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# CHINA'S ANTI-DUMPING PROBLEMS AND MITIGATION THROUGH REGIONAL TRADE AGREEMENTS

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## **TABLE OF CONTENTS**

<b>iv</b>	About the Authors
<b>iv</b>	Acronyms
<b>1</b>	Executive Summary
<b>1</b>	Introduction
<b>2</b>	The Severity of AD Actions Against China
<b>4</b>	Reasons for the Severity of China's AD Problems
<b>5</b>	Use of Existing Regional Initiatives to Mitigate AD Problems as a Precedent for China's RTA Negotiation
<b>11</b>	Implications for China's RTA Bargaining Strategy Addressing Mitigation of AD Problems
<b>13</b>	Concluding Remarks
<b>14</b>	Works Cited
<b>16</b>	About CIGI
<b>16</b>	CIGI Masthead

## ABOUT THE AUTHORS



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## ACRONYMS

AD	anti-dumping
ADD	anti-dumping duty
APTA	Asia-Pacific Trade Agreement
ASEAN	Association of Southeast Asian Nations
BIT	bilateral investment treaty
EFTA	European Free Trade Association
EIA	economic integration agreement
FTA	free trade agreement
NAFTA	North American Free Trade Agreement
NME	non-market economy
PTA	preferential trade agreement
RCEP	Regional Comprehensive Economic Partnership
RTA	regional trade agreement
WTO	World Trade Organization



## EXECUTIVE SUMMARY

China has become the world's largest economy affected by anti-dumping (AD) actions. Because the current principle of consensus makes it difficult for member states to achieve alteration in the World Trade Organization (WTO) AD Agreement,<sup>1</sup> it seems that the effective way to improve AD disciplines may lie at the regional level. However, existing research rarely deals with how one country can manage to modify AD regimes through its regional trade agreements (RTAs) to improve the AD situation.

This paper seeks to begin to fill this gap by exploring opportunities for China's RTA initiatives to be used to mitigate the impact of AD actions. It starts by highlighting the severity of China's AD problems, then notes the high concentration of the share of AD actions taken by the top four and top eight AD initiators against China, and argues that AD issues should be given more weight in China's RTA strategies.

The paper argues that one party can offer a higher level of economic integration or openness in exchange for an improvement in regional AD provisions. This argument is supported by the case studies on RTAs involving the European Union, the United States and India. This paper also explores modified AD provisions in some RTAs as precedents. It discusses the effects of existing RTAs on mitigating China's AD problems, and the finding of a weak effect reconfirms the argument that China could become more active in mitigating AD problems through an RTA approach. Finally, the paper suggests that AD could have more weight in China's RTA initiatives. In order to mitigate AD problems, China could seek to obtain market economy status from intensive AD initiators at RTA levels, and also alter regional AD provisions that could be in exchange for some potential concessions.

## INTRODUCTION

This paper explores opportunities for China's RTA initiatives to mitigate its AD problems. Over the past few decades, China has become the world's largest recipient of AD actions with associated high AD duties (ADDs).<sup>2</sup> In examining China's experience of frictions in the international trading system as it has transitioned to full WTO membership, Chad Bown (2007) argues that there was no evidence that foreign actions against China via

AD had declined since its accession to WTO in 2001. Many scholars believe it is the current structure of multilateral rules on AD under the WTO that allows widespread use of AD protection. Thomas J. Prusa (2005) proposes that the Doha Development Round may have been the last chance to significantly reform AD rules. However, since the current principle of consensus in WTO makes it almost infeasible to gain unanimity among the member states that have divergent interests, it seems the effective way to improve AD disciplines may lie at regional level.

The current limited research on regional AD regimes focuses on either the divergence of regional AD regimes from the multilateral rules on the basis of their legal text (see Rey 2012), or on common characteristics of RTAs that could eliminate AD use within intra-RTA trade and their changing patterns of ADs (see Teh, Prusa and Budetta 2007; Farha 2013). Prusa and Teh (2010) and Prusa (2014) extend the scope of research on preferential trade agreements (PTAs) and discusses their AD usage trends, while Assaf Zimring (2014) uses a case study to analyze ADD levels by the United States against non-North American Free Trade Agreement (NAFTA) countries since the implementation of NAFTA. Both Prusa and Zimring find evidence that PTAs shift the burden of trade restraints onto non-members. However, existing research rarely deals with how one country can manage to modify AD regimes in its RTAs to improve the AD situation. This paper seeks to begin to fill this gap.

First, note the high concentration of the share of AD actions taken by the top four and top eight AD initiators against China, which implies that China could adopt a strategy of focusing more on AD issues in potential RTA negotiations with its major AD initiators than it does currently. Second, it is noted that China's treatment as a non-market economy (NME) by some top AD initiators and the large export growth from China contribute to its adverse AD situations. Importantly, one party can offer a higher level of economic integration or openness in exchange for an improvement in regional AD provisions. In addition, the exploration of modified AD provisions in some RTAs as precedents can shed light on China's possible future regional initiatives, and findings of a weak effect of regional AD provisions in mitigating AD actions against China by RTA members supports the position that China should make efforts to ameliorate its regional AD provisions. Finally, the paper suggests that the objectives of obtaining market economy status from intensive AD initiators and altering regional AD provisions should be included in China's RTA bargaining strategy. The paper offers initial thoughts on potential directions of concessions to be offered in exchange for amelioration in regional AD treatment.

1 This is the "Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994 (The Anti-dumping Agreement)." See [www.wto.org/english/tratop\\_e/adp\\_e/antidum2\\_e.htm](http://www.wto.org/english/tratop_e/adp_e/antidum2_e.htm).

2 This refers to the duty level against China compared with that against worldwide. For example, with regard to the top 12 initiators of AD against China, their average duty level against worldwide is 68.85 percent during the period 1995 to 2013, while the duty level against China is 102.98 percent.

**Table 1: Top 10 Recipients of AD in Terms of Aggregated Number of AD Initiations and AD Measures (1995–2013)**

Rank	Affected Economies	Aggregate AD Initiations	Share of Aggregate AD Initiations in the World (%)	Affected Economies	Aggregate AD Measures	Share of Aggregate AD Measures in the World (%)
1	China	989	21.89	China	717	24.78
2	South Korea	331	7.32	South Korea	199	6.88
3	United States	255	5.64	Chinese Taipei	162	5.60
4	Chinese Taipei	251	5.55	United States	150	5.18
5	Thailand	188	4.16	Japan	126	4.35
6	Japan	180	3.98	Thailand	121	4.18
7	India	177	3.92	Indonesia	110	3.80
8	Indonesia	177	3.92	Russia	105	3.63
9	Russian Federation	132	2.92	India	103	3.56
10	Brazil	123	2.72	Brazil	86	2.97

Data source: [www.wto.org/english/tratop\\_e/adp\\_e/adp\\_e.htm](http://www.wto.org/english/tratop_e/adp_e/adp_e.htm).

