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論文

Environment-oriented EPA

Nobuto Iwata (1)

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WTO

Eco-tourism

FTA

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Since the Earth Summit 1992, many MEAs have introduced the phrase of "sustainable development". Even the WTO has introduced it into the preamble of 1995.

Under globalization, the world's natural and environmental resources seem to be on the way to depletion. At present, NAFTA and the U.S.-Jordan FTA are known as a FTA with some articles for the regional environmental preservation. In terms of regulations and standards, the EU as a customs union, has some environmental systems based on GSP, which are called "GSP plus" (12)

Among the WTO membership countries, the preservation of global environment has been a common topic. The formation of FTA between Mongolia and Japan is consistent with the "purpose of sustainable development", contained in the WTO preamble, and contributes to compatibility between global environmental preservation and global free trade. In this paper, the term "FTA" (2) means RTA, or Regional Trade Area, which is common in GATT/WTO agreements, and includes Economic Partnership Agreement, so-called "EPA", which consists of FDI (foreign direct investment), and service trade.

Introduction

The year 2006 saw the commemoration of the Mongolia Empire, which had been founded in 1206. In that year the 2006, Japanese tourists ⁽³⁾ with no-visa, Mongolia. Among these Japanese tourists, there were some people, who are a repeater after first visiting to Mongolia.

Since the 1990s, on the way to decline of the number of births and aging society, the Japan has been steadily overcoming the stagnant economy. This time has been called, "the missing ten-years of the Japanese economy".

As well as other industrial countries, middle-aged and older Japanese people have been enjoying the natural environment for relaxation or amenity. If Mongolia and Japan could form a FTA/EPA under the WTO agreements, then both countries could increase benefits. Japanese people could enjoy benefits of the amenity by their staying Mongolia, and some business could profit by the transfer of service technology/know-how related to eco-tourism.

On the other hand, Mongolia could enjoy the benefit of economic growth, which consists of the growth in tourism services, through improving the quality of the local environmental resources based on eco-tourism through Japanese technologies, in addition to the improvement of a north-east Asian natural environment around Mongolia.

Almost all FTAs ⁽⁴⁾ which have been notified to WTO, are composed of four types. The first is a *Customs Union*. The second is *Free Trade Area*, which is a regular FTA for industrialized countries. These two types are based on GATT Article XXIV. The third is an *Enabling Clause-based FTA*, which is for developing countries and is a preferential agreement or GSP. The forth is an economic integration agreement based on GATS Article V.

1. Industrialized and developing countries

The basic grounds of FTAs are the "GATT Article XXIV", which has been applied to the FTA of developed countries, and the "enabling clause", which is applied to the FTAs by developing, or the least developed countries. Besides this, the enabling clause-based FTA are divided into the more transparent FTA similar to GATT Article XXIV and the less transparent FTA. In addition, the GATS Article V is for an economic integration which includes service trade ⁽⁵⁾.

Among GATT Article XXIV, there are two vague phrases, which are "substantially all" (free trade) and "reasonable length of time" ⁽⁶⁾. These vague phrases have been interpreted flexibly among WTO members.

Generally, the definition of "substantially all" has been recognized as almost 90 % free trade in terms of import trade. Although, developed countries recognize it in terms of ad-valued base, some developing countries recognize it in terms of an item-numbers base. In spite of these, all countries of WTO simply have a ccommon consensus of "free trade of 90%". Some FTAs extend the "reasonable length of time for completion" to mean over ten years. This means that, if the third countries of the FTA have not any appeal against the tariff and/or non-tariff barriers of the FTA on negotiation, then the FTA might be overlooked as a WTO rule consistent for the time being.

In the preamble of WTO agreement, there are three terms, which are "optimal use of global resources" (7), "preservation of environment", and" sustainable development".

These are all related with the compatibility between trade and environment. It means that, a free trade under WTO regime should go along with global environmental preservation. As the FTA is based on WTO agreement, specifically GATT Article XXIV or *enabling clause*, the formation of FTA should permit the compatibility between trade and environment.

2. Mongolia and Japan

Japan has been on the way to an ageing society with a declining birthrate and still a large- industrialized country. The GDP has been about five trillion US dollars since 1990th and Japanese people has been looking for natural environment, which is linked with a amenity or tourism. Mongolia is a small-developing country, and the GDP of Mongolia has been about two billion US dollars and a population of about 2.5 million.

