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Master's Thesis of Public Administration

A Study on International Trade  
Negotiations of Korea on  
Motion Picture Services

한국의 영화서비스  
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## Abstract

# A Study on International Trade Negotiations of Korea on Motion Picture Services

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Different perspectives on whether to view motion picture services as objects of international trade or cultural protection has been treated as an significant issue in international trade negotiations. The position of the United States that motion picture services should be included in the target of trade liberalization and the European Union's (EU) position that movie services should be excluded from the object of international trade negotiations has slowed the progress of international trade negotiations in this area, and has been an important point of controversy that has caused conflicts between trading partners.

This study examines the strategic characteristics of Korea's international trade negotiations by exploring what negotiation

results Korea has drawn out in a series of representative international trade negotiations on motion picture services. In particular, it focuses on how the perspective on motion picture services as an object of free trade and the perspective as an object of cultural protection has been dealt in the international trade negotiations of Korea.

For this purpose, this study analyzes the cases of GATS (General Agreement on Trade in Services) and DDA (Doha Development Agenda) as the multilateral trade negotiations as well as KORUS FTA, Korea–EU FTA and Korea–China FTA as the bilateral trade negotiations. In analyzing the features of international trade negotiations of Korea on motion picture services through the case study, the factors such as the difference of competitiveness of film industry between two Parties, the benefits of entry into the other country, and the differences in perspective of each country on motion picture services are considered in analyzing the negotiation strategies and negotiation results of Korea.

As a result of the analysis, Korea has used the blending of the trade liberalization viewpoint and the cultural protectionism viewpoint in the international trade negotiations on the motion picture services as a negotiation strategy. While securing the authority to protect the domestic film industry and cultural

identity by the measure of the screen quota, it actively has liberalized the market of film production and distribution services to trading partners. In addition, Korea has utilized the international film co-production reflected in the FTAs as a major means of both promoting Korean films' entry into foreign markets and cultural cooperation with trading partners.

Key words: motion picture service, trade negotiation, WTO, FTA,  
international film co-production

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# Table of Contents

Chapter 1. Introduction.....	1
1.1. Study Background.....	1
1.2. Research Questions and Objectives.....	6
1.3. Research Methodology.....	12
1.4. Structure of the Study.....	15
Chapter 2. Literature Review.....	18
2.1. Theories of International Trade Negotiation.....	18
2.2. Characteristics and Trend of Motion Picture Industry....	23
2.3. International Trade Regime and Motion Picture Services..	33
2.3.1. Characteristics of Trade in Service.....	33
2.3.2. Classification of Motion Picture Services.....	37
2.3.3. Features of Motion Picture Services in International Trade..	40
2.4. Transition of International Trade Negotiations on Motion Picture Services.....	45
2.4.1. Motion Picture Services in the GATT System.....	47
2.4.2. Motion Picture Services in the Uruguay Round.....	48
2.4.3. Motion Picture Services after the GATS.....	54
2.5. International Film Co-Production.....	57
2.5.1. Definitions and Types of International Film Co-Production...58	
2.5.2. Benefits and Costs of International Film Co-Production..	62
2.5.3. Trend and Policies of International Film Co-Production..	66
2.6. Analytical Perspectives: Motion Picture as Trade versus Culture..	68

Chapter 3. WTO Negotiations of Korea on Motion Picture Services..	76
3.1. Motion Picture Services before Uruguay Round.....	76
3.2. Uruguay Round Negotiations and the GATS.....	80
3.3. Doha Round Negotiations.....	89
3.4. Film Co-Production and MFN Exemption.....	96
 Chapter 4. FTA Negotiations of Korea on Motion Picture Services..	101
4.1. Korea-U.S. FTA.....	107
4.2. Korea-EU FTA.....	115
4.3. Korea-China FTA.....	123
 Chapter 5. Conclusion.....	133
5.1. Summary of Findings.....	133
5.2. Policy Implication.....	138
 REFERENCES.....	142

# Chapter 1. Introduction

## 1.1. Study Background

In international relations, culture has traditionally been an object of exchange rather than trade. The focus of cultural exchange was on promoting mutual understanding of culture itself, not on the economic profits by trade. As a matter of fact, it is true that in the field of trade, culture area had not attracted much attention. However, this trend has changed since the demand for cultural products of people who have been displaced from poverty through the industrialization in the 20th century has increased greatly. Culture and arts have become a huge business. As the interest in the cultural contents and arts as 'creative industry' or 'cultural industry' increase worldwide, culture and arts are regarded as the principal factor both in life of human beings and economic means in a country.

Among many cultural contents, audiovisual services which traditionally meant the production, distribution and screening of films and videos, the production and transmission of TV and radio programs, and the production of music, recently have been extended to the field of other

new media and multimedia contents. These audiovisual services are recognized as high value added industry in the 21st century. Audiovisual services have been highlighted as an important topic of international trade negotiations because those services symbolize cultural values, such as language, history, cultural heritage, and lifestyle of each country.

For this reason, each country has continued its fierce debate on whether culture should be accepted as a non-exclusive principle of trade liberalization, and how to consider its speciality. France and other EU countries have argued that audiovisual services should be a common exception in trade in order to maintain cultural identity and diversity in each country. On the contrary, The United States has argued that audiovisual services also should be the object of trade, like commercial products.

In regards to market liberalization of audiovisual services, many countries have different positions, both in terms of the trade liberalization position of the United States and the European cultural exception position. Although the world economy is heading toward integration, the audiovisual services sector has always been the center of controversy in its integration. Among the audiovisual services, the motion picture services have been the subject of the most intense

controversy. An important point of controversy that creates conflicts between countries is whether or not to look at motion picture services as a product like other commodities, or to look at those as an object of cultural protection that reflects the identity of a society.

In addition, the motion picture service market is gradually expanded due to the diversification of the platform, the development of technology, and personal media. The European Union, which wants to include it in the cultural service area, is expected to continue fierce debates with the United States, which aims to include new media as telecommunication services to open foreign markets easily.

The United States has made market opening of the movie industry an important goal in the international trade negotiations. In the FTA (Free Trade Agreement) negotiations with Korea, the United States has decided to reduce screen quota of Korea as a prerequisite for FTA negotiations. As seen in the Korea-US FTA negotiation, the bilateral and inter-regional trade negotiations system has made the world trade system about the motion picture services become more important in terms of the value, philosophy, and policy direction of a nation.

The opening of motion picture service market is a matter that has not been able to draw clear consensus points in Korea. The Korean government has been paying attention to the social impact of culture during the international trade negotiations. The problem of maintaining the screen quota system that Korea maintains in the field of motion picture services is not a matter that is merely an economic approach to protect the domestic audiovisual market, but contains the economic external approach of preserving and nurturing its own cultural values of a country. On the other hand, it is also true that it is necessary to strengthen the competitiveness of the Korean film industry through aggressive liberalization of film service market to foreign countries, and to utilize it as a strategy to actively pioneer and advance overseas markets beyond the narrow domestic market.

However, It is not easy to distinguish between the cultural value and the economic value of motion picture services, and there is not enough room for the application and choice of both sides in actual trade negotiations. In multilateral trade negotiations, Europe has been a protective shield against the opening of the motion picture services, but in the bilateral negotiations, the positions and principles of individual countries are becoming more important than

anything else. Korea has been faced with contradictory demands for motion picture services in the FTAs with the United States, a country with strong position of market liberalization, and the European Union, which strongly insists on 'cultural exception'.

Therefore, the balance between cultural identity and the promotion of cultural industry is very important in the international trade negotiations on motion picture services. In the future, FTAs will accelerate and Korea will be required and also demand the market opening in the motion picture services. With the development of digital information and communication technologies, the integration and movement of audiovisual contents are becoming free, which make it difficult to argue for an cultural exception against the principles of trade, and this atmosphere is evident not only in the FTAs but also in the WTO service negotiation framework. Whether the application of the general principle of free trade will lead to a free exchange of culture and a balanced development of the cultural industry, or a monopoly of the global market by the large transnational media corporations, is not to be easily predicted.

There are two major strategic factors that Korea should consider in motion picture service negotiations. The first is

the cultural identity of the Korean people and the protection of the domestic industry, and the second is the national economic development through the advancement of the Korean film industry into foreign markets. The consideration of these two aspects has been reflected through the level and breadth of the motion picture service liberalization of Korea and other countries through trade negotiations.

In this regard, it is important to examine the international trade negotiations on motion picture services that Korea has been pursuing in order to diagnose how the aspects of liberalization and protection are reflected in the negotiation results. Based on this analysis, it is meaningful to draw implications for future international negotiation strategies concerning the motion picture services for Korea.

## **1.2. Research Questions and Objectives**

The main purpose of this study is to provide an analysis on international trade negotiations of Korea on motion picture services both in WTO (World Trade Organization) system and FTAs, and to find some implications for Korea in terms of future trade negotiations on motion picture services. The major research questions of

this study are as follows:

1. What are the strategic features of international trade negotiations of Korea on motion picture services?
2. What are the level of trade liberalization of motion picture services of Korea and the negotiating partners, and how are the co-production agreements reflected in the negotiations?
3. How are market liberalization and cultural protection, which are the major characteristics of international trade negotiations on motion picture services, have been reflected in Korea's international trade negotiations?
4. What are the differences between WTO and FTA negotiations of Korea on motion picture services?
5. What factors should Korea consider strategically in future international trade negotiations on motion picture services?

In order to find out the answers to the research questions, this thesis will examine the concepts, theoretical

background, characteristics of motion picture services and the trend of global film industry market, which will contribute to better understanding about what motion picture services are. Especially, the status of the market opening of the services in major overseas countries and the policy of protecting their own culture will be distinguished. It also will examine the position of the European Union, which has the clear direction for cultural protection in trade negotiations dealing with motion picture services, and the position of the U.S. which is leading the stance of market liberalization of motion picture services. It is also important to notice how the trade norms of the motion picture services have changed. In particular, it will look at changes in the way in which the motion picture services are discussed in the international society, and will look at what positions and strategies each country has taken in this context.

In addition to this analysis, it will review the international film co-production agreement. International co-production hereby means sharing of expenses between co-production partners of different countries or cooperating in production activities by providing new ideas, directing, technical staffs and facilities. Its main purpose is to create synergy effects on film industry combining each other's outstanding techniques, human resources, and capital as well

as to promote exchanges of culture. If a film co-production is activated, it will not only make it easier to access foreign markets, but also promote mutual understanding and exchange through co-production and distribution processes, which is mutually beneficial to both parties. It has the characteristics of both cultural exchange and cultural trade at the same time.

Secondly, this study will explore the negotiations of Korea on motion picture services under the WTO system. It is necessary to discuss the GATT (General Agreement on Tariffs and Trade) system before WTO system in order to understand historical background of trade in service negotiations. After GATT system, the Uruguay Round negotiations, which lasted for about eight years, were concluded in 1993 and GATS (General Agreement on Trade in Services) took effect on January 1, 1995. GATS system established a general agreement on service trade that had not been carried out under the GATT system. As the service became a core field of international trade, a global trade system based on market liberalization was created. In the course of the Uruguay Round negotiations, there was a heated debates between the U.S. and the EU on whether to include audiovisual services in free trade objective. Eventually, the negotiations were concluded by including audiovisual services in the object of free trade with each

country reflecting their commitments of liberalization schedule even though there were a lot of limitations.

Since the Uruguay Round negotiations, the Doha round has been underway for further progress in free trade in the service sector, but the negotiations have not made much progress to date without conclusion. Korea submitted the specific commitments on motion picture services for GATS and DDA (Doha Development Agenda), which have served as an important criterion in the future negotiations. In this paper, the detailed contents of Korean commitments on motion picture services will be analyzed.

In addition to this, it will review the MFN (Most Favored Nation treatment) exemption in terms of international film co-production. The most problematic aspect of the most favored nation treatment is closely related to the international co-production agreement. Korea, in the WTO, did not declare the MFN treatment exemption for the audiovisual co-production agreement. This paper will identify the meaning of not declaring the MFN in film co-production, and find out its impact for future international trade negotiations of Korea on motion picture services.

Thirdly, this study will analyze the results of FTA

negotiation of Korea on motion picture services. A free trade agreement is an agreement that gives mutually exclusive trade privileges to each other, and is the form of economic integration. Regarding the motion picture services, the aftermath of the liberalization, which would be decided by mutual agreement between the Parties, will never be limited to the Parties. An FTA is a very important event not only economically but also culturally and socially.

This paper will examine the characteristics and distinctions between multilateral negotiations and bilateral negotiations as well as distinctions of each representative FTAs on motion picture services in terms of market liberalization and cultural protection. In addition to this, it will discuss about film co-production agreements in FTA negotiations. Specifically, it will analyze the detailed results of motion picture services negotiation by case study on Korea-US FTA, Korea-EU FTA and Korea-China FTA which are regarded as the most significant FTAs that Korea has concluded. This case study will represent the features of market liberalization and cultural protection of Korea on motion picture services. It will also deal with the comparative analysis of those three big FTAs.

Finally, this study will identify the implications of the

study and some policy recommendations in relation to strategies for Korea regarding international trade negotiations on motion picture services in the future.

### **1.3. Research Methodology**

This study follows a case study method. A case study can be both quantitative and qualitative and is considered to be a useful method when the area of research is relatively less known, and has the potential to deepen our understanding of the research phenomenon (Ghauri, 2004).

Starting from the literature-informed explanations of international trade negotiation mostly on audiovisual services, this study is focused on the motion picture services among audiovisual services. Exploratory studies can be characterized as being highly flexible and adaptable. This study is partly descriptive attempting to provide an theoretical background and accurate picture of ongoing developments in the motion picture services. This study also serves to inform theoretical developments comprising explanatory elements.

While using analysis of texts, documents, legal regulations and secondary data as primary research method, this study mainly adopts a qualitative research method. Key words and concepts will be defined, and then typology and explanation will be developed from the analysis. The qualitative approach will allow the study to analyze the characteristics and aspects of Korean international trade negotiation strategies on motion picture services.

The main analytical methods are tracking the negotiation process of the WTO and FTA negotiations of Korea, interpreting the contents by analyzing the related literatures. It also uses method which reconstructs and explains the evolution and context of events in the past based on the resources and media reports published by governments and international institutes.

This study analyzes Korea's characteristics and strategies of trade negotiations on the field of motion picture focusing on Korea's FTA negotiations with the US, EU, and China as well as WTO negotiations. In particular, this study focuses on two aspects of cultural protection and market openness, which are the main characteristics of international trade negotiations in the field of motion picture services, and seek to derive the meaning of the policy features and results

of each negotiation.

## **Case Analysis of Trade Negotiations**

Case analysis covers the WTO and FTA negotiations that Korean government has pursued with foreign countries. Among them, FTAs with three countries including the US, EU and China were selected as the main cases. The reason for the selection of those cases is that the United States represents the market opening position in the field of motion picture services and the EU as a representative of cultural protectionism, China is the country with the greatest opportunity for Korea to enter the foreign film market.

In addition, these negotiating countries are the largest trading partners with Korea. The point that results of the negotiations with these important FTA negotiating partners would be the basic strategy of Korea in future FTA negotiations was also taken into consideration for choosing the cases. Through the analysis of trade negotiations and the results between Korea and these three FTA partners, how the perspectives of cultural protection and market liberalization have developed and been reflected in the FTAs will be identified in this study.

## Literature Search

In the case of literature analysis, FTA documents issued by the governments were mainly examined, focusing on the FTA agreements signed with the three countries such as the U.S., EU and China. It also examined the literatures published by trade ministries and related ministries regarding cultural policy in each country, and media press released by institutions. It also surveyed literatures on trade policy in Korea, U.S., EU and China. In addition, the reports published by the WTO, the international trade organization, was also reviewed. It also referred to the trade-related laws of each countries, the theories of the film industry, academic papers of existing researchers, publications of specialized research institutes, public hearings and discussion materials. In addition, this study investigated and used literature materials that could be consulted in the analysis of individual person-centered behaviors such as comments, speeches, interviews of Korean government officials reflected in diverse media.

### 1.4. Structure of the Study

This thesis is divided into five chapters. In the first

chapter, the study has been introduced. The second chapter provides theoretical review of the existing researches. It examines current situation of film industry, international trade regime of motion picture services by identifying the characteristics of service trade, classification of the service, features and liberalization of motion picture services in the context of international trade regime. It also provides analytical perspectives of motion picture as trade versus culture.

