

Barbarians at the Legal Gates: Examining South Korea's Pre-emptive Globalization Policies Prior to Legal Market Liberalization

*Jasper Kim**

ABSTRACT

Prior to the passage of the Korea-U.S. free trade agreement that would liberalize South Korea's legal services market to allow for the onshore entry of U.S. law firms for the first time in its history, domestic Korean law firms rapidly began a race-to-the-biggest strategy, trying to gauge the potential costs and benefits of merging with other law firms. The collapse by many of South Korea's law firm dominance was a tangible fear by many Korean legal professionals based on evidence of legal markets having been liberalized in such countries as Germany and France, which was subsequently followed by domination in the league tables by foreign law firms in each of their home markets. South Koreans, always fearing the potential for perceived global embarrassment—in part stemming from the country's 1910–45 occupation by Japan as well as the 1997–98 financial crisis—did not want to see its own domestic league tables dominated by non-Korean firms.

In response, the South Korean government put forth a set of three “pre-emptive” globalization policies to reconstitute and increase the overall competitiveness of its lawyers and legal services sector through various agencies to help the local legal services sector related to legal education and licensing of foreign legal professionals. The three pre-emptive globalization policies included (1) a mandatory course in Anglo-American law taught in English (required for all incoming new Korean lawyers under the Traditional Bar Exam); (2) the introduction of “American-style” professional graduate law schools (beginning in 2009 by converting twenty-five government-selected law programs to three-year “American-style” professional graduate law school system as well as instituting a New Bar Exam); and (3) the passage of a FLCA (allowing for foreign legal consultants to practice in South Korea).

* Professor Jasper Kim is Visiting Scholar (2011–12) at Harvard University (joint affiliation, Harvard Law School's East Asia Law Studies Program and the Korea Institute); former adjunct faculty, Supreme Court of Korea, Judicial Research and Training Institute; and Professor, Graduate School of International Studies, Ewha Womans University (Seoul, Korea). He is a former legal counsel and investment banker with Lehman Brothers (Tokyo, Japan), Barclays Capital (Hong Kong), and Credit Suisse (Hong Kong).

Such pre-emptive globalization policies, set forth by various entities in the legal services and education sectors, reflected the South Korean desire to stymie the possible negative effects of having foreign law firms enter its borders in a “barbarians at the gates” perceived scenario following the implementation of various free trade agreements, namely with the U.S. (but also with the EU), which effectively opened South Korea’s historically closed legal gates to foreign participants for the first time in its modern history.

I Introduction

The South Korean legal market now allows for the entry of foreign law firms for the first time in its modern history due to the signing of the Korea-U.S. free trade agreement. In an effort to globalize its domestic legal services sector pre-emptively in the face of an inevitable “barbarians at the gate” scenario, Asia’s fourth-largest economy unveiled three pre-emptive policies as a means by which South Korea’s legal sector could become more globally competitive in the face of such incoming foreign legal competition.

The South Korean legal markets have benefited from a history of protectionism, and thus, a natural monopoly in the local legal services market. Without foreign law firms to provide competition, local law firms were free to set the standards in terms of the depth and breadth of Korean legal services and related legal fees for the local market.¹ As South Korea became increasingly export-oriented during its post-War period, especially with the U.S. (one of South Korea’s largest trading partners), discussions began between the two countries to enter into a bilateral free trade agreement (FTA), in which certain designated tariffs would be eliminated or reduced on a range of goods and services. Such efforts culminated into the recent ratification of the Korea-U.S. free trade agreement² on November 22, 2011, which aimed to reduce or eliminate tariffs on designated goods and services, including legal services in South Korea.³ According to the U.S. Trade Representative’s office, “For services, the FTA will provide meaningful market access commitments that

¹ Such skepticism is, in part, due to Japan’s colonialization period of South Korea (1910–1945), and more recently, the 1997–98 Asian financial crisis, in which a perception existed that the cause of the Korean financial crisis was exacerbated by IMF loan conditionalities, rather than a misallocation of capital and crony capitalism.

² “Korea-U.S. free trade agreement,” “Korea-U.S. FTA,” “U.S.-Korea free trade agreement,” “U.S.-Korea FTA,” and “KORUS FTA” shall all denote the same meaning, and such terms will be used interchangeably for purposes of this article. Further, the term “Korea,” “Republic of Korea,” and “South Korea” shall also denote the same meaning, and such terms will be used interchangeably for purposes of this article.

³ The U.S.-Korea FTA was ratified by the United States on October 12, 2011, and thereafter, ratified by South Korea on November 22, 2011. See KORUS Free Trade Agreement, U.S.-S. Kor., Feb. 10, 2011, Pub. L. No. 114–41 (2012). The KORUS FTA is projected to eliminate tariffs on approximately 95 percent of goods between the U.S. and South Korea, representing the second largest FTA for both South Korea (behind the Korea-EU FTA) and United States (behind NAFTA). See WHITE HOUSE, ECONOMIC VALUE OF THE U.S.-SOUTH KOREA FREE TRADE AGREEMENT: MORE AMERICAN EXPORTS, MORE AMERICAN JOBS (2012). The U.S.-Korea FTA is also projected to increase U.S. exports to South Korea by \$10–11 billion, while securing approximately 70,000 U.S. jobs. *Id.*

extend across virtually all major service sectors, including...the opening up of the Korean market for foreign legal consulting services.”⁴

Part of the KORUS FTA’s more prominent related provisions included the gradual but inevitable liberalization of the South Korean legal market over the course of five years from the date of the Korea-U.S. FTA’s ratification into force on November 2011 by the South Korean legislature. The KORUS FTA was met with both fierce support and criticism. The supporters heralded the agreement has a means to further boost exports to the U.S. market, in which per annum trade volume between the U.S. and South Korea was estimated at \$79 billion, while prices of imported American goods and services were also lowered.

However, the KORUS FTA also had its fair share of critics. Some of such critics believed that the opening of the local legal services market would mark the beginning of the end in terms of South Korean law firms’ market share over foreign law firms.⁵ Fear also existed among certain South Korean circles that liberalizing South Korea’s legal services sector could lead to foreign competitors taking critical market share from domestic South Korean firms. Among those who held such view, a sizable number of South Korean law firms saw the liberalization of the South Korean legal market, with an estimated size of approximately \$3 billion (as of 2010),⁶ as a possible major risk factor. Such perceived risk factor

⁴ See U.S. TRADE REPRESENTATIVE, NEW OPPORTUNITIES FOR U.S. EXPORTERS UNDER THE U.S.-KOREA TRADE AGREEMENT (2012).

⁵ The primary domestic fear was the impact of American law firms in South Korea, despite a recently ratified Korea-EU free trade agreement allowing for European law firms (including Britain’s dominant large law firms, to enter the South Korean market). Such extreme focus on the U.S. is also linked to South Korea’s history during the Korean War (1950–53), which led to a large American military contingent in the Korean peninsula, which still exists today. See generally CARTER J. ECKERT ET AL., KOREA OLD AND NEW: A HISTORY (Cambridge Mass. 1990); See generally ALICE H. AMSDEN, ASIA’S NEXT GIANT: SOUTH KOREA AND LATE INDUSTRIALIZATION (Oxford Univ. Press 1992). With such American presence, past and present, came the influence of American culture, including products and services that are clearly visible today from Starbucks to McDonalds on street corners in and around the nation’s capital city of Seoul. *Id.* However, with such visible signs of American influence followed a backlash effect, based in part on nationalism, that South Korea should become increasingly independent of foreign influence. *Id.* This sentiment was not as extreme as seen in the *juche* (self-reliance) policy found in North Korea, but at the same time, the spirit underlying South Korea’s support for increasingly self-reliance is not entirely different. See VICTOR D. CHA, NORTH KOREA: THE IMPOSSIBLE STATE, PAST AND FUTURE (2012); See also JASPER BECKER, KIM JONG IL AND THE LOOMING THREAT OF NORTH KOREA (2006).

⁶ See H. Park et al., *South Korean Law Firms in Expansion Mode Following Legal Market Liberalization*, FIN. TIMES, Aug. 12, 2011, <http://www.ft.com/intl/cms/s/2/9a49>

was based in part on the perceived negative experiences with liberalization of the legal services sector in Germany and France, in which foreign law firms, rather than domestic law firms, later dominated the league tables of both countries.⁷

Thus, the question often asked within South Korea's legal circles was, "Will South Korea's legal market follow the footsteps of Germany and France, or will it meet a different fate in which South Korean law firms will be able to sufficiently compete with American and European law firms?" Cognizant of this, and bearing the lessons learned from Germany and France, Korean policymakers strategically structured the liberalization of South Korea's legal market in a way that would maximize the benefits and mitigate the risks to local law firms.

This article provides an overview of and analyzes the aforementioned historic liberalization of the South Korean legal services sector in two parts. The first part of this article will provide a general overview the Korea-U.S. FTA, specifically its unprecedented provisions requiring the opening of South Korea's legal market to American law firms. The second part of this article will overview the introduction of three "pre-emptive" policies, enacted prior to the ratification of the U.S.-Korea FTA, to globalize⁸ South Korea's lawyers and legal services sector as well as to stymie the possible negative effects of the liberalization of the South Korean legal market, which specifically are: (1) a required Anglo-American course taught in English for all incoming Korean attorneys; (2) the introduction of South Korea's newly-created "American-style"⁹

31de-c51e-11e0-ba51-00144feabdc0.html (noting the desire by many of South Korea's largest law firms to increase headcount in anticipation of free trade agreements that have or were in process of being negotiated by the South Korean government).

