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국제학석사학위논문

**Empirical Analysis on the EU Trade Remedy Actions:  
Focusing on the Subsidies and Countervailing Measures Disputes**

**EU 무역구제 행위에 대한 실증적 연구:  
보조금 및 상계조치에 관한 분쟁사례를 중심으로**

2016년 2월

서울대학교 國際大學院

國際學科 國際通商專攻

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**Empirical Analysis on the EU Trade Remedy Actions:  
Focusing on the Subsidies and Countervailing Measures Disputes**

A Thesis Presented

by

**Hong, Hyun-Pyo**

to

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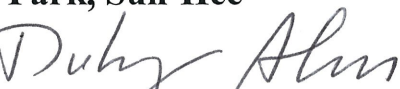
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## **ABSTRACT**

### **Empirical Analysis on the EU Trade Remedy Actions:**

#### **Focusing on the Subsidies and Countervailing Measures Disputes**

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Subsidies have long been regarded as a controversial issue as a representative non-tariff barrier under the World Trade Organization (WTO). The European Union (EU) has been involved in 40 disputes as a complainant or respondent over 109 cases on subsidies and countervailing measures disputes under the WTO dispute settlement. The EU subsidy issues are the second highest level of involvement in trade disputes, following the United States, which recorded a total of 64 disputes. This research explains a mechanism of EU trade remedy actions against subsidies with an empirical analysis on the EU subsidies and countervailing measures over the period of 1995, when the WTO was established, through 2015.

This paper was fundamentally conducted on the basis of statistical data, a report and preceding research on a relevant issue. First, the study analyzed whether subsidies and countervailing measures disputes of the EU in the WTO tends to concentrate on any countries or products. Second, the research independently investigated the specificity and characters of countervailing measures, which were initiated and imposed based on its own initiative called the EU anti-subsidy rules. As a result, the subsidy disputes of the EU showed significant correlativity on specificity concerning the targeted country and product. Third, we clearly verified that the *ad-valorem* duty was overwhelmingly used rather than a specific duty for the measures by the European Commission (EC) according to the types and characters of the targeted product.

This dissertation ultimately is aimed to serve three different purposes through a sophisticated analysis: 1) comprehension for articles of Agreement of Subsidies and Countervailing Measures in the WTO and anti-subsidy rules in the EC; 2) verification and validation of specificity for initiations and measures on subsidy related disputes with data from the WTO and EC; and 3) analysis on the characters of countervailing duties imposed on trade partners. Strongly supported with implications from an actual case study, the conclusions will help to understand internal and external backgrounds of disputes. Also, the dissertation will contribute to predict further possible trade disputes regarding the subsidy issue with the EU, partner of the free trade agreement and the third biggest trade partner of South Korea.



**Keywords:** WTO, Agreement on Subsidies and Countervailing Measures,  
European Union (EU), European Commission (EC), Anti-  
Subsidy Rules, Trade Dispute, Subsidy, Countervailing Measure,  
Korea-EU FTA

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## **LIST OF ABBREVIATIONS**

AD	Anti-Dumping
AG	Agriculture
CVD	Countervailing Duty
DSB	Dispute Settlement Body
DSU	Dispute Settlement Understanding
EC	European Commission
EU	European Union
FTA	Free Trade Agreement
GATS	General Agreement on Trade in Services
GATT	General Agreement on Tariffs and Trade
IP	Intellectual Property
IPR	Intellectual Property Rights
ITC	International Trade Commission
ITO	International Trade Organization
SCM	Subsidies and Countervailing Measures
SG	Safeguards
SPS	Sanitary and Phytosanitary Measures
TBT	Technical Barriers to Trade
TRIMS	Trade-Related Investment Measures
TRIPS	Trade-Related Aspects of Intellectual Property Rights
WTO	World Trade Organization

# **CHAPTER I**

## **INTRODUCTION**

### **1.1 Research Objective and Contribution**

Under the General Agreement on Tariffs and Trade (GATT) and the World Trade Organization (WTO), which have controlled the world trade system since 1947, there has been a consistent decrease of trade barriers for the purpose of the proliferation of free trade. However, it is noteworthy that non-tariff barriers such as domestic regulations and technical barriers are criticized to undermine free trade rules under the WTO. Among the various non-tariff barriers, Subsidies and Countervailing Measures (SCM) is one of the most debated issues. The imposition of countervailing measures against subsidies has been disciplined by the WTO agreement called ‘Agreement on Subsidies and Countervailing Measures’. However, this remedy action has long been controversial among the WTO members due to ambiguous and imprecise guidelines. In addition, despite strict regulations to guarantee compliance with WTO subsidy rules, the actual implementation of the WTO Dispute Settlement Body (DSB) judgment to remove violated subsidy programs is not working properly and effectively.

The SCM disputes under the WTO have been frequently and predominantly generated by only a few nations. The European Union (EU) is one of the key players (most notable key player is the United States) based on



the total number of disputes and frequency. However, only a few preceding studies have been conducted in South Korea (hereafter, Korea). Also, the relevant issue failed to be magnified as a controversy compare to anti-dumping and other subject matters even though many member countries directly and indirectly still grant different types of subsidies to their domestic industries and firms.

In this context, the main objective of this dissertation can be explained to enhance the understanding of subsidies by offering lucid definitions that are defined by the provisions of the WTO and EU anti-subsidy rules. Especially, for an in-depth study regarding SCM Agreement of the WTO, this research first explains the definition of financial contribution, categories of subsidies and dispute settlement procedures. Indeed, EU anti-subsidy rules are in many respects a trustworthy reflection of the relevant WTO rules. Accordingly, examining WTO anti-subsidy rules need to be considered before scrutinizing the specifics of EU legislation.

Second, this study aims to analyze the trends regarding EU SCM disputes as both complainant and respondent in the WTO. The analysis of the SCM disputes cases during the twenty-one year period (1995-2015) in this research will describe whether the disputes were targeted on any specific countries or industries by sorting out the number of SCM initiations and impositions of countervailing measures in each category. In addition, the analysis, will examine subsidy disputes of the EU involving major industries of Korea. The subsidy disputes are a larger percentage of the overall exports

against the EU when looking into the trade pattern between Korea and the EU and identify the existence of any certain types of products or services that the EU sensitively disputed under the SCM Agreement.

Third, the EU initiates investigations with its own regulation, based on the EU anti-subsidy rules. Accordingly, we examine both initiations and measures by the EU itself. For the analysis, statistical data from the EC anti-subsidy measures list and WTO semi-annual report were used. In the relevant chapter, the countries were categorized into four different groups and we analyzed the trend of countervailing initiations and measures by targeted country, product, and types of measures imposed by the EU. The results will contribute to verify if any particular countries or products are more frequently targeted than any other. In addition, the outcomes, will explain the characteristics of anti-subsidy measures applied for the trade counterpart.

Consequently, the empirical analysis of the EU SCM disputes under the agreement will contribute to provide percipient knowledge with explicit explanations regarding the disputes and outcomes. These are all indispensable elements for better understanding of the background and chronological pattern of the conflicts by targeted countries and industrial sectors. The results of this research would be a great contribution in anticipating further trade disputes on the relevant agreement under the Korea-EU Free Trade Agreement.

## **CHAPTER II**

### **OVERVIEW OF SUBSIDIES AND COUNTERVAILING MEASURES**

#### **2.1 Formulations of the Definition of Subsidy**

The provision of GATT 1947 did not include a clear definition of subsidy. The only rules dealing with subsidies essentially were Article XVI GATT 1947, providing for notification of and consultations on subsidies, and Article VI GATT 1947, allowing the imposition of countervailing measures.<sup>1</sup> Neither of these provisions contained a definition of subsidy but only referred to the term subsidy.<sup>2</sup> With respect to the meaning of the word ‘subsidies’, a large majority of the experts considered that it covered only subsidies granted by governments or by semi-governmental bodies.<sup>3</sup> However, some experts considered that the word should be interpreted in a wider sense and felt that it covered all subsidies, whatever their character and whatever their origin, including also subsidies granted by private bodies.<sup>4</sup>

From the beginning, the consistent reading of the term subsidy has been quite extensive.<sup>5</sup> The Tokyo Round Subsidies Code, for instance, mentioned some ‘examples of possible forms of subsidies’, encompassing ‘government

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<sup>1</sup> Wolfrum, Rüdiger, Peter-Tobias Stoll, and Michael Koebele, eds. ‘WTO: Trade Remedies’, Martinus Nijhoff Publishers (2008), p.426.

<sup>2</sup> *Ibid.*

<sup>3</sup> Rubini, Luca, ‘The definition of subsidy and state aid: WTO and EC law in comparative perspective’, Oxford University Press (2009), pp.105-106.

<sup>4</sup> *Ibid.*

<sup>5</sup> *Ibid.*

financing of commercial enterprises, including grants, loans or guarantees; government provision or government financed provision of utility supply distribution and other operational or support services or facilities; government financing of research and development programs; fiscal incentives; and government subscription to, or provision of, equity capital'.<sup>6</sup>

In addition, it was debated that whether more complex regulatory mechanisms such as environmental or labor standard could be included in the notion of the subsidy,<sup>7</sup> it seems that, despite its comprehensive nature, the GATT concept of the subsidy was limited to measures involving a clear transfer of economic resources and in the case of action through intermediaries, requiring close involvement of the government.<sup>8</sup> This is the interpretation made by an early panel and confirmed prior to the Uruguay Round by the group of the experts on the calculation of the amount of the subsidies, which noted that: There can be no subsidy in the absence of a financial contribution of the government. There is a necessary link between a subsidy and taxation function of government, exercised either directly or delegate to other, private bodies.<sup>9</sup>

In particular, the concept of 'financial contribution', construed with references to the link with the 'taxation function of the government' clearly

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<sup>6</sup> Rubini, Luca, 'The definition of subsidy and state aid: WTO and EC law in comparative perspective', Oxford University Press (2009), pp.105-106.

<sup>7</sup> Pro M Bronckers and R Quick, 'What is a Countervailable Subsidy under EEC Trade Law?', (1989) 6 Journal of World Trade 5, 22; A O'Brian, 'Countervailing Low Wage Subsidies: A Counter to the Leveling of Labor Conditions' (1994) 4 Transnational Law and Contemporary Problems 825; contra M Benitah, The Law of Subsidies under the GATT/WTO System (The Hague: Kluwer Law International, 2001), p.68.

<sup>8</sup> Rubini, Luca, 'The definition of subsidy and state aid: WTO and EC law in comparative perspective', Oxford University Press (2009), pp.106-107.

<sup>9</sup> *Ibid.*

hints at the form of intervention involving a *quite defined transfer of economic resources connected with the sovereign right of governments to collect revenue and spend it.*<sup>10</sup> These correspond to the most commonly accepted form of subsidy. On the other hand, the rule of imputability of the form of indirect action shows a particularly tight degree of government involvement by using the term ‘delegation’. What emerges therefore is that in the GATT there was a certain agreement that only clear and established form of financial assistance would be covered in the definition of the subsidy with the exclusion of more complex form of regulatory measures.

Traditionally, the GATT has been more hostile to export than to domestic subsidies for several reasons.<sup>11</sup> First, as export subsidy appears aggressive, especially to an importing country facing serious market disruption from imports.<sup>12</sup> Second, export subsidies help national products climb foreign tariff walls. Such subsidies may thus seem to subvert the legitimate tariff policy of an importing country.<sup>13</sup> Third, an export subsidies, as an intervention confined to the trade sector, is equivalent to a negative tariff, it clashes with the efficiency goals of liberal trade.<sup>14</sup> It distorts resource allocation and, by opening a gap in price between export and domestic sales, also distorts

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<sup>10</sup> Rubini, Luca, ‘The definition of subsidy and state aid: WTO and EC law in comparative perspective’, Oxford University Press (2009), pp.106-107.

<sup>11</sup> Barcelo, John J, ‘Subsidies, Countervailing Duties and Antidumping after the Tokyo Round’, Cornell International Law Journal Vol.13(1980), p.261.

<sup>12</sup> *Ibid.*

<sup>13</sup> *Ibid.*

<sup>14</sup> *Ibid.*

consumption.<sup>15</sup>

The Uruguay Round, which was more ambitious than the Tokyo Round and all the original GATT articles were up for review.<sup>16</sup> The *Final Act Embodying the Result of the Uruguay Round of Multinational Trade Negotiations*, adopted on 15 December 1993, comprises more than 50 legal texts, including an agreement establishing World Trade Organization (WTO), an Agreement on Agriculture (AG), and an Agreement on Subsidies and Countervailing Measures (SCM).<sup>17</sup> The most important achievement of the Uruguay Round negotiations can be described as the inclusion in the SCM Agreement of a definition of ‘subsidy’.<sup>18</sup> The definition in Article 1 contains three basic elements:

- (a) Financial contribution;
- (b) By a government or public body within the territory of a member;
- (c) Which confers a benefit.

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<sup>15</sup> Barcelo, John J, ‘Subsidies, Countervailing Duties and Antidumping after the Tokyo Round’, *Cornell International Law Journal* Vol.13(1980), p.261.

<sup>16</sup> Steenblik, Ronald P, ‘Previous Multilateral Efforts to Discipline Subsidies to Natural Resource Based Industries’, *Report of proceedings on workshop on the impact of government financial transfers on fisheries management, resource sustainability, and international trade* Vol.17(1998), p.9.

<sup>17</sup> *Ibid.*

<sup>18</sup> Steger, Debra P, ‘The WTO Doha Round Negotiations on Subsidies and Countervailing Measures: Issues for Negotiators’, *Symposium on Economic Restructuring in Korea In Light of the Doha Development Round Negotiations on Rules*, Seoul, Korea (2003), p.3.

All of these must be satisfied in order for a subsidy to exist. The analysis of the forms of governmental action covered concentrates on two provisions which are particularly significant, the ‘financial contribution’ in the general definition of subsidy of Article 1.1(a)(1) of the SCM and the form of export subsidy in Article 9.1(c) of the AG.<sup>19</sup>

## **2.2 The WTO Agreement on Subsidies and Countervailing Measures**

The SCM Agreement which constitutes the most general regulation of subsidies in the WTO has introduced for the first time a fairly sophisticated definition of subsidy in Article 1.<sup>20</sup> In particular, under Article 1.1(a), the action by the government may be constituted by two alternative elements, a ‘financial contribution’ or ‘any income or price support’, which should confer a ‘benefit’.<sup>21</sup>

Article 1.1(a) (1) of the SCM Agreement requires that for a subsidy to exist there must be a ‘financial contribution’ by a government or any public body. The provision also includes an elaborate list of various forms of financial contribution which occur where:<sup>22</sup>

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<sup>19</sup> Rubini, Luca, ‘The definition of subsidy and state aid: WTO and EC law in comparative perspective’, Oxford University Press (2009), pp.107-108.

<sup>20</sup> *Ibid.*

<sup>21</sup> *Ibid.*

<sup>22</sup> Legal Texts of Agreement on Subsidies and Countervailing Measures, Available at [https://www.wto.org/english/docs\\_e/legal\\_e/24-scm\\_01\\_e.htm](https://www.wto.org/english/docs_e/legal_e/24-scm_01_e.htm) (Accessed on 24 December 2015)

- (a) a government practices involves a direct transfer of funds (e.g. grants, loans, and equity infusion), potential direct transfers of funds or liabilities (e.g. loan guarantees);
- (b) a government revenue that is otherwise due is forgone or not collected (e.g. fiscal incentives such as tax credits);
- (c) a government provides goods or services other than general infrastructure, or purchases goods;
- (d) a government makes payment to a funding mechanism, or entrust or directs a private body to carry out one or more of the type of functions illustrated in (a) to (c) above which would normally be vested in the government and the practices, in no real sense, differs from practices normally followed by governments.

For the purpose of the analysis, it is important to answer how this requirement should be interpreted and adapted. Also, it is critical to define the meaning and role of each paragraph.<sup>23</sup>

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<sup>23</sup> Legal Texts of Agreement on Subsidies and Countervailing Measures, Available at [https://www.wto.org/english/docs\\_e/legal\\_e/24-scm\\_01\\_e.htm](https://www.wto.org/english/docs_e/legal_e/24-scm_01_e.htm) (Accessed on 24 December 2015)



### 2.2.1 Financial Contribution

The SCM Agreement includes an exhaustive list of measures that are regarded as a ‘financial contribution’. The list identifies government practices that range from grants and loans to equity infusions, loan guarantees, fiscal incentives, the provision of goods or services and the purchase of goods.<sup>24</sup> The SCM Agreement covers such measures even if they are carried out by a private entity, provided that a government has ‘entrusted’ or ‘directed’ the private entity to carry out one of the enumerated practices normally followed by governments.<sup>25</sup> One of the most significant aspects of Article 1 is what is not included in that definition. ‘Any government practice that does not meet one the four criteria laid out therein cannot be considered a subsidy for the purposes of the Agreement.’<sup>26</sup>

The Appellate body has underlined that the ‘financial contribution’ is separate from the ‘benefit’ and that these two elements together determine whether a subsidy exist.<sup>27</sup> The report of the US-Export Restraints is considered as a landmark document for the definition of the subsidy, casting light on both

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<sup>24</sup> Steger, Debra P, ‘The WTO Doha Round Negotiations on Subsidies and Countervailing Measures: Issues for Negotiators’, Symposium on Economic Restructuring in Korea In Light of the Doha Development Round Negotiations on Rules, Seoul, Korea(2003), p.3.

<sup>25</sup> *Ibid.*

<sup>26</sup> Terry Collins-Williams, Gerry Salembier, ‘International Disciplines on Subsidies: The GATT, The WTO and the Future Agenda’, Journal of World Trade 30, no.1 (1996), p.10.

