
Emerging Diversity in Trade Remedy Systems: Case in East Asian FTAs

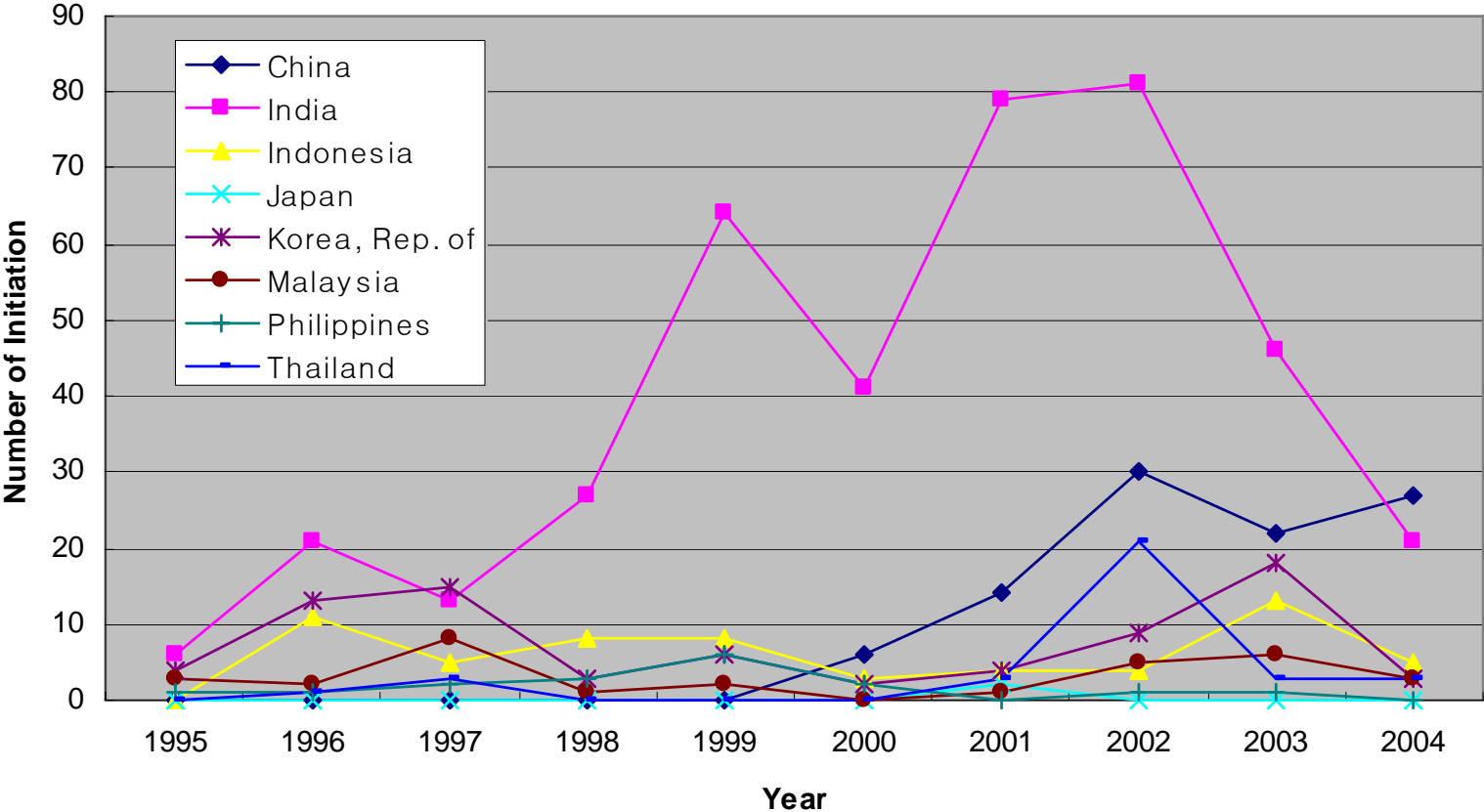
Dukgeun Ahn
Seoul National University



GSIS

GRADUATE SCHOOL OF INTERNATIONAL STUDIES
SEOUL NATIONAL UNIVERSITY

Anti-dumping Actions by Selected Asian Countries: 1995–2004



Top Ten Anti-dumping Target Countries: 1995–2005

	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	Total
China	20	43	33	28	40	43	53	51	52	49	57	469
Korea	14	11	15	24	34	22	23	23	17	24	11	218
United States	12	21	15	15	14	12	15	12	21	14	11	162
Chinese Taipei	4	9	16	10	22	16	19	16	13	21	13	160
Japan	5	6	12	13	22	9	13	13	16	9	7	125
Indonesia	7	7	9	5	20	13	18	12	8	8	14	121
India	3	11	8	12	13	10	12	16	15	8	13	120
Thailand	8	9	5	2	19	12	16	12	7	9	12	111
Russia	2	7	7	12	17	12	9	18	2	8	3	97
Brazil	8	10	5	6	13	9	13	4	3	9	4	84