⁷ In Germany's case, nine out of the country's ten largest local law firms merged with either UK or U.S. law firms following liberalization of its legal market. See 최승진 (Seung Jin Choi), "외국변호사가 온다", 국내 법률시장 초토화 우려 [*Foreign Lawyers to Arrive, Fears of Devastation of Domestic Legal Market*], NOCUTNEWS.COM, Sept. 27, 2004, <http://www.cbs.co.kr/nocut/show.asp?idx=29228>; In France's case, the dissolution of several notable local law ensued following the liberalization of its legal services sector. See Hyoungh Tae Kim, *Legal Market Liberalization in South Korea: Preparation for Change*, 15 PAC. RIM L. & POL'Y J. 199, 203 (2006).

⁸ "Globalize" shall, for purposes of this article, denote the attempt by policymakers to reach global standards. Although the term "globalize" has an extremely wide array of proffered definitions, the International Monetary Fund defines it to mean "the growing economic interdependence of countries worldwide through the increasing volume and variety of cross-border transactions in goods and services and of international capital flows, and also through the more rapid and widespread diffusion of technology." IMF, *World Economic Outlook, A Survey by the Staff of the International Monetary Fund* (World Economic and Financial Surveys, 1997), at 45 (ch. 3), <http://www.imf.org/external/pubs/WEOMAY/chapter3.pdf> (last visited May 9, 2012).

⁹ "American style" professional graduate law school system shall, for purposes of

professional graduate law school system; and (3) the passage of a Foreign Legal Consultant Act (FLCA) allowing foreign lawyers to practice law in their respective home jurisdictions in South Korea. The third and final part of this article weighs the arguments for and against the three pre-emptive globalization policies.

This article argues that the introduction of the nation's three "pre-emptive" policies noted above represented a deliberate strategic policy by the South Korean government to bolster the nation's domestic law firm and law school core competencies for what was viewed as an inevitable opening of the nation's legal services sector during a "barbarians at the gate" pre-liberalization era. By doing this, the South Korean policymakers' objective was to mitigate the risk of possible market share domination of its local legal services market by foreigners and foreign entities, which South Korea is particularly sensitive towards based on its history as a former colony of Japan from 1910 to 1945, spurring a constant sense of nationalism and desire to preserve the Korean market primarily for Koreans.¹⁰

A U.S.-Korea FTA

Until the recent entry into force of the Korea-US Free Trade Agreement by the South Korean legislature in 2011, South Korea's legal services market still largely resembled a "Hermit Kingdom"¹¹ mindset. According to a report by the European Chamber of Commerce, South Korea was the last economy to allow for partial liberalization of its domestic legal services sector to allow for foreign law firms. Even North Korea—one of the most closed countries in the world—went ahead of

this article, be defined as a three-year professional graduate law school system that applies a Socratic pedagogical teaching method that in form and substance is substantially similar to and modeled upon the American professional graduate law school system model. For a text relating to legal education reform in both South Korea and Japan, see Tom Ginsburg, *Transforming Legal Education in Japan and Korea*, 22 PENN. ST. INT'L L. REV. 433, 434 (2004). See also Simon Chesterman, *The Evolution of Legal Education: Internationalization, Transnationalization, and Globalization*, 10 GER. L. REV. 877, 886–87 (2009).

¹⁰ See BRUCE CUMINGS, *KOREA'S PLACE IN THE SUN: A MODERN HISTORY* 175 (updated 2005) (arguing that South Korea's period under Japanese colonialization from 1910–1945 led to "underdevelopment, crushed dissent and suppressed indigenous culture").

¹¹ The term "Hermit Kingdom" is often used to denote a period during South Korea's late Chosun dynasty (1392–1910) in which the nation limited its dealings with the outside world and international community. The first possible usage of the term "hermit" with Korea can reportedly be traced back to the 19th century with William E. Griffins' book. See generally COREA: WILLIAM E. GRIFFINS, *THE HERMIT NATION* (1882).

South Korea in terms of allowing for a foreign law presence within its borders before its southern neighbor.¹² Although the KORUS FTA would be a benefit to South Korea's vast industrial complex of exporters, given that exports account for nearly half of the South Korean economy,¹³ local vested interests put up a lengthy challenge to the opening of the country's last bastion of historically closed legal gates to foreigners.

The language in the Korea-U.S. free trade agreement (within the agreement's annex) sets forth a three-stage liberalization process for legal services.¹⁴ The first stage takes effect upon the ratification of the agreement, in which foreign law firms are allowed to set up representative offices, while U.S. lawyers are allowed to provide legal advice upon U.S. and public international law matters as foreign legal consultants. The second stage, set to take place no later than two years from the agreement's entry into force, allows for U.S. and South Korean law firms to collaborate together regarding cases involving both American and South Korean legal issues in which profits can be shared. The third and final stage, to take place no later than five years from the agreement's entry into force, allows for joint ventures between U.S. and South Korean law firms, whereby U.S. law firms would then be allowed to employ domes-

¹² Andrew Salmon, *North Korea Allows Foreign Law Firm to Set up Shop*, N.Y. TIMES, Sept. 8, 2004, http://www.nytimes.com/2004/09/08/business/worldbusiness/08iht-law_ed3_.html.

¹³ See Robert M. Cutler, *Korea Eases Growth*, ASIA TIMES ONLINE, Apr. 21, 2012, <http://www.atimes.com/atimes/Korea/ND21Dg01.html> (noting that "[e]xports account for half of the South Korean economy, a significant proportion even for an Asian country"); see also CIA Report, *The World Factbook: South Korea Economy*, <https://www.cia.gov/library/publications/the-world-factbook/geos/ks.html> (last updated Aug. 22, 2012).

¹⁴ Specifically, the relevant KORUS FTA language states: "(a) No later than the date this Agreement enters into force, Korea shall allow, subject to certain requirements consistent with this Agreement, U.S. law firms to establish representative offices (Foreign Legal Consultant offices or FLC offices) in Korea, and attorneys licensed in the United States to provide legal advisory services regarding the laws of the jurisdiction in which they are licensed and public international law as foreign legal consultants in Korea; (b) No later than two years after the date this Agreement enters into force, Korea shall allow FLC offices, subject to certain requirements consistent with this Agreement, to enter into specific cooperative agreements with Korean law firms in order to be able to jointly deal with cases where domestic and foreign legal issues are mixed, and to share profits derived from such cases; and (c) No later than five years after the date this Agreement enters into force, Korea shall allow U.S law firms to establish, subject to certain requirements consistent with this Agreement, joint venture firms with Korean law firms. Korea may impose restrictions on the proportion of voting shares or equity interests of the joint venture firms. For greater certainty, such joint ventures may, subject to certain requirements, employ Korean-licensed lawyers as partners or associates."

tic attorneys, including appointing South Korean lawyers as partners in U.S. law firms in Korea.¹⁵

Some of the concern in South Korea for liberalizing its legal services sector links to how different lawyers and lawyering are from its American counterparts. Historically, very few Korean lawyers exist to support its vast export-oriented economy. While the U.S. has one lawyer for approximately 268 people, England and Wales with one lawyer for approximately 513 people, and France with one lawyer for approximately 1,264 people. In contrast, South Korea has just one lawyer for every 6,100 people.¹⁶

As with other protected sectors, such scarcity has been a net benefit for the producers at the cost of consumers. With non-existent foreign competition, domestic legal fee rates have only other domestic lawyers to compete against and set prices. Thus, legal fees in South Korea, not accounting for purchasing power, can be comparable to those in the U.S., for a country where the average person, according to World Bank figures, earns 20,757 U.S. dollars per year compared to 47,199 U.S. dollars per year in the U.S.¹⁷

a) *In-House Counsel and Corporations as Beneficiaries*

Given the dominant export-focus of many of South Korea's corporations, the liberalization of Korea's legal services sector pursuant to the KORUS FTA meant that many of South Korea's large corporations and conglomerates would be net beneficiaries of such liberalization. This is especially the case since, based on the table below, South Korea's most prominent global corporate brands are also the most prominent domestic employers of attorneys, both Korean and foreign. The largest in-house counsel team is held by Samsung, which has a total of 174 attorneys, of which 68 are Korean lawyers and 106 are foreign lawyers.¹⁸ The second

¹⁵ See Ji-sookBae, *Foreign Law Firms Eye Korean Market*, KOR. TIMES, Mar. 11, 2012, <http://www.koreaherald.com/national/Detail.jsp?newsMLId=20120307001149> (noting that law firms such as Paul Hastings, Cleary Gottlieb, Ropes & Gray as well as Clifford Chance may enter the South Korean legal market following the liberalization of South Korea's legal market).

¹⁶ Jasper Kim, *Socrates v. Confucius: An Analysis of South Korea's Implementation of the American Law School Model*, 10 ASIAN-PAC. L. & POL'Y J. 322, 326 (2009). [hereinafter "Socrates v. Confucius"]

¹⁷ When factoring in purchasing power, legal fees in Korea can in effect be double the U.S. level. Hence, the adage holds in Korea that, "If you're rich, you're innocent, but if you're poor, you're guilty."