<sup>27</sup> Rubini, Luca, ‘The definition of subsidy and state aid: WTO and EC law in comparative perspective’, Oxford University Press (2009), p.108.

the interpretation and function of the requirement of financial contribution.<sup>28</sup> The main issue in Export Restraints was whether an ‘export restraints’ could constitute a financial contribution in the form of the government-entrusted or government-directed provision of goods in the sense of Article 1.1(a)(iii) and (iv) of the SCM.<sup>29</sup> The central argument of the United States, the defendant, which mirrored its position on the notion of subsidy in the Uruguay Round negotiations, was based on an exclusive emphasis on the effects produced by the governmental intervention in the economy.<sup>30</sup> In response to the ‘effect approach’ advocated by the United States, the Panel underlined that the determination of whether a financial contribution exists must concentrate on the examination of the nature of the action by the government and not on its effects.<sup>31</sup> It should finally noted that, according to the Panel, all forms of financial contribution involve a clear transfer of economic resources in the form of a transfer of something of value, either money, goods or services, from government or an intermediary to a private entity.<sup>32</sup> Crucially, as a consequence of the function of limitation of the financial contribution, the converse is not necessarily true, that is, not all transfer of economic resources constitute a financial contribution under the SCM Agreement.<sup>33</sup>

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<sup>28</sup> Rubini, Luca, ‘The definition of subsidy and state aid: WTO and EC law in comparative perspective’, Oxford University Press (2009), p.109.

<sup>29</sup> *Ibid.*

<sup>30</sup> *Ibid.*

<sup>31</sup> *Ibid.*

<sup>32</sup> Rubini, Luca, ‘The definition of subsidy and state aid: WTO and EC law in comparative perspective’, Oxford University Press (2009), p.111.

<sup>33</sup> *Ibid.*

### 2.2.2 Categories of Subsidies

The SCM Agreement contains three specific categories of subsidies: prohibited, actionable and non-actionable. This is commonly referred to as the ‘traffic light’ approach to classification of subsidies. This approach is based on the understanding that certain subsidies are not trade distorting at all or are even ‘noble’.<sup>34</sup> To be specific, the ‘red light’ category corresponds to prohibited subsidies, ‘yellow light’ to actionable subsidies and ‘green light’ to non-actionable. However, the non-actionable category which covered R&D, regional development and environment in Part 4 of the Agreement lapsed on 31 December 1999.

The actionable subsidy category targets subsidies that cause ‘adverse effects’ to the interests of other Members. The Article 5 in Part 3 of the SCM Agreement lists three types of ‘adverse effects’ as follows: <sup>35</sup>

- (a) injury to the industry of another Member;
- (b) nullification or impairment of benefits accruing directly or indirectly to other Member under GATT 1994 in particular the benefits of concessions bound under Article II of GATT 1994;

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<sup>34</sup> Negotiating Group on Rules, ‘WTO Negotiations Concerning the WTO Agreement on Subsidies and Countervailing Measures: Proposal by the European Communities’, TN/RL/W/30, 21 Nov. 2002, 1 (hereinafter ‘EC Proposal’)

<sup>35</sup> Article 5 of the SCM Agreement

- (c) serious prejudice to the interests of another Member.

The first type is injury caused to the domestic industry of another country by subsidized imports in its territory. In addition, the second type of ‘adverse effects’ is nullification or impairment of benefits accruing under the GATT 1994 which happens most typically where the improved market access reasonably expected to be obtained from a bound tariff is nullified or impaired by subsidization of the product.<sup>36</sup> The last type of ‘adverse effects’ can be explained ‘serious prejudice’. It usually arises as a result of adverse trade effects (for example, export displacement) in the home market of the subsidizing country or in a third country market.<sup>37</sup> Serious prejudice in the sense of paragraph (c) of Article 5 shall be deemed to exist in the case of:<sup>38</sup>

- (a) the total ad valorem subsidization of a product exceeding 5 per cent;
- (b) subsidies to cover operating losses sustained by an industry;
- (c) subsidies to cover operating losses sustained by an enterprises, other than one-time measures which are non-recurrent and cannot be repeated for that enterprises and which are given merely to provide

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<sup>36</sup> Overview of Subsidies and Countervailing Measures,  
Available at [https://www.wto.org/english/tratop\\_e/scm\\_e/subs\\_e.htm](https://www.wto.org/english/tratop_e/scm_e/subs_e.htm)  
(Accessed on 24 December 2015)

<sup>37</sup> *Ibid.*

<sup>38</sup> Article 6.1 of the SCM Agreement

time for the development of long-term solutions and to avoid acute social problems;

- (d) direct forgiveness of debt, i.e. forgiveness of government-held debt, and grants to cover debt repayment.

Until 31 December 1999, the SCM Agreement contained a presumption of serious prejudice with respect to certain specified types of actionable subsidies.<sup>39</sup> This presumption, like the non-actionable category in Part 3 of the Agreement, expired on that date.<sup>40</sup> The SCM Agreement also exceptionally identifies two types of prohibited subsidies except as provided in the Agreement on Agriculture:<sup>41</sup>

- (a) subsidies contingent, in law or in fact, whether solely or as one of several other conditions, upon export performance, including those illustrated in Annex I;
- (b) subsidies contingent, whether solely or as one of several other conditions, upon the use of domestic over imported goods.

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<sup>39</sup> Overview of Subsidies and Countervailing Measures,  
Available at [https://www.wto.org/english/tratop\\_e/scm\\_e/subs\\_e.htm](https://www.wto.org/english/tratop_e/scm_e/subs_e.htm)  
(Accessed on 1 November 2015)

<sup>40</sup> *Ibid.*

<sup>41</sup> Article 3.1 of the SCM Agreement

As previously explained, subsidies contingent on export performance (export subsidies) and subsidies contingent on the use of domestic over imported goods (import substitution subsidies) are not allowed. These disciplines apply not only to developed countries but also to developing countries. However, developing countries benefited from special and differential treatment on the basis of Article 27 for a transitional period and least developed countries still benefit from it.<sup>42</sup> The prohibition of paragraph 1(a) of Article 3 shall not apply to:<sup>43</sup>

- (a) developing country Members referred to in Annex VII;
- (b) Other developing country Members for a period of eight years from the date of entry into force of the WTO Agreement, subject to compliance with the provisions in paragraph 4.

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<sup>42</sup> Steger, Debra P. 'The Subsidies and Countervailing Measures Agreement: Ahead of its Time or Time for Reform?', *Journal of World Trade* 44.4 (2010), pp.779-796.

<sup>43</sup> Article 27.2 of the SCM Agreement

## 2.3 The EU Anti-Subsidy Rules

This part is aimed to introduce regulations and practices on subsidies and countervailing measures of the EU. In the context of the EU, subsidy is regulated by Regulation of the European Parliament and of the Council amending Council Regulation (EC) No 1225/2009 on protection against dumped imports and Council Regulation (EC) No. 597/2009 of 11 June 2009 which includes trade defense instruments against subsidized imports from non-EU member countries.<sup>44</sup> Its purpose is to cancel out any subsidy granted, directly or indirectly, for the manufacture, production, export or transport of any product originating in a non-EU country whose release on the EU market causes serious injury to competitors.<sup>45</sup>

Proceedings are initiated upon a written complaint by any natural or legal person, or any association not having legal personality, acting on behalf of an EU industry.<sup>46</sup> In the absence of any complaint, an EU country is in possession of sufficient evidence of subsidization and of resultant of injury to the EU industry; it can immediately communicate such evidence to the Commission.<sup>47</sup> The complaint must include evidence of the existence of subsidies, injury and a causal link between these two elements. The complaint

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<sup>44</sup> Summaries of EU Legislation on Anti-subsidy measures,  
Available at <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=URISERV:r11006>  
(Accessed on 1 November 2015)

<sup>45</sup> *Ibid.*

<sup>46</sup> *Ibid.*

<sup>47</sup> *Ibid.*

is considered to have been made by or on behalf of the EU industry if:

- (a) it is supported by those EU producers whose collective output constitute more than 50% of the total EU production of the like product produced by that portion of the EU industry expressing either support for or opposition to the complaint;
- (b) also, investigation can be initiated where the portion of EU industry supporting the complaint accounts 25 % or more of total production of product concerned.

The investigations on violation of subsidy rules may result in imposition of the countervailing measures to offset serious injuries from subsidization of other countries. The rate of duty for each case is fundamentally based on the amount of subsidy, unless lesser-duty rule is effective. In application of countervailing duties, the EU may choose to impose one or more among three basic forms:<sup>48</sup>

- (a) Ad-valorem duty – This is the most common form of duty, based on a percentage of the net, free-at-EU frontier (CIF) price.
- (b) Specific duty – This form of duty is based on a fixed value for a certain

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<sup>48</sup> Summaries of EU Legislation on Anti-subsidy measures,  
Available at <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=URISERV:r11006>  
(Accessed on 1 November 2015)



amount of goods.

- (c) Variable duty – Based on a minimum import price (MIP), the EU do not impose countervailing duty if the foreign exporter's export price to the EU is higher than MIP.

Also, a company-specific price undertaking can be accepted upon request from exporter.<sup>49</sup> This commitment is to respect minimum import prices and prevent them from falling below a certain price level.<sup>50</sup> The price undertakings and its relevant rules are regulated by Article 13 of the basic anti-subsidy regulation.<sup>51</sup> Once the European Commission accepts an undertaking, the company's products are exempted from countervailing duties that would otherwise be charged when they are entered for free circulation and closely monitored by the Commission.<sup>52</sup>

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<sup>49</sup> Types of Trade Defense Measures: Anti-Subsidy Duties,  
Available at [http://trade.ec.europa.eu/doclib/docs/2013/april/tradoc\\_151028.pdf](http://trade.ec.europa.eu/doclib/docs/2013/april/tradoc_151028.pdf)  
(Accessed on 24 December 2015)

<sup>50</sup> *Ibid.*

<sup>51</sup> *Ibid.*

<sup>52</sup> *Ibid.*

## CHAPTER III

### THE WTO SUBSIDIES AND COUNTERVAILING MEASURES DISPUTES

#### 3.1 The Time Pattern of Overall Dispute under the WTO

Generally, a complaint arises under WTO dispute settlement when one member requests consultations with another member pursuant to the dispute settlement understanding (DSU).<sup>53</sup> For each complaint, the WTO Secretariat assigns an individual dispute settlement (DS) number. As of 31 December 2015, there have been totally 501 WTO complaints filed under the DSU.<sup>54</sup> Over the past 21 years, the number of complaints filed each year has been as follows:

**Table 1. The Number of WTO Disputes<sup>55</sup>**

	1995-1999	2000-2004	2005-2009	2010-2014	2015
Complaints	185	139	78	86	13
Average complaints per year	37	27.8	15.6	17.2	-

Source: Author's own elaboration, based on WTO Database

In terms of the WTO members that have been involved in disputes, Tables 2 and 3 breaks down the number of complaints filed by and against some

<sup>53</sup> Kara Leitner and Simon Lester, 'WTO Dispute Settlement 1995-2010 - A Statistical Analysis', *Journal of International Economic Law* (2011), pp.191-192.

<sup>54</sup> *Ibid.*

<sup>55</sup> *Ibid.*

of more active WTO members.<sup>56</sup>

From the table 2 and 3, it is clear that the heaviest users of the WTO dispute settlement system have been the United States and the European Union (EU).<sup>57</sup> In this regard, it is note that 204 complaints have involved either the United States or the EU as a complaining party (109 complaints and 95 complaints respectively), which constitutes 38.6% of the total complaints.<sup>58</sup> Similarly, 206 complaints have involved in either the United States or the EU as the responding party (124, 82 complaints respectively), comprising 41.1% of the total complaints.<sup>59</sup> The statistics also show that the number of complaints brought by the United States and the EU has been declined in recent years, and other WTO member such as China, one of representative emerging country, has been actively increased in the WTO dispute settlement procedures.

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<sup>56</sup> Kara Leitner and Simon Lester, 'WTO Dispute Settlement 1995-2010 - A Statistical Analysis', *Journal of International Economic Law* (2011), pp.192-193.

<sup>57</sup> *Ibid.*

<sup>58</sup> *Ibid.*

<sup>59</sup> *Ibid.*

**Table 2. Complaining Countries in WTO Disputes<sup>60</sup>**

	1995-1999	2000-2004	2005-2009	2010-2014	2015	Total
Brazil	6	16	2	3	0	<b>27</b>
Canada	15	11	7	1	0	<b>34</b>
Chile	2	7	1	0	0	<b>10</b>
China	0	1	5	6	1	<b>13</b>
European Union	47	21	13	14	0	<b>95</b>
India	9	7	2	3	0	<b>21</b>
Japan	8	4	1	6	2	<b>21</b>
Korea	3	9	2	3	0	<b>17</b>
Mexico	8	5	8	2	0	<b>23</b>
United States	60	20	13	14	2	<b>109</b>
Other - developed	12	6	4	4	2	<b>28</b>
Other - developing	34	40	20	30	6	<b>129</b>
Other - least developed	0	1	0	0	0	<b>1</b>
<b>Total</b>	<b>204</b>	<b>148</b>	<b>78</b>	<b>86</b>	<b>13</b>	<b>529</b>

\* Note: A number of complaints have been filed by multiple Members acting jointly. In some of these complaints, the Members filing the complaint fall into different income categories. Where this is the case, we have counted the complaint once in each income category in which at least one complainant falls. Therefore, the number of the complaints in this table will add up to more than the total number of complaints under the DSU and also more than the number in the table on respondents.

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<sup>60</sup> Kara Leitner and Simon Lester, 'WTO Dispute Settlement 1995-2010 - A Statistical Analysis', Journal of International Economic Law (2011), p.193.

**Table 3. Responding Countries in WTO Disputes<sup>61</sup>**

	1995-1999	2000-2004	2005-2009	2010-2014	2015	<b>Total</b>
Brazil	9	3	2	1	1	<b>16</b>
Canada	10	3	2	3	0	<b>18</b>
Chile	3	7	3	0	0	<b>13</b>
China	0	1	16	15	2	<b>34</b>
European Union	28	23	16	13	2	<b>82</b>
India	13	4	3	2	1	<b>23</b>
Japan	12	2	1	0	0	<b>15</b>
Korea	11	2	1	0	1	<b>15</b>
Mexico	3	9	2	0	0	<b>14</b>
United States	39	49	20	14	1	<b>123</b>
Other - developed	20	4	1	6	0	<b>31</b>
Other - developing	37	32	11	30	5	<b>115</b>
Other - least developed	0	0	0	0	0	<b>0</b>
<b>Total</b>	<b>185</b>	<b>139</b>	<b>78</b>	<b>84</b>	<b>13</b>	<b>499</b>

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<sup>61</sup> Kara Leitner and Simon Lester, 'WTO Dispute Settlement 1995-2010 - A Statistical Analysis', Journal of International Economic Law (2011), p.193.

Table 4 suggests that the GATT has, by far, been invoked the most frequently in terms of the total number of complaints and this frequent invocation of the GATT can be explained many complaints refer to the provisions of other, more specific substantive agreements, as well as to the more general provision of the GATT.<sup>62</sup> The trend of complaints over the year shows a generally high level of ‘trade remedy’ complaints brought pursuant to the anti-dumping, subsidies and countervailing measures agreement and safeguards.<sup>63</sup> With regard to some of the new areas of regulation such as services, intellectual property and SPS measures, the number of complaints has been limited, but fairly steady, over the period.<sup>64</sup>

**Table 4. Breakdown of Disputes by Agreement (1995-2015)<sup>65</sup>**

Agreement	1995-1999	2000-2004	2005-2009	2010-2014	2015	Total
Anti-Dumping	21	38	21	26	5	<b>111</b>
Agriculture	33	22	9	10	0	<b>74</b>
Textiles and Clothing	11	5	0	0	0	<b>16</b>
Customs	6	5	4	2	0	<b>17</b>
GATS	10	5	4	3	0	<b>22</b>
GATT	125	115	70	69	11	<b>390</b>
Government Procurement	4	0	0	0	0	<b>4</b>

<sup>62</sup> Kara Leitner and Simon Lester, ‘WTO Dispute Settlement 1995-2010 - A Statistical Analysis’, *Journal of International Economic Law* (2011), p.194.

<sup>63</sup> *Ibid.*

<sup>64</sup> *Ibid.*

<sup>65</sup> Kara Leitner and Simon Lester, ‘WTO Dispute Settlement 1995-2010 - A Statistical Analysis’, *Journal of International Economic Law* (2011), p.195.

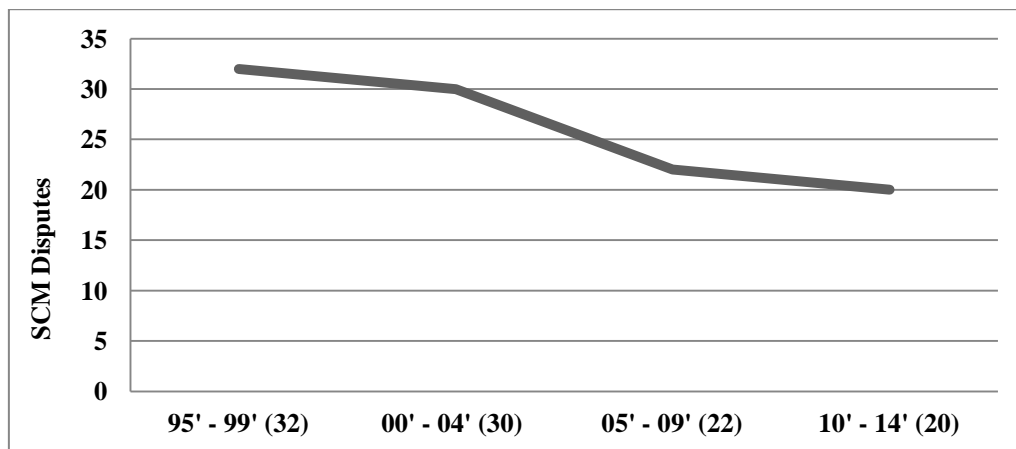
Licensing	25	8	1	10	0	<b>44</b>
Rules of Origin	3	1	3	0	0	<b>7</b>
Safeguards	9	22	5	10	2	<b>48</b>
SCM	32	30	22	21	4	<b>109</b>
SPS	16	14	6	6	1	<b>43</b>
TBT	22	11	7	10	1	<b>51</b>
TRIMS	15	4	6	14	1	<b>40</b>
TRIPS	20	5	1	7	0	<b>33</b>

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Table 5 shows that total number of the SCM disputes fluctuated over the year. In overall, the number of SCM complaints under the WTO regime has been gradually decreased. If we look at the number of disputes in other five years since 1995, 32 cases were reported during the period of 1995 and 1999, 30 cases between 2000 and 2004, 22 cases through 2005 and 2009 and recently, 20 cases were filed under the WTO between 2010 and 2014 regarding the SCM issue.