**Table 2: AD-Export Ratio in the Top 10 Affected Economies (1995–2013)**

Rank	Affected Economies	Aggregate AD Initiations Share (%)	Aggregate Export share (%)	AD-Export Ratio
1	China	21.89	8.08	2.71
2	South Korea	7.32	2.80	2.61
3	United States	5.64	9.24	0.61
4	Chinese Taipei	5.55	1.81	3.06
5	Thailand	4.16	1.14	3.66
6	Japan	3.98	5.50	0.72
7	India	3.92	1.17	3.35
7	Indonesia	3.92	0.90	4.36
9	Russian Federation	2.92	2.30	1.27
10	Brazil	2.72	1.16	2.35

Data source: Calculations based on [www.wto.org/english/tratop\\_e/adp\\_e/adp\\_e.htm](http://www.wto.org/english/tratop_e/adp_e/adp_e.htm) and <http://unctadstat.unctad.org/EN/>.

## THE SEVERITY OF AD ACTIONS AGAINST CHINA

This section sets out details of AD activities against China, focusing on the size, intensity, duty levels and concentration of main AD initiators.

### Size

Table 1 reports the top 10 recipients of AD actions, measured by the aggregated number of new initiations and measures during the period of 1995 to 2013. China is the largest recipient of both AD initiations and AD measures. In terms of the share of the aggregate cases against China in the total cases worldwide, AD initiations against China contributed to 21.89 percent of total AD filings, while AD measures against China account for 24.78 percent of total measures from 1995 to 2013.

### AD Intensity

China accounts for 11.71 percent and 10.40 percent of global exports and imports in 2013.<sup>3</sup> Because of China's large and growing share of international trade and the growing size of its economy, it is perhaps not surprising to see it being named frequently in AD filings.

A first measure of AD intensity is AD-export ratio, which is defined as an economy's share of AD cases in the world divided by its share of world exports. If an economy's AD-export ratio is above 1, it means that the economy is being affected more by AD than its share in exports (Tianshu and Prusa 2004). Table 2 reports comparisons of AD-export ratios in the top 10 AD affected economies. From 1995 to 2013, China ranks fifth with a value of 2.71, a level much higher than that in the other three of the top four large

3 Calculations based on UNCTAD international trade statistics at <http://unctadstat.unctad.org/EN/>.



**Table 3: Affirmative Ratio in the Top 10 AD Affected Economies (1995–2013)**

Rank	Affected Economies	Aggregate AD Initiations	Aggregate AD Measures	Affirmative Ratios
1	China	989	717	0.725
2	South Korea	331	199	0.601
3	United States	255	150	0.588
4	Chinese Taipei	251	162	0.645
5	Thailand	188	121	0.644
6	Japan	180	126	0.700
7	India	177	103	0.582
8	Indonesia	177	110	0.621
9	Russian Federation	132	105	0.795
10	Brazil	123	86	0.699

Data source: Calculations based on [www.wto.org/english/tratop\\_e/adp\\_e/adp\\_e.htm](http://www.wto.org/english/tratop_e/adp_e/adp_e.htm).

export economies with values less than 0.72 (including the United States, Germany<sup>4</sup> and Japan). Such a high AD-export ratio means that China is being named somewhat more intensively than other large-export economies given its trade value, but this is less than some other developing countries (such as Indonesia, Thailand and India).

Table 3 reports on another dimension of AD intensity in the top 10 affected economies in terms of affirmative ratios, defined as the number of measures divided by the number of initiations against a particular economy. According to the WTO AD Agreement, authorities only take AD measures in those cases with affirmative determination. Therefore, a higher affirmative ratio implies AD measures are taken on more share of AD initiation cases and thus the AD treatment is severe. From 1995 to 2013, 72.5 percent of all AD initiations against China received an affirmative final determination, which makes China the second-highest affirmative ratio among the top 10 AD affected economies.

### ADD Level

ADDs imposed by the top 12 initiators of AD against China are also considered. Taking the United States as an example, the average ADD during the period 1980 to 2013 amounted to 134.46 percent, the average ADD from 1995 to 2013 amounted to 145.77 percent and the average ADD during the period 2003 to 2013 was 153.08 percent. Compared with an average ADD of 54 percent imposed by the United States on Chinese exports from 1995 to 2002, it can be concluded that the duties imposed by the United States tend to be much higher than before. The

<sup>4</sup> In the calculation on the basis of WTO AD database, Germany is the twelfth recipient economy of AD investigation cases. During the period of 1995 to 2013, the share of aggregated AD initiations in the world is 2.26 percent, the aggregate world export share is 8.93 percent and the AD export intensity is 0.25.

**Table 4: ADDs in the Top 12 Initiators of AD against China (1995–2013)**

Top 12 Initiators	Aggregate AD Initiations against China (1)	Average ADD against China (2) (%)	Rank of Average ADD against China (3)	Average ADD against World Economy (4) (%)	(2)/(4)
India	161	126.52	5	89.46	1.41
United States	117	153.08	3	79.00	1.94
European Union	114	42.41	11	30.76	1.38
Argentina	90	246.21	1	121.31	2.03
Brazil	78	80.85	8	42.88	1.89
Turkey	64	57.05	9	35.33	1.61
Australia	41	48.07	10	38.09	1.26
Mexico	40	134.04	4	63.45	2.11
South Africa	38	54.44	8	47.22	1.15
Colombia	36	186.55	2	192.72	0.97
Canada	34	83.48	7	62.44	1.34
South Korea	25	23.09	12	23.58	0.98

Data source: AD initiations against China data are from [www.wto.org/english/tratop\\_e/adp\\_e/adp\\_e.htm](http://www.wto.org/english/tratop_e/adp_e/adp_e.htm); data on ADD is from Bown (2014).

comparisons of ADD in the top 12 initiators of AD against China from 1995 to 2013 are reported in Table 4. The table shows that the top five countries with the highest average ADD on China are Argentina, Colombia, the United States, Mexico and India.

In the fifth column of Table 4, the ADDs against China are divided by those imposed by each of the top 12 initiators against world. It can be inferred that, compared with their average ADD level across the world, 10 out of the top 12 AD initiators took discriminatory AD actions against China. The most severe discrimination treatments against China originated from Mexico, followed by Argentina and the United States. On the contrary, South Korea and Colombia treated China less harshly compared with other economies.

### Concentration of AD Cases against China in Terms of AD Initiators

From 1995 to 2013, there were a total of 32 countries that initiated AD investigation actions and took AD measures against China. The concentration level of AD cases initiated by China's and the world's initiators are calculated. The concentration ratios of AD cases are defined as the share of aggregate AD cases initiated by the top four or top eight initiators. As shown in Table 5, there are higher concentration levels in the AD initiations and AD measures against China than AD initiations worldwide.

