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AN INQUIRY INTO THE LIMITS OF 'ECONOMIC DIPLOMACY'

**The triangular relationship between the EU,
South Korea and Japan**

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Herman Voogsgeerd

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CEASG
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Visiting address:
Oude Kijk in 't Jatstraat 26
9712 EK Groningen
The Netherlands

Postal address:
P.O. Box 800
9700 AV Groningen
The Netherlands

T +31 50 363 7150

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Abstract

In this contribution the limits of economic diplomacy take centre stage. Notwithstanding the initial reluctance of South Korea and Japan to conclude Strategic Partnership agreements with the EU (in addition to a Free Trade Agreement), both kinds of agreement are now in operation. The successful spill-over from trade relations to political and even security relations is due to the changing geopolitical climate in East Asia. Although the EU is trying to become strategically more autonomous, many small and concrete steps will be needed before economic diplomacy may be used in politically and security-wise sensitive issues.

Keywords

Economic diplomacy between South Korea, Japan and the EU, Limits of economic diplomacy

Introduction

The Free Trade Agreement (FTA) between South Korea and the EU of 2011 is the first of the so-called 'new generation' of trade agreements concluded by the EU. These agreements pay also attention to topics such as the environment and labour relations under the heading of 'sustainability'. Eight years later, in early 2019, an FTA between the EU and Japan has been concluded and is being provisionally applied. Less well-known in comparison with these FTAs are the so-called Framework Agreements (FAs) or Strategic Partnership Agreements (SPAs) between the EU and the FTA partners, concluded in parallel at the initiative of the EU. Generally, these FAs and SPAs concern issues of strategic importance. The EU insists on having SPAs on politically more salient issues with its FTA partners. According to the EU, trade policy is no longer only about trade but it is increasingly a tool to achieve political objectives such as sustainable development, digital transformation and the EU's strategic autonomy (European Commission, 2021). An analysis of this 'dual' approach of the EU towards bilateral relationships, in this case with South Korea and with Japan, is interesting. Can we really conclude that economic diplomacy is limited to the FTA and issues not belonging to economic diplomacy to the FA/SPA, or is it unproductive to use such a dichotomy concerning the dual approach of the EU?

This article will look into the triangular relationship between South Korea, the EU and Japan. Issues from history and geography are coming to the surface from time to time in the relations between South Korea and Japan. Does the circumstance that the US is the main allied partner of South Korea and Japan leave any role for the EU in this respect? An answer to this question will shed light on the way how the EU deals with such issues and potentially also on the notion of economic diplomacy and its limits. German Chancellor Angela Merkel used to approach the Nordstream II project on the doubling of the pipeline between the Russian Federation and Germany as a 'purely economic' project, although sensitive political connotations of this project are omnipresent. This brings us to the scope of the concept of economic diplomacy.

1. Economic diplomacy and its limits

It is not easy to clearly separate political issues from economic ones. During the Cold War some Asian countries tried to separate politics from business. In Japan, the ability to separate politics from business has become known under the term '*seikei bunri*'. This approach or policy was developed in the 1970s and 80s in order to do business with the communist People's Republic of China (PRC). The concept resurfaces from time to time. In a book written by former Japanese Prime Minister Abe Shinzo, the author still saw this policy of *seikei bunri* as the core of the China-Japan relationship (Abe, 2006). The policy is seen as a normalized state of affairs, 'business as usual'. Success of this policy, however, is increasingly doubted especially by Japanese companies active in China, in light of the rising tension between China and Japan about issues such as history and conflicts about rocks or islands (George Mulgan, 2014). The Covid-19 pandemic has probably worsened this situation. Nevertheless, the existence of the policy shows that in East Asia there is a special inclination

