



**Asia-Pacific
Economic Cooperation**

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Implementation of Safeguards and Transitional Safeguards for Developing and Developed Economies in APEC Region

Submitted by: ESCAP



**Workshop on Provisions of Regional Trade
Agreements and Free Trade Agreements in the
Asia-Pacific Region Concerning Safeguards,
Including Transitional Safeguards
Surabaya, Indonesia
10-11 June 2014**

APEC WORKSHOP ON PROVISIONS OF RTAs/FTAs IN THE ASIA-PACIFIC REGION CONCERNING SAFEGUARDS, INCLUDING TRANSITIONAL SAFEGUARDS

Session 2

Implementation of safeguards and transitional safeguards for developing and developed economies in APEC region

Comments by

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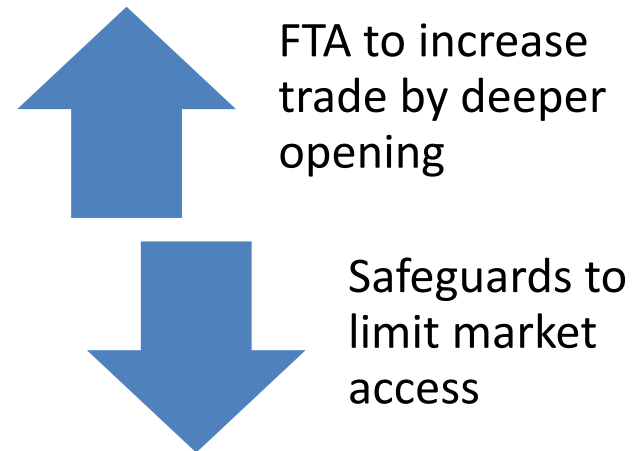
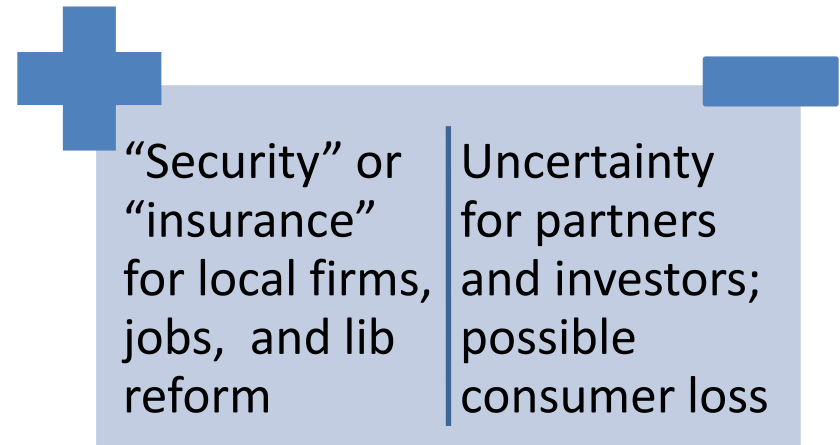
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10-11 June 2014, Surabaya, Indonesia

Important to keep in mind

- That safeguards - sort of insurance giving confidence to liberalizing Economies that they will be able to pull back
- In the same context, shield from a priori interest groups' pressures and thus protecting a broader liberalization effort
- Bottom line is not to abuse the provisions because already by their existence they increase uncertainty about the terms of market access



This set of comments focus on

- Some numbers of use of SGs by Asian economies
- Features of bilateral SGs in Asia-Pacific PTAs
- Should there be a simpler way to use safeguards for LDCs /DingC viz proliferation and abuse?
 - LDCs and legislation on trade remedies (should it be made part of WTO accession supported by AfT?)
- UN role in capacity building of human resources to operate safeguards in a WTO consistent manner

“Safeguards” defined

- Safeguards are one out of WTO-consistent three groups of trade remedies or trade defence measures
- As per “Dictionary of Trade Policy Terms” - Safeguards refers to “temporary measures designed to slow imports to enable a particular industry to adjust to heightened competition from foreign suppliers”
- Normally ‘safeguards’ refers to action taken under GATT Article XIX (Emergency Action on Imports of Particular Products) and WTO Safeguard Agreement
- Safeguard action also possible under Art. XII (to Safeguard the Balance-of-Payments)

How safeguards differ from other defence measures?