¹⁸ 정태웅(Tae-Ung Jung), *기업법무팀에선 무슨일 할까?* [What Kinds of Work Does a Department of Legal Affairs in a Corporation do?], HANKYUNG DAILY, Nov. 12,

largest in-house team is held by LG, which has a total of 90 attorneys, of which 15 are Korean attorneys and 75 are foreign attorneys.¹⁹ The third largest in-house legal team is held by Hyundai-KIA Motors, which has a total of 59 attorneys, of which a mere four are Korean attorneys and the remaining 55 are foreign attorneys.²⁰ The number four position was SK with 26 total attorneys followed by GS with 17 total attorneys.²¹ Interestingly, according to the data, Kumho-Asiana (the parent company for Asiana Airlines) did not report having a single Korean-licensed attorney among its in-house staff, while reporting to have six foreign attorneys.²²

Table 1. In-House Legal Team Headcount (League Table–South Korea)²³

<i>Ranking</i>	<i>Law Firm</i>	<i>No. of Domestic (South Korean) Lawyers</i>	<i>No. of Non-domestic (Foreign) Lawyers</i>
1	Samsung	68	106
2	LG	15	75
3	Hyundai-Kia Motors	4	55
4	SK	12	14
5	GS	7	10
6	Posco	5	8
7	Hanwha	10	1
8	Hyundai Heavy Industry	4	4
9	KT	4	2
10	Kumho-Asiana	0	6

Further, as the above table indicates, each of the five largest in-house employers also have just as many or more foreign lawyers as domestic—not entirely unexpected given the export-focus of these global firms. However, what may be slightly more surprising is the disproportionate number of foreign attorneys to domestic attorneys present in most of the top ten in-house legal teams in South Korea.²⁴

2007, <http://www.hankyung.com/news/app/newsview.php?type=2&aid=2007111211711&nid=910&sid=01062035>.

¹⁹ *Id.*

²⁰ *Id.*

²¹ *Id.*

²² *Id.*

²³ *Id.*

²⁴ As of this writing, it is believed that the KORUS FTA, given its relatively recent ratification, has of yet not dramatically altered the proportion of foreign lawyers to domestic South Korean lawyers. This is also due to the fact that the first graduation class of South Korea's new law schools was very recent, February 2012, thus related

Why is this case? In part, the sheer scarcity of Korean-licensed attorneys in South Korea is a contributing factor. South Korea currently has approximately 9,400 domestic licensed attorneys, according to Harvard Law School's Program on the Legal Profession.²⁵ For much of the past decade until 2012 (with the first graduating class of South Korea's new graduate law schools entering the legal market), South Korea capped the number of successful bar exam passers to approximately 1,000 each year.²⁶

Moreover, in addition to such quantitative cap on the number of lawyers each year, the Korean bar passage rate has also been historically low prior to the introduction of South Korea's graduate law schools (and subsequently initiated new bar exam to be taken by graduates of such new law schools), averaging less than five percent, with the average successful candidate haven taken the exam three times.²⁷ Even after successfully passing South Korea's traditional bar exam, the process continues with a two-year mandatory legal training system at the Judicial Research and Training Institute (JRTI, which falls under the purview of the Supreme Court of Korea),²⁸ in which only the top graduates are able to secure jobs as state prosecutors and judges (often viewed as the most prestigious legal positions in the country, in part, due to the positions' perception of influence, power, and long-term stability). Thus, the supply of South Korean attorneys is relatively low by standards of industrialized nations.²⁹

information is still relatively scarce. However, as time progresses, more information and studies related to the ebb and flow of new attorney hires following the KORUS FTA should become increasingly available.

²⁵ *The Legal Profession of the Republic of South Korea* (2011), http://www.law.harvard.edu/programs/plp/pdf/Korean_Legal_Profession.pdf. See generally WILLIAM P. ALFORD ET AL., *RAISING THE BAR: THE EMERGING LEGAL PROFESSION IN EAST ASIA* (William P. Alford ed., 2007) (describing legal education reforms in China, Japan, South Korea, Malaysia, and Indonesia).

²⁶ *Id.*

²⁷ For Korean bar passage rate data, e.g., Ministry of Justice Report, *Announcement of Passing First Year Bar Examination* (Mar. 27, 2013), http://www.moj.go.kr/HP/COM/bbs_03/ListShowData.do?strNbodCd=noti0005&strWrtNo=2693&strAnsNo=A&strNbodCd=noti0005&strFilePath=moj/&strRtnURL=MOJ_30200000&strOrgGbnCd=100000&strThisPage=1&strNbodCdGbn=

²⁸ 제 1 회 변호사시험 합격자 발표 [*Announcement of the First Bar Exam*], MINISTRY OF JUSTICE (Mar. 27, 2012), http://www.moj.go.kr/HP/COM/bbs_03/ListShowData.do?strNbodCd=noti0005&strWrtNo=2693&strAnsNo=A&strNbodCd=noti0005&strFilePath=moj/&strRtnURL=MOJ_30200000&strOrgGbnCd=100000&strThisPage=1&strNbodCdGbn= (Mar. 27, 2012).

²⁹ What may be striking is that in-house legal departments in South Korea typically have very few Korean-licensed attorneys. Most of the legal needs of domestic corporations are done by the *buhp-mu* (in-house legal) team, which in effect, often act as an

b) Domestic Law Firms in an Era of Greater Competition

With the KORUS FTA, the monopoly over South Korea's legal talent may become even more competitive, with competition from not only top law firms like Kim & Chang (with nearly 400 domestic lawyers and foreign legal consultants), but also large U.S. law firms (that can offer entry-level legal associates a starting salary of \$160,000–170,000 per year with the possibility of an additional year-end performance bonus).³⁰ Such rates are significantly higher level than many current local law firm rates. Further, such rates do not even factor working environment factors in which senior attorneys demand strict obedience far beyond that seen in U.S. law firms—a vestige of the male-dominated working culture—whereby all Korean male citizens undergo a compulsory two-year military service. Many of the larger South Korean law firms also offer an incentive for young associates in which a year of ful-

in-house team of a small number of Korean qualified attorneys working in conjunction with a larger number of corporate legal assistants and paralegals. Often, such non-law licensed personnel are undergraduate law majors, who either had no interest in dedicating scarce time and resources towards preparing for the notoriously “difficult” Korean bar exam, or who have in fact attempted but failed to pass the traditional Korean bar exam. At the same time, a certain percentage of such personnel who possess a certain level of requisite English language proficiency, may aspire to study for a LL.M. program and subsequently sit for a U.S. state bar examination to become a U.S.-qualified attorney (as a proxy for, or in addition to, becoming a Korean-licensed attorney). In such position, although formally qualified to opine on matters of U.S. law, having an undergraduate law background in Korean law, would arguably increase the career potential of a person holding such qualifications; The perceived prestige of working as an in-house attorney, although highly sought after in the U.S., is viewed with less prestige in South Korea. This is linked to the perception that any person working for a company, even lawyers, become company workers (which is generally perceived to rank below the echelons of an attorney within South Korea's unique socio-economic hierarchy), rather than as a *byeonhosa*, the Korean term for “attorney” (which carries with it, a clear connotation of being part of an elite socio-economic class historically perceived as a more prestigious position compared to that of a company worker, referred to as *ji-hkwon*).

³⁰ *How Much Do Law Firms Pay New Associates? A 16-Year Retrospective*, NALP BULLETIN (Oct. 2011), http://www.nalp.org/new_associate_sal_oct2011 (noting that average starting associate salaries for law firms with 251 or more attorneys in large metropolitan areas of Chicago, Los Angeles, New York, and Washington DC could be as high as \$160,000 per year without year-end bonus as of 2011). See also Debra Cassens Weiss, *Average Starting Pay for Law Grads Is on Downward Shift; Drop Is Largest for Law Firm Jobs*, ABA J. (July 2011), http://www.abajournal.com/news/article/average_starting_pay_for_law_grads_is_on_downward_shift_drop_is_largest_for (noting the general downward trend of legal job starting salaries, including law firm salaries as of 2011).

ly-subsidized legal education is offered, allowing for time and funding to cover a year-long LL.M. program.³¹

Table 2. Law Firm Headcount (League Table – South Korea)³²

<i>Ranking</i>	<i>Law Firm</i>	<i>No. of Domestic (South Korean) Lawyers</i>	<i>No. of Non-domestic (Foreign) Lawyers</i>
1	Kim & Chang	315	80
2	Bae, Kim & Lee	176	34
3	Lee & Ko	176	30
4	Shin & Kim	160	31
5	Yoon, Yang, Kim, Shin & Yu	156	23
6	Yulchon	116	29
7	Jisung Horizon	103	20
8	AJU International Group	80	25
9	Barun Law	84	9
10	Hwang, Mok & Park	66	8

Based on the table above, Kim & Chang is the largest and arguably the most prestigious law firm in South Korea with over 400 domestic and foreign attorneys in total. The second largest South Korean law firm in terms of headcount is Bae, Kim & Lee followed by Lee & Ko, each with approximately over 200 attorneys. The remaining top five positions are occupied by Shin & Kim and Yoon Yang Kim Shin & Yu, each with slightly less than 200 total attorneys. Thereafter, the sizes of the remaining top ten law firms in terms of total attorneys employed decrease notably with Hwang Mok Park employing less than one hundred total attorneys.

Unlike the domestic-to-foreign composition imbalance seen with South Korea's largest in-house legal counsel teams, South Korea's largest law firm composition is predominated by domestic-licensed Korean attorneys. At the same time, the number of foreign attorneys within South Korea's largest law firms is significant. It may also hold the key in terms of how sustainable its business model may be in terms of preserving

³¹ This system is primarily geared towards young associates who show a good deal of future potential, and is aimed for top U.S. LL.M. programs, with the understanding that the sent associate would then sit and pass a U.S. state bar exam (such as New York or California).

³² Kyungho Choi, *Korean Foreign Legal Consults Act: Legal Profession of American Lawyers in South Korea*, 11 ASIAN PAC. AM. L.J. 100, 111–12 (2009).

