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國際學碩士學位論文

**The Influence of U.S. Trade Remedies on
Korea's Industrial Policy:
Emphasis on the Trends in and Effects of
Countervailing Measures since the 1970s**

미국의 무역구제조치가 한국의 산업정책에 미친 영향:
1970년대 이후 상계조치를 중심으로 한
미국의 무역구제조치 동향 및 영향 분석

2014年 8月

서울대학교 國際大學院

國際學科 國際通商專攻

朴 矮 俐

**The Influence of U.S. Trade Remedies on
Korea's Industrial Policy:
Emphasis on the Trends in and Effects of
Countervailing Measures since the 1970s**

Thesis by

Yu Ri Park

Graduate Program in International Commerce
For the degree of Masters of International Studies

August 2014

**The Graduate School of International Studies
Seoul National University
Seoul, Korea**

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이 論文을 國際學碩士學位論文으로 提出함

2014年 8月

서울大學校 國際大學院
國際學科 國際通商專攻
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朴矮俐의 國際學碩士學位論文을 認准함

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Abstract

The Influence of U.S. Trade Remedies on Korea's Industrial Policy: Emphasis on the Trends in and Effects of Countervailing Measures since the 1970s

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Given the importance of exports in the Korean economy, international trade disputes have significant influence, not only for its impact on short term values but also on structural changes in the long run. Especially trade disputes with the U.S., due to its market size and social and political significances, have given considerable impacts on industrial policies of Korea over time.

How has the U.S. trade remedies evolved? What are the factors that caused the recent increase in U.S. trade protectionist measures and the shift in the most actively used trade remedies? How have the shifting trends in U.S. trade measures been influencing Korea's industry policies? Answering these questions will facilitate the understanding of Korea's industrial policies and throw lights on the ongoing and future trade disputes.

The first half of this paper provides statistics of U.S. trade remedies using

data published by the U.S. International Trade Commission and other government agencies. Analysis of the statistics is focused on the trends in caseloads and shifts of most actively used measures—from anti-dumping and countervailing measures to Section 337 measures. Also, factors that induced such trends and shifts are discussed; two factors suggested include the relative decline of US hegemonic power and domestic politics.

The remaining half of the paper is concentrated on the influence of U.S. trade remedies on Korea's industrial policy. The emphasis is on countervailing measures among several trade remedies. Statistics on U.S. CVD measures and data on subsidies that were at issue are provided in the chronological order. The countervailable subsidies show vestiges of Korea's industrial policies from the late 1960s and 70s that targeted infant industry promotion. Subsidies that were terminated over time reflect Korean government's efforts to eliminate causes of trade frictions. Analyzing these data provides insights on the patterns of trade disputes regarding Korea's industrial policy.

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Keywords: Trade Remedy, Countervailing Duty, Subsidy, Industrial Policy, Section 337 Investigations, Trade Protectionism

Student Number: 2012-23829

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I. INTRODUCTION

1. Background

Since the global financial crisis in 2008, countries have been actively using trade remedies and measures that are counter to trade liberalization in nature. Trade protection in the form of tariffs and non-tariff barriers, as well as the introduction of trade remedies that followed the cut-throat competition from the increase in regional trade agreements worldwide have been raising countries' reliance on trade remedies as economic recessions continued.¹ Recently, US trade remedies are often seen as trade protectionist measures that are not proportionate to the injuries to domestic industries and criticism to them are frequently seen in Korean headlines. For instance, specifically mentioning the imposition of 6.91% provisional anti-dumping duty for imported non-oriented electrical sheets from Korea by the US, *Donga-Ilbo* covered the destructive power of US trade protectionist policies for which both the administration and legislature are omnidirectionally involved. Pointing out that the number of anti-dumping and countervailing case litigations in 2013 was 38, highest in the past dozen years since 2001 when there were 55 cases, the article suggested that these measures are to cover the lagging competitiveness of US firms in certain industries in decline—for instance, the steel industry.²

¹ Jeong, Yeong-Jin. "Foreign Trade Remedy Authorities, Trends in Import Restrictions, and Policy Implications." Lecture, Seminar for the development of Trade Remedy Policies from Korean Society of International Economic Law, Seoul, Korea, October 25, 2012.

² Kim, Chang-Deok. "US Government and Congress, 'Chocking Overseas Firms'." *Donga-Ilbo*, May 21, 2014, <http://news.donga.com/BestClick/3/all/20140521/63628447/1> edition, sec. Business.

The U.S. is Korea's second largest export trading partner after China. Trade with the US is not only significant in its size but also in terms of various and aggressive policies that can cause structural influence on Korea's export economy. US trade remedies triggered trade frictions between Korea and the US and in many aspects influenced Korea's industrial policies.

2. Research question and Objectives

How has the US trade protectionist measures evolved—what are the factors that caused the recent increase in US trade protectionist measures, and the shift in the most actively used trade remedy measures? And how have the shifting trends in US trade measures been influencing Korea's industry policies? Answering these research questions will facilitate understanding of Korea's industrial policies and throw lights on the ongoing and future trade disputes.

The first half of this paper provides the statistics of US trade remedies using data published by the U.S. International Trade Commission and other US government agencies. Analyzing the recent trends from the data, factors that led the trends in caseloads and shifts of most actively used measures are discussed; two factors suggested are relative decline of US hegemonic power and domestic politics.

The remaining half of the paper is concentrated on US trade remedies' influence on Korea's industrial policy. Among US trade remedies, this part puts emphasis more on countervailing measures for the following three reasons: First, there has been apparent historical predominance of the U.S. as a user of

countervailing measures.³ This fact illustrates the distinctive view of subsidies; in the US, subsidies are often viewed as illegitimate distortions of international trade, while in other countries, including Korea, industrial subsidies have often been considered a legitimate instrument of domestic policy.⁴

Furthermore, for countervailing measures to be taken, subsidy investigations must take place in advance, which means a comprehensive investigation on the foreign government should take place. Instead of targeting the sales strategies of individual companies or certain industries in foreign countries, countervailing measures target policies of the foreign government with more profound policy impacts.

Finally, CVD cases are often accompanied by anti-dumping cases, and thereby can lead to a double jeopardy for the subject industry; therefore, focusing on CVD measures is somewhat equivalent to sorting out and looking into cases with more significance.

After providing the CVD cases in time series, subsidies that were at issue for that time period will be listed as well as subsidies that were terminated, so that the influence of US CVD measures to Korea's industrial policies, more specifically

³ Trebilcock, Michael J., Robert Howse, and Antonia Eliason. "Chapter 9. Subsidies, Countervailing Duties and Government Procurement." In *The Regulation of International Trade*. New York: Routledge, 2013.

⁴ After antidumping actions, countervailing duty actions were the most frequently initiated trade remedy actions during the 1980s, accounting for 18% of all import relief measures initiated. During that period, the U.S. initiated 371 actions, while all other countries initiated only 58. From 1995 to the early 2000s, this pattern was replaced by the predominance of developed countries more generally in reporting countervailing initiations: the US reported 66 of 168 initiations, followed by the EC with 42 and others.

industry promotion subsidies can be observed. Using the analysis of these data, implications to ongoing and future trade frictions will be drawn.

3. Literature review

Every trade dispute is complicated with issues rising from the industrial backgrounds along with numerous variables of trade politics, so the usage of trade remedy can be explained differently for each case. To take a comprehensive approach in answering what factors caused the increasing trends of US trade protectionist measures, and the shift in the most actively used trade remedy measures, the hegemonic stability theory is pertinent to provide a theoretical background. Then, to complement the gap between theory and reality, domestic politics perspective is also necessary.

1) Hegemonic Stability Theory

The hegemonic stability theory, which links the global trade regimes' stability with the existence of a hegemon in the international system, was suggested in the late 1960s during the times of chaotic international economic order. Its founder Charles P. Kindleberger stated in *The World in Depression 1929-1939* that macroeconomic policy coordination may fail because of incentives to use beggar-thy-neighbor policies (i.e. tariffs, currency devaluation, foreign-exchange control), which increase a country's welfare at the cost of its partners' welfare. In short, macroeconomic policy coordination is a Prisoner's Dilemma and in this circumstance, "the international economic and monetary system needs leadership, a country which is prepared, consciously or unconsciously, under some system of

rules that it has internalized, to set standards of conduct for other countries; and to seek to get others to follow them, to take on an undue share of the burdens of the system, and in particular to take on its support in adversity by accepting its redundant commodities, maintaining a flow of investment capital and discounting its paper.”⁵

According to Kindleberger the stable free trade order could be maintained during the mid 19th and 20th centuries because there were hegemons—the Great Britain and the U.S.—that provided public goods by their leadership in the following ways to all countries in the international political economic system: (1) maintaining a relatively open market for distress goods; (2) providing countercyclical, or at least stable, long-term lending; (3) policing a relatively stable system of exchange rates; (4) ensuring the coordination of macroeconomic policies; and (5) acting as a lender of last resort by discounting or otherwise providing liquidity in financial crisis.⁶

Stephen D. Krasner further argues that during the period when the hegemon’s power declines, free trade regime would be hard to be maintained. The reasons for this are as follow: 1) effective utilization of economic and military resources necessary to induce other countries to liberal trade order becomes more difficult; 2) during its decline, the hegemon is likely to calculate that trade

⁵ Kindleberger, Charles Poor. *The world in depression, 1929-1939*. Rev. and enl. ed. Berkeley: University of California Press, 1986.

⁶ Kim, Wook. "Hegemonic Stability Theory Viewed from the Perspective of Public Good Theory: Its Limits and Alternatives." *The Korean Journal of International Relationship* 40: 27-44.

liberalization may harm its national interest, because in the short run, economic growth from the increase in income decreases while the social costs for it becomes more burdensome. In the long term, liberalization of capital and technology would result in outflow of resources from domestic economy to potential competitors and thereby create negative externalities effect. Therefore, during its decline, the hegemonic power no longer prefers free trade or become unable to maintain the role of making sure other countries comply with the free trade regime; this will lead to more protectionist international trade system.⁷

Combining the two above-mentioned perspectives of the hegemonic stability theory and applying it to answer the research question, the transition from the attitude of the US government, from advocating trade liberalization and free trade regime to overusing trade protectionist measures, can be explained in relation to the decline of US hegemony. Due to the relative decline of US hegemony, US capacity to take the responsibility as the enforcer of free trade decreases and therefore trade protectionism thrives and US use of trade remedies increases. Furthermore, as the relative decline of US hegemonic power accelerates, additional trade protectionist measures will be used in order to better protect domestic industries.

2) Domestic politics

⁷ Krasner, Stephen D. "State Power and the Structure of International Trade." *World Politics* 28: 317-347. <http://links.jstor.org/sici?sici=0043-8871%28197604%2928%3A3%3C317%3ASPATSO%3E2.0.CO%3B2-B> (accessed July 28, 2014).

Judith Goldstein explains in *Ideas, Interests, and American Trade Policy* that the two seemingly contrary arguments—that the government must protect domestic industries from foreign producers, and that the market-based approach in the competitive global market must be kept under the guidance of the invisible hand—have been coexisting as valid trade policy objectives of the U.S.. In fact, because these contrary views are mixed in successive trade laws that are layered one on top of another—outlasting the purposes for which they were originally created—explanation of the American policy must look beyond purely interest-based arguments.

Table 1. The determinants of American trade policy⁸

Years	Markets/ interests	Ideas	Laws/ institutions	Outcome
I. The protectionist cycle				
1816–1870	<div style="border: 1px solid black; padding: 2px;">+/-</div>	+/-	+	+/- revenue tariffs
1870–1896	+	<div style="border: 1px solid black; padding: 2px;">++</div>	++	++ protective tariffs
1897–1933	--	+	<div style="border: 1px solid black; padding: 2px;">+++</div>	+++ high protective tariffs
II. The free-trade cycle				
1934–1962	<div style="border: 1px solid black; padding: 2px;">---</div>	-	-/+	- trade liberalization
1963–1978	-	<div style="border: 1px solid black; padding: 2px;">--</div>	--/+	-- liberal trade
1979–present	-	-	<div style="border: 1px solid black; padding: 2px;">--/+ +</div>	-/+ free and fair trade

"+" indicates protectionism
 "-" indicates liberalism

Source: Goldstein, Judith *Ideas, interests, and American trade policy*. Page 242

⁸ Goldstein, Judith. "Ideas and American Foreign Policy." In *Ideas, interests, and American trade policy*. Ithaca: Cornell University Press, 1993. 242.

However, Goldstein underlines that “although domestic and international interests are fundamental to economic policy making, the translation of interest into behavior is not straightforward.”⁹ Trade policy continued to reflect existing institutional structures which were themselves a hybrid, embodying not only the idea of free trade but also earlier experiments with protectionism.¹⁰ Therefore, analyzing variables from domestic politics for each trade dispute would not only be a very messy task but also unlikely to provide a clear conclusion. Therefore, to incorporate this element, case studies would be a manageable approach to take.

