

Foreign Investment Ombudsman Annual Report 2006

kotra

Korea Trade-Investment
Promotion Agency



A black and white portrait of a middle-aged man with dark hair, wearing glasses and a suit. He is smiling and looking slightly to the right. The background is a soft, out-of-focus grey.

Greetings

Choong Yong Ahn, PhD

Foreign Investment Ombudsman

Korea Trade and Investment Promotion Agency

In line with a rapidly globalizing world economy, the Korean government has pursued an FDI policy regime very different from the previous 'compressed industrialization' era. That is to say that the nation switched from a foreign loan-based investment financing to an FDI based one welcoming Greenfield investment and M&As to augment investment activities and leading to development of a more competitive economy. By doing so, the need to put in place policy to support an efficient system capable of finding practical solutions for the problems faced by multinational companies already existing in Korea has become increasingly clear. So much so, that the United Nations Conference in Trade and Development (UNCTAD) has also begun placing greater emphasis on global investment aftercare and related advocacy measures.

A rapidly shrinking workforce as a result of the combination of an aging population and low birth rates; weakened domestic facilities investment; the lowest ratio of FDI inflow to GDP in the OECD member economies despite increasing global trends, which has recently lead to slower capital stock growth rate, are all factors contributing to the declining potential growth rate. In order to increase economic growth potential, achieve sustainable growth, and actively adjust to the age of growing global supply chains, raising the flow of inbound FDI to Korea is of great importance.

Even Japan, which had traditionally focused solely on promoting domestic industry competitiveness, not to mention, Southeast Asia, China, Singapore, Hong Kong, Malaysia, and Indonesia, has moved towards undertaking regulatory reform in an effort to draw more foreign investment. The Netherlands, despite limited land mass, has managed to create a world class business environment by actively attracting FDI for the past few centuries and gained acclaim as global logistics and R&D hub. Even Ireland, bordering the EU, has recently followed suit and succeeded in rising to the ranks of an advanced economy. It is clear that we are no longer in an age of mere reciprocal FDI flows between developed nations, but have entered one in which less developed nations join the struggle for a piece of the global FDI pie.

Korea is exploring strategies aimed at commercializing the nation's position as a peninsular hub nation connecting a continental economic group headed by China and Russia and an 'ocean' economy group headed by Japan, the US and other Pacific Rim economies, to remake itself as a major business hub of Northeast Asia. The success of this strategy rests largely on how successful the nation is at attracting new FDI, and facilitating trade networks of finished goods, parts and materials, logistics, finance, local subsidiaries of transnational companies, and R&D centers.

Whether Korea manages to maximize returns on the effects of the KORUS FTA and subsequent multi-track free trade deals will depend largely on how actively quality FDI is attracted. When we consider that for the past 3 consecutive years Korea has been able to attract over \$10billion in FDI, and that the ratio of re-investment made by established investors accounted for nearly 60% of all FDI, the need to place emphasis on post investment care for those investors becomes crystal clear. What is more, UNCTAD pointed out the need for individual host economies to pay keen attention to the problems faced by domestically operating transnational enterprises, and strive to effectively address their grievances.

Foreign investors in Korea file a variety of grievances regarding taxation, labor-management, accounting, urban planning & development, technology standards, law, and requests for assistance filing for various available incentives.

The office of the foreign Investment Ombudsman and Investment Aftercare Team senior consultants, otherwise know as 'home doctors', do intake and work to find practical solutions for those grievances filed by foreign investors. To date, those aftercare services have been provided after problems have already occurred. However, it is time to create a system under which preventative care can be offered since positive evaluation of existing multinational firms has proven to be the most effective tool for improving investor relations.

The aim of the Foreign Investment Ombudsman Report 2006 is to offer insight into what types of problems transnational companies in Korea face, define tasks necessary to improve Korea's investment environment, and lay the groundwork for policy proposals set forth by the Ombudsman's office.

As part of those efforts, copies of Ombudsman Report 2006, which detail specific grievances, resolution, challenges and tasks ahead necessary to improve the investment environment, as well as policy proposals, have been compiled and published in English and Korean and distributed to transnational companies, and policy making bodies, businesses, academia and press communities in Korea. It is hoped that this report can contribute to making Korea an attractive foreign investment destination where multinational businesses can enjoy doing business, especially in light of Korea's drive to pursue a multi-track FTA and to engage in the active pursuit of a multilateral free trade regime. Further, I also hope that the creation of such an atmosphere will result in raising Korea's competitiveness and thus lead to sustainable economic growth in the years to come.

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Office of the Foreign Investment Ombudsman and Grievance Resolution

Function and Mission	To resolve grievances submitted by foreign invested companies in order to improve Korea's investment environment; draw new and encourage additional investment
Legal Substantiation of Foundation	Economic Laws on Foreign Investment Promotion Act Chapter 1, Article 15.2
Established	October 26, 1999 As an agency of KOTRA
Organizational Structure	<ul style="list-style-type: none"> • Foreign Investment Ombudsman(Choong Yong Ahn, PhD appointed to office May 8, 2006) • Seven consultants in the fields of finance, taxation, accounting, law, construction, and property rights • KOTRA administrative staff
Available Support	Assistance on labor management, taxation, finance, foreign exchange, customs tax and clearance, construction, environment, legal affairs, visa, immigration and intellectual property rights related issues
Official Duties	<ul style="list-style-type: none"> • Home doctors(consultants) pay on site visits to transnational companies for grievance intake • Contact government and public agencies to request assistance with resolving grievances • Report policy proposals to Foreign Investment Committee and Working Committee
Contact Information	Tel : 02-3460-7634/35 Website : www.i-ombudsman.or.kr Fax : 02-3460-7944/7949

WAIPA Award 2007 Presented to KOTRA for Excellence at Annual World Investment Conference



WAIPA, an organization participated in by 250 investment promotion agencies (IPA) from 150 economies, held its 12th annual World Investment Conference 2007 on 8-9 March 2007. At the annual conference held in Geneva, Switzerland, Korea Trade-Investment Promotion Agency(KOTRA) was recognized for excellence in aftercare services.

Stressing that IPAs have also come to see aftercare service as crucial to companies that have been established in their jurisdictions, the report of WAIPA World Investment Conference 2007 noted that the award was given to Korea Trade-Investment Promotion Agency(KOTRA) which was adjudged to be a generator of the best practices in the field.

◆ REPORT SUMMARY ◆

For recent three consecutive years, Korea recorded around US\$ 10 billion in inbound FDI

[Units: US\$ million, %]

	2001	2002	2003	2004	2005	2006
Notified (% Increase)	11,286 (△26.0)	9,093 (△19.4)	6,471 (△28.8)	12,792 (97.7)	11,563 (△9.6)	11,233 (△2.9)
Arrived (%Increase)	5,073 (△50.6)	3,807 (△25.0)	5,112 (34.3)	9,268 (81.3)	9,643 (4.0)	9,038 (△6.3)

Greenfield investment was up 10.0% year-on-year in 2006

The need to improve the business environment in light of increase in FDI
Future efforts should focus on raising levels of consistency; introducing
global standards, and increasing transparency of present systems.

Grievance filing and resolution

Cases Filed Annually : ('04) 324 cases → ('05) 351 cases → ('06) 353 cases

Resolution Rate : ('04) 54.7% → ('05) 75.9% → ('06) 82.6%

〈2006 Case Resolution〉

[Units: cases, %]

	Improving Systems	Administrative Intervention	In house resolution	Total
Processed Cases	19	73	261	353
Resolved Cases	12	66		
Resolution rate	63.2%	90.4%	-	82.6%*

NOTE: Calculation based on the cases resolved by improving systems and administrative intervention only.

Attraction of Additional Investment through Successful Grievance Resolution

In 2006, total increases in FDI reached US\$6,618 million accounting for 58.9% of total FDI. Of this amount, 26% was gained as a direct result of grievance resolution by the office of the Investment Ombudsman.

This equates to a rise from the previous year (2005) of US\$1.33 billion to US\$1.72 billion, or 29.3%.

Foreign Investment Ombudsman and home doctors provide service for grievance resolution

World Association of Investment Promotion Agencies (WAIPA), an agency of UNCTAD, awarded KOTRA the WAIPA Award 2007 for excellence for aftercare services for its implementation of the office of investment ombudsman system. Under the system, home doctors make on-site visits to consult on grievances when needed.

The Ombudsman and home doctors evaluate grievances filed by transnational companies and make on-site visits.

In 2006, the number of companies in the database covered by home doctors increased from 2,100 in 2005 to 2,700.

KOTRA signs MOU with Korean Federation of Trade Unions to improve labor management conditions on April 18, 2006

Sent a joint delegation to three European countries, engaged in investor relations activities and overseas training to England, the Netherlands, and the Czech Republic from November 27 - December 3, 2006

Established Labors Relations Support Task Force and opened 4 labor management strategy meetings for foreign invested companies in 4 regions of Gyeonggi Province, Gyeongnam, Jeonnam, and Jeonbuk.

Held a seminar on labor management relations for transnational companies on November 15, 2006 at KOTRA

Published a manual entitled, *Q&A on Labor-Related Laws* in 3 languages

Offered Assistance with Recruitment

Human Resource Center offered tailor made matches	2006 Job Fair for Foreign Companies
<ul style="list-style-type: none"> - Opened in August 2006 - 17 companies registered online 8 companies hired 9 employees 	<ul style="list-style-type: none"> - Held from October 18-19 in COEX 3rd floor convention hall - 73 booths, 661 hires

Additional Investment through Promotional Activity and Jeju CEO Forum

CEO Forum held at Shilla Hotel, Jeju Island welcomed about 100 CEOs and executives from transnational companies from 9 - 10 June 2006.

Opened sessions explaining grievance filing methods, case studies; Korean culture and hints for doing business in Korea, received notices for increased investment and signed MOUs.

Redesigned Ombudsman Office Website (www.i-ombudsman.or.kr)

Page features over 110 new resolution cases; 51 news items, and 57 policy items

KOTRA 5 Year Plan for Improving Living Conditions for Foreign Investors

Cyber Invest KOREA launched English text service in August 2006

Investors Support Center(ISC) completed in October 2006

Trouble Hotline launched in October 2006

Macroscopic Task for Changing the Investment Environment

Raise understanding of economic environment in the global era to relieve anti - foreign capital sentiment

Supplement FDI policy to function in a liberalized global trade environment

Improve education system for expatriate residents' school age children and expand schools

Increase transparency of laws and systems effecting FDI by introducing advanced systems such as Netherlands future tax notification system.

Microscopic Tasks for Changing the Investment Environment

Making incentive systems more consistent between central and local government agencies.

Achieving global standards by doing away with non - tax barriers

Mid to Long term goals for Korea's FDI policy

R&D and Industry Clustering need to be focused.

Strengthening domestic absorptive capacity towards quality FDI in order to select and attract transnational companies that can significantly add value to and strengthen the Korean economy (Rugman Model).

Proposals to the Central Government and Transnational Companies

Suggestions for the Central Government

Be more proactive in providing administrative services to nurture and develop businesses

Introduce global standards, and facilitate regular revision of laws and systems governing FDI

Increase access to English language materials

Increase public awareness of need to attract FDI

- Improve public relations efforts aimed at foreign investors
- Prevent preferential issuances of permits for political reasons

Advice for Foreign Investors

- Make logical grievance claims
- Work to achieve better understanding of business practices and Korean culture
- Take interest in development of local community
- Monitor notices and government bulletins

For Improvement of the Office of the Investment Ombudsman (OIO) System

- Increase legal authority of the ombudsman by granting:

- The right to acquire and examine material from other agencies
 - Legally obligate government agencies' response to proposals within a certain period of time

- Grant permanent committee member status within the Regulatory Reform Committee of the Office for Government Policy Coordination

- Strengthen grievance preventive system and increase agent - client interaction and intervention by hiring 5 additional staff

- Take steps to allow for more interaction between investment aftercare service agencies of local autonomous government bodies by holding regular foreign investment forums between OIO and local government agencies

- Have aftercare agencies of local governments submit list of grievances to KOTRA

- KOTRA will then analyze that data in order to standardize aftercare service and procedures



2006 FDI Trends

1. Global Trends
2. FDI Inflows to Korea

1. Global Trends

According to the United Nations Commission on Trade and Development (UNCTAD), global FDI for 2006 reached US\$1.2 trillion. This represents a consistent three year rise since 2004. When compared with the numbers for 2005, US\$916.3 billion, this represents a 34.3% rise.

By regions, FDI inflows to developed regions reached US\$800 billion, up 47.7% with the bulk of that amount invested in the USA. A look at economic blocks shows the EU absorbing 45% of all global FDI, maintaining its position as one of the strongest FDI magnets.

Table I –1 : Foreign Direct Investment inflows, by region and major economy attracted by region

(Units: US\$ billion)

Host region/economy	2005	2006	Increase rate
World	916.3	1,230.4	34.3
Developed Economies	542.3	800.7	47.7
Europe	433.6	589.8	36.0
EU	421.9	549.0	30.1
USA	99.4	177.3	78.2
Developing economies	334.3	367.7	10.0
Africa	30.7	38.8	26.5
Latin America and the Caribbean	103.7	99.0	-4.5
Asia and Oceania	200.0	229.9	15.0
Southeastern Europe and CIS	39.7	62.0	56.2

Source: UNCTAD, World Economic Situation and Prospects 2007

Over the years the share of global FDI inflow have grown steadily in developing countries, including the Korea. For the period from 1978~1980, developing nations'

(including Korea) aggregate global FDI inflow was recorded at about 20%, and in the period from 2003~2005, that number grew significantly to 35.9 percent. Furthermore, FDI inflows to Far, North and Southeast Asia which stood at a mere 6.75% during the period of '78~'80, leapt to 18.4% during the period 2003~2005.

The increase in global FDI activity in 2006 is attributed largely to the rising frequency of mergers and acquisitions undertaken by developed nations. When compared with the drastic increase in developed economies, foreign direct investment to developing economies from 2004~2005 is strikingly low.

Table I -2 : Cross border merger-and-acquisition sales, by
sector/industry of seller

(Units: US\$ million, %)

Type	2004	2005	First half 2006
M&A value	380,598	716,302	354,477
y-o-y increase	28.2	88.2	39.3

Source: UNCTAD, World Economic Situation and Prospects 2007

Global FDI is expected to continue to rise until 2010 and with an annual average of 6~7% growth in developed economies during the period from 2006~2010 mainly due to a rise in M&A investment. For developing economies, growth will hover at annual average of about 1 percent.

Table I -3 : World Investment Prospects

(Units: US\$ billion)

	2005	2006	2007	2008	2009	2010
Total	954.8	1,165.0	1,222.5	1,285.3	1,342.9	1,407.3
Increase (%)	19.1	22.0	4.9	5.1	4.5	4.8
Developed Economies	555.6	754.3	814.8	880.7	929.0	979.4
Increase (%)	14.4	35.8	8.0	8.1	5.5	5.4
Developing Economies	399.2	410.6	407.7	404.7	413.9	427.9
Increase (%)	26.3	2.8	-0.7	-0.7	2.3	3.4

Source: Economist Intelligence Unit and Columbia Program on International World
Investment Prospects to 2010 : Boom or Backlash, Investment(CPII) 2006

2. FDI Inflows to Korea

FDI Trends

Experts initially forecasted investment for 2006 at US\$11 billion. Actual notifications of foreign direct investment exceeded that and recorded US\$11.2 billion, marking the third consistent year in which notifications reached or exceeded US\$10 billion. Arrived FDI for the same year was US\$9 billion, which is slightly down from the previous year, but maintained the three year annual average of US\$9 billion.