The third chapter assesses the Korea's trade negotiations and their outcomes regarding motion picture services in the WTO system. It will reveal the positions and strategies of Korea in multilateral trade negotiations in terms of motion picture services. Further, it will examine the meaning of MFN exemption issue concerning the international film co-production agreement in Korean situation.

The fourth chapter presents the trade negotiations and their results of Korea on motion pictures services by analyzing the cases of the FTAs of Korea with the United States, EU, and China. In the analysis of negotiations with the U.S. which represents the position of trade liberalization, the EU which represents the position of cultural protection, and China which is the country of greatest concern regarding

the advancement of Korean film industry, Korea's stance and negotiation strategies on motion picture services in relation to trade liberalization and cultural protection will be discussed. In addition, the contents and meaning of international film co-production agreements in each FTAs will be discussed. In the final chapter, the paper then concludes by presenting some policy implications for Korea.

## Chapter 2. Literature Review

### 2.1. Theories of International Trade Negotiation

Game theory sees trade negotiations as a kind of game in which a party efforts to make the other party accept its strategy. Though the general game results in economics are a form of zero-sum game where one side gains profit and the other side gets loss, this is not necessarily the case in trade negotiations. Of course, trade negotiations are usually likely to have a negative impact on their opponents, but if they do so, the opponent may break off the negotiations, therefore, profit of each side should be secured in order to reach an agreement (Hong, 2015).

Other research trends in the field of trade negotiation include studies related to issue-linkage strategies. The issue-linking strategy approaches trade negotiations, such as FTAs, as a linkage between issues for overcoming political and economic conflict situations. In the past traditional trade negotiations, tariff cuts in the commodity sector were the main objectives. However, the recent trade negotiations do not cover only the goods sector. Services and investments, trade norms, non-tariff barriers, intellectual property rights,

and government procurement are all included in the negotiations (Hong, 2015).

Trade negotiations between nations would create an incentive for exchanges between the negotiating parties in order to maximize the national interest within the economic or political zones. As a result, most trade negotiations are actually done by the format of barter exchanges (Tollison & Willet, 1979).

Typical trade negotiation theories include Fisher and Ury's negotiation model, and Lewicki and Hiam's negotiation strategy model (Ahn, 2001). In Fisher and Ury's negotiation model, there are three negotiation strategies; the hard positional negotiation game, the soft positional negotiation game, and the principled negotiation game (Fisher & Ury, 1988).

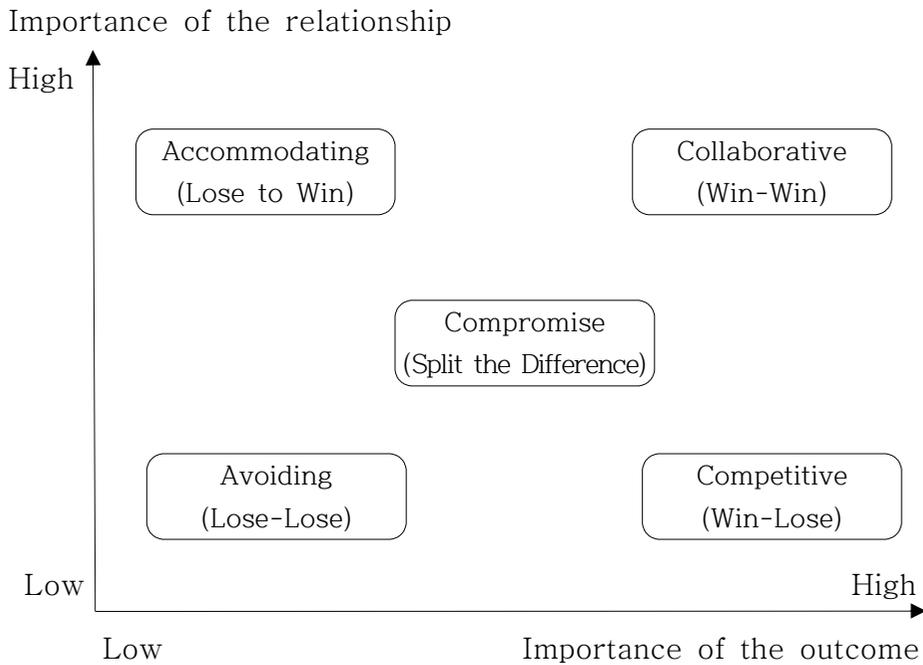
The hard positional negotiation game is a kind of zero-sum game considering the opponent as an adversary, and unilaterally pushing its strategy in order to attain the negotiation goal. Therefore, it adheres to the initial position, distrusts the opponent, and demands concession of the other Party (Fisher & Ury, 1988).

On the contrary, the soft positional negotiation game regards the negotiation partner as a friend, and the final goal of negotiation is to reach a good agreement to maintain a good relationship with them. Therefore, negotiators easily believe negotiating partners and change their position frequently in order to reach consensus (Fisher & Ury, 1988).

Finally, the principled negotiation game does not regard the negotiation partner as an enemy or a friend, but as a problem solver. Negotiations are rationalized in order to gain mutual benefits without being bound to the relationship or position of the Parties. The main feature of this principled negotiation strategy is that it separates the negotiation from the usual relationship between the negotiating Parties. It also focuses on substantive negotiation outcomes (Fisher & Ury, 1988).

Lewicki and Hiam divide negotiation strategies into five categories, as shown in the following figure, by the importance of relationship between the negotiating Parties and the importance of outcome (Lewicki, Hiam, & Olander, 1996).

Figure 2.1. Five Negotiation Strategies Model



Source: Lewicki, Hiam, & Olander, 1996

First, the avoiding negotiation strategy is a strategy to adopt when the relationship with the negotiating partner is not important and the outcomes to be obtained through negotiation are insignificant. Realistic ways of avoiding negotiations include explicit negotiation refuse, withdrawing from negotiations, deliberate delays in initiating negotiations, and so on (Ahn, 2001).

Second, the accommodation negotiation strategy is used when it is important to maintain a good relationship with the opponent while the outcomes of the negotiation are not significant, but accommodate the opponent's requests for the future (Lewicki et al., 1996). This can be found in many negotiation cultures in Asian negotiations, which emphasize long-term relationship and save-face. This is similar to the soft positional negotiation game of the Fisher-Ury model (Ahn, 2001).

Third, the competitive negotiation strategy is a type of strategy when the relationship is not important, but the expected profit of the negotiation is large (Lewicki et al., 1996). This is a sort of zero-sum game negotiation. Since the relationship with the negotiation partner is not so important, it uses dirty tricks such as a threat to achieve the negotiation purpose. This is similar to the hard positional negotiation game of the Fisher-Ury model (Ahn, 2001).

Fourth, the collaborative negotiation strategy is a win-win strategy, which means mutually trusting negotiations to achieve common goals. The relationship with the opponent is important, and the negotiation outcomes that are expected for both Parties are also large (Lewicki et al., 1996). This

is similar to the principled negotiation game of the Fisher–Ury model (Ahn, 2001).

Finally, the compromising negotiation strategy refers to a strategy whereby the Parties arrive at consensus by making mutual concessions. Lewicki said that theoretically, the collaborative negotiation strategy is the most desirable, but in reality, many negotiations are being resolved through compromising strategy by the reasons such as time constraints (Lewicki et al., 1996).

## **2.2. Characteristics and Trend of Motion Picture Industry**

Film or motion picture is an art of moving image; a visual media that tell stories and reveal reality. Film production is an artistic expression, but it is also a huge business. The audiovisual services include the motion picture, broadcast and music. This audiovisual industry including film industry has several characteristics that distinguish it from general manufacturing and other service sectors.

First, the audiovisual industry creates added value based on intangible knowledge and creativity rather than the physical production factor, and directly appeals to consumers' emotions. It is the most reasonable strategy for profit-driven producers to maximize the value of cultural goods with high initial replication costs and minimal reproduction costs (Hoskins, Finn, & McFadyen, 1996).

Second, unlike other products that have a single distribution channel of production, distribution and consumption, various window effects occur in production and consumption processes, and infinite demand is created as well as added value is reproduced. The audiovisual industry is a high-value-added industry capable of one source multi-use. It is possible to create various economic effects with ideas and creative works. Therefore, the audiovisual industry like other cultural industries has become a new growth engine of the national economy.

Third, the audiovisual field is related to the preservation of cultural identity and cultural sovereignty of a country, which can not be approached with commercial logic. In other words, since the trade of audiovisual goods and services means the propagation of lifestyle and values, there is a perception that policy measures are needed to protect the

cultural value of a country. The audiovisual industry has various socio-political implications. Cultural products are central to the reproduction of identity and the continuation of social ties at the individual, group, state level (Hong, 2008). The media industry has played an important role in creating the 'imaginary community' in which we live (Anderson, 1983).

Audiovisual services including motion picture generally reflect the social and cultural features of a nation and its people, and are therefore considered to have great social and political significance. For this reason, government regulation and public support programs play an important role. The regulations emphasize not only social and cultural issues, but also interest in protection of domestic industry and overseas contents restrictions (WTO, 1998).

In 2015, the global film market grew 14.1% year-on-year to \$39.245 billion, driven by growth in the digital distribution market and popularity of Hollywood movies as well as movie production and movie watching boom in China, Russia, India and Brazil. In addition, the increase in the number of movie screens seems to contribute to the growth of the movie market. In particular, premium screens dramatically have increased especially in China and

India, which complement the decrease in visiting theaters due to over-the-top (OTT) services. It is expected to grow annually at a 5.8% over the next five years. The market is expected to reach \$52 billion in 2020 (KOCCA, 2016).

**Table 2.1. Global Film Market Volume and Outlook**

(Unit: US\$ Million, %)

Year	2015	2016	2017	2018	2019	2020	2014-19 CAGR
Volume	39,245	40,671	43,645	46,525	49,313	52,006	5.8

Source: PWC (2016), Global Entertainment and Media Outlook 2016–2020

The largest cinema market in the world is the United States, followed by China, the United Kingdom, and Japan. In particular, China is expected to grow at a CAGR of 19% over the next five years, reaching US \$12.22 billion in 2018, surpassing the U.S. to become the world's largest movie market. Table 2.2. shows the volume and outlook of growth by country. Korean market will increase from \$1,578 million in 2015 to \$1,681 million in 2020 at a 1.3% annual growth rate (KOCCA, 2016).

**Table 2.2. Global Film Market Rank and Outlook by Country**

(Unit: US\$ Million, %)

Rank	Country	2015	2016	2017	2018	2019	2020	2014-19 CAGR
1	United States	11,170	10,797	11,006	11,249	11,537	11,871	1.2
2	China	6,398	8,486	10,413	12,222	13,827	15,239	19.0
3	United Kingdom	2,167	2,068	2,113	2,160	2,203	2,245	0.7
4	Japan	1,797	1,779	1,815	1,857	1,907	1,964	1.8
5	India	1,667	1,866	2,078	2,302	2,538	2,785	10.8
6	France	1,590	1,538	1,564	1,597	1,635	1,682	1.1
7	Korea	1,578	1,466	1,558	1,605	1,647	1,681	1.3
8	Germany	1,308	1,263	1,260	1,235	1,230	1,224	-1.3
9	Australia	987	926	947	970	997	1,028	0.8
10	Mexico	881	843	882	921	960	999	2.5

Source: PWC(2016), Global Entertainment and Media Outlook 2016–2020

In terms of Korean film market, the total number of movie audiences in 2015 increased by 1% from the previous year to 217.29 million, Since surpassing the 200 million viewers in 2013, the average annual growth rate somewhat decreased, still, the record number of the spectators was ever updated. The number of visit per population is 4.22,

which is the highest in the world. The number of audiences for Korean movies has increased by 4.9% over the previous year to 112.93 million in 2015 (audience share 52%) while the total number of audiences for foreign movies decreased by 2.8% to 104.36 million (audience share 48%).

**Table 2.3. Audience Number of Korean Film Industry**

(Unit: 10 Thousand, %)

Segment	Year	2011	2012	2013	2014	2015
Audience Number	Total Number	15,972	19,489	21,335	21,506	21,729
	Increase Rate	7.1	22.0	9.5	0.8	1.0
	Korean Film	8,287	11,461	12,729	10,770	11,293
	Increase Rate	19.4	38.3	11.1	-15.4	4.9
	Share Rate	51.9	58.8	59.7	50.1	52.0
	Foreign Film	7,685	8,028	8,606	10,736	10,436
	Increase Rate	-3.7	4.5	7.2	24.8	-2.8
	Share Rate	48.1	41.2	40.3	49.9	48.0

Source: Compiled by the author from Korea Film Council (2015), 2015 Report on the Korean film industry

**Table 2.4. Major Statistics of Korean Film Industry**

(Unit: Number, %)

Segment	Year	2011	2012	2013	2014	2015
Release Number	Korean Film	150	175	183	217	232
	Foreign Film	289	456	722	878	944
Screen Number		1,974	2,081	2,184	2,281	2,424
Number of Visit per Person		3.15	3.83	4.17	4.19	4.22
Revenue Rate on Investment		-14.7	13.3	14.1	0.3	-7.2

Source: Compiled by the author from Korea Film Council (2015), 2015 Report on the Korean film industry

In terms of the trade balance, the amount of export of Korean film recorded \$29,374,000 while the amount of import of foreign films \$61,542,000 in 2015, which shows that the trade deficit reaches \$32,168,000.

**Table 2.5. The Volume of Export and Import of Film in Korea**

(Unit: US\$ Thousand)

Year	2013	2014	2015	CAGR (%)
Export	37,071	26,380	29,374	-11.0
Import	50,339	50,157	61,542	10.6
Balance of Trade	-13,268	-23,777	-32,168	55.7

Source: Ministry of Culture, Sports and Tourism (2017).  
2016 Content Industry Statistics Survey

Table 2.6 and 2.7 show the exports and imports by the region. China is the largest export destination country of Korea and the United States is the country with the largest number of films imported to Korea.

**Table 2.6. Export Volume of Korean Films by the Region**

(Unit: US\$ Thousand, %)

Countries	2014		2015		CAGR (%)
	Value	%	Value	%	
China	8,208	31.1	9,253	31.5	129.5
Hong Kong	2,755	10.4	1,968	6.7	-5.6

Tiwan		1,772	6.7	1,726	5.9	24.0
Japan		4,474	17.0	4,956	16.9	-21.7
East Asia	Thiland	353	1.3	478	1.6	-15.1
	Shingapore	937	3.6	516	1.8	-24.9
	Vietnam	-	-	965	3.3	-
	Philiphine	-	-	852	2.9	-
	Malaysia	-	-	289	1.0	-
	Other	2,370	9.0	1,955	6.7	-9.9
North America	U.S	2,900	11.0	4,428	15.1	20.7
	Canada	197	0.7	20	0.1	-
Europe	U.K	-	-	-	-	-
	France	409	1.6	-	-	-
	Germany	442	1.7	-	-	-
	Other	909	3.4	1,238	4.2	-41.8
Middle East / Africa		81	0.3	54	0.2	-48.2
Central/South America		306	1.2	309	1.1	-59.3
Oceania		122	0.5	263	0.9	34.7
Other		145	0.5	104	0.4	-88.4
Total		26,380	100.0	29,374	100.0	-11.0

Source: Ministry of Culture, Sports and Tourism (2017).  
2016 Content Industry Statistics Survey

Table 2.7. Import Volume of Foreign Films by the Region

(Unit: US\$ Thousand)

Countries		2014		2015		CAGR (%)
		Value	%	Value	%	
China		2,068	4.1	2,829	4.6	4.1
Hong Kong		1,878	3.7	558	0.9	7.3
Tiwán		-	-	-	-	-
Japan		5,058	10.1	6,717	10.9	46.7
East Asia		-	-	-	-	-
North America	U.S.	28,772	57.4	38,866	63.2	-13.6
	Canada	387	0.8	585	1.0	58.1
Europe	U.K.	3,203	6.4	2,803	4.6	33.2
	France	3,116	6.2	5,455	8.9	75.2
	Germany	542	1.1	561	0.9	-28.3
	Other	1,580	3.2	1,113	1.8	-
Oceania		520	1.0	496	0.8	-
Other		3,033	6.0	1,559	2.5	-59.1
Total		50,157	100	61,542	100	10.6

Source: Ministry of Culture, Sports and Tourism (2017).  
2016 Content Industry Statistics Survey

## 2.3. International Trade Regime and Motion Picture Services

### 2.3.1. Characteristics of Trade in Services

Trade in services refers to the sale and delivery of an intangible product, or international transactions between producers and consumers in different countries involving such fields as audiovisual services, financial services, transport and communications services. International trade is no longer restricted to the items that can be packaged and shipped. For a long time, trade has been regarded as transactions of manufactured goods, but now, services represent important elements in international trade today (Ariu, 2012).

