

# **Korea in the GATT/WTO Dispute Settlement System**

**Dukgeun Ahn**

**KDI School of Public Policy and Management**

dahn@kdischool.ac.kr; TEL: 82-2-3299-1032; FAX: 82-2-3299-1240

# Korea in the GATT/WTO Dispute Settlement System

Dukgeun Ahn\*

KDI School of Public Policy and Management

## I. Introduction

International trade is an indispensable element for explaining Korea's economic development during the past three decades<sup>1</sup>, marking a remarkable accomplishment that has amazed many economists<sup>2</sup> and policy makers.<sup>3</sup> From a legal perspective, however, Korea's economic development saga has been filled with numerous trade disputes with its major trading partners. When export volumes and the diversity of products from Korea have grown, its primary exporting items have been routinely targeted by various non-tariff barriers such as antidumping, countervailing and safeguard measures in the major markets, especially since the 1980s.<sup>4</sup>

Despite the prevalence of such bilateral trade disputes, Korea had not been eager to utilize the multilateral dispute settlement system established under the GATT. This general tendency of the Korean government to avoid legal confrontation in the multilateral forum and rather to resort instead to bilateral diplomatic settlements has changed dramatically with the development of the WTO dispute settlement system. Thus, the Korean experience of trade dispute settlement seems a salient example of how the newly augmented system under the WTO is perceived and how it was effectively utilized by many less visible WTO Member countries in order to address international

---

\* I am grateful to Ho-Young Ahn, Doo-Sik Kim and participants at the international symposium on "WTO and the East Asia" for useful comments on the earlier versions of this paper. I also appreciate documentary support and useful information provided by Jung-Wha Hong.

<sup>1</sup> See generally Il Sakong, Korea in the World Economy (1993).

<sup>2</sup> Robert Lucas, 1995 Nobel laureate in economics, wrote that "simply advising a society to 'follow the Korean model' is a little like advising an aspiring basketball player to 'follow the Michael Jordan model'". Robert E. Lucas, Jr., "Making a Miracle", 61 Econometrica 251, 252 (1993).

<sup>3</sup> For example, a report by the Korea International Trade Association (KITA) estimates that the contribution of merchandise export to total economic growth in 2001 amounted to 53.6%. However, this significant ratio was partly due to the substantial reduction of the total growth rate, that is estimated to have been 2.8% in 2001 while it was 8.8% in 2000. The economic growth attributed to the merchandise export is estimated to be 3.5% in 2000 and 1.5% in 2001. Korea International Trade Association, "Effect of Exports on the National Economy in 2001" (Feb. 2002; in Korean).

<sup>4</sup> During the 1980s, at least 171 trade remedy measures against Korean exports were reported. See *infra* Chart 2 in Section II.3. See generally N. Han et al., Cases of Trade Disputes of the

trade problems.

In this paper, I review the Korean experience of dispute settlements in the GATT/WTO and analyze it to draw some implication. But, rather than delving into the legal issues disputed in individual cases, I examine the overall progress of trade dispute resolution and implementation thereof. Sections II and III analyze the trade dispute settlement involving Korea under the GATT and the WTO systems, respectively. Systemic issues regarding the current WTO dispute settlement system drawn from the Korean experience for the Doha Round negotiations are discussed in Section IV. Finally, Section V concludes with some observations.

## **II. GATT Period (1967 – 1994)**

### **II.1 Korea's Accession to the GATT**

The Korean government first sought to join the GATT in 1950 as part of its desperate effort to be recognized as an independent state in the international community after liberation from Japan. At that time, the government delegation sent to Torquay, England, finished the GATT accession negotiation and signed the relevant documents.<sup>5</sup> However, this first attempt failed when the Korean government could not complete the requisite domestic ratification procedures due to the Korean War (1950-1953).<sup>6</sup>

The GATT regime underwent substantial changes to more explicitly encompass development issues during the late 1960s. The efforts to demonstrate a more forceful commitment to the interests of developing countries within the GATT system led to the adoption of the new provisions, Articles XXXVI – XXXVIII, as Part IV of the GATT.<sup>7</sup> In addition, the GATT as a whole tried to be perceived as a more favorable forum for developing countries. For example, the 1964 GATT publication titled “The Role of GATT in Relation to Trade and Development” emphasized considerable legal freedom for developing countries, such as non-reciprocity, infant industry protection for

---

Korean Industries 37 (1999; *in Korean*).

<sup>5</sup> GATT, BISD II/33-34. At that meeting, Austria, Peru, Philippines and Turkey also finished the accession negotiation. While Austria, Peru and Turkey formally became contracting parties in 1951, the Philippines formally joined the GATT on December 27, 1979.

<sup>6</sup> Tae-Hyuk Hahm, “Reflections on the GATT Accession Negotiations” 5, Diplomatic Negotiation Case 94-1 (1994; *in Korean*).

<sup>7</sup> The Protocol Amending the General Agreement on Tariffs and Trade to Introduce a Part IV on Trade and Development, which was adopted on Feb. 8, 1965, entered into force on June 27, 1966. WTO, Analytical Index: Guide to GATT Law and Practice 1040 (1995).

industrial development, and balance-of-payment protection measures.<sup>8</sup> These factors clearly demonstrated a strong GATT policy to expand its membership with developing countries.

Moreover, in terms of the legal disciplines of the GATT, the late 1960s was probably the lowest point in the GATT's history.<sup>9</sup> During the period of 1959 – 1970, the GATT dispute settlement activities had dramatically declined, becoming virtually dormant in the late 1960s.<sup>10</sup> Such developments created undoubtedly a more favorable environment for developing countries to consider joining the GATT. In fact, the GATT membership increased most during the 1960s, in which 39 countries acceded.<sup>11</sup>

With such a favorable backdrop to developing countries within the GATT, the Korean government resumed its effort to accede to the GATT in 1965, when it sought to promote its exports as the primary element of economic development policies. The revision of the GATT to include Part IV to deal with development issues also played an important role in inducing Korea to reconsider the GATT accession at that time. After extensive internal discussion on potential economic benefits and costs, the Korean government finally submitted its accession application to the GATT Secretariat on May 20, 1966, and conducted the tariff negotiations with 12 contracting parties from September to December 2, 1966.<sup>12</sup>

Korea officially acceded to the GATT in 1967, in accordance with Article XXXIII of the GATT.<sup>13</sup> On December 16, 1966, the Council of Representatives adopted the “Report of the Working Party” for the GATT accession.<sup>14</sup> After the Korean government completed the domestic ratification procedure, the “Protocol for the Accession of Korea” to the GATT entered into force on April 14, 1967.<sup>15</sup> On the other

---

<sup>8</sup> Robert E. Hudec, Developing Countries in the GATT Legal System 59-60 (1987).

<sup>9</sup> *Id.* at 65.

<sup>10</sup> Robert E. Hudec, The GATT Legal System and World Trade Diplomacy 235-250 (2<sup>nd</sup> ed. 1990).

<sup>11</sup> The statistics for the accession to the GATT by the period is as follows:

Years	1948-1949	1950s	1960s	1970s	1980s	1990-1994	Total
Number of Acceding Countries	19	17	39	9	11	33	128

The accession to the GATT was also substantially increased in the early 1990s during which the Uruguay Round negotiation had been conducted. *See generally* WTO, *supra* note 7, at 1136.

<sup>12</sup> The Working Party for Korea's accession included 14 contracting parties. Hahm, *supra* note 6, 23.

<sup>13</sup> GATT, Korea – Accession under Article XXXIII (Decision of 2 March 1967), BISD 15S/60 (1968).

<sup>14</sup> GATT, BISD 15S/106 (1968).

<sup>15</sup> GATT, BISD 15S/44 (1968).

hand, Korea invoked Article XXXV for non-application of GATT with respect to Cuba<sup>16</sup>, Czechoslovakia<sup>17</sup>, Poland<sup>18</sup>, and Yugoslavia<sup>19</sup>. These Article XXXV invocations were all simultaneously withdrawn in September 1971.<sup>20</sup>

Korea began its formal participation as a contracting party in the multilateral trade negotiations at the Tokyo Round, although it was merely as a minor player.<sup>21</sup> Subsequently, Korea joined the four Tokyo Round Side Codes: Subsidies Code<sup>22</sup>, Standards Code<sup>23</sup>, Customs Valuation Code<sup>24</sup> and Anti-Dumping Code<sup>25</sup>.

Korea had never joined the sectoral agreements on bovine meat, dairy products and civil aircraft, nor the “Agreement on Import Licensing Procedures” as a plurilateral agreement. Korea joined the “Agreement on Government Procurement” during the Uruguay Round and implemented it only from January 1, 1997, while all other signatories except for Hong Kong applied it from January 1, 1996.<sup>26</sup>

## II. 2 GATT Disputes Regarding Korea

The Korean government’s experience of dispute settlement under the GATT system is fairly limited.<sup>27</sup> Korea was challenged only once under Article XXIII of the

---

<sup>16</sup> GATT, L/2783 (April 1967).

<sup>17</sup> GATT, L/2783 (April 1967).

<sup>18</sup> GATT, L/2874 (Oct. 1967)

<sup>19</sup> GATT, L/2783 (April 1967).

<sup>20</sup> GATT, L/3580 (1971). *See also* WTO, *supra* note 7, 1034-1036. On the other hand, it is noted that 50 contracting parties invoked Article XXXV in respect of Japan at its accession in 1955. *Id.*

<sup>21</sup> Chulsu Kim, “Korea in the Multilateral Trading System: From Obscurity to Prominence”, in *The Kluwer Companion to the WTO Agreement* (forthcoming).

<sup>22</sup> The Agreement on Interpretation and Application of Articles VI, XVI and XXIII. In Korea, it was signed on June 10, 1980 and entered into force on July 10, 1980 as Treaty No. 709. *See* Ministry of Foreign Affairs, *Compilation of Multilateral Treaties*, Vol.5 (in Korean).