Table I -4 : Overall FDI Trends

(Units: US\$ million, %)

	2001	2002	2003	2004	2005	2006
Notified	11,286	9,093	6,471	12,792	11,563	11,233
(Rate of increase)	(△26.0)	(△19.4)	(△28.8)	(97.7)	(△9.6)	(△2.9)
Arrived	5,073	3,807	5,112	9,268	9,643	9,038
(Rate of increase)	(△50.6)	(△25.0)	(34.3)	(81.3)	(4.0)	(△6.3)

Source: FDI Trends 2006, Ministry of Commerce, Industry and Energy

NOTE: figures for arrived investment are provisional

Performance by Industry and Region

In 2006, FDI in the manufacturing industry recorded y-o-y growth of 37.1%, at US\$4,229 million, largely a result of an upturn investment in electric & electronics and chemical industries. Investment in electric & electronics, 2006 figures reached US\$1,780 million, up US\$1,043 million for 2005. Investment in the chemical industry rose year on year from US\$281 million to US\$764 million.

In 2006, foreign direct investment in the service industry recorded US\$6,636 million, down 20.4% from the previous year, largely influenced by downward in finance and insurance industry(down from 2005 figures of US\$3.96 billion to US\$3.02 billion).

By region, the EU has held its position as the highest investor in Korea with investment up 4.1%, or US\$4,977 billion from the previous year. FDI from the Asia region rose 14.0% up from US\$3,512 million to US\$4,003 million. However, investment from the USA was off 37.6% at US\$1,938 million, down from US\$3,107 million.

By Type of Investment

In 2006, Greenfield investment, expansion of plants and facilities, was up 10% at US\$6,927 million year on year.

The bulk of Greenfield investment was in the manufacturing sector, with large scale investments in S-LCD Co., Ltd.(LCD producer), Daesan MMA(chemical industry) and 3M Korea(fabrics and textiles).

In 2006, despite a major upturn in mergers and acquisitions globally, M&A investment in Korea was down compared with the previous year.

Mergers and acquisitions occurring in the service industry were down 33.7% year-on-year in 2006 with FDI recorded at US\$2,753 million. However, M&As in the manufacturing industry bounded 18.7% to US\$1,268 million..

Table I -5 : FDI Notified by Type

(Unit: US\$ million, %)

		2001	2002	2003	2004	2005	2006
M&A	Cases건수	297	285	288	339	371	363
	Amount	2,649	2,084	2,943	6,169	5,268	4,305
	(%increase)	(-7.5%)	(-21.3%)	(41.2%)	(109.6%)	(-14.6%)	(-18.3%)
Greenfield	Cases	3,046	2,125	2,280	2,737	3,298	2,745
	Amount	8,637	7,009	3,528	6,625	6,295	6,927
	(%increase)	(-30.3%)	(-18.8%)	(-49.7%)	(87.8%)	(-5.0%)	(10.0%)

Source: Trends in FDI 2006, Ministry of Commerce, Industry and Energy



2006 Aftercare Service and Improvements to the Investment Environment

1. Changes to Investment Conditions
2. Grievance Filing Trends
3. Improved Grievance Resolution Ratio
4. Improvements Made to Investment Environment
5. Proactive Grievance Prevention
6. Grievance Resolution by Systemic Change
7. Grievance Resolution by Administrative Intervention
8. Increased Investment Projects



2006 Aftercare Service and Improvements to the Investment Environment

1. Changes to Investment Conditions

After the controversy surrounding Lone Star's takeover and recent disposal of Korea Exchange Bank(KEB), the number of grievances reported by foreign-invested firms in Korea somewhat increased, due to growing pervasiveness of anti-foreign capital sentiment. This triggered increased watchfulness on the part of tax authorities.

The North Korean nuclear threat also sent waves of panic through the foreign investment community, yet failed to prevent existing and new investors from conducting business in Korea.

The Bank of Korea's balance of payment statistics showed that the inflow of FDI decreased 42.2% from US\$6.31 billion in 2005 to US\$3.65 in 2006. The exit of transnational enterprises like Wal-Mart, Carrefour from the Korean market resulted in a sharp decline in foreign capital, which sparked a panic in regards to foreign business environment in Korea. In reality, however, these warehouse club chain stores simply were unable to compete with domestic enterprises, and were thus forced from the market.

Though the government has strived continually to make improvements to the investment environment, surveys show that the level of satisfaction has failed to rise subsequently. Therefore, work needs to be done to effect changes over a broader area.

In order to improve operations, the Aftercare Team has undertaken organizational changes. As of May 1, 2006 the Investment Aftercare Team, once managed by Invest KOREA, was placed under the authority of the Foreign Investment Ombudsman. Doing so has resulted in streamlining the grievance processing system and improving intervention.

Great progress was made in terms of improvements to systems and procedures. Of those, systemic changes were implemented by Korean administration and legislative bodies in 12 of 19 areas for which investors filed grievances, including those related to mandatory national insurance subscription for foreign nationals;

seizure of property, and taxation. For the remaining cases, continued efforts will be made to devise workable solutions.

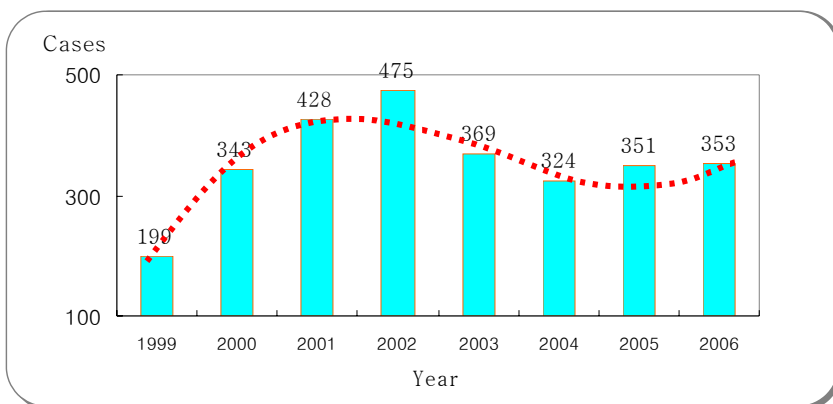
2. Grievance Filing Trends

353 Cases Handled in 2006, Maintaining 2005 Levels

The number of cases handled in 2006 was 353, up only 2 cases from the previous year. The Office of Investment Ombudsman(OIO) works proactively to uncover grievances with home doctors paying visits to transnational companies, conducting meetings with local government authorities, foreign chambers of commerce, and the Invest KOREA's Foreign Investment Advisory Committee holding meetings. The head of Invest KOREA also contacts individual investors to seek input on what changes they feel need to occur.

In 2002, the OIO received its highest number of grievances, at 475. In the years following, the number continued to decline steadily, which appeared to be attributable to governmentally undertaken systemic changes and work done to ameliorate investment conditions. However, though local authorities do offer aftercare services, it is difficult to evaluate their effectiveness because systematic case analysis or categorization does not occur.

Graph II -1 : Annual Grievance Resolution Record



By Type of Grievance

In 2006, the office of the Foreign Investment Ombudsman processed 19 cases that required systemic changes, 73 cases, which required governmental intervention and 261 cases that were resolved by home doctors.

From 2004 to 2006, there were approximately 20 grievances filed requiring systemic changes and 60 administrative interventions, down from 2003 at 30 and 70 cases respectively. This reduction can be attributed to regulatory reform and consistent efforts to resolve grievances.

Table II -1 : Annual Grievances Filed by Multinational Corporations
(Unit: case, %)

By Year	Registered		Processing Method		
	Cases	Increase	Systemic Change	Administrative Intervention	Home doctor intervention
1999	199	-	20	35	144
2000	343	72.4	39	64	240
2001	428	24.8	39	105	284
2002	475	11.0	36	76	363
2003	369	△22.3	30	72	267
2004	324	△12.2	23	72	229
2005	351	8.3	19	68	264
2006	353	0.6	19	73	261
Total (Ratio)	2,842 (100.0)	- -	225 (7.9%)	565 (19.9%)	2,052 (72.2%)

Source: Invest KOREA

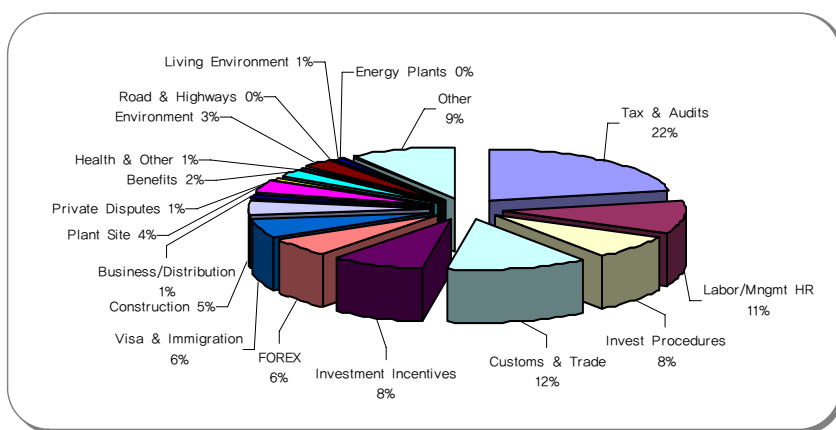
NOTE: Systemic change refers to regulatory reform; administrative intervention refers to steps taken to make improvements within an existing framework; home doctor intervention refers to problems solved internally by home doctors

When examining performance since October 1999, the year in which the ombudsman system was adopted, one may witness that in the 7 years following, of the 2,842 complaint filed 225(7.9%) called for systemic changes, 565(19.9%) for administrative interventions and 2,052(72.2%) for home doctor assistance.

Grievance by Field

Ratios of grievances by field breakdown as follows : 21.5%(76 cases) were tax related, 12.5%(44 cases) tariffs and trade related cases, 10.8%(38 cases) related to labor-management, investment incentive related grievance reached 8.5%(30 cases), 27(7.6%) investment processing related grievances, 21(5.9%) finance and foreign exchange cases, and another 21(5.9%) visa and immigration related cases.

Diagram II -2 : 2006 Grievance Intake by Field



The higher ratio of tax related cases comes as a direct result of moves on the part of the national tax service to prevent problems like those incurred during the Lone Star-Korea Foreign Exchange Bank investigation by increasingly audits of transnational companies. In the past, the most frequently registered complaints related to labor-management relations have now declined relatively low. This is largely attributed to improvements made to stabilize labor-management culture.

Changes made to the FDI system, and reduction of incentives consequently resulted in a rise in customs and trade, investment incentives, and procedure related grievances.

The number of tax and tariff related grievances rose by 24.6%, and tariffs and trade related grievances by 76.0%. Those relating to investment incentives also rose

20.0%. Though the ratio on the whole was relatively low, what is particularly noteworthy is the 150% increase in environmentally related grievances from 4 to 10 cases. Though we foresee a tightening of regulations in this area, more preemptive measures do need to be taken.

Table II -2 : Annual Grievance Registration by Field

(Unit: case, %)

Field \ Year	2001	2002	2003	2004	2005	2006		Rate of Increase ('06/'05)
						Cases	Ratio	
Tax and Tariffs	49	67	63	64	61	76	21.5%	24.6%
Labor Management	63	106	93	75	42	38	10.8%	△9.5%
Investment Process	20	51	34	22	31	27	7.6%	△2.9%
Customs and Trade	74	62	41	25	25	44	12.5%	76.0%
Investment Incentives	1		1	3	25	30	8.5%	20.0%
Finance and Foreign Exchange	37	32	24	23	25	21	5.9%	△16.0%
Visa and Immigration	15	20	17	19	20	21	5.9%	5.0%
Construction	52	43	34	35	19	16	4.5%	△15.8%
Operations and Distribution	18	14	8	13	17	5	1.4%	△70.6%
Plant Location	2	1	1	4	16	13	3.7%	△18.8%
Private Disputes	6	6	4	1	11	5	1.4%	△54.5%
Certification Examination	8	3	5	1	9	8	2.3%	△11.1%
Insurance and Public Welfare	7	9	3	5	6	2	0.6%	△66.7%
Environment	13	12	7	6	4	10	2.8%	150.0%
Highway and Transportation	2			1	4	1	0.3%	△75.0%
Living Conditions	15	6	2	7	3	2	0.6%	△33.3%
Power Sources	7	1	3	2	2	1	0.3%	△50.0%
Other	39	42	29	18	31	33	9.3%	6.5%
Total	428	475	369	324	351	353	100%	

Source: Invest KOREA

Labor-management grievances held the highest ratio with 106 cases recorded in 2002. That number fell to 38 in 2006. Besides labor and management, 2006 witnessed a decline in investment process related grievances (-12.9%), finance and foreign exchange grievances(-16.0%), construction and land (-15.8%). Operation and

distribution(-70.6%), private sector disputes(-54.5%), insurance and welfare(-66.7%) all saw a drastic drop in the number of related grievances.

Again, the decrease in number of complaints filed came as a result of changes implemented through regulatory reform effecting permit acquisition; streamlining construction and land, operations and distribution(discount warehouses authorization), and plant location. As a result of the plan to institute to improve the investment environment for foreign nationals, grievances related to living conditions, power and water have dropped drastically.

3. Improved Grievance Resolution Ratio

Need for Systematic Grievance Resolution

The resolution process takes many forms. Generally, consultants play a major role in the decision-making process. In the first stage, senior consultants or ‘home doctors’ do intake and evaluation in order to determine how a case should be processed. Then, they consult with representatives from relevant government agencies. After a case is reviewed, and opinion exchanged between the home doctor and ombudsman, senior consultants submit grievance resolution proposal through official channels.

When a case is rejected, the matter can be brought before the Foreign Investment Working Committee and/or the Regulatory Reform Committee, Office for Government Policy Coordination. A request for intervention can also be brought to the Ministry of Commerce, Industry and Energy’s Business Grievance Consulting Center. Grievances can be submitted to the Foreign Investment Working Committee, however, that has proved ineffective due to the fact that meetings are held only on a quarterly basis. When cases require swift resolution, since convening meeting and holding subsequent hearings may require more time, working through the Foreign Investment Working Committee may not be preferable for foreign investors.

For cases in which transnational corporations filed grievances requiring systemic changes, regulatory reform and/or amendments to enforcement decrees, the foreign investment ombudsman acts on their behalf, directly contacting the heads of relevant agencies and submitting proposals.

Though many of the proposals submitted to the Office of the Foreign Investment Ombudsman are quite reasonable, government bureaucracy frequently keeps many cases from being resolved. Taking steps to strengthen the authority of the ombudsman and improve the system is highly recommended.

Rise in Grievance Resolution Rate in 2006

Of total cases, those requiring systemic change and administrative intercession accounted for 78 out of 92, recording a 82.6% success rate. This number does not include 221 cases handled internally by Investment Aftercare Team members.

- Cases requiring systemic changes that called for amendment of existing laws (2006, 63.2%) were relatively low in number. The resolution rate, however, for those requiring administrative intervention, which are resolved with follow-up measures taken on the part of relevant agencies, show higher resolution rates(2006, 90.4%).

