

Recent Trends in Global Protectionism and Implications for Korea's Trade Policy and Strategy

Chul Chung Research Fellow (cchung@kiep.go.kr, Tel: 3460-1184)
Jeong Gon Kim Senior Researcher (jgkim@kiep.go.kr, Tel: 3460-1093)
June Dong Kim Director of Department of International Cooperation Policy
(jdkim@kiep.go.kr, Tel: 3460-1028)
Kyeong Ah Lee Researcher (kalee@kiep.go.kr, Tel: 3460-1083)
Jumi Lee Researcher (jmlee@kiep.go.kr, Tel: 3460-1052)
Jonghyuk Kim Senior Researcher (jhkim@kiep.go.kr, Tel: 3460-1193)
Cheol-Won Lee Senior Researcher (cwlee@kiep.go.kr, Tel: 3460-1071)
Eun-Ji Kim Senior Researcher (eunji@kiep.go.kr, Tel: 3460-1035)
Furong Jin Associate Research Fellow (furongjin@kiep.go.kr, Tel: 3460-1282)
Young Chul Song Senior Researcher (ycsong@kiep.go.kr, Tel: 3460-1067)
Ki-Su Kwon Head of Latin America Team (kskwon@kiep.go.kr, Tel: 3460-1081)
Jiyoung Min Researcher (jymin@kiep.go.kr, Tel: 3460-1095)
Taeyoon Kim Head of Southeast Asia Team (tykim@kiep.go.kr, Tel: 3460-1158)
Yoomi Kim Researcher (ymkim@kiep.go.kr, Tel: 3460-1075)
Mingeum Shin Researcher (mgshin@kiep.go.kr, Tel: 3460-1169)
Jaeho Lee Senior Researcher (jhlee@kiep.go.kr, Tel: 3460-1134)

Contents ●●●

1. Recent Wave of Global Protectionism
2. Potential Protectionist Measures Implemented by Major Countries
3. Rise in Import Restrictions against Korean Products
4. Patent Lawsuits between Korean and Foreign Enterprises
5. Implications for Korea's Trade Policy and Strategy

Summary ●●●

- ▶ The global economic recession, which was prompted by the global financial crisis and is still being dragged by the Euro zone's fiscal turmoil, is projected to continue for a longer period than expected. As the world economy is languishing, many countries are resorting to protectionist measures. The growing concern is that the more recent wave of trade restrictions is no longer a temporary response to the crisis, but rather becoming a long-term strategy for countries to develop their industries into major growth engines by shielding them from external competition.
 - Over the past seven months, a total of 182 cases of trade restrictions have been taken across the globe, adversely affecting 0.9 percent of world imports.
- ▶ It is not only the number of traditional trade remedies such as anti-dumping and safeguards that is growing, but potential import restrictions such as measures in the form of technology standards and customs clearance are also increasingly targeting Korean products. Further, more patent lawsuits are being filed against Korean companies in the global market.
 - Both advanced countries and developing countries including BRICs have been adopting new measures restricting trade.
 - Some countries including China, India, Southeast Asia and the Middle East are reportedly increasing the use of "technical barriers to trade," which require costly certification and delay customs process for exporters.
 - The number of cases where Korean products are subject to investigation potentially restricting trade is growing. Some of those products are heavily dependent on countries where investigations are currently underway, raising concerns that a ban on imports could have a significant ripple effect down the road.
 - As Korean products have emerged as one of the major targets in the global market, the number of patent lawsuits is on the rise, evidenced by those between Samsung and Apple, and Kolon and DuPont.
- ▶ In order to effectively respond to the increasing number of trade restrictions, it is important for Korea to draw up preventive action plans and build necessary infrastructure. It is also recommended for Korean exporters to diversify their export markets so that they can avoid being an easy target in a particular country, to develop innovative marketing strategies of incorporating cultural elements such as the Korean Wave (Hallyu) into exporting goods, and to make efforts in localizing their products and production facilities.
 - As evidenced in the case of Japan which minimized the fallout from trade disputes through overseas direct investment and the cases of Korean companies that have recently made successful inroads into foreign markets, it is time for Korean exporters to go beyond just maximizing sales through exports and move toward exploring ways to carry out structural changes by combining exports and local production. Further, it is recommended for Korean companies to increase practices of corporate social responsibility, which will help raise their profile in local markets and localize their products.