<sup>23</sup> The Agreement on Technical Barriers to Trade. In Korea, it was signed on September 3, 1980 and entered into force on October 2, 1980 as Treaty No. 715. *Id.*

<sup>24</sup> The Agreement on Implementation of Article VII. The Customs Valuation Code entered into force on January 1, 1981 while the other three Codes entered into force on Jan. 1, 1980. GATT, BISD 28S/40. In Korea, it was entered into force on January 6, 1981 as Treaty No. 729. *Id.*

<sup>25</sup> The Agreement on Implementation of Article VI. Korea accepted the Anti-Dumping Code on Feb. 24, 1986 and the Code entered into force for Korea on March 26, 1986 as Treaty No. 877. GATT, BISD 33S/207. *See also* Ministry of Foreign Affairs, *Compilation of Multilateral Treaties*, Vol.8 (in Korean).

<sup>26</sup> WTO, Agreement on Government Procurement, Article XXIV:3. Hong Kong also had one more year for implementation to apply from January 1, 1997.

<sup>27</sup> For the GATT panel reports, *see generally* Pierre Pescatore et al., *Handbook of WTO/GATT Dispute Settlement* (looseleaf). On-line access to the GATT panel reports is available at <<http://www.worldtradelaw.net/reports/gattpanels>> and

GATT in 1988 and later one more time later under the so-called “Tokyo Round Anti-Dumping Code” in 1992. The former case, *Korea – Restrictions on Imports of Beef*,<sup>28</sup> however, had an enormous impact on the subsequent Korean trading system by dismantling Article XVIII:B cover for import restriction. The latter case, *Korea – Anti-Dumping Duties on Imports of Polyacetal Resins from the United States*, also set an important precedent for the inchoate Korean trade remedy system.

In 1978, as a complainant, Korea brought a case under Article XXIII against the European Communities regarding a safeguard action. This case, *EC – Article XIX Action on Imports into the U.K. of Television Sets from Korea*,<sup>29</sup> did not, however, produce an actual ruling, since Korea agreed with the European Communities on a voluntary export restraint arrangement and withdrew its complaint in 1979.<sup>30</sup>

**<Table 1. GATT Disputes Involving Korea>**

Case Name	Complainants	Panel Decision	Notes
<b>As Defendant</b>			
Korea-Restrictions on Imports of Beef	Australia, New Zealand, US	BISD 36S/202, 36S/234, 36S/268 (adopted on Nov. 7, 1989)	Cases under Article XXIII
Korea-Anti-Dumping Duties on Imports of Polyacetal Resins from the United States	US	BISD 40S/205 (adopted on April 27, 1993)	Case under the Tokyo Round Anti-dumping Code
<b>As Complainant</b>			
EC – Article XIX Action on Imports into the U.K. of Television Sets from Korea	Korea	None (Settled)	Cases under Article XXIII

Since the late 1980s, Korea began to participate in the GATT dispute settlement procedures as a third party. The first case as a third party was *US – Section 337 of the Tariff Act of 1930*<sup>31</sup>, in which the European Communities brought a case against the United States concerning a discriminatory patent protection mechanism. In that case, Canada, Japan and Switzerland also joined as third parties. The second case was *EEC – Regulation on Imports of Parts and Components*<sup>32</sup> in which Japan challenged the European Communities’ anti-circumvention duties on certain manufactured products. In this case, Korea was a third party along with Australia, Canada, Hong Kong, Singapore

---

<[http://www.wto.org/english/tratop\\_e/dispu\\_e/gt47ds\\_e.htm](http://www.wto.org/english/tratop_e/dispu_e/gt47ds_e.htm)>.

<sup>28</sup> GATT, BISD 36S/202, 36S/234, 36S/268 (adopted on Nov. 7, 1989).

<sup>29</sup> GATT, C/M/124.

<sup>30</sup> GATT, C/M/134. See also Robert E. Hudec, *Enforcing International Trade Law: The Evolution of the Modern GATT Legal System* 283 & 471 (1993).

<sup>31</sup> GATT, BISD 36S/345 (adopted on Nov. 7, 1989).

<sup>32</sup> GATT, BISD 37S/132 (adopted on May 16, 1990).

and the United States.

Furthermore, Korean government officials also occasionally contributed to panel work for the GATT dispute settlement. In 1973, Mr. Eun Tak Lee was elected as one of the four panelists in the *UK – Import Restrictions on Cotton Textiles* case.<sup>33</sup> Mr. Ki-Choo Lee later worked as a panelist for *EC – Refunds on Exports of Sugar*<sup>34</sup> and *EEC – UK Application of EEC Directives to Imports of Poultry from the US*<sup>35</sup>.

## **II. 2.1 Korea – Restrictions on Imports of Beef (Korea – Beef I) case**

Since its accession to the GATT in 1967, Korea had imposed various import restrictive measures on the basis of the balance-of-payment (hereinafter “BOP”) exception under Article XVIII:B. In fact, it was the BOP exception that crucially motivated the Korean government to apply for the GATT accession despite serious concern on consequential import liberalization.<sup>36</sup> As of 1988, the Korean government still maintained such measures on 358 items, including beef.

Korea began the importation of beef in 1976 and made a GATT concession for a 20 percent bound tariff in 1979. In October 1984 when the price of domestic cows plummeted<sup>37</sup>, the Korean government limited commercial imports of beef to the general market in order to protect domestic beef farmers, and from May 1985, even high-quality beef for the hotel market. Between May 1985 and August 1988, virtually no commercial imports of beef took place.

Incidentally, Korea had accumulated, for the first time in history, a trade surplus since 1986, until it was later reversed in 1990.

---

<sup>33</sup> GATT, BISD 20S/237 (adopted on Feb. 5, 1973).

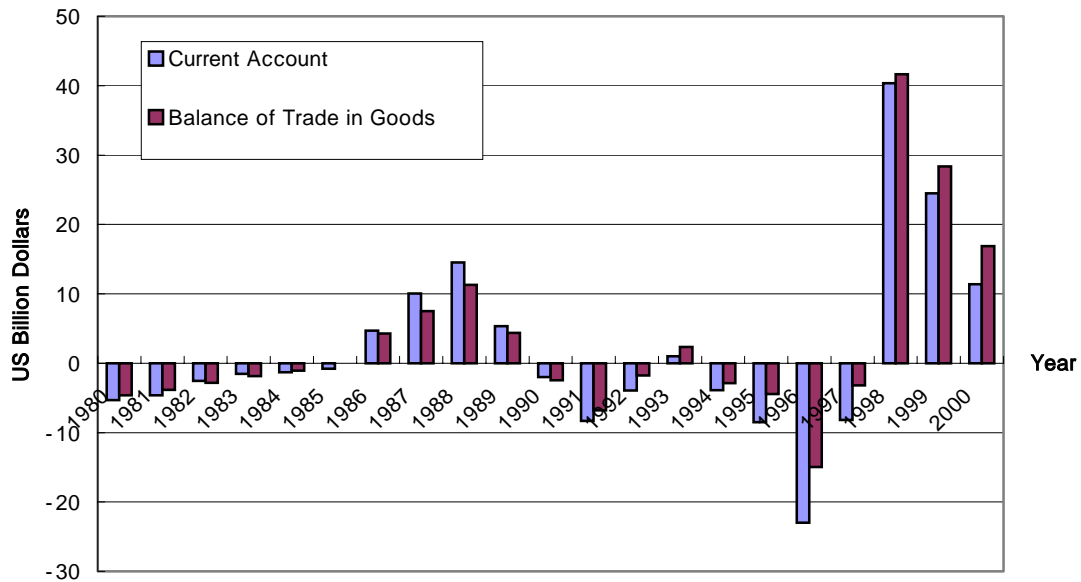
<sup>34</sup> GATT, BISD 27S/69 (adopted on Nov. 10, 1980).

<sup>35</sup> GATT, BISD 28S/90 (adopted on June 11, 1981).

<sup>36</sup> The Korean government consulted with the GATT Secretariat prior to the accession application and was assured that, under Article XVIII:B, it might maintain the existing import restraints even more than a decade. Hahm, *supra* note 5, 10.

<sup>37</sup> The fluctuation in cow prices was indeed enormous during the early 1980s in Korea. The price for a cow was about \$900 in 1981, \$1,600 in 1983 and \$1,000 in 1985. The price for a calf fluctuated even more substantially: about \$180 in 1981, \$900 in 1983 and \$380 in 1985. Nevertheless, the domestic beef price remained relatively stable, showing about 15% change during 1981-1985. Hu & Lee, “Economic Assessment of Beef Industry and Policy Development”, 8 Rural Economy 9, 10 (1985, *in Korean*).

<Chart 1. Trend of Balance of Payments in Korea>



Source: Bank of Korea, Statistics Database <<http://www.bok.or.kr>>.

On February 16, 1988, the American Meat Institute filed a Section 301 petition and the USTR initiated a Section 301 investigation on March 18, 1988.<sup>38</sup> Australia, New Zealand and the United States also brought complaints against Korea to the GATT dispute settlement system and thereby three panels were separately established, although the memberships of the panels were identical.<sup>39</sup> The Korean government decided to address the three panels separately because it thought it would be more advantageous to deal with complainants one-by-one, rather than to confront with three counterparts simultaneously.<sup>40</sup> Interestingly, the Korean government was permitted to bring a foreign private attorney to assist its oral hearings during the panel proceedings.<sup>41</sup>

<sup>38</sup> USTR, *Section 301 Table of Cases*, Beef (301\_65) <<http://www.ustr.gov/html/act301.htm>>.

<sup>39</sup> GATT, BISD 36S/202,36S/234, 36S/268 (adopted on Nov. 7, 1989).

<sup>40</sup> Interview with Young-Rae Lee, President of Korea 4-H (then Director General of Ministry of Agriculture, Forest and Fishery) (Aug.13, 2002). This strategy turned out to be burdensome in its procedural aspect, by requiring the duplicative oral hearings with three parties. The only other GATT case in which separate panels were established basically on the same matter for different complainants is the case concerning "Income Tax Practices" maintained by France (BISD 23S/114), Belgium (BISD 23S/127) and the Netherlands (BISD 23S/137).