II. U.S. TRADE REMEDIES

1. Title VII of the Tariff Act of 1930

Under Title VII of the Tariff Act of 1930, U.S. industries may petition the government for relief from imports that are dumped or subsidized.. The International Trade Association (ITA) under the Department of Commerce determines whether imported merchandise is being sold in the U.S. at less than fair value via anti-dumping investigations, or whether a countervailable subsidy is being provided for the manufacture, production, or exportation of merchandise imported into the U.S. via countervailing duty investigations. Through this process, ITA investigates whether dumping or subsidizing exists, and, if so, the margin of

⁹ Goldstein, Judith. "Ideas and American Foreign Policy." In *Ideas, interests, and American trade policy*. Ithaca: Cornell University Press, 1993. 2.

¹⁰ Goldstein, Judith. "Ideas and American Foreign Policy." In *Ideas, interests, and American trade policy*. Ithaca: Cornell University Press, 1993. 243.

dumping or amount of the subsidy.¹¹

The International Trade Commission (ITC) determines whether the dumped or subsidized imports materially injure or threaten to materially injure the U.S. industry, or whether the establishment of an industry in the U.S. is materially retarded, by reason of imports of the merchandise that are under investigation. The ITC is an independent, quasi-judicial Federal agency with broad investigative responsibilities on matters of trade. The agency investigates the effects of dumped and subsidized imports on domestic industries, conducts global safeguard investigations and adjudicates cases involving imports that allegedly infringe intellectual property rights. Its mission is to (1) administer U.S. trade remedy laws within its mandate in a fair and objective manner; (2) provide the President, USTR, and Congress with independent analysis, information, and support on matters of tariffs, international trade, and U.S. competitiveness; and (3) maintain the Harmonized Tariff Schedule of the U.S. (HTS).¹²

If both agencies make affirmative final determinations on their separate issues, ITA will issue an antidumping duty order to address dumping or a countervailing duty order to address subsidies. Under the Five-Year Sunset Review process, the Department of Commerce is required to revoke an antidumping or countervailing duty order, or terminate a suspension agreement, after five years unless ITA determines that revoking the order or terminating the suspension

¹¹ "USITC - About the U.S. International Trade Commission." USITC - About the U.S. International Trade Commission. http://www.usitc.gov/press_room/about_usitc.htm (accessed July 19, 2014).

¹² Ibid.

agreement would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time.¹³

2. Trends in the use of trade remedies

1) Statistics

To see the links between the relative decline of hegemonic power of the U.S. and the use of trade protectionist measures that are suggested by the hegemonic stability theory, recent data on the use of trade remedies before and after the global financial crisis are presented below.

(1) ITA Investigations

Table 2. Anti-dumping and countervailing duty investigations initiated after January 01, 2000¹⁴

Year	00	01	02	03	04	05	06	07	08	09	10	11	2012	Total
Cases	30	29	12	16	17	6	2	21	15	17	3	10	11	189

Source: USITC

The number of investigations had been decreasing towards the mid 2000s. With 2007 as the turning point the number of investigations on trade injuries have suddenly increased and later started to stabilize. According to a report by the Korea Institute for International Economic Policy, trade protectionist motives are clearly observed in the trends of ITA's investigation during the ten months from July 2008 to April 2009—the period when ripple effects of the global financial crisis really

¹³ U.S. International Trade Commission. "Glossary: Title VII of the Tariff Act of 1930." <http://www.usitc.gov/definitions/titlevii.htm> (accessed July 17, 2014).

¹⁴ U.S. International Trade Commission. "Anti-dumping and Countervailing Duty Investigations Initiated After January 01, 2000." <http://enforcement.trade.gov/stats/caselist.txt> (accessed July 17, 2014).

started to spread. During this period the U.S. held 45% of the total anti-dumping investigations worldwide, aggressively increasing its use of trade remedy measures.¹⁵

Table 3. Anti-dumping duty investigations after the 2008 global financial crisis, from July 2008 to April 2009¹⁶

Rank	Complainant	Cases	Rank	Respondent	Cases
1	US	301	1	China	281
2	EC	90	2	India	40
3	Argentina	67	3	Thailand	36
4	Brazil	40	4	Korea	32
5	Mexico	34	5	Taiwan	26
6	Turkey	22	6	Brazil	21
7	Korea	21	7	US	20
8	China	20	8	Vietnam	18
9	Australia	20	9	Indonesia	16
10	Pakistan	16	10	Germany	15

Source: Park, Nohyoung, and Sung-Hoon Park. "The current state of WTO's DDA negotiation on rules and policy implications."

This data reflects the properties of anti-dumping measures that have become apparent as the WTO system has been stabilizing. First, along with the developed countries that have always been using anti-dumping measures frequently as a major trade remedy, developing countries are actively joining in the use of anti-dumping measures. Second, developed countries are now also on the list of respondent countries, showing the departure from the conventional pattern, in which developed countries sue developing countries' cheap products.

¹⁵ Park, Nohyoung, and Sung-Hoon Park. "The Current State of WTO's DDA Negotiation on Rules and Policy Implications." *Korea Institute for International Economic Policy: Trade and Investment Study* 10

¹⁶ Ibid.

(2) Countervailing measures

Different from the anti-dumping cases of which complainant countries include both developed and developing countries, complaining countries of countervailing duty cases are mostly developed countries. This is because investigating foreign governments entail diplomatic burdens along with economic and human resources. In almost all cases, complainant countries with relevant investigation capacities are limited to the U.S. and the EC.

Table 4. U.S. countervailing duty investigations and measures imposed, 2004-2012¹⁷

	2004	2005	2006	2007	2008	2009	2010	2011	2012
Investigation initiations	3	2	3	7	6	14	3	9	4
<i>Of the investigations initiated, the following determinations have been made^a</i>									
Preliminary injury determinations, affirmative	3	2	3	7	6	13	3	1	
Preliminary injury determinations, negative	0	0	0	0	0	1	n.a.		
Provisional measures applied	3	2	3	7	6	11			
Final CVD determinations, affirmative	1	2	3	7	6	3	3		
Final CVD determinations, negative	2	0	0	0	0	1	n.a.		
Final duty orders imposed	0	2	0	7	6	2			
Final injury determinations, negative	1	0	3	0	0	1			
Continuations ^b	0	12	3	7	1	1			
Revocations ^c	0	4	6	9	3	0			

a Data on injury and CVD determinations, and provisional and final measures imposed are reported on the basis of the year in which the relevant investigation was initiated, regardless of when a given action (e.g., preliminary injury determination, preliminary CVD determination, final injury determination) actually occurred. Data on all other actions (i.e., initiations, continuations, and revocations) are reported on the basis of the year in which the action actually occurred.

b Number of CVD orders continued as a result of sunset reviews.

c As a result of sunset reviews.

Source: USITC

¹⁷ U.S. International Trade Commission. "Anti-dumping and Countervailing Duty Investigations Initiated After January 01, 2000." <http://enforcement.trade.gov/stats/caselist.txt> (accessed July 17, 2014).

According to World Trade Organization's 2010 Trade Policy Review, initiations of CVD investigations almost tripled on average between 2004-06 and 2007-09. All investigations initiated in 2007 and 2008 resulted in a final duty order, compared with 40% in 2005-06. Of the 14 investigations initiated in 2009, 11 have resulted in the application of provisional measures, and 2 in final duty orders.¹⁸

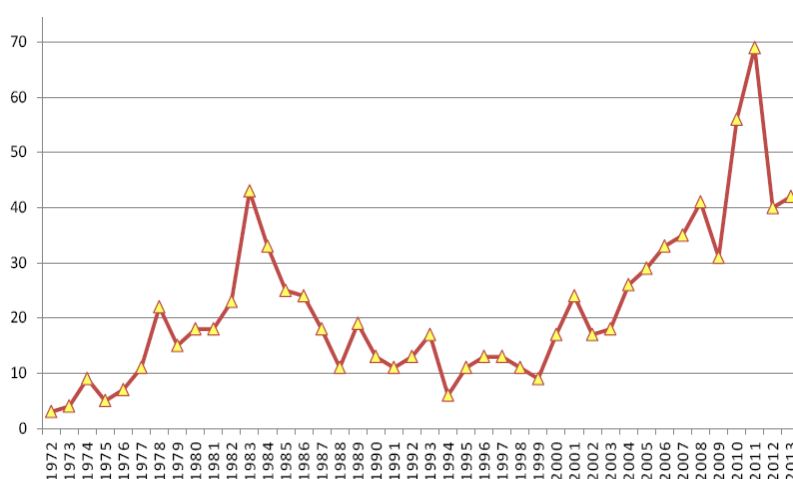
(3) Section 337 measures of the Tariff Act of 1930

Section 337 investigations conducted by the U.S. International Trade Commission most often involve claims regarding intellectual property rights, including allegations of patent infringement and trademark infringement by imported goods. Both utility and design patents, as well as registered and common law trademarks, may be asserted in these investigations. Other forms of unfair competition involving imported products, such as infringement of registered copyrights, mask works or boat hull designs, misappropriation of trade secrets or trade dress, passing off, and false advertising, may also be asserted. Additionally, antitrust claims relating to imported goods may be asserted. The primary remedy available in Section 337 investigations is an exclusion order that directs Customs to stop infringing imports from entering the U.S. In addition, the Commission may issue cease and desist orders against named importers and other persons engaged in unfair acts that violate Section 337. Expedited relief in the form of temporary

¹⁸ "2010 Trade Policy Review: U.S. of America." WTO *Trade Policy Review* WT/TPR/S/235: 20-82. http://www.wto.org/english/tratop_e/tp_r_e/tp335_e.htm (accessed July 17, 2014).

exclusion orders and temporary cease and desist orders may also be available in certain exceptional circumstances. Section 337 investigations, which were conducted pursuant to 19 U.S.C. § 1337 and the Administrative Procedure Act, include trial proceedings before administrative law judges and review by the Commission.¹⁹

Figure 1. Section 337 Investigations Instituted by Calendar Year 1972-2013²⁰



Source: USITC

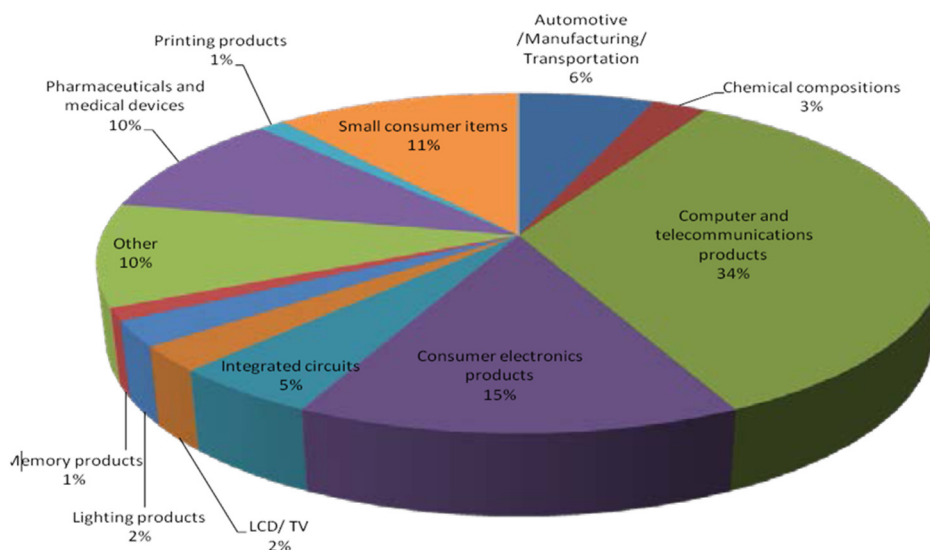
The number of new Section 337 investigations instituted by the Commission has remained at elevated levels over the past several years. New investigations peaked in calendar year 2011 at 69 investigations. In 2013, 42 new investigations were instituted. In the first quarter of 2014, the Commission instituted

¹⁹ U.S. International Trade Commission. "Intellectual Property Infringement and Other Unfair Acts." http://www.usitc.gov/intellectual_property/ (accessed July 17, 2014).

²⁰ U.S. International Trade Commission. "USITC Section 337 Investigations-Facts and Trends Regarding Caseload and Parties" http://www.usitc.gov/press_room/documents/featured_news/sec337factsupdate2014.pdf (accessed July 17, 2014).

8 new investigations.²¹

Figure 2. Accused Products in CY 2012 and 2013²²



Source: USITC

Also, accused products show apparent trend, with high the products taking increasing share:

“A substantial number of Section 337 investigations involve IP-based matters regarding high tech products. For investigations instituted in calendar years 2012 and 2013, for example, computer and telecommunications products accounted for about 30 percent of new investigations in 2012 and about 38 percent in 2013; other consumer electronic products accounted for about 23 percent of new investigations in 2012 and about 7 percent of new investigations in

²¹ Ibid

²² Ibid.

2013. However, Section 337 investigations also involved a wide range of other types of products. For example, small consumer items accounted for about 10 percent of new investigations in 2012 and about 12 percent in 2013; and pharmaceuticals and medical devices accounted for about 5 percent of new investigations in 2012 and about 14 percent in 2013.”²³

2) Analysis

(1) ITA Investigations

With the new pattern of anti-dumping caseloads and parties abovementioned, all countries—both developed and developing countries—want to actively utilize anti-dumping measures and thereby are becoming more prone to be the respondent parties in return as well. The most symbolic case is the U.S. The U.S. is now ranked as the number two anti-dumping complainant and number three respondent party in terms of caseloads. This implies that while the U.S. have been and will continue to actively use anti-dumping measures to minimize injuries to domestic industries, as it is becoming more and more prone to be the respondent party for anti-dumping cases, it is getting more difficult to effectively protect domestic industries only with anti-dumping measures.