1. Recent Wave of Global Protectionism

■ (Trends) The number of trade-restrictive measures imposed by countries is on the rise as the global financial crisis, the Euro zone's fiscal crisis and the economic slowdown persist.

- Over the past seven months, 182 cases of new trade-restrictive measures (78 cases of trade remedy, 72 of border measures, 19 of export control and etc.) have been recorded.

※ Those new trade-restrictive measures have affected around 0.9 percent of world imports. (The cumulative cases of restrictive measures taken since November 2009 have affected 2.9 percent of global trade.)

Table 1. Trade-restrictive Measures

Type of restrictions	Mid-October, 2010 ~ Mid-April, 2011	Mid-May, 2011 ~ Mid-October, 2011	Mid-October, 2011 ~ Mid-May, 2012
Trade remedy	66	63	78
Border	78	48	72
Export	30	34	19
Other	10	10	13
Total	184	155	182

Source: WTO (2012), *Report on Trade-related Developments*.

- Pascal Lamy, director general of the WTO, expressed concerns that the most recent wave of trade-restrictions seems not a temporary response to the crisis but rather a long-term strategy to protect certain industries and stimulate economic recovery with the intention of turning them into future growth engines (WTO director general's report, June 29, 2012).

■ (Trends in technical barriers to trade (TBT)) The number of technical regulations notified to WTO has been more than 1,000 every year since 2007. In particular, technical regulations from China, India, and countries in Southeast Asia and the Middle East have significantly increased, raising barriers to Korean exports to these markets through burdening more costs and time for exporting.

- Developing countries have accounted for two-thirds of TBT notifications since 2008.

Table 2. Notified Technical Regulations

Year	2007	2008	2009	2010	2011	June, 2012
No.	1,031	1,251	1,490	1,419	1,217	855

Source: WTO, *Annual Review of the Implementation and Operation of the TBT Agreement*; The Ministry of Strategy and Finance, Republic of Korea (2012), *Trends on Trade Protectionism*.

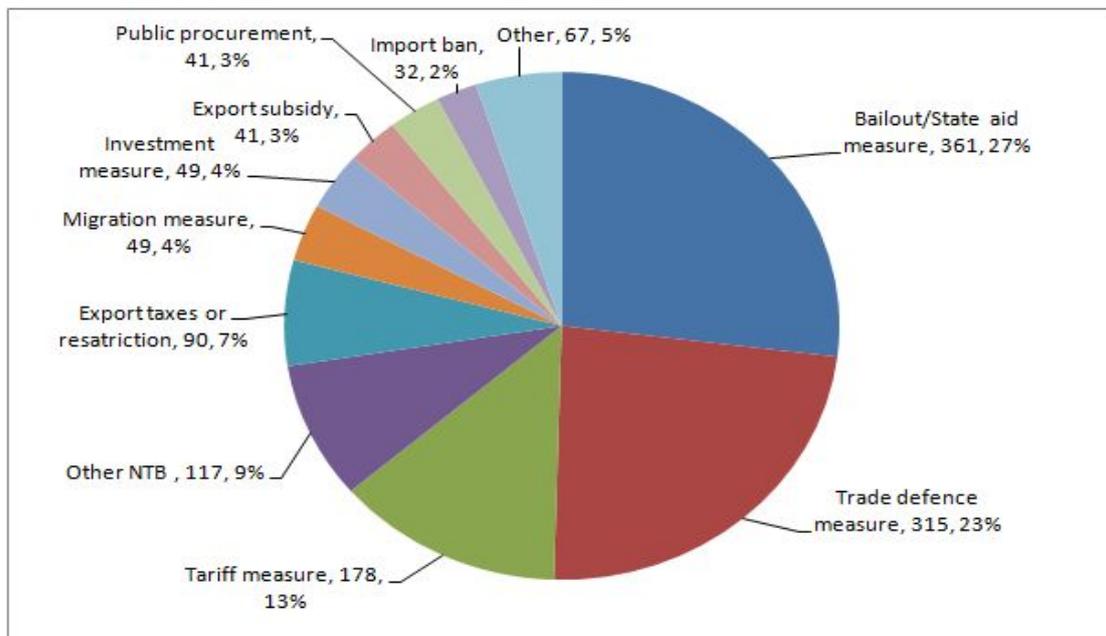
2. Potential Protectionist Measures Implemented by Major Countries