TABLE II -3 : Details of Grievances Filed by Transnational Companies
(Unit: case, %)

By Year	Systemic Change			Administrative Intervention			Total		
	Cases	Resolved	Rate	Cases	Resolved	Rate	Cases	Resolved	Rate
1999	20			35			55		
2000	39	5	12.8	64	23	35.9	103	28	27.1
2001	39	11	28.2	105	25	23.8	144	36	25.0
2002	36	6	16.7	76	20	26.3	112	26	23.2
2003	30	5	16.7	72	45	62.5	102	50	49.0
2004	23	10	43.5	72	42	58.3	95	52	54.7
2005	19	11	57.9	68	55	80.9	87	66	75.9
2006	19	12	63.2	73	66	90.4	92	78	82.6
Total	225	60	26.7	565	276	48.8	790	336	42.5

Source: Invest KOREA

In the 7 years since the ombudsman's system was adopted in October 1999, home doctors have accumulated a wealth of insight into resolving grievances. Armed with this knowledge, and working closely with clients, our consultants have played a key role in resolving many of the grievances submitted.

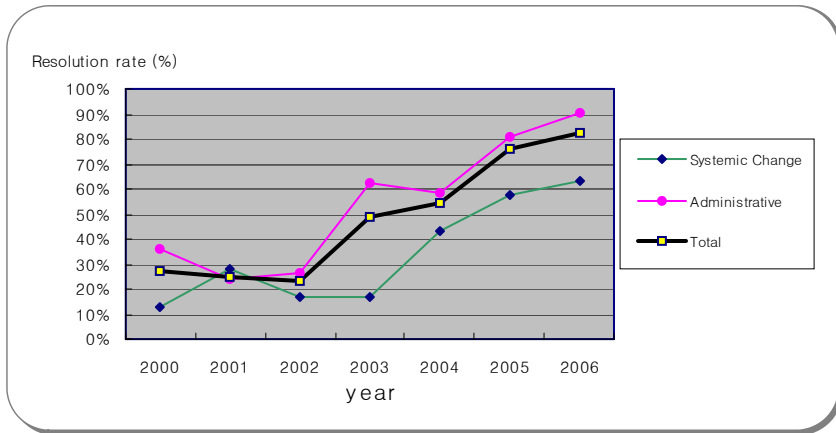
Since 2003, government officials dispatched to Invest KOREA work alongside Investment Aftercare Team staff, paying on site visits to those filing complaints, looking for feasible solutions to problems and contributing to raising the resolution rate. A recent increase in the dispatched government agents has increased the number of direct channels to various government agencies, allowing for a higher rate of resolution.

In 2006, seven consultants from the Investment Aftercare Team paid visits to 482 transnational firms. One hundred seventeen of these visits were to areas located outside of Seoul. They were accompanied by dispatched government officials on 47 trips.

Instituted to office in May 2006, the present Foreign Investment Ombudsman recognized the urgent need to pay personal visits to business sites to find real solutions to the problems faced. After meeting with company owners, he took their issues before the proper authorities, high level government officials and local administrations. In order to make an accurate assessment of the state of affairs, he also opened a door for cooperation between the office of the Ombudsman, local autonomous government organizations, foreign missions to Korea, foreign chambers of commerce, including the American Chamber of Commerce(AMCHAM), European Union Chamber of Commerce Korea(EUCCK) and Seoul Japan Club as well as other economic organizations.

The heightened level of cooperation occurring between the Regulatory Reform Committee of the Office for Government Policy Coordination, Ministry of Commerce, Industry and Energy as well as other agencies came as a result of the efforts of the Foreign Investment Ombudsman to better resolve grievances.

Diagram II-3 : Resolution Rates by Year



(Unit: %)

	2000	2001	2002	2003	2004	2005	2006
Systemic Change	12.8	28.2	16.7	16.7	43.5	57.9	63.2
Admin. Intervention	35.9	23.8	26.3	62.5	58.3	80.9	90.4
Total	27.2	25.0	23.2	49.0	54.7	75.9	82.6

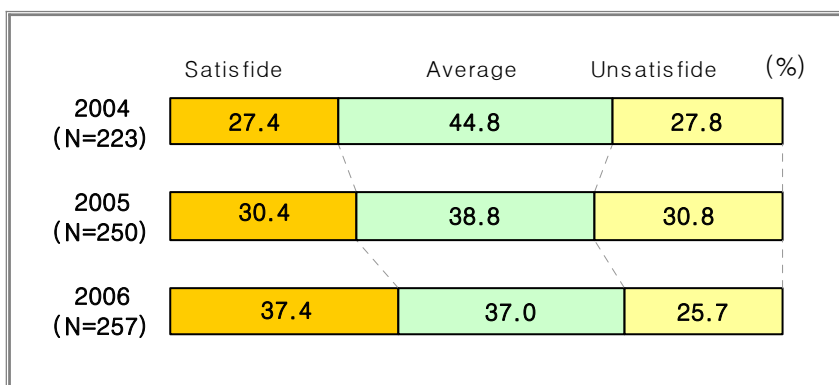
4. Improvements Made to Investment Environment

Level of satisfaction with the living environment

In response to a yearly survey conducted by KOTRA's Investment Service Team, transnational company owners have expressed increasing satisfaction with living conditions. From this we can see that changes initiated by Invest KOREA have succeeded in making Korea a more attractive investment destination.

Invest KOREA conducted the survey from April to June 2006 to determine to what degree foreign investors felt satisfied with education, medical facilities, transportation, housing, visa processing and immigration issues. According to the survey, overall levels of satisfaction have risen steadily since 2004. In 2004 the degree of satisfaction stood at 27.4%, 30.4% in 2005, and 37.4% in 2006 with a declining ratio of dissatisfaction. Areas that once received a rating of ‘average’ have dropped considerably.

Figure II -4 : 2006 Survey of Living Environment



NOTE: N= no. of respondents

By area and level of satisfaction, respondents were most satisfied with health care facilities and services(44%), visa processing services(38.1%) and immigration services(35.4%). They were least satisfied with transportation(8.9%), education (14.8%), housing(21.4%) in that order and requiring drastic and rapid improvements.

Stabilized Business Environment Satisfaction

The 2006 survey of Satisfaction with the Business Environment revealed that Korea's finance, taxation, labor-management, hiring, site selection, logistics and R&D was average overall. When compared to the previous year, the rate of satisfaction fell 1.6%p whereas dissatisfaction levels increased by 1.4%. Allowing

for a reasonable margin of error, the figures for 2006 and 2005 remain relatively unchanged.

Figure II-4 : Survey of Satisfaction with the Business Environment



NOTE: N= no. of respondents

When questioned regarding their degree of satisfaction with the corporate environment, survey respondents gave distribution the highest score at 34.6%, followed by R&D at 31.1%, human resources and hiring at 25.7%, and finance at 25.4%, in that order. On the other hand, the area in which they expressed the lowest degree of satisfaction was in the labor-management(18.6%), taxation(20.7%) plant location selection(22.9%). This, compared to the numbers for 2005, reveals an overall decline in the level of satisfaction.

Though significant improvement was made to remove communication barriers, facilitate more efficient service at government agencies, and ease procurement of funds, more work remains to be done to reduce the severe burden imposed by the high cost of logistics, overhead cost and labor.

Tasks to improve business and living environment

In March 2004, government agencies launched a nationwide effort to devise a 5 year plan for improving Korea's corporate and living environment for foreign

investors. Afterwards, each task was assigned a code and processed. More tasks were added to the original 151 in 2005 and 2006 for a total of 156 tasks. Of them 108 cases were resolved by 2006.

Table II -4 : Tasks for Improving the Foreign Investment Environment
(Units: number of cases)

Type of Task	Investment Service				Improvement Made to the Living Environment						Total
	Labor Related	Tax Related	Finance and foreign exchange	Other	Edu-cation	Housing	Medical Services	Trans-portation	Immi-gration	Life style and Enter-tainment	
Completed Tasks	9	13	4	11	8	11	9	13	13	17	108
Tasking in Progress	2	0	0	2	7	1	2	9	4	10	37
Mid-Long Term Projects	3	1	1	0	0	0	0	0	0	6	11
Total	14	14	5	13	15	12	11	22	17	33	156

Source: Ministry of Commerce, Industry and Energy

In 2006 Invest KOREA completed 3 tasks aimed at improving the living environment for foreign investors.

The Investor Support Center(ISC), located on the second floor of Invest Korea Plaza(IKP) was opened on October 26, 2006. The center offers help with housing, education, transportation and medical services for foreign nationals residing in Korea by providing information and consultation services.

The center also offers assistance with immigration processing for transnational companies. In the same month, a 24-hour trouble hotline was launched offering consultation on issues related to living conditions for foreign investors and their families in English, Japanese and Chinese.

The third and final task completed involved the construction and operation of Cyber Invest KOREA. This portal website offers foreign nationals access to information on housing, education, medical services and immigration in English.

5. Proactive Grievance Prevention

Building preemptive grievance processing capacity

Despite continual efforts to revamp inefficient systems, regulatory reform, and improvements made to the living environment, there are a number of grievances in many sectors. Preemptive trouble shooting is of vital importance. The office of the Foreign Investment Ombudsman has continually cooperated with foreign chambers of commerce, central and local government agencies in order to do so.

In the 2006 intake of cases, preventative measures took the form of joint projects with local administrations. In February, an open session was co-hosted by Gyeongsangnam-do government and KOTRA for foreign investors, and Busan Foreign Investors Meeting and the Jeju CEO Forum were held in June. Cooperation with local foreign chambers of commerce resulted in the hosting of dialogue sessions by EUCCK in March, the Canadian Chamber of Commerce in September, and Seoul Japan Club in May. Then, in April 2006, the Ministry of Finance and Economy and National Tax Service opened a Consultation session on taxation welcoming inquiries from foreign investors. These meetings served as a platform for discussion, however, the number of areas outside of Seoul conducting meetings of this type on a regular basis is limited.

In 2006, major advances were made in improving labor-management relations. KOTRA and the Federation of Korean Trade Unions(FKTU) signed an MOU on April 18. The two groups agreed to undertake joint efforts to improve international relations, offer training in order to ease negative sentiments towards foreign investors and improve the image of Trade Unions. KOTRA needs to enter a similar agreement with the Korean Confederation of Trade Unions(KCTU) in the future.

The Labor Relations Support Desk of Investment Administration Team Within Invest KOREA collaborated with FKTU to conduct surveys of 10 places of operation embroiled in severe labor disputes. The team also provided concentrated

consultative services and suggestions for improving poor labor-management relations for 30 other transnational businesses. In addition to these efforts, regional meetings were held in Gyeonggi, Gyeongnam, Jeonnam, and Jeonbuk provinces. Based on survey results received from participants at those sessions, KOTRA opened a seminar detailing rational ways to promote peaceful labor-management relations and offered information on labor policies on November 15, 2006. KOTRA also published and distributed a guidebook for HR managers of foreign enterprises in Korean, English, and Japanese.

Invest KOREA Investment Administration Team labored throughout the year to provide assistant and consultation services for 8,203 visitors. Those consultation cases by field include 3,505 cases related to investment systems, 1,205 legal issue related inquiries, 1,545 on tax and tariffs, 274 on customs, 208 on real estate, 64 on finance related issues and 29 requests for assistance locating business partners.



〈Federation of Korean Trade Unions and KOTRA sign MOU to attract FDI〉

Active, Onsite Grievance Resolution

In order to effectively handle grievances raised by foreign investors, OIO assigns home doctors to businesses that qualify for receipt of services. These consultants offer help whenever possible, by paying visits to companies and conducting meetings to initiate discussion on obstacles incurred while doing business in Korea. It is through this process that these home doctors gather information and deduce what kind of intercession is needed before a major problem occurs and then take action. When transnational companies file a grievance, they are more skilled to deal with it adeptly. Up until 2005, only the 2,100 companies grossing US\$1 million or more were listed in the database and assigned a home doctor. However, in 2006, the database was expanded to include over 2,700 companies investing over US\$500 thousand.

Besides officiating over the affairs of the Investment Aftercare Team, the Foreign Investment Ombudsman may open forums at which client can get direct access to government agencies handling pending grievances and deliberate issues pertaining to them. In 2006, such meetings were held and covered issues including such highly publicized grievances as assignment of reasonable prices for medication with the Minister of Health and Welfare; consultation on foreign direct investment and taxation with the head of National Tax Service and debates on laws regulating transnational companies in the metro area with the mayor of Incheon and the Incheon FEZ.

Efforts to Resolve Human Resource Shortage Problem

In September 2005, the Investment Aftercare Team surveyed 63 companies on what major problem they incurred doing business in Korea. Of those surveyed, 45% expressed intentions to hire new employees, and 78% indicated that they were facing hiring problems. Of those, 90% stated poor English language skills, development ability, and generally unqualified applicants. Small and medium sized

companies located in outside the metro area stated that many job seekers did not want to work for SMEs(27%) and those they didn't want to work in rural areas(27%).

Of those interviewed, most said that if a job support center were established they would utilize its services. In response to a request to set up an applicant pool database and open a job fair in order to offer stronger support to foreign business owners, OIO launched a website, job.invest@korea.org. In order to match the proper candidates with that right company, a job fair was opened in 2006.

Tailor Made Recruiting Service

Those wishing to utilize these services first completed on-site registration. If the company could not find a suitable candidate, KOTRA would evaluate whether the company is eligible for funding. If they are found eligible, KOTRA would then assign a recruiter to them and provide stipends for 50% of recruitment fees for each new hire(max 5 million KRW) per year.



〈Job seekers visit consulting booth at 2006 Job Fair for Foreign Companies〉

Service was made available from August to December 2006. During that period, the office received requests from 17 companies to fill 30 positions. Of these, 8 companies registering on line hired 9 people reflecting high demand on the part of transnational company.

2006 Job Fair for Foreign Companies

From 18-19 October 2006, the Job Fair for foreign companies was hosted by the Ministry of Commerce, Industry and Energy and organized by KOTRA in the COEX building in Seoul to address the human resource shortage problem faced by transnational companies. For three weeks, from 21-20 October 2006, an online job fair was initially conducted as part of the fair. The fair served as an excellent promotional opportunity for the 73 firms which participated. Some 10,673 job seekers and 13,369 visitors attended, resulting in the hire of 661 persons.

6. Systemic Change

Performance

In 2006, of the 19 requests for regulatory reform submitted by foreign investors, 12 were accepted. Four of the 7 unresolved grievances are under long-term review and one receiving favorable review and the remaining 2 cases were processed as not resolvable. This equates to a 63.2% success rate.

Major Case Details

No.	Resolution Request	Results
(1)	Regulation on Import/Export of Strategic Goods	○
(2)	Improvement of Illicit Drug Traffic and Transport	●
(3)	Insurance Coverage for Employee Education	●
(4)	Extended Registration for Quota Tariffs	●
(5)	Reform of Tax Bond System	●
(6)	Reform of Government Awarding System	●
(7)	Unreasonable Seizure of Property	○
(8)	Request for Exemption on Customs Tax on Capital Goods Shipped Before Financing Capital	◐
(9)	Request for Increase in Percentage of Tires Allowed to be Recycled	●
(10)	Mandatory Submission of Container Seal Number	×
(11)	Request for Amendment to Taxation System in Regards to Parent Company Reorganization	○
(12)	Amendment of Inter-Company Loan Related Regulation	○
(13)	Customs Tax Exemption for Import of Replacement Products	●
(14)	Reduction of Corn Tax	●
(15)	Revision of Laws Governing Requiring Seals for Foreign Nationals	●
(16)	Unreasonable Taxation on Cost for Construction of Basic Facilities	×
(17)	Reclassification of Glucose Testing Strips	●
(18)	Unfair Restriction on Operation of Transnational Companies	●
(19)	Request for Enforcement of Local Government is Employment Subsidy Scheme	●

● Amended, ◐ Favorable Review, ○ Long Term Review, × Proposal Rejected

7. Administrative Intervention

Performance

For cases that can be resolved within existing legal frameworks, the OIO approaches law enforcement bodies to request assistance in processing grievances.