to downplay political and security conflicts in economic affairs because of the dangerous geopolitical rivalry in the region. The question may be asked whether *seikei bunri* is limited to the relationship between Japan and the PRC. The policy of separating politics from economics is qualified as a defensive move by Japan in an attempt to prevent relations between the two nations from worsening (Maeda, 2016). In their contacts with the EU it became clear that South Korea and Japan were in favour of a trade agreement, but that the establishment of a strategic and political relationship was treated with less enthusiasm (Hosoi, 295). At the same time, in the relations between South Korea and Japan, where historical issues and territorial conflicts also play a role, economic instruments have been used for political purposes. Liff argues that trade politics in East Asia is the subject of 'securitization' (Liff, 2019, 459, 483). An example is the treatment by Japan of potential South Korean membership of the Comprehensive and Progressive Agreement for a Trans-Pacific Partnership (CPTPP), where Japan is a member of and South Korea not yet but wants to be.

The term 'economic diplomacy' is well-known in East Asia. A study of the last four Diplomatic White Papers of the South Korean government shows the regular use of this term, it is dealt with in a separate chapter. The notion 'summit diplomacy', used in other chapters, is apparently something else. There is a large amount of interest in summit diplomacy. The EU level is treated in the White Papers as a separate level, and bilateral summits with leaders of individual member states of the EU get at least as much attention, or even more. Economic diplomacy is mostly focused on the major trading partners. That South Korea has trade deals with the US, the EU and China is qualified as a unique situation. In the White Paper of 2019 a major question asked is how to deal with 'sharp power' (2019, p. 8). This question is not explicitly 'translated' to economic diplomacy. South Korea prefers to make the scope of its diplomacy larger, outside the narrow East Asian area (2019, 26) and in this respect the EU is a welcome partner. In the most recent Japanese Blue book of the Ministry of Foreign Affairs published in 2021, economic diplomacy also is treated in a separate chapter with 'promotion of rule-making to bolster free and open economic systems' as its overarching title. Japanese security is dealt with in another chapter. The distinction between politics and sensitive issues on the one hand and trade and economic policy on the other seems to have been carefully guarded in East Asia, at least until recently.

Economic diplomacy is defined here as 'the use of the full spectrum of economic tools a state or organization has at its disposal to achieve its interests'. This definition will have to be applied in a much more politicized context as the economic and geopolitical climate is changing in recent years and power issues come to the fore. In this context, it will become harder to separate the distinction between (security) politics and economics, and also the content of the term 'interests' in the definition is likely to change. Not only economic prosperity and the stability of the nation will be the goals of economic diplomacy (Okano-Heijmans, 2013, p. 29-30), this diplomacy will also be used to promote a preferred international order by defending multilateralism, human rights and the rule of law. The traditional hesitation in East Asia to cross the threshold between economic diplomacy and political issues will be increasingly at variance with the inclination of the EU to become

strategically autonomous and therefore use trade politics with a more strategic intent. The changing geopolitical circumstances might change this hesitation considerably.

In three steps, I will try to answer the above-mentioned main questions of this contribution. First, combined with a short literature analysis on the relationship between the EU, South Korea and Japan, I will start with a brief comparison of the Framework/Strategic Partnership Agreements between the EU and South Korea on the one hand and the EU and Japan on the other. The SPA between the EU and Japan is from a later date. To what extent does this have consequences for the content? I will use a 'six consecutive words' approach to find the largest differences between the two strategic agreements.¹ Second, I will zoom in in greater detail on the Trade and Sustainability (TSD) chapters of the two FTAs, as also in this chapter there are politically sensitive issues being treated as part of economic diplomacy. In the labour part of the TSDs the EU wants the trade partners to at least ratify the fundamental conventions of the International Labour Organisation (ILO). Comments of the ILO supervisory committees may eventually be taken into account in these discussions. Wartime historical issues on forced labour committed by Japan have been addressed by these committees. Is this relevant for the EU? In the final and third part I will link the two earlier parts with the EU's recent endeavour to become strategically more autonomous. What does this inclination imply for economic diplomacy and the above mentioned 'dual approach' of the EU?