**Table 5: Concentration Ratios of AD Cases Initiated by China's Initiators and World's Main Initiators (1995–2013)**

Type of Initiators	Concentration Ratios of AD Initiations (%)		Concentration Ratios of AD Measures (%)	
	Share of Aggregate Cases against China	Share of Aggregate Cases Worldwide	Share of Aggregate Cases against China	Share of Aggregate Cases Worldwide
<b>Top Four Initiators</b>	48.7	44.2	52.3	46.7
<b>Top Eight Initiators</b>	71.2	66.7	72.6	68.0

Data source: Calculations based on [www.wto.org/english/tratop\\_e/adp\\_e/adp\\_e.htm](http://www.wto.org/english/tratop_e/adp_e/adp_e.htm).

## REASONS FOR THE SEVERITY OF CHINA'S AD PROBLEMS

AD, as one of the few WTO-consistent instruments of protection, has become increasingly important in global trade. This is due to considerable discretion and vagueness surrounding the determination of dumping margins, injury and causal links in AD provisions in WTO agreements (Blonigen and Prusa 2001). There are also other factors behind the proliferation of AD actions against China.

On studying the AD filings against China during 1995–2001, Tianshu Chu and Prusa (2004) propose some likely contributing factors including NME status, easily above the low threshold for cumulation resulting from large exports, the strategic use of AD, weakness in corporate governance, the significant amount of Chinese foreign direct investment coming from the Four Asian Tigers and a low concentration ratio in Chinese industries. Since their study is based on data before 2002, some changes have taken place in China's economy, such as improvements in Chinese enterprises' corporate governance and their growing experience in taking effective legal defense against AD actions. The industry concentration level in AD-susceptible sectors such as chemicals and base metals has also increased.

Chinese scholars have conducted insightful research on this area. Xiaohua Bao (2011) argues that there exist considerable discretion and discrimination in AD measures against China taken by both developing countries and developed countries. In all, there is a widely accepted opinion among Chinese scholars that huge export growth and export surplus, China's NME status and also the low-price strategy of China's exporters contribute to a high incidence of AD cases against China with high ADDs.

## NME Status

Where economies have NME status, the WTO AD Agreement allows an investigating economy to not use the exporter's domestic prices in the determination of dumping, because a strict comparison with home market prices may not be appropriate. Importing countries have thus exercised significant discretion, by using the domestic price of other countries, in the calculation of normal value of products exported from NMEs. Being classified as an NME makes it difficult for exporting countries to defend themselves.

According to the protocol of China's 2001 accession to WTO, China agreed to be treated as an NME for another 15 years (this will expire in 2016). Because China is classified as an NME, investigators assert that Chinese domestic prices fail to reflect the true cost of inputs as determined in the markets. Therefore, investigating countries need not recognize China's major comparative advantage in international trade resulting from low labour costs and can use the domestic input prices in other countries in determining the production cost of Chinese goods. Such practices greatly increase China's risk in dumping allegations.

Among the 32 economies that have taken AD measures against China, there are now 22 countries that have already accorded market economy status to China. However, none of the top three AD initiators against China (India, the United States and the European Union) has acknowledged its market economy status, and only three out of the top eight AD initiators have accorded this status to China.

**Table 6: Comparison of AD Measures against China by Two Country Groups (1995–2013)**

Group	Number of Countries	Aggregate AD Measures	Average of AD Measures by Country
<b>Group 1:</b> Not acknowledging market economy status	10	440	44
<b>Group 2:</b> Acknowledging market economy status	22	277	12.59

Data source: The data on AD measures is from [www.wto.org/english/tratop\\_e/adp\\_e/adp\\_e.htm](http://www.wto.org/english/tratop_e/adp_e/adp_e.htm); classification of groups with different views on China's market economy status on the basis of various official news and documents released by the PBoC.

In Table 6, 32 countries are divided into two groups. The higher average value of AD measures in Group 1 partially implies that it has not yet acknowledged that China's market economy status tends to take more AD measures than the group of countries that have already granted this status to China. Thus, NME status contributes to adverse AD treatment on China's exports. In Table 4, among the top five countries with the highest average ADD, only

**Table 7: Rank of Imports from China in the AD Initiator Economies**

Rank	AD Initiators	Share from China in Its Total Imports in 2013 (%)	Rank of Imports from China in AD Initiators		
			Imports in 2001	Imports in 2013	Aggregate Imports (2002–2013)
1	India	11.4	5	1	2
2	United States	19.8	5	1	2
3	European Union	16.6	3	1	1
4	Brazil	15.6	7	2	3
5	Argentina	15.4	4	3	4
6	Australia	19.3	4	1	2
7	South Africa	15.3	6	2	2
8	Mexico	16.09	5	2	2
9	Turkey	9.81	7	3	3
10	Colombia	17.5	3	1	1
11	Canada	11.1	4	3	3
12	South Korea	16.1	4	1	1

Data source: Calculations based on <http://unctadstat.unctad.org/EN/>.

Argentina has accorded market economy status to China, which equally suggests that NME status leads to high ADD levels against China.

### Large Export Growth from China

Table 7 shows that, since China's accession to WTO in 2001, its export share has increased considerably in the import markets of top 12 AD initiators. During the period of 2002 to 2013, aggregate imports from China ranked among the top three in the top 12 AD initiators' import markets, the only exception being Argentina. The surge of China's exports in foreign markets has had detrimental effects on foreign countries' trade balance accounts and, as a result, they will resort to AD to offset such detrimental effects. For example, Daniel C. K. Chow (2014) argues that AD stems from the growth of the expanding US trade deficit with China; Chang Hwan Choia and Jae-Woo Kima (2014) find that most of India's AD measures primarily taken on Chinese products is due to the trade deficit caused by large growth in imports from China.

Moreover, Article 3 (determination of injury) of the WTO AD Agreement allows the investigating authorities to cumulatively assess the effects of such imports where imports of a product from more than one country are simultaneously subject to AD investigations. The volume of dumped imports shall be regarded as significant under one of two conditions. One is that the volume of dumped imports from a country is found to account for no less than three percent of imports of the like product in the

importing member. The alternative condition is countries that individually account for less than three percent of the imports of the like product in the importing member collectively account for more than seven percent of imports of the like product in the importing member. Therefore, under the AD Agreement, China's import market share in a particular economy can easily exceed the low threshold (Tianshu and Prusa 2004), which likely leads to high incidence of AD actions against China.