²³ Ibid.

(2) Countervailing measures

Insights from the hegemonic stability theory seem pertinent to the contemporary trends in the use of countervailing measures since the 2008 global financial crisis. The CVD uses were seemingly dropping, but dramatically bounced back as the crisis hit US economic hegemony most powerfully since the Great Depression. While there was still widespread conviction that capitalism may not be at risk, there were concerns that its current form, fundamentally shaped by U.S. economic and political hegemony, could be challenged.

It is important to note that there were concerns that these challenges will be greatest if China experiences a quick recovery while the U.S. economy languishes interminably.²⁴ As if answering to this concern, there was revision of policy application that facilitated the increase in CVD uses. According to World Trade Organization's 2010 Trade Policy Review, the increase in the number of CVD investigations mostly reflects the change in 2007 in the U.S. Department of Commerce's longstanding policy not to apply CVDs to economies that it classifies as "non-market".²⁵ Although the Department of Commerce has the legal authority to apply CVDs to non-market economies, it had decided in 1984 that "subsidies had no measurable economic effect in the Soviet-style economies that were then under

²⁴ Tellis, Ashley J. . "The Global Economic Crisis and U.S. Power." *The National Bureau of Asian Research Strategic Asia* 2009-10.
http://www.nbr.org/publications/strategic_asia/pdf/Preview/SA09/SA09_Overview_preview.pdf (accessed July 17, 2014).

²⁵ "2010 Trade Policy Review:U.S. of America." WTO *Trade Policy Review* WT/TPR/S/235: 20-82. http://www.wto.org/english/tratop_e/tp_r_e/tp335_e.htm (accessed July 17, 2014).

consideration."²⁶ The U.S. Court of Appeals for the Federal Circuit upheld this policy in 1986. On March 30, 2007, the Commerce Department preliminarily decided to apply CVDs to coated free-sheet paper imported from China. The decision "altered a 23-year-old policy of not applying the CVD law to NMEs, and it reflects China's economic development."²⁷

(3) Section 337 measures of the Tariff Act of 1930

Lastly, recent increase in the use of Section 337 measures of the Tariff Act of 1930 reflects its complementary role as a new and powerful trade protectionist measure. While the statute has been utilized to counter imports of products judged to be produced by unfair competition, monopolistic, or anti-competitive practices, it has become increasingly used for its IPR enforcement functions in recent years. Under the statute, the importation or sale of an infringing product is illegal only if a U.S. industry producing an article covered by the relevant IPR exists or is in the process of being established.²⁸

Unlike other trade remedies such as anti-dumping or countervailing duty actions, no showing of injury due to the importation is required to use Section

²⁶ Truman, Tim. "Commerce Department Targets Chinese Subsidies on Coated Free-Sheet Paper: Preliminary decision to apply countervailing duty law to China signals major change in trade policy." .
http://trade.gov/press/publications/newsletters/ita_0407/china_paper_0407.asp (accessed July 17, 2014).

²⁷ Ibid.

²⁸ U.S. International Trade Commission. "Understanding Investigations Of Intellectual Property Infringement And Other Unfair Practices In Import Trade (Section 337)".
http://www.usitc.gov/press_room/us337.htm (accessed July 17, 2014).

337 measures, which makes it easy to overuse. Other pragmatic aspects of Section 337 include that it provides trade measures via the International Trade Commission which can impose powerful blow to the counterpart companies, and that it takes much shorter time—12 to 15 months in average—than litigations, which usually take at least 2 to 3 years.²⁹

3. Case study: the steel industry

In order to incorporate the influence of the domestic politics factor, case studies of major industries in time series are needed. For instance, the significance of domestic politics factor in the steel industry can be analyzed by collecting information on the industry's interest aggregation and expression activities, and the government or the Congress' follow-ups.

During the 1980s, pressure from US steel industry was delivered to the US Congress, leading to Safeguards, AD and CVD measures. These actions continued during the 1990s and crystallized as the US Steel Trade Policy Initiatives to responded to the challenges faced by the U.S. steel industry. This strategy, announced on June 5, 2001, is designed to restore market forces to world steel markets and to eliminate practices that harm the U.S. steel industry and its workers.

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²⁹ Jeong, Yeong-Jin. "Foreign Trade Remedy Authorities, Trends in Import Restrictions, and Policy Implications." Lecture, Seminar for the development of Trade Remedy Policies from Korean Society of International Economic Law, Seoul, Korea, October 25, 2012.

³⁰ "2004 Trade Policy Review: U.S. of America." WTO *Trade Policy Review* WT/TPR/G/126: 1-33. [http:// www.wto.org/english/tratop_e/tp_r_e/g126_e.doc](http://www.wto.org/english/tratop_e/tp_r_e/g126_e.doc)

The U.S. government's initiative contains three elements: First, the President directed the U.S. Trade Representative to request the initiation of an investigation on injury to the steel industry by the International Trade Commission under Section 201 of the Trade Act of 1974; Second, the President directed the U.S. Trade Representative, in cooperation with the Secretaries of Commerce and Treasury, to initiate negotiations with our trading partners to eliminate inefficient excess capacity in the steel industry worldwide; Finally, the President directed the U.S. Trade Representative, together with the Secretaries of Commerce and Treasury, to initiate negotiations on the rules that should govern steel trade in the future, so as to eliminate the underlying market-distorting subsidies that led to current conditions.

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The U.S. also sought multilateral ways to deal with its difficulties in the steel industry. In December 2002, the world's major steel-producing countries began negotiations in the OECD to eliminate market-distorting government practices in steel trade, focusing first on the substantial reduction and elimination of market-distorting steel subsidies. The agreement by all of the world's major steel producers to begin these negotiations was a historic achievement in a sector of the world economy that has defied previous reform efforts. Participants also reached consensus on a work schedule that aims to produce an advanced working text by the spring of 2004.³²

(accessed July 17, 2014).

³¹ Ibid.

³² Ibid.

In addition, the fact that the Alliance for American Manufacturing (AAM) and associated interest groups had published a report that included polls which showed 72% of likely voters are “worried the most” or a “great deal” about manufacturing job loss, and that they see Congress as doing even less in 2014 for manufacturing than they did in 2012 can be evidence of active interest expression.³³ Information on these political activities can provide more insights on how trade remedies for certain industries evolve when combined with information on legislative activities; a recent example of a relevant activity of legislatures for the steel industry includes Senator Sherrod Brown’s press calls to discuss steel import crisis.³⁴

³³ Alliance for American Manufacturing. Poll Conducted by the Mellman Group and North Star Opinion Research. "Voters are demanding Washington focus on job creation." <http://www.americanmanufacturing.org/2014poll/> (accessed July 17, 2014).

³⁴ Economic Policy Institute. "Senator Sherrod Brown, EPI Hold Press Call to Discuss Steel Import Crisis (EPI - Economic Policy Institute)." http://article.wn.com/view/2014/05/09/News_from_EPI_Media_Advisory_Senator_Sherrod_Brown_EPI_Hold_/ (accessed July 17, 2014).

III. INFLUENCE ON KOREA'S INDUSTRIAL POLICY

1. Trends in US countervailing measures against Korea

Table 5. Top 10 Title VII CVD cases in terms of the value of imports (covered, fiscal years 1980-2008, cumulative)³⁵

Case no.	Subject	Country
701-TA-414	Softwood lumber	Canada
701-TA-274	Softwood lumber	Canada
701-TA-312	Softwood lumber	Canada
701-TA-197	Softwood lumber	Canada
701-TA-386	Live cattle	Canada
701-TA-171	Hot-rolled carbon steel sheet	Korea
701-TA-170	Carbon steel plate	Korea
701-TA-173	Galvanized carbon steel sheet	Korea
701-TA-172	Cold-rolled carbon steel sheet	Korea
701-TA-447	Circular welded carbon-quality steel pipe	China

Source: USITC

As shown in the table above, 4 Korean export items are ranked in the top 10 US CVD cases in terms of the value of imports. With the economic structure heavily dependent on exports, trade frictions may be inevitable. Trade remedies of trade partners and trade frictions with them can profound have impact on the Korean economy, especially when the counterpart is a mega-market that happens to be one of the most important allies of Korea.

Table 6 shows the summary of CVD cases with import values in the order of year when the case was filed in. To further look into the links between the US

³⁵ Office of Investigations, U.S. International Trade Commission. "": Import Injury Investigations Case Statistics (FY 1980-2007)." http://www.usitc.gov/trade_remedy/documents/case_stats_2008.pdf (accessed July 17, 2014).

countervailing measures and their influence on Korea's industrial policy, statistics on US CVD measures and data on subsidies that were at issue are provided in the chronological order.

Table 6. Countervailing duty (701/303) case summary³⁶

Case no.	Subject	Filed in	Subject imports		Final disposition	Parallel AD Case
			Year	Value (\$1000)		
66	Leather wearing apparel	1980	1979	104,601	Terminated	
145	Steel wire nails	1982	1981	55,000	ITA negative	
168	Small diameter carbon steel pipe	1982	1981	306,000	Affirmative	
170	Carbon steel plate	1982	1981	677,000	Affirmative	
171	Hot-rolled carbon steel sheet	1982	1981	679,000	Affirmative	
172	Cold-rolled carbon steel sheet	1982	1981	603,000	Negative (P)	
173	Galvanized carbon steel sheet	1982	1981	604,000	Affirmative	
216	Oil country tubular goods	1984	1983	16,000	Negative	o
218	Cold-rolled carbon steel sheet	1984	1983	61,000	Affirmative	
219	Carbon steel angles, shapes, and sections	1984	1983	20,000	ITA negative	
236	Steel transmission structures	1985	1984	unknown	Terminated	o
248	Offshore platform jackets and piles	1985	1984	Business proprietary	Affirmative	o
262	Welded steel wire fabric	1986	1984	unknown	Terminated	o
267	Stainless steel cookware	1986	1985	40,312	Affirmative	
284	Bicycle tires and tubes	1987	1985	unknown	Terminated	
295	Industrial belts	1988	1987	Business proprietary	ITA negative	o

³⁶ Ibid.

324	Cut-to-length carbon steel plate	1992	1991	5,572	Negative	o
334	Hot-rolled carbon steel sheet	1992	1991	246,748	Negative	o
342	Cold-rolled carbon steel sheet	1992	1991	49,757	Affirmative	o
350	Corrosion-resistant carbon steel sheet	1992	1991	83,075	Affirmative	o
378	Stainless steel plate in coils	1998	1997	Business proprietary	ITA negative	o
382	Stainless steel sheet and strip	1998	1997	54,903	Affirmative	o
391	Cut-to-length carbon steel plate	1999	1998	130,914	Affirmative	o
401	Structural steel beams	1999	1998	53,441	Affirmative	o
425	Cold-rolled carbon steel flat products	2001	2000	130,505	Negative	
431	DRAMs & DRAM modules	2003	2002	Business proprietary	Affirmative	
446	Coated free sheet paper	2007	2006	Business proprietary	Negative	o
461	Ni-resist Piston Inserts	2009	2008	1,982		

Source: USITC

1) Statistics: U.S. CVD measures and subsidies at issue

(1) 1970s

Table 7. US CVD imposed on Korean exports: 1970s³⁷

Case no.	Product	Initiation	Prelim	Final	Duty Order	DISP	Date Revoked
C-580-028	FOOTWEAR	06/20/1972	07/03/1975	01/09/1976	01/09/1976		03/17/1981
C-580-041	HANDBAGS	07/08/1976	12/01/1976	10/17/1980	10/17/1980		02/20/1981
C-580-051	BICYCLE TIRES & TUBES	02/23/1978	07/28/1978	01/12/1979	01/12/1979	ITC NEG FINAL	06/09/1983
A-580-073	BICYCLE TIRES AND TUBES	02/23/1978	09/18/1978	12/29/1978	04/13/1979		10/13/1987

Source: ITA

Table 8. Subsidies relevant to the CVD cases in the 1970s³⁸

Countervailable Subsidy	<u>Tax Reductions of Exemption on Foreign Investments - Article 9 of the Foreign Investment Promotion Act (FIPA)</u> <i>Bicycle Tires and Tubes</i> (1981) <u>48 FR 44602 (9/29/83 - Prelim)</u> ; <u>48 FR 50914 (11/4/83 - Final)</u>
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³⁷ U.S. Department of Commerce, International Trade Administration, Enforcement and Compliance. "Antidumping and Countervailing Duty Case Information: AD/CVD Investigations (Federal Register History)." <http://enforcement.trade.gov/stats/caselist.txt> (accessed July 17, 2014).

³⁸ International Trade Administration. "Electronic Subsidies Enforcement Library." <http://enforcement.trade.gov/esel/eselframes.html> (accessed July 17, 2014).