<sup>41</sup> A lawyer from a European law firm was allowed to attend a sitting of an oral hearing without a right to make a statement. The Korean government requested to suspend a meeting whenever it needed to consult with the foreign legal counsel. Interview with Young-Rae Lee, President of Korea 4-H (then Director General of Ministry of Agriculture, Forest and Fishery) (Aug.13,



On the basis of the BOP Committee consultation and the IMF opinion provided thereto, the panel held that the import restriction by Korea was not consistent with the GATT and could not be justified under the BOP exception of Article XVIII:B. The panel rejected the Korean government's argument that this issue should be addressed by the BOP Committee, rather than by the dispute settlement panel.<sup>42</sup>

Accordingly, the panel recommended that Korea eliminate the import measures on beef and hold consultations with Australia, New Zealand and the United States to work out a timetable for the removal of import restrictions on beef that had been imposed on the basis of BOP reasons. This panel report was circulated to the GATT Contracting Parties on May 24, 1989. Korea repeatedly objected to the consensus to adopt the panel reports in the subsequent Council meetings held on June 22-23, July 19 and October 11, 1989, raising serious reservations about some of the Panels' findings and conclusions. In particular, Korea argued that the Panels had prejudged the result of the BOP Committee's work by making a ruling on the compatibility of BOP restrictions before the BOP Committee could have reached a conclusion.

On the other hand, effective September 28, 1989, the USTR made a positive determination<sup>43</sup> on the Section 301 investigation regarding the Korea's beef import sanction and subsequently announced that if there were no substantial movement toward a resolution by mid-November, a proposed retaliation list would be published. In response to this threat of Section 301 retaliation, Korea finally agreed to the adoption of the panel reports at the Council meeting on November 7, 1989<sup>44</sup>, when the BOP consultation was indeed concluded and thereby Korea agreed to disinvoke Article XVIII:B by January 1, 1990.<sup>45</sup> On March 21, 1990, Korea signed a memorandum of

---

2002). Under the WTO system, the participation of a private counsel became a well-settled matter of law. *See generally* M. Bronckers & John Jackson, "Editorial Comment: Outside Counsel in WTO Dispute Processes", 2 Journal of International Economic Law 155 (1999).

<sup>42</sup> The case raised an important issue of a proper jurisdictional dichotomy between panel and committees. For more detailed discussion on the institutional balance, *see* Frieder Roessler, "The Institutional Balance between the Judicial and the Political Organs of the WTO", in New Directions in International Economic Law 325 (M. Bronckers & R. Quick, ed., 2000). *See also* Dukgeun Ahn, "Linkages between International Financial and Trade Institutions – IMF, World Bank and WTO", 34 (4) Journal of World Trade 1, 16-23 (2000).

<sup>43</sup> 54 FR 40769 (1989).

<sup>44</sup> GATT, C/M/237, 19 (dated Nov. 28, 1989).

<sup>45</sup> GATT, BOP/R/183/Add.1, 2 (dated Oct. 27, 1989). Since then, Korea has been perceived as having "graduated" from Article XVIII:B. Despite the persistent trade deficit during the most of 1990s, Korea never re-invoked Article XVIII:B.

In fact, Korea was the first developing country to dismantle the BOP exception cover in the GATT. Subsequently, there have been many gradual termination of the BOP exceptions in the GATT/WTO history. For example, 11 GATT contracting parties disinvoked the BOP

understanding with the United States on beef imports and formally exchanged the letter on April 26, 1990, upon the conclusion of the Section 301 investigation.<sup>46</sup> Noting that the remaining restrictions were largely concentrated in the agricultural sector, Korea was permitted by the GATT BOP Committee to phase-out the remaining restrictions or otherwise bring them into conformity with GATT provisions by July 1, 1997. However, this decision on the transition period by the BOP Committee was later superseded by the Agreement on Agriculture in the Uruguay Round.<sup>47</sup>

## **II.2.2 Korea – Anti-Dumping Duties on Imports of Polyacetal Resins from the United States (Korea – Polyacetal Resins)**

The *Korea – Polyacetal Resins* case is interesting because it was the first formal decision taken by the main trade remedy authority, Korean Trade Commission (KTC),<sup>48</sup> that was contested by other GATT contracting parties under the Tokyo Round Anti-Dumping Code. Following Korean companies' petition on May 8, 1990, the KTC formally initiated an investigation involving two US and one Japanese polyacetal resins producers on August 25, 1990.<sup>49</sup> On February 20, 1991, the Office of Customs Administration found dumping margins ranging from 20.6 to 107.6 per cent for the three respondents.<sup>50</sup> On April 24, 1991, the KTC made a positive determination on material injury to the domestic industry. Subsequently, on September 30, 1991, the Ministry of Finance imposed anti-dumping duties that were due to expire on October 3, 1993.

On June 21, 1991, the United States requested consultations regarding the

---

exceptions under Articles XII or XVIII:B since 1979. *See* WTO, *supra* note 7, 395. After the WTO was established, 11 WTO Members disinvoked the BOP exceptions. Only a handful of WTO Members, such as Bangladesh and Pakistan, are still invoking such exceptions. *See generally* WTO, WT/BOP/R/19, 37, 44, 47, 55.

<sup>46</sup> 55 FR 20376.

<sup>47</sup> C. Kim, *supra* note 21, 8.

<sup>48</sup> The KTC was established pursuant to Article 37 of the Foreign Trade Act in 1987. The KTC was originally composed of one chairman (part-time member) and four Commissioners (only one full-time member). Currently, the KTC has one chairman and seven Commissioners with one full-time member.

<sup>49</sup> This case was the fourth anti-dumping case for the KTC. But, it was in this case that the KTC began a formal investigation based on the pertinent regulations and made a positive determination to impose anti-dumping duties. *See generally* Korea Trade Commission, A History of 10 Years for the KTC, 280 (1997, in Korean).

<sup>50</sup> The authority to make a dumping margin determination was transferred to the KTC in 1996 by the revision of the "Regulations for Implementation of the Customs Duties Act". *See* President Order No. 14871 (dated Dec. 30, 1995). Since then, the KTC has maintained the

antidumping measures under the Tokyo Round Anti-dumping Code. When the two consultation meetings on July 24 and September 30, 1991 failed, the Committee on Anti-Dumping Practices agreed to establish a panel on February 17, 1992. Canada, the European Communities and Japan joined the dispute as third parties. In this case, the panel held that the KTC's determination on present material injury, a threat thereof and material retardation was inconsistent with Korea's obligation under the Anti-dumping Code. The panel report was issued to the parties to the disputes on March 10, 1993 and circulated to the Committee on April 2, 1993.<sup>51</sup> This ruling was adopted by the Committee on April 29, 1993.<sup>52</sup>

Korea strongly disagreed with the panel's decision, particularly regarding the denial of evidentiary value of the transcript of the KTC's voting session on April 24, 1991 for the simple reason that it was not notified publicly. However, Korea did not object to the adoption of the panel report, saying it was refraining "because it believed that the multilateral dispute settlement system provided the best way to solve trade issues, and because it had in the past strongly supported the strengthening of the multilateral dispute settlement system."<sup>53</sup> In any case, the original due date of the antidumping duties remained only a little more than 5 months.

The GATT dispute settlement experience from this case made an important positive impact on the KTC in particular and the Korean trade remedy system in general. The panel's decision was basically perceived as a recommendation to augment and to discipline the transparency aspect of incipient trade remedy procedures.<sup>54</sup> Accordingly, the KTC tried to accommodate the multilateral obligations in all aspects of trade remedy actions including safeguard as well as anti-dumping measures and enhance functional expertise in a substantive set of practices. This case, however, did not result in any substantial regulatory modification regarding anti-dumping actions.

### **II.3 Assessment**

Under the GATT system, Japan has been perceived as "one of those countries that leaned toward pragmatism as opposed to other countries, notably the United States,

---

authority to make determinations on both dumping margin and injury.

<sup>51</sup> GATT, ADP/M/40, para. 181.

<sup>52</sup> GATT, BISD 40S/198.

<sup>53</sup> GATT, ADP/M/40, para. 185.

<sup>54</sup> Interview with Wan-soon Kim, Investment Ombudsman, Korea Trade-Investment Promotion Agency (then Chairman of the KTC) (Aug. 14, 2002).

that favoured legalism”.<sup>55</sup> Obviously, Korea was even more pragmatic.<sup>56</sup> It tried to avoid formal dispute settlement or litigation as much as it could.

The fact that Korea resorted infrequently to the dispute settlement system, however, should not be misunderstood to mean that Korea did not have much trouble with foreign trade barriers under the GATT system. As illustrated in Chart 2, exports from Korea during the GATT era routinely faced various trade restrictive measures by other GATT contracting parties, particularly the United States, the European Communities, Canada and Australia. From 1960 to 1994, at least 291 foreign trade remedy measures against Korean exports were reported,<sup>57</sup> about 94% of them imposed by the aforementioned countries. Furthermore, among 98 Section 301 cases initiated from 1975 until the end of 1994, Korea had been targeted ten times.<sup>58</sup>

Considering such turbulent experiences and history, the Korean government was astonishingly hesitant to utilize the GATT dispute settlement system to cope with foreign trade barriers. This may be partly explained by the fact that the Korean government lacked sufficiently competent officials to deal with the legal technicalities in the GATT dispute settlement system. But, more importantly, it seems linked to the fact that Korea typically scored big trade surpluses, at least in terms of trade in goods, with those major countries that imposed trade remedy measures. The big trade surpluses in major foreign markets generally undermined the negotiating positions of the Korean government in asserting its rights under the GATT and led to a high propensity to avoid any legal confrontations. In other words, the persistent trade imbalance seemed to play a key role in setting the overall attitude towards the settlement of disputes under the multilateral trading system. It also explains why Japan, the country that has constantly recorded huge trade surpluses against Korea, hardly ever raised trade remedy measures against Korean exports, especially after the 1980s.