There are some distinct differences between trade in goods and trade in services. Goods are material, they can be stored and are observable before purchase. Consumption always follows production, and goods are delivered with means of transportation. On the other hand, services are not tangible, so they cannot be stored and are not observable before purchase, and they do not move physically (Arju, 2012).

According to a note from the World Trade Organization (WTO) secretariat, “international trade in services is any service or labour activity across borders to fulfil the needs of the recipient or consumer, except sale of physical goods or to furnish an input for a producer of goods and/or services.” (Laine, 2013).

International trade in services is defined by four modes of supply of the General Agreement on Trade in Services (GATS). Mode 1 concerns cross-border trade, meaning service movement from one country into other country. Mode 2 refers to consumption abroad, meaning that the consumer consumes the service while abroad. Mode 3 refers to commercial presence, which means services provided by a supplier of one country in the other country. Its represent case is foreign investment. Mode 4 means migration and presence of natural persons, which means that services are supplied through the presence of natural persons in the other country.

**Table 2.8. Examples of Four Modes of Service Supply**

Mode 1: Cross-border

A user in country A receives services from abroad through its telecommunications or postal infrastructure.

Such supplies may include consultancy or market research reports, tele-medical advice, distance training, or architectural drawings.

Mode 2: Consumption abroad

Nationals of A have moved abroad as tourists, students, or patients to consume the respective services.

Mode 3: Commercial presence

The service is provided within A by a locally-established affiliate, subsidiary, or representative office of a foreign-owned company (bank, hotel group, construction company, etc.).

Mode 4: Movement of natural persons

A foreign national provides a service within A as an independent supplier (e.g., consultant, health worker) or employee of a service supplier (e.g. consultancy firm, hospital, construction company).

Source: WTO Secretariat (2005), An Introduction to the GATS

In the case of trade in goods, the major trade barrier is tariff measures. In the case of trade in services, domestic regulations in trade are more essential than border measures such as tariffs. These domestic regulations have various purposes. Sometimes they work for protecting domestic industries, as well as function in order to protect cultural

identities. Most countries impose barriers to trade and investment in foreign services through non-tariff measures, which can be taken by the limitations on Market Access (MA) and National Treatment (NT) (Laine, 2013).

Regarding MA limitations, GATS represents six types of restrictions that must not be maintained in the absence of limitations. The restrictions relate to;

- (a) the number of service suppliers
- (b) the value of service transactions or assets
- (c) the number of operations or quantity of output
- (d) the number of natural persons supplying a service
- (e) the type of legal entity or joint venture
- (f) the participation of foreign capital

National treatment refers to principle whereby imported and local services should be treated equally in a country's market. It implies the absence of any discriminatory measures that may modify the conditions of competition to the detriment of foreign services. If a country would like to introduce limitations on NT, those limitations can be listed to provide inconsistent measures, such as discriminatory subsidies and tax measures, residency requirements, etc. (WTO secretariat, 2005).

### 2.3.2. Classification of Motion Picture Services

During the process of Uruguay Round negotiations, one of the critical issues had been whether audiovisual services including motion picture services are merely entertainment, to be treated just like any other commercial product or service, or whether there are factors of cultural values or identity in each individual country that should be respected, and thus also need a special treatment (Weber & Burri, 2012).

The audiovisual sector and its policies are regarded as difficult to define, particularly in terms of recent technological development. (Zampetti, 2003). However, many classification issues are not absolutely a technical matter but to some extent, a politically charged game. While one could have some understanding for the feasibility of cultural policy concerns and the need to promote the interests of national constituencies at the international level, this has also led to essential legal uncertainty and so far has not found pragmatic solutions. (Weber & Burri, 2012). Nonetheless, WTO rules and obligations play an important role in international trade regime, formation of domestic legal system and as such need to be considered in detail. (Zampetti, 2003).

The audiovisual service in the WTO's Service Classification Table (W/120) is categorized as a field of communication services. As defined in the Services Sectoral Classification List of WTO (MTN.GNS/W/120), audiovisual services are sub-sector D of 2. Communication Services. The six sub-categories listed, and their associated listing under the United Nations Provisional Central Product Classification (CPC) are as follows; ① motion picture and video tape production and distribution services ② motion picture projection services ③ radio and TV services ④ radio, TV, and transmission services ⑤ sound recording ⑥ other services (WTO Secretariat, 1998).

Under the CPC 9611 (motion picture and video tape production and distribution services), sub categories are divided into: promotion or advertising services (CPC 96111); motion picture or video tape production services (CPC 96112); motion picture or video tape distribution services (CPC 96113); and other services in connection with motion picture and video tape production and distribution (CPC 96114). CPC 9612 (motion picture projection services) is divided into: motion picture projection services (CPC 96121); and video tape projection services (CPC 96122).

Among audiovisual services, this study is focused on

motion picture services (CPC 9611 and 9612) which include  
 ① motion picture and video tape production and distribution  
 services ② motion picture projection services.

**Table 2.9. Category of Audiovisual Services in WTO Classification**

CPC 9611	Motion picture and videotape production and distribution services
CPC 96111	Promotion or advertising services
CPC 96112	Motion picture or videotape production services
CPC 96113	Motion picture or videotape distribution services
CPC 96114	Other services in connection with motion picture and videotape production and distribution
CPC 9612	Motion picture projection service
CPC 96121	Motion picture projection services
CPC 96122	Videotape projection services
CPC 9613	Radio and television services
CPC 96131	Radio services
CPC 96132	Television services
CPC 96133	Combined program making and broadcasting services
CPC 7524	Radio, television, and transmission services
CPC 75241	Television broadcast transmission services
CPC 75242	Radio broadcast transmission services
CPC n.a.	Sound recording
	Others (e.g., the contents of multimedia products)

Source: World Trade Organization (1988), Audiovisual Services,  
 Background Note by the Secretariat, S/C/W/40

### 2.3.3. Features of Motion Picture Services in International Trade

In the negotiations of market opening of audiovisual services, there are various spectrums in the countries' position in the world, and each countries have various positions with both the trade liberalization position of the US style and the position of cultural exception of the European style (Jeon, Jung, & Kim, 2008).

As we may already know, the U.S. is a country with a market share of domestic film over 95%, maintaining a market share of 43% even in the world market. In the United States, the export volume of movies is well above the domestic market volume, and this has happened in the last 30 years. Since the late 1980s, the export market of american films has grown significantly by 426% in 15 years. Considering that the market opening of audiovisual media services has been active since the early 1990s, the growth is closely related to trade negotiations such as GATS and FTAs (Jeon et al., 2008).

In the case of the United States, direct support, unlike in European countries, is not provided at the government

level, but the U.S. government continues to request its trading partners to eliminate trade barriers against film screening and distribution through the multilateral, bilateral, and regional trade negotiations. The opening of the audiovisual industry market is an important goal of the FTAs and other trade negotiations for the U.S. (Mukherjee, 2007).

The U.S. has argued that it is the necessity of redefining the definition and international discipline of audiovisual services in the international trade negotiation table by revealing the intention to lead the change of the media environment with the development of the digital network. In the free trade negotiations with Korea, and other partners, the United States has consistently showed interest in opening up new digital fields of audiovisual services (Jeon et al., 2008).

In contrast, the EU strived to incorporate the exception of audiovisual services into the GATS, arguing that cultural goods and services should not be the objects of trade because of cultural values such as cultural identity and diversity. This resulted in efforts to add a special treatment provision for cultural specialties of audiovisual services or to add a phrase to acknowledge the flexibility in the implementation of cultural policy objectives of each country.

The strong impact of the U.S. film distribution on the international film market makes many other countries regard it as a serious threat to their cultural identity and domestic film industry. The dominance of Hollywood films in the international motion picture market has been maintained by several factors, such as the largest domestic market, production in English, characteristics of its industry and market, and the Hollywood system (Hoskins et al., 1997).

Various economic and institutional barriers have been used by different countries as mechanisms to protect domestic film markets especially from the U.S. films. These measures include “funding state corporations, direct subsidy to film production, content regulation, quotas, tax concessions, entry barriers, licensing conditions, and international co-productions treaties.” (Hoskins, McFadyen, & Finn, 1997).

The regulation, which has been regarded as a particularly important issue in relation to safeguards in audiovisual services trade negotiations, is the screen quota. This measure is closely related to the policy of Korea, and has been dealt as an important issue in Korea's trade negotiation process including the Korea-US FTA.

The screen quota system is a measure of governmental support and protection for the domestic film industry, obliging exhibitors to set aside a minimum number of screenings for domestic movies (Lee & Bae, 2004). The General Agreement on Tariffs and Trade (GATT) and the Deregulation Agreement of Organization for Economic Cooperation and Development (OECD) allow the screen quota system in international trade (CDMI, 2000). Despite the U.S. pressure for removal of the screen quota system, it still operates in some countries around the world including Korea. In the case of Korea, it requires cinemas to screen domestic films at least 73 days a year to present domestic films.

The results of some studies on screen quota effects indicate that screen quota is virtually ineffective in the development of the domestic film industry. Lee & Bae argue that the screen quota system is not a protective measure for domestic film market, as well failing to provide a barrier to free international trade of films. The screen quota system is not a critical predictor of the self-sufficiency ratio of domestic film market in a country (Lee & Bae, 2004). The screen quota does not work, rather, other factors such as business activities of companies are more critical for a healthy growth of the film industry (Messerlin & Parc, 2014).

On the other hand, there are also strong positions to emphasize the importance and effectiveness of the screen quota system for the protection of domestic film industry and the maintenance of cultural identity. United Nations Educational, Scientific and Cultural Organization (UNESCO), a specialized agency of the UN, approved economic and institutional barriers such as screen quotas to protect the domestic film industry for preserving cultural diversity through 'Convention on the Protection and Promotion of the Diversity of Cultural Expression' in 2005. Interestingly, whereas 148 parties of UNESCO agreed to this convention, the U.S. did not.

The study of Oh and Cho (2005) demonstrated that the screen quota system has positive influences on the diversity of Korean films by estimating the Gini index for Korean film industry reports (Oh & Cho, 2005). Choi and Chung (2006) analyzed the factors influencing the share of days in screening Korean films. They found a positive relationship between the share of days in which Korean films are actually shown and the mandatory screening period imposed by this system. The reduction of the screen quota can lead theaters to allocate a lesser share of days for Korean films (Choi & Chung, 2006).

## 2.4. Transition of International Trade Negotiations on Motion Picture Services

The GATT was signed in January 1948 with 23 countries, and continued until 1994. The GATT, which began as a tentative agreement, actually became the only multilateral negotiating body that oversees international trade for half a century since 1948. However, the GATT, which did not have the rights as a legal body, could not secure its status as an international organization. In addition, the limit of not covering the new trade area of service has been revealed continuously. In this situation, diverse negotiations were held in order to establish a unified international norm to regulate various trade in services as a whole (Jeon et al., 2008).

The Uruguay Round negotiations, which lasted for about eight years, were concluded in 1993 and took effect on January 1, 1995. At this time, a new international organization was established to replace the GATT system in order to define and monitor the rules of the international community identified in the Uruguay Round negotiations. This is the World Trade Organization (WTO). It established a general agreement on service trade that had not been carried

out under the GATT system, and concluded rules for the protection of intellectual property rights, and strengthened the rules on trade-related investment measures (Lee, 2003). The service sector, including audiovisual services such as movies, was reorganized in accordance with the General Agreement on Trade in Services (GATS) rules set out in the Uruguay negotiations (Jeon et al., 2008).

After conclusion of the GATS, the WTO's DDA (Doha Development Agenda) negotiations have continued to deal with various perspectives and positions. It was also based on the GATS framework that most countries, such as the EU, have been able to adhere to the position of reservation on audiovisual services despite the demands of the U.S. and transnational media companies.

The United States began looking for alternatives pointing out that the number of member states is soaring and that it takes a lot of time to reach consensus through multilateral trade negotiations. It is noteworthy that bilateral agreements, which are expected to be easier to reach agreement in the face of the fact that the possibility of multilateral agreements on the opening of audiovisual services was virtually difficult due to the opposition of Europe and the third world nations. This is why the Free

Trade Agreement (FTA), a bilateral trade agreement, has spread widely (Jeon et al., 2008).

#### **2.4.1. Motion Picture Services in the GATT System**

After World War II, international trade negotiations in the manufacture sector has been through multilateral negotiations for the GATT system. However, it is noteworthy that in the case of trade in service, there was no discussions in the multilateral system before the Uruguay Round. The lack of international discussions on trade in services has traditionally been attributed to the recognition that services are produced and consumed domestically (Kim, 2001). However, since 1980s, the share of services in the national economy has increased rapidly, and in the 1990s, service trade recorded high growth rate. As a matter of fact, discussions on service trade, which is gradually increasing in the world economy, have been started since the GATT system (Jeon et al., 2008).

Trade in audiovisual services sector has been treated differently from trade in goods in the world market under the GATT system. Before 1980s, audiovisual services were regarded as cultural assets or public goods rather than

commercial products. This perspective, however, has begun to change in the middle of the 1980s. The economic importance has increased with rapid expansion of the audiovisual service industry in the world. The United States continuously has strengthened its power on this field while European nations have begun to concern about the US' strong influences on cultural identity as well as national economy. Thus, the concept 'cultural exception' was introduced to protect their cultural diversity and domestic industry. The concept 'cultural exception' has been one of the most significant issues in the international trade negotiations on audiovisual services (Hong, 2008).

#### **2.4.2. Motion Picture Services in the Uruguay Round**

In the final compromise through the Uruguay Round negotiations, Europe withdrew the cultural exception to the audiovisual services. Negotiations between the United States and the EU during the Uruguay Round negotiations ultimately concluded that audiovisual services are also included in the scope of the agreement, ie, they do not reflect exceptions to audiovisual services in the service agreement. Instead, the EU excluded audiovisual services from its specific commitment schedules, while the United States accepted them and found a compromise that did not allow exceptions

of audiovisual services in the GATS.

Accordingly, the GATS began with the closure of such acute conflicts in the field of audiovisual services, so it could be said that the seeds of conflict were seriously contained from the beginning. In the WTO, which is in charge of the actual GATS process, the issue of culture has emerged as a constant debate about the importance of cultural diversity (Jeon et al., 2008).

During the negotiations of the Uruguay Round, some Members argued that the liberalization principles of the GATS should not apply to the cultural content and social value, and that no commitments of market liberalization should be made. Other Members disagree with these opinions, either because they did not see why the sector must guarantee treatment different from that of other services sectors or as they thought that the GATS' structure permitted any particular sectoral sensitivities to be addressed (Roy, 2005).

The GATS system, which started in September 1986 with 'UR Negotiation Declaration' in Uruguay, finally came to see fruit by the conclusion of UR negotiation on

December 15, 1993. The audiovisual services sector, including motion picture, was at least formally coordinated by GATS norms. The spirit of GATS on service issues is summarized in its introduction. The liberalization of the service markets of each country should be gradual in accordance with the level of economic development of the country, thereby clarifying the direction of 'gradual openness'.

Article 16 'Restrictions and Permit of Market Access' of the Part III 'Specific Commitments' which set out the governments' market liberalization promise to the service industries in each country, and Article 17 'National Treatment' provisions are the core parts. Each Member had to specify in the schedule of the specific commitments in accordance with Part III of this Agreement. For each service area for which such liberalization promise has been made, each schedule includes: (a) restrictions and conditions on market access; (b) conditions and restrictions on national treatment; (c) measures relating to additional commitments; the time schedule for the fulfillment of the commitments, and (e) the date of entry into force of these commitments. At the time of the UR negotiations, governments of each country prepared their own service schedules in accordance with the form of the schedules and submitted them to the

GATT Secretariat at the time of December 15, 1993 (Jeon et al. 2008).

Motion picture service has different meanings as social, cultural, and public contents in addition to industrial dimension. It plays a pivotal role in creating a cultural identity, enhancing social cohesion, and forming a social system. It is also of great value as a future strategic industry. Therefore, it was very difficult to expect that each country would offer open access to the motion picture services sector, where social, cultural, political, and economic influence is crucial. The fact that 60 countries submitted the allowance for the service sector and that only 6 countries including Korea, the United States, and Japan introduced commitment in the audiovisual sector, clearly demonstrates this cultural conservatism (Jeon et al., 2008).