In 2006, 73 grievances related to unreasonable government practices, unfair treatment, and other requests for assistance were submitted to local and central government agencies, relevant authorities. Of those submitted, 66 were resolved resulting in a 90.4% successful resolution rate.

Case Details

No.	Resolution Request	Results
(1)	Assistance with visa for medical practitioners	●
(2)	Reversal of termination of state land contract	○
(3)	Return on overpayment of tax	●
(4)	Grievance on assessment of import tax on import of replace for defective goods	●
(5)	Help with issuing of certificate for receipt of E-7 visa	●
(6)	Request of National Tax Service for data on the results on customs of amendment of electrical equipment safety law	●
(7)	Complaint regarding delay in export due to wait on approval for recognition of export item as strategic good	●
(8)	Request for assistance with registration and issuance of recommendation for foreign national employee	●
(9)	Designation of foreign investment zone	●
(10)	Requirements for locating in a foreign investment zone	●
(11)	Grievance regarding reduction of tax on capitalized goods	●
(12)	Inquiry regarding penalty for failing to register secondary workplace	●
(13)	Penalty tax after tax exemption	●

(14)	Request for assistance gaining recognition of fuel used for trial operation of machinery as import of capital goods	●
(15)	Import of special high pressure gas containers	●
(16)	Registration of recognition as high tech related business	●
(17)	FTA conventional tariff	●
(18)	Extension of lease for special foreigner only complex	●
(19)	Yongin light rail construction	●
(20)	Construction of a distribution center in Yong-in	●
(21)	Grievance regarding request for donation of land for road construction near Ilsan outlet	●
(22)	Approval for a landfill located at Gong-gu 2-1, Kumi City	●
(23)	2 cases regarding requests for tax reduction/exemption for capital goods as a result of exchange rate fluctuation	●
(24)	Complaint regarding insufficient support for small amount investors and request to combine the services of IK and Japan Desk.	●
(25)	Request for more flexibility in application of laws applying to transnational companies, requiring mandatory hiring	●
(26)	Complaint regarding illegal activities on part of former client	○
(27)	Request for help keeping on foreign employees holding D-8 passport with required capital	●
(28)	Water supply grievance	●
(29)	Land procurement	●
(30)	Grievance regarding problem with remittance of foreign exchange of short term loan payment	●
(31)	Request for assistance registering for a foreign investment zone	●
(32)	See #14	●
(33)	Problems relating to accidental cancellation of operation license	●
(34)	Problems with customs clearance of capital goods	●
(35)	Request for assistance with pre-confirmation of tax reduction/exemption	●
(36)	Request for confirmation of eligibility for receipt of cash grants	●
(37)	Problem with confirmation of experimental equipment as capital goods	●
(38)	High pressure gas containers usage regulations	●
(39)	Customs duty exemption for the capital goods of investment-in-kind	●

(40)	Tax exemption/reduction for investments in kind	●
(41)	Problem with refund service	●
(42)	Grievance regarding foreign tourists' payment of VAT and special excise taxes	●
(43)	Mandatory submission of driver's license when applying for a Korean driver's license	●
(44)	Requirement on a standard investment amount for registration of continuing education facilities	●
(45)	Assistance with application for tax reduction/exemption incentive for high tech businesses	●
(46)	Grievance regarding local tax	×
(47)	Grievance regarding local tax	×
(48)	Change in residence qualification	●
(49)	Consultation on negotiations on land reparation	●
(50)	Possibility of qualifying for reduction/exemption on tax for bonded manufacturing factory	●
(51)	Revision of Act on the Promotion of the Conversion into Environment-Friendly Industrial Structure (re-manufacturing law)	●
(52)	Revision of Act on the Promotion of the Conversion into Environment-Friendly Industrial Structure (re-manufacturing law)	●
(53)	Revision of Act on the Promotion of the Conversion into Environment-Friendly Industrial Structure (re-manufacturing law)	●
(54)	Revision of Act on the Promotion of the Conversion into Environment-Friendly Industrial Structure (re-manufacturing law)	●
(55)	Revision of Act on the Promotion of the Conversion into Environment-Friendly Industrial Structure (re-manufacturing law)	●
(56)	Grievance regarding payment of allotted charge for recycling industry	●
(57)	Grievance regarding road running through logistics center location	●
(58)	Request for deregulation of laws restricting proximity of factory buildings	○
(59)	Help determining tax reduction/exemption	●
(60)	Feasibility study on reduction of corporate tax relates to processing on commission	●
(61)	Heavy metals discovered in cosmetics	●
(62)	Construction in cultural heritage area	●

(63)	Help registering as an high tech	●
(64)	Establishment of an institute of supplementary learning for children foreign nations in Korea	●
(65)	Extension of D8 visa	●
(66)	Grievance regarding tax exemption/reduction for additional investment	●
(67)	Grievance regarding problems with customs and clearance com for pilot production	●
(68)	Help applying for tax benefits for high technology industry	●
(69)	Import of high pressure gas containers as capital goods	●
(70)	Request for assistance with registration for tax exemption	●
(71)	Request for assistance with registration as a foreign container producer	●
(72)	Request for assistance with registration for cash grants	●
(73)	Objection to results of tax audit	○

● Amended, ○ Favorable Review, ○ Long Term Review, × Proposal Rejected

8. Increased Investment Projects

The importance of aftercare services

Along with efforts to lure new investors - since a great number of major enterprises already have establishments in Korea- efforts to encourage transnational companies to increase re-investment are extremely important.

When transnational companies expand operations and diversify, they generate stable income and create jobs. That is why aftercare support is extremely important in drawing FDI. Even the United Nations Conference on Trade and Development(UNCTAD) stated that the best policy for attracting FDI was to offer quality aftercare services.

Just observing the figures for additional investments as a result of effective aftercare as a ratio of overall FDI confirms the importance of aftercare service. As

globalization and supply chains becomes more pervasive, transnational companies place less emphasis on nationality and more on creating job, growth, and transfer of technology within the host country.

Making improvement to the investment environment and undertaking systemic change will, in the long-run, contribute to developing the economy and creating a virtuous circle of prosperity for the investor and host nation. It has also been proven that the lack of such activity would bring about the reverse effect.



When clients are satisfied, they spread the word, indirectly attracting new investors. Of all the promotional tools available, often word of mouth has proved most effective.

Attracting Re-Investment from Existing Foreign Firms

In 2006, 58.9 % (6,618m USD) of inbound investment originated from increased investment. Of this amount, 26.1 % (\$1,724m USD) came through the Office of the Foreign Investment Ombudsman. Though FDI y-o-y were off by 2.9% and increased investment by 13.8%, amount attributed to the OIO were up 18.0%. One major project leading to this was the increase in investment with the addition of an 8th generation line by S-LCD.

TABLE II -5 : FDI Statistics

(Units: case, US\$ billion)

Year	Total FDI	Increase in Investment		OIO Contribution	
		Amount	Ratio(%)	Amount	Ratio(%)
2001	11,286	4,329	38.3	1,479	34.2
2002	9,093	3,219	35.4	546	17.0
2003	6,471	3,933	60.8	2,372	60.3
2004	12,792	5,549	43.4	1,830	33.0
2005	11,563	7,677	66.4	1,461	19.0
2006	11,233	6,618	58.9	1,724	26.1
Total	62,438	31,325	50.2	9,412	30.0

Source: Ministry of Commerce, Industry and Energy and Invest KOREA

Re-Investment and Project Managers Assignment

Of the resolved cases which lead to re-investment, consultants were assigned as project managers for 30 important projects in the hope of attracting additional investment.

As home doctors' efforts to resolve grievances become increasingly important efforts are needed to work more closely with foreign invested companies to induce incremental investments. This will require a more systematic and preemptive approach, and will prove less time consuming and more effective than attempting to attract new investment.

Dispatch of Task Force Teams to Parent Companies to Hear Grievances

OIO organizes task force teams to assist overseas investors in the decision-making process and encourage investors to go through with plans to invest and promote services. The project was initiated in 2005 and 3 TFTs dispatched in 2006.

These teams visited the parent company and to offer consultation services, and provide the parent company with an opportunity to better understand investment conditions in Korea; make inquiries, voice complaints and receive timely information. These task forces have allowed parent companies to witness firsthand quality service offered by the OIO and been effective in encouraging their subsidiaries to increase investment in Korea.

TABLE 2-6 : IR Activities of 2006 Aftercare Task Force Teams

Region	Dates	Results
North America	4~13 July 2006	- 7 companies, including Toppan Photomasks - Consulted projects equivalent to US\$432 mil.
Europe	17~23 September 2006	- 6 companies, including BASF - Consulted projects equivalent to US\$638 mil.
Japan	19~22 December 2006	- 6 companies, including ULVAC - Consulted projects equivalent to US\$227 mil.

Jeju CEO Forum

In 2006, the OIO hosted the first annual CEO Forum welcoming executives from transnational companies and their families to develop greater understanding of Korean culture and encourage continued investment. The event was hosted by the Ministry of Commerce, Industry and Energy, and sponsored by Jeju Island government.

The conference took place at Jeju Island's Shilla Hotel and was attended by 100 foreign invested companies executive, the president of KOTRA, the vice-minister of Commerce, Industry and Energy, the Foreign Investment Ombudsman and other government officials. The event served as a valuable opportunity to hear concerns of foreign investors as well as inspire increased investment and to network each other among companies. In the exotic island setting of the well loved tourist resort

of Jeju Island, participants heard presentation from the foreign investment ombudsman, Dr. Choong Yong Ahn on the Investment Aftercare Services, Korean entertainer, Robert Holly presenting a speech how to fully enjoy life in Korea; witnessed a traditional folk dance performance; and tasted of a wide array of Korean culture. Ancillary events taking place during the forum included Mitsubishi notifying the office of increased investment in MMA/PMMA factory construction and the signing of an MOU between KOTRA and Mitsubishi Rayon Co., LTD for construction of a factory.



Other events included, a trip to Seogwipo World Cup Stadium Beautiful Day festival where visitors could purchase goods indigenous to the region, proving a great opportunity to market those goods and attract regional investment. During this time, KOTRA signed a memorandum of understanding with Jeju Island promising to work together to attract foreign investment.



Tasks and Challenges to Improving The Investment Environment

1. Urgency of Providing Quality Aftercare
2. Macroscopic tasks and Challenges
3. Microscopic and Systemic Tasks and Challenges
4. Mid to Long-Term FDI Policy Goals



Tasks and Challenges to Improving The Investment Environment

1. Urgency of Providing Quality Aftercare

Globalization and Global Supply Chains

During the Korea's rapid growth period, the Korean government relied heavily on foreign loans to finance growth. Korean companies applied principles of reverse engineering to imported goods in order to develop technology and grow indigenous capacity. As a result, at 2%, Korea recorded the lowest ratio of FDI stock to GDP of all other developing countries in the world. However, after the Asian economic crisis, Korea shifted to a new FDI policy paradigm and joined the rest of the world in efforts to globalize and attract FDI.

Table III-1 : The Ratio of Accumulated FDI Stock to GDP

(Units: %)

	1990	2000	2005
Global	8.5	18.3	22.7
Developed Economies	8.2	16.2	21.4
Developing economies	9.8	26.3	27.0
Africa	12.2	26.0	28.2
Asia and Oceania	9.0	26.5	23.2
Asia	8.9	26.5	23.2
England	20.6	30.5	37.1
Ireland	119.5	133.8	105.7
Netherlands	23.3	65.8	74.1
China	5.4	17.9	14.3
Hong Kong, China	59.4	275.4	299.9
Malaysia	23.4	58.4	36.5
Republic of Korea	2.0	7.3	8.0
Singapore	82.6	121.7	158.6

Thailand	9.7	24.4	33.5
India	0.5	3.8	5.8
Latin America	10.3	25.8	36.7

Source: UNCTAD, World Investment Report

According to World Investment Report 2006, published by the United Nations Conference on Trade and Development, up until the end of 2005, Korea's GDP to FDI stocks stood at 8.0%, for a far below average performance. For the same period, the global average stood at 22.7%, for developed economies 21.4%, 27% for developing nations; for the Asian Pacific region 23.2%; and 14.3% for China. The comparative low ratio to GDP alone makes a powerful argument for the need to increase inbound FDI.

Decreasing Growth Potential

Though the potential growth rate during Korea's period of rapid growth stood at 8%, it has since dropped to the present 5% level. As domestic companies move operations overseas, and investment in facilities staggers, foreign capital stocks shrink, retarding growth even further. This, in addition to slow down in inbound FDI could send the Korean economy into a sustained slow growth syndrome.

Table III-2 : Factors affecting to falling growth potential
(Growth Rate per annum: %)

	1987-1997	2000-2005
Active Labor Force	1.6	0.6
Gross Fixed Capital Formation	5.0	2.9
Contribution by Consumption and Investment	8.9	3.4
Inbound FDI	35.8	7.9
Outbound FDI	29.0	2.8

Source: Samsung Economic Research Institute

2. Macroscopic Tasks and Challenges

Easing Anti-FDI Sentiment

As globalization becomes pervasive, Korean enterprises have the opportunity to create new markets and profit by investing overseas. However, should foreign investors in Korea make a profit and leave, or wire a large amount of money overseas, they are accused of draining down national wealth. In order for Korea to create an attractive investment environment, anti-foreign capital sentiments need to be eliminated.

After the Loan Star case and some international hedge funds stories in global financial markets, Koreans have developed a negative opinion of short term speculation. Now, Koreans negative sentiments regarding foreign investment across the board have grown. As litigations continue, those sentiments are likely to worsen. Even if Loan Star is found innocent of all charges, the margin of profits created and the fact that they would take that profit with them when they leave Korea might cause consternation for quite a few Korean citizens.

Even if we leave it to the courts to decide whether there was any misconduct involved in Loan Star's acquisition of Korea Exchange Bank's outstanding stocks, the court proceeding is bound to be long and drawn out. As criticism grows, the effect on other foreign investors is bound to be negative. Since the foreign press also has also taken interest in the case, just as in the past, this sort of negative press is likely to adversely affect investor's view of Korea as an investment destination.

When investigating illegal activity of foreign investors, extreme caution must be exercised. What is more, those involved should consider deeply whether the press needs to be involved from the very beginning. If illegal activity is suspected, the facts must first be determined and only when an indictment is made, should the press be alerted. If the press covers the case at all, it should be done during the prosecution stage. Until the accused transnational company is found guilty, as in other advanced countries, it should be presumed innocent.

Towards Creating a Regional Business Hub

The aim of becoming a business hub of Northeast Asia has long been an agenda high on the list of priorities for the Korean government. That means creating an atmosphere in which people, goods, currency, and capital can freely move. This includes taking greater initiative to resolve one of the major voiced concerns of transnational businesses, labor management and tax related grievances. Besides these areas, other issues include concerns about non-tariff barriers and foreign schools.

Korea still has regulations in place that do not meet global standards. Even though Korea has policy aimed at encouraging technological independence and to advance Korean technology, there are regulations that would lead to commerce related disputes. If, as a result of regulatory reform, the government is impeded from achieving policy goals, proactive steps need to be taken to change those laws. By way of example, requiring cellular phone handsets to be equipped with WIPI technology is not only contrary to international standards that prevents manufacturers from doing so, but also impedes manufacturers from keeping up with ever changing technology.