---

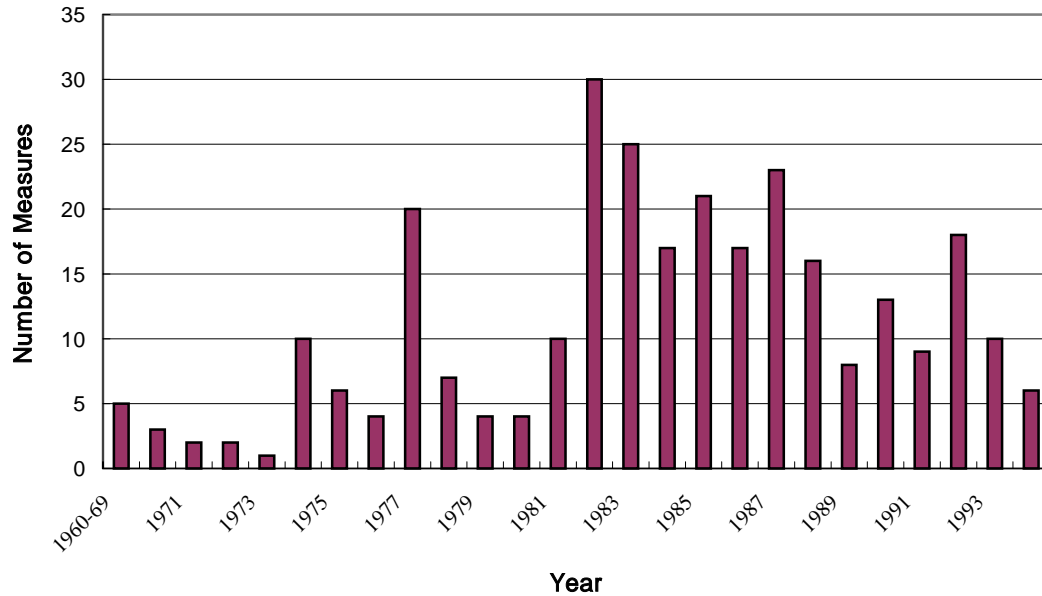
<sup>55</sup> Yuji Iwasawa, “WTO Dispute Settlement and Japan” 474, in New Directions in International Economic Law: Essays in Honour of John H. Jackson (M. Bronckers & R. Quick, eds., 2000).

<sup>56</sup> For the Japanese experience of the GATT dispute settlement, *see* Saadia M. Pekkanen, “Aggressive Legalism: The Rules of the WTO and Japan’s Emerging Trade Strategy”, World Economy, Vol.24, 707-737 (2001).

<sup>57</sup> N. Han et al., *supra* note 4, 37.

<sup>58</sup> These cases include: Thrown Silk Agreement with Japan (301\_12), Insurance (301\_20), Non-Rubber Footwear Import Restrictions (301\_37), Steel Wire Rope Subsidies and Trademark Infringement (301\_39), Insurance (301\_51), Intellectual Property Rights (301\_52), Cigarettes (301\_64), Beef (301\_65), Wine (301\_67), Agricultural Market Access Restrictions (301\_95). After the WTO was established in 1995, one more Section 301 case was initiated against Korea regarding Barriers to Auto Imports (301\_115) in October 1997. *See* USTR, Section 301 Table of Cases: Initiated Cases <<http://www.ustr.gov/html/act301.htm>>.

**<Chart 2. Trade Remedy Measures against Korean Exports  
(1960 - 1994)>**



Source: N. Han et al., Cases of Trade Disputes of Korean Industries 37 (1999; in Korean).

**<Table 2. Trade Remedy Measures against Korean Exports by Countries<sup>59</sup>>**

	1960s	1970-74	1975-79	1980-84	1985-89	1990-94	Total
US	1	2	8	29	39	17	96
Canada	1	2	4	12	11	3	33
EC	2	10	22	7	19	12	72
Australia	0	0	3	36	14	19	72
Japan	1	4	4	2	2	0	13
Others	0	0	0	0	0	5	5
<b>Total</b>	<b>5</b>	<b>18</b>	<b>41</b>	<b>86</b>	<b>85</b>	<b>56</b>	<b>291</b>

Under the WTO system, the Korean government changed this attitude and became far more active in asserting its rights through the dispute settlement system under the WTO Agreements. Incidentally, the trade balances with those major trading partners now show substantial deficits. For example, the trade deficit of Korea with respect to the United States began to occur from 1994 and remained throughout 1997, reaching \$8.5 billion in 1997. Although this trend was again reversed primarily due to the financial crisis in 1998 which caused imports to plummet, the trade balance situations were very much the same with respect to other major trading partners.

<sup>59</sup> N. Han et al., *supra* note 4, 39.

### III. WTO Period (1995 – 2002)

The GATT dispute settlement system was substantially augmented by the Uruguay Round negotiation, correcting several systemic problems to institute, *inter alia*, quasi-automatic adoption mechanism, appellate procedure and single unified system.<sup>60</sup> Generally speaking, the new WTO dispute settlement system has so far turned out to be very effective and reliable instruments to resolve trade disputes for the Member countries. As of July 31, 2002, 262 cases have been brought to the WTO dispute settlement body. Among them, 61 panel and Appellate Body reports were adopted, while 35 cases were resolved with mutually agreed solutions and 23 cases were settled or inactive.<sup>61</sup>

The Korean government has become far more active in utilizing the augmented dispute settlement system under the auspices of the WTO. As of August 2002, Korea has brought complaints to the WTO dispute settlement system in 7 cases while being challenged by 11 complaints.<sup>62</sup> The details of the relevant cases are discussed below.

#### III.1 Korea as Defendant

Korea was a defendant in some of the very early cases in the WTO dispute settlement, which concerned SPS and TBT measures. The United States made a consultation request against Korea on April 6, 1995 (DS3) and basically on the same matter again on May 24, 1996 (DS41)<sup>63</sup>. Both cases were suspended since the United States did not take additional steps. On May 5, 1995, the United States made a consultation request regarding the regulation on the shelf-life of products (DS5). This

---

<sup>60</sup> For detailed discussion on the WTO dispute settlement system, *see generally* John H. Jackson, The World Trade Organization: Constitution and Jurisprudence (1998); David Palmeter & Petros C. Mavroidis, Dispute Settlement in the World Trade Organization: Practice and Procedure (1999); U.E. Petersmann, The GATT/WTO Dispute Settlement System: International Law, International Organizations and Dispute Settlement (1997); Special Issue: WTO Dispute Settlement System, 1 Journal of International Economic Law, No.2 (1998).

<sup>61</sup> WTO, WT/DS/OV/8, ii (dated Aug. 9, 2002).

<sup>62</sup> Korea was challenged by 11 complaints on 8 distinct matters. *See infra* Section III.1.

<sup>63</sup> The second consultation request by the United States encompassed all amendments, revisions, and new measures adopted by the Korean government after the first consultation request. WTO, WT/DS41/1 (dated May 31, 1996).

case was settled with a mutually acceptable solution. The Canadian request for consultation regarding the Korean regulation on the shelf-life and disinfection treatment of bottled water was also settled with a mutually satisfactory solution (DS20). On May 9, 1996, the European Communities requested for consultations, alleging that the procurement practices of the Korean telecommunications sector were discriminatory against foreign suppliers, and that the bilateral agreement with the United States was preferential (DS40). The parties notified a mutually satisfactory solution on October 22, 1997.<sup>64</sup> Therefore, the Korean government basically tried to settle the first five complaints, rather than actually litigate the cases. This is partly because the merits of the cases were relatively clear and partly because the economic stakes at issues were not substantial. Also, the Korean government still seemed to be unprepared to handle the newly instituted WTO dispute settlement system.

**<Table 3. WTO Cases Involving Korea as Defendant>**

<b>Cases Name</b>	<b>Complainant</b>	<b>Dispute Number</b>
Korea - Measures Concerning the Testing and Inspection of Agricultural Products	US	DS3 & DS41
Korea - Measures Concerning the Shelf-Life of Products	US	DS5
Korea - Measures Concerning Bottled Water	Canada	DS20
Korea - Laws, Regulations and Practices in the Telecommunications Procurement Sector	EC	DS40
*Korea - Taxes on Alcoholic Beverages	EC, US	DS75 & DS84
*Korea - Definitive Safeguard Measure on Imports of Certain Dairy Products	EC	DS98
*Korea - Measures Affecting Imports of Fresh, Chilled and Frozen Beef	US, Australia	DS161 & DS169
*Korea - Measures Affecting Government Procurement	US	DS163

\* Cases for which panel reports were issued.

The very first case in which Korea experienced the whole WTO dispute settlement procedure was the *Korea – Soju* case (DS75 and DS84). The European Communities and the United States contended that the Korean liquor taxes of 100% on whisky and 35% on diluted *soju* were not consistent with the national treatment obligation under Article III of the GATT. Basically, this case was considered as a “revisited” *Japan-Shochu* (DS8, DS10 and DS11) case in which the Japanese tax system

---

<sup>64</sup> Korea and the European Communities signed the “Agreement on Telecommunications Procurement between the Republic of Korea and the European Community” on October 29, 1997 and the Agreement entered into force on November 1, 1997. Subsequently, Korea entered into a similar bilateral agreement for telecommunications equipment procurement with Canada. See also Han-young Lie & Dukgeun Ahn, “Legal Issues of Privatization in Government Procurement Agreements: Experience of Korea from Bilateral and WTO Agreements” (*mimeo*).

to discriminate imported alcoholic beverages over *shochu* was found to be in violation of Article III of the GATT. In terms of a legal strategy to distinguish this case from the *Japan-Shochu* case, Korea tried to inject more antitrust law principles and experts in the panel proceeding because a large price gap such as, for example, that between *soju* and whiskey is often deemed to represent a non-competitive relationship of pertinent products in the antitrust law context.<sup>65</sup>

The panel and the Appellate Body held that the Korean taxes on *soju* and whisky were discriminatory and the Dispute Settlement Body (hereinafter “DSB”) adopted this ruling on February 17, 1999. The reasonable period for implementation was determined to be 11 months and two weeks, that is, from February 17, 1999 to January 31, 2000.<sup>66</sup> Subsequently, Korea amended the Liquor Tax Law and the Education Tax Law to impose flat rates of 72% in liquor tax and 30% in education tax that entered into force on January 1, 2000.<sup>67</sup> The DSB recommendation was successfully implemented a month earlier than the due date.