As mentioned above, in terms of the size of economy, Japan is a large country and Mongolia is a small country (8). On the contrary, in terms of natural environment resources for tourism, Mongolia is a large country, and Japan is relatively a small country.

Until now, the scale of trade between Japan and Mongolia has been remained very small. If both countries could build up an environment-oriented FTA, then the service-trade instead of goods-trade might be increased between them.

3. Environment-oriented FTA/EPA

The FTA of this paper is not a traditional goods-oriented but a service-oriented FTA based on eco-tourism with high quality and natural environmental preservation between Mongolia and Japan (9).

This type of FTA is consistent with the purpose of Doha Development Agenda (DDA), which has been negotiating as a multilateral trade negotiation by all WTO members since 2001. The common understanding of DDA seems to support the development of LDCs although the main topics are agriculture and service.

From international trade theory, or a Ricardian comparative-cost theory (10) which has been an economic principal of GATT/WTO, each country should be able to increase its own total benefits through free trade by taking advantag of their comparative advantage.

Under the FTA, the number of Japanese tourists and the deficit of Japanese

service trade must be increased, and the surplus of Mongolian service trade must be increased. On the other hand, the investment to Mongolia from Japan of environment-friendly technology or eco-tourism-oriented know-how, must be increased.

In Mongolia, there are abundant natural environmental resources, including plains, mountains, desert, and so on $^{(11)}$.

For Mongolia, service trade of tourism is a comparative advantage sector. Nevertheless, the reason why there are so small number of tourist from developed countries including Japan is caused by the shortage of social infrastructure including water supply and service know-how ,which are comparatively advantage sectors of Japan.

If both countries could trade more openly than now ,under environmentoriented FTA, then both countries could enjoy just a "win-win" relationship in terms of trade and environment.

4. FTA and Mongolia

The recent momentum of FTA formation around the world has made a new impulse of FTA for Mongolia. In January 2007, the total number of WTO members are 150 including Vietnam(2007). Presently, each WTO member has some FTA memberships as well except for Mongolia. There are some reasons, why Mongolia does not have any FTAs with other WTO members. First of all, Mongolia is a landlocked country in Central Asia. Second, the Mongolian domestic market is very small compared with other neighboring countries, like China or Russia. Third, Mongolia has not enough tradable goods except for mining or apparel sectors.

But these reasons are not enough for persuasive For example, the exporting of mineral resources from Mongolia to Japan includes some problems of cost sharing with transportation through China or Russia.

Since the 1940's, the Mongolian government has been balancing its own political-economic position between China and Russia, and seems to have been negotiating actively for FTA formation with Russia US, Japan and Korea although there not so much outcome of negatiations.

5. Mongolian economy and trade partners

Mongolia is a typical developing country. The area of the whole country is about four times of Japan, and the population is about 2,500,000 which is roughly one fiftieth of Japan. Around half of the population seems to be living in the Ulaanbaatar area. In terms of international trade, the main partners with Mongolia are China, Russia, Korea and US. The share of Japanese trade is so small that the share of exports to Japan is 2% of Mongolian total exports, and the imports from Japan is 8% of Mongolia's total imports. Though there are not so much distinguished export items of Mongolian industrial goods, the natural mineral resources seem to be promising for exports to the world. When Mongolia exports meats or cashmere goods to EU, they can enjoy the GSP from the EU like other some developing countries (13).

According to the National Statistical office of Mongolia (2001), the GDP from 1995 to 2001 has been constantly increasing 10% per year except for 1998. The largest share of GDP is "commerce and services industry" and the growth rate is the highest among all Mongolian industries. Among these commerce and services sectors, the "tourist sector", which constitutes around 15% of GDP, seems to be the most potential growth-oriented sector. The second share is "agricultural and pastoral sector", which is unstable due to climate change. Mongolia, which had been under the planned economy until the collapse of the Soviet Union in 1991, has had some domestic issues since its evolution towards a market economy. The first is the shortage of infrastructure of the capital city. The traffic jams of Ulaanbaatar are similar to the scene of Tokyo of more than 40 years ago. In those days, the infrastructure of Tokyo needed substantial construction for modernizing the capital city.

As the average monthly rainfall of Mongolia is very small, the domestic electricity is supplied by not hydro-electric generation, but thermal power generation because of abundant mineral resources.