Anti-dumping and Countervailing Systems for FTA

Adoption of the WTO System	WTO Plus Approach
<ul style="list-style-type: none"><li data-bbox="158 625 586 661">❑ Japan – Singapore EPA<li data-bbox="158 732 529 768">❑ Japan – Mexico FTA<li data-bbox="158 839 496 875">❑ Korea – Chile FTA	<ul style="list-style-type: none"><li data-bbox="953 625 1700 704">❑ Canada-Chile FTA: reciprocal exemption of the anti-dumping actions <li data-bbox="953 775 1667 939">❑ Singapore-New Zealand FTA: <i>de minimis</i> margin increased to 5% for both new investigations and review procedures. The sunset period shortened to 3 years.



Korea-Singapore FTA

Article 6.2 : Anti-Dumping Measures

1. The Parties maintain their rights and obligations under Article VI of GATT 1994 and the Agreement on Implementation of Article VI of GATT 1994 (“WTO Agreement on Anti-dumping”).
2. Anti-dumping actions taken pursuant to Articles VI of GATT 1994 and the WTO Agreement on Anti-dumping shall not be subject to Chapter 20 (Dispute Settlement).
3. Notwithstanding paragraph 1, the Parties shall observe the following practices in anti-dumping cases between them in order to enhance transparency in the implementation of the WTO Anti-dumping Agreement:
 - (a) when anti-dumping margins are established on the weighted average basis, all individual margins, whether positive or negative, should be counted toward the average; and
 - (b) if a decision is taken to impose an anti-dumping duty pursuant to Article 9.1 of the WTO Agreement on Anti-dumping, the Party taking such a decision, should apply the ‘lesser duty’ rule, by imposing a duty which is less than the dumping margin where such lesser duty would be adequate to remove the injury to the domestic industry.



Korea-EFTA FTA

ARTICLE 2.9

Subsidies and Countervailing Measures

1. The rights and obligations of the Parties relating to subsidies and countervailing measures shall be governed by Articles VI and XVI of the GATT 1994 and the WTO Agreement on Subsidies and Countervailing Measures, except as provided for in paragraph 2.
2. Before a Party initiates an investigation to determine the existence, degree and effect of any alleged subsidy in an EFTA State or in Korea, as provided for in Article 11 of the WTO Agreement on Subsidies and Countervailing Measures, the Party considering initiating an investigation shall notify in writing the Party whose goods are subject to investigation and allow for a 30 day period with a view to finding a mutually acceptable solution. The consultations shall take place in the Joint Committee if any Party so requests within ten days from the receipt of the notification.

ARTICLE 2.10

Anti-Dumping

1. The Parties retain their rights and obligations under Article VI of the GATT 1994 and the Agreement on Implementation of Article VI of the GATT 1994 (hereinafter referred to as the “WTO Agreement on Anti-Dumping”), subject to the following:
 - (a) The Parties shall endeavour to refrain from initiating anti-dumping procedures against each other. To this end, when a Party receives a properly documented application and before initiating an investigation under the WTO Agreement on Anti-Dumping, the Party shall notify in writing the other Party whose goods are allegedly being dumped and allow for consultations with a view to finding a mutually acceptable solution. The outcome of the consultations shall be communicated to the other Parties.
 - (b) If a Party takes a decision to impose an anti-dumping duty pursuant to Article 9.1 of the WTO Agreement on Anti-Dumping, the Party taking such a decision shall apply the “lesser duty” rule by imposing a duty which is less than the dumping margin where such lesser duty would be adequate to remove the injury to the domestic industry.
2. Five years after the entry into force of this Agreement, the Parties shall in the Joint Committee review whether there is need to maintain the possibility to take antidumping measures between them. If the Parties decide, after the first review, to maintain the possibility they shall thereafter conduct biennial reviews of this matter in the Joint Committee.



FTA Safeguard Mechanism

- ❑ Korea – Chile FTA: WTO SG + sectoral SG (special safeguard system for agricultural goods in case an import increase causes or threatens to cause serious injury or market disturbance)

- ❑ Japan-Singapore EPA, Japan-Mexico FTA, Korea-Singapore FTA, Korea-EFTA FTA:
Transitional bilateral SG
 - ❖ “substantial” causality requirement
 - ❖ not even include “facilitation of structural adjustment” as a requirement to impose or an element to maintain safeguard actions
 - ❖ domestic judicial review systems