This case awakened the Korean public about the role and influence of the WTO dispute settlement system. The media and newspapers closely covered every step pertaining to this case, from the consultation request to the panel proceeding and the Appellate Body ruling. It was not just because this case was the first WTO dispute settlement proceeding for Korea, but also because the popularity of the product concerned, *soju*, was probably incomparable to any other products. Despite objections by the general public as well as by *soju* manufacturers, the Korean government substantially increased liquor taxes on *soju*, instead of matching the liquor tax on whisky to the original level on *soju*, in order to eliminate the WTO-illegal tax gap while minimizing the potential adverse impact on public health and consequent social costs.<sup>68</sup> In 2000, the tax revenue from the liquor tax, \$1.72 billion, accounted for 2.4% of the total tax revenue. The tax on beer occupied about 56.2% of the liquor tax revenue, while those on *soju* and whisky were 23.2% and 8.3%, respectively.<sup>69</sup> In 1999 when the old

---

<sup>65</sup> For example, the Korean government tried to include antitrust law experts regardless of their nationality as panelists, but failed due to the objection by the complainants. Hyun Chong Kim, “The WTO Dispute Settlement Process: A Primer”, 2 Journal of International Economic Law 457, 465-466 (1999). Except for this case, the Korean government as a defendant did not resort to the Director-General for the panel selection.

<sup>66</sup> WTO, WT/DS75/16, WT/DS84/14 (dated June 4, 1999).

<sup>67</sup> WTO, WT/DS75/18, WT/DS84/16 (dated Jan. 17, 2000).

<sup>68</sup> See generally Korea Institute of Public Finance, Monthly Public Finance Forum 82-102 (Sep. 1999, in Korean).

<sup>69</sup> National Tax Service, Statistical Yearbook of National Tax 2001. The dollar amount was calculated based on \$1 = ₩ 1300.



liquor taxes were applied, the share of tax revenues from *soju* and whisky was 17.3% and 10.8%.<sup>70</sup>

The first case under the Agreement on Safeguards also involved the Korean safeguard measure concerning dairy products (DS98)<sup>71</sup>. On August 12, 1997, the European Communities requested consultations with Korea regarding the safeguard quotas that went into effect on March 7, 1997 and remained in force until February 28, 2001.<sup>72</sup> The panel and the Appellate Body held that the Korean safeguard measures were inconsistent with the obligations under the Agreement on Safeguards. The DSB adopted those rulings on January 12, 2000 and the reasonable implementation period was agreed to expire on May 20, 2000. Korea, through its administrative procedures, effectively lifted the safeguard measure on imports of the dairy products as of May 20, 2000. It was reported that the importation of dairy products at issue was reduced by about \$70 million during the period in which the safeguard measure remained in force.

Since its inception in 1987 to 1994, the KTC had relied more on safeguard measures rather than on antidumping measures to address domestic industry injury incurred by importation.<sup>73</sup> After this case, however, the KTC markedly abstained from using a safeguard measure whereas it substantially increased anti-dumping actions. For example, from 1997 to 2001, there were only three safeguard investigations but thirty-five anti-dumping cases.<sup>74</sup> Accordingly, a subsequent safeguard action by the KTC appeared seriously disciplined by the WTO dispute settlement system. The safeguard mechanism in Korea was further elaborated with new laws and regulations on trade remedy actions.<sup>75</sup>

On February 1, 1999, the United States requested consultations with Korea in respect of a dual retail system for beef (*Korea – Beef II*; DS161). On April 13, 1999, Australia also requested consultations on the same basis (DS169). On January 10, 2001,

---

<sup>70</sup> Korea Institute of Public Finance, *Monthly Public Finance Forum* 114 (Sep. 2001, in Korean).

<sup>71</sup> The first complaint brought under the Agreement on Safeguards was *US – Safeguard Measure against Imports of Broom Corn Brooms*. WTO, WT/DS78/1. This case was resolved without litigation although it remained technically pending. The actual panel decision concerning safeguard measures in the WTO system was issued for the first time in *Korea – Dairy Safeguards*. WTO, WT/DS98/R (adopted on Jan. 12, 2000).

<sup>72</sup> WTO, G/SG/N/10/KOR/1 (dated Jan. 27, 1997) & G/SG/N/10/KOR/1/Supp.1 (dated April 1, 1997).

<sup>73</sup> During 1987-1994, the KTC engaged in 25 safeguard and 12 anti-dumping investigations. The KTC has never even initiated a countervailing investigation to date. See Korea Trade Commission, *supra* note 49, 280-299.

<sup>74</sup> <<http://www.ktc.go.kr/juyu/juyusafe.htm>> (visited on August 2, 2002).

<sup>75</sup> Act on Investigation of Unfair Trade Practice and Trade Remedy Measures, Law 6417; Implementing Regulation, Presidential Order No.17222.

the DSB adopted the panel and the Appellate Body reports that held the Korean measures to be inconsistent with the WTO obligation. The parties to the dispute agreed that a reasonable period of time for Korea's implementation of the DSB recommendations would be 8 months and would thus expire on September 10, 2001.<sup>76</sup> The Korean government subsequently revised the "Management Guideline for Imported Beef" to abolish the beef import system operated by the Livestock Products Marketing Organization.<sup>77</sup> In addition, on September 10, 2001, the Korean government eliminated the dual retail system for beef by entirely abolishing the "Management Guideline for Imported Beef".<sup>78</sup> Thus, Korea considered that it had fully implemented the DSB's recommendations in this case.<sup>79</sup>

The only panel report concerning the Agreement on Government Procurement (GPA) to date is *Korea - Measures Affecting Government Procurement* (DS163).<sup>80</sup> On February 16, 1999, the United States requested consultations regarding certain procurement practices of the Korean Airport Construction Authority (KOACA). The panel ultimately ruled that the KOACA was not a covered entity under Korea's Appendix I of the GPA, even if the panel noted that the conduct of the Korean government with respect to the US inquiries in the course of pertinent negotiation "[could], at best, be described as inadequate".<sup>81</sup> The United States did not make an appeal and the panel report was adopted on June 19, 2000.<sup>82</sup> The important lesson from this case for the Korean government was about the discrepancy between its organizational mechanism for governmental offices that was based on decision making structures and the WTO concession practice based on the institutional "entities" in the context of the GPA. The Government Organization Act of the Republic of Korea prescribes various government entities that actually constituted mere positions of certain level. Moreover, the Korean government has often established a special "task force", "group", or "committee" with specific mandates, whose legal foundations are obscure.<sup>83</sup>

---

<sup>76</sup> WTO, WT/DS161, DS169/12 (dated April 24, 2001).

<sup>77</sup> Ministry of Agriculture Notification 2000-82.

<sup>78</sup> Ministry of Agriculture Notification 2001-54.

<sup>79</sup> WTO, WT/DSB/M/110 (dated October 22, 2001).

<sup>80</sup> This case is the fourth complaint concerning government procurement. The first complaint, *Japan – Procurement of a Navigation Satellite* (DS73), was settled with a mutually satisfactory solution. The second and third complaints, *US – Measure Affecting Government Procurement* (DS88, DS95), were in respect of the same issue. The panel's authority lapsed as of February 11, 2000, when it was not requested to resume the proceeding after suspension of the works. WTO, WT/DS88, DS95/6 (dated Feb. 14, 2000).

<sup>81</sup> WTO, WT/DS163/R (adopted on June 19, 2000), para.7.80.

<sup>82</sup> WTO, WT/DS163/7 (dated Nov. 6, 2000).

<sup>83</sup> Young-Joon Cho, "Review of the Panel Report for *Korea - Measures Affecting Government*

This issue of how to determine the scope of covered entities in relation to a newly established governmental organ may require a more elaborate approach in the context of the GPA.

Considering the experience so far as a defendant in the WTO dispute settlement, the reaction by the Korean government appears to show a typical pattern as an average WTO Member. For half of the complaints, Korea tried to resolve the trade disputes without resorting to legal procedures. But, as it obtained more experience and the WTO jurisprudence became more sophisticated, Korea has become determined to take a more legalistic approach in recent years. When engaged in a WTO legal proceeding, Korea has been very susceptible to a DSB recommendation. For all three cases in which Korea was found to be inconsistent with the WTO Agreements, Korea fully complied with and implemented the DSB recommendations within the determined or agreed reasonable periods of time even in politically loaded areas such as taxes and agriculture. It is also noted that Korea made appeals for all three cases in which the panels found some violations for its own measures. Lastly, it should also be noted that the areas challenged by other Member countries are fairly diverse, ranging from SPS and TBT measures to government procurement, safeguard and agriculture. This is in starkly contrast with the cases in which Korea brought complaints, which concentrated mainly on antidumping measures, as explained Section III.2. Overall, the dispute settlement experience of Korea as a defendant in such divergent areas under the auspices of the WTO has played a significant role to enhance the public recognition of the importance of the multilateral trade norms in all aspects of economic activities and policy making.

### **III.2 Korea as Complainant**

So far, the Korean complaints in the WTO dispute settlement system have focused primarily on the US antidumping measures. Five out of the total seven complaints have been about antidumping matters and six have been against the United States. There were one case against the Philippines and two cases concerning safeguard measures. In other words, the Korean complaints to the WTO dispute settlement system so far have been exclusively concentrated on trade remedy measures.

---

*Procurement*", 33 *International Law Review* 127, 152 (2000, in Korean).

**<Table 4. WTO Cases Involving Korea as Complainant>**

<b>Cases Name</b>	<b>Defendant</b>	<b>Dispute Number</b>
United States - Imposition of Anti-Dumping Duties on Imports of Color Television Receivers from Korea	US	DS89
*United States - Anti-Dumping Duty on Dynamic Random Access Memory Semiconductors (DRAMs) of One Megabit or Above from Korea	US	DS99
*United States - Anti-Dumping Measures on Stainless Steel Plate in Coils and Stainless Steel Sheet and Strip from Korea	US	DS179
*United States - Definitive Safeguard Measures on Imports of Circular Welded Carbon Quality Line Pipe from Korea	US	DS202
Philippines – Anti-Dumping Measures regarding Polypropylene Resins from Korea	Philippines	DS215
United States – Continued Dumping and Subsidy Offset Act of 2000	US	DS217
United States - Definitive Safeguard Measures on Imports of Certain Steel Products	US	DS251

\* Cases for which panel reports were issued.