Second, there is an unbalanced economic structure, as has already been mentioned. The Mongolian industrial sector has been smaller than a service sector in terms of a domestic economy. To maintain Mongolian's self-sufficient growth, it needs a healthy development of the industrial sector in addition to service sector based on tourism business. Paradoxically, under free trade, daily-life goods have been imported through neighboring countries including China, so

that, domestic growth rate of consumer prices has decreased to 3 %, and on the surface, the welfare of domestic economy has been improving. Until the 1980s, daily necessities and agricultural foods had been produced by governmental companies. Since the Soviet Union collapse in 1991, Mongolian agricultural subsidy had been abolished and domestic agricultural foods changed from domestic ones into imports from China.

Third, there are environmental issues. The Gobi desert is one third of Mongolian domestic territory and a source of yellow sand which causes air-pollution in north-east Asia including Japan. Scientists say that, the tree-planting measures are effective for decreasing the damage of air pollution caused by yellow-sand. But without any economic benefits for Mongolian government directly, there is not any incentive for the government to improve the environment.

6. Mongolia under the WTO

Through the collapse of the Soviet Union in 1991, Mongolia could not continue importing anything from other communist countries and faced a critical situation in its domestic economy. Soon after that, the Mongolian economy recovered through support by international organizations such as the IMF, World Bank and industrialized countries including Japan. Mongolia shifted into a market economy by 1994, away from its planned economy.

Since joining the WTO at 1997, Mongolia has been reforming its domestic economy to become a "free trade country". For example, since 1987, ASEAN has been gradually applying the common regional domestic tariff of 5% in principle, for all tradable goods produced in ASEAN countries. On the other hand, Mongolia had applied 5% import tariff to almost all goods at the time of joining WTO, and even applied zero % for some goods. Soon after joining WTO, Mongolia has been approved and titled as developing country in stead of least developed country, in terms of the level of economic growth. Therefre, it has been difficult for Mongolia to enjoy the benefits of GSP (Generalizd System of Preference).

7. WTO and sustainable development

The preamble of WTO agreements is different from the former GATT (called,"

GATT 1947"). It requires WTO membership countries to follow the optimal use of world resources based on the purpose of sustainable development. The preamble had been put in the WTO agreement through the United Nations Conference on Environment and Development, so-called, "Earth Summit" in 1992. At the conference, the GATT secretariat followed the idea of "sustainable development". The idea is a prerequisite condition for the "Kyoto-protocol" as well.

8. FTA formation and Non-tariff measures

According to Article XXIV of GATT 1994, the level of the FTA's tariff and non-tariff barriers (NTBs) shall not go beyond the last level before the FTA. If the level of tariffs and NTBs become higher after the FTA, then the members of the FTA shall compensate the third countries for their trade losses (14). But, even if the tariffs and NTBs increase by the FTA, it will not be subject to the WTO dispute settlement body, as long as the measures of tariffs are based on the Most Favoured Nation treatment and National Treatment (15).

From international trade theory, the effects of tariffs/NTBs is dependent on the economic scale of the import country. If the large import-country raises the tariffs or NTBs due to regulations like food safety, it might lead export countries to decrease the export price or adjust the export countries' production method to import country's regulations (15). On the contrary, if the small import-country increases its tariffs or NTBs, then it might not lead export-countries to decrease the price of export goods or adjust the export-countries' PPMs to the import country's PPMs, because the export-country could shift their destination toward other import-countries.

9. Definition of the environment-oriented FTA/EPA

EU, has applied a "*GSP plus*" to the LDCs. Through "GSP plus", EU has been importing some primary products which are approved by EU domestic authority for the environment. Once the primary products, from neighboring developing countries including Mongolia, are allowed as "GSP plus" suitable under MFN& NT principles, then these products are allowed to be imported into EU with zero tariffs ⁽¹⁶⁾. From these reasons, the effect of "GSP plus" seems to be the case (A) above ⁽¹⁷⁾. The above table is for the definition of an environmental-

Chart- I: Environment-oriented FTA

E out	+	0	_
+	Α	В	
0			
_			

Eout: Environmental effects for outward of FTA.

Ein: Environmental effects for inward of FTA.

Category A means that the FTA has good environmental effects on both inside and outside of the country/territory.

Category B means that the FTA has good environmental effect on only the inside of it.

In my paper, I would define these two categories as a "Environment-oriented FTA". The category A should be better than B for the global environment.

oriented FTA on the premise that FTA should be able to increase the trade benefits. It shows the FTA effects on the inside or outside of the area, by dividing three categories of an environmental – plus, neutral, and minus. For example, the above category (B) is an environmental -plus for the inside but neutral for the outside of the FTA.