	<p>(Formerly known as the Foreign Capital Inducement Law (FCIL)) The Foreign Capital Inducement Law provides partial forgiveness of income and property tax liabilities.</p> <p>Imports covered by the review are shipments of pneumatic bicycle tires and tubes, of rubber or plastic, whether such tires and tubes are sold together as units or separately, manufactured by KIK. Such merchandise is currently classifiable under items 772.4800 and 772.5700 of the Tariff Schedules of the U.S. Annotated. The review covers the period January 1, 1981 through December 31, 1981 and seven programs: (1) The foreign capital inducement law ("FCIL"),(2) short-term preferential financing,(3) tax exemptions for land acquisition, (4) tax exemptions for imported capital equipment,(5) accelerated depreciation,(6) reserve funds for export market development, and (7) reserve funds for export losses.</p>
Countervailable Subsidy	<p><u>Short-Term Export Financing</u></p> <p><i>Bicycle Tires and Tubes</i> (1981) 48 FR 44602 (9/29/83 - Prelim); 48 FR 50914 (11/4/83 - Final)</p> <p>There are two types of trade financing: production financing and raw material financing. A bank provides production financing when a company needs funds for the production of export merchandise or the production of raw materials used in the production of exported merchandise. We found this program to be countervailable because the interest rates charged on the loans were less than what a firm would have had to pay on a comparable short-term commercial loan.</p>
Terminated Subsidy	<p><u>Accelerated Depreciation</u></p> <p><i>Bicycle Tires and Tubes</i> (1981) 48 FR 44602 (9/29/83 - Prelim); 48 FR 50914 (11/4/83 - Final);</p> <p>Article 25 of the Act Concerning the Regulation of Tax Reduction and Exemption permits a firm earning more than 50 percent of its total proceeds in a business year from foreign exchange to increase its normal depreciation by 30 percent. If the corporation has received less than 50 percent of its total proceeds from foreign exchange, it can still claim some accelerated depreciation, determined by a formula based on the firm's foreign exchange earnings and total business earnings.</p>

Source: ITA

(2) 1980s

Table 9. US CVD imposed on Korean exports: 1980s³⁹

Case no.	Product	Initiation	Prelim	Final	Duty Order	DISP	Date Revoked
C-580-002	STEEL WIRE NAILS	02/12/1982	06/24/1982	09/08/1982	/ /	ITA NEG FINAL	/ /
A-580-001	STEEL WIRE NAILS	07/02/1981	02/03/1982	06/24/1982	08/13/1982		10/01/1985
C-580-003	WELDED CARBON STEEL PIPES AND TUBES	06/03/1982	10/12/1982	12/27/1982	02/18/1983		10/29/1985
A-580-007	WELDED CARBON STEEL PIPES AND TUBES	05/17/1983	10/28/1983	03/16/1984	05/07/1984		10/21/1985
C-580-013	STEEL PRODUCTS	06/03/1982	10/12/1982	12/27/1982	02/18/1983		10/10/1985
C-580-402	OIL COUNTRY TUBULAR GOODS	07/11/1984	09/12/1984	11/28/1984	/ /	ITC NEG FINAL	/ /
A-580-401	OIL COUNTRY TUBULAR GOODS	07/10/1984	01/16/1985	/ /	/ /	TERM 06/07/1985	/ /
C-580-403	CARBON STEEL SHAPES AND SHEET	07/11/1984	09/18/1984	12/03/1984	02/11/1985		10/10/1985

³⁹ U.S. Department of Commerce, International Trade Administration, Enforcement and Compliance. "Antidumping and Countervailing Duty Case Information: AD/CVD Investigations (Federal Register History)." <http://enforcement.trade.gov/stats/caselist.txt> (accessed July 17, 2014).

C-580-503	TAPERED TUBULAR STEEL TRANSMISSION STRUCTURES	/ /	/ /	/ /	/ /	PW03/07/1 985	/ /
A-580-502	TAPERED TUBULAR STEEL TRANSMISSION STRUCTURES	/ /	/ /	/ /	/ /	PW 03/07/1985	/ /
C-580-504	OFFSHORE PLATFORM JACKETS AND PILES	05/15/1985	11/25/1985	04/07/1986	05/21/1986		10/29/1987
A-580-505	OFFSHORE PLATFORM JACKETS AND PILES	05/15/1985	11/25/1985	04/07/1986	05/21/1986		10/29/1987
C-580-508	WELDED STEEL WIRE FABRIC PRODUCTS	/ /	/ /	/ /	/ /	ITC NEG PRELIM	/ /
C-580-602	TOP-OF-THE-STOVE STAINLESS STEEL COOKING WARE	02/19/1986	04/24/1986	11/26/1986	01/20/1987		/ /
C-580-802	INDUSTRIAL BELTS	07/26/1988	12/02/1988	04/18/1989	/ /	ITA NEG FINAL	/ /

Source: ITA

Table 10. Subsidies relevant to the CVD cases in the 1980s⁴⁰

Countervailable Subsidy	<p><u>Export Credit Financing from Export-Import Bank of Korea</u></p> <p><i>Oil Country Tubular Goods</i> (1983) 49 FR 35836 (9/12/84 - Prelim); 49 FR 46776 (11/28/84 - Final) <i>Platform Jackets and Piles</i> (1983)(1985) 50 FR 29462 (7/19/85 - Prelim); 51 FR 11780 (4/7/86 - Final) <i>Stainless Steel Cooking Ware</i> (1985) 51 FR 15522 (4/24/86 - Prelim); 51 FR 42871(11/26/86 - Final) <i>Industrial Belts</i> (1987) 53 FR 48676 (12/2/88 - Prelim); 53 FR 15516 (4/18/89 - Final)</p> <p>Promulgated by Law No. 2122 in July 1969, the purpose of the Export-Import Bank of Korea (Eximbank) is "to promote the sound development of the national economy and economic cooperation with foreign countries by extending the financial aid required for export and import transactions, overseas investment and the development of natural resources abroad." The Enforcement Decree for the Act specifies the "major" raw materials that Eximbank should develop: Coal, iron ore, copper, petroleum, and other mined materials; Timber and other forest materials; Grains, cotton, sugar, rubber and other agricultural materials; and other raw materials deemed necessary to secure stabilized long-term supply for the economy; however, this should be decided through a state meeting and announced through the Ministry of Finance. Thus, if there is any explicit designation of recipients of loans from the Eximbank, the designated group is raw material users. During verification, we examined all export and overseas investment loans awarded from 1976 through 1982. During those seven years, only five loans were awarded to the steel industry; one in 1979, two in 1980 and two in 1982. None of these five loans were for the financing of exports of the products under investigation. Also, during each of these years there were other projects financed in other industries. For example, in 1979, the other overseas investment loans went to a textile plant project, a manufacturing plant project, fishery development, a cement plant project, and vessel chartering. Thus, the Korea Eximbank finances projects in a wide number of industries. Moreover, the steel industry has not received a disproportionate share of Eximbank loan monies.</p>
Countervailable	<u>Short-Term Export Financing</u>

⁴⁰International Trade Administration. "Electronic Subsidies Enforcement Library." <http://enforcement.trade.gov/esel/eselframes.html> (accessed July 17, 2014).

Subsidy	<i>Oil Country Tubular Goods</i> (1983) 49 FR 35836 (9/12/84 - Prelim) ; 49 FR 46776 (11/28/84 - Final) <i>Platform Jackets and Piles</i> (1983)(1985) 50 FR 29462 (7/19/85 - Prelim) ; 51 FR 11784 (4/7/86 - Final)
Countervailable Subsidy	<u>Tax Programs Under RSTA (TERCL) Investment Tax Credits</u> <i>Oil Country Tubular Goods</i> (1983) 49 FR 35836 (9/12/84 - Prelim) ; 49 FR 46776 (11/28/84 - Final) [The TERCL program was replaced by the Restriction of Special Taxation Act (RSTA) on December 28, 1998] Under the Tax Exemption and Reduction Control Act (TERCL), companies in Korea are allowed to claim tax credits for various kinds of investments. If the tax credits cannot all be used at the time they are claimed, the company is authorized to carry them forward for use in later tax years. Because Korean companies receive a higher tax credit for investments made in domestically- produced facilities, investment tax credits received under Articles 10, 18, 25, 26, 27 and 71 constitute import substitution subsidies. In addition, because the Government of Korea foregoes collecting tax revenue otherwise due under this program, a financial contribution is provided. This program is, therefore, countervailable.
Countervailable Subsidy	<u>Other Tax Programs Tax Incentives for Exporters/Export Tax Reserves Tax Incentives for Exporters/Export Tax Reserves</u> <i>Oil Country Tubular Goods</i> (1983) 49 FR 35836 (9/12/84 - Prelim) ; 49 FR 46776 (11/28/84 - Final) <i>Platform Jackets and Piles</i> (1983)(1985) 50 FR 29463 (7/19/85 - Prelim) ; 51 FR 11783(4/7/86 - Final) <i>Steel Flat-Rolled Products</i> (1984) 49 FR 36542 (9/18/84 - Prelim) ; 49 FR 47287 (12/3/84 - Final) <i>Stainless Steel Cooking Ware (SR)</i> (Expedited review - no prelim); 70 FR 57856 (10/4/05 - Final) ; Decision Memo <i>Stainless Steel Cooking Ware (SR)</i> (Expedited Review-no prelim); 64 FR 48374 (9/3/99 - Final) <i>Stainless Steel Cooking Ware</i> (1985) 51 FR 15521 (4/24/86 - Prelim) ; 51 FR 42869 (11/26/86 - Final) <i>Steel Flat-Rolled Products</i> (1984) 49 FR 36542 (9/18/84 - Prelim) ; 49 FR 47287 (12/3/84 - Final) Articles 22, 23 and 24 of the Act Concerning the Regulation of Tax Reduction and Exemption provide for the deduction from taxable income of a number of different reserves covering export losses, overseas market development and price fluctuation losses. The balance in all three reserve funds is not subject to corporate tax, although all moneys in the reserve funds are eventually reported as income and subject to corporate tax either when they offset export losses or when the one-year grace period expires. These programs constitute export subsidies because they provide a deferral, contingent upon exports, of direct taxes.
Countervailable	<u>Duty Drawback on Non-Physically Incorporated Items and Excessive Loss Rates</u>

Subsidy	<p><i>Industrial Belts</i> (1987) 53 FR 48675 (12/2/88 - Prelim); 54 FR 15516 (4/18/89 - Final) <i>Stainless Steel Cooking Ware (SR)</i> (Expedited review - no prelim); 70 FR 57856 (10/4/05 - Final); Decision Memo <i>Stainless Steel Cooking Ware (SR)</i> (Expedited Review-no prelim); 64 FR 48374 (9/3/99 - Final) <i>Stainless Steel Cooking Ware</i> (1985) 51 FR 15522 (4/24/86 - Prelim); 51 FR 42870 (11/26/86 - Final) The Government of Korea establishes an authorized loss rate for raw materials used in the manufacture of exported goods. Duty drawback includes the amount of duty remitted on the loss or wastage for the raw materials. The Government of Korea reduces the amount of duty drawback received on the exported product to account for the sale of by-products produced from the excess raw materials used in the production of the exported goods. Duty drawback for loss or wastage only becomes countervailable when the allowance for this loss or wastage is unreasonable or excessive. We determined that the amounts of duty drawback received by exporters in "<i>Industrial Belts</i>" and "<i>Stainless Steel Cooking Ware</i>" were excessive and therefore, we found this program to be countervailable.</p>
Countervailable Subsidy	<p><u>Exemption from the Acquisition Tax</u> <i>Industrial Belts</i> (1987) 53 FR 48675 (12/2/88 - Prelim); 53 FR 15516 (4/18/89 - Final) <i>Stainless Steel Cooking Ware (SR)</i> (Expedited review - no prelim); 70 FR 57856 (10/4/05 - Final); Decision Memo <i>Stainless Steel Cooking Ware</i> (1985) 51 FR 15522 (4/24/86 - Prelim); 51 FR 42869 (11/26/86 - Final) Under the Law for the Promotion of Income Sources in Rural Areas, companies which establish factories in rural areas may be exempted from paying the acquisition tax on purchases of land, buildings, and capital equipment. Since the tax exemption is limited to companies located in certain regions of the country, we found the program to be countervailable</p>
Countervailable Subsidy	<p><u>Loans to Promising Small and Medium Enterprises</u> <i>Industrial Belts</i> (1987) 53 FR 48675 (12/2/88 - Prelim); 53 FR 15516 (4/18/89 - Final) <i>Stainless Steel Cooking Ware (SR)</i> (Expedited review - no prelim); 70 FR 57856 (10/4/05 - Final); Decision Memo <i>Stainless Steel Cooking Ware (SR)</i> (Expedited Review-no prelim); 64 FR 48374 (9/3/99 - Final) <i>Stainless Steel Cooking Ware</i> (1985) 51 FR 15522 (4/24/86 - Prelim); 51 FR 42870 (11/26/86 - Final) Under this program, the Bank of Korea directs banks to provide loans to select "promising" small and</p>