In 2006 Invest KOREA conducted a survey asking investors' opinions of problems encountered while living in Korea. Results showed that the area of highest concern and most in need of improvement was education. Besides educational conditions, they stated that traffic, housing and medical services proved the most urgently in need of improvement. As of April 2005, 44 international schools, able to accommodate 9000 students were in operation nationwide. Of those, 17 are located in Seoul, 5 in Gyeonggi Province, 1 in Incheon for a total of 23 within urban centers and 21 concentrated in major cities across the nation. One of the major complaints of long-term foreign national residents of Korea is the high cost of education, lack of foreign schools, and lack of teachers.

According to a report published by UNCTAD, increasing the host economics absorptive capacity of foreign invested industry and R&D clustering is also of utmost importance. This calls for the government to prepare a plan for doing so.

Improving Transparency and Predictability

Not only do laws, regulations and guidelines governing foreign investment need to be clearer, but related systems and procedures need to be supplemented.

That means clear and concise guidelines must be accurately recorded. If existing guidelines are unclear, it is important for the proper authorities to clear up misunderstanding and make necessary amendments in a prompt and efficient manner.

The government can maintain a level of consistency by providing detailed policy guidelines. Of course, the rapidly changing investment environment proves prohibitive to providing perfect consistency. As time passes, certain laws and policies must be adapted. Therefore, it is advisable to put in place a mechanism for application of a “negative system” rather than a “positive one with transparent and detailed procedure.”

Increasing reliability of policy measures is essential. While doing so, they also need to improve operation of existing policies. After the Asian financial crisis, with the increase in foreign exchange reserves, the government’s view of foreign investors began to warp. They became the objects of over-regulation. However, in light of waning investment by local enterprises, the government must maintain efforts to attract foreign investors in order to create jobs and spur growth.

In order to increase transparency, there must be constant communication between investors and the government. In the process of policymaking, it would be highly desirable for policymakers to get constant feedback from and encourage participation of relevant parties, then reflect the different perspectives in policy directives. With all interested parties involved in the process, it would increase the degree of acceptance of those measures and ease attainment of the desired policy agenda.

Predictability is extremely important to investors. A lack of necessary information can result in extra costs for investors. Of course, responsibility rest partially on the

investor, but most of the blame rests also on public agencies that do not take initiative to provide information. For example, in order to qualify for tax exemption or reduction, funding, or other incentives companies must apply and then be reviewed. It is difficult to predict the outcome of the evaluation process. We need to expand the pre-evaluation system and increase transparency.

It would be profitable to investigate the possibility of adopting a Future Tax Liability System like the one used in the Netherlands. The system entails tax authorities examining the size of an enterprise and capital contribution and then giving a basic estimate of the expected tax burden. Towards the end of his term, Dorian Prince, the European ambassador to Seoul, also proposed that the Korean government implement such a system. By doing so, the government not only makes it easier for businesses to set up an operational strategy, but rate government policy high for levels of reliability.

Another problem investor's face is a lack of information on government projects that may affect their own development projects. Instead of just abiding by the minimum legal requirements for posting public notices and placing bulletin board announcement, foreign investors directly affected by expansion of existing infrastructure and SOC development projects should be directly notified of projects that affect them. Small transnational companies, especially, find it difficult to keep up with this information. Of course, if all parties with a vested interest in government projects are made fully aware of what is going on, there is a chance that there will be conflict. But there is also a chance that their involvement could expedite completion of that project. If administration services must focus on what is important to investors, by creating greater transparency, increase predictability they will get results.

3. Microscopic and Systemic Tasks and Challenges

Consistency in Operation of Incentive System

The present incentive system is wrought with inconsistencies and uncertainties. The lack of clear regulations in application of incentive policy frequently causes inconsistency in operation. For example, when a company purchases a building for use as employee housing, they encounter problems because it can not be determined whether the building can be considered as part of operations and thus tax exempt. The problems arose because there is no consistency in determining which kind of real estate can be considered part of operations and as a result, qualifies for tax exemption.

Efforts need to be made to harmonize government policy, actual practices and existing guidelines. Though the government has undertaken many policy initiatives as part of its agenda to become a business hub of Northeast Asia, those goals and methodologies for reaching them have not been communicated to local administrations. The central and local governments need to equip themselves to unify existing systems. If Korea aims to become a logistic hub, shipping vessels need to be able to dock and leave port at will. Without improving conditions to meet these basic demands, it will prove impossible to meet that goal. A primary step to achieving this goal would be to benchmark successful countries.

- If the government can not manage to imbue systems with consistency, they will, by virtue of that inability, invite foreign investors to take legal action, placing on them enormous cost burdens in terms of wasted time and money, casting shadows on Korea as a viable investment destination. This would, adversely affect competitiveness and multinational businesses to close their doors.

Meeting Global Standards

One of the most frequent complaints of foreign residents in Korea is related to language barriers. Countries like Hong Kong and Singapore, where English is the

official language, have a comparative advantage over Korea in respect to being a global business hub.

Globalization and related adoption of global standards needs to be more pervasive. They must affect the commercialization systems, administrative procedures, business services, living environment as well as language. Not only these, but also perceptions of foreign nationals must change and be reflected in the removal of disadvantageous systems and regulations, or xenophobic, exclusive mindsets. In countries at far more advanced stages of globalization, no distinction is made between those of differing nationalities. One can experience what it would feel like to live in a truly global society where no one is made to feel uncomfortable, or made victim to prejudicial treatment.

Globalization and achieving global standards can also be defined as liberalization. However for come liberalization equates to unfathomable competition. Though those favoring liberalization and protectionist have always stood in direct opposition, but the fact that more success results when markets are left to function freely, speaks for itself. Government authorities rather need to turn their attention to putting in place systems that allow for fair and effective competition. Observing the best practices of Dubai, Arab Emirates and London's financial market may be a good place to start.

4. Mid to Long Term FDI Policy Goals

Rugman's Theory

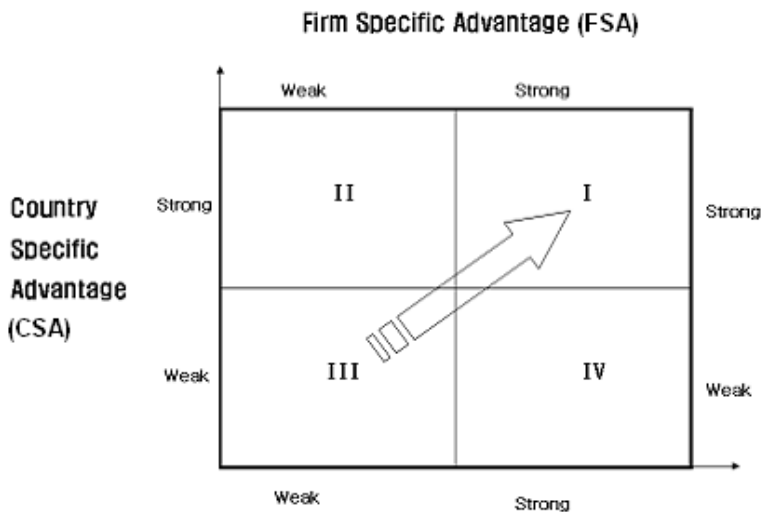
Professor Alan Rugman's theory¹⁾ on multinational enterprises offers helpful insight on FDI policy measures necessary to help capitalize on Korean economic growth potential in an ever globalizing economic environment and in light of the growing pervasiveness of supply chains.

1) For details, see Rugman, A.M.(2005), *The regional Multinationals*, Cambridge University Press

When attempting to attract foreign investors, Korea must focus on those that will contribute to shifting to Korea's knowledge based economic model in future. It is important to consider firm specific advantages(FSA), or, in other words, to target firms that have various comparative advantages. Those are firms that can contribute to advancing technological and R&D capacity, service industries and global best practices.

Korea needs also to strengthen an absorptive capacity by capitalizing on its strengths or comparative advantage to attract quality transnational companies. That would be done by expanding the incentive system, building a more comprehensive grievance processing mechanism, developing R&D centers and a highly skilled workforce, increasing social overhead capital, and adhering to global standards and development healthy labor-management relations.

When drafting FDI policy measures in the year to come, Korea needs to raise capacity in order to move from quadrant 3 to quadrant 1, where both FSA and CSA are strong.



Benchmarking the Netherlands and Ireland

Korea needs to attract multinational high tech companies that can contribute to maintaining sustainable growth, focus increasing absorptive capacity in areas that would benefit them, and then put in place policy that would move the nation from quadrant 3 to quadrant 1.

Despite limited land mass and small populations, through determined attraction of FDI and post investment service, the Netherlands and Ireland have become Europe's business hubs. Korea would benefit from benchmarking these two best practitioners.



Foreign Investment Ombudsman Recommendations

1. To the Government
2. To Foreign Investors
3. Improving Grievance Resolution System



Foreign Investment Ombudsman Recommendations

1. To the Government

Proactive Administrative Service

Some central government jurisdictions have organizations in charge of investigating ways to improve administrative processes. However, most of them are not equipped to handle grievance, nor have they the time to establish a system by which they could take the initiative to uncover problem areas.

Though central government and local agencies are able to passively process grievances and requests, they lack the ability to actively uncover problems and improve processes. This goes beyond just improving the quality of administrative service, or offering prompt response to clients' petitions. It means placing oneself in the shoes of the average citizen or business owner and handling their grievance as if they were one's own.

Administrative services should not be merely out of an obligation to the law, but from a desire to see companies prosper. Of course, those in public service may be satisfied with just maintaining the status quo, but they need to consider countries like Ireland, the Netherlands, or Singapore. These nations placed emphasis on taking a preventative approach to post investment care and benefited as a result.

If administrative service organization take the initiative, change directions and pursue improvement, it will revolutionize the way people see public service organization.

Need for consistent evaluation and improvement of existing systems and operation

The need to re-evaluate existing laws, ordinances, procedures and guidelines has become clear. Since laws and guidelines are made for a seasons, as time passes and technology rapidly advances, some of them may become outmoded. Though work is being done to see that industry specific amendments are made, a mechanism needs to be put in place to make sure that these updates are made across the board. When a kind of check and balance mechanism is set in place, it will form the axis of the hub that the government desires to create.

When examining systems and guidelines, elements that need to be considered pertain mainly to environmental change, whether they meet global standards of consistency, transparency, and predictability

Of course, there are laws that are not particularly sensitive to external change. However, even these, when not regularly reviewed are in danger of becoming a undesirable regulation. Change can bring about evolution. By subjecting present practices, system and guideline to a 2 year 'regular check-up' we could help them stay relevant and restore their ability to respond to change.

In the process of making these changes, we must never forget to maintain a global standard. If Korea holds to a global and consistent standard of operation, it will reduce the amount of time taken for transnational companies to adjust to doing business in Korea and translate into greater competitiveness for Korean companies. Holding to global standards benefits both foreign and Korean investors.

In order to increase systemic and legal transparency, a negative system, in which only prohibited items are listed in detail, is appropriate. In the decision making process, it would be more helpful to transfer authority to make decisions on items not listed. Adhering to the negative system principle would expedite change and speed up operation. Adopting this system will allow authorities to respond quickly

under ever-changing conditions. If this system is adapted, the next step would be to pursue transfer of authority.

Increase access to English language services

In order to arrive at our goal of becoming a business hub of Northeast Asia and achieve true globalization, English signage and English language information need to be drastically revised. Foreign national and transnational business owners have frequently expressed frustrations with sometime insurmountable language barriers. In reality, though a wealth of information exists, it is all in Korean. In order for it to be of any use, they have to undertake a costly and voluminous translation project. This, consequently, lowers Korea's competitiveness.

In the long run, the government may want to investigate the possibility of making English an official language. Of course, such a move would require public consensus, which would take time. Therefore, as a first step, materials required by foreign nationals and transnational businesses could be translated into English of the language needed.

Besides making the information required by interested parties on Korean systems and organizations available in various languages. Those presently available are often abbreviated versions of the original, and absent of useful details.

Alerting the Public of the Benefits of FDI

FDI benefits Korea in three distinct ways. First, they create jobs. When transnational companies locate in Korea, they employ Korean citizens. Second, they introduce new technologies and advanced management practices. Many foreign invested companies receive official recognition for advanced technology and benefit from tax reduction and exemption. Local industry benefits from the infusion of business management techniques that raise management practices to global levels. And lastly, the gain in fixed capital becomes a platform for future growth.

Foreign invested companies doing business in Korea are basically the same as Korean companies investing domestically. For that reason, the Foreign Investment Promotion Act prohibits discrimination against foreign invested companies and requires that they receive the same considerations as domestic companies. Of course, if a foreign invested company breaks the law, it should be prosecuted under the law. However, a major concern is that they are not welcomed for making windfall gains and profits, or that such circumstances may irritate anti-foreign capital sentiments. If Korean citizens take pride in the fact that Korean companies make profit abroad, to expect transnational companies not to do so is rather hypocritical.

Efforts to date on the part of government agencies to actively correct negative and distorted images of foreign invested companies are seen as largely ineffective. If Korea hopes for continuing inflows of FDI, the government and public sector should take greater initiative to alert the public to the necessity of such a move and potential gains to the economy as a result.

Improve Relations with Transnational Companies

The majority of FDI comes from transnational companies with headquarters in one of several developed economies, including the United States, Europe, and Japan. Korea needs to take full advantage of the know-how that transnational companies and their employees bring with them to upgrade Korean systems and organizations to globally competitive levels.

There are several different ways to get input in this regard from foreign investors. Industry-wide or local level investors' meeting can be held for foreign investors. On-site visits can be paid to transnational business sites to draw out business executives and give them the opportunity to voice concerns, or government ministries can open policy briefing seminars. Open discussion sessions with business executives and personal visits to companies have proven most effective. Since some grievances may be too sensitive to broach in a public setting it may prove advantageous to utilize both methods.

■ Preventing Political Powerplay

In most cases, the right to grant approvals and permits to foreign investors is delegated to local autonomous government bodies. In actuality, local governments play an increasingly important role in attracting foreign investment. However, since heads of local governments are elected, there have been known to, in some cases, abuse this right to gain political favor.

Many heads of local governments initiate many projects aimed at improving international relations and luring FDI, successfully alerting the public of importance of doing so. However, some heads of local government abuse the right to approve or deny approval to legitimate projects that had been pursued under a previous administration or bring up issues unrelated to the project to gain political favor thus perpetuating anti-foreign capital sentiments.

Local officials sometimes hide behind the pretext of protecting local SMEs, when, in reality they are vying to win voter confidence. These measures are very similar to those taken to select foreign companies. In other words, those transnational companies that will gain votes are welcomed and those that will not are not. If all local governments abuse the rights granted to them in this way, they only succeed in increasing investors' insecurities about investing in Korea and adversely affect the investment environment.

Preventing these kinds of political interests from interfering with administrative procedures could significantly raise transparency and predictability for foreign investors.

2. To Foreign Investors

Requesting special preference for application of tax rates and registering reasonable objections

Some of the grievances filed by foreign investors are requests for preferential treatment. The most commonly requested benefits are for tax and customs. Most commonly requests are for reductions of taxes and tariffs on raw material imports. Since they ignore the need for fairness and balanced treatment of companies in similar industries, they can not be honored.

However, requests for reductions due to errors in classification of goods should be honored. Basically, the items only need to be reclassified. If local authorities refuse to do so, the company may submit a request to an international or independent classification organization that will provide them with a written opinion of the items proper classification. German Company S, for example, followed this procedure, had an item reevaluated, was granted tax exemption and received 2 years in back taxes.

When components of a product are unreasonably taxed due to differences in interpretation, cases from other countries can be used as a comparative reference. In some cases, this will result in re-calculations of taxes. On one occasion, exorbitant customs tax for propolis concentrate was charged because propolis was categorized as alcohol under the liquor tax act. However, what was imported was not an alcohol, but a health drink made from diluted propolis extract. The practices of Australia, Japan and New Zealand were referred to and it was found that propolis extract was not classified as an alcoholic beverage under their liquor tax laws. So, it was suggested that propolis also be stricken from the liquor tax act and it was.