The negotiation of the GATS was the first time that trade in services, including audiovisual services was brought within the area of international trade rules (Messerlin, Siwek, & Cocq, 2004). At that time, strong disagreement emerged regarding the proposal to allow a 'cultural exception' into the Agreement. The negotiations between the United States and the European Union (EU) about the audiovisual services sector were the key remaining

differences preventing a settlement on trade in services (Messerlin et al., 2004). When the United States refused, the European Union, Canada, India, and other countries simply invoked MFN exemptions on audiovisual services and did not make specific commitments in the audiovisual services sector. In fact, audiovisual services sector was among those with the fewest commitments in GATS schedules (Hong, 2008).

At the conclusion of the negotiations, the GATS did not apply any particular provisions or exceptions concerning cultural policy to audiovisual services just as to any other services sector. Thus, audiovisual services are subject to those GATS obligations that apply to all services and to all WTO Members (i.e. unconditional or general obligations). However, the Agreement is flexible in that the level of openness of the domestic market to international competition – market access and national treatment — only apply to sectors or sub-sectors that Members include in their respective schedules of specific commitments (Roy, 2005).

At the end of the Uruguay Round, the EU, Canada and many other Members decided not to make specific commitments in audiovisual services and to take various MFN exemptions in relation to the sector. A greater number

of Members (35) had taken MFN exemptions (Roy, 2005).

In fact, those commitments were generally of limited scope and level of liberalization. Most of those commitments were listed in the category 'motion picture and videotape production and distribution services' (02.D.a). Full commitments in all six categories were accepted only by US, Albania, and the Central African Republic. Among the large audiovisual producers, only the United States has taken substantial commitments. Most of the WTO members have limited the access to their markets because they were unsure about the capability of their audiovisual industry to compete, they wanted to minimize the exposure of their people to foreign impact (France), or they wanted to use audiovisual services as an instrument for building their national identity (Australia and Canada) (WTO, 1998).

In addition to specific commitment, which represent promise for liberalization of applied services, many members currently have scheduled one or more MFN exemptions concerning audiovisual services. Most of these members have no specific commitments in the audiovisual services sector. These often relate to the providing of national treatment to works covered by co-production agreements. MFN exemptions in the sector are often justified by the

relevant members on the basis of cultural policy purposes (WTO, 2010).

### **2.4.3. Motion Picture Services after the GATS**

The reality of 'exceptions' that were widely accepted within the framework of GATS has made the GATS incomplete (Lee, 2003). It is in this context that the United States try to open the audiovisual market through small-scale agreements such as bilateral and regional agreements in addition to the GATS, Thus, while respecting the basic spirit of the GATS, DDA was held in order to rearrange various viewpoints and positions in audiovisual services centered on the code of liberalization and market opening.

The launch of the Doha regime in November 2001 was an important turning point in service trade negotiations. Above all, the DDA Declaration stipulated the schedule and deadline for the negotiation of the service trade, which made the negotiation itself more active (Jeong, 2005). Following the agenda of Article XIX of the GATS, Members began negotiations in January 2000 in order to achieve a higher level of market liberalization in services trade, including

audiovisual services. These negotiations remained dormant until they were fuelled by the positive results of the Doha Ministerial Conference in November 2001 to follow a request–offer way based on the existing lists of commitments of GATS (Hong, 2008). According to the DDA Declaration, Member States were required to submit a request for a first concession to the service sector by the end of June 2002, to submit the first offer by the end of March 2003 (Jeong, 2005).

Korea submitted requests to other member countries at the end of June 2002 to open their markets. In March 2003, Korea presented its first round of commitments for its market opening plans (Ministry of Foreign Affairs & Trade, 2005). The Schedule also assumed additional commitments regarding the implementation of specified standards or regulatory principles in addition to the commitments. Commitments were undertaken with respect to each of the four different modes of service supply: cross–border supply, consumption abroad, commercial presence and temporary entry of natural persons.

Meanwhile, the United States, after recognizing the limitations of the GATS in opening the audiovisual services market, started to use the bilateral FTAs as well as lead a

new round of the WTO system. Through the Doha Round negotiations, the United States actively promoted negotiations on opening services market including cultural and audiovisual areas. New Zealand, Japan and Hong Kong also favored the necessity of market opening. On the other hand, the European Union, Canada, and Australia still adhered to a negative stance regarding the liberalization of audiovisual market. These countries applied the MFN treatment exemption provisions for audiovisual services such as films and broadcasting in their first commitments submitted by March 2003. They also continued to admit quotas and regulatory policies to protect their cultural industries (Jeon et al., 2008).

As of June 2005, only 26 WTO members had made commitments in the field of audiovisual services (122 WTO members have made no commitment at all in this sector). The EU did not make any commitment in the audiovisual sector in its initial offer in 2003, nor did it submit any requests for the audiovisual sector to its WTO Members in 2005. The EU and their member States also maintained audiovisual exemptions to the MFN treatment (The European Commission, 2016). Though the crucial procedure concerning international trade in audiovisual services was the submission of the revised services offer in May 2005, since then, no

meaningful progress has been made (Hong, 2008).

The controversy surrounding the opening of the audiovisual services area has not been resolved in the new round of WTO, which is called Doha Round. The positions of Europe and the United States are still in sharp contrast. While the U.S. insisted that the GATS discipline application in audiovisual services was reasonable, Europe insisted that the audiovisual services sector should be treated as an exception to the GATS disciplinary application. The strategic choice to avoid two ideological world view clashes was a bilateral negotiation card, a free trade agreement, and the United States, as mentioned earlier, has been trying to realize universalism in the destruction of cultural exception and opening of audiovisual services market through this channel (Jeon et al., 2008). Actually, the bilateral agreements signed by the United States appear to have provided for much more significant advances in terms of trade liberalization in the audiovisual services area (Hong, 2008).

## **2.5. International Film Co-Production**

Cultural exchange and trade are not absolutely separate things, they are closely related. In particular, audiovisual

co-production agreement is not easy to distinguish whether it is trade or exchange. The audiovisual co-production agreement is a system that grants market access and financial benefits that are granted exclusively to domestic products in both countries, provided that audiovisual product jointly contributed by both countries meets certain criteria. If audiovisual co-productions are activated, it will not only make it easier to access foreign markets, but will also promote mutual understanding and cooperation through the process of co-production and distribution.

### **2.5.1. Definitions and Types of International Film Co-Production**

From the viewpoint of business administration, many different terms have been used to define international inter-firm cooperation such as 'international cooperative operations', 'international strategic alliances', and 'international strategic partnerships', etc. According to Luostarinen and Welch (1997), "the purpose of the cooperation is to achieve commonly agreed share goals through joint activities taking place in one or more collaborative or non-collaborative countries on an equity or non-equity basis by sharing costs, risks and profits caused by these joint trading or

non-trading activities.”

The film co-production has been defined by numerous scholars, but there is no confirmed single concept regarding its definition. Generally, international film co-production refers to sharing of expenses between co-production partners of different countries or cooperating in production activities by providing new ideas, directing, technical staffs and facilities. According to the article 2 of 'Promotion of the Motion Pictures and Video Products Act', the term 'jointly produced motion picture' means a motion picture produced jointly by Korean and foreign motion picture makers in such way as covering the production costs through their joint financing, as prescribed by Ordinance of the Ministry of Culture, Sports and Tourism.

The term ‘international film co-production’ is used to refer to a work where two or more film companies of different countries play an active role in the production of a film by supplying the services of individuals in the production, jointly contributing to the financing of it, and jointly proportionate to their relative contributions owning the rights of the completed production (Alberstat, 2000).

There are various ways to conduct film co-production. General types of international film co-productions are

presented in Table 2.10.

**Table 2.10. General Types of Film Co-productions**

Types	Characteristics
Swapping	Sharing the production of episodes between co-producers for the same series
Co-operation	Co-work between co-producers
Pre-sale/pre-purchase deals	The main producer leads the whole production process and others participate only in funding and sales.
Co-financing	One of co-production corporations leads production procedures and other producers participate not in production procedures but in examination of contents.
Others	Co-production could be carried out by various forms such as joint planning and production, joint investment.

According to Norbert Morawetz (2007), co-productions can be categorized into three broad types in terms of its motivation. The growth in the number of co-productions has mainly occurred in two categories, namely in co-productions driven by a search for finance (industry driven) and in co-productions that are driven by capital seeking an

investment opportunity (capital market driven). Projects belonging to either of the three categories are not made exclusively for one reason, but are usually made for a combination of creative and economic factors taken into consideration.

**Table 2.11. A Typology of Co-productions**

Types	Characteristics
(A) Co-production driven by creative reasons	<ul style="list-style-type: none"> <li>- Creative elements of film demand cross border production (e.g. Roadmovie), or strong benefit from creative inputs from multiple countries</li> <li>- Low-Medium budget films, predominantly European</li> </ul>
(B) Co-production driven by search for finance (Industry driven)	<ul style="list-style-type: none"> <li>- Film is structured as co-production to pool financial sources from different countries.</li> <li>- Creative elements are adjusted in order to raise finance.</li> <li>- Low-Medium budget films</li> <li>- Single picture financing</li> </ul>
(C) Co-production driven by international capital (capital market driven)	<ul style="list-style-type: none"> <li>- Film structured as co-production to exploit tax credits for private equity</li> <li>- Medium to high budget films, aimed at mainstream international audience, often studio distribution guarantee.</li> </ul>

Source: Morawetz, Hardy, Haslam, & Randle (2007). Finance, Policy and Industrial Dynamics – The Rise of Co-productions in the Film Industry.

In general, an alliance is an inter-firm collaboration over a given economic situation for the achievement of the participating companies' goals. A strategic alliance is an arrangement between two companies that share resources to undertake a mutually beneficial project. Strategic alliance can enhance competitiveness and assist in ensuring the economic value addition, multidimensional inter-firm network, and inter-organizational coordination. (Uddin & Akhter, 2011). International film co-production is an alliance of this kind. Because international film co-production is a long-term project, it can take several different forms to achieve a variety of strategic goals and have a variety of features.

### **2.5.2. Benefits and Costs of International Film Co-Production**

The main purpose of international film co-production is as follows. First, to create synergy effects on culture industry combining each other's outstanding techniques, human resources, and capital. Second, to promote exchanges of culture by strengthening bilateral cooperation. Third, to facilitate the advance into the global market through developing high-quality and competitive contents aiming at the global market.

International film co-production has a lot of economic benefits to attain such purposes. First, it contributes to revitalization of economy through the development of audiovisual contents aiming at the global market. Second, it reduces the production cost and risks by sharing capital and human resources. Third, international film co-production raises funds for production easily through various benefits. As co-production films are regarded as national productions, these products could be able to receive various supports and benefits provided by both countries' governments according to relevant laws and regulations of each country. For example, If there are obvious provisions in the co-production agreement reached by the Parties, co-productions are qualified for subsidies and tax benefits.

In addition to the financial benefits, international film co-production is helpful for market expansion by securing overseas distribution, establishing local networks, and making use of other benefits. Co-productions can be exempted from quota restrictions against foreign products if there are obvious provisions regarding this benefit in the co-production agreement. This can provide a more stable environment for producers to make inroads into the partner's market.

It also expands the customer base by responding efficiently to the needs and tastes of customers in a counterpart country and finds new markets by developing audiovisual contents aiming at global markets from planning and production steps. In the perspective of production, international film co-production has positive effect on making production procedure easier by providing better locations and facilities, creating synergy effects on production by sharing and exchanging human resources, techniques, and know-hows.

In addition, international film co-production contributes to cultural exchanges between countries through the enhancement of creativity and diversity of audiovisual industry by utilizing foreign country's social and cultural backgrounds. It promotes cultural diversity by exchanging unique characteristics of each other's culture and enhancing mutual understanding and sharing common values.

'Convention on the Protection and Promotion of the Diversity of Cultural Expressions' of UNESCO also encourages the establishment of co-production agreement among countries.

Even if a co-production provides a useful mechanism for creating economic and cultural value, and it provides a

range of benefits including financial incentives and access to other markets, there are also disadvantages in international film co-production. One of the disadvantages of film co-production lies in the amount of paperwork that inevitably accrues when two production companies collaborate with another and their respective governments.

Another disadvantage is the potential of losing creative control over a project due to making compromises in the treatment of a script. In terms of the popularity of a film work, most significant disadvantage is the cultural disparity between deferent countries that make it difficult to bring common sense. According to Review of New Zealand government regarding international co-production (Gregson, 2012), the key barriers can be broken down into the following areas:

- the small number of producers with the entrepreneurial skills required to secure finance for co-productions
- lack of writers experienced at writing scenario for a world audience
- legal and financial complexity of arranging a co-production
- a lack of shared stories with the partner country
- difficulty securing finance including: a lack of development finance and/or dedicated funding for co-productions

According to the review, the complex nature of the legal and financial arrangements which request to meet the requirements of the competent authorities of two countries, makes them difficult to work effectively. Some of these barriers might be inherent to the nature of co-productions, and difficult to resolve. It is necessary process for an entrepreneurial producer to secure financing, the requirements of the competent authorities in both countries to get approval as a co-produced work (Gregson, 2012).

### **2.5.3. Trend and Policies of International Film Co-production**

Co-productions now account for a significant part of film activity in countries around the world, suggesting that film production is increasingly not taking place within a cluster and a national context, but the result of joint efforts between producers from different countries (Morawetz et al., 2007).

Europe is the region that co-production format vitalizes the most, France is the foremost country among others. The country support film production as a national policy. Germany and U.K. also launched their own national support

policy on film co-production such as tax exemption benefit. In the United States, co-producing format began in 1960 for saving production cost, but in the country, relationship with the partner country were not parallel but only using capital from the other within Hollywood production system. Chinese government also has promoted cultural industry from 2001. They signed for international co-production agreements with other countries. In the case of Korea, co-producing had begun comparably early in late 1950s' but soon disappeared because quality of produced products were not sufficient for the market. In Korea, significant effort of co-produced film re-activated in 2000s. Since 2005, more than twenty films have been made as an international cooperation (Kim, 2014).

The rise of co-productions is a part of institutional context that has been shaped by correlations between financing structure and support policy in the film industry. When co-production first appeared in the 1950s, it was developed as a local strategy by European countries that wished to protect their film industries from the dominance of Hollywood by sharing their markets, financing resources and support mechanisms. More recently, however, it has been increased to diversify the risk of film financing through tax incentives. This change has been encouraged by tax competition among the countries involved. In such a way,

co-production has placed in a new institutional film-financing structure that combines funding with support policies (Kim, 2009).

## **2.6. Analytical Perspectives: Motion Picture as Trade versus Culture**

In the international trade negotiations, there are two types of perspectives on motion picture services. One is to view motion pictures as objects of free trade, and the other is to view motion pictures as cultural aspects. The viewpoint of the motion pictures in terms of culture is expressed in various terms, such as cultural protection, cultural exception, and cultural diversity. The common implications of each of these terms include the intention to secure cultural diversity globally by protecting the unique cultural assets of each country and avoiding the dominant cultural influence of a particular country.

The relation between free trade and cultural diversity has been one of the most disputed issues in the international trade negotiations regarding the liberalization of markets for audiovisual services. The reason for the dispute is the dual reality of audiovisual goods and services as commodities and

as cultural artefacts, as well as their inherent importance in societal and economic value.

The positions on how audiovisual services should be addressed vary from the extreme of the ‘cultural exception’ to that of absolute liberalization with a lot of nuances in between. From a global perspective, the compromise between these positions in the international trade negotiations will be important for the fate of audiovisual services (Graber, 2004).

The concept of ‘cultural exception’ (or exemption) was introduced by France in the General Agreement on Tariffs and Trade (GATT) negotiations in 1993. “The idea is that culture should be treated differently from other commercial products, and that cultural goods and services should be left out of international treaties and agreements. The goal is to protect and promote domestic artists and other elements of domestic culture, which in practice translates into protectionist measures limiting the diffusion of foreign artistic work or into subventions to the cultural sector, e.g. cinema.” (European Parliamentary Research Service Blog).

At the 33rd UNESCO General Assembly in 2005, ‘Convention on the Protection and Promotion of the Diversity

of Cultural Expressions' was adopted by the resolution of the 148 States. Korea deposited its instrument of ratification on April 1 2010, and the Convention became effective from July.

According to the Convention, each Party can take measures such as the protection of cultural diversity and support measures such as regulation, financial support, establishment of public facilities (Article 6), and determine the existence of special circumstances requiring urgent protection, such as the risk of extinction of cultural expressions within their territory, and take all appropriate measures (Article 8).