South Korea's market share in the domestic legal services market with the liberalization of the local legal services market.³³

c) KORUS FTA Motivators: Globalization, Competitiveness and Economics

With the beginning of negotiations with the United States and the EU for free trade agreements several years ago,³⁴ the question became an issue of "when" rather than "if" the legal services market would be opened to foreign competitors. That is, the view was that the opening of the domestic legal services market would be inevitable. Increased trade, especially with larger industrialized economies, meant the need for not merely more legal contracts, but also an awareness of the terms and conditions of increasingly complex contracts, particularly in English, the language in which many cross-border contracts are drafted. Moreover, domestic South Korean lawyers became increasingly exposed to the practices and standards of foreign attorneys and foreign clients, especially during the legal negotiation and contract drafting processes, in which bargaining and contracting styles differed leading to possible suboptimal, non-pareto efficient outcomes on the South Korean side (from the perspective of some South Korean parties).³⁵ Thus, it was concluded that it

³³ The liberalization of the South Korean legal services market was viewed with great anxiety, but it did not come as a surprise. In fact, South Korea's post-1953 economic strategy has been to export products primarily to major export markets like the United States, while still preserving a relatively protectionist domestic market in which major producers were shielded from foreign competition. *See generally* BYUNG-NAK SONG, *THE RISE OF THE KOREAN ECONOMY* (Oxford Univ. Press 3rd ed. 2003); *see generally* JASPER KIM, *KOREAN BUSINESS LAW: THE LEGAL LANDSCAPE AND BEYOND* (2010) (noting the deregulatory trends in the South Korean economy following the 1997–98 Asian financial crisis) and JASPER KIM, *CRISIS AND CHANGE: SOUTH KOREA IN A POST-1997 NEW ERA* (2005) (overviewing the reconstitution of South Korea's legal and economic infrastructure during the post-1997 period).

³⁴ Negotiations related to the U.S.-Korea FTA were announced in early 2006. Negotiations were concluded on April 2007. The FTA was first signed on June 30, 2007. The treaty was subsequently renegotiated, with the renegotiated FTA signed on December 2010. *See KORUS FTA, supra* note 3. For an overview on the possible economic effects of the KORUS FTA, *see* U.S. INT'L TRADE COMM'N, *U.S.-KOREA FREE TRADE AGREEMENT: POTENTIAL ECONOMY-WIDE AND SELECTED SECTORAL EFFECTS* (2007). For a view critical of the KORUS FTA regarding labor issues, *see* Jennifer John, *Proposed Korea-U.S. FTA Bad for Both Countries*, UNITED AUTO WORKERS, <http://www.uaw.org/story/proposed-korea-us-fta-bad-both-countries> (last visited May 6, 2012).

³⁵ For instance, historically, most South Korean corporations did not have a lawyer present during negotiations with foreign counterparties, which placed South Korea's corporations at a relative disadvantage, especially related to negotiating and understanding the material terms and conditions of a particular cross-border transaction in goods and/or services between the two sides. Such historical "attorney gap" has led

would be in the best *economic* self-interest of the South Korean government—separate, but related to, the seeking of global standards through globalization for the appearance to the international community of appearing liberalized and globalized—that served as a significant incentive to implement policies that would bolster the domestic competitiveness of the South Korean legal services market.³⁶

One perceived risk as viewed by some South Korean legal service providers and lawyers was that foreign law firms would have a larger number of foreign qualified attorneys as part of their headcount and legal arsenal. Further, although such foreign attorneys would not be able to provide legal opinions based on Korean law, they would however be able to opine on issues outside of the purview of Korean law, namely U.S. law, and to a certain extent, specific domestic law under the greater umbrella of EU law.³⁷ In response, the South Korean government effectively im-

many of South Korea's largest firms to hire a large number of both domestic and foreign attorneys in recent years to seek competitive advantage.

³⁶ At the same time, some political pressure also existed to liberalize South Korea's legal services sector by virtue of being a signatory state to international organizations, such as the United Nations (UN), World Trade Organization (WTO), and the OECD, to name a few. However, the dominant motivator was economic, not political factors.

³⁷ Another perceived risk by South Korean regulatory officials before the opening of the domestic legal services market was the competitiveness of domestic South Korean lawyers in terms of the sheer breadth and depth of skill sets and services that could be offered. The training of most South Korean lawyers under the traditional law school system was one of self-study to pass the notoriously difficult South Korean bar examination, which is highly predicated on sheer rote memorization of domestic codes and regulations. See Jasper Kim, *Socrates vs. Confucius*, *supra* note 16, at 325; see also Ministry of Justice Report, *Qualification for Taking Bar Exam*, www.moj.go.kr/HP/BA_R/bar_10/bar_1030/bar_103010.jsp (last visited May 12, 2012) (noting that formal requirements to sit for the Traditional Bar Exam). Moreover, within South Korea's traditional legal education infrastructure, relatively little focus was given to the ability to "think like a lawyer" as would be the case in many, if not most, U.S. law schools (whereby the thinking process underlying the black letter law is often viewed as just as important if not more than the memorization of U.S. laws itself). *Id.* Thus, in contrast to the South Korea's traditional educational system (especially prior to the introduction of the nation's new graduate law schools), the U.S. law school system is and has been highly predicated on teaching law through the "Socratic" method, although some criticism of the American law school model has arisen due to such things as high student indebtedness, lack of employment prospects, and the ability to produce globally-minded lawyers. See Jill Schachner Chanen, *Re-engineering the JD: Schools across the Country Are Teaching Less about the Law and More about Lawyering*, A.B.A. J., July 1, 2007, http://abajournal.com/magazine/re_engineering_the_jd/. For example, Harvard Law School's 1L "Langdellian" curriculum, which as existed relatively untouched for over a century, has been reconstituted such that 1L students will be offered three new classes, one of which being problem-solving skills." *Id.* Further, Stanford Law School has also doubled its elective offerings, while the University of Pennsylvania Law School is taking a more interdisciplinary approach to its legal education. *Id.* Further, many U.S. state bar examinations have a more reasonable bar passage rate, which could provide more academic security to focus more on U.S. law school courses (i.e., the "means" to be-

plemented three “pre-emptive” policies to bolster, globalize, and increase the overall competitiveness of the local legal services market prior to the ratification of the Korea-U.S. FTA (and EU-Korea FTA), which the next section will further discuss.

B Pre-FTA “Pre-emptive” Globalization Policies (For South Korea’s Lawyers and Legal Profession)

This section will describe some of the more relevant factors relating to three pre-emptive policies—the requirement at the JRTI of a compulsory Anglo-American course in English, implementation of the new “American-style” graduate law schools in South Korea, and passage the Foreign Legal Consultant Act—that represented an effort by South Korean policymakers to globalize South Korea’s legal services sector in anticipation of the opening of the local legal market.

The specific pre-emptive globalization policies are:

(1) Anglo-American Law Required Course at the JRTI beginning from 2005: required for those who already passed the traditional South Korean bar examination by requiring a one-year course on Anglo-American law offered in the first year, a course taught entirely in English by primarily U.S. licensed legal professionals.

(2) Introduction of “American-style” Professional Graduate Law Schools (beginning in the fall academic semester of 2009): mandating that future applicants to sit for the Korean bar exam must be a graduate from one of the twenty-five three-year new professional graduate law schools in South Korea.

(3) Foreign Legal Consultants Act (FLCA) passed on March 3, 2009: allowing for greater numbers of foreign attorneys to work for South Korean law firms.³⁸

The aforementioned combined pre-emptive policies each represented efforts by different institutions and agencies to bolster South Korea’s legal sector capabilities and core competencies. Although the approach and methodology was different among the pre-emptive policies,

coming a lawyer) than spending a disproportionately high amount of time and resources on the passage of a particular U.S. state bar examination (e.g., the “ends” to the means in becoming a lawyer).

³⁸ For an overview of the FLCA by the U.S. Library of Congress, see Sayuri Umeda, *Foreign Legal Consultants Law*, LIBRARY OF CONGRESS (May 1, 2009), http://www.loc.gov/lawweb/servlet/lloc_news?disp3_l205401259_text.

the common nexus binding the three policies was an implicit understanding that the status quo was no longer a viable option regarding South Korea's legal services sector, and that action rather than inaction was needed.

Related policymakers calculated that implementing such initiatives proactively and pre-emptively—rather than reactively subsequent to the ratification of the Korea-U.S. free trade agreement—would allow for the time needed to produce the intended results of a more competitive local legal services industry. Such pre-emptive approach would also allow for possible adjustments to such initiatives prior to the FTA's ratification. However, one negative aspect of such timing strategy is that although the three pre-emptive policies were enacted prior to the FTA's ratification, relatively little time existed between the implementation of such pre-emptive policies and the KORUS FTA's ratification itself. Further, although in form and appearance, the three pre-emptive policies appear as viable policy approaches to create a wall of defense against foreign legal actors and institutions, which were met with both successes and failures in cases outside of South Korea, the actual sustainable impact of such pre-emptive policies applied specifically to the South Korean legal services markets would be and still is untested and unprecedented.

a) Pre-emptive Policy 1: An Analysis of the JRTI Anglo-American Law Course (mandatory for all new attorneys)

As an initial pre-emptive globalization policy, South Korea's JRTI—a two-year legal training institute under the purview of the Supreme Court of Korea required for all traditional Korean bar exam passers—mandated that all of its first-year trainees³⁹ take a required year-long (two semester) course entitled “Anglo-American” law. This was the first time in the JRTI's history that a U.S. law course would be designated as a required course. Just as significant, the mandatory Anglo-American course was a full academic year in length, that is, the course involved two consecutive semesters in the first year (of the two-year total) JRTI legal training period. It was also a mandatory course in which English would be the main language of instruction taught by mostly non-Korean faculty (who were mostly foreign attorneys), which was unprecedented. On the other hand, the vast majority of JRTI law courses were taught in the Korean language by Korean faculty (usually

³⁹ The term “trainees” (yeonsu-seng) is a term used to denote those individuals who, after passing the traditional Korean bar exam, attended mandatory subsequent judicial training at the JRTI. Upon entering the JRTI's two-year legal training period, JRTI trainees become part of the state as recognized government officials.

judges or prosecutors, who are often rotated in two-year intervals to different positions, including for some, to the JRTI).