	medium-sized companies. The Ministry of Trade and Industry provides the guidelines to be used by the banks designating promising companies. Because loans received under this program are not available to all, they are countervailable to the extent that they provide preferential interest rates.
Terminated Subsidy	<p><u>Short-Term Export Financing Under the Foreign Trade Transactions Act</u> <i>Oil Country Tubular Goods</i> (1983) 49 FR 35836 (9/12/84 - Prelim); 49 FR 46776 (11/28/84 - Final); <i>Steel Flat-Rolled Products</i> (1984) 49 FR 36543 (9/18/84 - Prelim); 49 FR 47284 (12/3/84 - Final) <i>Stainless Steel Cooking Ware (SR)</i> (Expedited review - no prelim); 70 FR 57856 (10/4/05 - Final); Decision Memo <i>Stainless Steel Cooking Ware (SR)</i> (Expedited Review-no prelim); 64 FR 48374 (9/3/99 - Final) <i>Stainless Steel Cooking Ware</i> (1985) 51 FR 15521 (4/24/86 - Prelim); 51 FR 42868 (11/26/86 - Final) <i>Steel Flat-Rolled Products</i> (1984) 49 FR 36540 (9/18/84 - Prelim); 49 FR 47286 (12/3/84 - Final) <i>Steel Plate in Coils</i> (1997) 63 FR 47258 (9/4/98 - Prelim); 64 FR 15534 (3/31/99 - Final) [<i>Steel Flat-Rolled Products</i>] Petitioner alleged that the government of Korea provides the steel industry with preferential short-term export financing under the Foreign Trade Transaction Act. The Foreign Trade Transactions Act has been repealed and was not in effect during the period for which we are measuring subsidization.</p>
Terminated Subsidy	<p><u>Accelerated Depreciation</u> <i>Oil Country Tubular Goods</i> (1983) 49 FR 35836 (9/12/84 - Prelim); 49 FR 46776 (11/28/84 - Final); <i>Stainless Steel Cooking Ware</i> (1985) 51 FR 15522 (4/24/86 - Prelim); 51 FR 42871 (11/26/86 - Final); <i>Steel Flat-Rolled Products</i> (1984) 49 FR 36544 (9/18/84 - Prelim); 49 FR 47292 (12/3/84 - Final);</p>
Terminated Subsidy	<p><u>Tariff Reductions on Plant and Equipment</u> <i>Industrial Belts</i> (1987) 53 FR 48676 (12/2/88 - Prelim); 53 FR 15516 (4/18/89 - Final); <i>Stainless Steel Cooking Ware</i> (1985) 51 FR 15522 (4/24/86 - Prelim); 51 FR 42871 (11/26/86 - Final); <i>Steel Flat-Rolled Products</i> (1984) 49 FR 36543 (9/18/84 - Prelim); 49 FR 47288 (12/3/84 - Final) Article 28 of the Customs Law allowed for reductions of import duties for certain industries on particular items designated by the Ministry of Finance</p>

Terminated Subsidy	<p><u>Unlimited Deduction of Overseas Entertainment Expenses</u> <i>Stainless Steel Cooking Ware (SR)</i> (Expedited Review-no prelim); 64 FR 48374 (9/3/99 - Final); <i>Industrial Belts</i> (1987) 53 FR 48675 (12/2/88 - Prelim); 53 FR 15516 (4/18/89 - Final); <i>Stainless Steel Cooking Ware</i> (1985) 51 FR 15522 (4/24/86 - Prelim); 51 FR 42869 (11/26/86 - Final); Under Article 18-2 of the Corporation Tax Act and supporting legislation, entertainment expenses for domestic clients and foreign clients are eligible to be deducted from taxable income. The amount which can be deducted for domestic entertainment expenses is subject to a ceiling according to an established formula and depending on the amount of any overseas entertainment expenses claimed. There is no cap on overseas entertainment expenses. Because entertainment expense deductions are unlimited only for overseas clients, this program confers benefits which constitute export subsidies, to the extent that the overseas expenses claimed are greater than those which would have been allowed using the domestic cap formula. This program was repealed in December 29, 1995.</p>
Terminated Subsidy	<p><u>Export Tariff Reserves Under Article 24</u> <i>Industrial Belts</i> (1987) 53 FR 48675 (12/2/88 - Prelim); 53 FR 15516 (4/18/89 - Final)</p>
Terminated Subsidy	<p><u>Special Depreciation Under Article 11 of the Act Concerning the Regulation of Tax Reduction and Exemption (ACTRE)</u> <i>Industrial Belts</i> (1987) 53 FR 48676 (12/2/88 - Prelim); 53 FR 15516 (4/18/89 - Final) This program was abolished December 26, 1986</p>
Terminated Subsidy	<p><u>Other Tax Programs Tax Credit for Investment for Key Industries</u> <i>Industrial Belts</i> (1987) 53 FR 48676 (12/2/88 - Prelim); 53 FR 15516 (4/18/89 - Final) This program was abolished effective December 26, 1986.</p>

Source: ITA

(3) 1990s

Table 11. US CVD imposed on Korean exports: 1990s⁴¹

Case no.	Product	Initiation	Prelim	Final	Duty Order
C-580-818	CARBON STEEL FLAT PRODUCTS	07/24/1992	12/07/1992	07/09/1993	08/17/1993
A-580-814	HOT ROLLED CARBON STEEL FLAT PRODUCTS	07/29/1992	02/04/1993	07/09/1993	/ /
A-580-815	COLD-ROLLED CARBON STEEL FLAT PRODUCTS	07/29/1992	02/04/1993	07/09/1993	08/19/1993
A-580-816	CORROSION-RESISTANT CARBON STEEL FLAT PRODUCTS	07/29/1992	02/04/1993	07/09/1993	08/19/1993
C-580-832	STAINLESS STEEL PLATE IN COILS	04/28/1998	09/04/1998	03/31/1999	/ /
A-580-831	STAINLESS STEEL PLATE IN COILS	04/28/1998	11/04/1998	03/31/1999	05/21/1999
C-580-835	STAINLESS STEEL SHEET AND STRIP IN COILS	07/13/1998	11/17/1998	06/08/1999	08/06/1999
A-580-834	STAINLESS STEEL SHEET AND STRIP IN COILS	07/13/1998	01/04/1999	06/08/1999	07/27/1999
C-580-837	CUT-TO-LENGTH CARBON-QUALITY STEEL PLATE	03/16/1999	07/26/1999	12/29/1999	/ /
A-580-836	CUT-TO-LENGTH CARBON-QUALITY STEEL PLATE	03/16/1999	07/29/1999	/ /	/ /
C-580-842	STRUCTURAL STEEL BEAMS	08/03/1999	12/14/1999	/ /	/ /

⁴¹ U.S. Department of Commerce, International Trade Administration, Enforcement and Compliance. "Antidumping and Countervailing Duty Case Information: AD/CVD Investigations (Federal Register History)." <http://enforcement.trade.gov/stats/caselist.txt> (accessed July 17, 2014).

A-580-841	STRUCTURAL STEEL BEAMS	08/03/1999	/ /	/ /	/ /
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Source: ITA

Table 12. Subsidies relevant to the CVD cases in the 1990s⁴²

Countervailable Subsidy	<p><u>Electricity Discounts Under the Requested Load Adjustment Program</u> <i>Carbon Steel Plate</i> (1998) 64 FR 40445 (6/26/99 - Prelim); 64 FR 73176 (12/29/99 - Final) <i>Stainless Sheet & Strip in Coils</i> (2000) 67 FR 57399 (9/10/02 - Prelim); 68 FR 13267 (3/19/03 - Final & partial rescission); Decision Memo <i>Stainless Sheet & Strip in Coils</i> (11/98-12/99) 66 FR 47008 (9/10/01 - Prelim); 66 FR 1964 (01/15/02 - Final & partial rescission); Decision Memo <i>Steel Plate in Coils</i> (1997) 63 FR 47260 (9/4/98 - Prelim); 64 FR 15535 (3/31/99 - Final) <i>Steel Sheet & Strip in Coils</i> (1997) 63 FR 63896 (11/17/98 - Prelim); 64 FR 30636 (6/8/99 - Final) <i>Structural Steel Beams (SR)</i> (Expedited review - no prelim); 70 FR 53167 (9/7/05 - Final); Decision Memo <i>Structural Steel Beams</i> (1998) 64 FR 69731 (12/14/99 - Prelim); 65 FR 41051 (7/3/00 - Final); Decision Memo The Government of Korea introduced the Requested Loan Adjustment (RLA) in 1990 to address emergencies in KEPCO's ability to supply electricity. Under this program, customers with a contract demand of 5,000 KW or more, who can curtail their maximum demand by 20 percent or suppress their maximum demand by 3,000 KW or more, are eligible to enter in to a RLA contract with KEPCO. Under this contract, a basic discount of 440 won per KW is granted between July 1 and August 31, regardless of whether KEPCO makes a request for a customer to reduce its load. Because the electricity discounts were only provided to a small number of customers, this program provides a countervailable benefit.</p>
Countervailable	<u>Export Industry Facility Loans (EIFLs)</u>

⁴²International Trade Administration. "Electronic Subsidies Enforcement Library." <http://enforcement.trade.gov/esel/eselframes.html> (accessed July 17, 2014).

Subsidy	<p><i>Stainless Sheet & Strip in Coils</i> (SR) (Expedited review - no prelim); 69 FR 75513 (12/17/04 - Final); Decision Memo</p> <p><i>Steel Sheet & Strip in Coils</i> (1997) 63 FR 63893 (11/17/98 - Prelim); 64 FR 30636 (6/8/99 - Final)</p> <p><i>Structural Steel Beams</i> (SR) (Expedited review - no prelim); 70 FR 53167 (9/7/05 - Final); Decision Memo</p> <p><i>Structural Steel Beams</i> (1998) 64 FR 69731 (12/14/99 - Prelim); 65 FR 41051 (7/3/00 - Final); Decision Memo</p> <p>We found that the export industry facility loans (EIFKs) are contingent upon export, and are therefore export subsidies to the extent that they are provided at preferential rates.</p>
Countervailable Subsidy	<p>Loans from the Energy Savings Fund</p> <p><i>Carbon Steel Plate</i> (1998) 64 FR 40445 (6/26/99 - Prelim); 64 FR 73176 (12/29/99 - Final)</p> <p><i>DRAMS</i> (1/01-6/02) 68 FR 16766 (4/7/03 - Prelim); 68 FR 37122 (6/23/03 - Final); Decision Memo; Amended Final</p> <p><i>Steel Plate in Coils</i> (1997) 63 FR 47257 (9/4/98 - Prelim); 64 FR 15533 (3/31/99 - Final)</p> <p><i>Steel Sheet & Strip in Coils</i> (1997) 63 FR 63890 (11/17/98 - Prelim); 64 FR 30636 (6/8/99 - Final)</p> <p>In accordance with Article 51 of the Rationalization of Energy Utilization Act, the Energy Savings Fund provides financing at below-market interest rates for investment by businesses in facilities that rationally and efficiently use energy. The Ministry of Industry and Energy (MIE), under the Energy Use Rationalization Act, provides financing for this program from special government accounts. Because interest rates charged to certain companies are less than the program interest rates prescribed by the program's regulations, the program provides a countervailable subsidy.</p>
Countervailable Subsidy	<p>Loans from the National Agricultural Cooperation Federation</p> <p><i>Steel Sheet & Strip in Coils</i> (1997) 63 FR 63896 (11/17/98 - Prelim); 64 FR 30636 (6/8/99 - Final)</p> <p>The National Agriculture Cooperation Federation administers loans which are given at interest rates below the benchmark interest rate. Applications for these loans are evaluated on a point system. The applicant receives 5 out of a possible 100 points if it is a promising small and medium business. However, the most heavily weighed factor in the approval of a loan application is the applicant's "ratio of export sales to total sales." With the exception of the evaluation item "enterprise ability", which is weighted at 15 points, the export sales factor accounts for twice as many points as any other ranking factor. This program is a</p>

	countervailable subsidy because it is contingent upon export performance.
Countervailable Subsidy	<p><u>Reserve for Investment</u> <i>Certain Steel</i> (1991) 57 FR 57769 (12/7/92 - Prelim); 58 FR 37349 (7/9/93 - Final); Amended Final Industries that engage in manufacturing and mining using production facilities outside of metropolitan Seoul are allowed to establish a reserve amounting to ten percent of the value of their assets used in these activities. The reserve operates in the same manner as the reserves for export loss and overseas market development, i.e., any amounts in the reserve must be returned to income over a three-year period. Because this program provides benefits only to those industries that use certain production facilities outside of metropolitan Seoul, this program is a regional subsidy.</p>
Countervailable Subsidy	<p><u>Short-Term Export Financing</u> <i>Carbon Steel Plate</i> (1998) 64 FR 40445 (6/26/99 - Prelim); 64 FR 73176 (12/29/99 - Final) <i>Certain Steel</i> (1991) 57 FR 57770 (12/7/92 - Prelim); 58 FR 37350(7/9/93 - Final); Amended Final <i>Cold-Rolled Carbon Flat Products</i> (2000) 67 FR 9685 (03/04/02 - Prelim); 67 FR 62102 (10/03/02 - Final); Decision Memo <i>Cold-Rolled & Corrosion-Resistant Flat Products (SR)</i> (Expedited Review-no prelim); 65 FR 18973 (4/10/00 - Final); Decision Memo; Amended Final <i>Corrosion-Resistant Flat Products</i> (2004) 71 FR 53413 (9/11/06 - Prelim); <i>Stainless Sheet & Strip in Coils (SR)</i> (Expedited review - no prelim); 69 FR 75513 (12/17/04 - Final); Decision Memo <i>Steel Plate in Coils</i> (1997) 63 FR 47258 (9/4/98 - Prelim); 64 FR 15534 (3/31/99 - Final) <i>Steel Sheet & Strip in Coils</i> (1997) 63 FR 63894 (11/17/98 - Prelim); 64 FR 30636 (6/8/99 - Final) There are two types of trade financing: production financing and raw material financing. A bank provides production financing when a company needs funds for the production of export merchandise or the production of raw materials used in the production of exported merchandise. We found this program to be countervailable because the interest rates charged on the loans were less than what a firm would have had to pay on a comparable short-term commercial loan.</p>
Countervailable Subsidy	<p><u>Tax Programs Under RSTA (TERCL) Investment Tax Credits</u> <i>Carbon Steel Plate (SR)</i> (Expedited review - no prelim); 70 FR 45689 (8/8/05 - Final); Decision Memo <i>Carbon Steel Plate</i> (1998) 64 FR 40445 (6/26/99 - Prelim); 64 FR 73176 (12/29/99 - Final)</p>