## USE OF EXISTING REGIONAL INITIATIVES TO MITIGATE AD PROBLEMS AS A PRECEDENT FOR CHINA'S RTA NEGOTIATION

### The Role of RTAs in Mitigating the AD Problem

As one of the few WTO-consistent instruments of protection, AD is part of "safeguards," without which tariff liberalization could not occur. Greg Mastel (1998) argued that dumping is driven by closed home markets. Theoretically, the primary economic objective of RTAs is to eliminate barriers to intraregional trade among members, and thus AD would finally be removed with deepening integration of RTAs. Bernard Hoekman (1998) argued that the impetus to eliminate AD remedies within RTAs is the broader push for economic integration and, relatedly, the desire to "extract concessions" from other parties to the agreement. Equally, Prusa (2014) argues that when countries can earn supernormal profits from the formation of RTAs, the barriers for intra-RTA trade will be eliminated, for they no longer need to protect their home markets, and the AD use will be limited or even prohibited. Current research, focusing on the common characteristics of RTAs eliminating the AD use within intra-RTA trade (see Teh, Prusa and Budetta 2007; Rey 2012; Farha 2013), also argues that the leading candidate to explain the abolition of AD is the depth of market integration envisioned in the RTA.

Although little research exists on the common characteristics of RTAs that restrict the use of AD, in discussing the bargaining strategy of NAFTA, in which introduction of binational review is stipulated in the regional AD regime, John Whalley (1996) pointed out that some degree of exemption from the use of AD sought by Canada was secured by implicit side payments in the form of domestic policy disciplines favourable to the United States. Such side payments can be considered as the price that makes the United States willing to make some concessions in the use of AD protection as a payback. Consequently, during RTA negotiations, one party could offer a bid with a higher level of economic integration and economic openness in exchange for an improvement in regional AD arrangements.

Not only can it be paid by provisions that eliminate or restrict the use of AD within RTAs, the supernormal profit benefitting from the integration or openness can even sometimes devalue the role of AD. For example, when deeper integration lies in the harmonization of institutions and policies, the value of AD in protecting unfair trade, resulting from the differences in competition conditions and international segmentation of markets, will decrease.

## Overall Distribution of AD Provisions in Current RTAs

On the basis of classification criteria developed by Rey (2012) in his WTO working report, three varieties of regional AD regimes in RTAs can be developed. In Category A, RTAs simply confirm or make reference to rights and obligations in the WTO's agreement on AD. Category B explicitly eliminates the use of AD measures against intra-RTA exports and Category C contains specific restrictive provisions that limit the use of AD against an RTA's partners.

**Table 8: Categories of Regional AD Provisions**

Category	Total by 10/2014		RTAs Notified to WTO by 10/2010 (Rey 2012) <sup>*</sup>		RTAs Notified to WTO between 10/2010 and 10/2014	
	Numbers	Share (%)	Numbers	Share (%)	Numbers	Share (%)
Category A	210	83.00	173	90.10	37	60.66
Category B	19	7.51	14	7.29	5	8.20
Category C	24	9.49	5	2.60	19	31.15
<b>Total</b>	<b>253</b>	<b>100</b>	<b>192</b>	<b>100</b>	<b>61</b>	<b>100</b>

Source: Classification and calculation based on Rey (2012) and <http://rtais.wto.org/UI/PublicMaintainRTAHome.aspx>.

\* Note that the result of categorization of regional AD provisions in RTAs notified to WTO by 10/2010 comes from a WTO staff working report (Rey 2012). In the report, Rey classifies RTAs into two categories. In Category A, regional AD provisions simply confirm WTO's AD provisions. In Category B, there are two sub-categories: Ba and Bb. In sub-category Ba, RTAs prohibit the use of AD at the intraregional level; while in Bb, RTAs restrict the rights of RTA parties to take AD measures. Because this paper focuses more on RTAs that constrain the rights of AD use, Category B in this paper corresponds to Category Ba in Rey's report, and Category C corresponds to Category Bb in the report. Moreover, in the report, the regional AD regime of NAFTA was listed in Category A, and this paper lists NAFTA in Category C because the creation of a binational panel in Chapter 19 of NAFTA is considered as one alteration in AD rules (as in Prusa 2014).

By comparing 253 RTAs' data notified to the WTO by 10/2014 with data ending in 10/2010 in the WTO report by Rey (2012), Table 8 demonstrates some characteristics of the regional AD regimes favoured by RTAs.

First, 83 percent of RTAs simply confirm the WTO's AD provisions, although the share tends to decline in the last four years (specifically, 10/2010 to 10/2014). Second, only

19 RTAs (7.51 percent) prohibit intraregional AD measures. Since 2010, all five RTAs<sup>5</sup> eliminating the intraregional AD measures are concluded between the European Free Trade Association (EFTA) and other countries. Such low proportions can be accounted for by the arguments that the possibility of eliminating the AD measure exists in RTAs that envision deeper integration and in which partners have rarely used AD measures against each other (Farha 2013). This suggests a low possibility for China to achieve the prohibition of AD within intra-RTA trade.

More importantly, Table 8 shows a difference from the periods before 10/2011, in that the share of the number of RTAs restricting regional AD provisions has increased considerably from its former level of 2.60 to 31.15 percent. The total number of RTAs amounted to 19 between 10/2010 and 10/2014, reflecting the prospect of mitigating AD problems. In addition, accompanied by the recently increasing use of modification in regional AD regimes, some new elements of revision are found in the newly notified RTAs' AD provisions.

With regard to stricter conditions to trigger the use of AD, the new RTAs have frequently introduced the "lesser duty" rule as mandatory to reduce the level of ADD, instead of setting up higher de minimis levels or making the "sunset review"<sup>6</sup> a shorter duration for the measures. In the AD Agreement, it is desirable that the ADD be less than the margin if a lesser duty would be adequate to remove the injury to the domestic industry. A mandate of less-duty rules in an RTA can provide a significant advantage to members, because in the event that an AD action is taken against an RTA's partners and non-partners, a lower ADD will be imposed on the RTA's partners even though the AD investigation might have found the same dumping margin against all suppliers (see Prusa 2014).

Also, the prohibition of zero is specified in some new RTAs to reduce the likelihood of the initiation of AD investigation. Zeroing is a method of calculating dumping margins, in which a negative individual dumping margin is counted as zero and only positive individual margins shall be counted while calculating dumping margin. This method will often lead to a higher margin of dumping in determination than the de minimis margin of two percent, a threshold of the determination of dumping margin in Article 5.8 of the AD Agreement. Thus, the prohibition of zero could reduce the incidence of AD initiations.

5 The five RTAs are EFTA-Albania FTA, EFTA-Hong Kong, China FTA, EFTA-Montenegro FTA, EFTA-Serbia FTA and EFTA-Ukraine FTA.

6 According to the WTO AD Agreement, AD measures must expire five years after the date of imposition, unless an investigation shows that ending the measure would lead to injury. Such five-year reviews required by the Uruguay Round Agreements Implementation Act are called "sunset reviews." In some RTAs, the duration period of a sunset review is less than five years.