■ In the wake of the global financial crisis, protectionism in terms of industrial policies and other potential trade-restrictive measures have been spreading.

※ Potential trade-restrictive measures refer to those that provide support and assistance for a particular domestic industry as well as those that could possibly hamper trade by requiring certification for import and inspection.

- Of the protectionist measures taken since the height of the global financial crisis in November 2008, guarantees on industries and state subsidies accounted for the largest portion, at 27 percent (361 cases) (Global Trade Alert, June 2012, as shown in Figure 1).

Figure 1. Protectionist Measures since the Height of Global Financial Crisis (November, 2008~May, 2012)



Note: The figures differ from those in [Table 1] due to differences in counting range and methods.

Source: Global Trade Alert (June 2012).

■ (U.S.) President Barack Obama endorsed the Manufacturing Enhancement Act to nurture the U.S. domestic manufacturing sector (August 11, 2010).

- The Manufacturing Enhancement Act, which passed with bipartisan support, is intended to reduce or eliminate tariffs on imported raw materials, and impose tariffs on certain manufacturing imports aimed at assisting the domestic manufacturing sector.

■ (China) China, which possesses more than 95 percent of rare earth elements in the world, recently designated such materials as national strategic raw materials and enforced comprehensive controls (reducing export quota, for example) on their production, distribution, and export, citing environmental protection as a reason for the action.

- Products of oil, publication and visual entertainment can be only imported by state-run trading companies with government-approved import licenses or state-owned companies that are approved by the government.
- Chinese companies receive more favorable conditions in terms of technology standards, labeling, and safety regulations.
- Exporting companies to China are required to attach Chinese labeling on their products and to specify detailed information of the importer including its official name, address, and contact number, etc.
- Foreign companies are forced to spend more time and cost in gaining certification. In addition, China does not accept the results of conformity assessments undertaken by foreign agencies.

■ (EU) The EU obliges all companies to attach the CE (Conformite Europeenne) mark to products and enforces environment-related regulations on foreign airline companies (2012. 1. 1).

- The European Commission obliges companies to attach the CE mark on all products related to safety, health, the environment and consumer protection, and no product without the mark is allowed for circulation within the region.
- Also, it drew outcry from the United States and China by obliging foreign airline companies to purchase carbon-emission rights.

■ (Japan) Japan voiced opposition to protectionism after the global financial crisis but is now tightening its own environmental regulations.

- As consumer interest in the safety and credibility of food, chemical and medical products within Japan is growing, related regulations and control systems have been expanded and strengthened.
- Under the Act on the Evaluation of Chemical Substances which went into effect in 2009, production or import of new chemicals should be reported to Japan's authorities in advance.

- (India) Because of the complicated administrative process and heavy documentation required by India's customs authorities, many Korean companies exporting to India opt out of filing for country-of-origin certificates and give up receiving preferential duties.
 - India also introduced mandatory certification for new products without giving prior notification or sufficient time to respond, effectively imposing additional import restrictions.