	<p><i>Steel Plate in Coils</i> (1997) 63 FR 47259 (9/4/98 - Prelim); 64 FR 15534 (3/31/99 - Final) <i>Steel Sheet & Strip in Coils</i> (1997) 63 FR 63895 (11/17/98 - Prelim); 64 FR 30636 (6/8/99 - Final) <i>Structural Steel Beams</i> (1998) 64 FR 69731 (12/14/99 - Prelim); 65 FR 41051 (7/3/00 - Final); Decision Memo</p> <p>[The TERCL program was replaced by the Restriction of Special Taxation Act (RSTA) on December 28, 1998] Under the Tax Exemption and Reduction Control Act (TERCL), companies in Korea are allowed to claim tax credits for various kinds of investments. If the tax credits cannot all be used at the time they are claimed, the company is authorized to carry them forward for use in later tax years. Because Korean companies receive a higher tax credit for investments made in domestically- produced facilities, investment tax credits received under Articles 10, 18, 25, 26, 27 and 71 constitute import substitution subsidies. In addition, because the Government of Korea foregoes collecting tax revenue otherwise due under this program, a financial contribution is provided. This program is, therefore, countervailable.</p>
Countervailable Subsidy	<p>Tax Programs Under RSTA (TERCL) Reserve for Export Loss--Article 16 of the TERCL <i>Carbon Steel Plate</i> (1998) 64 FR 40445 (6/26/99 - Prelim); 64 FR 73176 (12/29/99 - Final) <i>Steel Plate in Coils</i> (1997) 63 FR 47259 (9/4/98 - Prelim); 64 FR 15534 (3/31/99 - Final) <i>Steel Sheet & Strip in Coils</i> (1997) 63 FR 63894 (11/17/98 - Prelim); 64 FR 30636 (6/8/99 - Final) <i>Structural Steel Beams (SR)</i> (Expedited review - no prelim); 70 FR 53167 (9/7/05 - Final); Decision Memo <i>Structural Steel Beams</i> (1998) 64 FR 69731 (12/14/99 - Prelim); 65 FR 41051 (7/3/00 - Final); Decision Memo</p> <p>Under Article 16 of the Tax Exemption and Reduction Control Act (TERCL), a domestic person engaged in a foreign-currency earning business can establish a reserve amounting to the lesser of one percent of foreign exchange earnings or 50 percent of net income for the respective tax year. Losses accruing from the cancellation of an export contract, or from the execution of a disadvantageous export contract, may be offset by returning an equivalent amount from the reserve fund to the income account. Any amount that is not used to offset a loss must be returned to the income account and taxed over a three-year period, after a one-year grace period. This program constitutes an export subsidy because the use of the program is contingent upon export performance.</p>
Countervailable	<p>Tax Programs Under RSTA (TERCL) Reserve for Investment Under Article 43-5 of TERCL</p>

Subsidy	<p><i>Carbon Steel Plate</i> (1998) 64 FR 40445 (6/26/99 - Prelim); 64 FR 73176 (12/29/99 - Final)</p> <p><i>Structural Steel Beams</i> (1998) 64 FR 69731 (12/14/99 - Prelim); 65 FR 41051 (7/3/00 - Final); Decision Memo</p>
Countervailable Subsidy	<p><u>Tax Programs Under RSTA (TERCL) Reserve for Overseas Market Development - Article 17 of the TERCL</u></p> <p><i>Carbon Steel Plate</i> (1998) 64 FR 40445 (6/26/99 - Prelim); 64 FR 73176 (12/29/99 - Final)</p> <p><i>Certain Steel</i> (1991) 57 FR 57769 (12/7/92 - Prelim); 58 FR 37348 (7/9/93 - Final); Amended Final</p> <p><i>Stainless Sheet & Strip in Coils</i> (11/98-12/99) 66 FR 47008 (9/10/01 - Prelim); 66 FR 1964 (01/15/02 - Final & partial rescission); Decision Memo; Amended Final</p> <p><i>Steel Plate in Coils</i> (1997) 63 FR 47259 (9/4/98 - Prelim); 64 FR 15534 (3/31/99 - Final)</p> <p><i>Steel Sheet & Strip in Coils</i> (1997) 63 FR 63895 (11/17/98 - Prelim); 64 FR 30636 (6/8/99 - Final)</p> <p><i>Structural Steel Beams (SR)</i> (Expedited review - no prelim); 70 FR 53167 (9/7/05 - Final); Decision Memo</p> <p><i>Structural Steel Beams</i> (1998) 64 FR 69731 (12/14/99 - Prelim); 65 FR 41051 (7/3/00 - Final); Decision Memo</p> <p>A domestic person engaged in a foreign trade business can establish a reserve fund equal to one percent of its foreign trade business exchange earnings from its export business for the respective tax year. Expenses incurred in developing overseas markets may be offset by returning from the reserve, to the income account, an amount equivalent to the expense. Any part of the fund that is not placed in the income account for the purpose of offsetting overseas market development expenses must be returned to the income account over a three-year period, after a one year grace period. This program constitutes an export subsidy because the use of the program is contingent upon export performance.</p>
Countervailable Subsidy	<p><u>Tax Programs Under RSTA (TERCL) Selective Depreciation Due to Revaluation of Assets</u></p> <p><i>Structural Steel Beams</i> (1998) 64 FR 69731 (12/14/99 - Prelim); 65 FR 41051 (7/3/00 - Final); Decision Memo</p> <p><i>Carbon Steel Plate</i> (1998) 64 FR 40445 (6/26/99 - Prelim); 64 FR 73176 (12/29/99 - Final)</p> <p><i>Certain Steel</i> (1991) 57 FR 57769 (12/7/92 - Prelim); 58 FR 37350 (7/9/93 - Final); Amended Final</p> <p>TERCL Article 56(2) (Special Treatment for Revaluation of Assets at the Time of Going Public) allows a company that is making an initial public offering to revalue its assets without meeting the requirement in the</p>

	Asset Revaluation Act of a 25 percent change in the wholesale price index since the company's last revaluation.
Terminated Subsidy	<u>Accelerated Depreciation</u> <i>Steel Sheet & Strip in Coils</i> (1997) 63 FR 63899 (11/17/98 - Prelim) ; 64 FR 30636 (6/8/99 - Final)
Terminated Subsidy	<u>Unlimited Deduction of Overseas Entertainment Expenses</u> <i>Certain Steel</i> (1991) 57 FR 57769 (12/7/92 - Prelim) ; 58 FR 37348 (7/9/93 - Final) ; Amended Final <i>Steel Plate in Coils</i> (1997) 63 FR 47262 (9/4/98 - Prelim) ; 64 FR 15538 (3/31/99 - Final) ; <i>Steel Sheet & Strip in Coils</i> (1997) 63 FR 63899 (11/17/98 - Prelim) ; 64 FR 30636 (6/8/99 - Final) Under Article 18-2 of the Corporation Tax Act and supporting legislation, entertainment expenses for domestic clients and foreign clients are eligible to be deducted from taxable income. The amount which can be deducted for domestic entertainment expenses is subject to a ceiling according to an established formula and depending on the amount of any overseas entertainment expenses claimed. There is no cap on overseas entertainment expenses. Because entertainment expense deductions are unlimited only for overseas clients, this program confers benefits which constitute export subsidies, to the extent that the overseas expenses claimed are greater than those which would have been allowed using the domestic cap formula. This program was repealed in December 29, 1995
Terminated Subsidy	<u>Tax Programs Under RSTA (TERCL) Energy-Savings Facilites Investment Reserve Funds (TERCL Article 29)</u> <i>Stainless Sheet & Strip in Coils</i> (2001) 68 FR 53116 (9/9/03 - Prelim) ; 69 FR 2113 (1/14/04 - Final) ; Decision Memo ; Amended Final ;
Terminated Subsidy	<u>Tax Programs Under RSTA (TERCL) Special Cases of Tax for Balanced Development Among Areas (TERCL Articles 41, 42, 43, 44, and 45)</u> <i>Carbon Steel Plate</i> (1998) 64 FR 40445 (6/26/99 - Prelim) ; 64 FR 73176 (12/29/99 - Final) ; <i>Structural Steel Beams</i> (1998) 64 FR 69731 (12/14/99 - Prelim) ; 65 FR 41051 (7/3/00 - Final) ; Decision Memo

Source: ITA

(4) From 2000s to the present

Table 13. US CVD imposed on Korean exports: 2000s to the present⁴³

Case no.	Product	Initiation	Prelim	Final	Duty Order
A-580-848	Cold-Rolled Carbon Steel Flat Products	<u>26-Oct-01</u>	<u>09-May-02</u>	<u>03-Oct-02</u>	
C-580-849	Cold-Rolled Carbon Steel Flat Products	<u>26-Oct-01</u>	<u>04-Mar-02</u>	<u>03-Oct-02</u>	
C-580-851	Dynamic Random Access Memory Semiconductors	<u>27-Nov-02</u>	<u>07-Apr-03</u>	<u>23-Jun-03</u>	<u>11-Aug-03</u>
A-580-856	Coated Free Sheet Paper	<u>27-Nov-06</u>	<u>04-Jun-07</u>	<u>25-Oct-07</u>	
C-580-857	Coated Free Sheet Paper	<u>27-Nov-06</u>	<u>09-Apr-07</u>	<u>25-Oct-07</u>	
C-580-862	Ni-Resist Piston Inserts	<u>23-Feb-09</u>	<u>06-Jul-09</u>	<u>21-Sep-09</u>	
A-580-865	Bottom Mount Combination Refrigerator-Freezers	<u>26-Apr-11</u>	<u>02-Nov-11</u>	<u>26-Mar-12</u>	
C-580-866	Bottom Mount Combination Refrigerator-Freezers	<u>26-Apr-11</u>	<u>06-Sep-11</u>	<u>26-Mar-12</u>	
A-580-868	Large Residential Washers	<u>26-Jan-12</u>	<u>03-Aug-12</u>	<u>26-Dec-12</u>	<u>15-Feb-13</u>
C-580-869	Large Residential Washers	<u>27-Jan-12</u>	<u>05-Jun-12</u>	<u>26-Dec-12</u>	

Source: ITA

⁴³ U.S. Department of Commerce, International Trade Administration, Enforcement and Compliance. "Antidumping and Countervailing Duty Case Information: AD/CVD Investigations (Federal Register History)." <http://enforcement.trade.gov/stats/caselist.txt> (accessed July 17, 2014).

Table 14. Subsidies relevant to the CVD cases since the 2000s⁴⁴

Countervailable Subsidy	<p><u>Short-Term Export Financing</u> <i>Corrosion-Resistant Flat Products (SR)</i> (Expedited Review-no prelim) (2006) 71 FR 32519 (6/06/06 - Final); Decision Memo <i>Corrosion-Resistant Flat Products</i> (2005) 72 FR 51602 (9/10/07 - Prelim); 73 FR 2444 (1/15/08 - Final); Decision Memo <i>Cold-Rolled Carbon Flat Products</i> (2000) 67 FR 9685 (03/04/02 - Prelim); 67 FR 62102 (10/03/02 - Final); Decision Memo <i>Cold-Rolled & Corrosion-Resistant Flat Products (SR)</i> (Expedited Review-no prelim); 65 FR 18973 (4/10/00 - Final); Decision Memo; Amended Final <i>Corrosion-Resistant Flat Products</i> (2004) 71 FR 53413 (9/11/06 - Prelim);</p>
Countervailable Subsidy	<p><u>Tax Programs Under RSTA (TERCL)</u> <i>Investment Tax Credits</i> <i>Cold-Rolled Carbon Flat Products</i> (2000) 67 FR 9685 (03/04/02 - Prelim); 67 FR 62102 (10/03/02 - Final); Decision Memo <i>Cold-Rolled & Corrosion-Resistant Flat Products (SR)</i> (Expedited Review-no prelim); 65 FR 18973 (4/10/00 - Final); Decision Memo; Amended Final</p>
Countervailable Subsidy	<p><u>Tax Programs Under RSTA (TERCL)</u> <i>Reserve for Export Loss--Article 16 of the TERCL</i> <i>Carbon Steel Plate (SR)</i> (Expedited review - no prelim); 71 FR 32519 (6/6/06 - Final); Decision Memo <i>Carbon Steel Plate (SR)</i> (Expedited review - no prelim); 70 FR 45689 (8/8/05 - Final); Decision Memo <i>Carbon Steel Plate</i> (1998) 64 FR 40445 (6/26/99 - Prelim); 64 FR 73176 (12/29/99 - Final) <i>Cold-Rolled Carbon Flat Products</i> (2000) 67 FR 9685 (03/04/02 - Prelim); 67 FR 62102 (10/03/02 - Final); Decision Memo</p>
Countervailable	<p><u>Tax Programs Under RSTA (TERCL)</u> <i>Reserve for Export Loss--Article 22 of the TERCL</i></p>

⁴⁴ International Trade Administration. "Electronic Subsidies Enforcement Library." <http://enforcement.trade.gov/esel/eselframes.html> (accessed July 17, 2014).