Article 20 of the Convention, which has raised questions due to the possibility of a conflict with the WTO rule, which is the basic norm of international trade, states that "1. Parties recognize that they shall perform in good faith their obligations under this Convention and all other treaties to which they are parties. Accordingly, without subordinating this Convention to any other treaty, (a) they shall foster mutual supportiveness between this Convention and the other treaties to which they are parties; and (b) when interpreting and applying the other treaties to which they are parties or when entering into other international obligations, Parties

shall take into account the relevant provisions of this Convention. 2. Nothing in this Convention shall be interpreted as modifying rights and obligations of the Parties under any other treaties to which they are parties.” (UNESCO, 2005). It declares the comparative support, complement and non-dependency between the Convention and other treaties.

On the other hand, the perspective on motion picture as a target of free trade has traditionally been represented by the United States. The United States has pursued a consistent trade liberalization policy for the audiovisual services industry. The United States' main argument for the opening of audiovisual services market is that the cost of audiovisual productions has been reduced due to the development of digital technology, and as distribution channels have become diverse, the direction to maintain their own cultural identities has already been established. The new technology has enabled consumers around the world to enjoy entertainment and information services without borders (Jeon et al., 2008).

The United States insists that the digital network field will be the mainstream in the development of the audiovisual services industry in the future, thus it is inevitable to open market in this field. Like the position of the United States,

some argue that regulations to protect audiovisual services are no longer meaningful due to the development of digital technology. The environment in audiovisual services field is changing rapidly due to the convergence process based on the technical development (Larouche, 2004). Convergence refers to the digitization of all media forms and the adoption of compatible digital formats of all networks and information appliances (Larouche, 2004). Accordingly, existing trade barriers and protection measures in audiovisual services are becoming more and more meaningless (Hong, 2008).

The landscape of regulation for the audiovisual industries is complicated and, at times, subject to conflicting cross-currents because, at the same time as wanting to protect cultural identity, many countries are also wanting to promote the circumstances in which their own domestic film production companies will become more competitive in international motion picture markets. The nature of policy agendas and the scope for conflict between liberalizing and protective impulses tend to be multi-faceted (Schlesinger, 1997).

The competitiveness of the audiovisual industries by extending overseas market is very important for national

economic growth and the potential creation of jobs, whereas the cultural and social dimensions of audiovisual are also very strongly recognized. Culture is regarded as a vital asset and it is essential that cultural diversity be defended against foreign cultural influences (Kroes, 2010). But another concern strongly evident in many countries is a wish to foster the development of strong players that can compete more effectively against the strength of audiovisual suppliers from the US. Audiovisual, as a component of what is now termed the digital economy, is imbued with high hopes of how it may contribute to the economic revitalization and growth (Barber, 2010).

Whether to take a cultural protection perspective or a free trade perspective on motion pictures services in international trade negotiations is very important in light of its impact on the country in the future. In order to protect the cultural identity of the people and to protect the domestic film industry, it is desirable to take a perspective of cultural protection. However, for the purpose of development of film industry through the overseas advancement and propagation of its own culture abroad, the viewpoint of free trade must also be taken.

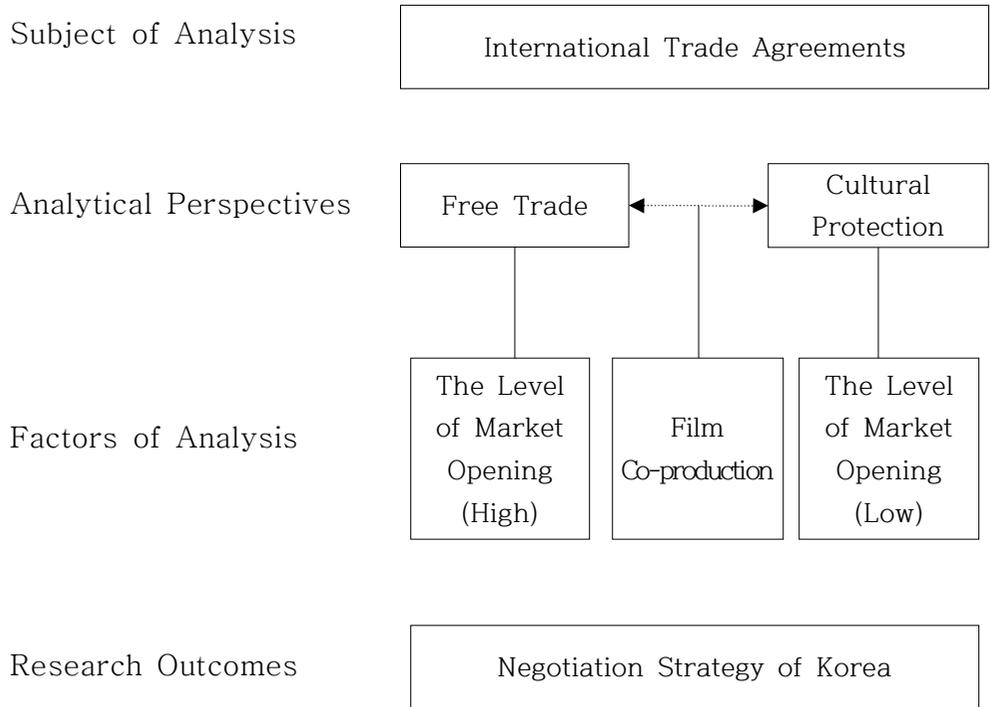
In bilateral trade negotiations on motion picture

services, both countries' perspectives on motion picture have a significant impact on the outcome of the negotiations. When the competitiveness of the film industry between the Parties and the benefit from the entry into the other country are relatively large, a Party will take the free trade perspective. In contrast, when the necessity of protecting domestic film industry as well as cultural identity is relatively large, then the country will have the cultural protection perspective. These perspectives of a country are not fixed but relatively vary depending on who is the negotiating partner.

Therefore, the success of international trade negotiations on motion picture services depends on how a country carefully analyzes its current situations and how to reflect the perspectives of free trade and cultural protection appropriately with due consideration of positive or negative influences in the future.

The analytical framework of this study, which is mainly based on analytical perspectives, is set as following figure.

Figure 2.2. Analytical Framework



## Chapter 3. WTO Negotiations of Korea on Motion Picture Services

### 3.1. Motion Picture Services before Uruguay Round

The General Agreement on Tariffs and Trade (GATT) was signed in Geneva in 1947 by 23 countries for tariff elimination and trade expansion of goods. Until it was replaced by the World Trade Organization (WTO) in 1995, more than 120 countries joined the Agreement. Korea became a member on April 1, 1967. The film sector was the only service sector covered in the original GATT. In 1947, in recognition of the difficulty that domestic film producers faced in finding adequate screen time to project their films in the immediate post-World War II period, GATT founders authorized continuation of existing screen-time quotas (Zampetti, 2003).

This was the only case where the application of quantitative restrictions was allowed under the GATT MFN provision. Contracting Party may maintain or establish quantitative restriction requiring the projection of national films during a specified minimum portion of the total screen time. This GATT exception applied only to screen quotas

and did not extend to broadcasting services and other sub sectors of the audiovisual services (Zampetti, 2003).

Before the establishment of the GATS, the different perspectives in the audiovisual sector – trade versus cultural protection – was not distinguished due to the fact that countries could protect their film industry under the internationally recognized protection measure in this field. The GATT provides one of its central principles under article III, “non-discriminatory national treatment to all imported goods.” (Choi, 2008). However, article IV provides “Special provision relating to cinematograph films” , which allows each country to establish screen quotas and give preference to films from preferred countries.

The point of this article is that the screen quota is legally recognized as an exception to the general principle of the GATT. Nevertheless, the fact that the scope of screen quota is limited to movies, and in addition, based on the fact that (d) of Article 4 of the GATT that stipulates the gradual elimination of the screen quota, ie, market liberalization, the provision is regarded as a limited temporary measure for cultural diversity (Lie, 2009). The GATT gave the legal ground for protecting the national films by using the screen quota policy.

The screen quota system has been maintained as a safeguard measure that represents a cultural protection perspective in Korea. The Korean screen quota system was enacted in 1966 and enforced on January 1, 1967. Table 3.1 shows the transition of Korea's screen quota system.

**Table 3.1. Transition of Screen Quota System in Korea**

- |  |
|--|
| <ul style="list-style-type: none"><li>- Motion Picture Law (1966): Korean cinema screenings no less than 90 days a year</li><li>- Motion Picture Law (1970): Korean cinema screenings no less than 30 days a year</li><li>- Motion Picture Law (1973): Korean cinema screenings no less than 121 days a year</li><li>- Motion Picture Law (1984): Korean cinema screenings no less than 146 days a year</li><li>- ENFORCEMENT DECREE OF THE PROMOTION OF THE MOTION PICTURES AND VIDEO PRODUCTS ACT (2006): Korean cinema screenings no less than 73 days a year</li></ul> |
|--|

As can be seen in the table, Korea's contemporary screen quota system originated directly from the Motion Picture Law, which in 1966 required every cinema to exhibit Korean films for a minimum of 90 days each year. Since then, the Korean screen quota system has been maintained continuously without any limitation for trade liberalization under the GATT system, and the number of screening days for domestic films had been steadily increasing until the

screen quota was reduced to 73 days in 2006.

According to Motion Picture Law amendments enacted in 1987, MPEA (Motion Picture Export Association) member companies of the U.S. could open branch offices in Korea and directly distributed Hollywood films. This measure could be seen as a reflection of free trade perspective in relation to the film industry responding to the constant demand of United States under pressure of motion picture association such as MPEA for the opening of the film industry in Korea. In terms of international trade regime, this measure of permitting direct film distribution of U.S. could be understood as a voluntary liberalization measure which was not bound by international trade norms. This means that Korea could withdraw such a measure at any time according to the change of situations.

In September 1988, shortly after UIP (United International Pictures) opened its direct-distribution office in Korea, Korean protests called for a boycott of directly distributed American films because they were regarded as a cultural invasion and a threat to Korea's national film industry as well as cultural identity. The Korean Film Council and thousands of other film industry people urged the Korean government to remove culture from ongoing

bilateral investment treaty negotiations with the U.S.

Unlike the perspectives of Korean Ministry of Commerce, the Ministry of Culture and Tourism and the whole of the Korean film industry had stance that bilateral investment negotiations were inappropriate places to leverage audiovisual industry. Despite the voluntary market liberalization for film distribution, for a considerable time the screen quota system remained a strong power in the protection and promotion of the Korean film industry and Korean cultural identity (Yecies, 2007).

During the GATT system, Korea has been able to maintain and strengthen the positions and policies of cultural protection in the field of motion picture industry, with the GATT allowing the screen quota for movies and the lack of established international trade norms in service sectors.

### **3.2. Uruguay Round Negotiations and the GATS**

There are several distinctive features in the GATS compared to the GATT system. First of all, it was the first international regime that dealt with trade in services. The

coverage of the GATS would be universal, which means that in principle no service sector would be excluded from the multilateral trade discipline of the GATS. Another point is that it deals audiovisual sector as the main issue, pushing the burden of proof to those countries that have trade-barrier measures.

The EU as well as many other countries having position of cultural exception claimed that the audiovisual sector should be excluded from the coverage of multilateral trade regime. However, the final outcome agreed at the conclusion of the Uruguay Round was as follows (Choi, 2008):

- coverage of the GATS was universal, meaning that there was no cultural exception for the audiovisual sector
- however, market access and national treatment of every service sector was to be negotiated, not automatically granted
- and the EU obtained an exemption to MFN treatment for its audiovisual sector.

Seemingly, it strengthened the liberalization of service trade including audiovisual services. However, each countries could have their own measures in order to protect their cultural identity. The obligations of market access and

national treatment of every service sector was not automatically applied if each countries would not make specific commitment in a sector that they didn't want to open to foreign countries. In addition, the obligation of MFN treatment also could be exempted if a member specified in the MFN exemption list. By doing this, countries secured an international legal right to discriminate against foreign audiovisual service suppliers belong to certain countries.

If any country did not want to permit the foreign service suppliers' access to its domestic motion picture market, it could make no specific commitment in the motion picture services. It was of course concluded through negotiations with other WTO members. Once inscribed in the national schedule of specific commitments, such commitments would apply to all the WTO members.

Due to this discretion provided to each country, only a small number of the WTO members has promised trade liberalization through submitting their commitments in motion picture area in the GATS. Most of WTO members including the EU, could maintain strict market access limitations to their markets by not making any specific commitments and requesting MFN exemptions. Among developed countries, Canada, Australia as well as EU did not make any specific

commitments in the audiovisual sector, which reflected the position of cultural exception of those countries.

**Table 3.2. WTO/GATS Audiovisual Service Commitments**

Service sub-sector	Countries that made specific commitments	Total number
Films and video production/distribution	Albania, Central African Republic, Gambia, Georgia, Hong Kong, India, Israel, Japan, Jordan, Kenya, Korea, Kyrgyz, Lesotho, Malaysia, Mexico, New Zealand, Nicaragua, Oman, Panama, Singapore, Thailand, United States	22
Film projection services	Albania, Central African Republic, Gambia, Georgia, Japan, Jordan, Kyrgyz, Kenya, Lesotho, Mexico, New Zealand, Nicaragua, Oman, Panama, United States	15
Radio and TV production services	Albania, Central African Republic, Gambia, Georgia, Jordan, Kyrgyz, Lesotho, New Zealand, Panama, Thailand, United States	11
Radio and TV transmission services	Albania, Central African Republic, Dominican Republic, El Salvador, Gambia, Kyrgyz, Lesotho, Malaysia, New Zealand, United States	10
Sound recording	Albania, Central African Republic, Georgia, Hong Kong, Japan, Korea, Kyrgyz, Panama, Singapore, United States	10
Other	Albania, Central African Republic, Dominican Republic, El Salvador, Hong Kong, New Zealand, United States	7

Source: WTO Secretariat (November 2001)

Even though the level of liberalization in the audiovisual sector was very low, some negotiators argue that GATS is still meaningful in regard that the start of liberalization was established in the international service trade regime (Choi, 2008). At the time of the conclusion of the GATS, the screen quota was the only trade restrictive legal regulation regarding the motion picture services in Korea.

In 1987, the Korean government took the liberalization measure such as removing restriction on foreign films distribution when faced with U.S. strong request for lowering the barriers in the field of film industry.

Korea made specific commitment in some sub-sector of audiovisual services in the GATS, which includes motion picture production and distribution services.

**Table 3.3. Specific Commitment of Korea in Audiovisual Services in the GATS**

Sector or Sub-sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
2. COMMUNICATION SERVICES			

D. AUDIOVISUAL SERVICES			
a. Motion Picture and Video Tape Production and Distribution Services Excluding Those Services for Cable TV Broadcasting [96112* 96113*]	1) NONE 2) NONE 3) NONE 4) Unbound except as indicated in ALL SECTORS	1) NONE 2) NONE 3) NONE 4) Unbound except as indicated in ALL SECTORS	
e. Record Production and Distribution Services (Sound Recording)	1) NONE 2) NONE 3) NONE 4) Unbound except as indicated in ALL SECTORS	1) NONE 2) NONE 3) NONE 4) Unbound except as indicated in ALL SECTORS	

Source: GATS/SC/48 (April 1994)

In general, the audiovisual services sector covers a wide range of activities related to the production, distribution, and exhibition of audiovisual content in the field of motion pictures, radio and television programs, and sound recordings.

Among the audiovisual services, Korea made specific

commitment in motion picture or videotape production services (CPC 96112), motion picture or videotape distribution services (CPC 96113) and sound recording services. This means that Korea opened its market of these area to all WTO members in Mode 1, Mode 2, Mode 3 with obligation of market access and national treatment. With regard to Mode 4, Korea only allowed movement of natural persons into Korea indicated in all sectors. But Korea did not make specific commitment in the field of motion picture projection service (CPC 9612), radio and television services (CPC 9613), radio, television, and transmission services (CPC 7524), and other services. Under CPC 9611 (Motion picture and videotape production and distribution services), Korea did not make specific commitment in promotion or advertising services (CPC 96111).