**Table 5. Breakdown of SCM Disputes (1995-2015)**

95'	96'	97'	98'	99'	00'	01'	02'	03'	04'	05'	06'	07'	08'	09'	10'	11'	12'	13'	14'	15
0	8	10	11	3	7	4	7	6	6	2	9	5	5	1	3	2	7	6	2	4



Source: Author's own calculation, based on WTO Database



### 3.2 The Time Pattern of SCM Disputes under the WTO

From the table 6 and 7, it is clear that the heaviest users of the SCM Agreements have been the United States and the EU. In this regard, 53 complaints have involved either the United States or the EU as a complaining party which constitutes 48.6% of the total SCM disputes. Similarly, 51 complaints have involved in either the United States or the EU as the responding party, comprising 46.8% of the total SCM complaints. This high involvement of those two major parties regarding to the SCM Agreement reveals that how do they sensitively react to the issue. The figure can be interpreted that, paradoxically, the United States and the EU is surmised to sustain subsidy programs in a direct or indirect way to support and protect their industries and firms from other competitors.

**Table 6. Complaining Countries of the WTO SCM Disputes (1995-2015)**

	1995-1999	2000-2004	2005-2009	2010-2014	2015	<b>Total</b>
Australia	0	2	0	0	0	<b>2</b>
Brazil	3	5	1	0	0	<b>9</b>
Canada	2	8	2	0	0	<b>12</b>
Chile	1	1	0	0	0	<b>2</b>
China	0	0	2	3	0	<b>5</b>
European Union	7	7	6	3	0	<b>23</b>
India	0	2	2	1	0	<b>5</b>
Indonesia	0	1	0	1	1	<b>3</b>

Japan	4	1	0	1	1	<b>7</b>
Korea	0	5	1	1	0	<b>7</b>
Mexico	0	2	2	1	0	<b>5</b>
United States	15	3	5	6	1	<b>30</b>

\* Other developed, developing and least developed countries are not counted.

Source: Author's own calculation, based on WTO Database

**Table 7. Responding Countries of the WTO SCM Disputes (1995-2015)**

	1995-1999	2000-2004	2005-2009	2010-2014	2015	<b>Total</b>
Australia	3	0	0	0	0	<b>3</b>
Brazil	5	0	0	1	1	<b>7</b>
Canada	5	1	2	2	0	<b>10</b>
Chile	0	0	0	0	0	<b>0</b>
China	0	0	8	6	1	<b>15</b>
European Union	2	7	2	5	1	<b>17</b>
India	0	0	1	1	0	<b>2</b>
Indonesia	4	0	0	0	0	<b>4</b>
Japan	1	0	1	0	0	<b>2</b>
Korea	0	1	0	0	0	<b>1</b>
Mexico	0	2	1	0	0	<b>3</b>
United States	4	18	6	5	1	<b>34</b>

\* Other developed, developing and least developed countries are not counted.

Source: Author's own calculation, based on WTO Database

In recent years, however, China has actively involved in the SCM disputes since its accession to the WTO in 2001. As of 31 December 2015, totally 47 disputes were filed with China in the WTO as a complaint or respondent and 20 cases, comprising 42.6% of the total complaints were

classified as SCM disputes. More specifically, 5 cases were as complaints and the other 15 cases as respondents. It turned out to be the United States which targeted China the most under the Agreement of Subsidies and Countervailing Measures with 9 cases out of total 15 SCM disputes against China.

Table 8 below was organized with the data taken from the Semi Annual Reports of WTO members to the Committee on SCM matters. According to the reports, the United States, the EU and Canada are the top user of the relevant agreement for both initiations and impositions of the countervailing measures. The United States initiated 156 legal proceedings against other exporting countries and more than half, 86 of them, were imposed countervailing measures. In the same way, the EU initiated 74 investigations on the violation of subsidy rules against other trading partners and 35 cases of them were taken defensive measures. Further analysis on the method of countervailing measures of the EU will be discussed in Chapter IV in detail.

**Table 8. Top 5 Users of Countervailing Measures (1995-2014)**

Initiations		Measures	
1) United States	156	1) United States	86
2) European Union	74	2) European Union	35
3) Canada	49	3) Canada	24
4) Australia	18	4) Mexico	11
5) South Africa	13	5) Australia	9

Source: WTO

Table 9 shows the number of SCM disputes by products. The most frequently disputed items were agricultural food and product, automobiles and parts and steel products. It shows totally 22 cases were filed under dispute settlement for the agricultural products and food, comprising 20.2% of SCM disputes. Similarly, 24 complaints have involved in automobile industry, which constitutes 22% of SCM disputes. In addition, 11 SCM cases were filed under disputes settlement procedure for the steel-related products. The statistics show that a number of SCM complaints brought to the WTO concentrated on those three categories, comprising 52.3% of the entire SCM disputes. In other words, those three sectors possibly indicated as critical industries politically as well as economically.

**Table 9. The Number of SCM Disputes by Product**

Product	DS Number
Agricultural Products (9)	DS 265, 266, 267, 283, 295, 338, 357, 365, 489
Agricultural and Food (13)	DS 97, 103, 104, 145, 167, 265, 266, 283, 295, 310, 314, 330, 341
Aircraft (9)	DS 46, 70, 71, 222, 316, 317, 347, 353, 487
Apparel (1)	DS 451
Automobiles (16)	DS 51, 52, 54, 55, 59, 64, 65, 81, 139, 142, 195, 339, 340, 342, 440, 450
Automobile Parts (1)	DS 450
Automotive (5)	DS 51, 65, 81, 139, 142
Automotive leather (2)	DS 106, 126
Beer (1)	DS 354
Biodiesels (1)	DS 459
Broiler Products (1)	DS 427
Building Materials Industries (1)	DS 489
Buses (1)	DS 112
Byrd Amendment (2)	DS 217, 234
Cattle	DS 167

Change of Ownership (2)	DS 212, 280
Cotton	DS 267
Customs Bond (1)	DS 345
Dairy Products (1)	DS 103
Distribution (2)	DS 142, 476
DRAMS (3)	DS 296, 299, 336
Energy (4)	DS 412, 419, 426, 449
Feed-In Tariff Program (2)	DS 412, 426
Flight Management System (2)	DS 172, 173
Foreign Sales Corporations (1)	DS 108
General (15)	DS 108, 127, 128, 129, 130, 131, 194, 212, 217, 221, 222, 234, 273, 379, 449
Grants and Loans (3)	DS 387, 388, 390
Hardware Industries (1)	DS 489
Hot-rolled Steel (2)	DS 138, 436
Import Measures (2)	DS 474, 494
Large Residential Washers (1)	DS 464
Leather (1)	DS 147
Light Industry (1)	DS 489
Lumber (5)	DS 194, 221, 236, 257, 277
Machinery and Appliances (3)	DS 46, 70, 296
Medical Products (1)	DS 489
Methodologies (1)	DS 494
Non-Agricultural Goods (1)	DS 449
Olive Oil (2)	DS 330, 341
Other Products (7)	DS 71, 147, 172, 173, 206, 213, 218
PET (1)	DS 486
Paper (3)	DS 368, 470, 491
Peaches (1)	DS 330
Polyethylene and Polypropylene (1)	DS 385
Processed Cheese (1)	DS 104
Raw and Semi-finished (6)	DS 138, 136, 257, 262, 277, 311
Renewable Energy (2)	DS 412, 452
Salmon (1)	DS 97
Ship (3)	DS 273, 301, 307
Shrimps (1)	DS 345
Solar Energy (1)	DS 456
Solar Panels (1)	DS 437
Special Chemical Engineering (1)	DS 489
Spirits (1)	DS 380
Steel (9)	DS 138, 206, 213, 218, 262, 280, 414, 436, 474
Sugar (3)	DS 265, 266, 283
Tax (4)	DS 358, 359, 472, 497
Tax Treatment for Exports (5)	DS 127, 128, 129, 130, 131
Textile Products (1)	DS 451

Textile (5)	DS 57, 106, 126, 267, 489
Trademarks (1)	DS 59
Vehicles (12)	DS 51, 52, 54, 55, 59, 64, 65, 81, 112, 139, 142, 195
Washer (1)	DS 464
Wheat Gluten (2)	DS 145, 330
Wind Power Equipment (2)	DS 419, 437
Wine (2)	DS 354, 380

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\* Some products are included in one or more categories.

Source: Author's own elaboration, based on WTO Database

### **3.3 The EU SCM Disputes by Targeted Country**

From the table 6 and 7, it is clear that the EU involved 23 cases as a complaining party and 17 cases as a respondent. The number of cases was totally 40 cases which constitute 36.7% of the total SCM disputes. Table 10 distinguished the number of EU SCM disputes both as a complaints and respondent. The United States and Canada were the most frequently targeted countries for the SCM matters. In total, 12 cases out of 23 cases were filed under the dispute settlement which is equivalent to 52.2% of SCM disputes sued by the EU. Regionally, we can also recognize the EU targeted countries in North America (9 cases for the United States and 3 cases for Canada), Central and South America (2 cases for Argentina, Brazil and Mexico each) more than other regions. For those 5 countries, 18 disputes out of 23 disputes, 78.3% of the total SCM disputes complained by the EU. Conversely, the United States, Korea and Russia were major players who filed the EU under the SCM agreement. Those three countries claimed that the EU for 10 cases, which account for 58.8% of total disputes against the EU. Especially, Korea is one of only two countries which filed the more petitions than EU did as a counterpart in the WTO. Korea-EU SCM disputes cases will be discussed in part 5.4 of chapter V in detail.

**Table 10. The EU SCM Disputes by Targeted Country (1995-2015)**

The EU as a complainant		The EU as a Respondent	
Country	Disputes	Country	Disputes
Argentina	2	Argentina	1
Brazil	2	Australia	1
Canada	3	Brazil	1
China	1	China	1
India	1	India	1
Indonesia	1	Korea	3
Japan	1	Pakistan	1
Korea	1	Russia	3
Mexico	2	Thailand	1
United States	9	United States	4
<b>Total</b>	<b>23</b>	<b>Total</b>	<b>17</b>

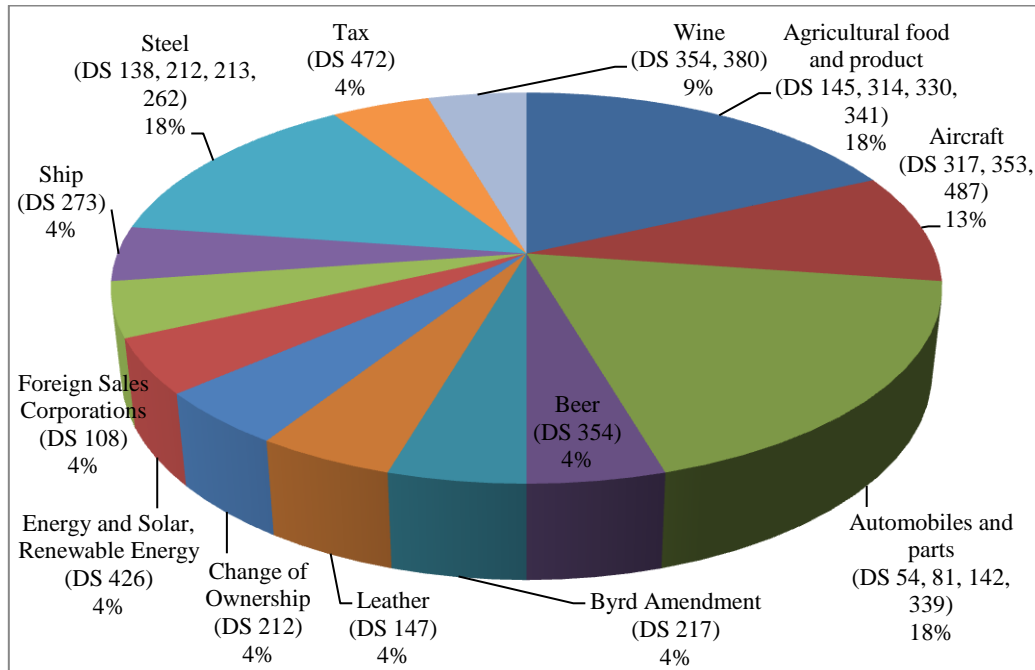
Source: Author's own calculation, based on WTO Database

### 3.4 The EU SCM Disputes by Product

Figure 1 shows EU SCM Disputes as a complainant by industrial sector or product. Issues of the automobiles and parts, agricultural food and steel products were subject to SCM dispute settlements the most under the WTO. Regarding the issues, 4 cases filed each and this comprising 52.2% of total SCM disputes which were complained by the EU. Also, disputes in the category of aircraft products followed previous subject matters. For the products, 3 cases and account for 13%. From the figure, it is clear that the EU is more sensitively react to those four industrial sectors regarding subsidy issue.



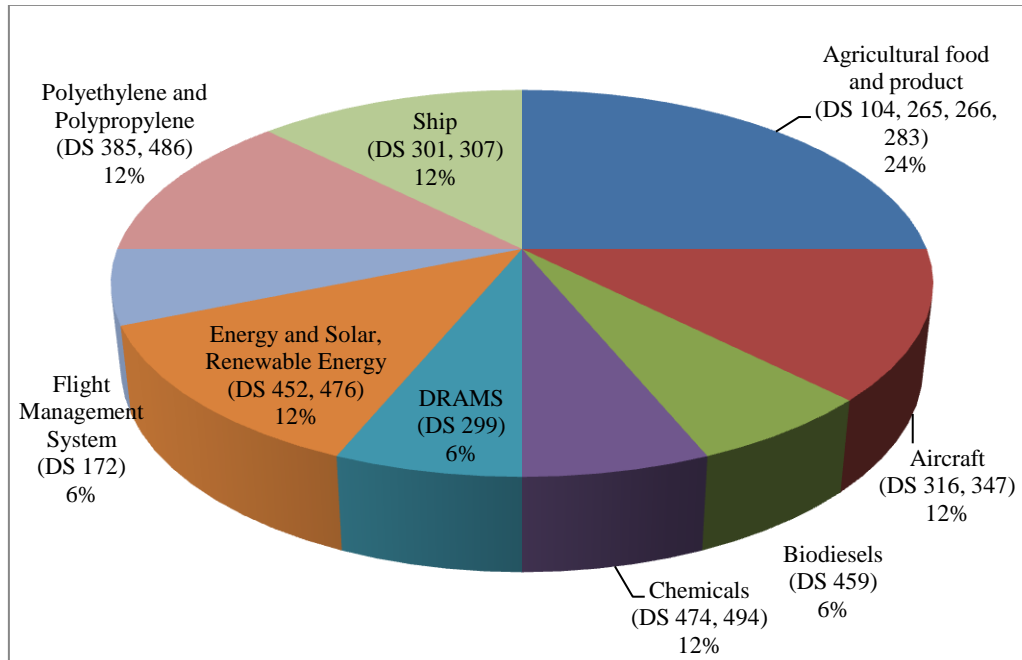
**Figure 1. The EU SCM Disputes as a Complainant by Industrial Sector/Product**



\* DS 212 and DS 354 are included in more than one category.  
Source: Author's own calculation, based on WTO Database

Figure 2 shows EU SCM disputes as a respondent by industry or product. Issues of the agricultural food and product were subject to SCM dispute settlements the most. For the EU, 4 cases were petitioned by other countries for the relevant products, comprising 23.5% of SCM disputes. Also, disputes on the product of aircrafts, chemicals, energies and solar/renewable energies, Polyethylene and Polypropylene and ships include 2 cases each and comprising 58.8% in total. As a result, it is confirmed that the EU is involved in the disputes over SCM Agreement as both a complainant and a respondent in the certain category of industry or product.

**Figure 2. The EU SCM Disputes as a Respondent by Industrial Sector/Product**



Source: Author's own calculation, based on WTO Database

### **3.5 The EU Agricultural Subsidy Policy**

The European Union is one of the largest users of subsidies both in terms of value and volume. Especially, the EU sustained its dominant position as a user of subsidies in the agricultural industry since long ago. However, the size of EU agricultural subsidies has been changed as the world price and exchange rate fluctuated. Thus, this chapter will give an overview of EU Subsidy programs associated with what types of subsidies are exist for the purpose of supporting the agricultural sector in the European countries.

The forms of subsidy vary by country and commodity as well. The main forms of subsidy include: (a) direct payments to farmers and landlord; (b) price supports implemented with government purchases and storage; (c) regulations that set minimum prices by location, end use, or some other characteristic; (d) subsidies for such items as crops insurance, disaster response, credit, marketing and irrigation water; (e) export subsidies; and (f) import barriers in the form of quotas, tariffs or regulations.<sup>66</sup>

The EU occasionally grants a direct support in proportion to land ownership, and utilizes a set of requirement referred to as cross-compliance.<sup>67</sup> Cross compliance is explained as a mechanism that links direct payments to compliance by farmers with basic standards concerning the environment, food

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<sup>66</sup> Sumner, Daniel A, 'Agricultural subsidy programs', The Concise Encyclopedia of Economics, Library of Economics and Liberty, Available at <http://econlib.org/library/Enc/AgriculturalSubsidyPrograms.html> (2008).

<sup>67</sup> Hogan, Abby E, 'Transatlantic Frenemies: Why US and EU Agricultural Subsidies are the Focus of WTO Trade Disputes', Central European University (2012), p.20.

safety, animal and plant health and animal welfare, as well as the requirement of maintaining land in good agricultural and environmental condition.<sup>68</sup> Cross compliance became mandatory for all EU farmers receiving direct payment in 2005.<sup>69</sup> In addition, guaranteed prices (also called marketing loans or loan benefits) are tied to current production of specific crops and are “inversely proportional to current market prices.”<sup>70</sup> Economists argue that the production of the crops in question would decline.<sup>71</sup> For this reason, the EU guaranteed minimum prices are given for certain main commodities.<sup>72</sup> Countercyclical payments, which considered as a safety net in the EU, are payments inversely related to the market prices for certain goods, however, they are not tied to the production of any single crop.<sup>73</sup>

The two categories of agricultural subsidies most troubling to the WTO include export subsidies and import tariffs.<sup>74</sup> Currently, the EU is in the midst of efforts to reduce and ultimately eliminate export subsidies, claiming that its reformed support systems are now less likely to distort world markets.<sup>75</sup>

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<sup>68</sup> Hogan, Abby E, ‘Transatlantic Frenemies: Why US and EU Agricultural Subsidies are the Focus of WTO Trade Disputes’, Central European University (2012), p.20.