2. Literature review and comparison of the political and security treaties between the EU and South Korea and the EU and Japan

The state of the relations between Japan and South Korea needs to be shortly addressed and historical and geographical issues matter here. South Korean court cases, especially the Supreme Court cases of November 2018 and January 2021, provoked fierce opposition from Japan. In these legal cases Japanese corporations active in South Korea were ordered to pay a specific compensation of 100 million won (744 euros) to the victims of Japanese cruelties during the Second World War, especially the 'comfort women' of whom the last ones are still living. The Court added a seizure order for corporate assets of companies like Mitsubishi Heavy Industries and Nippon Steel in South Korea in order to realize the payment of the compensation. The Japanese government argued that the Court's behaviour was the responsibility of the South Korean government and that it was against international law. In this respect, the Japanese government was referring to an agreement between the two countries of 1965 'on the settlement of problems concerning property and claims and on economic cooperation between the Republic of Korea and Japan'. According to the Japanese side this agreement did not address the rights of individual victims. Moreover, in an agreement with the preceding government of South Korea under president Park Geun-hye, Japan paid 1 million yen to deal with the issue of the comfort women. The current South

¹ A 'text-as-data' approach is used by Allee a.o. who compared the CETA agreement between the EU and Canada with earlier trade agreements of the EU and of Canada, in order to find whether the text of CETA is new or only 'copied' from earlier trade agreements (Allee, Elsig and Lugg, 2017). The 'six consecutive words' is from their research.

Korean government under president Moon, in response to these criticisms, defended the country's separation of powers system and did future-oriented suggestions to solve the issue after Japan complied with the Supreme Court cases (Yang, 2020). The highly critical view of the Japanese government is stated in an annex at the very end of the latest Japanese diplomatic bluebook of 2021 (p. 364).

Is there a potential role for the EU in this context? In the literature we find two opposite views. Already in 2009, it was stated that the growing economic relations between the two might spill over into 'an increasingly political and security dialogue partner for the region' (Holland, Ryan, Chaban, 2009) and this spill-over concept is of great interest. The purpose of the FA is clearly to develop a long-term partnership that might help to 'enhance the stability of each other' (Hae-Won Jun, 2013). An opposite strand of literature is very negative on this potential role of the EU and Kelly is most vocal in this respect. He stated that relations between the EU and South Korea beyond the area of trade do not exist (Kelly, 2012). Korea would have little interest in the EU - for her the FTA would not mean more than status-seeking and prestige-taking by middle powers and it would be the 'plateau of the relationship' (Kelly, 2012, 104). Concerning the difficult issues about the second world war the parties to the FTA would be totally irrelevant to each other and with regard to the suspicions of South Korea versus Japan the EU would also be irrelevant (Kelly 2012, 115). Earlier, Woolcock and Bayne studied the FTA and argued that there were only limited institutional elements in the treaty between South Korea and the EU that could 'drive a closer relationship' (Woolcock and Bayne, 2011, 28). According to these authors, there were not enough high politics issues in the agreement. In the literature on the Japan-EU relations there is the same hesitation to deem these relations of importance beyond the mutual economic benefits. Media and citizens in Japan would only be interested in the economic aspect of the relationship with the EU and the vital interests of the EU and Japan would not be the same (Hosoi, 295). Hosoi, on the other hand, also mentions the concept of spill-over: learning to solve economic friction could spill over to other areas of the relationship between the EU and Japan.

These views have to be adapted after an analysis of the Strategic Partnership agreements. The FA between the EU and South Korea has been in operation for some years and several committees have been created under this treaty. It is because of the need of a positive development in the relations that the content of the FA is relatively vague and of a voluntary character. Nevertheless, there is progress in comparison to the old (1996) FA between South Korea and the EU, where there was no attention to security issues at all (Hae-Wong Jun, 2013, 178). According to Jong Dae Kim, Asia is a 'complex space' that is in need of more than only superpower politics and of cooperative rules that promote common prosperity in the region (Jong Dae Kim, 2021).