Table 9: Initiatives of Regional AD Regimes in Some EU, US and Indian RTAs

EU RTAs Notified to WTO after 10/2011					
Partners	Type of Regional AD Regimes	Type of RTAs	Aggregate AD Initiations by EU against Partner (1995–2013)	Year of Entry into Force	Aggregate AD Initiations by EU against Partner after the Entry into Force
Central America	A	free trade agreement (FTA) and economic integration agreement (EIA)	1	2012	0
Colombia and Peru	A	FTA and EIA	0	2012	0
Eastern and Southern African States Interim EPA	A	FTA	0	2009	0
Georgia	A	FTA and EIA	0	2014	0
South Korea	C	FTA and EIA	28	2010	0
Papua New Guinea/Fiji	A	FTA and EIA	0	2009	0
Moldova	C	FTA and EIA	1	2014	0
Ukraine	C	FTA and EIA	14	2014	0
US RTAs Notified to WTO after 10/2011					
Partners	Type of Regional AD Regimes	Type of RTAs	Average Annual AD Initiations by US against Partner (1995–2013)	Year of Entry into Force	Average Annual AD Initiations by US against Partner after the Entry into Force
Jordan	A	FTA and EIA	0	2001	0
Oman	A	FTA and EIA	0	2009	0.2
Peru	A	FTA and EIA	0	2009	0
Australia	A	FTA and EIA	0.16	2005	0.11
Israel	A	FTA	0.27* (1985–2013)	1985	0.37
Colombia	A	FTA and EIA	0.05	2012	0
Canada (NAFTA)	C	FTA and EIA	2.12* (1979–2013),	1994	0.85
South Korea	C	FTA and EIA	2.18* (1992–2013)	2012	1.5
Mexico (NAFTA)	C	FTA and EIA	1.45* (1983–2013)	1994	1.3
Indian RTAs Notified to WTO after 10/2011					
Partners	Type of Regional AD Regimes	Type of RTAs	Average Annual AD Initiations by India against Partner (1995–2013)	Year of Entry into Force	Average Annual AD Initiations by India against Partner after the Entry into Force
Association of Southeast Asian Nations (ASEAN)	A	FTA	6.37	2010	2.75
Chile	A	PTA	0	2007	0
India	A	PTA	0	2003	0
Japan	C	FTA and EIA	1.74	2011	0.33
Malaysia	C	FTA and EIA	1.11	2011	0.67
Singapore	C	FTA and EIA	1.26	2005	0.55
South Korea	C	FTA and EIA	2.79	2010	2.25

Data source: <http://rtais.wto.org/ui/PublicAllRTAList.aspx> and Bown (2014).

Note: For the US RTAs marked with asterisks, the research period is that in the parenthesis.

**Table 10: Examples of the Economic Inducement Used in RTAs Altering AD Use**

Names of RTAs	Prospect of Economic Development
<b>EU-South Korea</b>	<ul style="list-style-type: none"> <li>• First completed agreement with the full coverage in goods and services in a new generation of FTA launched by the European Union in 2007.</li> <li>• Only a limited number of agricultural products are excluded from tariff elimination.</li> <li>• Improved market access conditions on legal, financial, transportation and telecommunications services. For example, in banking, South Korea allowed financial institutions to provide and transfer financial information and data across their borders and provide advisory services.</li> <li>• Broad cooperation in competition, government procurement, intellectual property rights and transparency in regulation to sustainable development, all of which are addressed in the European Union's RTA with the Asian economy.</li> </ul>
<b>Canada-US</b>	<ul style="list-style-type: none"> <li>• Implicit side payments in the form of domestic policy disciplines favourable to the United States, including changes in energy and investment policies and also changes in pharmaceutical protection laws.</li> </ul>
<b>South Korea-US</b>	<ul style="list-style-type: none"> <li>• Providing new market access and levelling the playing field for US auto manufacturers and workers.</li> <li>• Extensive topics covered including intellectual property, government procurement, security and competition.</li> <li>• South Korea provides meaningful market access commitment in services such as financial services. For example, financial service providers are allowed to provide all existing financial services and any new ones in South Korea through commercial presence.</li> <li>• Large-scale tariff reduction and tariff-rate quotas on a broad range of products, including agriculture products.</li> </ul>
<b>India-Malaysia</b>	<ul style="list-style-type: none"> <li>• Breadth and length coverage — including investment, intellectual property and service access — which contribute to more economic integration and development through such bilateral RTA relationships.</li> </ul>

Source: Official documents published by the Office of the United States Trade representatives; official documents of the European Commission; Whalley (1996); legal text of all the RTA agreements.

As far as modifications in procedure are concerned, none of them have established binational review commissions as in the Canada-United States Free Trade Agreement and NAFTA. New initiatives, including the establishment of joint committees and working groups and defining the time period for consultation or notification, aim to improve transparency and cooperation among RTAs' partners. All of these elements reduce the administrative discretion and make it more difficult to initiate or take AD measures. Therefore, it is believed that modifying regional AD regimes will be one feasible way for a country to mitigate its AD problems.

### Case Studies as Precedents for China's Free Trade Agreements and AD

To further discuss the role of economic integration in altering regional AD regimes and also the effects of such alterations, this paper reports on case studies of the European Union, the United States and India, the top three AD initiators against China.

Note: For the US RTAs marked with asterisks, the research period is that in the parenthesis.

In Table 9, there are a total of 10 RTAs that have modified traditional WTO AD rules. All the partners in these 10 RTAs had suffered at least once from the AD investigation initiated by the European Union, the United States or India before the signature of RTAs. Fortunately, through the restrictive regional AD regimes, their AD situation seems

to be improved with the declining trend of their annual average AD initiations following the implementation of RTAs (as in US RTAs and Indian RTAs) or with no initiation of AD investigation in the European Union's new RTAs.

Table 9 also shows that all 10 RTAs, altering AD provisions, belong to the type of EIA consistent with the prospect of economic development and integration through the RTA's partnership.

What can these benefits from economic development and integration be? Table 10 lists some examples of these benefits. By offering the benefits, South Korea, Canada and Malaysia ameliorated AD treatments in their RTAs' partnership: the benefits include offering open market access in trade, services and investment; a significant tariff reduction schedule and other broader cooperation covering competition; government procurement; intellectual property rights; and transparency (such as information exchange among RTA partners).

Table 11 lists detailed AD altering provisions in the representative's RTAs. First, there are rules that affect the likelihood of imposing ADDs. The South Korea-US and India-Malaysia RTAs prohibit zeroing in their regional AD provisions. RTA provisions that prohibit zeroing could lower the margin of dumping, and, thus, AD investigations against RTA members are more likely to be terminated. Moreover, in the EU-South Korea and South Korea-US RTAs, one article specifies that for any AD measures on goods originating from the other party



that have been terminated in the previous 12 months as a result of a review, the investigation shall not proceed, unless this pre-initiation examination of the application for the AD initiation indicates that the circumstances have changed. This provision could also reduce the likelihood of AD initiation.

Second, there are rules that decrease the ADD level, often referred to as a lesser duty rule. The India-Malaysia and South Korea-US RTAs mandate the lesser duty rule in the application of an ADD. A mandate in an RTA can ensure a lower ADD against its partners.