Because most of the JRTI teaching faculty for the newly-required Anglo American course was and would be taught by foreign faculty (all fluent in English, but many of whom not fluent in the Korean language), in addition to language issues, a contrast in pedagogical issues often existed.⁴⁰ This phenomenon may have existed because most of the foreign faculty received their legal training from U.S. law schools, within a Socratic teaching environment, whereby in contrast, the JRTI's teaching environment is often akin to a relatively conservative "Confucian" environment heavily based on rote memorization rather than constant in-class professor-student discourse. One objective with the Anglo-American required course is that having foreign faculty to teach the content would also help increase the global competitiveness of Korea's future attorneys in preparation for the opening of the local legal services market.⁴¹

However, the two-hour length course was primarily, if not entirely, taught through the use of PowerPoint slides (and printouts of such slides) that were given and therefore used by all instructors for the course. The PowerPoint slides often varied in length, but were generally long given the two-hour time duration of the course. The net effect being that little or no time was left to explain the meaning behind the PowerPoint slide concepts, above and beyond the time required to read each of the slides' substantive contents. As a direct result, little or no time existed to apply the Socratic Method, even if it would be a teaching system compatible with the legal trainees at the JRTI, the next generation of Korea's lawyers, judges, and prosecutors. When time did allow for questions from students, few, if any, questions were typically asked.⁴²

⁴⁰ For an analysis on German legal training, in contrast to the U.S. legal training method, see Hariolf Wenzler & Kasia Kwietniewska, *Educating the Global Lawyer: The German Experience*, 61 J. LEGAL EDUC. 462, 464–67 (2012). For an analysis focusing on one specific U.S. law school training method, see Tonya Krause-Phelan et al., *Using a Faculty Inquiry Process To Examine Student Responsibility for Learning*, 61 J. LEGAL EDUC. 280, 283–95 (2011).

⁴¹ For full disclosure, the author participated as one of the first foreign faculty to teach the Anglo-American course at the JRTI from the course's inception.

⁴² Several reasons could exist for such lack of participation. First, traditionally in South Korea, it has not been the norm for a student to ask a professor a direct question for fear of a perception of possibly challenging the professor's noted authority (within the lens of Korean culture, teachers, including professors, held a status equivalent to the very highest level of society due to the country's focus on education and test taking). Second, a language and/or cultural barrier could have existed since most of those in the JRTI Anglo-American course were not fluent or highly proficient in the English language, especially given the complexities and subtlest underlying legal jargon in English.

Thus, viewed critically, the required Anglo American course could be seen as one that was too heavy in content given the highly compressed time periods given for the covered lecture material. On the other hand, viewed positively, having the experience of taking the JRTI Anglo-American course taught in English by foreign faculty (many or all having significant work experience as attorneys), could only help the global competitiveness of Korea's next generation of legal professionals in preparation of the opening of the Korean legal services sector.

At the same time, the JRTI Anglo-American course was not exactly flawless and without its weaknesses. Several pedagogical changes could be instituted to reconstitute the learning environment to an even better, more effective educational ecosystem. Specifically, if the objective of the pre-emptive globalization policies is to, in fact, produce a globalized legal profession and workforce, then the following could be suggested. First, the PowerPoint slides currently used and relied upon, would be better served if used for a partial, but not entire, part of the two-hour mandatory course. This is suggested since PowerPoint slides create a general proclivity towards passive, rather than a proactive, Socratic-based method. It is most likely that the PowerPoint-driven course materials were purposely done in this way, given that the JRTI trainees' English language capability varies from relatively weak to relatively strong. Thus, by relying primarily on PowerPoint slides, a comfort zone is created since its contents can be easily read and understood, relative to a lecture-based approach with less reliance on PowerPoint slides. However, although a linguistic comfort zone may be created, its benefits can be outweighed by its costs because the JRTI trainees are not brought out of their respective comfort zones. After all, law school training is based on new methods in terms of both pedagogical style and substance⁴³, which by definition brings law students outside their comfort zones.

Second, more implementation of presentations and Socratic-based teaching methods should be used in the mandatory Anglo-American course. In doing so, given the primarily Confucian-based learning envi-

However, even in Korean law courses taught entirely in Korean, few if any questions are generally asked. Third, the sheer amount of content in the course, especially in the English language—covering a major 1L-type topic within just one two-hour lecture (e.g., Torts one week, followed by Criminal Law the next week)—could have overwhelmed the class (as would any course on foreign law taught in a foreign language might be for many U.S. law students, if the roles were reversed).

⁴³ "Style" is interpreted for purposes of this article to mean the Socratic teaching method used in a law school setting. "Substance" is interpreted for purposes of this article to mean the law school curricula, generally, and the black letter law and cases used, specifically, in a law school setting.

ronment in South Korea, generally, and the JRTI, specifically, the course cannot fully rely on the Socratic-based teaching method alone. As such, the suggestion here is for the Socratic teaching method to complement, rather than replace, the existing slides used in the course.

In terms of presentations, the suggestion is for the JRTI trainees to do either individual or team-based presentations, selected and organized in advance of the presentation day itself, perhaps based on a related legal concept and/or case, in English. By allowing for such structure, the JRTI trainees would see the process as less burdensome and perhaps even more of an opportunity to showcase one's legal knowledge in an individual or team context to his or her academic peers in the lecture room. This would also create an education ecosystem that is, in essence, a two-way (rather than a one-way, top-down) street, in which the course trainees learn through participation rather than rote memorization, enriching the pedagogical process, in the spirit of the Socratic teaching method.⁴⁴

The next section analyzes the introduction of a radical reconstitution of South Korea's education training ecosystem with the introduction of "American-style" graduate law schools beginning in 2009. Previous to 2009, under the traditional bar exam ("Traditional Bar Exam") that existed prior to the introduction of the nation's graduate law schools, relatively few requirements existed for a person to qualify to sit for the examination so long as a certain number of law-related courses were taken beforehand (but ostensibly falling short of requiring an undergraduate degree of any kind as a requirement). However, from 2009 under the new bar exam system ("New Bar Exam"), only graduates from one of South Korea's new graduate law schools would be qualified to sit for the new bar exam, which required the graduation from one of South Korea's twenty-five graduate law schools.⁴⁵

⁴⁴ The suggested implementation of presentations by JRTI trainees could be of various lengths, while it is noted that most trainees would likely prefer short presentations given the different substance and style of the Anglo-American course. At the same time, this would compel the trainees to focus more on the book upon which the PowerPoint slides are loosely centered upon, which is (at the time of this writing), Law 101. See generally JAY M. FEINMAN, *LAW 101: Everything YOU NEED TO KNOW ABOUT AMERICAN LAW* (Oxford Univ. Press 3rd ed. 2010).

⁴⁵ Unlike the Traditional Bar Exam with exceptionally low passage rates the New Bar Exam would in many ways emulate the U.S. state bar exam model by striving for passage rates of approximately fifty percent). For New York State Bar passage rates (a common destination for Korean attorneys), see NYS Bar Exam Report, *Bar Exam Results*, <http://www.nybarexam.org/press/press.htm> (last visited May 6, 2012). For an empirical legal educational survey for those who failed a U.S. state bar examination, see Jane Yakowitz, *Marooned: An Empirical Investigation of Law School Graduates Who Fail the Bar Exam*, 60 J. LEGAL EDUC. 3, 11–31 (2010).

b) *Pre-emptive Policy 2: “American Style” Professional Graduate Law Schools*

On July 27, 2007, South Korea passed landmark legislation in the form of the Graduate Law School Act (GLSA), which introduced a new legal educational system to replace its traditional four-year undergraduate bachelor's in letters-in-law (“LLB”) system to the U.S.-style three-year, JD-prototyped graduate law school program beginning in the fall academic term of 2009.⁴⁶ Separate from the shift from legal education to the graduate level (from the undergraduate level), the new South Korean graduate law schools are substantially distinguishable from the former system in several ways.⁴⁷

First, under the GLSA, to sit for the New Bar Exam and to become a qualified lawyer⁴⁸, an applicant must be a graduate of one of the new Korean graduate law schools, which opened their doors in 2008.⁴⁹ Second, to be accepted into a Korean Law School, a law school entrance exam, known as the Law School Education Entrance Test (LEET), is required,⁵⁰ compared to no such exam under the Traditional Bar Exam. Third, only graduates from one of the twenty-five government-approved Korean Law Schools can sit for the New Bar Exam.⁵¹ Fourth, the Korean

⁴⁶ See 법학전문대학원 설치 및 운영에 관한 법률[Graduate Law School Act], Act. No. 8852, Feb. 29, 2008, art. 22 (S. Kor.) (emphasizing the need for an undergraduate degree or its equivalent prior to admissions). [hereinafter GLSA]

⁴⁷ Prior to the passage of the Graduate Law School Act, the Korean legal education system was composed of primarily academic (rather than professionally-focused) graduate and undergraduate programs. Jasper Kim, *Socrates v. Confucius*, *supra* note 16, at 325. The undergraduate degree was effectively the equivalent of a four-year Bachelor's in the Letter of the Law (LLB) degree. At the graduate level, two primary options exist: the two-year Master's in Law degree (LLM), and the Doctor of Philosophy in Law (PhD) degree. *Id.* Throughout all levels, both graduate and undergraduate, South Korea's legal education system was based on the Confucian-based top-down lecture and rote-memorization teaching method as opposed to the relatively flatter and more confrontational Socratic method applied in American law schools. *Id.*

⁴⁸ The first New Bar Exam pursuant to the GLSA was administered in 2011.