If we start by comparing the political agreements (so, *not* the FTAs) we see already some slightly different approaches. The Korea-EU treaty is called Framework Agreement (FA) while the Japan-EU Treaty is named a Strategic Partnership Agreement (SPA). The differences between the first FA between Korea and the EU of 1996 and the second one of 2013 are substantial. In the newer one the topic of security is mentioned, but its scope is limited to

'economic security' issues such as arms procurement, non-proliferation and energy security. A clear link with economic diplomacy is still to be imagined with regard to these topics. In the Japan-EU SPA text of 2019 the issue of security is referred to in a more explicit manner. 'International and regional peace and security' is explicitly mentioned (art. 3, par. 1) and there is regard to each other's security concerns. Peaceful settlement of disputes on the basis of international law is stimulated by both parties 'including in their respective regions' (art. 3, par. 2 SPA). Whether this includes the relations between South Korea and Japan remains to be seen. Overall, the number of topics in both political treaties is high and comparable. Some issues of specific interest to Japan are mentioned in the SPA: human security and a reform of the UN including its Security Council and security aspects of space activities. It is not easy to explain the difference between FA and SPA concerning the explicit mentioning of the security topic. Has South Korea been more cautious in its approach and Japan more ambitious in this respect? Is it explained by the fact that the SPA is from a later date and that the geopolitical climate has changed considerably in recent years? Both political treaties aim to promote democracy, the rule of law, human rights and fundamental freedoms (art. 1, par. 1 FA and art. 2, par. 1 SPA). This seems self-evident but could be targeted against the PRC. These parts on so-called 'essential elements' are nonetheless very important, as 'a particularly serious and substantial violation' of these obligations could lead to the undermining of the SPA and trigger dispute settlement. The link with economic diplomacy is very thin in this respect as only exceptional cases leading to a threat to peace and security are covered (art. 43, par. 4). In the FA with South Korea there is a special provision in art. 48 stating that information which a party considers essential to its security interests shall not be disclosed. Although the text of the SPA with Japan is somewhat richer than the text of the FA with South Korea, South Korea has a third treaty with the EU. This is the Crisis Management Participation Agreement (FPA), which entered into force in 2016 and which enables South Korea to participate in operations of the EU. Article 4 of the SPA refers to crisis management in a more general manner.

3. The TSD chapters in both FTAs and their limited relevance for sensitive issues

Trade and Sustainable Development Chapters in FTAs have become the focus of a large number of academic contributions, even more so than the trade issues themselves (for example Harrison a.o., 2019, Orbie a.o., 2016, Postnikov and Bastiaens, 2014). It is doubtful whether these TSD chapters will play a role in relation to sensitive security-related issues, as these chapters are specifically intended to involve civil society with a primary role for specific kinds of actors such as trade unions and environmental groups.

With respect to the conflictual relationship between Japan and South Korea around the issue of forced labour, the ILO supervisory committee, the Committee of Experts on the Application of Conventions and Recommendations (CEACR), has regularly (since 1995) made comments and observations that Japan should redress the use of forced labour during the Second World War (see for the latest CEACR Observation from 2018 on this issue, published

during the 109th session of the International Labour Conference 2019) and Japan should make efforts 'to achieve a reconciliation with the victims in response to their expectations and claims'. The issue of comfort women in South Korea (see also under 2.) and the Philippines has been mentioned specifically. The question is whether these historical events and the reaction by Japan to the CEACR Observation may have any bearing at all on the trade relationship between the EU and Japan. The forced labour issues date from before the creation of the predecessor of the EU, the EEC in 1958, and they do not at all influence trade between the two partners in the 2020s. A discussion about the scope of the temporal concept of forced labour might arise in the civil society group, the DAG, but an effect on the current overall trade relationship between the two parties is extremely unlikely. Some political groups in the European Parliament mentioned the comfort women issue in a joint motion for a resolution in 2007 in order to substantiate a breach of human rights, democracy and the rule of law by Japan, wherein they asked Japan to deal with this issue. Consequences, however, are not to be expected as remarks are also made that the overall relationship between Japan and the EU is excellent (European Parliament, RC/700156EN.doc). In plans of the European Commission from November 2020 a more 'assertive enforcement' of the TSDs is contemplated. There will also be more fine-tuning instead of a one-size-fits-all approach concerning these chapters, and therefore the specific needs of the various trading partners of the EU shall be taken into account ('Commission launches new complaints system to fight trade barriers and violations of sustainable trade commitments', 16 November 2020, <https://trade.ec.europa.eu>). The necessity of cooperation with the trading partner also shows limits to economic diplomacy.