Third, there are rules that enhance cooperation and transparency in the application of AD actions, all of which mitigate the administrative discretion at the intra-RTA level. The best known example is the creation of regional review bodies in Chapter 19 of NAFTA, which allows a binational panel to review the final AD determination made by the authority of another NAFTA partner (Prusa 2014). Moreover, the EU-South Korea and South Korea-US RTAs improve cooperation with provisions of setting up working groups on trade remedy cooperation, and the India-Malaysia RTA specifies Article 5.12 relating to the issue of cooperation. In addition, in order to limit administrative discretion in the procedure of review resulting from the vagueness of the threshold in the determination of dumping and injury, the EU-South Korea and South Korea-US RTAs mandate the application of a de minimis threshold set out in Article 5.8 of the WTO AD Agreement (the review procedure).

The case studies here support the argument that the alteration of AD provisions could mitigate the AD problems at an intraregional level, and also that improvements in regional AD regimes could be achieved through an offer in terms of a high level of economic integration. The examples of economic inducement and the detailed modification in regional AD provisions will shed light on China's regional approach to mitigating AD problems.

### The Effects of Existing RTAs on Mitigating China's AD Problems

By October 2014, China had 19 RTAs at various stages of execution, of which 15 agreements have been signed already. With the exception of the China-Hong Kong and China-Macau RTAs,<sup>7</sup> China has not yet made any substantial modifications in regional AD regimes, although there are some alterations regarding information contact points or general mention of cooperation and notification in the China-Peru, China-Costa Rica, China-New Zealand and China-Singapore RTAs. The changing pattern of AD

<sup>7</sup> The AD use is eliminated in these two domestic RTAs.

**Table 11: Examples of Modified AD Provisions in RTAs**

Names of RTAs	Altering Points in Regional AD Regimes
<b>EU-South Korea</b>	<ul style="list-style-type: none"> <li>• De minimis standard applicable to review</li> <li>• Exemption investigation after termination resulting from a review</li> <li>• Lesser duty rule as mandatory rule</li> <li>• Setting up a working group on trade remedy cooperation</li> </ul>
<b>Canada-US (NAFTA)</b>	<ul style="list-style-type: none"> <li>• Introduction of regional review bodies</li> </ul>
<b>South Korea-US</b>	<ul style="list-style-type: none"> <li>• De minimis standard applicable to review</li> <li>• Exemption from investigation after termination</li> <li>• Prohibition of zero</li> <li>• Setting up a working group on trade remedy cooperation</li> </ul>
<b>India-Malaysia</b>	<ul style="list-style-type: none"> <li>• Lesser duty rules as mandatory rule</li> <li>• Prohibition of zero</li> <li>• Exemption from investigation after termination</li> <li>• Cooperation</li> </ul>

Source: Legal text of RTAs agreements from <http://rtais.wto.org/ui/PublicMaintainRTAHome.aspx>.

actions against China by seven RTA partners<sup>8</sup> following their implementation is analyzed here.

Have these RTAs decreased China's AD threat from its partners? Chinese research papers addressing this issue have found that RTAs have increased rather than decreased AD appeal actions brought by RTAs members against China (see Zhang and Xie 2011; He 2012). However, since these studies focus only on the number of AD investigations by RTAs' contracting members, this research fails to consider the role of the large share of imports from China resulting from intra-RTA trade creation effects in the rising AD appeal actions. The AD measure, AD intensity and ADDs are used here to re-examine the effects of RTAs on mitigating the severity of China's AD problems. Because of the difference in the year of entry into force for each

<sup>8</sup> Excluded are Australia, Hong Kong, Macau, Chinese Taipei, Switzerland, Iceland, Singapore, Philippines, Costa Rica, Chile and the other members in ASEAN and the Asia-Pacific Trade Agreement (APTA). The reasons are as follows. First, in November 2014, China concluded FTA negotiations with Australia (the full texts of these RTAs are not yet available to the public). Second, because of inadequate AD data resulting from its three-year-long history of RTAs with China, Peru is excluded. Third, four countries (Switzerland, Iceland, Costa Rica and Chile), seven countries in ASEAN (Singapore, Philippines, Laos, Cambodia, Vietnam, Brunei and Myanmar), two countries in APTA (Sri Lanka and Bangladesh), and Hong Kong and Macau seldom or never take AD actions against China. Finally, the RTA with Chinese Taipei is only a framework agreement without any regional AD regimes, so it is not the focus of this paper.

**Table 12: Pattern of AD Measures against China with the Formation of RTAs**

Time	India	South Korea	Malaysia	Thailand	Indonesia	New Zealand	Pakistan
t-3	5	1	1	0	1	0	0
t-2	8	0	0	1	1	1	1
t-1	12	0	0	0	1	1	1
t	12	1	0	0	0	0	0
t+1	5	2	0	1	0	0	1
t+2	5	1	0	1	1	1	3
t+3	10	1	0	1	0	0	1
t+4	8	1	0	1	2	0	1
t+5	9	5	0	1	1	0	0
t+6	12	1	0	4	2	*	0
t+7	9	0	2	1	0	*	*
t+8	8	0	1	0	0	*	*
Name of RTA with China	APTA	APTA	ASEAN	ASEAN	ASEAN	China-New Zealand RTA	China-Pakistan RTA
Date of Entry into Force	01/01/2002	01/01/2002	01/01/2005	01/01/2005	01/01/2005	01/10/2008	10/10/2009
Type of Regional AD Regime	A	A	A	A	A	A+ notify the contact point	A

Data source: Calculations based on Bown (2014) and <http://rtais.wto.org/UI/PublicMaintainRTAHome.aspx>.

Note: Since the RTA with New Zealand was implemented in 2008, there are no data since t+6. It is the same for Pakistan, since the year of entry into force of its RTA with China was 2007.

RTA, the year of entry into force of RTAs is defined as t, one year prior to the entry into force is set as t-1, two years before the entry into force is set as t-2, three years before the entry into force of RTAs is set as t-3, one year after the entry into force of RTAs is set as t+1, two years after is set as t+2 and so on. Table 12 indicates the changing pattern of AD measures taken by China's RTA partners before and after the entry into force of the RTAs.

As shown in Table 12, among the seven countries except New Zealand, simply confirming the WTO's AD Agreement without any modification in the ASEAN-China, APTA and China-Pakistan RTA, there seems no declining tendency of AD measures taken against China. By contrast, New Zealand, with some enhancement of transparency in the regional AD regimes with China, has seldom taken AD measures against China since the implementation of RTAs, which suggests the importance of enhanced transparency in mitigating regional AD problems.

An annual AD intensity index has also been calculated, based on the method used by Tianshu and Prusa (2004).<sup>9</sup> The calculation method is as follows:

9 In the paper by Tianshu and Prusa (2004), the denominator in this intensity measure is China's share in world imports, and this measures the overall possibility of an economy's exports being subject to ADDs. Since this paper discusses the possibility of being subject to ADDs by each RTA member with the implementation of RTAs, some alterations in calculation are made by setting the share of China's products in RTA members' import markets.