The category (A) is an environmentally improve-oriented for both the inside and the outside of the FTA

The category (A) and (B) are called an Environment-oriented FTA.

The yellow-sand, which is generated partly from the Gobi desert of Mongolia, has been causing environmental damages in north-east Asia including Japan and Korea. If it is possible that, by green-planting measures or environmentally sound technologies, the formation FTA between Japan and Mongolia could improve the outside and inside of the FTA regional area more environmentally plus, then the FTA is category (*A*). If almost all WTO members recognize that present global environmental issues are getting so serious that they should be cooperative, then the case (*A*) might be better than case (*B*). On case (*A*), even if each or both countries could not reach 90 % level of free trade based on GATT article XXIV, the FTA must be recognized as a WTO rule- oriented.

10. Requirements for WTO consistence

To consider whether the environment-oriented FTA is consistent with WTO rule, some hypotheses are formed as follows.

Hypothesis 1:

The diversity of the FTA is WTO rule-consistent, as long as the FTA formation does not any trade losses on the FTA members and the third countries.

Nowadays, more than 200 numbers of FTA have been reported to CRTA (Committee on Regional Trade Agreements) of WTO, and the number has been increasing yearly. But each FTA's contents have been deferent from each other because of the vagueness of the GATT Article XXIV, which is just a basis of many FTAs (18).

Among GATT Article XXIV, there are two ambiguous keywords. The first is a "substantial all trade". The second is a "reasonable length of time". Concerning the first keyword, WTO members have recognized implicitly that, as far as the degree of free trade in the FTA is 90 %, the FTA is WTO rule-consistent. This idea of 90% free trade, not 100 %, is not formal consensus among all WTO members. At the present, almost all FTAs are not perfect-oriented free trade and any FTAs based on the "90% free trade" have been not appealed among WTO members.

According to the" understanding on an interpretation of GATT Article XXIV", the reasonable time-span should be recognized as an "under 10 years" with exception. For example, in the US-Australia FTA, the US government said that, as the sugar is a sensitive item (19), for the US the time-span of completion for sugar tariffs should be extended into 12 years, not 10 years.

In addition, as all industrialized countries, except for the US and Australia, are members of Kyoto protocol, they should be forced to apply environment regulations strictly to inside and outside products or PPM under the MFN and NT principles.

The more environment regulations get strictly, the more the degree of free trade must be decreased. Until now, the priority between free trade of WTO and environment preservation of Kyoto protocol seems to be not clear among WTO members.

Hypothesis 2

WTO members' benefits from FTA formation have been expanding from only economic benefits to more large ones, which include non-economic ones.

For overseeing FTA since 1948, it might be useful to divide into three stages as follows. The first stage of FTA is a traditional FTA. Since 1948, contracting parties of GATT seemed to recognize that economic benefits should be increased mainly by tariffs reduction or abolishment whether multilateral free trade like GATT or bi/pluri-lateral free trade like FTA. The second stage is more comprehensive FTA like today including service and investment and so on. Like these FTAs have been called EPA rather than FTA. But even these comprehensive FTAs are focusing on economic benefits. The *third* stage is a future FTA, which should be focusing on the balance between trade and environment. For example, the US congress emphasizes that US-Korea free trade agreement:"KORUS FTA (20)" should include international labor and environmental standards (21). "Recycling trade policy" is an effective measure for the "optimal use of natural resources" which is seen on the WTO preamble. If a "large" country of the FTA negotiators decide to introduce "recycling" as a regulation, then other FTA nego-

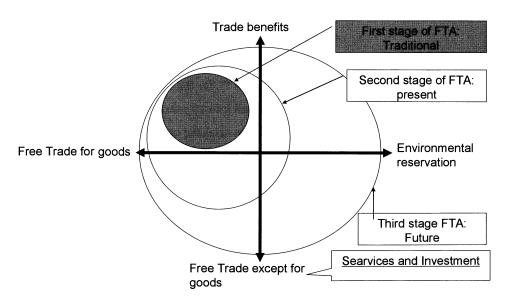


Chart-II: Developing Stages of FTA

tiators must be forced to follow it for exporting to the large countriy. In addition, they might be able to give import-priority to the goods which are manufactured by much more recycled parts than the other normal parts.