While Korea had been challenged in the WTO dispute settlement system from the very early period<sup>84</sup>, Korea appeared quite hesitant to bring complaints against other WTO Member countries. It was only in July 1997 that Korea began to use the WTO dispute settlement system as a complainant. The very first WTO case Korea brought to the DSB was in respect of the US antidumping duties on Samsung color television receivers. On July 10, 1997, Korea requested a consultation, alleging that the United States had maintained an antidumping duty order for the past 12 years despite the cessation of exports as well as the absence of dumping. Subsequently, in response to the United States' preliminary determination of December 19, 1997 to revoke the anti-dumping duty order, Korea withdrew its request for a panel. On August 27, 1998, the United States made a final determination to revoke the anti-dumping duty order which had been imposed on Samsung color television receivers since 1984. At the DSB meeting on September 22, 1998, Korea announced that it definitively withdrew the request for a panel because the imposition of anti-dumping duties had been revoked.<sup>85</sup>

For a similar case regarding antidumping duty orders on DRAMS, however, the United States did not readily revoke the orders and, on November 6, 1997, Korea requested the establishment of a panel. The DSB established a panel at its meeting on

---

<sup>84</sup> In 1995, three consultation requests were brought against Korea. The first two requests for *Korea – Measures Concerning the Testing and Inspection of Agricultural Products* (DS3) and *Korea – Measures Concerning the Self-Life of Products* (DS5) were made on April 6 and May 5, 1995.

<sup>85</sup> WTO, WT/DS89/9 (dated Sep. 18, 1998).

January 16, 1998. On March 19, 1998, the Director-General determined the composition of the panel and thereby Korea began its first panel proceeding as a complainant. The Panel found the measures at issue to be in violation of Article 11.2 of the Antidumping Agreement. The United States did not make an appeal and, at its meeting on March 19, 1999, the DSB adopted the panel report.

Incidentally, this first “win” as a complainant in WTO litigation came just about 10 days after Korea lost its first WTO litigation as a defendant in *Korea – Soju*.<sup>86</sup> The somewhat fortunate timing of winning a WTO case appears to have substantially contributed to alleviating the general concern and resistance of the Korean public about the fairness and objectivity of the WTO dispute settlement system.

At the DSB meeting on July 26, 1999, the two parties notified the DSB that they had agreed on an implementation period of 8 months, expiring on November 19, 1999. At the DSB meeting on January 27, 2000, the United States stated that it had implemented the DSB recommendations by amending the pertinent Department of Commerce regulation, more specifically, by deleting the “not likely” standard and incorporating the “necessary” standard of the Antidumping Agreement. The Department of Commerce then issued a revised “Final Results of Re-determination” in the third administrative review on November 4, 1999, concluding that, because a resumption of dumping was likely, it was necessary to leave the antidumping order in place. On April 6, 2000, Korea requested the referral of this matter to the original panel pursuant to Article 21.5 of the DSU. At its meeting on April 25, 2000, the DSB agreed to reconvene the original panel pursuant to Article 21.5 of the Dispute Settlement Understanding and the European Communities reserved its third-party right. On September 19, 2000, Korea requested the Panel to suspend its work and, on October 20, 2000, the parties notified the DSB of a mutually satisfactory solution to the matter, involving the revocation of the antidumping order at issue as the result of a five-year “sunset” review by the US Department of Commerce.<sup>87</sup>

This case was the first case ever in which Korea won a favorable panel decision throughout the GATT/WTO system. Although it took one and half more years for the United States to satisfactorily comply with the DSB recommendation after the adoption of the panel report, the sheer fact of winning the WTO panel proceeding concerning chronic trade barriers of the major trading partner provided the Korean government with profound confidence in the WTO dispute settlement system. After this case, the Korean

---

<sup>86</sup> The Appellate Body report for *Korea – Soju* case was circulated on January 18, 1999, while the panel report for *US – DRAMS* case was circulated on January 29, 1999. See WTO, WT/DS75, DS84/AB/R (adopted on Feb. 17, 1999) and WT/DS99/R (adopted on March 19, 1999).

<sup>87</sup> WTO, WT/DS99/12 (dated Oct. 25, 2000).

government became much more active in utilizing the WTO dispute settlement system to address foreign trade barriers. In other words, the experience and confidence gained from this case clearly led the Korean government to move to the direction of “aggressive legalism” in handling its subsequent trade disputes.<sup>88</sup>

On July 30, 1999, Korea made the third request for consultation, again with the United States, in respect of preliminary and final dumping determinations of the Department of Commerce on Stainless Steel Plate in Coils (SSPC) and Stainless Steel Sheet and Strip (SSSS). Korea believed that the United States did not act in conformity with the Antidumping Agreement in its treatment of, *inter alia*, certain sales made to a bankrupt company, the calculation of two distinct exchange rate periods for export sales and currency conversion for certain normal value sales made in US dollars. On October 14, 1999, Korea requested the establishment of a panel. The European Communities and Japan joined the panel proceeding as third parties. In this case, the panel was established on November 19, 1999 but the panel was actually composed on March 24, 2000.<sup>89</sup> The panel report ruled in favor of Korea was circulated on December 22, 2000 and the United States did not make an appeal. At its meeting of February 1, 2001, the DSB adopted the panel report. On April 26, 2001, the parties to the dispute notified the DSB that they had mutually agreed on the reasonable period of 7 months to expire on September 1, 2001. On August 28, 2001, the International Trade Administration of the Department of Commerce issued the “Notice of Amendment of Final Determinations” on the relevant antidumping duty order, in which the recalculation of dumping margins substantially reduced antidumping duties.<sup>90</sup> At the DSB's meeting of September 10, 2001, the United States announced that it had implemented the DSB's recommendation

---

<sup>88</sup> For the discussion of “aggressive legalism” by the Japanese government to deal with trade disputes, see Saadia M. Pekkanen, “Aggressive Legalism: The Rules of the WTO and Japan’s Emerging Trade Strategy”, 24 *World Economy*, 707-737 (2001).

<sup>89</sup> It took 126 days to compose the panel, which is so far the longest period of time required for the panel appointment in a case involving Korea.

<sup>90</sup> 66 FR 45279 (dated Aug. 28, 2001); US Department of Commerce, International Trade Administration (A-580-831 & A-580-834). The changes of dumping margins are as follows:

Exporter/Manufacturer	Original Dumping Margin		Recalculated Dumping Margin	
	SSPC	SSSS	SSPC	SSSS
Pohang Iron & Steel Co. Ltd.	16.26%	12.12%	6.08%	2.49%
Inchon Iron & Steel Co. Ltd.	16.26%	0.00%	6.08%	0.00%
Taihan Electric Wire Co. Ltd.	16.26%	58.79%	6.08%	58.79%
All others	16.26%	12.12%	6.08%	2.49%

For the original dumping margin determination, see 64 FR 15443 (dated March 31, 1999) for SSPC and 64 FR 30664 (dated June 8, 1999) for SSSS.

and Korea acknowledged the satisfactory implementation.<sup>91</sup>

On June 13, 2000, Korea made its fourth consultation request, again with the United States, in respect of the definitive safeguard measure imposed on imports of circular welded carbon quality line pipe. Korea considered that the US procedures and determinations that led to the imposition of the safeguard measure, as well as the measure itself, contravened various provisions contained in the Agreement on Safeguards and the GATT 1994. The DSB established a panel at its meeting of October 23, 2000 and on January 22, 2001, the Director-General composed the panel. Australia, Canada, European Communities, Japan and Mexico reserved their third party rights. In the panel report circulated on October 29, 2001, the panel concluded that the US measure was imposed in a manner inconsistent with certain provisions of GATT 1994 and the Agreement on Safeguards. In the Appellate Body proceeding<sup>92</sup>, the Korea's argument on the permissible extent of a safeguard measure was accepted, which seems one of the key findings for the WTO jurisprudence on safeguard.<sup>93</sup> It is also noted that this appellate proceeding was the first WTO dispute settlement case handled entirely by Korean government officials. It was indeed a substantial development in terms of capacity building for WTO dispute settlement, particularly compared to the previous cases in which foreign legal counsels played primary roles in WTO litigations. When both parties agreed on the reasonable period of time for implementation with expiration on September 1, 2002, the arbitration under Article 21.3(c) was suspended.<sup>94</sup>

The fifth WTO complaint by Korea against the United States was also related to antidumping matters. On December 21, 2000, Korea, along with Australia, Brazil, Chile, European Communities, India, Indonesia, Japan and Thailand, requested consultations with the United States concerning the amendment to the Tariff Act of 1930, titled "Continued Dumping and Subsidy Offset Act of 2000" that is usually referred to as "the Byrd Amendment". The DSB established a panel at its meeting on August 23, 2001. Argentina, Canada, Costa Rica, Hong Kong, Israel, Mexico and Norway reserved their third-party rights. In response to Canada and Mexico's request to establish a panel on a similar matter<sup>95</sup>, the DSB established a single panel on September 10, 2001. On October 25, 2001, the Director-General composed the panel that is currently working on the case.

---

<sup>91</sup> WTO, WT/DSB/26, 18 (dated Oct. 12, 2001).

<sup>92</sup> WTO, WT/DS202/AB/R (dated Feb. 15, 2002). The United States initially filed an appeal on Nov. 6, 2001 (WT/DS202/7), but withdrew it for scheduling reasons on Nov. 13 (WT/DS202/8). The appeal was re-filed on Nov. 19, 2001 (WT/DS202/9).

<sup>93</sup> See generally Dukgeun Ahn, "Critical Review of the WTO Jurisprudence on Safeguard" (*mimeo*).

<sup>94</sup> WTO, WT/DS202/17 (dated July 26, 2002).

On December 15, 2000, Korea requested consultations with the Philippines concerning the dumping decision of the Tariff Commission of the Philippines on polypropylene resins. Following the consultation on January 19, 2001, the Philippines withdrew the antidumping order in November 2001 and Korea did not pursue further action in the DSB.