As shown in Table 13, even after the implementation of RTAs, AD intensity indices in four out of six countries with regional AD regimes of Category A are usually above one, which means that their AD measures against China are disproportionately severe compared with the increased share of China's imports resulting from the trade creation effects of RTAs. Such a high level of AD intensity after the implementation of RTAs may be due to the fact that these RTAs simply conform to the WTO AD Agreement.

Table 14 makes comparisons of country ADD levels worldwide and against China between pre- and post-RTA implementation. Table 14's six countries, with the exception of India, have acknowledged China's market economy status since 2004. ADD levels imposed on China's export by South Korea, Thailand, Indonesia and Pakistan have become higher than their ADD levels worldwide since the implementation of RTAs. Also, the average annual AD initiations against China after the implementation of RTAs are larger than those prior to the implementation in all six countries. These data underscore the argument that as the AD issue has not been given sufficient weight in China's RTAs' current objectives, and thus China has failed to modify regional AD regimes in its previous RTAs, there seems only a weak effect of regional AD provisions in mitigating China's AD problems.

**Table 13: Changing Pattern of Annual AD Intensity Index with Implementation of RTAs**

	India	South Korea	Malaysia	Thailand	Indonesia	Pakistan
t-3	3.110	1.688	2.563	0.000	2.166	none
t-2	5.266	none	none	4.167	1.069	0.822
t-1	3.177	none	none	0.000	2.226	2.558
t	2.593	0.874	none	none	none	none
t+1	1.893	0.907	none	3.148	none	2.978
t+2	3.106	2.529	none	4.233	0.831	0.964
t+3	4.337	1.690	none	8.910	0.000	0.650
t+4	2.778	0.910	none	7.855	1.994	0.962
t+5	1.836	1.887	none	3.762	2.194	N/A
t+6	2.064	1.132	none	2.299	2.172	N/A
t+7	2.378	none	1.200	1.340	none	N/A
t+8	1.596	none	0.763	none	none	N/A

Data source: Calculations based on Bown (2014) and [http://unctadstat.unctad.org/wds/ReportFolders/reportFolders.aspx?sRF\\_ActivePath=p,15912&sRF\\_Expanded=p,15912](http://unctadstat.unctad.org/wds/ReportFolders/reportFolders.aspx?sRF_ActivePath=p,15912&sRF_Expanded=p,15912).

**Table 14: AD Actions against China**

Country	Period	ADD			Average Annual AD Initiations against China
		Against World (%)	Against China (%)	China/World	
India	1995–2001	101.16	121.94	1.21	6.43
	Since 2002	80.93	128.40	1.59	9.33
South Korea	1995–2001	33.38	33.30	0.997	1.00
	Since 2002	16.82	18.32	1.09	1.58
Malaysia	1995–2004	47.95	186.00	3.88	0.10
	Since 2005	19.70	15.78	0.80	0.44
Thailand	1995–2004	44.03	32.96	0.75	0.20
	Since 2005	39.91	42.50	1.06	1.67
Indonesia	1995–2004	31.83	22.02	0.77	0.50
	Since 2005	29.87	34.57	1.16	0.67
Pakistan	1995–2009	20.29	13.96	0.69	0.40
	Since 2009	26.21	34.48	1.32	1.25

Data source: Calculations based on Bown (2014).

## IMPLICATIONS FOR CHINA'S RTA BARGAINING STRATEGY ADDRESSING MITIGATION OF AD PROBLEMS

The higher concentration in the AD actions taken by the top four and top eight AD initiators against China are highlighted, rather than those by the top AD initiators worldwide. The more RTAs one country implements, from which China is excluded, the higher the incidence of AD cases against China this country will initiate (Wang and Xie 2009). It is believed that the “protection diversion” effects of RTAs, as argued by Jagdish Bhagwati (1993) and Bown (2007), exist in RTAs with China's AD initiators as parties. Among the top eight initiators of AD activities against

China, China has only concluded substantive negotiations on a bilateral FTA with Australia in November 2014. Therefore, if China has been excluded from the RTAs with the top initiators as parties to them, its AD problems will further intensify. In order to avoid the protection diversion of RTAs, this paper suggests that China should put more weight on mitigating AD problems in its RTA initiatives with the major AD initiators.

China has overriding objectives of maintaining its growth, and to do that, it has to tackle problems related to increasing size of export and export growth. Therefore, in China's future RTA initiatives, it needs to broaden negotiations to include the incentive to improve AD arrangements. The earlier analysis in this paper on the role of RTAs in lessening AD problems emphasizes the concessions that might be paid as a price from one partner to the other to address the amelioration of AD matters. Consequently, China should make concessions and put forward an attractive bid package in exchange for better AD treatment. In terms of overall bid packages made by China, there are a series of objectives that now should include AD. In relieving AD problems, China could first attempt to obtain the market economy status, accorded by intensive AD countries including India, the United States and the European Union, through regional or bilateral negotiation. Although China's NME status agreed to in its WTO accession negotiation is set to expire in 2015,<sup>10</sup> other

10 This 2015 expiration does not mean that individual countries cannot deem China to be an NME domestically in their legislation. The provision in the WTO does not say that China will get market economy status automatically. Many scholars and legal experts argue that it is only a specific provision of Article 15 that will cease to apply, while the other parts will continue to apply. As Karel De Gucht, the EU commissioner for trade from February 2010 to October 31, 2014, stated, “whether China is or is not a market economy is a technical question under EU law.” See [www.voxeu.org/article/china-market-economy](http://www.voxeu.org/article/china-market-economy).

possibilities exist for proposals in RTA negotiation, since there seems to be only a weak effect of current regional AD provisions in mitigating China's AD situations. Therefore, in the long run, China needs to focus more on AD in its potential negotiations with intensive AD users such as the United States, the European Union, India, Argentina and Brazil, or in the negotiations on upgrading the existing RTAs, and China's overall bid could contain some attractive terms in exchange for AD provisions with higher transparency and low discretion in RTA negotiations.

When it comes to negotiations with developed countries, the United States and the European Union, which rank among the top three AD initiators against China, need to receive considerable attention. China has a strong interest in including the incentive to improve its AD treatment with other long-term objectives in its potential RTA negotiations with these states. Modification in the regional AD provisions could be a *de minimis* standard applicable to review lesser duty rule as a mandate, the prohibition of zeroing and setting up a working group on trade remedy cooperation (as in the EU-South Korea and South Korea-US RTA).