For raw materials for pharmaceutical such as lysine, where tax, tariff or tax base concessions apply, such requests will be honored if a valid reason is given.

Accept differences in customs and practices

More efforts need to be made on the part of foreign company owners to understand and accommodate for cultural differences and practices. Though globalization has become a pervasive trend, each nation has its own indigenous culture and traditions. Therefore, it proves just as important to localize as to globalize.

Most transnational companies would like to operate business under conditions or systems similar to those of advanced countries, or their home countries. Over the year, Korea's efforts towards globalization have helped the nation to advance to the point where other nations desire to benchmark Korean practices in some areas. However, at the same time progress is being made in meeting global standards, the value of preserving culture should be acknowledged and certain practices accepted and honored.

Difference in business practices may be revealed in insufficient systems. In such cases, requests for legislation must be made. However, if a minority of small scale businesses make such a request, it may prove difficult for them to proceed with the passage of legislation. For example, liquid cargo storage and storage container industries can be viewed in the same light. Both require inspection of shipping orders such as and bills of lading. Upon inspection of papers, if the holder is found in violation of accepted container transportation practices, he/she will be held liable. However, since a liquid storage tanks is assigned to each client, it would be difficult to keep track of every time the tanks are stored or removed. It is also unnecessary to constantly check shipping orders. However, the current system takes none of this into consideration and treats liquid cargo storage containers and regular storage containers the same, generating complaints from clients. This problem arises as a result on the existence of inadequate systems and can lead to grievances being filed. Of course the final outcome will determined by the responsible parties through the judiciary system. Nevertheless, this type of case only leaves foreign investors with a bad impression of Korea as an investment destination.

Establishing an adequate system of liquid storage container transaction and an appropriate standard will take a great deal of time. Before that can happen, investors need to understand the differences in systems and procedures. Then a device needs to be put in place to prevent possible transaction risks.

Another case involved a transnational company filing a grievance related to what they considered unfair assessment of blame and responsibilities of proxies. In this case, the heart of the problem lay in the difference in systems. Traditionally, in the grievance filing company's home country, a limited degree of responsibility is placed on proxies. However, in order to prevent powerful conglomerates from taking advantage of powerless individuals, Korea has traditionally placed the bulk of responsibility on corporations and their representatives.

Contribute to development of regional economies and meet environmental solutions

By nature, businesses exist to maximize profits. Multinational businesses are no different. Nevertheless, since regional economies can serve as platforms for growth and offer a new consumer base, transnational companies need to act as responsible members of the society of its host region. Should that company engage in projects that will mutually benefit both the company and society it would result in a win-win situation for all involved.

Often, transnational companies are not welcomed in local regions because they are perceived as a threat to indigenous businesses or for other reasons. In order to overcome this problem, transnational companies must have patience, and as a member of the regional society continue to have open dialogue with community representatives in order to resolve differences in opinion.

There are many options available to contribute to the local society. Foreign invested businesses can help the less fortunate, undertake some win-win development projects or through other means. It may also be beneficial to consider helping to find solutions for problems affecting the region.

One company, Company B, encountered great opposition from a regional civil group. However, through continued dialogue they developed greater understanding of the problems facing the region. Also, by maintaining a healthy level of transparency, the company was able to dispel fears related to environmental pollution.

Monitor notifications and announcements

In 2006, the OIO received many complaints regarding difficulties faced getting access to necessary information. In particular, these companies have little information on urban and infrastructure development and planning projects that could directly affect business operation. In such a case, grievances were filed because the companies felt that they should receive official notification and an opportunity to offer input on the projects.

The Korean government issues public announcements and notices of projects for interested parties. However, it does not individually alert transnational companies, so it is anticipated that foreign investors may have to endure the same hardships in the future. Even efforts to make detailed inquiries into the matter have, to date, been quite insufficient. Thus, this report includes suggestions to public agencies to help them avoid similar complaints incurred as a result of meeting only the basic requirements of the law.

In order to prevent foreign companies from having to face the same problems they need to have regularly check notices and announcements. If we assume that there is a decision making process that is complete once all involved parties have had the opportunity to offer input, then there must also be a period of time allotted and method for interested parties to raise objections. The sheer volume of grievances submitted by transnational companies involving getting permits issued for harbor development, bridge, light rail transit, subway transit, road and highway construction signals a need for foreign investors to have access to such notices and announcements.

3. Improving Grievance Resolution System

Strengthening Foreign Investment Ombudsman's Legal Authority

According to article 21-3 of Foreign Direct Investment Promotion Act(FIPA), as a head of investment aftercare team, the foreign investment ombudsman may assign specialists by region and foreign-invested companies for the efficient resolution of problems experienced by foreign-invested companies.

In order to solve problems experienced by foreign invested firms in Korea, many legal and systematic changes throughout ministries and offices are required. For the reformation of relevant laws, government agencies have to submit a revision of the law, and, when the relevant administrative agencies and local governments fully support reform, permanent changes can be made. In the past, some government agencies and local governments have remained passive in finding solutions due to oppositions from interest groups.

Under the Ombudsman system, which is founded on Foreign Direct Investment Promotion Act and the Enforcement Decree, the office of the Ombudsman holds not legally binding authority over government agencies. The Ombudsman may request the cooperation of relevant administrative agency for the purpose of solving problems experienced by foreign invested companies. The agency is thus requested to notify the OIO of its opinion on the matter under consideration within seven days after the date on which the request was made. However, this process only has a 15% success rate. Unfortunately there is no clause governing non-execution of the requirement to notify the OIO within the specified time period.

There are many cases in which after notice is received that proposals from the Ombudsman are rejected. Then the Ombudsman and Investment Aftercare Team appealed to the relevant government agency, reformed laws and later had the proposals approved, thus demonstrating that the proposals of Ombudsman and Investment Aftercare Team are constructive and reasonable.

For more efficient resolution of grievances experienced by the foreign invested firms, the authority of foreign investment Ombudsman and Investment Aftercare Team should be strengthened.

Firstly, they should be granted more extensive power to request and investigate information held by relevant administrative agencies and foreign-invested firms, if necessary. They must gain a good understanding of the given situation in order to more objectively pursue resolution of foreign-invested firms' grievances.

Secondly, relevant agencies' must closely review and promptly respond to reform proposals made by the Ombudsman and one-on-one interaction between consultants and clients should be institutionalized. Relevant agencies' timely notice of acceptance or rejection of the Ombudsman's requests for improvement should also be mandated by law.

Thirdly, the foreign investment Ombudsman should be given a seat on Regulatory Reform Committee of Office of the Prime Minister as a member of committee.

Increase Manpower

To keep up with the globalization of world economy and maximize effects of Korea's multi-track free trade agreements, it is necessary to encourage foreign-invested firms to increase their investment in Korea and potential foreign investors to positively evaluate Korea's investment environment. In order for this happen, proactive customer service measures should be adopted. The Relation Manager system used in the banking industry is a good example of this type of system should work.

One major grievance filed by foreign invested companies involved the maintenance of confidentiality. It was determined that a system needs to be put in place for preemptive grievance prevention. For this to become a reality, more consultants need to have a broad understanding of transnational firms and to provide consistent and personalized assistance.

Now, there are only seven Home Doctors responsible for about 2,700 foreign firms investing more than US\$500,000 in Korea. That means that each Home

Doctor must assist upwards of 400 firms. Due to the heavy workload, it is hard for them not only to provide full assistance in solving problems of the foreign-invested firms, to fully support the firms and get them to increase investment. Therefore, a budgetary increase to facilitate hire of a number of Home Doctors is necessary. At least five additional Home Doctors are urgently needed.

It may prove difficult to call on the services of KOTRA's domestic trade centers as an option to hiring more investment consultants at headquarters. This is because consultants are required to possess broad knowledge of foreign investment policy, as well as aftercare, FDI- related systems and laws.

Increasing cooperation with local governments' grievance resolution agencies

At the end of 2006, a system was instated under which local administration would report on grievance resolution cases to KOTRA's Foreign Investor Support Center. By analyzing these reports, KOTRA and local governments build a cooperative network.

In order to draw on the vast expertise of the foreign investment Ombudsman and home doctors, foreign investment forums in domestic areas should be arranged in cooperation with local governments on a regular basis.

Regarding the grievance resolution system, the activities of the foreign investment Ombudsman and local governments should be standardized.

Since foreign-invested firms have a tendency to prefer to locate subsidiaries in metropolitan areas, efforts need to be made to encourage them to invest in non-metropolitan areas. Moreover, there needs to be systematic links created to ensure cooperation between KOTRA and local governments in seeking, inducing, and providing aftercare suitable for globalizing Jeju Special Self-governing Province, Free Economic Zones in Incheon, Busan, and Gwangyang, and other localities.

Appendices

Appendix I Korean FDI Statistics

Appendix II Resolved Grievance Cases

Appendix III Unresolved Grievance Cases

APPENDIX I**Korean FDI Statistics****Annual Investment**

(Units: case, US\$ million, %)

Year	Notified			Arrived	
	Cases	Amount	Increase	Amount	Increase
1998	1,401	8,853	27.0	5,321	72.1
1999	2,103	15,531	75.4	11,001	106.8
2000	4,134	15,249	△1.8	10,266	△6.7
2001	3,336	11,286	△26.0	5,073	△50.6
2002	2,399	9,093	△19.4	3,807	△25.0
2003	2,557	6,471	△28.8	5,112	34.3
2004	3,067	12,792	97.7	9,268	81.3
2005	3,656	11,563	△9.6	9,643	4.0
2006	3,098	11,233	△2.9	5,902	△5.2

NOTE: Tentative 2006 Arrived Investment

FDI By Industry

(Units: case, US\$ million, %)

Year	Manufacturing			Service			Miscellaneous		
	Cases	Amt	Ratio	Cases	Amt	Ratio	Cases	Amt	Ratio
1998	599	5,844	66.0	770	2,525	28.5	32	484	5.5
1999	629	7,264	46.8	1,420	7,808	50.3	54	459	3.0
2000	819	6,841	44.9	3,265	8,188	53.7	50	220	1.4
2001	677	2,860	25.3	2,610	7,595	67.3	49	831	7.4
2002	562	2,362	26.0	1,795	5,494	60.4	42	1236	13.6
2003	567	1,683	26.0	1,936	4,345	67.2	54	442	6.8
2004	681	6,224	48.7	2,331	6,133	47.9	55	434	3.4
2005	742	3,084	26.7	2,853	8,334	72.1	61	145	1.3
2006	706	4,229	37.6	2,337	6,636	59.1	55	368	3.3

FDI by Region(Notified)

(Units: cases, US\$ million)

	2004		2005		2006		1962~2006	
	Cases	Amt	Cases	Amt	Cases	Amt	Cases	Amt
Int'l cooperation agency	-	-	-	-	-	-	117	272
North America	666	5,199	643	3,107	659	1,938	8,827	45,336
Asia	1,767	4,301	2,271	3,512	1,759	4,003	20,895	38,063
E U	367	3,009	442	4,781	405	4,977	4,576	40,459
Other	267	283	300	165	275	314	1,631	2,590
Total	3,067	12,792	3,656	11,563	3,098	11,233	36,046	126,719

FDI By Type of Investment(Notified)

(Units: cases, US\$ million)

Year	M&A Investment			Greenfield Investment						
				Plant construction		Office bldg Construction		Subtotal		
	Cases	Amt	Ratio	Cases	Amt	Cases	Amt	Cases	Amt	Ratio
1998	263	5,077	57.4	194	459	944	3,316	1,138	3,775	42.6
1999	268	5,125	33.0	259	3,824	1,576	6,582	1,835	10,406	67.0
2000	326	2,865	18.8	309	1,667	3,509	10,717	3,818	12,384	81.2
2001	297	2,649	23.5	286	945	2,760	7,692	3,046	8,637	76.5
2002	285	2,084	22.9	275	840	1,850	6,168	2,125	7,009	77.1
2003	288	2,943	45.5	188	552	2,092	2,976	2,280	3,528	54.5
2004	339	6,169	48.2	253	2,933	2,484	3,693	2,737	6,625	51.8
2005	371	5,268	45.6	234	1,390	3,064	4,905	3,298	6,295	54.4
2006	363	4,305	38.3	249	2,174	2,496	4,753	2,745	6,927	61.7

NOTE: All the statistics on Appendix I are from "2006 FDI Trends" released by Ministry of Commerce, Industry and Energy on Jan. 4, 2007

APPENDIX II**Resolved Grievances**

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Administrative Intervention <Finance and Foreign Exchange>

(1)	Difficulties in transfer of funds for repayment of short-term foreign currency loans
Foreign invested business	Company A
Relevant agencies	Foreign exchange designated bank(Bank B)
Matters for which help was requested	Action taken to allow transfer of funds for repayment of a short-term foreign currency loan by approving a wire transfer of funds in Korean won currency from another bank as short-term foreign currency loan funds.
Outcome	Korean won currency funds were recognized as short-term foreign currency loan funds, and reconciled, corrected and reported to the Bank of Korea; the transfer of loan repayment funds was allowed.

Detailed Grievance

Company A received 17 wire transfers amounting to approximately eight million US dollars from its USA headquarters through B Bank starting from 2002. Of that amount, 2 transfers, equivalent to 900 million KRW, was wired to its account with Bank B from the Korea Exchange Bank(KEB).

The company's main bank maintained the position that it could not treat the funds transferred from KEB as a foreign currency loan as they were credited in KRW. Therefore they could not be included in the funds for repayment of short-term foreign currency loans.

Initially, Company A had planned to repay its short-term loan from the head office and post an R&D service fee as sales. However, due to the problems incurred, the company requested help with repaying the loans using the currency transferred through the KEB.

Specifics

International funds transfer

International wire transfers between different countries cannot be effected in won currency. Funds transferred overseas to a bank in the customer's home country, irrespective of which bank the currency was exchanged, are recognized as an international transfer of funds.

Obligation to report and precedents

Bank B is Company A directly transacts with Bank B. It is supposed to pay due attention to verify of the use of the funds when a large amount of Korean won currency is wire transferred.

Being a bank designated for transactions of short-term foreign currency borrowings, it is irrational for the bank B to have failed to report the disapproval of repayment of funds to Bank of Korea due to problems incurred with their internal funds notification system. Furthermore, the company presented as a precedent a previous case in which they successfully completed a a similar transaction with the Bank of America retroactively in 2004.

The company requested that the bank allow it to repay loan from the home office with Korean currency funds received through wire transfer by treating the funds as foreign currency and reporting them as such to the Bank of Korea.

Outcome

Bank B, designated the transaction in foreign currency, recognized the Korean currency received through the KEB as funds received as short-term loan in foreign currency, corrected its computer entry, and reported the fact to the Bank of Korea.

Thus, Company A was allowed to wire transfer funds for repayment, including the Korean currency received through the KEB.

System Improvement <Taxation and Tax Administration>

(2)	Request for improvement of the tax payment guaranty related system
Foreign invested business	Company C
Related agencies	Ministry of Government Administration and Home Affairs, the Office of Government Policy Coordination
Reply from related departments	the Ministry of Government Administration and Home Affairs plans to notify local autonomous governments of new operating standards for requesting tax payment endorsement and acceptions (pending approval at the Ministers Meeting for Deregulation)

Detailed Grievance

Company C and other registered foreign producers are required to provide a tax payment endorsement for tax perpetuation of tobacco consumption tax. Only a local producer was exempt.