On March 20, 2002, Korea made a request for consultation with the United States regarding the definitive safeguard measures on the imports of certain steel products and the related laws including Section 201 of the Trade Act of 1974 and Section 311 of the NAFTA Implementation Act. The DSB established a single panel to include complaints by the European Communities, Japan, China, Switzerland, Norway, New Zealand and Brazil.<sup>96</sup> In addition to most complainants that reserve third party rights, Chinese Taipei, Cuba, Malaysia, Mexico, Thailand, Turkey and Venezuela also reserved their third party rights. On July 25, 2002, the Director-General composed the panel.

As described above, Korea has had major problems regarding the US antidumping practices. In some sense, its experience as a complainant in WTO disputes almost exclusively against US antidumping practices is puzzling because, during the period of January 1, 1995 to December 31, 2001, it was the European Communities that initiated more antidumping action against exported products from Korea, and it was South Africa and India that actually imposed the most antidumping measures.<sup>97</sup> This fact seems to imply that the US market still occupies an unbalanced economic importance for Korea.<sup>98</sup> Currently, Korea is actively engaged in pushing the agenda to revise the Antidumping Agreement in the Doha Development Agenda.<sup>99</sup>

---

<sup>95</sup> WTO, WT/DS234/1 (dated June 1, 2001).

<sup>96</sup> WTO, WT/DS251/10 (dated Aug. 12, 2002).

<sup>97</sup> WTO, Statistics on Anti-dumping, <[http://www.wto.org/english/tratop\\_e/adp\\_e/adp\\_e.htm](http://www.wto.org/english/tratop_e/adp_e/adp_e.htm)>.

<AD Actions against Korea (From 01/01/95 to 12/31/01)>

	Argentina	Australia	EC	India	South Africa	US	Others	Total
AD Initiation	8	11	21	17	13	19	49	138
AD Measures	6	3	9	13	13	10	16	70

<sup>98</sup> On the other hand, Japan, a country with similar trade structure and attitude toward trade dispute settlement, has shown much diverse interest as a complainant concerning its target markets. *See generally* Yuji Iwasawa, *supra* note 55, 473.

<sup>99</sup> For the Korean proposal regarding antidumping issues, *see, e.g.*, WTO, WT/GC/W/235/Rev.1 (dated July 12, 1999); TN/RL/W/6 (dated April 26, 2002); TN/RL/W/10 (dated June 28, 2002).



### III.3 Korea as a Third Party

The DSU allows a third party Member with substantial trade interests to join consultations<sup>100</sup> as well as the panel<sup>101</sup> and Appellate Body proceedings<sup>102</sup> between disputing parties. Up to date, Korea has joined, as a third party, 7 consultations and 10 panel proceedings. For three cases, *Indonesia – Automobiles* (DS54, DS55, DS59), *EC – LAN* (DS62, DS67) and *US – Steel Safeguard* (DS248, DS249, DS252, DS253, DS254, DS258, DS259) cases, Korea joined both consultations and panel proceedings.

**<Table 6. Korea as Third Party in a Panel Proceeding>**

<b>Cases Name</b>	<b>Complainant</b>	<b>Dispute Number</b>
*Indonesia – Certain Measures Affecting the Automobile Industry	EC Japan US	DS54 DS55 DS59
*EC – Customs Classification of Some Computer Equipment	US US	DS62 DS67
Canada – Certain Automotive Industry Measures	Japan EC	DS139 DS142
United States – Sections 301-310 of the Trade Act of 1974	EC	DS152
India – Measures Relating to Trade and Investment in the Motor Vehicle Sector	US	DS175
United States – Anti-Dumping Measures on Certain Hot-Rolled Steel Products from Japan	Japan	DS184
United States – Definitive Safeguard Measures on Imports of Steel Wire Rod and Circular Welded Carbon Quality Line Pipe	EC	DS214
United States – Continued Dumping and Subsidy Offset Act of 2000	Canada Mexico	DS234
United States – Sunset Review of Anti-Dumping Duties on Corrosion-Resistant Carbon Steel Flat Products from Japan	Japan	DS244
*United States – Definitive Safeguard Measures on Imports of Steel Wire Rod and Circular Welded Carbon Quality Line Pipe	EC Japan China Switzerland Norway New Zealand Brazil	DS248 DS249 DS252 DS253 DS254 DS258 DS259
**EC – Anti-Dumping Duties on Imports of Cotton-Type Bed Linen from India	India	DS141/RW

\* Cases for which Korea also joined consultations.

\*\* Compliance Panel

<sup>100</sup> DSU, Art.4.11.

<sup>101</sup> DSU, Art.10.2.

<sup>102</sup> DSU, Art. 17.4. Articles 10.2 and 17.4 only mention “substantial interest”, but the difference from “substantial trade interest” under Article 4.11 has not drawn much attention.

As a third party, the Korean government demonstrated primary interests in disputes related to the major industrial sectors such as automobile, steel, and computers. Korea has not yet participated as a third party in disputes regarding, *inter alia*, agricultural products, subsidy, SPS or TBT measures, services or TRIPS. Although the current practices of the WTO panels to attach most of party submissions as well as relevant documents for the proceeding to the panel reports dwindle the exclusive benefit of third party participation to secure an access to those documents, a more timely and direct participation to present its views and economic interests is still very much needed for Korea.

**<Table 7. Korea in Joint Consultation>**

<b>Cases Name</b>	<b>Complainant</b>	<b>Dispute Number</b>
Brazil – Certain Automotive Investment Measures	Japan	DS51
Brazil – Certain Measures Affecting Trade and Investment in the Automotive Sector	US	DS52
*Indonesia – Certain Measures Affecting the Automobile Industry	EC Japan US	DS54 DS55 DS59
*EC – Customs Classification of Some Computer Equipment	US US	DS62 DS67
Brazil – Measures Affecting Payment Terms for Imports	EC	DS116
US – Continued Dumping and Subsidy Offset Act of 2000	Canada & Mexico	DS234
*United States – Definitive Safeguard Measures on Imports of Steel Wire Rod and Circular Welded Carbon Quality Line Pipe	EC New Zealand Brazil	DS248 DS258 DS259

\* Cases for which Korea also joined the panel proceedings.

#### **IV. Systemic Concern for the WTO Dispute Settlement System**

Despite the overall consensus of satisfactory operation of the WTO dispute settlement system, the WTO Member countries are currently engaged in active discussion and negotiation to improve the rules and procedures concerning the dispute settlement process. In fact, a ministerial decision adopted on December 15, 1993 “invited the Ministerial Conference to complete a full review of dispute settlement rules and procedures under the World Trade Organization within four years after the entry into force of the Agreement Establishing the World Trade Organization, and to take a decision on the occasion of its first meeting after the completion of the review, whether

to continue, modify or terminate such dispute settlement rules and procedures.”<sup>103</sup> After the failure in the Seattle Ministerial Conference to complete the DSU revision, the WTO Members agreed to finish the negotiation for the DSU improvements and clarifications not later than May 2003 as a part of the Doha Round negotiation.<sup>104</sup> As of August 2002, eight WTO Members including Korea, individually or jointly, have submitted their proposals on the DSU improvement.

The formal proposal submitted by Korea concerned only about the “sequencing” problem under Articles 21.5 and 22 of the DSU.<sup>105</sup> While Korea agrees on the basic principle that a multilateral determination on the WTO-consistency of an implementation measure should precede a request for retaliation<sup>106</sup>, it suggested the organization expedite other parts of the implementation stage, especially considering the possibility of additional delay caused by appellate review procedure for compliance panel rulings.<sup>107</sup> More specifically, Korea proposed the deletion of 30 days for informing the intention to implement after the DSB adoption and also suggested concomitant determination of the level of nullification or impairment by a compliance panel.

Based on the practical experience of Korea, another obstacle for the prompt resolution of WTO disputes has been caused by a panel selection process that has demanded an increasingly longer period of time. In particular, it took much more time to select panelists when Korea engaged in a trade dispute as a complainant than it required for a dispute as a defendant, ranging from 62 to 126 days.<sup>108</sup> This problem may be addressed by the appointment of permanent panelists, for example, as proposed by the European Communities<sup>109</sup>, or by mandating specific due dates for panel selection such as within 10 days after the panel establishment.

Another systemic issue concerning the current dispute settlement procedure drawn from the Korean experience is the need to adopt an accelerated procedure for safeguard measures.<sup>110</sup> In *Korea – Dairy Products* (DS98) case, the safeguard measure

---

<sup>103</sup> Decision on the Application and Review of the Understanding on Rules and Procedures Governing the Settlement of Disputes. WTO, The Results of the Uruguay Round of Multilateral Trade Negotiations: Legal Text 465 (1994).

<sup>104</sup> Ministerial Declaration. WTO, WT/MIN(01)/DEC/1, para.30 (dated Nov. 20, 2001).

<sup>105</sup> WTO, TN/DS/W/11 (dated July 11, 2002).

<sup>106</sup> In this regard, Korea co-sponsored a concept paper on the sequencing issue. WTO, JOB(02)/45 (dated May 31, 2002).

<sup>107</sup> To date, six Article 21.5 panel rulings have been appealed and the Appellate Body made rulings on those cases.

<sup>108</sup> WTO, TN/DS/W/7, 11-13 (dated May 30, 2002).

<sup>109</sup> WTO, TN/DS/W/1 (dated March 13, 2002).

<sup>110</sup> In fact, Australia made the proposal regarding this issue. WTO, TN/DS/W/8 (dated July 8,

in the form of quota went into effect from March 7, 1997, with a duration of four years. On the other hand, the panel requested by the European Communities was established on July 22, 1998 and the subsequent panel and the Appellate Body proceeding ended on December 14, 1999. After the adoption of those reports by the DSB on January 12, 2000, the reasonable period of time for implementation was agreed to end on May 20, 2000. Hence, even with successful implementation of the DSB recommendation by repealing it, the safeguard measure had been in force for more than three years. In case both parties could not agree on the reasonable implementation period, arbitration under Article 21.3(c) would have consumed more time to further delay the deadline for the compliance. In *US – Line Pipe* (DS202) case in which Korea was a complainant, the United States imposed the safeguard duty on March 1, 2000 with a duration of three years and one day.<sup>111</sup> After the DSB adopted the panel and the Appellate Body report on March 8, 2002, both parties agreed on the reasonable period of implementation that was to expire on September 1, 2002, merely six months earlier than the original due of the safeguard measure.