⁴⁹ The Traditional Bar Exam does not contain any express requirement for an undergraduate degree or higher to sit for the Korean bar examination, known as the *sahbuhp-goshi*. See Ministry of Justice Report, *Qualification for Taking Bar Exam*, *supra* note 38. A requirement does exist, however, for 35 credits of “law-related” courses to sit for the Traditional Bar Examination. *Id.*

⁵⁰ See GLSA, *supra* note 47, art. 24 (relating to the discussion of a new entrance examination for the South Korea's new graduate law schools).

⁵¹ The twenty-five (25) selected law schools along with the number of students allowed for such law school (in brackets) are: Seoul National University (150), Korea University (120), Yonsei University (120), Sungkyunkwan University (120), Hanyang University (100), Ewha Womans University (100), Kyunghee University (60), Chungang University (50), Hankuk University of Foreign Studies (50), University of Seoul (50), Ajou University (50), Inha University (50), Konkuk University (40), Sogang

Law School faculty composition under the GLSA must now consist of a minimum number of former legal practitioners (compared to no such requirement for Korean university law departments prior to the GLSA).⁵² Fifth, in terms of admissions into the Korean graduate law schools, English language proficiency (separate from other possible foreign languages) are now be emphasized in the admissions process in terms of demonstrated evidence of English ability, such as the TOEIC/TOEFL (compared to no such formal emphasis in the current system).⁵³ Sixth, the number of newly-admitted Korean lawyers will presumably increase significantly (from approximately 1,000 in 2008 to a figure ranging anywhere from 1,500 to 2,000 newly-admitted Korean lawyers from 2012, the first graduating class year under the new system).⁵⁴

One notable objective by Korean policymakers in passing the GLSA was to create “practical” Korean lawyers. For example, GLSA article 4 states the need for “professional training” and both “theory and practice” as it relates to Korea’s new legal education.⁵⁵ Further, the explicit requirement exists of a bachelor’s degree⁵⁶ or its equivalent to enter the Korean graduate law schools, which is distinguishable from no such requirement of any undergraduate degree for the Traditional Bar Exam.⁵⁷

University (40), Gangwon University (40), Pusan National University (120), Dong-A University (80), Kyungpook National University (120), Yeungnam University (70), Chonnam University (80), Chonbuk University (80), Wonkwang University (60), Cheju National University (40), Chungnam National University (100), and Chungbuk National University (70). The total number of students expected to be enrolled in all the above 25 law schools is 2000. See the Korean Ministry of Education and Human Resources Development Website, http://www.mest.go.kr/ms_kor/news/notice/broadcast/_icsFiles/afieldfile/2008/05/20/1199535_01.hwp (last visited Aug. 25, 2008).

⁵² See GLSA, *supra* note 47, art. 16(3) (which requires that at least 20 percent of the Korean Law School faculty to consist of former practitioners, who have five years or more of relevant legal experience).

⁵³ Although subject to the admissions criteria of each institution, it is generally expected that many, if not all, of the Korean graduate law schools, will require the submission of a TOEFL/TOEIC English proficiency examination.

⁵⁴ 로스쿨 정원 첫째 1500 명 확정...대학들 강력반발 [Law school first year starts with 1,500 freshmen... and strong opposition from undergraduate schools], HERALD (Apr. 4, 2010), http://news.heraldcorp.com/view.php?ud=200710170141&md=20100404211705_AT.

⁵⁵ See GLSA, *supra* note 47, art. 4.

⁵⁶ Further, under GLSA articles 1–3, one-third or more of new law school entrants should already possess a bachelor’s degree from a different university from that being matriculating into. This is to avoid academic over-representation among a cluster of the top-tiered Korean universities, especially within Korea’s so-called elite “SKY” universities (Seoul National University, Korea University, and Yonsei University). See GLSA, *supra* note 47, arts. 1–3.

⁵⁷ See GLSA, *supra* note 47, art. 22.

The GLSA also mandates that at least one-fifth of all Korea's graduate law school faculty must be qualified lawyers,⁵⁸ either in Korea or elsewhere, who have at least five years of professional experience in a law-related field.⁵⁹ As a result, the approach to law teaching in Korea has been very academic rather than practical prior to the GLSA, which Article 16(3) attempts to resolve. Second, the 20 percent or greater practitioner-faculty requirement is progressive in nature in that either Korean or non-Korean practitioners may qualify. This indicates an acute awareness that practitioners with international experience are needed to increase the likelihood of achieving the GLSA objectives.⁶⁰

Articles 22 and 23 of the GLSA relate to student selection. Article 22 states that applicants must possess an undergraduate bachelor's degree or its equivalent.⁶¹ Pursuant to Article 23, the criteria that the Korean graduate law schools can use to select students are as follows: (a) undergraduate GPA; (b) LEET score⁶²; (c) language abilities; and (d) social or volunteer activities.⁶³ Of the above factors, only the undergraduate GPA

⁵⁸ This is also noteworthy since most law professors in Korea, even at the most "elite" universities, have a majority law faculty who are not Korean-licensed lawyers. For instance, as of 2008 when the new graduate law schools were first introduced, Seoul National University (the so-called "Harvard of Korea") has approximately 41 percent (18 out of 44) of its faculty who have passed the Korean bar examination, while Kyunghee University has just 32 percent (11 out of 34) of its law faculty who have passed the Traditional Bar Exam.

⁵⁹ See GLSA, *supra* note 47, art. 16(3).

⁶⁰ GLSA article 2 sets forth the "educational philosophy" of the new law schools, which includes the mission to educate people of "various ideologies" who can then as lawyers "provide a wealth of quality legal services...to resolve disputes efficiently, professionally, and with the knowledge, skills, and training of such a lawyer." The degree conferred upon graduation from the Korean graduate law schools is effectively a professional master's degree, unlike the Juris Doctor (J.D.) degree issued by U.S. law schools, which is effectively a professional doctorate degree. The two degrees, however, are similar in that both programs are professional legal graduate degrees. The language in GLSA article 2 is relevant for several reasons. First, the "various ideologies" language when seeking future legal professional candidates links to GLSA article 26, the latter requiring that at least one-third of new entrants not be law majors. The presumptive intent is to have a majority of new law school students who already possess a non-law undergraduate academic degree, similar to the American law school model. This language also exists to help create Korean lawyers who can assist in their "specialty areas" as based in part on their non-law undergraduate major, in areas such as intellectual property, banking, business, and trade, which was perceived as lacking (both domestically and internationally) with today's current supply of Korean practitioner lawyers. GLSA, *supra* note 47, art. 2.

⁶¹ GLSA, *supra* note 47, art. 22.

⁶² The first LEET exam was offered in Korea on August 24, 2008 in the following seven South Korean cities: Seoul, Busan, Daegu, Gwangju, Daejeon, Chuncheon, and Jeju. See MEST of South Korea, http://www.mest.go.kr/ms_kor/news/notice/broadcast/_icsFiles/afieldfile/2008/06/02/1205400_01.hwp (last visited Apr. 25, 2012). See also LEET, <http://www.leet.or.kr> (last visited Apr. 26, 2008).

⁶³ GLSA, *supra* note 47, art. 23(1)–(3).

would be considered for admission in the previous undergraduate system. The LEET was a newly-created standardized law school admissions exam largely inspired by the Law School Admission Test (LSAT) used by U.S. law schools, in which questions were primarily non-law based in an effort to measure analytical thinking rather than the amassing and resuscitation of known facts and legal codes. The other factors, such as language and extracurricular activities, were also added components in the new law school admissions system in an effort to admit a more “well-balanced” applicant interested in greater social concerns who could also be effective communicators in an international setting.

Many of the challenges that exist for the aforementioned JRTI Anglo-American course exist for South Korea’s graduate law school system. Specifically, that—despite modeling itself after the American law school system and the Socratic-style teaching method—the pedagogical structure still in many instances defaults to the lecture-based, rote memorization mind-set focused on “teaching to the test.” This makes sense from a local context since one of the most commonly-cited metric by which a law school’s success is measured is the passage rate of the new Korean bar examination (which was approximately 80 percent for the first graduating class of the new law school graduates).

When the topic, generally, and this view, specifically, is raised, often the counterargument is that the teaching method is Socratic or near Socratic since students are able to ask questions to professors. But merely being afforded the opportunity to ask questions in a law school lecture is distinguishable from using the Socratic teaching method in its purest form, in which the professor assumes a highly inquisitorial role with one or more students, in the process, asking a series of real or hypothetical questions to mirror a courtroom or other similar scenario. In other words, it would be a spirited academic, adversarial-based debate between the professor and student.

As such, due to the Confucian culture embedded within South Korean students—such as a strong deference to one’s teacher, including law school professors, and senior authority figures—creating and fostering such a spirited academic, adversarial-based debate between a perceived senior figure (the professor) with a junior figure (the student) would be challenging. This is not to say that such Confucian constraint cannot be

overcome, but such change will take time and a concerted effort by both the law school professors as well as students.⁶⁴

c) Pre-emptive Policy 3: Foreign Legal Consultant Act

South Korea's law firms are primarily composed of Korean lawyers, as one would expect. However, a growing number of non-Korean lawyers also constitute part of South Korea's domestic law firm workforce as "Foreign Legal Consultants" pursuant to the FLCA. The FLCA allowed for South Korean law firms to recruit non-Korean attorneys, mostly notably, U.S.-qualified attorneys, as a pre-emptive means increase the scale and scope of legal services offered by domestic law firms. The timing of the FLCA's introduction on March 2, 2009 is also notable in that it was passed during a period in which a seminal free trade agreement between the U.S. and South Korea—the Korea-U.S. free trade agreement—was nearing completion. In effect, the FLCA gave local Korean law firms needed lead time to recruit its foreign law personnel to prepare for the perceived penetration of the local markets by foreigners and foreign entities.