<sup>69</sup> *Ibid.*

<sup>70</sup> *Ibid.*

<sup>71</sup> Hogan, Abby E, ‘Transatlantic Frenemies: Why US and EU Agricultural Subsidies are the Focus of WTO Trade Disputes’, Central European University (2012), p.21.

<sup>72</sup> *Ibid.*

<sup>73</sup> Sumner, Daniel A, ‘Agricultural subsidy programs’, The Concise Encyclopedia of Economics, Library of Economics and Liberty, Available at <http://econlib.org/library/Enc/AgriculturalSubsidyPrograms.html> (2008).

<sup>74</sup> Hogan, Abby E, ‘Transatlantic Frenemies: Why US and EU Agricultural Subsidies are the Focus of WTO Trade Disputes’, Central European University (2012), p.22.

<sup>75</sup> *Ibid.*

## **CHAPTER IV**

### **THE IMPOSITION OF COUNTERVAILING MEASURES BY THE EU**

#### **4.1 The Trend of Countervailing Initiations**

The European Union initiates investigations on its own anti-subsidy regulations. Table 11 below presents countervailing initiations of both the EU and the worldwide. As of 31 December 2014, totally 74 cases were targeted against 22 countries for countervailing initiations by the EU. Those countries could easily grouped by high income countries, middle and low income countries, Middle East countries and others. The middle and low income countries, which include 7 Asian countries and the most targeted group, were directed 45 cases and 60.8% of total EU initiation. In the group, India was targeted the most followed by China and those two countries occupied 29 cases, 39.2% of EU initiations. China, the most frequently investigated country regarding the SCM issues, targeted mainly by the United States. It turned out to be 46 initiations out of 90, which account for more than half of total initiations against China, were tackled by the United States. In the case of high income countries, 19 cases and 25.7% of the EU initiations were directed. Even in this group, Asian countries such as Republic of Korea and Chinese Taipei were main target in terms of the number of EU countervailing initiations, followed by the United States and other countries. In addition, for the countries in the Middle East, 7 cases were initiated and this is 9.5% of investigation for

countervailing measures by the EU. Overall, it is quite obvious that cases are heavily concentrated on Asian countries. Regardless of group of the nations, 59 cases were reported against Asian countries which constitute approximately 80% of the initiations in total. The EU, also, shows the higher percentage of initiations in total for all these four groups of nations compare to that of the worldwide.

**Table 11. Countervailing Initiations by Targeted Country (1995-2014)**

Targeted Country	EU Initiations			Worldwide		
	Cases	Share in Total	Rank	Cases	Share in Total	Rank
<b><u>High Income Countries</u></b>						
Australia	1	1%	10	1	0.2%	29
Korea, Republic of	7	9%	3	24	6%	3
Norway	1	1%	10	1	0.2%	29
Singapore	1	1%	10	1	0.2%	29
Taipei, Chinese	6	8%	4	9	2%	9
United States	3	4%	8	15	4%	5
<b>Group Total</b>	<b>19</b>	<b>26%</b>	<b>-</b>	<b>51</b>	<b>13%</b>	<b>-</b>
<b><u>Middle and Low Income Countries(Asia)</u></b>						
China	9	12%	2	90	24%	1
India	20	27%	1	65	17%	2
Indonesia	5	7%	5	19	5%	4
Malaysia	4	5%	7	8	2%	12
Philippines	1	1%	10	2	0.5%	22
Thailand	5	7%	5	14	4%	6
Viet Nam	1	1%	10	7	2%	14
<b>Group Total</b>	<b>45</b>	<b>61%</b>	<b>-</b>	<b>205</b>	<b>54%</b>	<b>-</b>
<b><u>Middle East</u></b>						
Iran, Islamic Republic of	1	1%	10	1	0.2%	29
Oman	1	1%	10	5	1%	17
Pakistan	1	1%	10	4	1%	18
Saudi Arabia	2	3%	9	2	0.5%	22
Turkey	1	1%	10	9	2%	9
United Arab Emirates	1	1%	10	3	0.8%	19
<b>Group Total</b>	<b>7</b>	<b>9%</b>	<b>-</b>	<b>24</b>	<b>6%</b>	<b>-</b>
<b><u>Other</u></b>						
Argentina	1	1%	10	9	2%	9
Peru	1	1%	10	1	0.2%	29
South Africa	1	1%	10	7	2%	14
<b>Group Total</b>	<b>3</b>	<b>4%</b>	<b>-</b>	<b>17</b>	<b>4%</b>	<b>-</b>

Source: Author's own calculation, based on WTO Database and Statistics

Table 12 suggests countervailing measures imposed by the EU and that of the worldwide. As of 31 December 2014, totally 35 cases and 202 cases were reported respectively. The former 35 cases were targeted against 14 countries for the imposition of countervailing measures by the EU. The middle and low income countries, which include 6 Asian countries and the most targeted group, were directed 24 cases which account for approximately 70% of total EU countervailing measures. In the group, India was imposed the most followed by China and those two countries occupied 18 cases, 51% of EU countervailing measures. In the worldwide, China is the country which was imposed countervailing measures the most regarding the relevant issue. The impositions of measures for China, whereas, were mainly taken by the United States. It turned out to be 29 countervailing measures out of 56, approximately 52% of impositions for China, were decided by the United States. For the high income countries, 8 cases and 23% of the EU measures were reported. Even in this group, Asian countries such as Chinese Taipei and Republic of Korea were main targets, followed by Australia, Norway and the United States with 1 case for each. In addition, for the Middle East countries, 3 impositions were reported and this is 9% of total countervailing measures of the EU. Consequently, we can conclude that countervailing measures are also concentrated on Asian countries as we already witnessed the same result for the case of initiations. Regardless of group of the nations, 29 cases were reported against Asian countries which constitute 83% of the EU countervailing measures in total. The EU, also, imposed measures relatively more on all groups compare to that of the



worldwide in terms of the share in total.

**Table 12. Countervailing Measures by Targeted Country (1995-2014)**

Targeted Country	EU Measures			Worldwide		
	Cases	Share in Total	Rank	Cases	Share in Total	Rank
<b><i>High Income Countries</i></b>						
Australia	1	3%	7	1	0.5%	22
Korea, Republic of	2	6%	4	9	4%	4
Norway	1	3%	7	1	0.5%	22
Taipei, Chinese	3	9%	3	4	2%	10
United States	1	3%	7	8	4%	6
<b>Group Total</b>	<b>8</b>	<b>23%</b>	<b>-</b>	<b>23</b>	<b>11%</b>	<b>-</b>
<b><i>Middle and Low Income Countries(Asia)</i></b>						
China	5	14%	2	56	28%	1
India	13	37%	1	36	18%	2
Indonesia	2	6%	4	8	4%	6
Malaysia	2	6%	4	3	1.5%	13
Philippines	1	3%	7	2	1%	18
Thailand	1	3%	7	3	1.5%	13
<b>Group Total</b>	<b>24</b>	<b>69%</b>	<b>-</b>	<b>108</b>	<b>53%</b>	<b>-</b>
<b><i>Middle East</i></b>						
Iran, Islamic Republic of	1	3%	7	1	0.5%	22
Pakistan	1	3%	7	2	1%	18
United Arab Emirates	1	3%	7	1	0.5%	22
<b>Group Total</b>	<b>3</b>	<b>9%</b>	<b>-</b>	<b>4</b>	<b>2%</b>	<b>-</b>

Source: Author's own calculation, based on WTO and European Commission Database and Statistics

## 4.2 The Imposition of Countervailing Measures by Product

The EU finally concluded 6 measures on 19 initiations for high income countries. Each of these cases imposed countervailing duty for the different types of products. The United States imposed specific duty for the product of Biodiesel and Australia, 6% of ad-valorem duty for polyester staple fibers. Norway, the only retaliated European country, charged measure for salmon. For the Asian countries, Taiwan imposed duties twice for the products of both hot-rolled coils and SBS thermoplastic rubbers. In particular, the only product which imposed countervailing measures on Korea was DRAMs. However, the case is currently on the status of revocation.

**Table 13. Countervailing Measures for High Income Countries by Product (1995-2014)**

High Income Countries				
Product	HS Code	Cases		Targeted Country
		Initiation	Measure	
Biodiesel	3824	2	X	Singapore
			O	United States
Bioethanol	2207	1	X	United States
DRAMs	8542	1	O	Korea(Rep. of)
Hot-rolled coils (flat rolled products of iron or non-alloy steel)	7208	1	O	Taiwan
Polyester staple fibers	5503	3	O	Australia
			X	Korea(Rep. of)
			X	Taiwan

Polyester textured filament yarn (PTY)	5402	1	X	Korea(Rep. of)
Polyethylene terephthalate (PET)	3907	2	X	Korea(Rep. of)
			X	Taiwan
Salmon	0302	1	O	Norway
SBS thermoplastic rubbers	4002	1	O	Taiwan
Sodium metal	2805	1	X	United States
Stainless steel fasteners and parts thereof	7318	1	X	Singapore
Stainless steel wire (< 1 mm)	7223	1	X	Korea(Rep. of)
Stainless steel wire (= or > 1 mm)	7223	1	X	Korea(Rep. of)
Woven glass fiber fabrics	7019	2	X	Taiwan
<b>Total</b>		<b>19</b>	<b>6</b>	

Source: Author's own elaboration, based on European Commission Database

The middle and low income countries, including representative emerging countries such as China and India, imposed countervailing duties dominantly compare to other groups. In the group, duties either ad-valorem or specific, were imposed 24 measures on 47 initiations. In fact, 11 impositions of duties, comprising 45.8 % of total measures of middle and low income countries involved in categories of steel and textile products. Most of them, 8 measures particularly, were against India. The other 3 measures were targeted Indonesia, Malaysia and Philippines respectively. Even those 3 countries were imposed duties for the products related to the steel and textile. Overall, we can conclude that the EU presents a greater share of measures on China and India. The EU, also, reacted more sensitively toward steel and textile industry or product regarding subsidy issue.

**Table 14. Countervailing Measures for Middle and Low Income Countries  
by Product (1995-2014)**

Middle and Low Income Countries				
Product	HS Code	Cases		Targeted Country
		Initiation	Measure	
Antibiotics (broad spectrum)	2941	1	O	India
Artificial graphite	8545	1	X	India
Bed linen	6302	1	O	India
Bicycles	8712	1	X	China
Biodiesel	3824	1	X	Indonesia
Coated fine paper	4810	1	O	China
Compact disks - recordable (CD-Rs)	8523	1	O	India
Dihydromyrcenol	2905	1	X	India
Filament glass fiber products	7019	1	O	China
Graphite electrode systems	8545	1	O	India
Hot-rolled coils (flat rolled products of iron or non-alloy steel)	7208	1	O	India
Magnetic disks (3,5" micro disks)	8523	1	X	India
Organic coated steel products	7210	1	O	China
Plastic sacks and bags	3923	2	X	Malaysia
			X	Thailand
Polyester staple fibers	5503	5	X	China
			X	India
			O	Indonesia
			X	Thailand
			X	Vietnam
Polyester textured filament yarn (PTY)	5402	3	O (1/2)	India
			X	Indonesia
Polyethylene terephthalate (PET)	3907	4	O	India
			X	Indonesia
			O	Malaysia

			O	Thailand
Polyethylene terephthalate film (PET film)	3920	1	O	India
Purified terephthalic acid and its salts	2917	1	X	Thailand
Ring binder mechanisms	8305	2	X	India
			O	Indonesia
Solar glass	7007	1	X	China
Solar panels (crystalline silicon photovoltaic modules and key components)	3818/8501	1	O	China
Stainless steel bars	7222	1	O	India
Stainless steel bright bars	7222	1	O	India
Stainless steel cold-rolled flat products		1	X	China
Stainless steel fasteners and parts thereof	7318	6	O (1/2)	India
			O (1/2)	Malaysia
			O	Philippines
			X	Thailand
Stainless steel wire	7223	1	X	India
Stainless steel wire (< 1 mm)	7223	1	O	India
Stainless steel wire (= or > 1 mm)	7223	1	O	India
Sulphanilic acid	2921	1	O	India
Wireless wide area networking modems	8517	1	X	China
<b>Total</b>		<b>47</b>	<b>24</b>	

Source: Author's own elaboration, based on European Commission Database

The EU determined 3 impositions of duty for Middle East countries out of 7 initiations in total. Iran, Pakistan and UAE were imposed specific duty on Polyethylene terephthalate (PET) product respectively. Also, the EU embarked on investigations against other two countries for different categories of products. It was Argentina for Biodiesel and South Africa for hot-rolled coils. However, both initiations were terminated without a decision for any measures.

**Table 15. Countervailing Measures for Middle East Countries by Product  
(1995-2014)**

Middle East				
Product	HS Code	Cases		Targeted Country
		Initiation	Measure	
Binder or baler twine (polypropylene)	5607	1	X	Saudi Arabia
Polyester fibers and yarns	5402	1	X	Turkey
Polyethylene terephthalate (PET)	3907	5	O	Iran
			X	Oman
			O	Pakistan
			X	Saudi Arabia
			O	UAE
<b>Total</b>		<b>7</b>	<b>3</b>	

Source: Author's own elaboration, based on European Commission Database

**Table 16. Countervailing Measures for Other Countries by Product  
(1995-2014)**

Other				
Product	HS Code	Cases		Targeted Country
		Initiation	Measure	
Biodiesel	3824	1	X	Argentina
Hot-rolled coils (flat rolled products of iron or non-alloy steel)	7208	1	X	South Africa
<b>Total</b>		<b>2</b>	<b>0</b>	

Source: Author's own elaboration, based on European Commission Database

### 4.3 The Countervailing Measures by Type

Table 17 below presents disaggregation of anti-subsidy measures by type of countervailing duty. For countervailing measure, there are options whether they are ad-valorem or specific as previously discussed in chapter II. The vast majority of measures for the subsidy in the EU are in the form of duty with preference for ad-valorem duties to specific ones.<sup>76</sup> The EU, as a result of initiation, imposed countervailing measure on 33 investigations for 24 types of products. Special duty was imposed on only two products, Biodiesel and Polyethylene terephthalate (PET), which cover 7 countervailing measures out of total. For other 22 categories of products, containing 26 measures, ad-valorem duty was imposed. In short, the EU predominantly determined ad-valorem duty rather than other measures which account for 78.8% of total decision.

**Table 17. Countervailing Measures by Type (1995-2014)**

Country	Product	Measures in Force		Status
		Type	(%, EUR/ton net)	
<b><i>High Income Countries</i></b>				
Australia	Polyester staple fibers	Ad-valorem	6%	Exp.
Korea (Rep. of)	DRAMs	Ad-valorem	0~34.8%	Rep.
Norway	Salmon	Ad-valorem	3.8%	Term.

<sup>76</sup> Rovegno, Laura, and Hylke Vandenbussche. 'A comparative analysis of EU Antidumping rules and application', Institute for Economic and Social Research (IRES) Discussion Paper (23), Louvain la Neuve (2011), p.8.

Taiwan	Hot-rolled coils (flat rolled products of iron or non-alloy steel)	Ad-valorem	0~4.4%	Exp.
	SBS thermoplastic rubbers	Ad-valorem	1.0~8.2%	Exp.
United States	Biodiesel	Specific	211.2~237 EUR/ton net	Def.

**Middle and Low Income Countries**

China	Coated fine paper	Ad-valorem	4~12%	Def.
	Filament glass fiber products	Ad-valorem	4.9~10.3%	Def.
	Organic coated steel products	Ad-valorem	13.7~44.7%	Def.
	Solar panels (crystalline silicon photovoltaic modules and key components)	Ad-valorem	0~11.5%	Def/IR/ Ci
India	Antibiotics (broad spectrum)	Ad-valorem	11.9~32%	Rep.
	Bed linen	Ad-valorem	5.2~9.7%	Exp.
	Compact disks - recordable (CD-Rs)	Ad-valorem	7.30%	Rep.
	Graphite electrode systems	Ad-valorem	6.3~7.2%	Def.
	Hot-rolled coils (flat rolled products of iron or non-alloy steel)	Ad-valorem	4.9~13.1%	Exp.
	Polyester textured filament yarn (PTY)	Ad-valorem	0~9.1%	Exp.
	Polyethylene terephthalate (PET)	Specific	0~106.5 EUR/ton net	Def.
	Polyethylene terephthalate film (PET film)	Ad-valorem	5.4~19.1%	Exp.
	Stainless steel bars	Ad-valorem	3.4~4.3%	Def.
	Stainless steel bright bars	Ad-valorem	0~25.5%	Exp.
	Stainless steel fasteners and parts thereof	Ad-valorem	3.2~16.5%	Term.
	Stainless steel wire (< 1mm)	Ad-valorem	0~44.4%	Exp.
	Stainless steel wire (= or > 1mm)	Ad-valorem	0~48.8%	Exp.
	Sulphanilic acid	Ad-valorem	4.70%	Rep.
Indonesia	Polyester staple fibers	Ad-valorem	0~10%	Exp.
	Ring binder mechanisms	Ad-valorem	10%	Exp.
Malaysia	Polyethylene terephthalate	Specific	0~16.6%	Exp.



	(PET)		EUR/ton net	
	Stainless steel fasteners and parts thereof	Ad-valorem	0~1.8%	Exp.
Philippines	Stainless steel fasteners and parts thereof	Ad-valorem	3.50%	Exp.
Thailand	Polyethylene terephthalate (PET)	Specific	49.1 EUR/ton net	Exp.

**Middle East**

Iran	Polyethylene terephthalate (PET)	Specific	139.7 EUR/ton net	Exp.
Pakistan	Polyethylene terephthalate (PET)	Specific	44.02 EUR/ton net	Exp.
UAE	Polyethylene terephthalate (PET)	Specific	42.34 EUR/ton net	Exp.