- (Brazil) In order to protect its automobile industry, Brazil raised the IPI (a type of value-added tax) on imported vehicles by 30 percentage points in November 2011 and extended its application from the end of 2012 to 2017.
 - It also enforced a tougher measure of customs inspection, "Operacao Mare Vermelha" since March 2012 in order to prevent a massive influx of low-priced imported textile products, shoes, and toys.

- (Russia) According to Russia Federal Law N 128-FZ and Government Order N 870 of August 30, 2012, Russia began to impose an additional "utilization" duty on various vehicles imported into or manufactured within Russia since Sept. 1, 2012.
 - ※ The utilization duty is an environment burden tax imposed when a vehicle is scrapped.
 - Despite the equality principle of the utilization duty, it is in effect discriminative against imports due to various exemptions given to domestic producers.
 - Aimed at boosting its domestic industries, Russia has also enacted bills that give benefits or subsidies in government procurement projects in such areas as automobiles, airlines and shipbuilding.

- (Malaysia) Under the revision to the National Automotive Policy on January 1, 2010, Malaysia started to ban imports of used automobile parts and used vehicles, and to levy import license fees on foreign cars.

- (Thailand) Thailand's trade-restrictive measures focus primarily on technology standards and quality certification mark systems. A case in point is the compulsory standard for quality certification by the Thai Industrial Standards Institute.
 - The certification system appears to aim at ensuring safety and consumer protection but in effect it is intended to protect the domestic steel, electric products and vehicles industries, which the Thai government is trying to actively develop through national industrial planning.

- (Indonesia) Indonesia strengthened quarantines and introduced regulations that restrict exports of minerals.

- Under the Minister of Agriculture Regulation No. 15 of June 2012, the government toughened quarantines on fresh agricultural products including fruits and vegetables, while reducing the number of import-clearance seaports.
 - Under the Minister of Trade Regulation No. 23 of May 2012, the government toughened export regulations for 65 minerals.
- (Turkey) Turkey raised special consumption taxes on alcohol, cigarettes, mobile phones and vehicles in October 2011 to discourage their import and increase overall tax revenue.

3. Rise in Import Restrictions against Korean Products

- (Trends) The number of newly imposed regulations against Korean products is on the rise. The number stood at 16 in 2011 and rose already to 20 as of September 5, 2012.
- Among those regulations against Korean products (based on the cumulative number as of September 5, 2012), 96 cases fall on the category of anti-dumping; 4 cases on both anti-dumping and countervailing duty; and 20 cases on safeguards. About 80 percent of the total cases were related to anti-dumping regulations.

Table 3. The Number of Trade Remedies against Korea (anti-dumping, countervailing duty, safeguards)

Year	2007	2008	2009	2010	2011
No.	10	17	16	18	16

Source: The Ministry of Foreign Affairs and Trade, Republic of Korea.

- Of the cumulative import regulation cases, India accounted for 23, followed by China with 17, the United States with 12, and Turkey with 10. The four countries combined comprise 51.7 percent, or 62 cases, of the total.
 - By product, 45 cases were related to chemical products, followed by steel with 37 and textiles with 16, respectively. The three products accounted for a combined 81.7 percent, or 98 cases, of the total.
 - ※ China and India led import regulations on chemical products with 31 cases. The United States and Turkey ranked first each in the steel and textile sectors with 8 and 5 cases, respectively.
- (Impact on exports) From January to September 2012, Korea's exports of certain products bound for countries which enforced 20 new trade-restrictive measures accounted for 6.3 percent of Korea's total exports of those items.

- Some of those trade-restrictive measures have a potentially significant impact on certain products such as washing machines since their exports heavily depend on countries where such measures were imposed.
 - ※ Washing machines (U.S., 39.2%), polysilicon (China, 47%), steel wire rods (Malaysia, 15.1%), nylon yarn (Brazil, 9.7%)
- Most Korean exports subject to investigation that began before June 2012 recorded to have dropped significantly compared to the same period of the previous year.
 - ※ Washing machines (-4.5%), coated paper (-14.7%), PVC (-47.3%), liquid dielectric transformers (-31.7%), polyethylene (-25.6%), steel plate (-43.2%), welded carbon steel pipes (-34.6%).