**Table 3.4. Market Opening in Audiovisual Services by Korea in the GATS**

CPC 9611	Motion picture and videotape production and distribution services		
	CPC 96111	Promotion or advertising services	
	CPC 96112	Motion picture or videotape production services	○
	CPC 96113	Motion picture or videotape distribution services	○
	CPC 96114	Other services	

CPC 9612	Motion picture projection service		
	CPC 96121	Motion picture projection services	
	CPC 96122	Videotape projection services	
CPC 9613	Radio and television services		
	CPC 96131	Radio services	
	CPC 96132	Television services	
	CPC 96133	Combined program making and broadcastin services	
CPC 7524	Radio, television, and transmission services		
	CPC 75241	Television broadcast transmission services	
	CPC 75242	Radio broadcast transmission services	
CPC n.a.	Sound Recording		○
	Others (e.g., the contents of multimedia products)		

Screen quota system is applied to motion picture projection service (CPC 9612), and since Korea did not make any specific commitment in this field, it could continue to have the authority to maintain the screen quota system in Korea. It is noteworthy, however, that Korea has opened its market in film production and distribution services considering the conservative atmosphere in the trade liberalization of motion picture services among WTO members. Among developed countries, with the exception of

the United States, Japan and New Zealand, there is no country that opened markets for this area in the GATS.

Once the GATS was concluded, it would be applied to all WTO members as an international trade norm, and the promise of market opening was almost impossible to be reversed in the future. Therefore, the agreement was very important in that it would serve as the basis for future international trade negotiations such as the FTAs. In this regard, Korea's decision regarding market opening in motion picture production and distribution services has significant implication. It is an important point in that Korea had been recognized as a exemplary country having the position of cultural protection represented by screen quota in the international trade environment, but Korea revealed a dual stance in the GATS that sees the film industry also as an object of trade liberalization.

Actually, in 1987, the Korean government had implemented the liberalization measure by removing restriction on foreign films distribution when faced with U.S. strong request. This experience of market opening in this field can be regarded as an background of commitment of Korea in the process of GATS negotiations as there was no specific restrictions in the domestic regulation in relation to

motion picture production and distribution. However, the fact that there was no domestic regulation regarding trade at that time and the promise of opening market in international trade agreements has a different meaning. The obligations of liberalization in an international trade agreement implies that it has no right to introduce regulations at any time in the future even when the restriction is necessary according to the change of environment of a specific industry.

In addition to the commitment of the services area such as business, construction, distribution, tourism as well as entertainment industry, the Korean government's decision to provide specific commitment for motion picture services has raised doubts and criticism about the feasibility. The commitment decision of Korea would have a significant impact on future international trade negotiations such as DDA and FTAs that Korea has participated as a Party (Jeon et al., 2008).

### **3.3. Doha Round Negotiations**

Pursuant to the GATS principle of progressive trade liberalization, as stipulated in the article XIX, stating that

“members shall enter into successive rounds of negotiations, beginning not later than five years from the date of entry into force of the WTO agreement,” a new round of multilateral negotiation has been underway at the WTO (Choi, 2008). The Doha Round of WTO negotiations – officially, the Doha Development Agenda – was launched in November 2001. The work program covered about 20 areas of trade, including agriculture, services trade, market access for nonagricultural products, and certain intellectual property issues.

Despite initial optimism, the negotiations have not made much progress as tension and disagreements between major trading countries in the developed and developing world slowed progress. In the ensuing years, while the negotiations at times showed signs of life, for the most part, expectations have remained low (Lester, 2016).

Achieving such a ambitious goal of progressive trade liberalization with more than 140 countries at different situations of economic growth can be regarded as a difficult mission. Disagreement, delay and deferred decisions are familiar characteristics of the multilateral negotiations. Based on the result of GATS negotiations on specific commitments, DDA negotiations have been implemented on a request–offer

way. Each countries make their requests for market opening in interest sector to other countries. and the countries that are requested respond by offers. The gap between request and offer is a core point of negotiations.

Deadlines were set for submissions of initial offers by March 31, 2003. Between March 31, 2003, and October 30, 2003, thirty nine countries submitted initial offers, including Australia, Canada, China, EU, Japan, Korea, and the United States. Most initial offers did not make any significant improvement from liberalization level in audiovisual services settled in the GATS (Choi, 2008).

**Table 3.5. DDA Revised Offer of Korea in Audiovisual Services**

Modes of Supply: 1) Cross-board supply 2) Consumption abroad  
3) Commercial presence 4) Presence of natural persons

Sector or Sub-sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
2. COMMUNICATION SERVICES			

D. AUDIOVISUAL SERVICES			
a. Motion Picture and Video Tape Production and Distribution Services Excluding Those Services for Cable TV Broadcasting [96112* 96113*]	1) NONE 2) NONE 3) NONE 4) Unbound except as indicated in The Horizontal Commitments Section	1) NONE 2) NONE 3) NONE 4) Unbound except as indicated in The Horizontal Commitments Section	
e. Record Production and Distribution Services (Sound Recording)	1) NONE 2) NONE 3) NONE 4) Unbound except as indicated in The Horizontal Commitments Section	1) NONE 2) NONE 3) NONE 4) Unbound except as indicated in The Horizontal Commitments Section	

Source: WTO Revised Offer on Services, TN/S/O/KOR/Rev.1  
(June 2005)

Korea submitted its initial offer containing the specific commitments in March 2003, and its revised offer in May 2005. In the field of audiovisual services, Korea submitted both the first and second offers in the same level as the specific commitments in the GATS.

Korea has set three negotiating bargaining targets in the DDA service negotiations (Jeon et al., 2008). First, participate actively in service negotiation considering the importance of service sector in the national economy and the liberalization policy that Korea has been taking. Second, actively seek to open up its overseas markets in order to secure a base for overseas expansion, especially in the areas where Korea has shown competitiveness such as telecommunications, distribution and shipping. Third, enhance competitiveness in the fields of audiovisual, law, education, etc., as well as implement measures to control the breadth and speed of market opening. While actively accepting the U.S.-led liberalization trend in services, it was a strategy of Korea to consider the extent and pace of openness for audio-visual services.

Among six sub-categories of audiovisual services, Korea has only made specific commitments in two categories: film and video tape production and distribution, and sound recording. There were no restrictions on cross-border supply, overseas consumption, and commercial presence in both of these areas, and the movement of natural persons were not allowed except as indicated in The Horizontal Commitments Section. On the other hand, the Korean government did not promise to open market on

motion picture projection services and broadcasting services.

As Korea did not make specific commitment in the screen projection services, it could maintain a screen quota system without any limitation. Since the 1990s, Korea has been able to experience the boom of domestic movie industry, and the EU and other countries have named Korea as a representative country that has succeeded in the policy of cultural diversity and struggled against the market opening pressure of Hollywood.

In the DDA negotiations, Korea has participated in 10 service sectors as a requesting country and 8 service sectors as an objective country that are asked for opening the service market. Concerning the motion picture services, Korea has been receiving requests in the field of promotion or advertising services (CPC 96111) and other services relating to motion picture production and distribution services from the countries that already opened market in this field. On the other hand, Korea has been requesting market opening to the countries that have not make specific commitments in the field of motion picture and video tape production services and distribution services that Korea had opened in the GATS (Jeon et al. 2008).

Korea has actively defended the demand for additional opening of movie industry such as motion picture projection service that is closely related to screen quota system. Meanwhile, It was expected that Korea request market opening to other countries in the field that there are substantial benefits for Korean film industry by overseas expansion and Korea already open to other countries in the WTO trade system.

Although the WTO DDA system is expected to take a considerable period of time to reach the conclusion of negotiations, it is anticipated that the principle of cultural exception and negotiation strategy of reservation of audiovisual services will be further threatened.

The GATS system has succeeded in replacing the principle of cultural exception with the general principle of trade, though it allows discretion of members by the method of making no commitments in the field of audiovisual services. It is increasingly difficult to argue for an exception against the principle of trade, and this atmosphere is evident not only in the FTA negotiations but also in the WTO DDA system.

### 3.4 Film Co-Production and MFN Exemption

The general obligations and disciplines of the GATS include many principles that are the cornerstones of the international trading system. These contain non-discrimination among Members, which is called as Most Favoured Nation (MFN) treatment. The MFN principle guarantees that the best market access conditions provided to suppliers from one country are automatically applied to all other Members. It applies regardless of whether a market-opening commitment has been made or not.

However, the GATS also permitted certain exceptions to the principle. Annex on Article II specifies the conditions under which a Member, at the entry into force of this Agreement, is exempted from its obligations. Such measures must be specified in a list of MFN exemptions submitted by the end of the Uruguay Round or by the conclusion of extended negotiations.

Regarding MFN exemptions, each country is required to provide five types of information for each exemption (International Trade Center):

- description of the sector or sectors in which the exemption applies;

- description of the measure, indicating why it is inconsistent with Article II;
- the country or countries to which the measure applies;
- the intended duration of the exemption;
- the conditions creating the need for the exemption

The exemption for most-favored-nation treatment is to avoid any difficulties that may arise in the application of the multilateral agreement from the time when the multilateral agreement is first enacted and to prepare for the special circumstances of each country. Thus, the principle of MFN treatment applies generally to all GATS members, but it provides provisions for cautious measures to be taken in the MFN treatment exemption, as specified in the Annex of GATS Article II. Accordingly, more than 70 WTO members have accepted the promise of most-favored-nation treatment only in some sectors of the service areas.

Most of OECD countries have attached MFN exemption lists to their liberalization schedules. Many of them have been using MFN exemption in relation to audiovisual co-production agreement. For example, Australia has right to provide preferential treatment of some other Members in the framework of film and television co-production to promote collaborative efforts between Australian and foreign film producers and general cultural links. Canada also allows

preferential treatment for some other Members in the framework of film, video and television co-production agreements. The MFN exemption is justified by "reasons of cultural policy". Similarly, India provides the National Treatment for countries that have concluded Film and Television Program Co-Production Agreement. New Zealand has right of MFN exemption for financial or tax assistance under the co-production agreement (OECD, 1994).

Most of major OECD countries have similar rights by inscribing MFN exemption list in relation to audiovisual co-production agreements except U.S., Japan and Korea. The MFN exemption measures for audiovisual co-production imply that the market opening of the audiovisual field is so culturally sensitive, and each country provides its national treatment only for co-production products made with other countries in order to protect its cultural identity. By declaring the most-favored-nation treatment exemption, each country intends to revitalize international co-production.

The United States and Japan, which adhere to the principle of trade liberalism in the field of audiovisual services, did not submit the MFN exemption list for this field. It is somewhat surprising, however, that Korea, known

for having position of emphasizing cultural diversity and cultural protection by having screen quota system, did not submit any MFN exemption lists regarding audiovisual co-production agreement. Korea would be obliged to provide the same benefits to all WTO members who practice the audiovisual co-production, regardless of whether the co-production agreement is signed or not, provided that the benefits are granted to the particular country that practices audiovisual co-production with Korea. In addition to the making the specific commitments in motion picture production and distribution services, the lack of MFN exemption is one of the evidences that Korea regards motion picture services as not only an object of cultural protection, but also an object of trade.

The promotion of co-production through agreements between the Parties has been emphasized as a way to diversify cultures in the 'Convention on Cultural Diversity'. It is regarded to contribute to the diversification of cultural expressions around the world, The transfer of technology and the exchange of manpower through co-production can be said to be an effective way of international solidarity against the cultural homogenization represented by hollywood movies.

However, in the case of Korea, since it did not submit the MFN exemption list for the audiovisual service sector, it would be possible for trade disputes to be made if Korea give some benefits only to certain countries which concludes co-production agreement with Korea. Such a problem affects Korea in seeking countermeasures in future bilateral trade agreements such as FTAs.

## Chapter 4. FTA Negotiations of Korea on Motion Picture Services

The bilateral free trade agreement, which has spread widely by the United States, is a kind of bypass that the United States devised and introduced to each country in order to overcome the difficulty of the agreement of the multilateral trade negotiation system. Since the signing of the North American Free Trade Agreement (NAFTA) in 1994, a series of free trade agreements with the United States has emerged. This is the process of building a free trade circle through continuous and cyclical FTAs for example between the United States and Chile, Chile and Korea, Korea and the United States. Failure to reach consensus at the WTO ministerial meeting in Cancun in September 2003 and the recent declaration that the WTO / DDA negotiations are interrupted would further spread the FTAs between countries rather than multilateral agreement (Jeong & Roh, 2005).

A Free Trade Agreement grants mutually exclusive trade preferences between two countries. The effect of a concluded FTA could be applied to the previous FTAs as well as influences FTAs that will be concluded in accordance

with the most-favored-nation treatment rules. In this respect, an FTA is a very important event not only economically but also culturally and socially. Motion picture services, which are parts of the service area, were conservative field in their market liberalization based on the cultural exception due to their cultural identity. However, changes in the international trade system, especially conversion of tables from multilateral trade negotiations to bilateral trade negotiations requires a lot of progress in the liberalization of motion picture services. (Jeon et al., 2008).

Since 2003, Korean government has actively promoted FTAs, and in particular, has built an FTA networks by strategically expanding FTAs with resource-rich countries, and major economic centers. Through simultaneous FTA promotion, Korea has been making efforts to globalize FTA networks. Through this, Korea could support the securing of the global market for Korean companies and make it to become a hub of East Asia FTAs.

In terms of cultural trade, Korean society has recognized that the culture has a commodity aspect with economic value while making 'globalization' as an important policy task in the early and mid 1990s. By the end of the

1990s, Korean government had implemented a 'protection policy', fearing the loss of cultural identity due to the influx of other cultures. However, with the IMF in 1998, the government was actively promoting overseas cultural markets.

Korea has already expressed its willingness for market liberalization in the WTO negotiations, and has been seeking to further shape and realize market opening through many FTAs. The market opening of motion picture services has been a field that is not able to draw clear consensus points in Korea, and the government has been paying attention to the social impact as well as economic benefits of motion picture services.

In the multilateral negotiations, Europe has played a protective role in the opening of audiovisual services market, but in the bilateral negotiations, the positions and principles of individual countries are becoming more important. In fact, Korea has faced contradictory demands for motion picture services during FTA negotiations with the US which strongly advocate free trade, and the European Union which emphasizes the 'cultural exception'. In opening market of motion picture services and other audiovisual services, the balance and principle between cultural industry development

and cultural diversity should be considered. In the future, FTAs will be accelerated and Korea will not only be required to open market from FTA partners, but also request opening of their markets in the field of motion picture services (Jeon et al., 2008).

In the FTA negotiations on motion picture services that Korea involved, audiovisual co-production negotiations are regarded as an important factor. Korea has been making efforts to find out the possibility of promoting cultural exchange between two countries through audiovisual co-production and the possibility of Korean audiovisual industry to go abroad in most of the FTA negotiations that have been concluded.

Until now, Korea has established six international agreements regarding film co-production with France, New Zealand, EU, Australia, China and India. Except for India and France, Film co-Production agreements are included in Free Trade Agreements as an Annex of the FTAs. Thus, these co-production agreements have same effects as FTA regarding film co-productions between the parties. In the case of France, agreement of film co-production was concluded in 2006 regardless of FTA. In the case of India, there had been the ground clause about audiovisual

co-production in Korea-India CEPA (Comprehensive Economic Partnership Agreement) in 2010, and official co-production agreement was concluded in 2015.

The characteristics of the audiovisual co-production negotiations of Korea in FTAs include not only the meaning of cultural exchange but also economic benefits of co-production. Korea did not apply for MFN exemption at the conclusion of the GATS agreement, therefore, it is meaningful for Korea to provide environment and conditions for the development and protection of the domestic audiovisual industry, while providing legal safeguards for audiovisual co-productions within the FTA framework (Son, 2017).

International film co-production can be a crucial strategy to overcome the cultural barriers of other countries by securing the movie market for overseas advancement and cost reduction. Thus, interest in international film co-productions is increasing worldwide, and Korea is also showing high interest in international co-production of audiovisual contents.

The co-production method can be used as a way to bypass the entry barriers of the country, which gives the

advantage of entry into foreign market. This factor contains a viewpoint of free trade on motion picture services. On the other hand, it has the characteristic of cultural protection in that it gives benefits allowed to national product for certain countries which implement co-production works. Therefore, it is also important to identify the strategic aspects of trade negotiations on motion picture services in the FTAs of Korea by analyzing how the contents related to co-production are reflected in the FTAs.

Korea has already entered into FTAs with 15 countries. Regarding the service agreement, the FTAs were concluded with 14 countries, except for the Korea-Turkey FTA that was signed but has not yet entered into force. This chapter examines the strategies and positions of Korea on motion picture services by identifying the contents of negotiations on the matter of market liberalization as well as film co-production in the FTAs with United States, EU, and China, which have the greatest impact on Korean economy and film industry. The analysis of the trade negotiations with the United States which represents free trade perspective, the EU which emphasizes on cultural identity, and China which is the country that Korea has the greatest opportunity for foreign market entry, shows how Korea's views of free trade and cultural protection on motion picture services have

worked and been influenced by those FTA partners.