\* Exp. (Expired); Rep. (Repealed); Term. (Terminated); Def. (Definitive measures); Def/IR. (Interim review); Ci. (Anti-circumvention investigation)

Source: Author's own elaboration, based on European Commission Database

#### **4.4 The Comparison of the Measures between the EU and the US**

A comparison of anti-subsidy enforcement both in the EU and the US, two traditional major players in terms of subsidy related trade dispute, would emphasize any recent trends in self countervailing initiations of the EU. The data on initiations of subsidy issue between 2005 and 2014 collected from WTO statistics on SCM, relevant documents from the European Commission and the United States Department of Commerce. The table 18 displays the number of disputes filed under the WTO as well as the number of investigation initiations with targeted products and countries under own anti-subsidy regulations. The EU, as confirmed in the previous chapter, mostly targeted Asian countries even during the last decade. Totally 23 initiations out of 33, comprising approximately 70%, were directed to the Asian countries, including China, India, Indonesia, Malaysia, Singapore, Thailand and Vietnam. China and India, particularly, investigated for the categories of product such as steel, solar panels and glass and polyester staple fibers. The EU imposed 12 measures regarding 33 initiations in total. The United States initiated an inquiry concerning the subsidy issue against China during the last decade. For China, the United States investigated for 48 cases out of total 88 initiations and specificity of targeted products was not found. The United States, unlike the EU, initiated 7 legal proceedings for the subsidy issue against Korea. The products involved were coated free sheet paper, Ni-Resist piston inserts, bottom mount combination refrigerator-freezers, large residential washers, Non-Oriented electrical steel,

steel nails and welded line pipe.

**Table 18. The Initiation of Subsidy Investigation in the EU and the US  
(2005-2014)**

Year	EU				United States			
	WTO DS	European Commission			WTO DS	United States Department of Commerce		
		Initiations		Meas.		Initiations		Meas.
			Product				Product	
<b>05</b>	2	2	- Plastic sacks and bags (Malaysia, Thailand)	1	0	1	- Lined Paper(Indonesia)	0
<b>06</b>	3	1	- Dihydromyrcenol (India)	0	3	3	- Coated Free Sheet Paper (China, Indonesia, Korea)	2
<b>07</b>	0	1	- Artificial graphite (India)	0	1	11	- Circular Welded Pipe (China) - Circular Welded Carbon Quality Steel Pipe (China) - Laminated Woven Sacks (China) - Light-Walled Rectangular Pipe (China) - Light-weight Thermal Paper(China) - LWR Pipe and Tube (China) - OTR Tires(China) - Pneumatic Off-The- Road Tires (China) - Raw Flexible Magnets (China) - Sodium Nitrite (China) - Stainless Plate in Coils (Belgium)	0

08	1	2	<ul style="list-style-type: none"> <li>- Biodiesel (USA)</li> <li>- Sodium metal (USA)</li> </ul>	0	1	8	<ul style="list-style-type: none"> <li>- Certain Tow-Behind Lawn Groomers (China)</li> <li>- Circular Welded Austenitic Stainless Pressure Pipe (China)</li> <li>- Circular Welded \ Carbon Quality Steel Line Pipe (China)</li> <li>- Citric Acid (China)</li> <li>- Kitchen Appliance Shelving and Racks (China)</li> <li>- Lawn Groomers (China)</li> <li>- Line Pipe (China)</li> <li>- Matchbooks (India)</li> </ul>	7
09	0	6	<ul style="list-style-type: none"> <li>- Purified terephthalic acid and its salts (Thailand)</li> <li>- Stainless steel fasteners and parts thereof (Malaysia, India)</li> <li>- Polyethylene terephthalate (Iran, Pakistan, UAE)</li> </ul>	1	0	13	<ul style="list-style-type: none"> <li>- Certain Magnesita Carbon Bricks (China)</li> <li>- Certain Oil Country Tubular goods (China)</li> <li>- Certain Seamless steel pipe (China)</li> <li>- Certain Steel Gratings (China)</li> <li>- Coated Paper for High-Quality Print (China)</li> <li>- Narrow Woven Ribbons with Woven Selvedge (China)</li> <li>- Potassium Phosphate Salts (China)</li> <li>- Pre-Stressed Concrete Steel Wire Strand (China)</li> <li>- Wire Decking (China)</li> <li>- Ni-Resist Piston (Argentina)</li> <li>- Coated Paper (Indonesia)</li> <li>- Ni-Resist Piston Inserts (Korea)</li> <li>- Polyethylene Retail Carrier Bags (Vietnam)</li> </ul>	6
10	0	4	<ul style="list-style-type: none"> <li>- Biodiesel (Singapore)</li> <li>- Coated fine paper (China)</li> <li>- Stainless steel bars (India)</li> </ul>	3	2	2	<ul style="list-style-type: none"> <li>- Drill Pipe (China)</li> <li>- Multilayered Wood Flooring (China)</li> </ul>	10

			- Wireless wide area networking modems (China)					
11	1	4	<ul style="list-style-type: none"> <li>- Bioethanol (USA)</li> <li>- Polyethylene terephthalate (Oman, Saudi Arabia)</li> <li>- Stainless steel fasteners and parts thereof (India)</li> </ul>	2	1	9	<ul style="list-style-type: none"> <li>- Certain Steel Wheel (China)</li> <li>- Crystalline Silicon Photovoltaic Cells (China)</li> <li>- Galvanized Steel Wire (China)</li> <li>- High Pressure Steel Cylinders (China)</li> <li>- Circular Welded Carbon-Quality Steel Pipe (India, Oman, UAE, Vietnam)</li> <li>- Bottom Mount Combination Refrigerator-Freezers (Korea)</li> </ul>	3
12	0	6	<ul style="list-style-type: none"> <li>- Bicycle (China)</li> <li>- Biodiesel (Indonesia, Argentina)</li> <li>- Organic coated steel products (China)</li> <li>- Solar panels (China)</li> <li>- Stainless steel wire (India)</li> </ul>	0	2	4	<ul style="list-style-type: none"> <li>- Drawn Stainless Steel Sinks (China)</li> <li>- Utility Scale Wind Towers (China)</li> <li>- Large Residential Washers (Korea)</li> <li>- Steel Wire Garment Hangers (Vietnam)</li> </ul>	2
13	1	5	<ul style="list-style-type: none"> <li>- Filament glass fiber products (China)</li> <li>- Polyester staple fibers (China, Vietnam, India)</li> <li>- Solar glass (China)</li> </ul>	3	1	19	<ul style="list-style-type: none"> <li>- China TFE (China)</li> <li>- Chlorinated Isocyanurates (China)</li> <li>- Grain-Oriented Electronic Steel (China)</li> <li>- MSG (China, Indonesia)</li> <li>- Non-Oriented Electrical Steel (China, Korea, Taiwan)</li> <li>- Frozen Warm-water Shrimp (China, Ecuador, India, Indonesia, Malaysia, Thailand, Vietnam)</li> </ul>	4

							<ul style="list-style-type: none"> <li>- Oil Country Tubular Goods (India)</li> <li>- Threaded Rod (India)</li> <li>- Oil Country Tubular Goods (Turkey)</li> <li>- Steel Concrete Reinforcing Bar (Turkey)</li> </ul>	
<b>14</b>	<b>1</b>	<b>2</b>	<ul style="list-style-type: none"> <li>- Stainless steel cold-rolled flat products (China)</li> <li>- Trout(Turkey)</li> </ul>	<b>2</b>	<b>0</b>	<b>17</b>	<ul style="list-style-type: none"> <li>- Boltless Steel Shelving (China)</li> <li>- Calcium Hypochlorite (China)</li> <li>- Crystalline Silicon Photovoltaic Products (China)</li> <li>- Dry Containers (China)</li> <li>- Melamine (China, Trinidad and Tobago)</li> <li>- Passenger Tires (China)</li> <li>- Steel Wire Rod (China)</li> <li>- Steel Nails (Malaysia, Oman, Korea, Taiwan, Turkey, Vietnam)</li> <li>- Sugar (Mexico)</li> <li>- Welded Line Pipe (Korea, Turkey)</li> </ul>	<b>7</b>
<b>Total</b>	<b>9</b>	<b>33</b>		<b>12</b>	<b>11</b>	<b>88</b>		<b>41</b>

Source: Author's own elaboration, based on WTO, European Commission Database and United States Department of Commerce Documents from Electronic Subsidies Enforcement Library

## **CHAPTER V**

### **ECONOMIC RELATIONS BETWEEN KOREA AND THE EU**

#### **5.1 Recent Trends in Trade between Korea and the EU**

In 2010, Korea and the EU finally agreed to sign up for Korea-EU Free Trade Agreement (FTA) which has been negotiated since 2007. The Korea-EU FTA was the first bilateral trade agreement completed with an Asian country for the EU. This new generation of agreement goes further than previous agreement in lifting trade barriers.<sup>77</sup> Thus, the Korea-EU FTA is evaluated as a symbolic event showing proliferation of free trade and economic partnership between two parties.

The EU continues its close cooperative relationship with Korea, one of country emerged as a power house of global economy. Korea was reported the 11th largest economy in the world with a GDP per capita reaching 21,152.2 Euros in 2014. According to the European Commission, Korea is the EU's the eighth largest trade partner, while the EU is Korea's third largest export destination (following China and the US). As of October 2015, the EU is the third biggest trading partner of Korea based on total trade value. It can be interpreted that trade between both parties has high level of dependency and the economy of Korea and the EU is significantly intertwined.

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<sup>77</sup> The EU-ROK Trade Relations and Cooperation, Available at [http://www.eeas.europa.eu/delegations/south\\_korea/eu\\_rok/trade\\_relation/index\\_en.htm#](http://www.eeas.europa.eu/delegations/south_korea/eu_rok/trade_relation/index_en.htm#) (Accessed on 24 December 2015)

**Table 19. Top Trading Partners of Korea in 2014**

(Unit: Mil €, %)

Imports				Export			Total Trade		
Partner		Value	World	Partner	Value	World	Partner	Value	World
	World	383,475	100	World	417, 871	100	World	801,346	100
1	China	65,734	17.1	China	106,018	25.4	China	171,753	21.4
2	EU 28	45,532	11.9	USA	51,486	12.3	USA	84,717	10.6
3	Japan	39,235	10.2	EU 28	38,109	9.1	EU 28	83,640	10.4
4	USA	33,231	8.7	Japan	23,485	5.6	Japan	62,720	7.8
5	Saudi Arabia	26,777	7	Hong Kong	19,889	4.8	Saudi Arabia	32,824	4.1
6	Qatar	18,770	4.9	Singapore	17,331	4.1	Singapore	25,579	3.2
7	Australia	14,896	3.9	Vietnam	16,310	3.9	Taiwan	22,451	2.8
8	Kuwait	12,326	3.2	Taiwan	11,002	2.6	Australia	22,399	2.8
9	UAE	11,817	3.1	India	9,328	2.2	Vietnam	22,141	2.8
10	Taiwan	11,449	3	Indonesia	8,290	2	Hong Kong	21,166	2.6

Source: European Commission

**Table 20. Top Trading Partners of the EU in 2014**

(Unit: Mil €, %)

Imports				Export			Total Trade		
Partner		Value	World	Partner	Value	World	Partner	Value	World
	World	1,685,003	100	World	1,703,076	100	World	3,388,079	100
1	China	302,049	17.9	USA	311,035	18.3	USA	517,162	15.3
2	USA	206,127	12.2	China	164,777	9.7	China	466,826	13.8
3	Russia	181,269	10.8	Swiss	140,365	8.2	Russia	284,583	8.4



4	Swiss	96,633	5.7	Russia	103,315	6.1	Swiss	236,998	7.0
5	Norway	86,792	5.2	Turkey	74,639	4.4	Norway	136,993	4.0
6	Japan	55,211	3.3	Japan	53,272	3.1	Turkey	129,013	3.8
7	Turkey	54,374	3.2	Norway	50,201	2.9	Japan	108,483	3.2
8	Korea	38,796	2.3	Korea	43,196	2.5	Korea	81,992	2.4
9	India	37,120	2.2	UAE	42,756	2.5	India	72,587	2.1

Source: European Commission

After slowing down in 2009 due to the financial crisis, trade flows between the EU and Korea started to increase again in 2010.<sup>78</sup> In 2011, Korea reached the important benchmark of \$ 1 trillion total foreign trade (close to 100% of the Korean GDP).<sup>79</sup> EU exports to Korea enjoyed an annual average growth rate of 7% between 2007 and 2011.<sup>80</sup> In addition, one of the significant phenomenons triggered between both parties would be the transition to a trade surplus of the EU, which has long been suffered from chronic balance of payments deficits against Korea.

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<sup>78</sup> The EU-ROK Trade Relations and Cooperation, Available at [http://www.eeas.europa.eu/delegations/south\\_korea/eu\\_rok/trade\\_relation/index\\_en.htm#](http://www.eeas.europa.eu/delegations/south_korea/eu_rok/trade_relation/index_en.htm#) (Accessed on 24 December 2015)

<sup>79</sup> *Ibid.*

<sup>80</sup> *Ibid.*

**Table 21. The EU Trade Flows and Balances with Korea**

(Unit: Mil €, %)

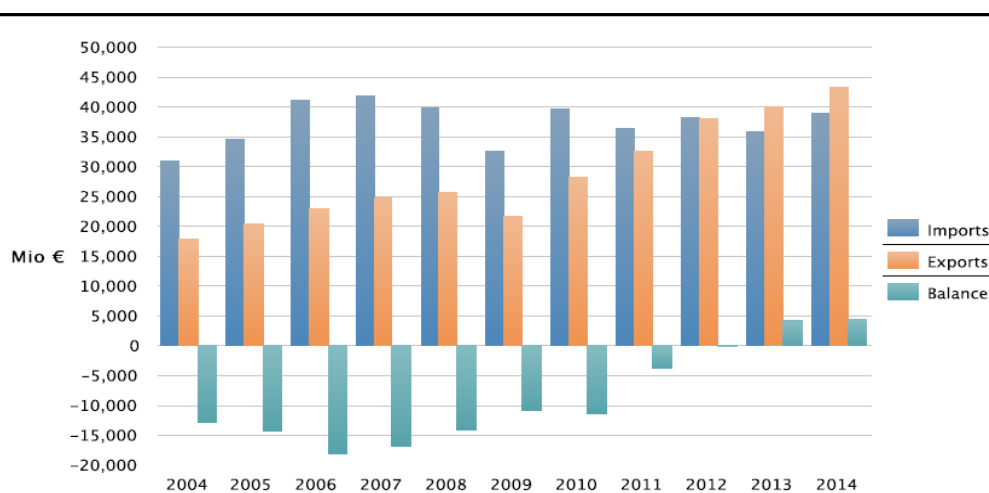
Period	Imports			Exports			Balance	Total Trade
	Value	Growth	Extra-EU	Value	Growth	Extra-EU	Value	Value
2005	34,589	12.3	2.9	20,239	12.9	1.9	-14,349	54,828
2006	40,949	18.4	3	22,815	12.7	2	-18,133	63,764
2007	41,676	1.8	2.9	24,719	8.4	2	-16,957	66,395
2008	39,740	-4.6	2.5	25,495	3.1	1.9	-14,245	65,235
2009	32,472	-18.3	2.6	21,599	-15.3	2	-10,873	54,071
2010	39,534	21.8	2.6	27,961	29.5	2.1	-11,573	67,496
2011	36,312	-8.2	2.1	32,515	16.3	2.1	-3,798	68,827
2012	38,019	4.7	2.1	37,812	16.3	2.2	-206	75,831
2013	35,837	-5.7	2.1	39,910	5.6	2.3	4,073	75,748
2014	38,796	8.3	2.3	43,196	8.2	2.5	4,400	81,992

\* Growth: Relative variation between current and previous period.

\* Extra-EU: Imports/Exports as percent of all EU partners i.e. excluding trade between EU Member States

Source: European Commission

**Figure 3. The EU Trade Flows and Balances with Korea (2004 - 2014)**



Source: European Commission

The trade between the EU and Korea is dominated by power/non-electrical machinery, chemicals, transport equipment, optical and photo equipment and base metals.<sup>81</sup> The EU records a significant surplus in trade in services with Korea. The EU provides to Korea specialized services in sectors such as banking, financial and accounting services.<sup>82</sup> In certain sectors, in particular telecommunications, financial services, environmental services and professional services, the EU is expecting more benefit from the Korea-EU FTA due to legislative changes in Korea. However, many of the pre-FTA restrictions will only be lifted after the expiry of transitional periods, necessary for Korea to revise its regulatory framework. Therefore, depending on the sector, effects of the FTA will need time to materialize.<sup>83</sup>

**Figure 4. The EU Trade Balance in Services with Korea**



Source: European Commission

<sup>81</sup> The EU-ROK Trade Relations and Cooperation, Available at [http://www.eeas.europa.eu/delegations/south\\_korea/eu\\_rok/trade\\_relation/index\\_en.htm#](http://www.eeas.europa.eu/delegations/south_korea/eu_rok/trade_relation/index_en.htm#), (Accessed on 24 December 2015)

<sup>82</sup> *Ibid.*

<sup>83</sup> Annual Report on the Implementation of the EU-Korea Free Trade Agreement, Available at [http://trade.ec.europa.eu/doclib/docs/2013/february/tradoc\\_150647.pdf](http://trade.ec.europa.eu/doclib/docs/2013/february/tradoc_150647.pdf), (Accessed on 26 December 2015)

## 5.2 Overview of Korea-EU FTA

The Korea-EU Free Trade Agreement entered into force in July 2011. The implementation phase of FTA is now ongoing to ensure that the mechanism used are efficient and effective in providing market access for both EU businesses in Korea and businesses of Korea in the EU. Following the entry into force of the FTA in July 2011, EU exports to Korea of products fully liberalized as from the entry into force of the agreement have increased more than other products. Exports of these products, representing 35% of EU exports to Korea, increased by 54% (€4.4 billion) between July 2011 and June 2012, compared to the referenced period.<sup>84</sup> By comparison, exports of the same fully liberalized products to the world have increased by 27%.<sup>85</sup> For products partially liberalized, representing 43% of EU's exports to Korea, the increase in export was 35% or €3.9 billion.<sup>86</sup>

The agreement eliminate tariff for industrial and agricultural goods in a progressive, step by step approach. Only a limited number of agricultural products are excluded from tariff elimination. In addition to eliminating duties on nearly all trade in goods, the agreement addresses non-tariff barriers to trade. It also includes provisions on issues ranging from services and investments, competition rules, government procurement, intellectual property rights

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<sup>84</sup> Annual Report on the Implementation of the EU-Korea Free Trade Agreement, Available at [http://trade.ec.europa.eu/doclib/docs/2013/february/tradoc\\_150647.pdf](http://trade.ec.europa.eu/doclib/docs/2013/february/tradoc_150647.pdf), (Accessed on 24 December 2015)

<sup>85</sup> *Ibid.*

<sup>86</sup> *Ibid.*

(including geographical indications), transparency of regulation and sustainable development.