4. Patent Lawsuits between Korean and Foreign Enterprises

- (Patents) The number of patent lawsuits between Korean and foreign enterprises surged by 80.5 percent in only two years from 154 in 2009 to 278 at the end of 2011.

- Patent lawsuits between Samsung and Apple are underway in nine countries involving about 50 cases (as shown in Table 4).
- In the case of the lawsuit between Kolon and DuPont (regarding business secrets), a US district court of Virginia banned the production and sales of aramid fiber by Kolon altogether for 20 years (August 30, 2012).
 - ※ The court accepted Kolon's injunction request to suspend the ban, however, permitting Kolon to continue to produce and sell aramid fiber until the final ruling (21 September, 2012).

Table 4. Current Status and Details of Samsung vs. Apple Lawsuits

Country	Status	Details
U.S.	Leaning toward Apple	Apple winning.
Japan	Leaning toward Samsung	Samsung's opinions are accepted.
Korea	Leaning toward Samsung	Apple's opinions are partly accepted.
Netherlands	Uncertain	Samsung has won one out of four lawsuits lodged against Apple for violating telecommunications standard patents since August of last year when a ruling on Apple's request to suspend the sales of Samsung products was made.
U.K.	Leaning toward Samsung	Other lawsuits filed by Apple are still underway.
Australia	Leaning toward Samsung	An appeals court rules in favor of Samsung, rejecting a request to ban the sales of Samsung products.
Germany	Uncertain	Lawsuits are underway in Dusseldorf, Mannheim, and Munich while Apple's request to suspend the sales of Samsung products has been accepted.
France/Italy	Uncertain	Samsung's injunction request to lift the sales ban is rejected.

Source: KOTRA.

- The number of Section 337 investigations instituted by the U.S. into alleged violations of intellectual property rights surged dramatically from 9 in 1999 to 69 in 2011 (as shown in Table 5).

Table 5. Number of Section 337 Investigations Instituted by Calendar Year

Year	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012, 8
Case	9	17	24	17	18	26	29	33	35	41	31	56	69	32

Source: USITC.

5. Implications for Korea's Trade Policy and Strategy

A. Response to Protectionist Measures

- (Traditional import restrictions) Given that the global economy is languishing, trade-restrictive measures are expected to persist for the time being. In order to fight against the recent wave of protectionist measures, Korea is closely cooperating with the global community through international organizations and forums. At the same time Korea is also seeking to lift import restrictions as early as possible through various bilateral dialogues.

※ It is worth to consider incorporating an effective mechanism against import regulations into current and future free trade agreements.

- Preventive policy measures can be established through continuous monitoring and analyses of export data and profit margins. For those import restrictive measures already imposed, the government may consult with the industries for the possibility of utilizing price undertakings while requesting for an early termination of the restrictions to the importing authorities.

- (Potential protectionist measures) It is imperative to prepare active and preemptive policies and action plans against potential protectionist measures that are steadily increasing.

- (TBT) Tools to combat technology regulations include preventive efforts such as monitoring technical regulations undertaken by other countries and information sharing with local companies in the exporting market as well as harmonization and mutual recognition of technical standards.

※ According to the World Trade Report 2012 published by WTO, technical regulations appear to have a significant, negative impact on small and medium-sized enterprises. The WTO report also showed that if harmonization or mutual recognition of technical standards occurs within regional trade agreements, countries outside the agreement may be adversely affected through the trade-diverting effect.