#### **4.1. Korea–U.S. FTA**

Korea has entered into or is currently pursuing a free trade agreements with the intention of continuing economic development through aggressive responses in the flow of liberalization of world trade, and the KORUS FTA is a representative example. The FTA negotiation with the United States brought about a lot of controversies in the fact that it would provide an indicator of future market opening. Eventually, on April 2, 2007, 14 months after the beginning of negotiation, the KORUS FTA was concluded. Since then, the two governments have made further negotiations and officially signed the final amendment on June 30, 2007 and it entered into force on March 15, 2012.

The most distinct feature of negotiation method in the service trade is that KORUS FTA adopted the negative list approach while the GATS and DDA negotiations had adopted the positive list approach. When using a positive list, a Party has to explicitly list those sectors and sub-sectors in which it undertakes Market Access and National Treatment

obligations. On the contrary, when using a negative list, the Parties do not have to list the sectors for which they take commitments. All sectors or sub-sectors that are not listed are regarded as open automatically to service suppliers of the other country under the same conditions as for domestic service suppliers. The Parties list only those sectors or sub-sectors which they restrict or exclude from market liberalization by inscribing reservations for all measures which they consider would not in accordance with the Market Access and National Treatment principles (European Commission, 2016).

In the method of negative list approach, a Party typically uses two different Annexes to inscribe its reservations in a negative list:

- In Annex I, a Party lists all existing national legislative measures which derogates from Market Access and/or National Treatment. Reservation for existing measures means that it can maintain existing regulations that are inconsistent with obligations of Agreement, but is not amendable in a more restrictive way. In other words, it means to maintain current regulation.

- In Annex II, a Party lists the sectors and sub-sectors for which it reserves the right to derogate in the future from Market Access and/or National Treatment, including in cases where no measures currently exist. With the reservation for future measures, a Party can introduce new additional restrictions, which exclude obligations under the service agreements, and it is possible to take more regulatory action than is currently possible.

In the KORUS FTA, a ‘ratchet mechanism’ was adopted to Annex I, which is a provision through which the Parties commit that, if they unilaterally decide in the future to further open up their respective markets in one specific sector, such opening would be ‘locked in’ – i.e. there can be no step backwards. A ratchet clause ensures that a free trade agreement is forward-looking and remains up-to-date by capturing the unilateral liberalization that the other Party may undertake in the future (European Commission, 2016).

Negative list approach is considered to be a negotiation method that is more suitable for market liberalization of service trade in the way that U.S. mainly used in service trade negotiations of most of its involved FTAs. Especially, negative list approach is regarded as suitable for opening the new service areas, which are newly emerging in the future,

as it is difficult to put restriction measures in the Annex at the time of negotiation.

In terms of motion pictures services negotiation, Korea cut by half the screen quota from 146 days to 73 days per year at each screen before entering the FTA negotiation with the United States. The KORUS FTA also contains Korea's commitments to decrease the domestic content quotas in non-terrestrial broadcasting, applicable to the broadcast of films (25%→20%) and animation programmes (35%→30%). It also increases the quota applicable to single-country sources of foreign content broadcast in Korea (60%→80%). In the case of United States, as it had no any restrictions about motion picture services against foreigners, it opened all the motion picture service market to Korea.

Most significant change compared to the previous multilateral negotiations such as GATS and DDA, is that Korea liberalized its market in the area of motion picture projection services by reducing the screen quota even though it was not full opening. Korea inscribed in Annex I “Cinema operators must project Korean motion pictures for at least 73 days per year at each screen in Korea.” Based on the ratchet mechanism in KORUS FTA, Korea cannot increase the screen quota more than 73 days in the future

as well as it cannot roll back its screen quota to 73 days if Korea once liberalizes its policy to decrease screen quota to less than 73 days. In the case of GATS or DDA, Korea could reserve its right to maintain screen quota without any restriction according to its domestic regulations. However, after the KORUS FTA, Korea basically cannot increase the screen quota more than 73 days.

The result of negotiations on the reduction of the screen quota has been applied to FTAs with Australia, New Zealand, Peru and Columbia which have used negative list approach after conclusion of KORUS FTA. Thus, it can be said that this is a representative example of Korea showing the progress trend of viewpoint on motion picture services as the objective of trade liberalization. However, despite the reduction of screen quota, and broadcasting quota of motion picture, Korea did not give up the screen quota policy itself. In this regard, Korea also continues the perspective on motion picture services as the objective of cultural protection though its position has been weakened.

In the Annex II of the KORUS FTA, “Korea reserves the right to adopt any measure to ensure that, upon a finding by the Government of Korea that Korean digital audio or video content or genres thereof is not readily available to

Korean consumers, access to such content is not unreasonably denied to Korean consumers. With respect to digital audio or video services targeted at Korean consumers, Korea reserves the right to adopt any measure to promote the availability of such content.” This reservation reflects well Korean concern about the liberalization of new audiovisual area that would come into existence in the future.

As the U.S. basically did not have any preferential measures regarding film co-production between other countries, in the KORUS FTA, there is no clause about film co-production agreement unlike other Korean FTA cases. However, Korea inscribed its protection measure in terms of audiovisual co-production with other countries, Korea inscribed its right in the Annex II. “Korea reserves the right to adopt or maintain any preferential co-production arrangement for film or television productions. Official co-production status, which may be granted to a co-production produced under such a co-production arrangement, confers national treatment on works covered by a co-production arrangement.” In this future reservation, Korea excluded MFN obligation to U.S. regarding audiovisual co-productions with other countries.

FTA negotiation with the United States have important implications for Korea in terms of what strategies and positions it can take against foreign countries that represent the viewpoint of free trade in motion picture services. As a result, the progressive trade liberalization measures such as the reduction of the screen quota and the reduction of the broadcasting quota were made in order to balance the interests among total industries sectors of the two countries.

The United States is the strongest competitor in the film industry all over the world. The United States also had a great benefits by the expansion of the Korean movie market. On the other hand, from the Korean position, the U.S. market was already open regardless of the FTA, so there was no gain in entry into the other country due to FTA, while there was concern about the protection of the domestic film industry and the impact on the cultural identity. These factors have led Korea to take the position close to cultural protectionism compared to the United States in the process of negotiations.

However, the strong free trade perspective of U.S. has led to maximum level of liberalization that Korea has opened to the FTA negotiating partners so far by market liberalization measures such as the reduction of screen

quotas and the introduction of ratchet clause. On the contrary, it can be said that the cultural protection perspective of Korea was reflected in the FTA through regulating devices such as the maintenance of the screen quota system itself and the future reservation of digital contents. The final result of the negotiation on motion picture services in KORUS FTA was derived in a mutually compromising manner between the extreme free trade perspective of the U.S. and relatively strong perspective of cultural protection of Korea.

The KORUS FTA can be viewed as a negotiation with the largest number of market liberalization measures in the field of motion picture services as in all other sectors. However, Korea did not abolish the screen quota system, reserved the regulatory authority for digital audiovisual contents, and was guaranteed exemption from the duty of MFN to the United States for co-production agreements with other countries. In this respect, although the neutral position of Korea's openness and protection of the film has advanced to the open side, its basic stance could be maintained.

## 4.2. Korea–EU FTA

The Korea–EU FTA, after eight times negotiations since its start on May 7, 2007 was signed on October 6, 2010. It has entered into force provisionally on July 1, 2011 and has entered into force on December 13, 2015. The Korea–EU FTA is an FTA with the world's largest single economy with 28 member countries, which is expected to provide a bridgehead for entry into the EU market. It also aims to enhance the benefits of expanding the choice of EU products from domestic consumers and manufacturers, promote foreign investment, and improve the system and practices of the Korean economic system (MOTIE, 2017). The cultural promotion is also expected through promoting cooperation in the cultural field, providing benefits for co-production of audiovisual works, providing various cultural experience opportunities by expanding cultural exchanges between the two sides.

In the Korea–EU FTA, audiovisual services were excluded from the Agreement in the initial stage of discussion between the two Parties. This was due to the European strong opinion that culture is not a means for trade or mere economic benefits, but rather the value

realization and protection of identity. The EU has consistently argued in the international trade negotiations that audiovisual services are not subject to trade but are subject to cultural protection, and have not made any specific commitments in the field of audiovisual services sectors in neither the GATS nor the DDA negotiation.

In this respect, the results of the Korea–EU FTA negotiations can be an important example of how Korea’s negotiation strategy for the motion picture services was adapted in negotiations with the representative Party having a strong position of cultural exception. In the field of audiovisual services, the Korea–EU FTA excluded them from the negotiation objective of market liberalization, but the two Parties adopted the ‘Protocol on Cultural Cooperation’ and incorporated it into the FTA. The contents of the Protocol on Cultural Cooperation are more comprehensive and detailed than those of other FTAs.

Article 1~4 of the Protocol which is written over a wide range of cultural exchanges, consist of the necessity and meaning of this Protocol, including the scope of application, purpose, and definition, and how to resolve disputes. In addition, Article 5~7 describe the audiovisual cooperation including audiovisual co–productions, and Article

8~10 deals with cooperation other than audiovisual area.

**Table 4.1. Major Contents of Protocol on the Cultural Cooperation**

Article 1	SCOPE, OBJECTIVES AND DEFINITIONS
Article 2	CULTURAL EXCHANGES AND DIALOGUE
Article 3	COMMITTEE ON CULTURAL COOPERATION
Article 4	ARTISTS AND OTHER CULTURAL PROFESSIONALS AND PRACTITIONERS
Article 5	AUDIO-VISUAL CO-PRODUCTIONS
Article 6	OTHER AUDIO-VISUAL COOPERATION
Article 7	TEMPORARY IMPORTATION OF MATERIAL AND EQUIPMENT FOR THE PURPOSE OF SHOOTING AUDIO-VISUAL WORKS
Article 8	PERFORMING ARTS
Article 9	PUBLICATIONS
Article 10	PROTECTION OF CULTURAL HERITAGE SITES AND HISTORIC MONUMENTS

Source: Yoon & Park (2013). EU-Korea Cultural Cooperation in Audio-visual Industry: Current Situation and the Role of 'Protocol on Cultural Cooperation' in Future Cooperation

The ratification of UNESCO 'CONVENTION on the Protection and Promotion of the Diversity of Cultural Expressions' was a requirement of the Cultural Cooperation Protocol, but it could be decided by Korea when and

whether or not to join the Convention. Since April 1, 2010, Korea has officially joined the Convention on Cultural Diversity, the Protocol on Culture Cooperation has also entered into force at the time of the entry into force of the FTA.

Basically, the purpose of the Protocol is to establish a framework for cooperation in the field of cultural activities, cultural goods and services between Korea and the EU, and to promote the exchange of cultural activities, cultural goods and services with the aim of protecting and promoting cultural diversity. In terms of audiovisual co-production, co-produced audio-visual works are entitled to benefit from each Party scheme for the promotion of local/regional cultural content in the form of qualification as the national works.

In addition to the audiovisual co-production, the Parties agreed to facilitate other audiovisual cooperation. The Parties agreed to strive to promote audiovisual works of the other Party through the organization of festivals, seminars and similar initiatives (Article 6). The Parties shall examine and allow the temporary importation of the technical material and equipment necessary to carry out the shooting of cinematographic films from the territory of a Party into the

territory of the other Party (Article 7).

**Table 4.2. Main Contents of Cooperation on Audiovisual Works**

Committee on Cultural Cooperation and Advisory Group		<ul style="list-style-type: none"> <li>• Establishment of the Committee on Cultural Cooperation apart from the Trade Committee which is the main committee of the Korea-EU FTA</li> <li>• Establishment of the domestic advisory group composed of experts from the fields of culture and audiovisual</li> </ul>
Entitlement for co-productions	Nationality of undertakings	<ul style="list-style-type: none"> <li>• Undertakings are owned by a Member State of the European Union or Korea respectively and/or by nationals of a Member State of the European Union or nationals of Korea respectively;</li> </ul>
	Minimum participation of Member States of EU	<ul style="list-style-type: none"> <li>• Animation works: 3 Member States</li> <li>• Other audiovisual works: 2 Member States</li> </ul>
	Minimum financial, technical and artistic contribution of each Party	<ul style="list-style-type: none"> <li>• Animation works: 35%</li> <li>• Other audiovisual works: 30%</li> <li>• Each member States of EU: 10%</li> </ul>
	Participation of a third Party	<ul style="list-style-type: none"> <li>• Ratification of the UNESCO Convention</li> <li>• Accepted contribution to a maximum of 20 percent</li> </ul>

	Duration of the entitlement	<ul style="list-style-type: none"> <li>• Three years and shall thereafter be automatically renewed for further successive periods of the same duration, unless a Party terminates the entitlement</li> </ul>
Other audiovisual cooperation		<ul style="list-style-type: none"> <li>• Promotion of audio-visual works of the other Party through the organization of festivals, seminars and similar initiatives</li> <li>• Temporary importation of material and equipment for the shooting audiovisual works</li> </ul>

Source: Text of Korea–EU FTA

The Korea–EU FTA basically excluded the audiovisual sector from the market liberalization negotiations, and instead adopted the Cultural Cooperation Protocol, and the ratification of the Cultural Diversity Convention was a requirement of the Protocol on Cultural Cooperation. In addition, the way of resolving disputes regarding the Protocol on Cultural Cooperation was set up and handled separately from the dispute settlement method of the FTA. These characteristics clearly demonstrate that both sides consider motion picture and audiovisual services as the objects of mutual exchange and cooperation, not trade targets in Korea–EU FTA negotiations.

Regarding negotiations on market liberalization in the audiovisual sector, Korea had already opened motion picture production and distribution services in the GATS, and has also expanded the market for motion picture projection services by reducing screen quotas during the KORUS FTA negotiation process. On the other hand, the EU had not opened market of audiovisual services in multilateral negotiations, and has excluded audiovisual sectors from trade liberalization negotiations in all FTAs that have been concluded.

Therefore, it can be said that Korea, which has higher level of market opening in the motion picture services, was in a position to demand that the EU movie market be open to the level of Korea. However, in view of the EU's policy stance in international trade negotiations, there was little possibility of acceptance of such a demand from Korean side, and it was hard to expect that the opening of the EU's film market gives a great benefit to the Korean film industry due to cultural heterogeneity between two parties.

Considering these situations, the Korean side opened the possibility of expanding the cultural exchange between the two sides by reflecting the Protocol on Cultural Cooperation

within the framework of the FTA, rather than dealing with the motion picture services as an object of negotiations for market opening. The implication of Korea–EU FTA negotiations on the field of motion picture can be found in terms of enlarging the possibilities of cultural exchange and cooperation between Korea and EU State members.

The Korea–EU FTA on the motion picture services is considered to be the FTA with the lowest degree of trade liberalization among the FTAs that Korea has concluded until now. This was influenced by the strong position of the EU which has a extreme cultural protection perspective on motion picture. In addition, Korea was not as competitive as the EU in terms of the movie industry as well as there was not much benefits by entry into EU film market due to the cultural heterogeneity. This situation made Korea have the perspective close to cultural protection.

However, Korea and EU inscribed a comprehensive and concrete cultural cooperation by reflecting the Protocol on Cultural Cooperation in the FTA framework. In particular, by stipulating the mutual benefit obligation through audiovisual co–production, it is possible to say that Korea partially could maintain the free trade perspective on motion picture services as well.

### 4.3. Korea–China FTA

The Korea–China FTA was negotiated 14 times after the negotiation had started in May 2012, and entered into force on December 20, 2015. The Korean government prospects that it will have the effect of expanding opportunities of Korean industries to enter the Chinese market through the Korea–China FTA.

In motion picture market, China became the world's second–largest market in 2012. The box office revenues for 2016 totaled almost 44 billion yuan. It took China eight years to increase box office revenues from less than 1 billion yuan in 2002 to 10 billion yuan in 2010. The continuously rising annual box office revenues reached 44.07 billion yuan in 2015, an increase of 48.7 percent from 2014. Though ticket sales show signs of slowing, the market itself has been expanding. Latest figures show the number of cinema screens in China reached 40,917 surpassing the United States to become first in the world (Xinhua, 2016).

The size of Chinese film market is huge and Chinese people have similar emotional sensitivity to Korean people. As the popularity of many 'Hallyu' dramas have been proved in China, the securing of China's movie market through the

FTA was regarded as an infinite opportunity for the advancement of Korean films abroad. In addition, Korea has competitiveness in terms of the quality of movie works in comparison with Chinese films.