The very first call by the EU for the establishment of a committee of experts under a TSD happened in its agreement with South Korea. The country did not ratify ILO convention 98 on the Right to organize and collective bargaining. The request for consultations asked for in December 2018 did not have satisfying results and in July 2019 the EU asked for a panel of independent experts to produce findings on the matter under the TSD. The South Korean government qualified the request as a form of harmonization of laws to the EU level and was not prepared to subject its labour laws and policies to an obligation that had no connection to trade or investment. The panel report was published in January 2021 and concluded that South Korea did not act inconsistently with its obligations under the TSD chapter, although the country's efforts to comply were deemed to be 'less than optimal'. The reason of this outcome is the vague language in the TSD chapter, with terminologies like 'to strive'. A call for much stronger language in TSD chapters was raised within the EU. Another option would be to adopt a more friendly 'comply or explain' approach in this respect. The focus should be on the reasons why the government of South Korea does not want to ratify convention no. 98 as one of the world-wide relevant core conventions of the ILO. I suppose the EU would be content with only the ratification of the convention and not further influence labour laws within South Korea. The required connection with trade and investment, raised by the South Korean government shows the limits of 'economic diplomacy'. In case the link with trade and investment is missing or too indirect, we reach the limits of this concept. For the TSD chapters the negative impact of the trade relationship between the two parties on the life of workers must reach a certain threshold. For example, in case the life of workers in South

Korea would deteriorate substantively and for a long time *because* of the FTA with the EU, there would be reason for much larger concern. Even this, however, does not have to lead to the end of the trade relationship between the parties. That a separate set of actors from civil society is involved in the TSD chapters and that those actors such as trade unions are not immediately well connected to relevant actors at the political level, leads to a limited effectiveness of the chapters. The limits of economic diplomacy have been reached and only more trust between the two parties could lead to more success. This will take time.

4. Implications of the EU's wish to become more strategically autonomous for economic diplomacy

Although the TSD chapters in FTAs may have shown the limits of economic diplomacy, there is common ground for the EU, South Korea and Japan to work together in both political, security-related and economic areas. A form of spill-over from free trade to more political and security-related topics has taken place in recent years. Both South Korea and Japan want to move away from the narrow East Asian context and its inherent superpower rivalry and both seek improved relations with the EU as well as with partners within ASEAN. The EU, itself a collection of middle and smaller powers, is able to strengthen cooperation with middle powers such as South Korea and Japan within the strong security cooperation of these two countries with the US. Specific kinds of security-related topics come to the fore here: in the first place Navy cooperation to keep maritime routes in the Indian Ocean open (Chung and Lee, 2019, Desmaele a.o. 2021, Pérez de las Heras a.o. 2021). Here, the EU could show its determination to act in a strategically autonomous way, also in order to learn. One of the three forms of strategic autonomy Fiott (2018) has presented as being of particular interest is 'hedging'.² This last term is well-known in East Asia and is related to the inherent uncertainties of the alliance with the US and the geopolitical context. The EU, South Korea and Japan all want to maintain economic relations with the PRC under the security relationship with the US and do not want an anti-China pose. Increased trade relations between the three will contribute to relations of trust and these will spill over in security-related topics. Economic diplomacy fulfils a key linking role in this respect.

² This form of autonomy is right in between autonomy as responsibility to do more within NATO and autonomy as full emancipation, the most radical form of strategic autonomy of the EU (Fiotti, 2018).

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