Hypothesis 3

 $\it Eco$ -tourism contributes to both service trade and environmental preservation of FTA members.

According to the definition of UNWTO $^{(22)}$, tourism is that, the activities of person traveling and staying in place outside their usual environment for not more than one consecutive year for leisure, business and other purposes.

On the other hand, the definition of eco-tourism is not clear among the world, although some definitions of it seem to make the balance among *local community, environment* and *local business profits* (23). Ecotourism means that, with increasing profits from tourist business, the local environment should be conserved and the local people's welfare should be improved.

local Environment

Local Local Business

Chart-Ⅲ: Concept of Eco-tourisum

International ecotourism

If international ecotourism could be possible by forming FTA between Mongolia and Japan, it might be called a "ecotourism-oriented FTA", or "environment-oriented FTA". The scenario is as follows. If Mongolia-Japan FTA

,which include "tariff abolition of 90 % trade volumes of the present", "trade liberalization of tourism", and "liberalization of FDI", is formed, then Mongolian tourism sector should be able to improve local employment, and increase Mongolian GDP, while Japanese companies must enter into the Mongolian tourism market with environment-friendly technologies.

And the trade of goods, in particular, agriculture and industrial goods between both countries would not be increased in terms of the present situations.

11. Mongolian tourism

According to the official data, Mongolian tourist revenue accounts for 10-15% constantly since 1994. On the other hand, in the case of advanced country like Japan and US, it stands for less than 1%. The purpose of almost all foreign tourists in Mongolia is to enjoy Mongolian natural environment. The number of foreign tourist (China, Russia, Korea, Japanese, US, and EU visiting Mongolia, has been increasing yearly. From official statistics of Mongolia, the number of Japanese tourist has been around 20000 persons, and Chinese tourist has been around 150,000 to 200,000 persons.

Chart-IV: Tourisum of Mongolia

Chart-A: Tourism /GDP

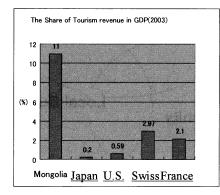
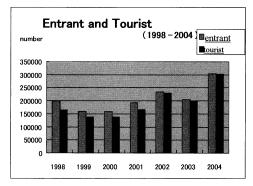


Chart-B: 🔳 total immigrants & 🔳 tourists



Chart—A: ITHE YEARBOOK OF MONGOLIAN TOURISM STATISTICS 2005 EDITION].
Chart—B: UNWTO Tourism Market Trends, 2005 Edition-Annex
Calculated International Tourism Receipts by Country of Destination,

Chart-V: The share of Japanese tourist

Foreign tourist :2000-2004
2000: 158,200 persons
2001: 192,100
2002: 235,100
2003: 204,800

2004: 305,100

Mongolia Top Five Tourists country: 2004						
139,283	persons					
53,918						
26,602						
13,092						
9,431						
	4 139,283 53,918 26,602 13,092					

	1998	1999	2000	2001	2002	2003	2004
Foreign tourist:	197,100	159,700	158,200	192,100	235,100	204,800	305,100
Share in GDP:	13.3%	11.6%	11.0%	10.1%	15.0%	12.5%	13.8%

CF: Mongolia's Tourism Statistics 2005

12. Some issues

Even if both countries abolish their all tariffs based on a "substantially all trade" of GATT 1994 Article XXIV, then Mongolia seems not be able to export agricultural foods to Japan. Therefore, Japanese government/agricultural sector will not have any opposition against it. Particularly, as the self-sufficiency of the both countries are less than 50 %, so the FTA between Japan and Mongolia might not have any hard negotiation like Japan-Korea FTA, Japan-Australia FTA, and so on.

In addition, even if both countries agree and put more rigid regulation for preserving the regional natural environment, it must consist with WTO preamble on condition that it improve regional environment with scientific evidence.

If so, every WTO member might support the FTA, and it must be justified as a "sustainable development" consistent-FTA.

Tentative conclusion

Through forming FTA between Japan and Mongolia, both countries might be able to enjoy increasing service trade which is related with Mongolian natural environment, except for goods trade. Mongolian natural environment composing of the Gobi desert and grassland of vast extent are attractive to tourists from advanced countries including Japan. But the present Mongolian technology is not enough for preserving domestic natural environment which has been left wild.

Based on the idea of "eco-tourism", transferring Japanese environment technology

into Mongolia might increase foreign tourists and contribute to Mongolian service trade. Through increasing the number of Japanese tourists, the more Mongolian natural environment has been improved, the more Mongolian GDP will be increased substantially.