Differ from AD/CVD:

- Do not require evidence on “unfair” practice (hence no requirement to determine Normal Value or subsidy)
- To be taken on MFN basis (except for Developing Economies having 3%-9% trade share)
- “Have to” compensate trading partners when taken
- Can take the form of additional duty or tariff rate quota
- Should be in public interest
- Adjustment required by domestic industry
- Domestic producer’s coverage wider-like or directly competitive products

SOME NUMBERS OF USE OF SAFEGUARDS

Figure 8: Summary of safeguard investigations by year (for all members)

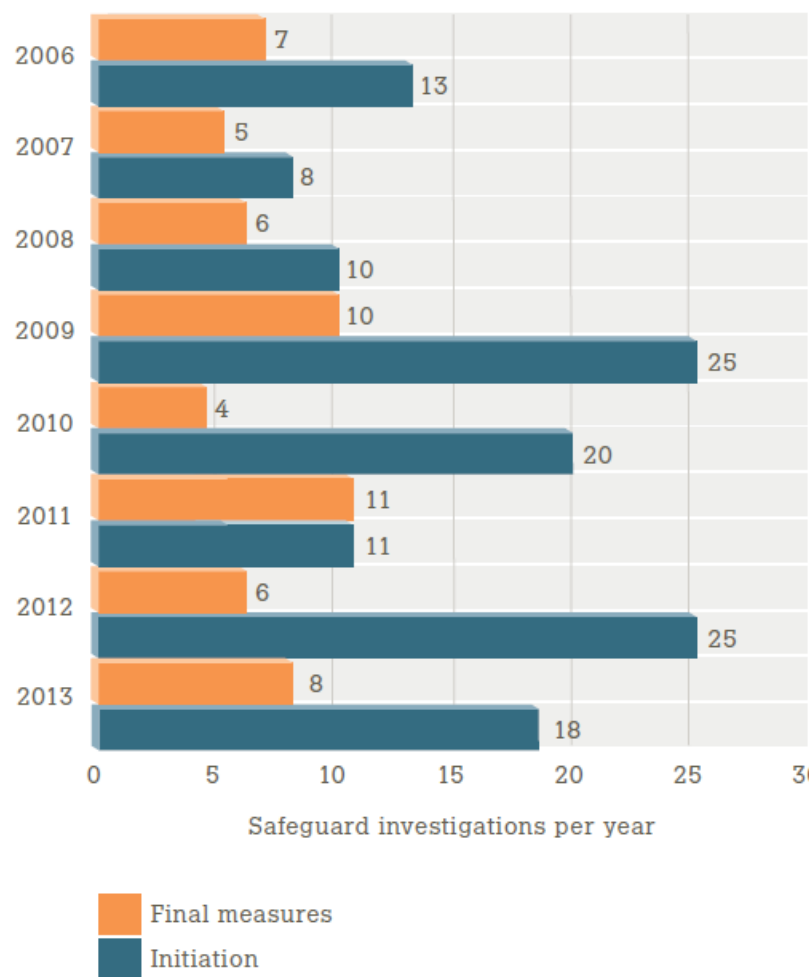
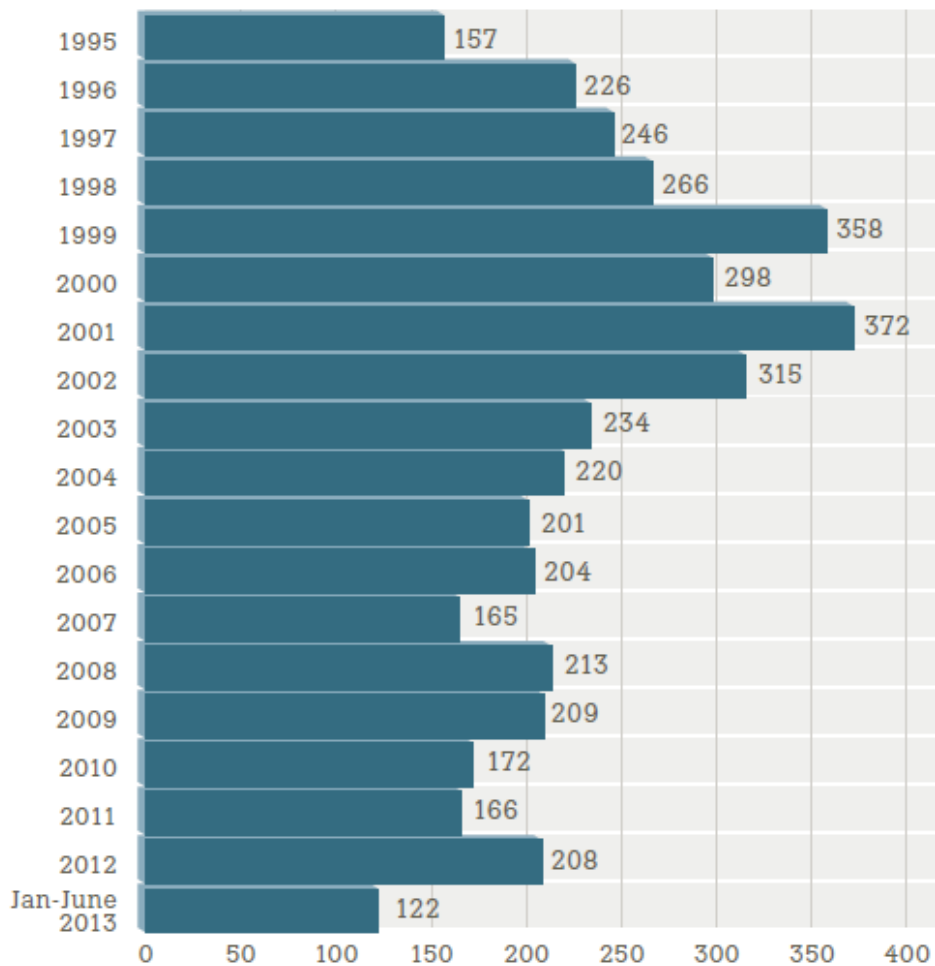
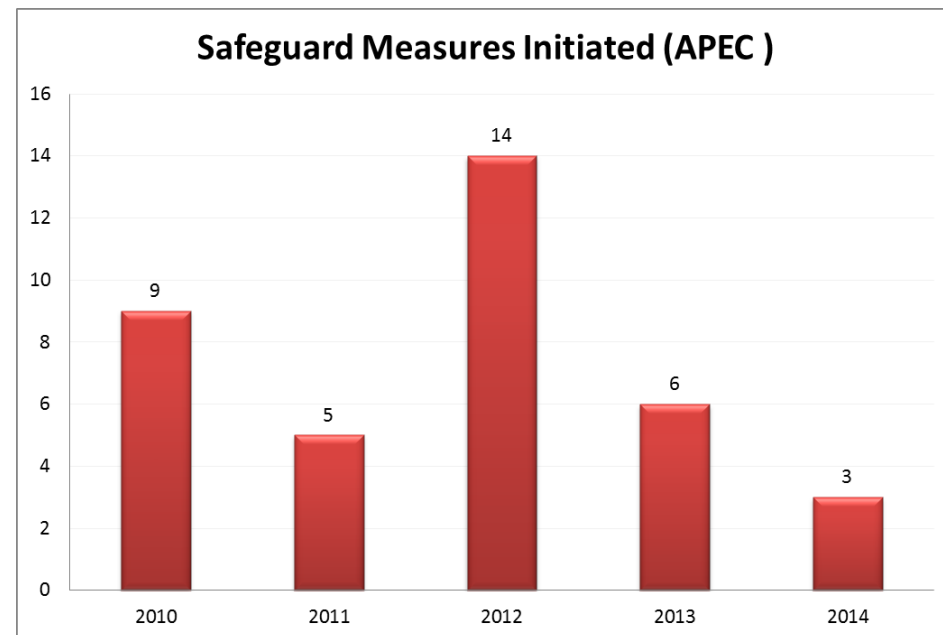
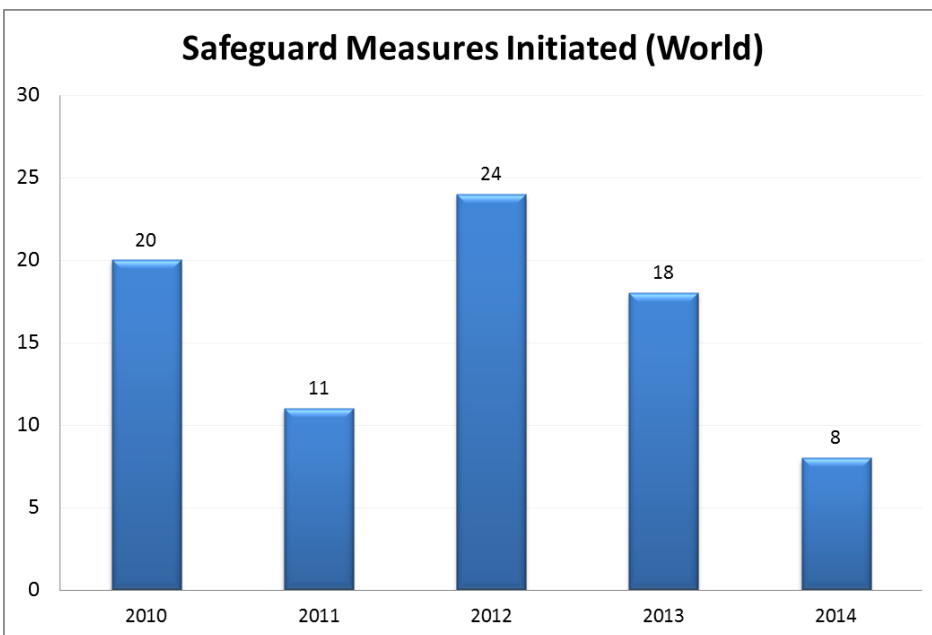