- When it is not possible to sign a mutual recognition agreement (MRA), another way to lower non-tariff barriers is to intensify cooperation with foreign certification agencies for carefully selected products.
- (Patents) Given the astronomical costs of patent lawsuits and their payouts, it is essential for the government to enhance awareness of the importance of intellectual property rights (IPR) and build IPR-related infrastructure for effective management and utilization of IPRs by conducting rigorous studies on legal and institutional aspects.
 - ※ It is also important to provide precise and current information on lawsuits and disputes over business secrets underway in major trading partners to industries through investigation and analyses so that they can prepare themselves for such lawsuits.
- (Environmental regulations) Since it is difficult to identify the exact reason for introduction of newly imposed environmental regulations, it is crucial to stay up to date with policy trends in other countries and devise proactive countermeasures. Further, Korea needs to improve its own environmental protection and related regulations to be consistent with international standards.
- By signing MRAs and developing common standards with other countries, governments can facilitate the certification process for the private sector (As of June 2012, Korea has signed MRAs with eight countries and one region which operate the Eco Labeling System).¹⁾
- Mutual recognition and common standards are most needed in the major exporting products that are likely to be subject to eco-labeling and those currently under regulations.
- (Export restrictive measures) Ways to prepare for export restrictive measures on rare earth elements and other strategically important minerals include diversification of import channels, development of relevant technologies, recycling natural resources, and storing strategically important material reserves.
- Another option is to encourage domestic companies to strategically enter into the overseas mineral processing business.

B. Strategies to Overcome Protectionist Measures on Exports

- (Diversification of export markets) In order to ease Korean products' heavy reliance on a few markets and also avoid being a major target of import restrictions, it is recommended for exporters to diversify their export markets into emerging countries including those in Southeast Asia would.
 - Regional hubs for production and export across the world will be helpful in diversification.
 - ※ To expand its footing in the U.S. market, for example, Korea may consider completing free trade

1) Taiwan (2002), Thailand (2002), Japan (2003), Australia (2004), China (2005), New Zealand (2006), 5 North European countries (2010), Canada (2012), U.S. (2012).

agreement negotiations with Canada and Mexico sooner than later.

- Expanding trade financing support and operating integrated information desks for overseas markets would also be helpful in helping small and medium-sized enterprises enter into new export markets.

- **(Innovative export marketing strategies)** Developing new, innovative marketing strategies that incorporate cultural elements such as the Korean Wave (Hallyu) into exports would be helpful in enhancing the overall likeability of Korean products and also raise their brand recognition.
 - Creative localization in labeling and commercials together with the promotion of cultural exchange will contribute to this export marketing end.

- **(Localization strategies)** It is strongly recommended for exporters to make efforts in localizing their products and production facilities as a way of overcoming protectionist measures.
 - In order to ensure the localization strategy to work as planned, it is inevitable to establish strategically designed regional production hubs.
 - By combining local production and exports, companies can establish a better footing in the overseas market because they become local manufacturers, creating jobs and boosting local economies.
 - ※ After the voluntary export restraint in the 1980s, Japan actively moved its production to target countries since the 1990s, which helped resolve challenges from import regulations and trade disputes with the U.S.
 - It is recommended for Korean companies to increase practices of corporate social responsibility (CSR) to help raise their profile and localize products.

Appendix. Trade Remedies against Korea

Appendix Table 1. Trade Remedies Initiated during January-September, 2012 (20 cases)