This problem is indeed not unique to cases involving Korea. For example, in the *US – Wheat Gluten* (DS166) case, the actual due dates of the original safeguard measures coincided with the expiry of the reasonable period of implementation.<sup>112</sup> Therefore, the effectiveness of the WTO dispute settlement system seems seriously undermined in the context of “temporary” safeguard actions. An accelerated dispute settlement procedure, in line with those currently available for prohibited or actionable subsidy, would be able to discipline prevalent abuse of safeguard measures under the WTO system.<sup>113</sup>

## V. Concluding Comments

During the past half century, Korea achieved a remarkable economic development and has become one of the major trading countries in the world. For example, in 2000, by the statistics on merchandise trade that exclude intra-EU trade,

---

2002).

<sup>111</sup> WTO, G/SG/N/10/USA/5/Rev.1 (dated March 28, 2000).

<sup>112</sup> WTO, WT/DS166/12 (dated April 12, 2001).

<sup>113</sup> Active utilization of safeguard measures by developing countries, notably India, Chile and Czech Republic, is one of the salient features of the WTO system, in contrast with the GATT system. See Dukgeun Ahn, “WTO Safeguard System: Present and Perspective”, in Korea-China Joint Workshop Proceeding for Trade Remedy Institutions 3 (2002, in Korean).

Korea was ranked as the seventh exporter and the eighth importer in the world.<sup>114</sup> Accordingly, Korea made the thirteenth largest contribution to the budget of the WTO by providing 2.381% of the budget in 2002.<sup>115</sup> Considering its position, it is not surprising that Korea has become more active in asserting its rights under the WTO Agreements, although it initially showed a strong tendency to avoid legal confrontation with its major trading partners. In this regard, the Korean government became keener to monitor the foreign trade barriers and environment.<sup>116</sup>

From the practical aspect of dispute settlement, the Korean government has heavily relied on foreign private counsels to deal with the GATT/WTO disputes, particularly when the cases have been actually litigated at a panel or the Appellate Body level.<sup>117</sup> This situation, therefore, raised serious concern about building “in-house” expertise to deal with WTO litigation. Indeed, when the Ministry of Foreign Affairs was expanded to become the Ministry of Foreign Affairs and Trade by establishing the Office of Trade Negotiation in 1998<sup>118</sup>, a special body titled the “International Trade Law Team” was created with the mandate to provide legal support regarding the WTO Agreements and, more broadly, legal matters on international economic relations. The role of this special team in relation to handling WTO dispute settlement, however, has not been very visible so far. On the other hand, Korean experts began to join panel works more actively in recent years.<sup>119</sup>

Assessing from the experience to date, Korea appears to have been at quite a defensive side in dispute settlements. According to the statistics until the end of 2001, as shown in Appendix 1, except for Argentina, no other WTO Member country has been

---

<sup>114</sup> WTO, International Trade Statistics 2001, 22 (2001).

<sup>115</sup> WTO, Annual Report 2002, 165-167 (2002). The United States made the largest contribution by providing 15.723% of the budget. China’s contribution accounted for 2.973% in the 2002 WTO budget. *Id.*

<sup>116</sup> The Korean Ministry of Foreign Affairs and Trade began to publish “A Comprehensive Survey of the Trade Environment” since 1998. This can be viewed as a Korean version of “National Trade Estimate Report” by the USTR, but without Section 301 linkage.

<sup>117</sup> In fact, this situation is not peculiar to Korea. The legal technicality and formality of WTO dispute settlement proceedings has become increasingly complicated. Many developing countries find themselves without the proper capacity to deal with trade disputes under the WTO system. In this regard, 32 countries agreed to establish the “Advisory Centre on WTO Law”, an independent body to assist its signatories on WTO dispute settlement. The Agreement establishing the Centre entered into force on July 15, 2001 and the Centre was formally inaugurated on October 5, 2001. Korea is not yet a signatory to this Centre. *See* <<http://www.acwl.ch>>.

<sup>118</sup> The Presidential Order, No. 15710 (Feb. 28, 1998).

<sup>119</sup> As of August 2002, Korean experts were appointed as a panelist in three cases. One Korean lawyer is also working in the Legal Affairs Division. No Appellate Body Member has been elected from Korea.

so disproportionately challenged.<sup>120</sup> And yet, Korea has been fully cooperative in implementing the DSB recommendations. Thus, the overall Korean practice in terms of the WTO dispute settlement would be viewed as exemplary in its contribution to enhance the international economic order.<sup>121</sup>

---

<sup>120</sup> Until the end of 2001, Argentina was challenged in 15 cases whereas it brought only 4 cases. *See generally* Appendix 1.

<sup>121</sup> Professor Jackson raised this question to assess how the Japanese international law practice was related to the maintenance of international economic order. John H. Jackson, “Western View of Japanese International Law Practice for the Maintenance of the International Economic Order”, in Japan and International Law: Past, Present and Future 205, 208 (N. Ando ed., 1999).

**Appendix 1.**  
**Statistics on WTO Disputes by Parties (until 12.31.2001)**

<b>Members</b>	<b>Number of Cases as a Respondent</b>	<b>Number of Cases as a Complainant</b>	<b>Total</b>
Argentina	15	4	19
Australia	6	5	11
Brazil	12	17	29
Canada	11	19	30
Chile	9	6	15
Colombia	1	4	5
Costa Rica		3	3
Czech Republic	1	1	2
Ecuador	2	2	4
Egypt	2		2
European Communities	46	56	102
Guatemala	2	4	6
Honduras		4	4
Hong Kong, China		1	1
Hungary	2	3	5
India	13	13	26
Indonesia	4	2	6
Japan	12	9	21
Korea	11	6	17
Malaysia	1	1	2
Mexico	7	10	17
New Zealand	1	4	5
Nicaragua	2		2
Pakistan	2	2	4
Panama		2	2
Peru	2	2	4
Philippines	4	2	6
Poland	1	2	3
Portugal	1		1
Romania	2		2
Singapore		1	1
Slovak Republic	3		3
South Africa	1		1
Sri Lanka		1	1
Switzerland		3	3
Thailand	1	8	9
Turkey	6	1	7
Trinidad and Tobago	2		2
United States	56	69	125
Uruguay		1	1
Venezuela	1	1	2
<b>Total</b>	<b>242</b>	<b>269*</b>	

\*Note: The discrepancy between the numbers is due to the fact that, in some cases, there are multiple complainants against one respondent.

**Appendix 2.**  
**Profiles of the WTO Cases Involving Korea**

**<WTO Cases Involving Korea as Defendant>**

<b>Cases Name</b>	<b>Complainant</b>	<b>Dispute Number</b>	<b>Panelists</b>	<b>Appellate Body Division</b>	<b>Adoption Date</b>	<b>Implementation</b>
Korea - Measures Concerning the Testing and Inspection of Agricultural Products	US	DS3 & DS41				
Korea - Measures Concerning the Shelf-Life of Products	US	DS5				
Korea - Measures Concerning Bottled Water	Canada	DS20				
Korea - Laws, Regulations and Practices in the Telecommunications Procurement Sector	EC	DS40				
*Korea - Taxes on Alcoholic Beverages	EC, US	DS75 & DS84	Mr. Åke Lindén (Chairperson), Professor Frédéric Jenny, Mr. Carlos da Rocha Parahnos	Matsushita (Presiding Member), Ehlermann, Feliciano	February 17, 1999	
*Korea - Definitive Safeguard Measure on Imports of Certain Dairy Products	EC	DS98	Mr. Ole Lundby (Chairperson), Ms. Leora Blumberg, Ms. Luz Elena Reyes	El-Naggar (Presiding Member), Ehlermann, Feliciano	January 12, 2000	
*Korea - Measures Affecting Imports of Fresh, Chilled and Frozen Beef	US, Australia	DS161 & DS169	Lars Anell (Chairperson), Paul Demaret, Alan Matthews	Ehlermann (Presiding Member), Abi-Saab, Feliciano	January 10, 2001	
*Korea - Measures Affecting Government Procurement	US	DS163	Mr. Michael D. Cartland (Chairperson), Ms. Marie-Gabrielle Ineichen-Fleisch, Mr. Peter-Armin Trepte		June 19, 2000	

\* Cases for which panel reports were issued.



**<WTO Cases Involving Korea as Complainant>**

<b>Cases Name</b>	<b>Defendant</b>	<b>Dispute Number</b>	<b>Panelists</b>	<b>Appellate Body Division</b>	<b>Adoption Date</b>	<b>Implementation</b>
United States - Imposition of Anti-Dumping Duties on Imports of Color Television Receivers from Korea	US	DS89				
*United States - Anti-Dumping Duty on Dynamic Random Access Memory Semiconductors (DRAMS) of One Megabit or Above from Korea	US	DS99	Mr. Crawford Falconer (Chairperson), Mr. Meinhard Hilf, Ms. Marta Lemme		March 19, 1999	
*United States - Anti-Dumping Measures on Stainless Steel Plate in Coils and Stainless Steel Sheet and Strip from Korea	US	DS179	Mr. José Antonio S. Buencamino (Chairperson), Mr. G. Bruce Cullen, Ms. Enie Neri de Ross		February 1, 2001	
*United States - Definitive Safeguard Measures on Imports of Circular Welded Carbon Quality Line Pipe from Korea	US	DS202	Mr. Dariusz Rosati (Chairperson), Mr. Roberto Azevedo, Mr. Eduardo Bianchi	Lacarte-Muro (Presiding Member), Bacchus, Abi-Saab	March 8, 2002	
Philippines – Anti-Dumping Measures regarding Polypropylene Resins from Korea	Philippines	DS215				
United States – Continued Dumping and Subsidy Offset Act of 2000	US	DS217	Mr. Luzius Wasescha, Mr. Maamoun Abdel-Fattah, Mr. William Falconer			
United States - Definitive Safeguard Measures on Imports of Certain Steel Products	US	DS251	Mr. Stefan Johannesson, Mr. Mohan Kumar, Ms. Margaret Liang			

\* Cases for which panel reports were issued.