The FLCA provided for a partial liberalization of the South Korean legal services market previous to the KORUS FTA by allowing for certain qualified foreign legal consultants to practice law in South Korea ("Foreign Legal Consultants" or "FLCs"), upon receiving approval from Ministry of Justice⁶⁵ and registering with the Korean Bar Association.⁶⁶ To qualify as a Foreign Legal Consultant, certain criteria must be satisfied, including having at least three years of legal work experience in the individual's home jurisdiction.⁶⁷ This provision in effect made null and void a previous Korean law under Article 109 of the Korean Attorney-in-Law Act, which prohibited foreign attorneys from practicing law

⁶⁴ The three pre-emptive globalization policies are generally viewed as separate but related to South Korea's new graduate law school system. This is due to several factors. First, different branches of the South Korean government were connected to each of the pre-emptive policies (i.e., Ministry of Education, Ministry of Justice, Korean Bar Association). Second, due to the first issues, the timing of the pre-emptive globalization policies were staggered and thus not unified due to the lack of coordination of the policies. And third, as it stands now, the JRTI and graduate law school system are two separate means upon which to qualify as a South Korean attorney until approximately 2017, whereupon the JRTI system will be reconstituted, thus making the graduate law school system the sole means upon which to become a South Korean attorney.

⁶⁵ 외국법자문사법[Foreign Legal Consultant Act], Act No. 10629, May 19, 2011, art. 6 (S. Kor.) [hereinafter FLCA].

⁶⁶ FLCA, *supra* note 66, art. 10.

⁶⁷ FLCA, *supra* note 66, art. 4(3).

in South Korea. The FLCA applies to U.S. attorneys as well as EU attorneys.

FLCs in South Korea can practice law in three ways. First, by providing legal representation on matters of the FLC's home jurisdiction in which he or she is a licensed attorney.⁶⁸ Second, by providing legal representation on issues related to an international treaty relating to South Korea and the FLC's home jurisdiction in which he or she is a licensed attorney.⁶⁹ Third, and finally, the FLC can represent clients in South Korea related to international arbitration issues.⁷⁰

Originally, earlier drafts of the FLCA reflected an internal debate among domestic legislators in terms of whether the term "lawyer" could be used by FLCs. Domestically, the Korean term for lawyer, *byeonhosa*, carried with it a significant cachet and level of prestige linked, in part, to the low passage rate of the traditional Korean bar exam as well as the relatively few number of total licensed Korean legal professionals. What domestic policymakers did not want was the risk of confusion between terms denoting Korean attorneys and foreign attorneys. Ultimately, a compromise of sorts was struck in which the term "[foreign legal] consultant" (*jahmunsa*)—which is clearly distinguishable from the term for lawyer in Korean, *byeonhosa* (albeit also viewed with less cachet and prestige from a domestic Korean perspective)—could also be used alongside the term "lawyer" if associated with the FLC's home jurisdiction in which he or she is licensed to practice law (e.g., "U.S. lawyer" or in Romanized Korean, *MigukByeonhosa*).

The net effect of the FLCA was to allow for a greater number of qualified foreign attorneys, including certain U.S. and EU attorneys, to be registered Foreign Legal Consultants in South Korean law firms. The main benefit of the FLCA was to increase and bolster the number of foreign attorneys, in particular U.S. attorneys, within the ranks of many South Korean law firms and organizations. The increased number of foreign attorneys within Korea's law firms and other organizations was a purposely pre-emptive and strategic move to increase the competitiveness of such domestic institutions to prepare for the inevitable coming era of the liberalization of the local legal services sector that would necessitate the introduction of foreign law firms and foreign lawyers into South Korea. That is, the passage of the FLCA was in essence South Korea's strategy of "fighting fire with fire."

⁶⁸ FLCA, *supra* note 66, art. 24(1).

⁶⁹ FLCA, *supra* note 66, art. 24(2).

⁷⁰ FLCA, *supra* note 66, art. 24(3).

At the same time, the title of “FLC” or “Foreign Legal Consultant” in many ways represent the very upper limit of legal advice and representation that can be given to a foreign-licensed attorney working in South Korea, even with the KORUS FTA having been enacted and ratified. Viewed negatively, this barrier was constructed purposely given South Korea’s historical suspicion of outsiders and foreigners, given its history and long vivid memory of Japan’s occupation period from 1910–45. However, the perspective of FLCs from local legal interest groups should be one of opportunity rather than suspicion or fear, as is the apparent perception. Instead, much like with other bar associations in Northeast Asia, foreign licensed attorneys in South Korea should be afforded the opportunity to be formally recognized by the Korean Bar Association, or a related organization thereof.⁷¹ This would create a bridge rather than a barrier between FLCs and South Korea’s twenty-first century legal profession, creating a synergistic effect that could be mutually beneficial, especially in a globalized era.

d) South Korea’s “Pre-emptive Policies” to Liberalization of its Legal Gates: Arguments For and Against

Regarding the JRTI required course, some participants who were required to take the course (the “JRTI trainees”) argued that the JRTI should focus on Korean law matters only, and not matters pertaining to other domestic jurisdictions, including the Anglo-American law issues. Such view may have been exacerbated by the fact that an academic grade was given for the Anglo-American course, which in turn, would affect the ability to become future state prosecutors and judges.⁷² The counter-argument to this position was that the understanding of U.S. law linked with the passing of several FTAs—most notably the KORUS

⁷¹ The Hong Kong Bar Association allows for foreign licensed attorneys to become members. Overseas barristers may, having at least three years' experience, take the Bar-ri-sters Qualification Examination to officially become a Hong Kong barrister. Moreover, lawyers who have at least three years' qualified experience may apply to switch membership of either the HKBA or the Law Society of Hong Kong. However, one may not enjoy membership of both entities at once. See Hong Kong Bar Association Website, <http://www.hkba.org>. The Japan Federation of Bar Associations also has a history of allowing foreign lawyers within its ranks. Before World War II, attorneys qualified in foreign countries could join a Japanese bar with special permission from the Supreme Court (referred to as quasi-members (準会員 *junkaiin*) of the bar. The quasi-membership was abolished by judicial reforms in 1955, and was replaced by the attorney at foreign law (外国法事務弁護士 *gaikokuhō jimu bengoshi*) in 1986. As of 1 March 2011, there are 354 attorneys at foreign law in Japan. See Japan Federation of Bar Associations Website, <http://www.nichibenren.or.jp/en/>.

⁷² Generally, only the top 20 percent of a particular JRTI class can become state prosecutors or judges.

FTA—necessarily warranted understanding aspects of Anglo-American law.

The arguments against the FLCA were relatively more muted than the criticism against the JRTI Anglo-American course. Some domestic Korean attorneys could view the influx of foreign attorneys as possibly leading to a greater oversupply of total lawyers in the Korean legal marketplace. Further, the argument existed that not all U.S. state bars allow for FLC status, but with Korea's case, the passage of the FLCA would in effect be an "all-or-nothing" proposition that would apply to all or none of qualified attorneys in South Korea. However, it was noted that FLCs under the FLCA are allowed to opine on non-Korean law matters only. Therefore, most Korean attorneys saw FLCs as complementary to the area of Korean law and Korean lawyers.

Unlike the initial two pre-emptive policies described earlier in this section—the required Anglo-American law course and the FLCA—the greatest and most vocal opposition existed to the introduction of American-style law schools into South Korea. The opponents against the Korean Law Schools (and the GLSA) argue that this broad-sweeping shift has already been done in nearby Japan, and that such attempt was a clear and foreseeable failure.⁷³ The opponents, especially those from the various local bar associations, also argued that the GLSA will severely damage the reputation of the current members of the current Korean judiciary for several reasons. First, the GLSA is linked to increasing the number of Korean lawyers substantially above the approximately 1,000 new members allowed per year, which represented the capped number of new attorneys allowed before the introduction of the new Korean graduate law schools. Thus, according to such opponents, the new Korean graduate law schools would certainly lead to an "oversupply" of lawyers into the labor markets (in the range of nearly 1,500 new lawyers in 2012 alone under the New Bar Exam), which would in turn lead to a decrease in lawyers' average wages and possible reputational standing.⁷⁴ But from

⁷³ Specifically, opponents cited the perceived failure by many in the Korean legal community of the Japan law school reforms, whereby the filtering of students to become Japanese lawyers (*bengoshi*) was effectively at the time of the Japanese bar examination—exactly the problem that the legal reforms were meant to abolish.

⁷⁴ The argument also existed that such effect will also lead to a diminishment of the traditionally high reputation for South Korean lawyers, and would also lead to the end of the historically protected labor markets for Korean lawyers. See Tae-jong Kim, *Law School Act Faces Opposition*, KOR. TIMES, Aug. 27, 2007, http://www.koreatimes.co.kr/www/news/nation/2012/04/117_9043.html. For an article focusing on the challenge of job placement in South Korea's legal services market with the New Bar Exam, see Sarah Kim, *First law school grads face trial over jobs*, KOR. JOONANG DAILY, Jan. 11, 2012, <http://koreaJoongAngDaily.joinsmsn.com/news/article/article.aspx?aid=2946913>.

another perspective, even assuming that an increase in the number of Korean qualified attorneys has led to downward pressure on lawyer's wages, this is not a net negative in and of itself. Lower per hour rates for legal advice would make legal representation more affordable, and thus, accessible for the general population. The larger number of Korean lawyers would, admittedly, lead to greater competition for legal (and non-legal) careers, in which one's law degree and license could be leveraged. However, such larger number of licensed professionals would also incentivize such talent to specialize or create niche areas for the betterment of the industry and economy.