Subsidy	<p><i>Corrosion-Resistant Flat Products (SR)</i> (Expedited Review-no prelim) (2006) 71 FR 32519 (6/06/06 - Final); Decision Memo</p> <p><i>Cold-Rolled & Corrosion-Resistant Flat Products (SR)</i> (Expedited Review-no prelim); 65 FR 18973 (4/10/00 - Final); Decision Memo; Amended Final</p> <p>Under Article 22 of the Tax Exemption and Reduction Control Act (TERCL), a corporation engaged in export activities can establish a reserve amounting to the lesser of one percent of foreign exchange earnings or 50 percent of net income for the respective tax year. If certain export losses occur, they are offset from the reserve fund. Any amount that is not used for offset must be returned to the income account and taxed over a three-year period, after a one-year grace period. The balance in the reserve fund is not subject to corporate income tax in that year, although all of the money in the reserve is eventually reported as income and subject to corporate tax either when it offsets export losses or when the one-year grace period expires. This export reserve program confers a benefit that constitutes an export subsidy because it provides a deferment, contingent upon export performance, of direct taxes.</p>
Countervailable Subsidy	<p><u>Tax Programs Under RSTA (TERCL) Reserve for Overseas Market Development - Article 17 of the TERCL</u></p> <p><i>Corrosion-Resistant Flat Products (SR)</i> (Expedited Review-no prelim) (2006) 71 FR 32519 (6/06/06 - Final); Decision Memo</p> <p><i>Carbon Steel Plate (SR)</i> (Expedited review - no prelim); 71 FR 32519 (6/6/06 - Final); Decision Memo</p> <p><i>Carbon Steel Plate (SR)</i> (Expedited review - no prelim); 70 FR 45689 (8/8/05 - Final); Decision Memo</p> <p><i>Cold-Rolled Carbon Flat Products</i> (2000) 67 FR 9685 (03/04/02 - Prelim); 67 FR 62102 (10/03/02 - Final); Decision Memo</p> <p><i>Cold-Rolled & Corrosion-Resistant Flat Products (SR)</i> (Expedited Review-no prelim); 65 FR 18973 (4/10/00 - Final); Decision Memo; Amended Final</p> <p>A domestic person engaged in a foreign trade business can establish a reserve fund equal to one percent of its foreign trade business exchange earnings from its export business for the respective tax year. Expenses incurred in developing overseas markets may be offset by returning from the reserve, to the income account, an amount equivalent to the expense. Any part of the fund that is not placed in the income account for the purpose of offsetting overseas market development expenses must be returned to the income account over a three-year period, after a one year grace period. This program constitutes an export subsidy because the use</p>

	of the program is contingent upon export performance.
Countervailable Subsidy	<p><u>Tax Programs Under RSTA (TERCL)</u> <i><u>RSTA Article 9 Reserve for Research and Human Resources Development (formerly Technical Development Fund)</u></i></p> <p><i>Corrosion-Resistant Flat Products</i> (2004) 71 FR 53413 (9/11/06 - Prelim); <i>Stainless Sheet & Strip in Coils</i> (2004) 71 FR 50886 (8/28/06 - Prelim); (Replaced TERCL Article 8) This program allows a company operating in manufacturing or mining, or in a business prescribed by the Presidential Decree, to appropriate reserve funds to cover the expenses needed for development or innovation of technology. These reserve funds are included in the company's losses and reduces the amount of taxes paid by the company. Under this program, capital good and capital intensive companies can establish a reserve of five percent, while companies in all other industries are only allowed to establish a three percent reserve. We determined that this program is countervailable because the capital goods industry is allowed to claim a larger tax reserve under this program than all other manufacturers. We also determined that this program provides a financial contribution within the meaning of section 771(5)(D)(i) of the Act in the form of a loan.</p>
Countervailable Subsidy	<p><u>Tax Programs Under RSTA (TERCL)</u> <i><u>Selective Depreciation Due to Revaluation of Assets</u></i></p> <p><i>Cut-to-Length Steel Plate</i> (2005) 72 FR 10163 (3/07/07 - Prelim); 72 FR 38565 (7/13/07 - Final); Decision Memo</p> <p><i>Corrosion-Resistant Flat Products</i> (2005) 72 FR 51602 (9/10/07 - Prelim); 73 FR 2444 (1/15/08 - Final); Decision Memo</p> <p><i>Corrosion-Resistant Flat Products</i> (2004) 71 FR 53413 (9/11/06 - Prelim);</p> <p><i>Structural Steel Beams (SR)</i> (Expedited review - no prelim); 70 FR 53167 (9/7/05 - Final); Decision Memo</p> <p><i>Carbon Steel Plate (SR)</i> (Expedited review - no prelim); 70 FR 45689 (8/8/05 - Final); Decision Memo</p> <p><i>Stainless Sheet & Strip in Coils</i> (2001) 68 FR 53116 (9/9/03 - Prelim); 69 FR 2113 (1/14/04 - Final); Decision Memo; Amended Final</p> <p><i>Stainless Sheet & Strip in Coils</i> (2000) 67 FR 57399 (9/10/02 - Prelim); 68 FR 13267 (3/19/03 - Final & partial rescission); Decision Memo</p> <p><i>Cold-Rolled Carbon Flat Products</i> (2000) 67 FR 9685 (03/04/02 - Prelim); 67 FR 62102 (10/03/02 - Final); Decision Memo</p>

	<p><i>Cold-Rolled & Corrosion-Resistant Flat Products (SR)</i> (Expedited Review-no prelim); 65 FR 18973 (4/10/00 - Final); Decision Memo; Amended Final</p> <p>TERCL Article 56(2) (Special Treatment for Revaluation of Assets at the Time of Going Public) allows a company that is making an initial public offering to revalue its assets without meeting the requirement in the Asset Revaluation Act of a 25 percent change in the wholesale price index since the company's last revaluation.</p>
Countervailable Subsidy	<p><u>Other Tax Programs</u> <i>Tax Exemptions for Land Acquisition</i></p> <p><i>Cold-Rolled Carbon Flat Products</i> (2000) 67 FR 9685 (03/04/02 - Prelim); 67 FR 62102 (10/03/02 - Final); Decision Memo</p> <p><i>Stainless Sheet & Strip in Coils</i> (2000) 67 FR 57399 (9/10/02 - Prelim); 68 FR 13267 (3/19/03 - Final & partial rescission); Decision Memo</p> <p>Under Korean tax law, companies are exempt from the registration and acquisition taxes on industrial land outside of a metropolitan area. The Department finds that these exemptions are regionally specific under section 771(5A)(D)(iv) of the Act, as being limited to an enterprise or industry located within a designated geographical region. Therefore, these tax exemptions are countervailable.</p>
Terminated Subsidy	<p><u>Unlimited Deduction of Overseas Entertainment Expenses</u></p> <p><i>Cold-Rolled & Corrosion-Resistant Flat Products (SR)</i> (Expedited Review-no prelim); 65 FR 18973 (4/10/00 - Final); Decision Memo; Amended Final;</p>
Terminated Subsidy	<p><u>Tax Programs Under RSTA (TERCL)</u> <i>Energy-Savings Facilites Investment Reserve Funds (TERCL Article 29)</i></p> <p><i>Carbon Steel Plate</i> (2004) 71 FR 11397 (3/7/06 - Prelim); 71 FR 38861 (7/10/06 - Final);</p> <p><i>Corrosion-Resistant Flat Products</i> (2004) 71 FR 53413 (9/11/06 - Prelim);</p> <p><i>Stainless Sheet & Strip in Coils</i> (2001) 68 FR 53116 (9/9/03 - Prelim); 69 FR 2113 (1/14/04 - Final); Decision Memo; Amended Final;</p> <p>[<i>Cold-Rolled Carbon Flat Products (2000)</i>] Under TERCL article 29, all domestic companies are able to establish a reserve for investment in energy-saving facilities amounting to 15 percent of the total investment value of the facility. The balance in the reserve is not subject to corporate income tax in the year it is invested or the following two years; afterwards, it is returned to income and is subject to taxation. This program was replaced by RSTA Article 30 on December 28, 1998.</p>

Terminated Subsidy	<p><u>Tax Programs Under RSTA (TERCL) <i>Special Cases of Tax for Balanced Development Among Areas (TERCL Articles 41, 42, 43, 44, and 45)</i></u></p> <p><i>Carbon Steel Plate</i> (2004) 71 FR 11397 (3/7/06 - Prelim); 71 FR 38861 (7/10/06 - Final); <i>Cold-Rolled Carbon Flat Products</i> (2000) 67 FR 9685 (03/04/02 - Prelim); 67 FR 62102 (10/03/02 - Final); Decision Memo; <i>Structural Steel Beams (SR)</i> (Expedited review - no prelim); 70 FR 53167 (9/7/05 - Final); Decision Memo; <i>Stainless Sheet & Strip in Coils</i> (2004) 71 FR 50886 (8/28/06 - Prelim); TERCL Article 41 allowed a company who planned to relocate its facility from a large city to a local area to establish a reserve equal to 15 percent of the facility's value. The balance in the reserve was not subject to corporate income tax in that year but all monies in the reserve must eventually be returned to the income account and are then subject to tax at the expiration of the grace period. This program was replaced by Article 58 of RSTA. Subsequent to the establishment of Article 58 of RSTA, the program was terminated and the last date that this reserve could be established was August 31, 1999. We determined that this program is specific within the meaning of section 771(5A)(D)(iv) of the Act, because the program is limited to enterprises or industries located within a designated geographical region. Because the deferral of taxes owed provided under this program amounts to an interest-free loan equal to the company's tax savings, we also determined that this program provided a financial contribution within the meaning of section 771(5)(D)(i) of the Act in the form of a loan.</p>
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Source: ITA

2) Analysis

While there is varying views regarding to what extent they are attributable for Korea's rapid economic development, it is generally agreed that the government's selective industrial policies have contributed importantly to Korea's rapid achievement of international competitiveness in a number of industries. The Korean government has selectively intervened to promote targeted infant industries, typically by supporting the creation of large-scale establishments which were accorded temporary monopolies. Notable examples include cement, fertilizer, and petroleum refining in the early 1960s; steel and petrochemicals in the late 1960s and early 1970s; shipbuilding, other chemicals, capital goods, and durable consumer items in the mid-to-late 1970s; and critical electronic and other components previously sourced from Japan from 80s and onwards. At their inception, targeted industries have received preferential access to long and short-term credit on preferential terms as well as reductions or exemptions with respect to most or all direct and indirect taxes (including tariffs). Per unit of sales being promoted, these incentives, given in relation to total sales, have typically been at least comparable to the incentives given generally in relation to export sales.⁴⁵

These “non-neutral” industrial policies were taken in various forms: as regulations for entry restriction, capacity, production, and price control;

⁴⁵ Westphal, Larry E.. "Industrial policy in an export propelled economy: Lessons from South Korea's experience." *Journal of Economic Perspectives* 4: 41-59.
<https://www.kdevelopedia.org/mnt/idas/asset/2012/06/18/DOC/PDF/04201206180121194075487.pdf> (accessed July 17, 2014).

rationalization; financial supports for funds, financial assistance, subsidies, and tax preferences; provision of special industrial complex; and administrative assistance. Table 15 summarizes the Korean government's efforts to promote infant industries with the use of non-neutral policies abovementioned.

Because the very purpose of these industrial policies was to select certain firms and promote infant industries while protecting them from fierce competition with foreign firms, they were prone to the specificity test of countervailing duty investigations. Indeed, the product at issue for the CVD cases mostly fall under the infant industries promoted during the period. Naturally, subsidies at issue fall under the categories of the non-neutral industrial policies listed in Table 15.

Table 15. Major content of promotional laws⁴⁶

Major content (year of enactment)	Machinery (1967)	Ship- building (1967)	Electronics (1969)	Petro- chemicals (1970)	Iron& steel (1970)	Non-ferrous metals (1971)	Textiles (1979)
Regulations							
Entry restriction	x	x	x	x	x	x	x
Capacity regulation							
Setting up facility standards	x	x					
Capacity expansion approval				x	x		x
Incentives to use domestically Produced facilities	x		x				
Production regulation							
Regulation of material imports					x	x	
Production standard and its inspection	x	x	x		x	x	
Restrictions on technology imports	x		x				
Price control				x	x		
Reporting and inspection	x	x	x	x	x	x	x
Rationalization							
Rationalization programs	x	x	x	x			x
R&D support							
Subsidies to R&D	x		x	x	x		

⁴⁶ Chang, Ha-Joon. "The political economy of industrial policy in Korea." *Cambridge Journal of Economic* 17: 131-157.
<http://cje.oxfordjournals.org/> (accessed July 17, 2014).