The Korea-EU FTA is the most comprehensive free trade agreement ever negotiated by the EU. Import duties are eliminated on nearly all products and there is far reaching liberalization of trade in services covering all modes of supply. Specific commitments to eliminate and to prevent non-tariff obstacles to trade have been agreed on sectors such as automobiles, pharmaceuticals or electronics. Especially, EU car imports from Korea have increased by 20% (€ 663 million) in value and 12% in volume during the first year of the FTA compared to the reference period.<sup>87</sup> Despite the increase in car imports from Korea since the provisional application of the FTA, the level of car imports remains 37% below the level for the same twelve month period four years earlier.<sup>88</sup> According to Eurostat, on the other hand, EU car exports to Korea have increased by 69% (€840 million) in value and 70% in volume during the first twelve months of the FTA compared to the reference period. Cars have been partially liberalized; the Korean import duty has been reduced by 1.4 percentage points.<sup>89</sup>

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<sup>87</sup> Annual Report on the Implementation of the EU-Korea Free Trade Agreement, Available at [http://trade.ec.europa.eu/doclib/docs/2013/february/tradoc\\_150647.pdf](http://trade.ec.europa.eu/doclib/docs/2013/february/tradoc_150647.pdf), (Accessed on 24 December 2015)

<sup>88</sup> *Ibid.*

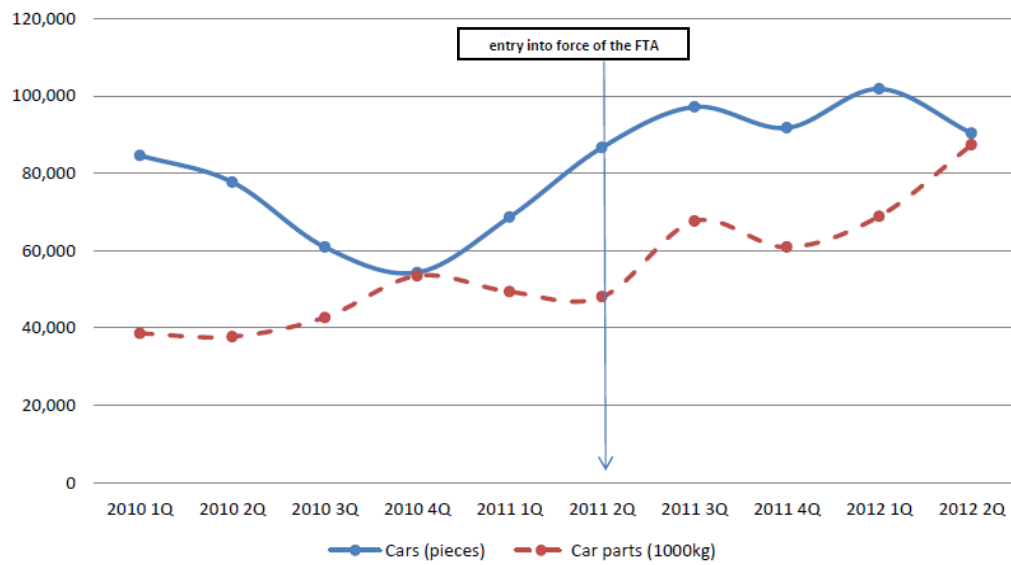
<sup>89</sup> *Ibid.*

**Figure 5. The EU Imports in Automobile Sector from Korea**

(Unit: Pieces, 1000kg)

Product	2010 1Q	2010 2Q	2010 3Q	2010 4Q	2011 1Q	2011 2Q	2011 3Q	2011 4Q	2012 1Q	2012 2Q
Cars	84,631	77,715	60,931	54,363	68,637	86,668	97,135	91,733	101,793	90,347
Car parts	38,608	37,783	42,734	53,486	49,392	48,049	67,611	60,900	68,888	87,351

**Imports on a quarterly basis**



Source: European Commission

### **5.3 Regulations on Subsidies in the Korea-EU FTA**

The Korea-EU FTA differs from many other FTAs, in that it deals with subsidies within the chapter on competition. This approach mirrors the Treaty on the Functioning of the EU, which clearly classified ‘state aid’ as a part of competition law.<sup>90</sup> Thus, the competition chapter in the Korea-EU FTA seems to reflect the existing example of the TFEU, even though the Monopoly Regulation and Fair Trade Act in Korea do not address subsidies. Some scholars have analyzed that the EU’s inclusion of subsidy in the competition chapter of its FTAs and the different stance on subsidy between the EU and WTO come not only from the objectives of subsidy control within WTO and EU, but also from the objectives of both organizations. Therefore, it is necessary to understand the EU’s stance on subsidies, since Korea has traditionally defined subsidies, as a question of trade remedies.<sup>91</sup>

The Ministry of Foreign Affairs and Trade of Korea explains that the definition of the subsidy, and related contents mentioned in the competition chapter of the FTA, are identical to those of WTO Agreement on Subsidies, and, therefore, Korea will not take on any additional obligations.<sup>92</sup> Yet, others have suggested that the Korea-EU FTA stipulates the issue of Subsidies more

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<sup>90</sup> Consolidated Version of the Treaty on the Functioning of the European Union (TFEU) [2010] OJ C83/47, 30 March 2010, Article 107.

<sup>91</sup> Harrison, James, ed, ‘The European Union and South Korea: The Legal Framework for Strengthening Trade’, Economic and Political Relations, Edinburgh University Press (2013), p.95.

<sup>92</sup> Ministry of Foreign Affairs and Trade, Korea-EU Commentary (Seoul: Republic of Korea Ministry of Foreign Affairs and Trade, 2009), p.145.

systematically and in a more detailed way.<sup>93</sup> This is an important discussion, particularly as subsidies have been an issue that has spurred several trade disputes between Korea and the EU.<sup>94</sup>

In Korea-EU FTA articles, Section B of Chapter 11 of the Korea-EU FTA deals with subsidies. The basic principle in Section B of Chapter 11 of the Korea-EU FTA is as follows:

The Parties agree to use their best endeavors to remedy or remove through the application of their competition laws or otherwise, distortions of competition caused by subsidies in so far as they affect international trade, and to prevent the occurrence of such situations.<sup>95</sup>

According to provisions in the Section B, both parties' right to take remedy actions under the WTO agreements is still guaranteed in accordance with the relevant provisions of the WTO Agreements without any prejudice. In other words, regarding subsidies and countervailing measures, the Korea-EU FTA maintains the rights and responsibilities with to dispute settlement, trade remedy action or other appropriate measures against a subsidy granted by the

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<sup>93</sup> A.Jarosz-Friis, N. Pesaresi and C. Kerle, 'EU-Korea FTA: A Stepping Stone towards Better Subsidies Control at the International Level', Competition Policy Newsletter, vol. 1 (2010), p.80.

<sup>94</sup> Three disputes concerning subsidies and have been litigated in the WTO; see Korea – Measures affecting Trade in Commercial Vessels, WTO Panel Report, 11 April 2005, Document WT/DS273/R; EC – Measures affecting Trade in Commercial Vessels, WTO Panel Report, 20 June 2005, Document WT/DS301/R; EC – Countervailing Measures on Dynamic Random Access Memory Chips from Korea, WTO Panel Report, 3 August 2005, Document WT/DS299/R.

<sup>95</sup> Korea-EU FTA, Article 11.9.



other Party.<sup>96</sup>

The Korea-EU FTA uses WTO SCM Agreement as a reference to define a subsidy and specificity. The Article 11.10 defines a subsidy as a measure which fulfils the conditions set out in Article 1.1 of the SCM Agreement. It also indicates that subsidy is specific if it falls within the meaning of Article 2 of the SCM Agreement and a subsidy shall be subject to this Section only if it is specific within the meaning of Article 2 of the SCM Agreement.<sup>97</sup>

The subsidies provisions of the Korea-EU FTA also potentially go beyond the provisions of the WTO Agreement on Subsidies and Countervailing Measures. Article 11.11 of the FTA specifies two following types of subsidy shall be prohibited:

- (a) subsidies granted under any legal arrangement whereby a government or any public body is responsible for covering debts or liabilities of certain enterprises within the meaning of Article 2.1 of the SCM Agreement without any limitation, in law or in fact, as to the amount of those debts and liabilities or the duration of such responsibility; and
- (b) subsidies (such as loans and guarantees, cash grants, capital injections, provision of assets below market prices or tax exemptions) to insolvent

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<sup>96</sup> Korea-EU FTA, Article 11.13.

<sup>97</sup> Korea-EU FTA, Article 11.10.

or ailing enterprises, without a credible restructuring plan based on realistic assumptions with a view to ensuring the return of the insolvent or ailing enterprise within a reasonable period of time to long-term viability and without the enterprise significantly contributing itself to the costs of restructuring. This does not prevent the Parties from providing subsidies by way of temporary liquidity support in the form of loan guarantees or loans limited to the amount needed to merely keep an ailing enterprise in business for the time necessary to work out a restructuring or liquidation plan.

This subparagraph does not apply to subsidies granted as compensation for carrying out public service obligations and to the coal industry.<sup>98</sup>

On the purpose of the implementation of these regulations, both parties shall report annually to the other Party on the total amount, types and the sectoral distribution of subsidies which are specific and may affect international trade. Reporting should contain information concerning the objective, form, the amount or budget and where possible the recipient of the subsidy granted by a government or any public body.<sup>99</sup> The Parties shall keep under constant review the matters to which reference is made in this section. When relevant problem occurs, each Party may refer such matters to the Trade Committee. The Parties

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<sup>98</sup> Korea-EU FTA, Article 11.11.

<sup>99</sup> Korea-EU FTA, Article 11.12.

agree to review progress in implementing this section every two years after the entry into force of this agreement, unless both Parties agree otherwise.<sup>100</sup>

## 5.4 Korea-EU SCM Dispute Cases

The EU's regulations on state aid seem to be more rigid than WTO rules on subsidies found in GATT and the Agreement on Subsidies and countervailing Measures. The cases of commercial vessels with Korea<sup>101</sup> show that the way that the EU sees the granting of state aid, as a means to secure a competitive edge in its common market, can have an adverse effect on the markets outside the EU.<sup>102</sup> Table 14 shows 4 SCM disputes occurred between Korea and the EU.

**Table 22. The Overall Korea-EU SCM Dispute Cases**

Complainant	Respondent	DS No.	Issue	Date
EU	Korea	DS273	Measures Affecting Trade in Commercial Vessels	21-Oct-02
Korea	EU	DS299	Countervailing Measures on DRAM Chips from Korea	25-Jul-03
Korea	EU	DS301	Measures Affecting Trade in Commercial Vessels	03-Sep-03
Korea	EU	DS307	Aid for Commercial Vessels	13-Feb-04

Source: WTO

<sup>100</sup> Korea-EU FTA, Article 11.14.

<sup>101</sup> Korea – Measures Affecting Trade in Commercial vessels, WTO Panel Report, 7 March 2005, WT/DS273/R; European Communities – Measures Affecting Trade in Commercial Vessels, WTO Panel Report, 22 April 2005, WT/DS301/R; Request for Consultation by Korea, European Communities – Aid for Commercial Vessels, Document WT/DS307/1, G/L/671, G/SCM/D58/1, 19 February 2004.

<sup>102</sup> Harrison, James, ed, The European Union and South Korea: The Legal Framework for Strengthening Trade, Economic and Political Relations, Edinburgh University Press, 2013.

Recently, in the Korea Shipbuilding Case, the European shipbuilding industry alleged that Korean export subsidies and restructuring subsidies to the domestic shipbuilding industry constituted actionable subsidies that caused adverse trade effect to the European industry in violation of Art.3 and 5 of the WTO Agreement on Subsidies and Countervailing Measures. The case was brought to the WTO where the Panel agreed to the European shipbuilding industry concerning the export subsidies but did not consider that the parties had presented enough factual evidence to convince the Panel regarding the restructuring subsidies.<sup>103</sup> A corresponding case was filed simultaneously by Korea claiming that the EU also violates the anti-subsidy Agreement by subsidizing the European shipbuilding industry. The Panel in this case rejected most of Korea's complaints. However, the Panel found that the EU violate trade rules when it reacted unilaterally to Korean state aid by granting subsidies to European shipbuilding without first filing a complaint at the WTO.<sup>104</sup>

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<sup>103</sup> Korea – Measures Affecting Trade in Commercial Vessels Case WT/DS273, Report of the Panel on March 7 2005.

<sup>104</sup> European Communities – Measures Affecting Trade in Commercial Vessels Case WT/DS301, Report of the Panel on April 22 2005.

## **CHAPTER VI**

### **CONCLUSIONS**

The trend of the EU complaints over 1995 through 2015 showed that a high level of ‘trade remedy’ action brought pursuant to the Anti-Dumping and SCM Agreements. Especially, regarding the SCM Agreement, the EU has been the second heaviest user of the WTO dispute settlement system during the same period. In this regard, the EU involved a total of 40 out of 109 cases, which constitute 36.7% of the total SCM disputes (23 cases as a complaining party and 17 cases as a respondent).

Regionally, It is confirmed that the EU targeted countries in North America (nine cases for the United States and three cases for Canada), Central and South America (two cases for Argentina, Brazil and Mexico each) more than other regions. For these five countries, 18 disputes out of 23 disputes, 78.3% of total SCM disputes were complained by the EU. Conversely, the United States, Korea and Russia were major players who filed EU under the SCM agreement. During the same period, Korea involved in four SCM disputes with the EU and three cases of these were petitioned by Korea.

It is quite clear that the EU, as a complainant, the most frequently debated issues with the WTO were agricultural food products, steel, automobiles and parts, and aircraft. For the agricultural food products, automobiles and parts, and steel products, four cases of each were filed, which comprise 52.2% of the total SCM disputes by the EU. Also, disputes over the

category of aircraft followed previous subject matters. Three cases for this category were filed, comprising 13%. In summary, approximately 65% of the EU disputes concentrate on these products. On the other hand, the EU as a respondent, a total of four SCM disputes regarding agricultural food products were petitioned from other countries, comprising 23.5% of SCM disputes. Also, disputes on the product of aircraft, chemicals, energies, polyethylene and ships engaged two cases each, comprising 58.8% in total.

The EU also initiates investigations on its own initiative in the EC. A total of 74 cases were targeted against 22 countries for initiations by the EU. The middle and low income countries, which include seven Asian countries and the most targeted group, were directed at 45 cases and 61% of the total EU initiation. In the group, India was targeted the most, followed by China. These two countries occupied 29 cases, which are about 40% of the EU initiations. Even among the high income countries, Asian countries such as Korea and Taiwan were the main targets in terms of the number of EU initiations. Overall, it is quite obvious that cases are heavily concentrated on the Asian countries. Regardless of the group of nations, a total of 59 cases were reported against the Asian countries, which constitute 80% of the initiations.

The EU concluded a total of 35 measures on 74 initiations. More specifically, eight measures for the high income countries, 24 measures for middle and low income countries and the other three measures were imposed for the countries in the Middle East. The middle and low income countries, including representative emerging countries such as China and India, imposed

countervailing duties dominantly as compared to the other groups. In addition, 18 measures, more than a half of the total countervailing measures were implemented for these two countries.

Regarding the retaliated categories of product, eleven impositions of duties, comprising 45.8 % of the total measures of middle and low income countries were involved in steel and textile products. Most of the impositions of duties, eight measures particularly, were against India. The other three measures were targeted at Indonesia, Malaysia and the Philippines. Even these three countries were imposed duties for products related to steel and textiles. Overall, the EU presents a greater share of measures toward the steel and textile industries in regards to subsidy issues.

The EU subsidy investigations on the basis of the WTO SCM Agreement and its own anti-subsidy rules showed clear specificity for both retaliated regions and products. As a result of the legal proceedings, the EU predominantly concluded ad-valorem duty rather than other measures. Traditionally, the EU has been considered subsidy-related issues as one of the critical concerns, both politically and economically. In recent years, the Korean government carrying out policies that support structural adjustment of industries and there exists a high probability of involvement with subsidy disputes. Thus, the government needs to consider its implications and pay more attention to comply with the regulations on subsidies and countervailing measures.

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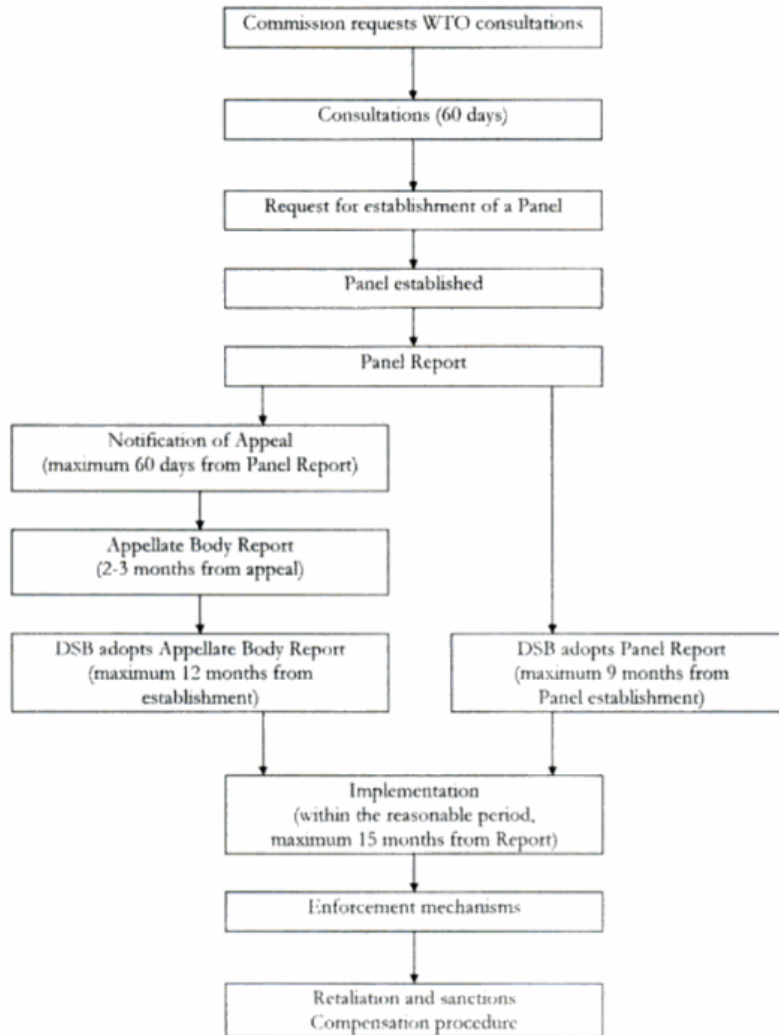
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## APPENDICES

### Appendix I. The WTO Dispute Settlement Procedure<sup>105</sup>



<sup>105</sup> Maclean, Robert Macdonald, 'The EU trade barrier regulation: tackling unfair foreign trade practices', Sweet & Maxwell (2006), p.225.

