effects will vary depending on the various geopolitical, economic, and domestic factors that form their strategic decision-making.

The potentially severe disruption that would follow the intensification of this kind of economic statecraft would severely harm both Korea and the EU, given their generally export-oriented outlook as well as their massive trade and deep economic integration with China in particular. There might well be ways in which the looming confrontation with China might push the two sides for further cooperation, especially in the area of high technology where Korea and the EU will see each other, rather than China or even the USA, as the more reliable partner. However, it is also foreseeable that in the context of more scarce resources and limited access to key

components such as micro-chips, even partners such as Korea and the EU may end up competing with one another rather than cooperating. Experiences made during the pandemic on issues such as the availability of vaccines or the cost of LNG in the context of energy security are indications that there is scope also for Western partners to look after themselves rather than cooperate. And while the Biden Administration returned the USA to close cooperation with its European and East Asian partners, the uncertain outcome of the 2024 US presidential elections means that a return to the disruptions and trade wars experienced during the Trump era is entirely possible. In this regard, the legal agreements that bind the EU and Korea together discussed above provide strong foundations—foundations that are being tested by these disruptions arising from global geopolitical rivalry.

## Conclusions

The previous discussion illustrated the strength of the legal agreements which are at the center of economic cooperation between Korea and the EU against this background of global challenges. This cooperation consists of the three layers of the legal infrastructure for the Korea-EU cooperation: first, multilateral laws covering many countries and including also the two partners; second, the Korea-EU bilateral agreements; and third, the more specific agreements between Korea and individual EU member states. EU-Korea relations have developed based on these three legal layers, among which the international three bilateral agreements are most critical.

There are three pillars to the bilateral legal infrastructure between the two parties. First, the Korea-EU FTA became the fundamental legal tool to provide favorable environments regarding the economic relation. Second, the Korea-EU FA was amended in 2010, and it potentially proclaimed a strategic partnership between them. Third, the agreement establishing a framework for the participation of Korea in EU crisis management operations made a new cooperation field between the partners. The crisis management operations agreement specifies third-party invitation to participate in an EU crisis management operation.

As these different legal infrastructures are linked together, international and national laws affect each other. The laws of the EU-Korea relation are influenced by many external factors such as the changes in the international trends or political issues. The North Korean issue, the war against Ukraine, and, to a lesser extent, Brexit and USA-China rivalry are such challenges. Both sides must manage the changing situations and these challenging points in order to maintain the cooperation.

The EU and Korea, which have maintained a long-standing partnership, continue in their ambition to expand global cooperation even against the backdrop of a more adverse environment. South Korea and the EU strengthened their partnership and celebrated the 60th anniversary of Korea-EU diplomatic relations through the 10th Korea-EU summit on May 22, 2023. Through this summit, the two sides mainly announced the establishment of a ministerial-level security strategy dialogue, the launch of the Korea-EU Green Partnership, the expansion of the Korea-EU digital partnership, participation in Horizon Europe, and administrative cooperation for

health (Council of the European Union 2023). Furthermore, by strengthening the value of diplomatic partnerships, Korea and the EU have expanded their cooperation on global issues such as sustainable development, digital services, cyber-security, and climate action on the basis of shared values such as democracy, market economy, and human rights. In order to successfully achieve the common goals, it will be important to continue to improve and cooperate with norms related to these issues between Korea and the EU, including the advancement of bilateral FTAs.

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**Data availability** All relevant data is available in the paper.

## Declarations

**Ethics approval** No ethics approval is required for this paper.

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