Company C spends upwards of 500 million won each year for issuance of a guarantee letter needed to receive tax payment security.

Thus they filed a grievance, claiming unfair on the part of the Korean government to require only foreign producers to provide tax payment endorsement.

Applicable regulation : Local Tax Act Article 233-10

Specifics

The head of the jurisdiction is allowed to demand provision of guarantees for payment of tobacco consumption tax.

The financial burden varies greatly among vendors as the local governments demands provision of security arbitrarily .

Foreign invested businesses provide tax payment security to the respective local government ,while the local government makes no such demands from the local producer.

Their claims include unfair treatment and arbitrarily application of criteria such as business creditability, past default of tax payment.

The local governments also voiced concerns about determining exemptions from tax payment endorsement in the absense of clear criterium.

Recommendations

OIO suggest that the Office for Government Policy Coordination, Regulation Reform Task Force consult with relevant ministries to decide specific criteria for demanding tax payment security and qualifying exceptions.

Reply and Outcome

The Office of Government Policy Coordination's Regulatory Reform Task Force sent an official letter to the Ministry of Government Administration and Home Affairs(MOGAHA) requesting working level consultation with the relevant ministries on 3 March 2006.

Requested the preparation of specific criteria for demanding or exempting tax payment security(newly establishing criteria for tax perpetuation security).

Reply received from MOGAHA on 8 March 2006

Review Results : Recommendation accommodated

Based on Local Tax Act Article 233-10 provisions granting local governments authority to demand tax perpetuation(payment security) on tobacco tax

MOGAHA would notify local governments of specific operational criteria for provision of tax payment security in accordance with the "Criteria for Demanding Provision of Security for Deferment of Tax Payment".

As aforementioned, this grievance was resolved as part of the measures to improve the systems for the imposition and collection of the tax at a ministerial meeting for deregulation presided over by the Prime Minister.(31 March 2006)

System Improvement <Import Duty, Import and Export>

(3)	Request for the abatement of import duty on items imported as replacements for defective ones
Foreign invested business	Company D
Related agencies	Ministry of Commerce, Industry and Energy; Korea Customs Service
Reply from related departments	Capital Goods Import Details Certificate may be re-issued for replacement items.

Detailed Grievance

Company D requested import duties be waived for items imported as replacement for defective capital goods

Applicable Regulations : Special Tax Treatment Control Law,
Article 121-3, Para 1 Item 1, Import Duty Act, Article 106

Specifics

On 24 Jan. 2006, a return shipment of capital goods(worth 8.8 billion won) that had been imported on 2 October 2004(cleared customs on 23 November) after defects was found.

The goods was delayed because the exporter requested that the shipping price be lowered, and that they be returned at the original import price. They were finally shipped at the original import price.

The company requested that the import duties on replacements shipped be abated

Recommendations

The above complaint and details were passed to the Customs Service and the Ministry of Commerce, Industry and Energy with a view to improving the related rules.

Reply and Outcome

Reply from Korea Customs Service

When imported goods are re-exported(returned) due to failure to adhere to contract terms, import duty should be refunded pursuant to Article 106 of the Customs Act. And import duty should be paid on replacements for returned defective items. However, the Customs Act does not have any provisions regarding exemption of import duty for items imported to replace returned defective items. Therefore, in this case, since the law does not provide for exemption from import duties, and no precedent for doing so exists, it is proves difficult to grant such exemption in this case as well.

Yet, the Special Tax Treatment Control Law provides for exemption from import duties for foreign investors whose investments exceed a specified amount. If capital goods originally exempt from import duties are returned due to product defects. However, if it is verified that the notified investment has actually arrived, a copy of the Capital Goods Import Details Certificate may be reissued as pursuant to the Special Tax Treatment Control Law and other related statutes.

Reply from the Ministry of Commerce, Industry and Energy

With reference to your inquiry as to whether a Capital Goods Import Details Certificate may be re-issued for capital goods imported as replacements for defective items which have been re-exported after normal importation with import duties abated pursuant to the Special Tax Treatment Control Law, Article 121-3, Para 1, this is to inform you that the Ministry's entrusted agency may re-issue a Capital Goods Import Details Certificate by revoking the one originally issued if the original import capital goods have been returned after cross-checking the original Capital Goods Import Details Certificate, Import Declaration Certificate and Re-export Declaration Certificate.

A new certificate of the Capital Goods Import Details was issued according to the reply of the Ministry, and the goods could be cleared at the customs office with the duty exempted.

System Improvement <Miscellaneous>

(4)	Restrictions on foreign investment in continuing education
Foreign invested business	Company E
Related agencies	Ministry of Commerce, Industry and Energy(Foreign Investment Promotion Act), Ministry of Education and Human Resources Development(Foreign Investment Promotion Act), and the Ministry of Labor(Occupational Training Promotion Act)
Replies from the related departments	Foreigner investment is allowed for business training under the Foreign Investment Promotion Act provisions concerning Restrictions on Foreign Investment in education facilities.

Detailed Grievance

Company E provides advanced business training programs. The employees that receive training from Company E would like to benefit from refunds on tuition fees available under employment insurance.

Applicable Regulations : Workers Occupational Training Promotion Act, Foreign Investment Promotion Act, Article 4, Para 3

Specifics

In order to be reimbursed, courses taken at Company E should be fall under the Labor Ministry's Workers Occupational Training Promotion Act definition of business training courses provided by a business training facility or at a continuing education facility.

Private institutions should observe 'The Act on Founding and Operating Private Institutions and After-School Hour Tutoring Classes' administered by the Ministry of Education and Human Resources Development.

But they do not fulfill requirement to apply as a private institutions offering college prep or civil service exam prep, or as a English language training institutes.

Therefore, if the business education course provided by Company E must be offered under the category of 'continuing education facility' for clients to qualify for tuition reimbursement.

However, the 'continuing education facility' was one of the foreign investment restricted industries.

Recommendations

The current definition of 'continuing education facility' is too broad for proper application. Appropriate terminology should be changed to ensure clarity of legal application.

Reply and Outcome

Although a regional office of the Ministry of Education and Human Resources Development states that foreign investment in a continuing education facilities is not permitted pursuant to the foreign investment restriction provisions under the Foreign Investment Promotion Act, it is fully agreed that domestic business competitiveness may be enhanced by application of management skills offered by the firm and the cost involved with sending staff overseas for such training saved.

The problem was resolved by striking an agreement between the Ministries of Education and Human Resource Development, and the Ministry of Commerce, Industry and Energy and Ministry of Labor to amend Foreign Investment Promotion Act, Article 4, Para 3 to allow for investment in institutes providing business training courses, which resulted in the resolution of Company E's grievance.

Administrative Action <Visas and Entry Permits>

(5)	E-7 (Specific activities) Request for support for the acquisition of a visa issuance certificate
Foreign invested business	Company A
Related agencies	Daegu Immigration Office
Matter for which help was requested	Request for support for the acquisition of an E-7(Special activities) visa issuance certificate
Outcome	On 6 February 2006, Daegu Immigration Office issued an E-7(Special activities) visa to two Japanese engineers.

Detailed Grievance

Company A intended to employ two engineers from a partner firm of its parent company in Japan to ensure the smooth operation of a production facility in Korea in accordance with the market trend towards larger LCD panels.

The office of the Investment Ombudsman obtained an ‘employment recommendation’ from the Minister of Commerce, Industry and Energy for an E-7(special activities) and submitted the application for an E-7 visa and registered for a Visa Issuance Certificate with the Daegu Immigration Office on 2 February. The company also submitted additional supporting documents, including a letter justifying the need for employment. We also submitted this documentation to the Ministry of Commerce, Industry and Energy.

The company again requested support for issuance of the E-7 issued as the Daegu Immigration Office under the authority of Ministry of Justice Ministry, which has final authority on issuance of visas, reviewing and determining appropriateness of issuance.

Applicable regulation: Immigration Control Act

Specifics

On 2 February 2006, we requested assistance from the Ministry of Justice representative dispatched to the Administration Support Team.

He contacted the Daegu Immigration Office and requested assistance.

Originally, Company A intended to apply for a D-8 (business investment) visa for the two engineers using an invitation from the IK Administration Support Team.

As the two engineers belonged to a partner company of its mother company in Japan, however, they were not eligible for the D-8 visa. Therefore, the company was advised to apply for an E-7 visa instead.

Since Company A is a foreign invested company that has made a substantial investment in Korea, greatly contributing to the local automobile, electric and electronic (CRT, LCD, PDP, etc.) industries.

It is expected that the company will make more investments in Korea and the two engineers are essential to the smooth operation of its local production facility the Daegu Immigration Office to issues the requested E-7 visas.

Outcome

On 6 Feb. 2006, Daegu Immigration Office issued an E-7 Visa Issuance Certificate to the two Japanese engineers.

System Improvement <Investment Incentive>

(6)	Tax Exemption for Advanced Technology based Industry
Grievance filing company	Company C
Relevant Agencies	Ministry of Finance and Economy, Ministry of Commerce, Industry and Energy
Request	To speed up tax exemption notification in order to expedite parent company's decision on timing for second stage of investment project
Results	Receipt of notification before received(final decision notification to be sent 2 weeks after registration)

Grievance Details

The filing company, as the first of the parent company's groups to locate a manufacturing plant in the Ulsan area, show great potential for continued investment in the Asian region.

As the company plans to file for tax exemption, should the Korean government favorably consider that request, the company would interpret that decision as an expression of the nation's desire to welcome foreign investment. Should the government favorably respond to the company's request, Company C expressed a desire to embark on the second stage of investment. Therefore the parent company asked for assistance in receiving prompt notification of whether Company C qualified for tax exemption before embarking on the 2 stage of a construction project.

In the second stage of the project Korea will compete against China and Japan.

Applicable regulation : Economic Laws on Foreign Investment in Korea Article 121-2 paragraph 6

Specifics

The office of the Investment Ombudsman(OIO) submitted a request for cooperation to appropriate authorities requesting assistance facilitating expeditious processing of tax exemption request for Ulsan factory construction.

Home doctors visit to the relevant government agencies for consultation

Though the company had intended to file for tax exemption in October 2005, the home doctor advised the company to file in January 2006 due to amendment of laws requiring a separate registration for increased investment within the first 3 years of initial investment

OIO assisted with filing for tax exemption on October 10, 2005.

An invitation was received from the Ministry of Finance and Economy to attend seminar on legal revisions received on November 3, 2005.

OIO paid a visit to the Ulsan office to assist with filing of necessary papers on December 8, 2005 and then visited the Ministry of Commerce.

Industry and Energy's basic materials industry sector to introduce Company C' technology and consult on the case on December 27, 2005.

The home doctor visited the Ministry of Finance and Economy to submit registration papers and to explain justification for registration on January 6, 2006.

Outcome

Receipt of tax exemption notice arrived only 2 weeks after filing registration following on action pursuant to Special Tax Treatment Control Law Enforcement Decree 116-3 which requires notification of tax exemption/reduction within 20 days of filing.

System Improvement <Investment Incentive>

(7)	Request for inclusion as a businesses eligible for a local government employment subsidy
Foreign invested business	Company D
Related departments	Daejeon Metropolitan City Government
Reply from the related departments	Recommendation has been accommodated for the inclusion of foreign invested businesses among those eligible for a local government employment subsidy.

Detailed Grievance

Company D plans to expand its workforce. However, unlike other local autonomous governments administrations,

Daejeon did not offer subsidies to foreign investment companies for hiring of new employees.

So, company D requested that Daejeon Metropolitan City government provide a subsidy.

Relevant regulations :

Foreign Investment Promotion Act, Article 14, and its Enforcement Decree, Article 20

Article 7 of the Daejeon Metropolitan City Ordinance on Support for Foreign Investment Promotion

Recommendations

OIO sent a letter recommending that Daejeon Metropolitan City also provide hiring subsidies to foreign invested companies,

as provided by other local autonomous governments in order to promote additional investment by foreign invested companies on 17 January 2006. Included with the letter was a copy of survey data from other local government attesting to the fact.

Reply and Outcome

Daejeon Metropolitan City government is investigating the possibility of introducing the hiring subsidy project at the earliest possible date to promote foreign investment and create more jobs.

The reply letter accommodating the recommendation was received on 21 June 2006.

Diverse incentives are being considered for foreign invested companies. We plan to actively examine ways to provide subsidies to foreign invested companies which prompt additional investment or increase employment within the city(Daejeon Metropolitan City Mayor)

We engaged in consultation by visiting the International Trade Section of the City on 27 June 2006 and provided detailed information on other local governments' subsidy payments, including procedures, as Daejeon Metropolitan City has decided to accommodate our recommendation to introduce a subsidy system.

Administrative Action <Environment>

(8)	Difficulties related to the amendment to Act on the Promotion of the Conversion into Environment-Friendly Industrial Structure
Foreign invested business	Company E and four other companies
Related departments:	Ministry of Commerce Industry and Energy, Korean Agency for Technology and Standards
Grievance Details	Company E requested to have toners/cartridges excluded from those remanufacturing(recyclable) items which was scheduled to start in the latter half of the year.
Outcome	Items excluded from the list of remanufacturing(recyclable) items

Detailed Grievance

The original product manufacturers would be seriously hurt financially if toners/cartridges were designated as remanufacturing.

※ The opinion of the Electronics industry(regarding the remanufacturing industry) on the proposed amendment to the Act on Promotion of the Conversion into an Environmentally-Friendly Industrial Structure is as follows.

1. Key Details of the Proposed Amendment

- a. Provisions for the definition of remanufacturing industries and selection of items(Articles 2 and 8).
- b. Ownership of used products for remanufacturing(Article 8-3).
- c. Provisions concerning trademarks and labeling of remanufactured items(Article 8-4).
- d. Provisions for the building of a remanufacturing industrial complex(Article 8-7).

2. Problems

- a. Serious damage to the original product manufacturing industry is expected.

It is clearly desirable to reuse products and parts, to recycle and save resources from a macro perspective.

* Remanufacturing is considered a type of “reuse” as there is no academic definition of the practice.

The original product manufacturing industry(electronic appliance industry), which introduced numerous new products and created markets through research and development , understands that the proposed amendment is a rather unfair bill that would set back the existing manufacturing industry while fostering the remanufacturing industry only.

It raises serious concern that the industry will collapse and relocate to other countries if the government emphasizes ‘remanufacturing’ at the expense of the sound growth of the industry by providing legal grounds for the remanufacturing industry, which has already taken 15%(ink) or 42%(toner) of the market by infringing on the current market autonomy rights of trademark, patent and invention.

- * Volume of use of toners and cartridges generated and ratio of recycling
 - 1.84 million original toner cartridges and 1.34 million recycled toners were produced in 2003(estimate).
 - As cartridges are usually recycled three times, some 450,000 used cartridges are required to produce 1.34 million recycled cartridges.
 - Approximately 25% of toner cartridges are reused, with recycled toners representing 42% of the market.

Category	①Used cartridges generated (Volume of original cartridges used)	Number of recycled toners and used cartridges	
		②Number of recycled toners using abandoned cartridges	③Number of abandoned cartridges recycled
2002	1,579	1,180	393
2003	1,836	1,340	446

Source : Toner manufacturers, Korea Toner Cartridge Recycling Association

Note) ① : The number of toner cartridges sold in the year is estimated to be the number of generated toner cartridges.

② : Number of toner cartridges produced using discarded cartridges.

③ : Actual volume of cartridges reused through recycling.

* Ink cartridge recycling ratio(market share): Estimated to be approximately 15 to 20%.