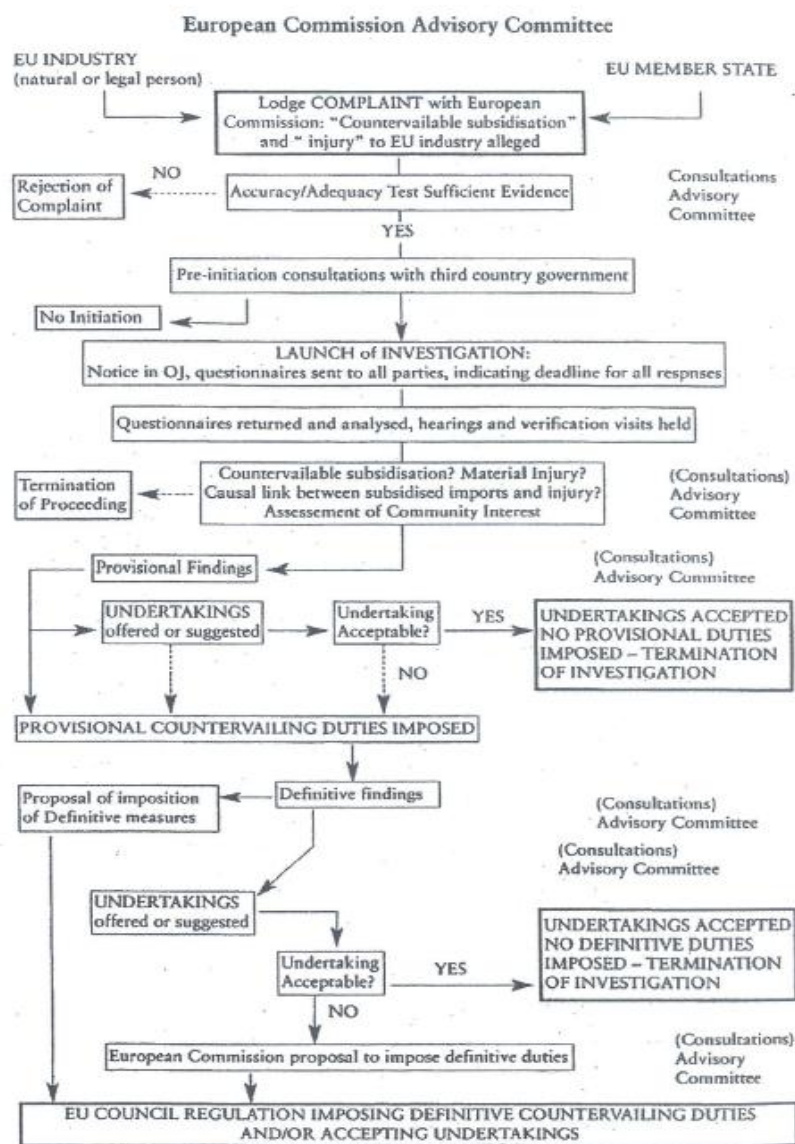
## Appendix II. The WTO Dispute Settlement Procedure

Time Scale	Actions
60 days	Consultations, mediation, etc
45 days	Panel set up and panellists appointed
6 months	Final panel report to parties
3 weeks	Final panel report to WTO members
60 days	Dispute Settlement Body adopts report (if no appeal)
<b>Total = 1 year</b>	<b>(without appeal)</b>
60 to 90 days	Appeals report
30 days	Dispute Settlement Body adopts appeals report
<b>Total = 1 year and 3 months</b>	<b>(with appeal)</b>

Source: WTO



### Appendix III. The EC Investigation Procedure for Subsidy Dispute<sup>106</sup>



<sup>106</sup> Adamantopoulos, Konstantinos, and María J. Pereyra-Friedrichsen, 'EU Anti-Subsidy Law and Practice', Sweet & Maxwell (2007), p.334.

## Appendix IV. Harmonized System Section Headings

Section	Description
I	Live Animals; Animal Products
II	Vegetable Products
III	Animal or Vegetable Fats and Oils and Their Cleavage Products; Prepared Edible Fats; Animal or Vegetable Waxes
IV	Prepared Foodstuffs; Beverages, Spirits and Vinegar; Tobacco and Manufactured Tobacco Substitutes
V	Mineral Products
VI	Products of the Chemical or Allied Industries
VII	Plastics and Articles Thereof; Rubber and Articles Thereof
VIII	Raw Hides and Skins, Leather, Furskins and Articles Thereof; Saddlerly and Harness; Travel Goods, Handbags and Similar Containers; Articles of Animal Gut (Other than Silk-Worm Gut)
IX	Wood and Articles of Wood; Wood Charcoal; Cork and Articles of Cork; Manufactures of Straw, of Esparto or of Other Plaiting Materials; Basketware and Wickerwork
X	Pulp Of Wood or of Other Fibrous Cellulosic Material; Recovered (Waste and Scrap) Paper or Paperboard; Paper and Paperboard and Articles Thereof
XI	Textiles and Textile Articles
XII	Footwear, Headgear, Umbrellas, Sun Umbrellas, Walking-Sticks, Seat-Sticks, Whips, Riding-Crops and Parts Thereof; Prepared Feathers and Articles Made Therewith; Artificial Flowers; Articles of Human Hair
XIII	Articles of Stone, Plaster, Cement, Asbestos, Mica or Similar Materials; Ceramic Products; Glass and Glassware
XIV	Natural or Cultured Pearls, Precious or Semi-Precious Stones, Precious Metals, Metals Clad with Precious Metal and Articles Thereof; Imitation Jewellery; Coin Thereof; Imitation Jewellery; Coin
XV	Base Metals and Articles of Base Metal
XVI	Machinery and Mechanical Appliances; Electrical Equipment; Parts Thereof; Sound Recorders and Reproducers, Television Image and Sound Recorders and Reproducers, and Parts and Accessories of Such Articles
XVII	Vehicles, Aircraft, Vessels and Associated Transport Equipment
XVIII	Optical, Photographic, Cinematographic, Measuring, Checking, Precision, Medical or Surgical Instruments and Apparatus; Clocks and Watches; Musical Instruments; Parts and Accessories Thereof
XIX	Arms and Ammunition; Parts and Accessories Thereof
XX	Miscellaneous Manufactured Articles
XXI	Works of Art, Collectors' Pieces and Antiques
...	Unknown

Source: WTO

## Appendix V. List of SCM Disputes of EU (formerly EC) as a Complainant

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DS54	Indonesia - Certain Measures Affecting the Automobile Industry, 3 October 1996
DS81	Brazil - Measures Affecting Trade and Investment in the Automotive Sector, 7 May 1997
DS108	United States - Tax Treatment for "Foreign Sales Corporations", 18 November 1997
DS138	United States - Imposition of Countervailing Duties on Certain Hot-Rolled Lead and Bismuth Carbon Steel Products Originating in the United Kingdom, 12 June 1998
DS142	Canada - Certain Measures Affecting the Automotive Industry, 17 August 1998
DS145	Argentina - Countervailing Duties on Imports of Wheat Gluten from the European Communities, 23 September 1998
DS147	Japan - Tariff Quotas and Subsidies Affecting Leather, 8 October 1998
DS212	United States - Countervailing Measures Concerning Certain Products from the European Communities, 10 November 2000
DS213	United States - Countervailing Duties on Certain Corrosion-Resistant Carbon Steel Flat Products from Germany, 10 November 2000
DS217	United States - Continued Dumping and Subsidy Offset Act of 2000, 21 December 2000
DS262	United States - Sunset Reviews of Anti-Dumping and Countervailing Duties on Certain Steel Products from France and Germany, Korea, Republic of - Measures Affecting Trade in Commercial Vessels, 25 July 2002
DS273	Korea, Republic of - Measures Affecting Trade in Commercial Vessels, 21 October 2002
DS314	Mexico - Provisional Countervailing Measures on Olive Oil from the European Communities, 18 August 2004
DS317	United States - Measures Affecting Trade in Large Civil Aircraft, 6 October 2004
DS330	Argentina - Countervailing Duties on Olive Oil, Wheat Gluten and Peaches, 29 April 2005
DS339	China - Measures Affecting Imports of Automobile Parts, 30 March 2006
DS341	Mexico - Definitive Countervailing Measures on Olive Oil from the European Communities, 31 March 2006
DS353	United States - Measures Affecting Trade in Large Civil Aircraft - Second Complaint, 27 June 2005
DS354	Canada - Tax Exemptions and Reductions for Wine and Beer, 29 November 2006

DS380	India - Certain Taxes and Other Measures on Imported Wines and Spirits, 22 September 2008
DS426	Canada - Measures Relating to the Feed-in Tariff Program, 11 August 2011
DS472	Brazil - Certain Measures Concerning Taxation and Charges, 19 December 2013
DS487	United States – Conditional Tax Incentives for Large Civil Aircraft, 19 December 2014
<b>Total</b>	<b>23 Cases</b>

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Source: WTO

## Appendix VI. List of SCM Disputes of EU (formerly EC) as a Respondent

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DS104	EC - Measures Affecting the Exportation of Processed Cheese, 8 October 1997
DS172	EC - Measures Relating to the Development of a Flight Management System, 21 May 1999
DS265	EC - Export Subsidies on Sugar, 27 September 2002
DS266	EC - Export Subsidies on Sugar, 27 September 2002
DS283	EC - Export Subsidies on Sugar, 14 March 2003
DS299	EC - Countervailing Measures on Dynamic Random Access Memory Chips from Korea, 25 July 2003
DS301	EC - Measures Affecting Trade in Commercial Vessels, 3 September 2003
DS307	EC - Aid for Commercial Vessels, 13 February 2004
DS316	EC and Certain Member States - Measures Affecting Trade in Large Civil Aircraft, 6 October 2004
DS347	EC and Certain Member States - Measures Affecting Trade in Large Civil Aircraft (Second Complaint), 31 January 2006
DS385	EC - Expiry Reviews of Anti-dumping and Countervailing Duties Imposed on Imports of PET from India, 4 December 2008
DS452	EU and Certain Member States - Certain Measures Affecting the Renewable Energy Generation Sector, 5 November 2012
DS459	EU - Certain Measures on the Importation and Marketing of Biodiesel and Measures Supporting the Biodiesel Industry, 15 May 2013
DS474	EU – Cost Adjustment Methodologies and Certain Anti-Dumping Measures on Imports from Russia, 23 December 2013
DS476	EU - Certain Measures Relating to the Energy Sector, 30 April 2014
DS486	EU - Countervailing Measures on Certain Polyethylene terephthalate from Pakistan, 5 November 2014
DS494	EU- Cost Adjustment Methodologies and Certain Anti-Dumping Measures on Imports from Russia (Second complaint), 7 May 2015
<b>Total</b>	<b>17 Cases</b>

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Source: WTO

## Appendix VII. Chronology of trade dispute between Korea and EU (DS273)<sup>107</sup>

1	21-Oct-02	EU requests consultations under article 4 of Dispute Settlement Understanding (DSU) and articles 4, 7, 30 of the agreement on subsidies and countervailing measures (SCM Agreement) affecting trade in commercial vessels
2	22-Nov-02	EU Korea meetings fail to resolve issue 7 May 2003
3	11-Jun-03	EU requests establishment of a panel
4	10-Jul-03	EU makes second request—triggers panel process
5	21-Jul-03	DSB established panel in accordance with Article 6 of DSU—standard terms of reference agreed Information gathering process started— no agreement between parties so designated by DSB
6	11-Aug-03	EU requests Director-General to name a panel (no agreement between EU and Korea on panel members)
7	20-Aug-03	Panel members named
8	19-Sep-03	60-day period for information gathering over; extended by mutual consent to November
9	10-Nov-03	Initial report by designated representative to Panel
10	09-Mar-04	Panel holds two day meetings with parties
11	11-Apr-04	Original panel chair dies
12	11-May-04	New chair appointed by DG
13	17-Jun-04	Panel holds second 2 day meeting with parties
14	24-Nov-04	Interim Report submitted to parties
15	22-Dec-04	Final Report submitted to parties
16	11-Apr-05	Panel Report adopted by the Dispute Settlement Body

<sup>107</sup> Glen, David, 'Shipbuilding disputes: the WTO panel rulings and the elimination of operating subsidy from shipbuilding', *Maritime Policy & Management* 33.1 (2006), pp.1-21.

## Appendix VIII. Chronology of trade dispute between Korea and EU (DS301)<sup>108</sup>

1	03-Sep-03	Korea requests consultations with EU over its TDM
2	12-Sep-03	China asks to be joined in the consultations
3	09-Oct-03	EU and Korea meet
4	14-Nov-03	Fail to resolve issue
5	05-Feb-04	Korea requests a Panel be set up
6	19-Mar-04	Terms of reference for Panel agreed
7	07-May-04	Korea requests DG to determine composition of Panel
8	13-May-04	DG appoints panel members China, Japan and USA reserve rights to be third parties
9	03-Aug-04	Panel holds two day meetings with parties
10	05-Oct-04	Panel holds one day meeting with parties
11	23-Dec-04	Interim report submitted to parties
12	10-Feb-05	Final report submitted to parties
13	20-Jun-05	Panel Report adopted by the Dispute Settlement Body

<sup>108</sup> Glen, David, 'Shipbuilding disputes: the WTO panel rulings and the elimination of operating subsidy from shipbuilding', *Maritime Policy & Management* 33.1 (2006), pp.1-21.

## Appendix IX. Breakdown of SCM Disputes by Article

<b><u>Article 1</u></b>	28 case(s): DS54, DS59, DS64, DS167, DS172, DS173, DS212, DS218, DS222, DS236, DS257, DS273, DS296, DS299, DS301, DS307, DS316, DS330, DS336, DS341, DS345, DS347, DS368, DS379, DS436, DS451, DS486, DS487
<b><u>Article 1.1</u></b>	11 case(s): DS194, DS212, DS266, DS336, DS353, DS412, DS426, DS437, DS452, DS459, DS464
<b><u>Article 1.1(a)</u></b>	3 case(s): DS236, DS451, DS486
<b><u>Article 1.1(a)(1)</u></b>	1 case(s): DS437
<b><u>Article 1.1(a)(1)(i)</u></b>	1 case(s): DS486
<b><u>Article 1.1(a)(1)(ii)</u></b>	2 case(s): DS486, DS487
<b><u>Article 1.1(b)</u></b>	5 case(s): DS138, DS236, DS437, DS451, DS487
<b><u>Article 1.2</u></b>	2 case(s): DS236, DS464
<b><u>Article 2</u></b>	22 case(s): DS54, DS59, DS167, DS172, DS173, DS236, DS257, DS273, DS296, DS299, DS301, DS307, DS316, DS336, DS347, DS353, DS368, DS379, DS436, DS437, DS451, DS487
<b><u>Article 2.1</u></b>	4 case(s): DS357, DS451, DS464, DS491
<b><u>Article 2.1(c)</u></b>	1 case(s): DS491
<b><u>Article 2.2</u></b>	2 case(s): DS451, DS464
<b><u>Article 2.3</u></b>	5 case(s): DS64, DS357, DS451, DS459, DS487
<b><u>Article 3</u></b>	35 case(s): DS46, DS51, DS52, DS57, DS59, DS64, DS65, DS70, DS81, DS103, DS104, DS106, DS126, DS127, DS128, DS129, DS130, DS131, DS139, DS222, DS236, DS267, DS283, DS307, DS339, DS340, DS342, DS358, DS359, DS387, DS388, DS390, DS419, DS476, DS486
<b><u>Article 3.1</u></b>	10 case(s): DS266, DS273, DS283, DS301, DS316, DS317, DS353, DS354, DS357, DS365
<b><u>Article 3.1(a)</u></b>	12 case(s): DS70, DS108, DS126, DS139, DS142, DS236, DS265, DS347, DS357, DS451, DS486, DS489
<b><u>Article 3.1(b)</u></b>	21 case(s): DS54, DS55, DS64, DS108, DS142, DS195, DS340, DS342,



	DS347, DS358, DS359, DS380, DS412, DS426, DS451, DS452, DS456, DS459, DS472, DS487, DS497
<b><u>Article 3.2</u></b>	27 case(s): DS70, DS139, DS142, DS265, DS266, DS273, DS283, DS316, DS317, DS340, DS342, DS347, DS353, DS354, DS357, DS358, DS359, DS365, DS380, DS412, DS426, DS452, DS456, DS459, DS487, DS489, DS497
<b><u>Article 4</u></b>	2 case(s): DS301, DS347
<b><u>Article 4.2</u></b>	3 case(s): DS357, DS380, DS451
<b><u>Article 4.10</u></b>	1 case(s): DS217
<b><u>Article 5</u></b>	14 case(s): DS64, DS71, DS81, DS172, DS173, DS234, DS267, DS273, DS301, DS307, DS316, DS317, DS353, DS357
<b><u>Article 5(a)</u></b>	1 case(s): DS347
<b><u>Article 5(b)</u></b>	1 case(s): DS459
<b><u>Article 5(c)</u></b>	4 case(s): DS347, DS451, DS456, DS459
<b><u>Article 6</u></b>	9 case(s): DS54, DS59, DS64, DS147, DS172, DS173, DS267, DS307, DS379
<b><u>Article 6.3</u></b>	6 case(s): DS273, DS301, DS316, DS317, DS353, DS357
<b><u>Article 6.3(a)</u></b>	3 case(s): DS347, DS456, DS459
<b><u>Article 6.3(b)</u></b>	2 case(s): DS347, DS451
<b><u>Article 6.3(c)</u></b>	3 case(s): DS347, DS451, DS456
<b><u>Article 6.4</u></b>	3 case(s): DS301, DS316, DS451
<b><u>Article 6.5</u></b>	3 case(s): DS273, DS301, DS451
<b><u>Article 7</u></b>	3 case(s): DS64, DS301, DS347
<b><u>Article 7.2</u></b>	2 case(s): DS357, DS451
<b><u>Article 7.9</u></b>	1 case(s): DS217
<b><u>Article 9</u></b>	1 case(s): DS379
<b><u>Article 10</u></b>	40 case(s): DS138, DS145, DS167, DS194, DS206, DS212, DS213, DS217, DS218, DS221, DS234, DS236, DS257, DS262, DS277, DS280, DS296, DS299, DS310, DS311, DS314, DS330, DS336, DS338, DS341, DS345, DS368, DS379, DS414, DS427, DS436, DS437, DS440, DS449, DS464, DS470, DS474, DS486, DS491, DS494
<b><u>Article 11</u></b>	14 case(s): DS97, DS112, DS194, DS206, DS218, DS257, DS262, DS296,