	Regulation-enforcing country	HS CODE (Korea)	Product	Details (Status)	Initiation date of investigation
1	U.S.	8450.20, 8450.11, 8450.90	Large residential washers	AD/CVD (under investigation)	2012-01-20
2	Taiwan	4810.13/14/19	Coated paper	AD (under investigation)	2012-02-07
3	Taiwan	7208.51, 7208.52, 7208.90, 7211.14	Hot rolled steel plate	AD (completed)	2012-03-26
4	Taiwan	7209, 7211.23, 7211.29	Carbon steel rolled steel flat product	AD (completed)	2012-03-26
5	Brazil	7219.32/33/34/35, 7220.20	Cold rolled stainless steel	AD (under investigation)	2012-04-17
6	Brazil	7225.19, 7226.19	Flat rolled silicon steel	AD (under investigation)	12-04-17
7	Australia	3904.10.0000	PVC Resin	AD (under investigation)	2012-04-19
8	Canada	8504.23/90	Liquid dielectric transformers	AD (under investigation)	2012-04-23
19	Argentina	3907.60.0000	PET	AD (under investigation)	2012-04-23
10	Brazil	7208.51.00 7208.52.00	Heavy plate steel	AD (under investigation)	2012-04-26
11	Canada	7306.3	Carbon steel welded pipe	AD (under investigation)	2012-05-14
12	India	291732	DOP, dioctyl phthalate	SG (under investigation)	2012-05-23
13	Australia	7208.51, 7208.52.	Hot rolled coil steel	AD (under investigation)	2012-06-14
14	Malaysia	7213.10, 7213.20, 7213.91, 7213.99	Steel wire rods	AD (under investigation)	2012-06-25
15	Indonesia	7210.12	Tin plate	AD (under investigation)	2012-06-25
16	Indonesia	3907.60.10, 3907.60.20, 3907.60.90	PET	AD (under investigation)	2012-06-29
17	Brazil	5402.31, 5402.45	Nylon synthetic filament yarn	AD (under investigation)	2012-07-09
18	China	2804.61	Polysilicon	AD (under investigation)	2012-07-20
19	Brazil	4011.1	Tire	AD (under investigation)	2012-07-26
20	Australia	721049 (zinc coated), 721230, 721061 (aluminum)	Zinc coated steel, aluminum zinc coated steel	AD (under investigation)	2012-09-05

Source: The Ministry of Foreign Affairs and Trade, Republic of Korea.

Appendix Table 2. Trade Remedies Initiated in 2011 (16 cases)

	Regulation-enforcing country	HS CODE (Korea)	Product	Details (Status)	Initiation date of investigation
1	Turkey	5408, 5407	Woven fabrics	SG (regulations in place)	2011-01-13
2	Pakistan	2915.11	Formic acid 85%	AD (regulations in place)	2011-02-23
3	Turkey	3907.6	Polyethylene terephthalate	SG (regulations in place)	2011-03-11
4	Brazil	7210.30, 7210.49, 7210.61, 7210.70	Flat rolled products of iron or non-alloy steel	AD (completed)	2011-04-18
5	India	2917.35	Phthalic anhydride	AD (under investigation)	2011-04-29
6	Turkey	5205	Cotton yarn	SG (regulations in place)	2011-06-11
7	Indonesia	7209.16/17/18/19, 7209.26/27/28, 7209.90, 7211.23, 7211.29, 7211.23.90	Cold rolled coil	AD (under investigation)	2011-06-24
8	Ukraine	8703.22, 8703.23	Passenger cars	SG (under investigation)	2011-07-02
9	Thailand	4810.13.90, 4810.19.00, 4810.22.90, 4810.29.90, 4810.99.90	Coated paper	AD (completed)	2011-07-08
10	Thailand	7210.61	Painted hot dip galvanized of cold rolled steel	AD (under investigation)	2011-07-08
11	Thailand	7210.7	Certain hot dip plated or coated with aluminum zinc alloys of cold rolled steel	AD (under investigation)	2011-07-08
12	U.S.	8504.23.0040, 8504.23.0080, 8504.90.9540	Large power transformers	AD (under investigation)	2011-07-14
13	India	291735	Phthalic anhydride	SG (regulations in place)	2011-08-10
14	Russia	730411, 730441, 730449, 730611, 730640	Corrosion-resistant pipes)* Three-way customs coalition among Russia, Belarus and Kazakhstan	SG (under investigation)	2011-08-31
15	Australia	7306.30, 7306.61, 7306.69	Hollow structural sections	AD (regulations in place)	2011-09-19
16	Brazil	3907.40.90	Polycarbonate resin	AD (under investigation)	2011-12-21

Source: The Ministry of Foreign Affairs and Trade, Republic of Korea.