On the other hand, the benefits of Japan are to be able to enjoy "true wellness", along with transferring Japanese technology of environmental technology and related direct investment toward Mongolia . Besides these benefits, it is important that the FTA between Japan and Mongolia might contribute to preserve global environment in the long run. Specifically, tree-planting measures for Gobi dessert area might be useful for attracting tourist from advanced countries ,and water supply for tourists might be shifted to the local agricultural farming. The environment-oriented FTA based on eco-tourism should be consistent with WTO rule.

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EU: http://ec.europa.eu/trade/issues/global/gsp/memo230605_en.htm UNWTO: http://www.unwto.org/aboutwto/eng/aboutwto.htm

- (1) The author is professor/Dr. of International Trade Theory, Dean of School of Business Administration, and a Director of WTO Research Centre of Aoyama-Gakuin University in Japan. E-mail: iwata@busi.aoyama.ac.jp
- (2) FTA is "Free Trade Agreement".
- (3) The number of about 20,000 Japanese tourists in Mongolia was much more than the past each year.
- (4) If FTAs/RTAs reportedly planned or already under negotiation under WTO are concluded, the total number of FTAs/RTAs in force might soon reach400. cf: OECD(2007)p.12.
- (5) Developing countries FTA are all based on Enabling Clause, except for China-Hong Kong (2004) & China-Macao (2004), which are based on GATT Article XXIV. Cf:WT/REG/17(24 Nov. 2006)
- (6) "understanding on the interpretation of Article XXIV of the general agreement on tariffs and trade 1994" mentioned about "the reasonable length of time".
- (7) The preamble of GATT 1947, The contracting parties thought that Economic prosperity should be able to increase through the "full use of natural resources"
- (8) When Mongolia had faced a serious economic crisis because of Soviet Union collapse, Japan and other countries/international organization had supported Mongolia through large scale economic assistance, like a ODA. So, the friendship between Japan and Mongolia has been maintaining constantly.
- (9) China insists on "ASEAN+three(China, Japan, Korea). and Japan insists on "ASEAN+six (China, Japan, Korea, India, Australia, N.Z)
- (10) D. Ricardo had advocated (1817).
- (11) From CIA(U.S.), Mongolia has ten memberships including "Kyoto-protocol" as follows: \[\int Biodiversity, Climate Change, Climate Change-Kyoto Protocol, Desertification, Endangered Species, Environmental Modification, Hazardous Wastes, Law of the Sea, Ozone Layer Protection, Wetlands.
- (12) http://ec.europa.eu/trade/issues/global/gsp/memo230605_en.htm
- (13) Recently, the private sectors of Mongolia economy have been 80% of the DGP. The share of industrial sector has been still small. On the contrary, the share of tourism has been increasing more than industrial sector.
- (14) by lowering the import tariffs of some other goods for the third countries.
- (15) PPMs: process and production methods.

- (6) If these benefits of the all WTO members could not be increased, the environmental -oriented measures like GSP plus in the FTA might be meaningless.
- (IT) Through "GSP plus", EU has been importing some primary products which are approved by EU domestic authority for environment. When the primary products, from neighboring developing countries including Mongolia, are approved as "GSP plus" suitable under MFN& NT principle, then these products are imported into EU without tariffs.
 - But, if these benefits of the all WTO members could not be increased, the environmentaloriented measures like GSP plus in the FTA might be meaningless.
- (18) Specifically, the FTA including advanced countries are all based on the Article XXIV, while almost all the FTA of DCs/LDCs are based on the Enabling Clause.
- (19) Sensitive items are so-called "waiver items" during the times of old GATT(1948-1994)
- (20) The American Chamber of commerce in Japan(ACCI), April 13,2007." ACCJ welcomes the U.S.-Korea Free Trade Agreement"
- (21) What is called "G20" of 20 WTO members has insisted on the multifunctional of agriculture. They say that, as the agriculture has a function of environmental preservation, it is difficult for agriculture to adapt itself to free trade without protection.
- (22) The World Tourism Organization is a specialized agency of the United Nations, (UNWTO). http://www.unwto.org/aboutwto/eng/aboutwto.htm
- (23) From Conservation International, "Ecotourism: Responsible travel to natural areas which conserves the environment and improves the welfare of local people" http://www.ecotour.org/xp/ecotour/