Opponents also existed from within the Korean law school constituency for several reasons. First, the GLSA mandates that a total of no more than twenty-five Korean Law Schools be selected (out of many more law schools which requested to be selected as a designated Korean graduate law school). However, the administration which drafted the GLSA (under the relatively liberal administration under former president Roh Moo-hyun) also mandated that at least ten of the twenty-five new Korean graduate law schools designated exist outside the Seoul metropolitan area.⁷⁵ This may not seem controversial from the U.S. perspective, since many, if not most such law schools are located outside of large metropolitan areas like New York, Chicago, and Los Angeles, however, in Korea, universities and their law school departments located outside of Seoul are generally considered as *de facto* second-tier universities.⁷⁶ Second, such a unique local *de facto* law school ranking process relates to the fact that many Seoul-area universities, which have historically been ranked higher than many universities outside of Seoul (colloquially referred to as *jibangdehs*"), were being treated unfairly due to the liberal-progressive political policies of former Korean President Roh Moo-hyun (2002–2008).⁷⁷

⁷⁵ See the Korean Ministry of Education and Human Resources Development Website, http://www.mest.go.kr/ms_kor/news/notice/broadcast/_icsFiles/afieldfile/2008/05/20/1199535_01.hwp (last visited August 25, 2008). See also the Korean Ministry of Education, Education, and Science Website, http://www.mest.go.kr/ms_kor/news/notice/broadcast/1199498_8083.jsp (last visited August 26, 2011).

⁷⁶ Further, opponents may also argue that despite the apparent efforts to benchmark the U.S. law school model, the end-result may still be Korean graduate law schools that are notably distinguishable from its U.S. law school counterpart in which Korean students will still be primarily focused on passing the state bar examination.

⁷⁷ See Yon-se Kim, *Roh to Keep Balance in Law School Quota*, KOR. TIMES, Oct. 24, 2007, http://www.koreatimes.co.kr/www/news/nation/2007/10/113_12473.html (quoting the former Korean President Roh as stating, "The government will mainly focus on balanced regional development in the selection of the law schools").

Conversely, given FTAs ratified with the U.S., EU, and Chile, proponents in South Korea argued that the South Korean legal market will increasingly be opened and liberalized, which will in turn, lead to greater competition from foreign law firms in South Korea.⁷⁸ Currently, as evidenced in this article, the domestic Korean legal market is effectively dominated in terms of market share by several large and dominant Korean law firms, a virtual oligopoly of legal services.⁷⁹ Other proponents, among others,⁸⁰ also come from the business sector, which views the increased supply of Korean lawyers, as a net benefit.⁸¹ The presumption is that a greater supply of Korean lawyers may result relative to before, which would then lead to the highest quality of Korean lawyers for the lowest price—a benefit to consumers in the legal services market in an economy that is nearly 60 percent driven by exports (and thus, purchases of South Korean products and services by foreign entities and consumers).⁸²

⁷⁸ Regarding the implementation of a possible “phased” opening of the Korean legal market relating to the passage of the U.S.-Korea Free Trade Agreement, see Tong-hyung Kim, *‘US Invasion’ Not Likely in Korean Law Market*, KOR. TIMES, Apr. 15, 2007, http://www.koreatimes.co.kr/www/news/special/2008/07/206_837.html.

⁷⁹ Such oligopolistic structure also mirrors the economic landscape of a few large corporate conglomerates constituting a large percentage of total economic output with firms such as Samsung, Hyundai, and LG. Further, although one might assume that lawyers in foreign law firms may opine only on matters of law not directly pertaining to South Korea, the apprehension is stemmed from the fact that such foreign law firm branches in South Korea may unduly attract some of the best Korean legal talent, who in the past, may have automatically gone to work for one of the larger Korean law firms, if for anything else, lack of outside competition, as in Japan with foreign law firms. Further, foreign law firm branches may most likely also offer higher compensation relative to many Korean law firms. Thus, by instituting the GLSA, the South Korean legal market is taking a pre-emptive strike in terms of preparing now for possible future competition to its domestic legal market in the future.

⁸⁰ One more sector that would benefit from the GLSA are the private education institutes, known as *hagwons* that are nearly omnipresent in South Korea. From a local cultural perspective, South Korea places a strong emphasis, some would argue too much so, on education, which has become so severe that the catchphrase “education fever” (교육열) was created to encapsulate this phenomenon. Such high demand has led to a commensurate supply of private institutions in Korea that prepares students from things like college entrance examinations to becoming air flight attendants.

⁸¹ 97.3 percent of Korea’s business sector, according to Lexis/Nexis and the Korean Economic Daily, view local law firms as “below the world standard.” See Sean Hayes, *Dismal Legal Education*, KOR. TIMES, Nov. 20, 2007, http://www.koreatimes.co.kr/www/news/opinion/2007/11/137_14_065.html.

⁸² Thus, the working assumption under this argument is that the South Korean markets do not have enough Korean lawyers, most notably, specialized legal practitioners. This is, in part, due to the fact that Korean lawyers historically had undergraduate concentrations in law (rather than non-law fields such as economics, politics, and so forth, under the U.S. system) since professional graduate legal training had not existed until their accreditation in 2008 by the South Korean government. With the new graduate law schools, Korean lawyers on paper will possess two skillsets, the

With the recent graduation of the first class of Korea's new professional graduate law schools in 2012, the issue of whether South Korea has sufficiently prepared its domestic educational and law firm infrastructure to reach or come close to global competitiveness as its legal service sector is liberalized, will be best determined as further data is compiled regarding the movement and employment-related details of Korean lawyers in the legal marketplace in the future. The new law school system would also benefit from instituting a greater amount of workshops and externships, thus implementing more practical aspects of legal education into the general curriculum, as well as allowing for students to become actively involved with the local community by providing pro bono or low-cost legal services (under the supervision of a law professor and/or attorney). A greater focus on law journals would also be a way for students to further refine and calibrate one's legal research and writing skills, thus providing a more value-added product, the law student and his or her legal skill sets, and allowing for the law student to focus on a particular area of his or her academic interests. At the same time, greater use of the Korean law journal system would provide a clear signal to future employers as to exactly which students represent the upper echelons of a particular law school class, especially when grade distribution is fairly liberal relative to U.S. law school standards.

What is more clear is that the three pre-emptive policy efforts initiated by the Korean government in preparation for the opening of South Korea's legal market constituted, individually and as a whole, an unprecedented national effort to globalize its lawyers and legal profession as well as to stymie the possible negative effects of foreign law firms penetrating into South Korea's historically closed domestic legal market.

II Conclusion

Prior to the passage of the Korea-U.S. free trade agreement that would liberalize South Korea's legal services market to allow for the onshore entry of U.S. law firms for the first time in its history, domestic Korean law firms rapidly began a race-to-the-biggest strategy, trying to gauge the potential costs and benefits of merging with other law firms. The working assumption by domestic South Korean entities was that the

legal skillset (from the Korean law school) and the undergraduate skillset (presuming that the undergraduate degree will in most cases be unrelated to law), similar to the case with U.S. lawyers. This, in theory, could lead to a group of relatively specialized Korean lawyers in areas, such as intellectual property (copyrights, trademarks, and patents), finance, business, and human rights, to name a few. See Jasper Kim, *Wanted: value-added lawyers*, KOR. HERALD, Oct. 23, 2007, at 7.

best way to compete with incoming U.S. law firms would be by force of sheer size. Thus, under this thinking, the larger the domestic firm, the less likely it was to fall by the wayside to U.S. law firms. The collapse by many of South Korea's law firm dominance was a tangible fear by many Korean legal professionals based on evidence of legal markets having been liberalized in such countries as Germany and France,⁸³ which was subsequently followed by domination in the league tables by foreign law firms in each of their home markets. South Koreans, always fearing the potential for perceived global embarrassment—in part stemming from the country's 1910–45 occupation by Japan as well as the 1997–98 financial crisis—did not want to see its own domestic league tables dominated by non-Korean firms.

In response, the South Korean government put forth a set of three “pre-emptive” globalization policies to reconstitute and increase the overall competitiveness of its lawyers and legal services sector through various agencies to help the local legal services sector, specifically: 1) a mandatory course in Anglo-American law taught in English (required for all incoming new Korean lawyers under the Traditional Bar Exam); 2) the introduction of “American-style” professional graduate law schools (beginning in 2009 by converting twenty-five government-selected law programs to three-year “American-style” professional graduate law school system as well as instituting a New Bar Exam); and 3) the passage of a FLCA (allowing for foreign legal consultants to practice in South Korea).

Such pre-emptive globalization policies, set forth by various entities in the legal services and education sectors, reflected the South Korean desire to stymie the possible negative effects of having foreign law firms enter its borders in a “barbarians at the gates” perceived scenario following the implementation of various free trade agreements, namely with the U.S. and EU, which effectively opened South Korea's historically closed legal gates to foreign participants for the first time in its modern history. However, in an effort to accomplish its objectives, the pre-emptive policies also included some shortcomings, such as the fact that the JRTI required course in English as well as the American-style graduate law school system were still taught in a “teaching to the test” in which standardized tests and rote memorization, rather than the learning process of “thinking like a lawyer,” often took precedent.

⁸³ See *supra* note 7.

At the same time, much needed progress has been made in the local legal services sector due to the three pre-emptive policies initiated by South Korea's policymakers in a relatively short time period. As it stands today, the verdict is still yet to be determined in terms of whether South Korea's pre-emptive policies will ultimately be judged as a success or failure from the purview of legal scholars, law students, and practitioners inside and outside the Republic of Korea.