* Remanufacturing in the EU, representing one third of the world market, has been implemented autonomously based on market principles rather than through government coercion. Remanufacturing in the USA, representing two thirds of the world market, was also established autonomously around automobile engine mechanical parts.

b. Quality warranty of remanufactured products

Amendment Bill, Article 8-3, stipulates that the Minister of Commerce, Industry and Energy shall guarantee the quality. However, it is questionable whether the government should be responsible for all legal disputes arising

from the potential human casualties caused by poor quality remanufactured products(The Product Liability(PL) Act was introduced for new products).

* Sample cases : Fire caused by remanufactured car parts

Fire caused by poor quality of remanufactured electronic appliance parts

A government level management system is essential for both new and remanufactured products if the proposed amendment is to be introduced. The current PL Act and statutes concerning model certification of remanufactured products will also have to be streamlined.

Because of these problems, the majority of the countries in the world leave remanufacturing to market autonomy, while ‘the government’ is responsible only for the formation or support of the industry. Some researchers propose an alternative system whereby the original product manufacturing industry performs quality control and endorsement. For a detailed explanation of reason why this is not acceptable please refer to ‘e’.

c. Labeling of remanufactured products

Amendment Bill, Article 8-4, states, “When remanufactured, the original manufacturer’s trade name, trademark or logo should be deleted. If this is technically or economically difficult, however, the original manufacturer’s label should be made unrecognizable.

Apart from the ownership issue of recycled products, deleting the trade name or mark from products produced by the manufacturers will constitute a breach of intellectual property rights. If the government approves, then the development, design, and production costs incurred by investing in the research workforce, etc, would become meaningless.

* Intellectual Property Rights : Rights concerning inventions or other intellectual creations that hold value for industrial use

Further, in regards to the wording of the amendment - “the original manufacturer’s label should be made unrecognizable” - may be construed rather ambiguous, leaving room for dispute. The government shall be exclusively held responsible for resolving related conflicts.

d. Redundancy with Producer Recycling System

Producer recycling system(EPR - Extended Producer Responsibility System) is applied to office automation equipment such as printers, facsimiles and copiers

from 2006, while its application to toner cartridges will be decided after reviewing a pilot business autonomy project started in 2005.

The Ministry of Environment defines the system's processing criteria of subject items as follows: "reuse reusable parts through intermediate processing such as disassembly, compression, crushing, cutting, etc." This is scarcely different from 'remanufacturing' as defined by the Ministry of Commerce, Industry and Energy. The manufacturers(producers) will experience more difficulties in securing sufficient volumes because of the 'mandatory recycling ratio' provided under a notice by the Ministry of Environment if remanufacture is enforced(on the premise that toner cartridges are to be included in items subject to the Environmental Packaging Resources(EPR) law).

Toner cartridges or other office automation equipment or appliances should be excluded from the items subject to the EPR Law proposed by the Ministry of Environment or to the Act on the Promotion of the Conversion into Environment-Friendly Industrial Structure proposed by the Ministry of Commerce, Industry and Energy.

e. Insufficient Incentives for Voluntary Remanufacturing by Businesses

It should be recognized that voluntary efforts by the original manufacturers rather than the remanufacturing industry are essential to promote remanufacturing fundamentally in terms of product know-how.

* In fact, Mercedes Benz, BMW, Toyota, Honda, Nissan, etc, actively participate in recycling and also operate remanufacturing lines themselves.

Certain foreign cases have demonstrated that large enterprises can occupy the remanufacturing product market as well as the new product market on the strength of their outstanding technological know-how.

From a business perspective, remanufacturing is actually considered a way to create additional added value.

In the case of the Korean toner cartridge market, entirely different economic entities exclusively occupy the new and remanufactured product markets, a zero-sum market structure, creating various problems. Therefore, it is believed that quality control or endorsement is unlikely to occur as a result of cooperation between the two entities.

Therefore, what the government is required to do is to prepare strict quality standards and testing methods to prevent excessive competition among the remanufacturers and consumer damages(degraded quality assurance, service

quality), while providing incentives to induce the original manufacturers into remanufacturing.

f. Loss of opportunity by manufacturing industries

It is estimated that sales of cartridges in the local printer industry is close to 5.5 million units a year(320 billion won). This figure depends on the sale of consumable supplies rather than the printer cartridge in view of industry characteristics.

It is further estimated that sales have decreased by approximately 150 billion won as 350 remanufacturers already remanufacture 15~42%. Original manufacturing industry sales will decrease to 50% if remanufacturing is further promoted by coercively. In the long run, it will have an adverse effect on the remanufacturing industry as well.

* On the other hand, the majority of the 350 remanufacturers are small-scale manual operations the supply refills only. It is expected that they will undergo a massive restructuring if strict quality certification or testing methods are introduced(only 20 of the healthier companies will survive).

Applicable regulations : Act on the Promotion of the Conversion into Environment-Friendly Industrial Structure

Specifics

We sent a formal recommendation letter to the Ministry of Commerce, Industry and Energy's Industrial Environment Section requesting it to carefully select remanufacturing items, taking into account the characteristics of the industrial structure and the possible impediments to the existing industries(in connection with Article 8-3) (11 May 2006).

Outcome

The Ministry of Commerce, Industry and Energy's Korean Agency for Technology and Standards decided to exclude toners/cartridges from the list of pilot exemplary remanufacturing items.

The agency will consider plans to have a survey on toners/cartridges conducted in preparation for the introduction of the remanufacture item certification system in January 2007.(The agency will decide whether to designate toners/cartridges as items subject to quality certification based on the survey's outcome.)

APPENDIX III**Unresolved Grievances**

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System Improvement <Import Duty, Import and Export>

(1)	Improve import-export control system for strategic commodities
Grievance filing company	Company A
Related departments	Ministry of Commerce, Industry and Energy
Reply from the related departments	Plan to study the possibilities of improvement as it will take a long time to establish a system that can efficiently manage or control the import-export of strategic commodities

Detailed Grievance

Company A manufactures an adhesive for should which uses acetone as its main ingredient, selling items domestically and to overseas markets.

Under the current statutes, one hundred different items are designated as strategic commodities and more than half of them are general industrial commodities. However, it is not sufficiently known or understood that they are strategic commodities and hence subject to import-export controls.

It was indicated that many general business operators are exposed to the risk of applying for export custom clearance without undergoing stipulated procedures, including the obtainment of an export license. It is requested that the government take action to complement or improve related systems so that export permits cannot be issued automatically in the custom export permit process if the export license or other statutory procedures are not properly carried out in the event that any item falls in the strategic commodities category.

Applicable regulations : Integrated Notice on the Export And Import of Strategic Commodities or Technologies

Details

Currently, 308 out of the 509 groups of items nominated as 1st class strategic commodities consist of general industrial goods or materials. Of the 95 HS numbered items, 45 are designated 2nd strategic commodities. These include many

goods that are often circulated in the market.(Refer to the Annex of the Integrated Notice on the Export and Import of Strategic Commodities or Technologies.)

Unless a person repeatedly imports or exports items falling within the strategic commodity categories, small business workers handling import or export processes can hardly be expected to properly handle such diverse strategic commodities or be well acquainted with all of the details of export.

In fact, Company A, which imports and exports many different goods, may experience a great number of difficulties, including the need for a vast workforce and need for time to ascertain whether the items handles fall within any of the strategic commodity categories.

Thus, there is a very high risk for businesses importing and/or exporting diverse types of goods or sell strategic commodities without undergoing the necessary legal procedures, irrespective of their intentions.

It is a cause for concern that many more people will be criminalized if the authorities punish them by merely applying existing laws. As mentioned, the general public is largely unaware of the items nominated as strategic commodities or of the import or export control systems. Thus, it is highly possible that general business operators who use them may have unknowingly breached relevant statutes. Under these circumstances, it is clear that the government needs to improve related control systems in order to minimize the number of unintentional violations.

Recommendations

Customs should check that import or export permit applications made for customs clearance of strategic commodities have passed all the required procedures to verify whether they are strategic commodities or not. If all of the import or export approvals or other statutory procedures are not completed, relevant statutes and administrative systems should be improved so that the customs cannot automatically issue import or export permits in such cases.

Reply and Outcome

Plan to investigate ways to better manage and control customs clearance/ import and export of strategic commodities are underway, though a complete a system may require a great deal of time.

System Improvement <Others>

(2)	Improvement of the social overhead dues system
Complaint Business	Company B
Related departments	Ministry of Construction and Transportation
Reply from the related departments	The ratio of private for-profit developers of social infrastructure is lower than that of public entities. Therefore, it is desirable to maintain the current system that abates dues depending on the kind of infrastructure installed per project.

Grievance Details

Company B is a foreign invested business that has leased a part of Jangan Advanced Regional Industrial Park, which was built by a private developer but later acquired by Hwasung City of Gyeonggi-do. The company was levied 1,600 million won infrastructure facility dues by Hwasung City for a construction permit.

The company complained that it is unfair for the government to demand payment of dues on an industrial park that a local autonomous government acquired from a private developer for lease simply because its construction was carried out by a private developer, while industrial parks constructed by municipal governments or public corporations are exempt from such dues. It is requested that the government take action to complement or improve the system.

Applicable regulations : Act on Social Overhead (Infrastructure Facilities) Dues, Article 8, Para 2, Item 2

Specifics

The current system provides only for instances in which a factory built within an industrial park developed by the state or local government is exempt from social infrastructure facilities dues for 20 years from the completion of such a park construction project.

Thus, the same benefit is not given to tenants of industrial parks developed by a private developer but acquired by the state or local government for their

management. The law further provides that a tenant of an industrial park developed by the state or a local government, government-invested entity or municipal corporation is exempt from social infrastructure facilities dues when building or extending factory buildings in the park for 20 years starting from the day of completion of the development work on the land involved.(Refer to the Act on Social Overhead(Infrastructure Facilities) Dues, Article 8, Para 2, Item 2.)

Again, the law further provides that 50% of social infrastructure facilities dues will not be collected when a factory is built in an industrial park developed by a private developer. (Refer to the Act on Social Overhead(Infrastructure Facilities) Dues, Article 8, Para 3, Item 1.)

However, industrial parks developed by a private developer but acquired by the state or local government for management, according to their industrial policies, are identical to industrial parks developed by the state or local governments - in the sense that the state or local governments make a financial investment in order to actively promote industrial development. The only difference between them lies in whether the developing entity is public or private. Therefore, it is believed that there exists no reason to distinguish between them in connection with the social infrastructure facilities dues imposed for supporting government invested projects.

Recommendations

The current provisions for exemption from social infrastructure facilities dues cause a certain amount of controversy in terms of fairness. It is requested that the government study ways to exempt tenants of industrial parks developed by the state or local government and of even those industrial parks developed by private developers but acquired by the state or local government for management according to their industrial policy,.

Reply and Outcome

The ratio of for profit private developers of social infrastructure is lower than public entities. Therefore, it is desirable to maintain the current system which abates dues depending on the kind of infrastructure facilities installed for each individual project.

System Improvement <Others>

(3)	Irrationality of the provisional attachment system
Foreign invested business	Company D
Related departments	Supreme Court of Korea
Reply from the related departments	The Supreme Court(Justice Policy Review Office) stated that it would consider the complaint with regards to future service improvement.

Detailed Grievance

Being a foreign invested business, Company D operates a business that provides security services, hiring 1,300 persons to protect foreign diplomatic missions.

When Company D failed to win a new contract to provide such services, it was subsequently forced to terminate its subcontracts. The sub-contractor then proceeded to have Company D's savings account deposit for the payment of wages or accounts payable seized under a provisional court order, after alleging that the company had failed to honor contracts. This prevented the company from paying employee salaries.

Company D was notified on January 11, 2006, although the court had approved the seizure on December 27, 2005 and the account was seized on December 30, 2005. As Company D was not able to take prompt countermeasures to raise funds for a substantially long period, a serious business crisis resulted. Therefore, the relevant system should be improved.

Applicable regulations : Civil Execution Act, Article 280

Specifics

Provisional seizure or attachment is a system designed to preserve the current state of a debtor's property for future coercive execution, when such a future coercive execution may become impossible or difficult.

The court may issue a provisional attachment order under the current system even when the reason is not fully clarified(Civil Execution Act Article 280).

Therefore, one of the parties of a business contract may have the other party's properties temporarily seized relatively easily when a dispute arises without having to prove the existence of claims supporting such a provisional seizure or specifying the size.

However, such a provisional attachment leaves the other party exposed to the risk of fatal business setbacks. In fact, as in this case, when operational funds are suddenly frozen by a provisional attachment, it becomes impossible to pay account payable or wages until other funds are raised. Therefore, many companies face either bankruptcy or find themselves in a serious business crisis.

Provisional attachment orders may inflict a fatal blow to business operators or other party, as properties may be seized based on a unilateral contention even though the relevant claim is not fixed by a courting ruling. The applicant simply argues that he has a right to make such a claim.

Therefore, the system should be improved with courts, in order to minimize damages, and making sure that business are placed in a grave financial state, action should promptly be taken to allow for legal or financial counteractions. When the court issues a provisional order, in particular, it should only allow the seizure of operational funds to the extent that will not be out of line with the original purpose of seizure.

Recommendations

Companies that find themselves in a similar situation at Company D should be allowed to withdraw the order by depositing a guaranty insurance policy (bond), rather than cash, with the court for the portion of the funds deemed required for continuing business operations for a certain period.,

- In particular, a system to revoke a provisional attachment order executed when the debtor deposits a security of guaranty insurance policy for the amount required for payment of wages should be devised, as the workers' wage claim prevails over general or pledged claims.

In order to improve the relevant statutes, so that a provisional attachment order may be notified to the debtor immediately once it has been decided, cooperation on the part of relevant agencies is requested.

Reply and Outcome

The Supreme Court of Korea(Justice Policy Review Office) expressed its gratitude to Company D's recommendation and notified us that it would consider service improvement, though it would be difficult to do so immediately.

System Improvement <Financing, Foreign Exchange>

(4)	Improvement requested for the inter-company loan system
Foreign invested business	Company E
Related departments	Ministry of Finance and Economy
Reply from the related departments	Will positively consider improvement actions

Grievance Details

Inter-company loans between members of company groups are considered unfair under the Korean Corporate Tax Act.

Applicable regulations : Korean Corporate Tax Act, Enforcement Decree, Articles 88 and 89, National Tax Service Notice No. 2001-31

Specifics

Since inter-company loans between members of company groups are considered to be unfair under the Korean Corporate Tax Act, a penalty interest rate(9% currently) that is higher than market rate is applied to the interest income earned on such loans.

This provision makes inter-company loans difficult and impedes the smooth flow of funds within a business group.

Recommendation

The above provision is not applied to inter-company loans.

Reply and Outcome

According to National Tax Service regulations, applicable unilaterally to all foreign invested companies as well as domestic companies; a 9% interest rate is to be applied for loans between specially-related companies belonging to a group. If an interest rate lower than 9% is paid, it is not recognized as an expense and is considered illegal. In our view, the system should be promptly revised as the credit standing of companies varies.

A gradual improvement should be considered as it is difficult to assess the creditability of domestic companies. Hence, the application of a varying rate based on credit rating is believed to be a rational solution, and has been agreed upon between the Ministry of Finance and Economy and domestic businesses. We will positively consider making the necessary improvements.



2006 KOTRA Foreign Investment Ombudsman Report

Publisher	KOTRA
Publication date	June 28, 2007
President & CEO	ki-hwa Hong
Address	6th fl. KOTRA bldg. 300-9 Yomgok-dong Seocho-gu Seoul, Korea 137-749