Joint R&D projects			x				
Financial support							
Special purpose fund	x	x	x		x	x	x
Financial assistance	x	x	x		x	x	x
Subsidies							
Direct subsidy	x					x	
Reduced public utility rates	x				x		
Tax preferences							
Special depreciation	x					x	
Tax reduction/exemption	x	x	x	x	x	x	
Special industrial complex	x		x	x			x
Administrative assistance							
Facilitating overseas activities			x		x		
Purchase of raw materials					x	x	
Producers' association	x	x	x				x

Source: Kim (1989), p. 34, table 3.1; S. H. Lee et al. (1989), pp. 52-9., Chang, Ha-Joon. " The political economy of industrial policy in Korea."

(1) Adjustments

Data of terminated subsidies reflect the Korean government's efforts to eliminate the sources of future trade frictions. Some of them might have simply expired due to budgetary issues, but as export companies continued to suffer from U.S. trade remedies, the ones that triggered the trade remedies repeatedly were either revised or repealed later.

Also, as Korea joined the World Trade Organization, most of the old industrial policies aforementioned were abolished and by the mid 1990s Korea no longer granted subsidies in the form of direct payments to industry. The Korean government had planned to phase out all prohibited subsidies by 2002 and executed accordingly.⁴⁷

Going further from simply eliminating the problematic industrial policies, the Korean government has been continuously reforming its industrial policy packets. For instance, Korea's competition law has been overhauled since 1992 and complemented by institutional and organizational improvements in policy implementation. The reforms were intended to contribute to a more balanced economic structure in terms of company size, and reduce barriers for new entrants.

⁴⁸ A more recent example would be the Korean government's efforts to remove

⁴⁷ World Trade Organization. "Trade policy review: first press release, secretariat and government summaries. PRESS/TPRB/40. Korea: September 1996." .
http://www.wto.org/english/tratop_e/tpr_e/tp40_e.htm (accessed July 17, 2014).

⁴⁸ World Trade Organization. "Trade policy review: first press release, secretariat and government summaries. PRESS/TPRB/40. Korea: September 1996." .
http://www.wto.org/english/tratop_e/tpr_e/tp40_e.htm (accessed July 17, 2014).

anti-competitive provisions of competition laws and regulations; monopoly power has decreased steadily, but market concentration remains relatively high. Large business conglomerates, many of which are family-controlled (chaebols), are subject to special regulation, and cross-shareholding between subsidiaries under the same holding company is banned. Ceilings on the total amount of shareholdings in other domestic companies were removed in 2009. Large corporations and SMEs are encouraged to voluntarily sign an agreement on fair trade and shared growth; future work is focused on improving competition conditions for SMEs.⁴⁹

(2) Vestiges of old industrial policies

Despite the Korean government's efforts to eliminate the causes of trade remedies and trade frictions, still there are industries that are continuously subject to U.S. countervailing measures, such as the steel and electronics industries. The countervailable subsidies due to which these industries get the countervailing duties are mostly electricity and facility related or tax preferences—vestiges of the old industrial policies from the non-neutral infant industry promotion policies of from the late 1960s and early 70s.

This implies that the Korean government's reforms abovementioned, though diligently executed, were not comprehensive enough to make the industries at issue to be trade-remedy-proof. The way these industries are established trace back to the early years of infant industry promotion policies and therefore, without

⁴⁹ World Trade Organization. "Trade Policy Review: Republic of Korea 2012." .
http://www.wto.org/english/tratop_e/tpr_e/tp368_e.htm (accessed July 17, 2014).

profound structural reforms, U.S. CVD measures will continue to be imposed on them.

Lastly, regarding the most recently added cases, such as the refrigerator and washer cases, the major problem would be subsidies that are formally repealed but still exist in different forms. Some of the subsidies that were provided by the Korean government for industry promotion purposes were converted into R&D subsidies, which used to be non-actionable subsidies but are no longer immune to countervailing measures. The Korean government's industrial policy reforms during the early 90s and throughout the 2000s were not thorough enough and did not go much further than a cosmetic change for some of these subsidies. For these cases, therefore, de facto functions of these subsidies will be the major issues.

2. Current Status

1) Ongoing cases

With electronic products recently added on the target list of U.S. trade remedies, there are several anti-dumping and countervailing duty investigations currently active as listed in Table 15. Subject products are similar to products that were previously charged with countervailing duties, so the long-term approach to promote structural change in these industries seems necessary.

Table 16. Currently active AD and CVD investigation against Korean exports (as of May 29, 2014)⁵⁰

Phase	Investigation Title	Investigation No.	Start	End
Preliminary	Certain Steel Nails from Korea	701-TA-515-521 and 731-TA-1251-1257 (Preliminary)	05/29/14	07/21/14
Final	Certain Oil Country Tubular Goods from Korea	701-TA-499-500 and 731-TA-1215-1223 (Final)	02/25/14	08/25/14
Final	Grain-oriented electrical steel from Korea	701-TA-505 and 731-1231-1237 (Final)	05/12/14	09/09/14
Final	Non-oriented electrical steel from Korea	701-TA-506-508 and 731-TA-1238-1243 (Final)	05/22/14	11/18/14
5-Year Review (Sunset)	Light-Walled Rectangular Pipe and Tube from Korea	701-TA-449 and 731-TA-1118-1121 (Review)	04/01/13	06/09/14

Source: USITC

In addition, section 337 investigations are in a rapidly increasing trend; as symbolically shown in the Apple vs. Samsung cases, overuse of section 337 investigations can cause significant harm to Korean export companies. Korea should also actively seek a multilateral agreement on the rules governing protection of intellectual property rights so that those rights are adequately protected but at the same time the free flow of technical know-how is not disturbed. In recent years, the fear of abuse of Section 337 in the United States has been of growing concern to Korean exporters. Korea (or developing countries) should demand that an injury test be required before the ITC makes a decision about the infringement of intellectual

⁵⁰ U.S. International Trade Commission. "AD CVD Investigations: Active Investigations." http://usitc.gov/trade_remedy/731_ad_701_cvd/investigations/active/index.htm (accessed July 17, 2014).

property rights.⁵¹

2) Korea-U.S. FTA

The Korea-U.S. FTA which entered into force on March 15, 2012 is a regional trade agreement with a high level of liberalization and is considered as the model for trade agreements for the rest of the region. However, when trade remedies are considered, at least compared to the previous expectations from the Korean side, the measures newly added in the FTA are quite modest.

Article 10.7 under Section B of the trade agreement is on trade remedies. In a departure from previous FTAs, paragraph 3 would require that a party, upon receipt of an application and before initiating an investigation, provide notice to the other party and opportunity for a meeting. Also new in this FTA, paragraph 4 of Article 10.7 would require the parties, after making a preliminary affirmative determination of dumping or subsidization and injury caused by such dumping or subsidization, to consider “undertakings” with respect to price and, in countervailing duty investigations, quantity, which may result in suspension of the investigation without the imposition of antidumping or countervailing duties. More specifically, paragraph 3 of Article 10.7 requires that a party, upon receipt of a properly documented antidumping or countervailing duty application with respect to imports from the other party, and before initiating an investigation, provide written

⁵¹ Nam, Chong-Hyun. "Protectionist U.S. Trade Policy and Korean Exports." *National Bureau of Economic Research*: 183-222. <http://www.nber.org/chapters/c8075.pdf> (accessed July 17, 2014).

notification to the other party of its receipt of the application and afford the other party a meeting or similar opportunity regarding the application, consistent with the party's law.⁵²

In another departure from previous FTAs, section C would provide for the establishment of a Committee on Trade Remedies, comprising representatives from each party who have responsibility for trade remedies matters, including antidumping, subsidies and countervailing measures, and safeguard issues. The functions of the Committee would include enhancing knowledge of each other's trade remedy laws, policies, and practices; overseeing implementation of the chapter, including compliance with paragraphs 3 and 4 of Article 10.7; improving cooperation between the parties' agencies having responsibilities for trade remedies matters; providing a forum for the parties to exchange information on issues relating to antidumping, subsidies and countervailing measures, and safeguards; establishing and overseeing development of educational programs related to the administration of trade remedy laws for officials of both parties; and providing a forum for the parties to discuss other relevant topics of mutual interest. These relevant topics would include international issues related to trade remedies (e.g., issues relating to the WTO Doha Round rules negotiations), practices by the parties' competent authorities in antidumping and countervailing duty investigations (such as application of "facts available" and verification procedures), and practices of a party

⁵² United States International Trade Commission. "U.S.-Korea Free Trade Agreement: Potential Economy-wide and Selected Sectoral Effects."
<http://www.usitc.gov/publications/332/pub3949.pdf> (accessed July 17, 2014).

that may constitute industrial subsidies. Section C would require that the Committee meet at least once per year.⁵³

⁵³ Ibid.

IV. CONCLUSION

1. Trends in U.S. Trade Remedy Use

There has been overall increase in the use of U.S. trade remedies, especially around the 2008 global financial crisis. While the U.S. has been and will continue to actively use anti-dumping measures to minimize injuries to domestic industries, as it is becoming more and more prone to be the respondent party for anti-dumping cases, it is getting more difficult to effectively protect domestic industries only with anti-dumping measures. This is why the number of countervailing measures which was in a decreasing trend, increased again in the 2000s. Another major factor that explains the increase in the number of CVD investigations is the change in 2007 in the U.S. Department of Commerce's longstanding policy not to apply CVDs to economies that it classifies as "non market" economies.

In addition, there has been rapid increase in the use of Section 337 measures. Unlike other trade remedies such as anti-dumping or countervailing duty actions, no showing of injury due to the importation is required to use Section 337 measures, which makes it easy to overuse.

2. The influence of U.S. countervailing measures on Korea's industrial policy

Data of subsidies that were at issue and later terminated reflect the Korean government's efforts to eliminate the sources of future trade frictions. Some of them might have simply expired due to budgetary issues, but as export companies

continued to suffer from U.S. trade remedies, the ones that triggered the trade remedies repeatedly were either revised or repealed later.

Despite the Korean government's efforts to eliminate the causes of trade remedies and trade frictions, still there are industries that are continuously subject to U.S. countervailing measures, such as the steel and electronics industries. The countervailable subsidies due to which these industries get the countervailing duties are mostly electricity and facility related or tax preferences—vestiges of the old industrial policies from the non-neutral infant industry promotion policies of from the late 1960s and early 70s.

Lastly, regarding the most recently added cases, such as the refrigerator and washer cases, the major problem would be subsidies that are formally repealed but still exist in different forms. Some of the subsidies that were provided by the Korean government for industry promotion purposes were converted into R&D subsidies, which used to be non-actionable subsidies but are no longer immune to countervailing measures. The Korean government's industrial policy reforms during the early 90s and throughout the 2000s were not thorough enough and did not go much further than a cosmetic change for some of these subsidies. For these cases, therefore, de facto functions of these subsidies will be the major issues.

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국문 초록

미국의 무역구제조치가 한국의 산업정책에 미친 영향:
1970년대 이후 상계조치를 중심으로 한
미국의 무역구제조치 동향 및 영향 분석

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수출 의존도가 높은 대한민국 경제 구조상 국제통상분쟁은 단기적인 수출 실적뿐만 아니라 장기적인 산업 구조 변화 등에까지 영향력을 미친다. 특히 미국과 같이 시장규모가 크고 사회, 정치적 중요도가 높은 나라와의 통상 마찰은 우리나라의 산업 정책에 상당한 영향을 끼친다.

미국의 무역구제제도는 어떻게 진화하였는가? 어떠한 변인이 최근 미국의 보호무역적 조치들을 증가시키고 주요 무역구제제도를 변화시켰는가? 이렇게 변화하는 미국의 무역조치들은 우리나라의 산업 정책에 어떤 영향을 주었는가? 이 질문에 대한 답은 한국의 산업 정책을 더욱 온전히 이해하고 현재 진행되고 있거나 앞으로 불거질 수 있는 통상 분쟁에 대비하는 데에 도움이 될 것이다.

본 논문의 전반부는 미국 국제무역위원회 및 관련 기관에서 발표한 미국의 무역구제제도 활용에 대한 통계를 제공한 후, 각 조치 별 활용 건수 및 주요 조치의 전환 등을 분석한다. 특히 기존의 반덤핑과 상계조치의 활용 현황에서 나아가, 최근 남용되고 있는 미국관세법 제337조 조사로의 전환 등을 살펴 미국 패권의 상대적 하향과 국내 정치적 요소들이 이러한 무역구제제도 활용 양상의 변인이 될 수 있는지 알아본다.

논문의 중, 후반부에서는 미국 무역구제제도가 한국의 산업정책에 미친 영향을 다룬다. 특히 상계조치를 위주로 한 분석을 통해 통상마찰을 일으킨 우리나라의 정부 보조금 목록을 시기별로 작성하여 현재 우리나라의 산업정책에 여전히 남아있는 1960, 70년대 산업육성정책의 흔적과 이로 인해 현재까지 이어지는 통상분쟁의 패턴을 분석한다.

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주요어: 무역구제조치, 상계조치, 보조금, 산업정책, 미국관세법 337조

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