However, this expectation can only be achieved when China opens its movie market to Korea. China has traditionally made protection of cultural identity an important policy basis. China has a yearly import quota regulation for foreign films, a means stronger than the Korean screen quota system, and has maintained a conservative stance on the opening market for foreign films. Considering these conservative policy of China, it was not easy to draw the enlargement of market opening in the film industry though Korea has a great deal of benefits through the Korean films' entry into Chinese market.

As a result of negotiations on market liberalization on motion picture services in the Korea–China FTA, the two Parties eventually maintained the same level of liberalization as GATS and DDA. In the service trade negotiations using the positive list approach, Korea made specific commitment without restriction in mode 1, 2, 3 of motion picture and video tape production and distribution services.

On the other hand, China made specific commitment about videos distribution services, but the motion picture was excluded in this commitment, and specified quotas for importing only up to 20 foreign movies per year. What is unusual thing is that China permits Korean suppliers to construct and/or renovate cinema theatres with restriction of foreign investment no more than 49 per cent in the sector of cinema theatres services, which area Korea did not make specific commitment. Nevertheless, The level of market liberalization of Korea in the field of motion picture services can be regarded as higher than that of China.

**Table 4.3. Specific Commitment of Korea in Audiovisual Services**

Modes of Supply: 1) Cross-board supply 2) Consumption abroad  
3) Commercial presence 4) Presence of natural persons

Sector or Sub-sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
2. COMMUNICATION SERVICES			

<p>D. AUDIOVISUAL SERVICES</p> <p>a. Motion Picture and Video Tape Production and Distribution Services Excluding Those Services for Cable TV Broadcasting [96112* 96113*]</p>	<p>1) NONE</p> <p>2) NONE</p> <p>3) NONE</p> <p>4) Unbound except as indicated in The Horizontal Commitments Section.</p>	<p>1) NONE</p> <p>2) NONE</p> <p>3) NONE</p> <p>4) Unbound except as indicated in The Horizontal Commitments Section.</p>	
<p>e. Record Production and Distribution Services (Sound Recording)</p>	<p>1) NONE</p> <p>2) NONE</p> <p>3) NONE</p> <p>4) Unbound except as indicated in The Horizontal Commitments Section.</p>	<p>1) NONE</p> <p>2) NONE</p> <p>3) NONE</p> <p>4) Unbound except as indicated in The Horizontal Commitments Section.</p>	

Source: Text of Korea–China FTA

**Table 4.4. Specific Commitment of China in Audiovisual Services**

Modes of Supply: 1) Cross-board supply 2) Consumption abroad  
3) Commercial presence 4) Presence of natural persons

Sector or Sub-sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
2. COMMUNICATION SERVICES			
D. AUDIOVISUAL SERVICES			
- Videos, including entertainment software and (CPC 83202), distribution services	1) NONE 2) NONE 3) Korean services suppliers are permitted to establish contractual joint ventures with Chinese partners to engage in the distribution of audiovisual products, excluding motion pictures, without prejudice to China's right to examine the content of audio and video products	1) NONE 2) NONE 3) NONE	Without prejudice to compliance with China's regulations on the administration of films, China will allow the importation of motion pictures for theatrical release on a revenue-sharing basis and the number
- Sound recording distribution services			

	4) Unbound except as indicated in The Horizontal Commitments Section.	4) Unbound except as indicated in The Horizontal Commitments Section.	of such imports shall be 20 on an annual basis
Cinema Theatre Services	1) NONE 2) NONE 3) Korean services suppliers are permitted to construct and/or renovate cinema theatres, with foreign investment no more than 49 percent. 4) Unbound except as indicated in The Horizontal Commitments Section.	1) NONE 2) NONE 3) NONE  4) Unbound except as indicated in The Horizontal Commitments Section.	

Source: Text of Korea–China FTA

While the negotiations for liberalization of the motion picture services did not show much progress, Each Parties agreed upon the reflection of the film co–production in Korea–China FTA. The Korea–China film co–production can act as a way to circumvent the huge trade barrier of China's foreign film import quota for Korea.

The contents of film co-production between two countries can be found in Annex 8-B “Co-production on film” included in Chapter 8 Service Trade. A co-production film made in accordance with this Annex shall be fully entitled to all the benefits which are or may be accorded to national films by each Party under its respective national laws and regulations.

**Table 4.5. Main Contents of Co-Production on Film**

Entitlement for co-productions	Nationals	<ul style="list-style-type: none"> <li>• Korea: nationals of the Republic of Korea as defined in the nationality law; or legal persons in the Republic of Korea.</li> <li>• China: citizens of the People's Republic of China as defined in the nationality law; or legal persons in the People's Republic of China</li> </ul>
	Approval	<ul style="list-style-type: none"> <li>• Co-production films must receive provisional approval and final approval</li> </ul>
	Contribution of each Party	<ul style="list-style-type: none"> <li>• 20%~80%</li> </ul>
	Participation of a third Party	<ul style="list-style-type: none"> <li>• No greater than the lesser of the individual contributions of the Korea and China co-producers</li> </ul>
	Dispute settlement	<ul style="list-style-type: none"> <li>• Mutual discussion and dialogue between the Parties.</li> </ul>
Others		<ul style="list-style-type: none"> <li>• Provide entry facilitation, temporary admission, free of import duties and taxes, of technical equipment and filming materials</li> </ul>

Source: Text of Korea-China FTA Annex 8-B

If a co-produced film is recognized as a national product in China, it is not subject to import quotas. It will not only increase the profit rate for Korean producer, but it will also have the effect of expanding overseas market of Korean films to numerous potential audiences. The purpose of co-production with China is to create a large-scale overseas capital, technology and manpower. It is also possible for China to acquire advanced technology and know-how of film production through collaboration with Korean partners,

The Chinese film market has the greatest potential for the Korean film industry, and has the possibility of big opportunity of benefits by entry of Korean films into that market. In this regard, Korea's negotiation stance on film services could be regarded as having different characteristics from the KORUS or Korea-EU FTA. In the Korea-China FTA, the conditions of film industry of each countries made Korea have a positive stance of trade objective on motion picture services.

However, Korea's strong position for film market opening in China was not able to undermine China's consistent policy stance on the protection of cultural identity and domestic industry. Meanwhile, Korea and China

strategically incorporated the co-production agreement into the FTA. The film co-production agreement essentially has the characters of both market liberalization and cultural exchange, and the Annex on Film Co-production can be regarded as an alternative to market liberalization of China from the Korean side's perspective.

As a result of the negotiations, Korea's perspective of trade liberalization on motion picture was not actively reflected in the FTA due to China's strong viewpoint of cultural protection on this field. Instead, film co-production Annex in the FTA can be regarded as an effective means of expanding Korean films into Chinese market as well as cooperation and exchange on motion picture industry between two countries.

The Korea-China FTA service negotiations have not been completely concluded. The two countries agreed to proceed to the second stage of negotiations in the process of first stage negotiations. Service trade negotiations concluded in the first stage were based on the positive list approach, while in the second stage negotiations to be launched in the future, the negative list approach will be adopted. Therefore, Korea is expected to ask for liberalization of the Chinese film market more actively in the

next stage negotiations, and it is noteworthy whether China will continue to maintain its existing negotiation stance.

## Chapter 5. Conclusion

### 5.1 Summary of Findings

As a result, Korean strategy of trade negotiation for motion picture services has been a harmony of market openness and cultural protection. In other words, in the areas where special protection and government support is needed such as motion picture projection service, where future potentials are large and judgement need to be suspended such as digital audiovisual contents, are strictly protected. Meanwhile, in other areas such as motion picture production and distribution services, aggressive trade opening policy has been implemented in order to expand the Korean film industry into foreign countries. From these perspectives, the level of openness and cultural protection has been determined in multilateral or bilateral trade negotiations.

In the multilateral negotiations such as the GATS and the WTO DDA, most countries have maintained a conservative stance on market opening in the field of motion picture services. This overall conservative atmosphere helped Korea not to open the motion picture projection service, and could have the right to enforce regulations

concerning the screen quota system without limitation.

Nonetheless, Korea voluntarily opened its market of motion picture production and distribution services in GATS and DDA. This market liberalization was largely influenced by the fact that Korea did not have any special domestic legal restrictions on this field as it had opened the motion picture distribution market to U.S. This market liberalization perspective can also be seen in the fact that Korea did not make any requests for MFN obligation exemption in the area such as audiovisual co-production. Korea's neutral position of market liberalization and cultural protection on motion picture services in the multilateral trade negotiations has been flexibly transformed in accordance with the negotiation partner's position in the FTA negotiations.

The competitiveness of the movie industry between the two countries, benefits of entry into partner country, and the necessity of protection for cultural identity and domestic industry can be considered as the major factors that determine the level of position regarding market openness or cultural protection of each Party as well as negotiation results on motion picture services in the FTAs that Korea has concluded.

In the case of Korea–US FTA, the United States is the strongest nation that promotes free trade in the world and the most competitive in the film industry. Also, since the US movie market had already been open to foreigners, there is no additional practical benefit that Korean film industry can gain from entering the US market through the KORUS FTA negotiations. These factors have led Korea to take the position close to cultural protection compared to the United States in order to protect its own film industry and cultural identity in the negotiation process.

However, as a result of the FTA negotiations, Korea has liberalized the market by reducing the screen quota and reflecting it in the current reservation in Annex I. It has been the maximum level of liberalization that Korea has opened to the FTA negotiating partners so far. This openness can be seen as a result of the strong position of the U.S. side having free trade view on the motion picture services. However, Korea has been able to maintain the neutral stance of free trade and cultural protection by reflecting the cultural safeguards such as maintaining the screen quota itself and securing the future regulatory authority for digital contents.

On the other hand, in the Korea–EU FTA, the EU was

a negotiating partner with a completely opposite position to the United States in motion picture services. The EU has not considered the film sector as an object of free trade in all the international trade negotiations until now, and it has been claimed cultural exception on motion picture services. The EU's competitiveness of the film industry can be regarded as superior to that of Korea, and the cultural heterogeneity of the two sides suggests that the two parties do not have much advantage in entering the film market of the other Party.

This situation resulted in the exclusion of the motion picture services from the object of negotiations on trade liberalization in Korea–EU FTA, and instead, the Protocol on Cultural Cooperation has provided a mechanism for strengthening cultural cooperation and exchanges. The most crucial part of the Protocol is the provision of benefits as a national works through the film co–production between the two Parties.

As Korea had opened the motion picture production and distribution services in the existing multilateral or bilateral negotiations, so it could take a more liberalized position than the EU. However, the negotiations can be said to have produced the most conservative result in terms of market

liberalization on the motion picture services. This result was mainly influenced by the strong position of the EU which has been expressed as the 'cultural exception' on motion picture. In addition, for Korean side, there was not much benefits by advancement of Korean films into EU film market due to the cultural heterogeneity. These factors made Korea reflect the cultural protection perspective on motion picture services in the Korea-EU FTA.

However, recognizing the Protocol on Cultural Cooperation, which is regarded as the most comprehensive and concrete cultural cooperation device among FTAs that Korea has concluded so far, was reflected in the FTA framework, especially by stipulating the mutual benefits obligation through audiovisual co-production, Korea could also reflect the free trade perspective on motion picture services in the Korea-EU FTA.

The Korea-China FTA can be regarded as an FTA in which Korea could take the strongest market-opening position in international trade negotiations in the field of motion picture services so far. This is because the competitiveness of the Korean film industry is stronger than that of China, and Korean film industry has great advantages in entering the Chinese market. However, China has

maintained strong viewpoint of cultural protection in the movie industry and powerful regulations for protection of the domestic film industry.

As a result, China maintained a conservative position regarding further opening of its own movie industry market. Thus, Korea and China maintained the same level of liberalization as the GATS and DDA. However, Korea and China agreed with incorporating film co-production into the FTA Annex. This can be regarded as an effective way of expanding Korean films into China as well as cooperation and exchange on motion picture industry between two countries.

## **5.2 Policy Implication**

Differences in the perspectives of whether to view motion picture services as the target of free trade or the object of cultural protection have often caused conflicts in international trade negotiations. This study has examined the negotiation strategies of Korea through analyzing how the trade negotiations on motion picture services have been processed and reflected in international trade agreements,

focusing on the perspectives of free trade and cultural protection of Korea. This study is meaningful in that it can be utilized as a basis for international trade negotiations on motion picture services in the future through discovering the characteristics of Korean trade negotiations on motion picture services so far.

With the development of the information and communication technologies, cross borders in service providing between countries have become increasingly vague, and the international community centered on the U.S. is expected to grow voice about expanding the scope of motion picture services for trade liberalization. In addition, there will be more and more internal claims that Korea needs to expand the market opening for foreign countries in the field of motion picture services in order to expand overseas markets in other industry areas with international competitiveness.

If we look at the film industry alone, the Korean film industry needs to develop overseas markets to overcome the narrowness of the domestic market, while at the same time there is a need to protect the domestic film industry, which consists mostly of small-sized companies. International trade negotiations are the process of mutual give and take, In

order for Korea to demand the expansion of the trade liberalization of the other country's movie market, Korea also have to accept the demand of the other country.

Korea can use the liberalization level of the Korea-US FTA as a negotiation leverage of further trade negotiations and utilize it as a way to expand the opportunity of Korean motion picture industry to advance into overseas market. In addition, it is also necessary to strengthen mutual exchange and cooperation through expansion of international film co-productions which have intermediate feature of both market opening and cultural exchange in order to help Korean film industry to enter into overseas market.

In the negotiations of international trade on motion picture services, Korea has maintained a stance between market openness and cultural protection. It is very important to have concrete strategies of trade negotiations for the development of Korean film industry.

Such a stance and negotiation strategies should be made with the precise comparison and analysis of the benefits that Korea can gain from entering the other country market and the damage that the other country would make in Korean market.

What is important is that, besides the economic loss, the damage to be done, which is seemingly unobservable, should not be overlooked in terms of cultural identity protection. It is necessary for Korean governments to analyze in detail the effects of the development of film industry and the necessity of protection for cultural identity in international trade negotiations on motion picture services.

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국문초록

# 한국의 영화서비스 국제무역협상에 관한 연구

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최복현

영화서비스를 국제 교역의 대상으로 볼 것인지 문화적 보호의 대상으로 볼 것인지에 대한 서로 다른 관점은 국제무역 서비스 협상에서 중요한 이슈로 다뤄져 왔다. 영화서비스도 무역자유화 대상에 포함해야 한다는 미국의 입장과 문화적 보호의 대상으로 삼고 교역대상에서 제외해야 한다는 EU측 입장은 이 분야에 대한 국제무역 협상의 진전을 더디게 만들어 왔으며, 현재까지도 통상 협상에서 국가 간의 충돌을 야기하는 중요한 논쟁 지점이다.

본 연구는 한국이 그동안 영화서비스 분야에 대한 일련의 대표적인 국제무역 협상에서 어떤 협상결과를 만들어 냈는지에 대해 살펴봄으로써, 이 분야에 대한 한국의 국제무역 협상의 전략적 특성을 알아보았다. 특히 영화서비스를 자유무역의 대상으로 보는 관점과 문화적 보호의 대상으로 보는 관점이 한국의 통상협상에서는 어떻게 다루어져 왔는지에 초점을 맞추고 있다.

이를 위해 본 연구는 다자 간 협상인 GATS, DDA 협상과 한국이 맺은 대표적 양자 간 협정인 한미 FTA, 한EU FTA, 한중 FTA에 대한 사례를 분석하였다. 한국의 국제무역 협상에 관한 사례분석을 통해 한국의 영화서비스에 대한 국제협상의 특징을 발견함에 있어 협상 상대국과 한국의 영화산업의 경쟁력, 상대국으로의 진출 실익, 양국의 영화서비스에 대한 개방적 혹은 보호적 입장의 차이가 한국의 협상전략 및 협상결과에 어떻게 반영되었는지를 중점적으로 살펴보았다.

분석 결과 한국은 영화서비스에 대한 국제무역협상에서 개방주의적 관점과 문화적 보호주의적 관점의 조화를 협상전략으로 활용해 왔다. 스크린쿼터를 통해 국내 영화산업 및 문화적 정체성의 보호를 위한 규제를 유지할 수 있는 권한을 확보한 반면, 영화의 제작 및 배급 서비스에서는 적극적으로 상대국에 시장을 개방하는 협상 결과를 이끌어 냈다고 볼 수 있다. 아울러 국제영화공동제작을 FTA 협정에 반영함으로써 한국영화의 해외시장 진출과 FTA 상대국과의 문화협력을 동시에 도모하는 주요 수단으로 활용해 왔음을 알 수 있었다.

주요어: 영화서비스, 국제무역협상, WTO, FTA, 영화국제공동제작

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