	DS299, DS330, DS336, DS341, DS436, DS437
<b><u>Article 11.1</u></b>	3 case(s): DS167, DS427, DS437
<b><u>Article 11.2</u></b>	4 case(s): DS167, DS314, DS414, DS437
<b><u>Article 11.3</u></b>	5 case(s): DS167, DS314, DS414, DS437, DS440
<b><u>Article 11.4</u></b>	5 case(s): DS167, DS217, DS234, DS314, DS440
<b><u>Article 11.5</u></b>	1 case(s): DS167
<b><u>Article 11.9</u></b>	3 case(s): DS213, DS295, DS314
<b><u>Article 11.11</u></b>	2 case(s): DS145, DS470
<b><u>Article 12</u></b>	9 case(s): DS257, DS262, DS296, DS299, DS330, DS336, DS341, DS379, DS436
<b><u>Article 12.1</u></b>	1 case(s): DS385
<b><u>Article 12.1.1</u></b>	1 case(s): DS295
<b><u>Article 12.3</u></b>	2 case(s): DS414, DS427
<b><u>Article 12.4.1</u></b>	3 case(s): DS414, DS427, DS440
<b><u>Article 12.5</u></b>	2 case(s): DS295, DS385
<b><u>Article 12.6</u></b>	1 case(s): DS486
<b><u>Article 12.7</u></b>	7 case(s): DS295, DS385, DS414, DS427, DS437, DS440, DS491
<b><u>Article 12.8</u></b>	4 case(s): DS414, DS427, DS440, DS486
<b><u>Article 13</u></b>	4 case(s): DS112, DS341, DS379, DS436
<b><u>Article 13.1</u></b>	1 case(s): DS167
<b><u>Article 14</u></b>	17 case(s): DS138, DS212, DS218, DS236, DS257, DS280, DS296, DS299, DS330, DS336, DS341, DS345, DS368, DS379, DS436, DS464, DS486
<b><u>Article 14(b)</u></b>	1 case(s): DS486
<b><u>Article 14(d)</u></b>	2 case(s): DS437, DS491
<b><u>Article 15</u></b>	11 case(s): DS206, DS257, DS262, DS296, DS299, DS314, DS336, DS338, DS341, DS436, DS449
<b><u>Article 15.1</u></b>	5 case(s): DS277, DS310, DS414, DS427, DS440
<b><u>Article 15.2</u></b>	6 case(s): DS277, DS310, DS338, DS414, DS427, DS440
<b><u>Article 15.3</u></b>	1 case(s): DS277
<b><u>Article 15.4</u></b>	5 case(s): DS277, DS310, DS338, DS427, DS440
<b><u>Article 15.5</u></b>	9 case(s): DS277, DS310, DS336, DS338, DS414, DS427, DS440, DS486,

	DS491
<b><u>Article 15.7</u></b>	2 case(s): DS277, DS491
<b><u>Article 15.8</u></b>	1 case(s): DS277
<b><u>Article 16</u></b>	2 case(s): DS314, DS341
<b><u>Article 16.1</u></b>	2 case(s): DS427, DS440
<b><u>Article 17</u></b>	8 case(s): DS194, DS236, DS295, DS296, DS299, DS314, DS338, DS368
<b><u>Article 17.1</u></b>	1 case(s): DS345
<b><u>Article 17.1(b)</u></b>	1 case(s): DS236
<b><u>Article 17.2</u></b>	1 case(s): DS345
<b><u>Article 17.4</u></b>	1 case(s): DS345
<b><u>Article 17.5</u></b>	2 case(s): DS236, DS345
<b><u>Article 18</u></b>	2 case(s): DS217, DS234
<b><u>Article 18.4</u></b>	1 case(s): DS470
<b><u>Article 19</u></b>	17 case(s): DS194, DS212, DS218, DS236, DS257, DS280, DS295, DS296, DS299, DS330, DS336, DS341, DS379, DS414, DS436, DS449, DS486
<b><u>Article 19.1</u></b>	5 case(s): DS212, DS310, DS311, DS336, DS486
<b><u>Article 19.2</u></b>	1 case(s): DS221
<b><u>Article 19.3</u></b>	6 case(s): DS212, DS236, DS295, DS311, DS345, DS486
<b><u>Article 19.4</u></b>	9 case(s): DS138, DS212, DS221, DS236, DS311, DS336, DS345, DS427, DS464
<b><u>Article 20</u></b>	1 case(s): DS236
<b><u>Article 20.6</u></b>	2 case(s): DS236, DS295
<b><u>Article 21</u></b>	12 case(s): DS212, DS213, DS218, DS236, DS257, DS262, DS280, DS295, DS330, DS336, DS436, DS449
<b><u>Article 21.1</u></b>	5 case(s): DS212, DS221, DS236, DS295, DS311
<b><u>Article 21.2</u></b>	4 case(s): DS212, DS236, DS295, DS311
<b><u>Article 21.3</u></b>	2 case(s): DS212, DS385
<b><u>Article 21.4</u></b>	2 case(s): DS311, DS385
<b><u>Article 22</u></b>	8 case(s): DS206, DS257, DS277, DS296, DS299, DS336, DS341, DS436
<b><u>Article 22.2(iii)</u></b>	1 case(s): DS414

<b><u>Article 22.3</u></b>	4 case(s): DS414, DS427, DS440, DS486
<b><u>Article 22.4</u></b>	3 case(s): DS338, DS427, DS486
<b><u>Article 22.5</u></b>	3 case(s): DS414, DS427, DS440
<b><u>Article 25</u></b>	1 case(s): DS456
<b><u>Article 25.1</u></b>	2 case(s): DS419, DS450
<b><u>Article 25.2</u></b>	2 case(s): DS419, DS450
<b><u>Article 25.3</u></b>	2 case(s): DS419, DS450
<b><u>Article 25.4</u></b>	2 case(s): DS419, DS450
<b><u>Article 27</u></b>	4 case(s): DS46, DS59, DS81, DS206
<b><u>Article 27.2</u></b>	1 case(s): DS51
<b><u>Article 27.4</u></b>	4 case(s): DS46, DS51, DS52, DS65
<b><u>Article 27.5</u></b>	1 case(s): DS46
<b><u>Article 28.2</u></b>	3 case(s): DS55, DS59, DS64
<b><u>Article 30</u></b>	1 case(s): DS437
<b><u>Article 32</u></b>	14 case(s): DS234, DS236, DS257, DS262, DS296, DS299, DS301, DS341, DS353, DS368, DS379, DS436, DS449, DS486
<b><u>Article 32.1</u></b>	18 case(s): DS194, DS217, DS221, DS234, DS236, DS277, DS295, DS296, DS299, DS301, DS310, DS311, DS336, DS345, DS437, DS470, DS474, DS494
<b><u>Article 32.2</u></b>	1 case(s): DS221
<b><u>Article 32.3</u></b>	1 case(s): DS221
<b><u>Article 32.5</u></b>	10 case(s): DS194, DS212, DS213, DS217, DS221, DS234, DS236, DS345, DS385, DS470
<b><u>Annex I</u></b>	1 case(s): DS486
<b><u>Annex II</u></b>	1 case(s): DS486
<b><u>Annex III</u></b>	1 case(s): DS486
<b><u>Annex VI</u></b>	1 case(s): DS486

Source: Author's own elaboration, based on WTO Database

## Appendix X. Breakdown of SCM Disputes by Article (EU as a complainant)

<b><u>Article 1</u></b>	6 case(s): DS54, DS212, DS273, DS330, DS341, DS487
<b><u>Article 1.1</u></b>	3 case(s): DS212, DS353, DS426
<b><u>Article 1.1(a)(1)(ii)</u></b>	1 case(s): DS487
<b><u>Article 1.1(b)</u></b>	2 case(s): DS138, DS487
<b><u>Article 2</u></b>	4 case(s): DS54, DS273, DS353, DS487
<b><u>Article 2.3</u></b>	1 case(s): DS487
<b><u>Article 3</u></b>	2 case(s): DS81, DS339
<b><u>Article 3.1</u></b>	4 case(s): DS273, DS317, DS353, DS354
<b><u>Article 3.1(a)</u></b>	2 case(s): DS108, DS142
<b><u>Article 3.1(b)</u></b>	7 case(s): DS54, DS108, DS142, DS380, DS426, DS472, DS487
<b><u>Article 3.2</u></b>	8 case(s): DS142, DS273, DS317, DS353, DS354, DS380, DS426, DS487
<b><u>Article 4.2</u></b>	1 case(s): DS380
<b><u>Article 4.10</u></b>	1 case(s): DS217
<b><u>Article 5</u></b>	4 case(s): DS81, DS273, DS317, DS353
<b><u>Article 6</u></b>	2 case(s): DS54, DS147
<b><u>Article 6.3</u></b>	3 case(s): DS273, DS317, DS353
<b><u>Article 6.5</u></b>	1 case(s): DS273
<b><u>Article 7.9</u></b>	1 case(s): DS217
<b><u>Article 10</u></b>	9 case(s): DS138, DS145, DS212, DS213, DS217, DS262, DS314, DS330, DS341
<b><u>Article 11</u></b>	3 case(s): DS262, DS330, DS341
<b><u>Article 11.2</u></b>	1 case(s): DS314
<b><u>Article 11.3</u></b>	1 case(s): DS314
<b><u>Article 11.4</u></b>	2 case(s): DS217, DS314
<b><u>Article 11.9</u></b>	2 case(s): DS213, DS314
<b><u>Article 11.11</u></b>	1 case(s): DS145
<b><u>Article 12</u></b>	3 case(s): DS262, DS330, DS341

<b><u>Article 13</u></b>	1 case(s): DS341
<b><u>Article 14</u></b>	4 case(s): DS138, DS212, DS330, DS341
<b><u>Article 15</u></b>	3 case(s): DS262, DS314, DS341
<b><u>Article 16</u></b>	2 case(s): DS314, DS341
<b><u>Article 17</u></b>	1 case(s): DS314
<b><u>Article 18</u></b>	1 case(s): DS217
<b><u>Article 19</u></b>	3 case(s): DS212, DS330, DS341
<b><u>Article 19.1</u></b>	1 case(s): DS212
<b><u>Article 19.3</u></b>	1 case(s): DS212
<b><u>Article 19.4</u></b>	2 case(s): DS138, DS212
<b><u>Article 21</u></b>	4 case(s): DS212, DS213, DS262, DS330
<b><u>Article 21.1</u></b>	1 case(s): DS212
<b><u>Article 21.2</u></b>	1 case(s): DS212
<b><u>Article 21.3</u></b>	1 case(s): DS212
<b><u>Article 22</u></b>	1 case(s): DS341
<b><u>Article 27</u></b>	1 case(s): DS81
<b><u>Article 32</u></b>	3 case(s): DS262, DS341, DS353
<b><u>Article 32.1</u></b>	1 case(s): DS217
<b><u>Article 32.5</u></b>	3 case(s): DS212, DS213, DS217

Source: Author's own elaboration, based on WTO Database

## Appendix XI. Breakdown of SCM Disputes by Article (EU as a respondent)

<b><u>Article 1</u></b>	7 case(s): DS172, DS299, DS301, DS307, DS316, DS347, DS486
<b><u>Article 1.1</u></b>	3 case(s): DS266, DS452, DS459
<b><u>Article 1.1(a)</u></b>	1 case(s): DS486
<b><u>Article 1.1(a)(1)(i)</u></b>	1 case(s): DS486
<b><u>Article 1.1(a)(1)(ii)</u></b>	1 case(s): DS486
<b><u>Article 2</u></b>	6 case(s): DS172, DS299, DS301, DS307, DS316, DS347
<b><u>Article 2.3</u></b>	1 case(s): DS459
<b><u>Article 3</u></b>	5 case(s): DS104, DS283, DS307, DS476, DS486
<b><u>Article 3.1</u></b>	4 case(s): DS266, DS283, DS301, DS316
<b><u>Article 3.1(a)</u></b>	3 case(s): DS265, DS347, DS486
<b><u>Article 3.1(b)</u></b>	3 case(s): DS347, DS452, DS459
<b><u>Article 3.2</u></b>	7 case(s): DS265, DS266, DS283, DS316, DS347, DS452, DS459
<b><u>Article 4</u></b>	2 case(s): DS301, DS347
<b><u>Article 5</u></b>	4 case(s): DS172, DS301, DS307, DS316
<b><u>Article 5(a)</u></b>	1 case(s): DS347
<b><u>Article 5(b)</u></b>	1 case(s): DS459
<b><u>Article 5(c)</u></b>	2 case(s): DS347, DS459
<b><u>Article 6</u></b>	2 case(s): DS172, DS307
<b><u>Article 6.3</u></b>	2 case(s): DS301, DS316
<b><u>Article 6.3(a)</u></b>	2 case(s): DS347, DS459
<b><u>Article 6.3(b)</u></b>	1 case(s): DS347
<b><u>Article 6.3(c)</u></b>	1 case(s): DS347
<b><u>Article 6.4</u></b>	2 case(s): DS301, DS316
<b><u>Article 6.5</u></b>	1 case(s): DS301
<b><u>Article 7</u></b>	2 case(s): DS301, DS347
<b><u>Article 10</u></b>	3 case(s): DS299, DS474, DS486
<b><u>Article 11</u></b>	1 case(s): DS299

<b><u>Article 12</u></b>	1 case(s): DS299
<b><u>Article 12.1</u></b>	1 case(s): DS385
<b><u>Article 12.5</u></b>	1 case(s): DS385
<b><u>Article 12.6</u></b>	1 case(s): DS486
<b><u>Article 12.7</u></b>	1 case(s): DS385
<b><u>Article 12.8</u></b>	1 case(s): DS486
<b><u>Article 14</u></b>	2 case(s): DS299, DS486
<b><u>Article 14(b)</u></b>	1 case(s): DS486
<b><u>Article 15</u></b>	1 case(s): DS299
<b><u>Article 15.5</u></b>	1 case(s): DS486
<b><u>Article 17</u></b>	1 case(s): DS299
<b><u>Article 19</u></b>	2 case(s): DS299, DS486
<b><u>Article 19.1</u></b>	1 case(s): DS486
<b><u>Article 19.3</u></b>	1 case(s): DS486
<b><u>Article 21.3</u></b>	1 case(s): DS385
<b><u>Article 21.4</u></b>	1 case(s): DS385
<b><u>Article 22</u></b>	1 case(s): DS299
<b><u>Article 22.3</u></b>	1 case(s): DS486
<b><u>Article 22.4</u></b>	1 case(s): DS486
<b><u>Article 32</u></b>	3 case(s): DS299, DS301, DS486
<b><u>Article 32.1</u></b>	1 case(s): DS299, DS301, DS474
<b><u>Article 32.5</u></b>	1 case(s): DS385
<b><u>Annex I</u></b>	1 case(s): DS486
<b><u>Annex II</u></b>	1 case(s): DS486
<b><u>Annex III</u></b>	1 case(s): DS486
<b><u>Annex VI</u></b>	1 case(s): DS486

Source: Author's own elaboration, based on WTO Database



## 국문초록

보조금은 WTO 체제 하에서 대표적인 비관세장벽으로써 간주되어 논란의 대상이 되어왔다. EU는 WTO하 발생한 총 109건의 보조금과 상계조치에 관한 무역분쟁 중, 40건이 제소국 또는 피소국으로 연루된 것으로 나타났다. 이는 총 64건이 연루된 미국 다음으로 높은 수치이며, 보조금관련 무역분쟁에 있어서 세계에서 두 번째로 많은 분쟁건수를 기록하고 있다. 따라서, 본 연구는 WTO체제가 확립된 1995년부터 2015년까지의 통계적 분석을 통하여 EU의 보조금과 상계조치를 통한 무역구제 행위의 메커니즘에 대하여 설명한다.

본 연구는 기본적으로 WTO, European Commission (EC)의 통계자료와 보고서 및 기존의 선행연구들을 바탕으로 진행되었다. 우선 WTO의 보조금 및 상계조치에 관한 협정하 EU의 보조금관련 무역분쟁이 특정국가 또는 특정제품에 집중되어 있는지 살펴보았다. 또한 EC의 보조금 금지법을 바탕으로 자체적으로 조사개시 및 상계관세가 부과된 분쟁들에 대해서도 독립적으로 특정성과 부과된 상계조치의 특성에 대하여 조사하였다. 그 결과, EU의 보조금관련 무역분쟁은 분쟁 대상이 된 국가와 제품의 특정성에 있어서 상당히 유의미한 상관관계를 보이는 것으로 조사되었다. 또한, 상계조치는 분쟁의 대상이 된 제품의 특성에 따라 종량세보다는 종가세가 압도적인 숫자로 부과된 것을 확인 할 수 있었다.

궁극적으로 이 논문은 위의 분석을 통하여 1) WTO와 EC의 반 보조금 협정 및 관련 조항에 대한 이해, 2) WTO와 EC를 통한 EU의 보조금과 상계조치에 관한 무역분쟁의 조사개시 및 상계조치의 특정성 확인, 3) 무역상대국에 부과한 상계관세의 특징분석 이라는 세 가지 목적에 부응하고자 하였

다. 본 논문의 실제 분쟁사례분석을 토대로 한 결론은 분쟁들의 내외부적 배경을 이해하는데도 도움이 될 것이며, 한-EU FTA 파트너이자 한국의 세 번째 무역상대인 EU와 보조금 관련, 추가적인 무역분쟁을 예측하는데도 기여 할 것이다.

**키워드:** WTO, 보조금 및 상계조치에 관한 협정, European Union (EU), European Commission (EC), 보조금 금지법, 무역분쟁, 보조금, 상계 조치, 한-EU FTA

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