While currently excluded from Trans-Pacific Partnership or Transatlantic Trade and Investment Partnership negotiations, China might also partially mitigate its AD problems by negotiation in the China-US bilateral investment treaty (BIT) that has already finished its fourteenth round, or in the China-EU BIT, which has completed its third round. Increasing economic and political popularity of AD against China taken by the United States and the European Union stem from their weakened economic growth, trade deficits from China and China's inadequate demand of their products (Davis 2009). A BIT could serve as one way to lessen China's AD actions taken by these states, by significantly increasing reciprocal flows of foreign direct investment in both parties, and level the playing field for US and EU companies by opening many Chinese sectors. This is consistent with the argument made by Chow (2014) that a BIT will allow China to evade or mitigate the effects of border measures imposed by the United States on imported goods from China.

But to make gains in ameliorating traditional AD provisions along with other motives of sustainable economic development, fostering new advantages in leading international economic cooperation and promoting reform through "opening up"<sup>11</sup> in future RTA negotiations with the United States and the European Union, China needs to offer more comprehensive bid packages in terms of

economic integration. The overall offering package might include government procurement, further progressive opening of service industries and cooperation on environment protection. These three areas are listed within the ambitious agenda in the Trans-Pacific Partnership negotiation led by the United States and also receive considerable attention in EU-China bilateral economic relations in the European Union's 2020 strategy published by the European Commission. China could also pay a price in a bid of improvement in the formation mechanism of renminbi exchange rate on which the United States and the European Union have always exerted strong pressure. The overall bid package, containing these areas, is consistent with China's economic development mission,<sup>12</sup> which will make such concessions more acceptable.

With regard to frequent AD users from developing countries such as India, Argentina and Brazil, their proliferation of AD protection against China's exports stem from the fact that their products with comparative advantage overlap to a large degree with China's comparative advantage products. This results from many similarities between China and other developing countries in terms of factor abundance, the country's development path and its position in the global value chain. Therefore, a bid package with the aim of boosting their economic development can play a role in mitigating their AD actions against China.

At present, China is actively pursuing strategic analysis of a free trade area of the Asia-Pacific, as well as being an active participator in the negotiations on upgrading the ASEAN 10 + 1 (which is China + ASEAN) and the Regional Comprehensive Economic Partnership (RCEP). Considering the weak mitigating effects of AD protection by ASEAN against China due to China's failure to modify its regional AD regimes in the China-ASEAN RTA, China should include the improvement of AD situations as an incentive, along with the motives of promoting further economic cooperation and integration during the following upgrade negotiations. These attractive bids may be in the area of opening service sectors, because of the limited openness level by China's commitments in the current ASEAN-China RTA (Yuan and Wang 2014). In addition, China has already launched construction of its Silk Road

11 See the first paragraph of the Section VII, "Building a New Open Economic System," of The Decision on Major Issues Concerning Comprehensively Deepening Reforms, published by the Central Committee of the Communist Party of China, January 17, 2014. See [www.china.org.cn/china/third\\_plenary\\_session/2013-11/16/content\\_30620736.htm](http://www.china.org.cn/china/third_plenary_session/2013-11/16/content_30620736.htm).

12 According to The Decision on Major Issues Concerning Comprehensively Deepening Reforms, in the task of "building a new open economic system," China "will promote the orderly opening up of finance, education, culture, healthcare and other service sectors," and "will reform the management systems of market access, customs oversight, inspection and quarantine, and others, and accelerate negotiations on environmental protection, investment protection, government procurement, e-commerce and other such new fields, so as to form a global, high-standard network of free trade zones." In the task of "improving the financial market," China "will improve the mechanism for market-based Renminbi exchange rate formation, and promote the opening of the capital market in both directions." See [www.china.org.cn/china/third\\_plenary\\_session/2013-11/16/content\\_30620736.htm](http://www.china.org.cn/china/third_plenary_session/2013-11/16/content_30620736.htm).



Economic Belt and the 21st Century Maritime Silk Route Economic Belt to enhance connectivity and accessibility.

Similarly, China should seek balance between the incentives of restricting AD use and promoting economic development in its RTA bargaining with India. The restrictive AD visions might include the prohibition of zero, less-duty rules as mandate and cooperation (as in the India-Malaysia RTA), as China and India finalized a report on the feasibility of RTA in 2007. India is one of the members in the RCEP. In the RTA negotiations with India, an overall bid package with a higher level of economic inducements could contain an offer in improvements of accessibility and connectivity of the markets in sectors such as railway infrastructure, further opening up of service sectors and expansion of duty-free goods categories. China should also take into consideration the improvement of AD situations in its future RTAs with major AD initiators in South America such as Argentina, Brazil, Mexico and Colombia.<sup>13</sup>

## CONCLUDING REMARKS

The severity of China's AD problems — the largest economy as a recipient of both AD initiations and AD measures, its high AD intensity and very high ADD level — is highlighted in this paper. There is a much higher concentration in the AD actions taken by the top four and top eight AD initiators against China than those by top AD initiators worldwide, while China has only one out of the top eight initiators as an RTA partner. Because of the protection diversion of RTAs, it is suggested that an incentive to improve AD treatment could be included in China's potential RTA negotiations with its major AD initiators.

Current research deals little with how RTAs can succeed in mitigating AD problems at the intra-RTA level. By synthesizing the literature on the objectives of AD and those of RTAs, this paper argues that during RTA negotiations, one party can offer a bid with a higher level of economic integration and economic openness in exchange for a kind of improvement in regional AD matters. Of the two regional AD provisions aimed at mitigating AD protection at the intra-RTA level, it is suggested that for China, regional provisions restricting AD protection are more feasible than those prohibiting AD use.

This paper differs from studies on PTAs and AD by Prusa (2014) and Zimring (2014), who focus on the case of NAFTA, by using case studies on RTAs involving the European Union, the United States and India and focusing on the features of their regional AD provisions, as well as their

AD usage patterns prior to and after the implementation of RTAs. The analysis here supports the argument that the impetus of economic integration can alter AD provisions in their RTAs and also the effect of such alterations can motivate China's regional approach to mitigating AD problems.

The effects of existing RTAs on mitigating China's AD problems are discussed, and it is noted that the AD issue has been given little weight in the negotiation of China's previous RTAs. Any substantial modifications have yet to be made in the regional AD regimes concluded by China with foreign countries, and there seems to be a weak role for current RTAs in mitigating China's AD problems. Therefore, China could become more active in mitigating AD problems by directly seeking alterations in regional AD provisions.

A possible bargaining strategy for China to mitigate the AD situation is through RTAs, which provide a feasible platform for China to ameliorate its AD situation. In terms of overall bid packages, there is a series of objectives that should include the amelioration of AD treatment. China could first obtain market economy status, accorded by intensive AD countries, including India, the United States and the European Union. At the same time, China could place more weight on addressing AD issues in the RTA negotiations with intensive AD users or upgrading of existing RTAs, and offer attractive bids to exchange for AD provisions with higher transparency and low discretion.

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13 In fact, according to a press release published by China's Ministry of Commerce, the China-Columbia RTA has already been included in the list of "under consideration." See <http://fta.mofcom.gov.cn/english/index.shtml>.

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