Figure 7: Anti-dumping initiations by reporting member, 1 January 1995 to end-June 2013*



*Figure 7 covers initiations up to the end of June 2013.

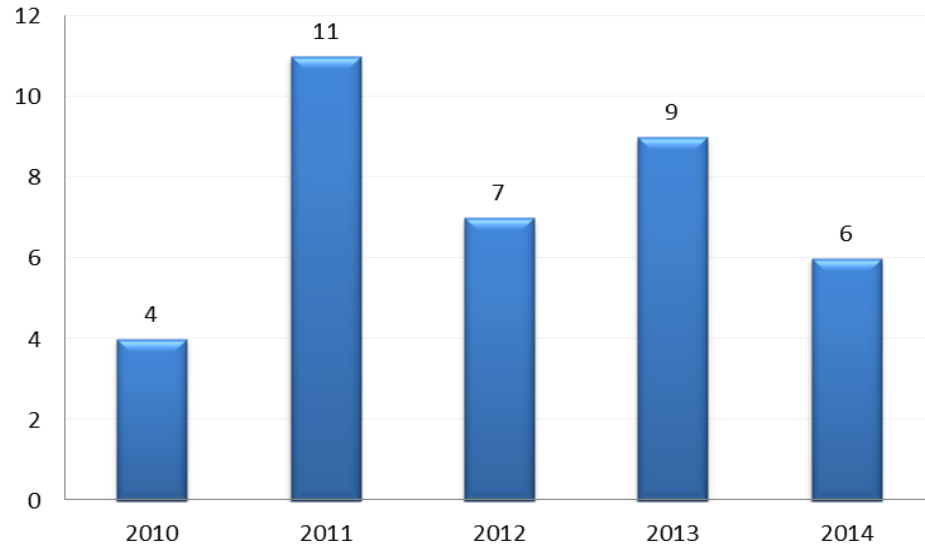
Safeguard measures initiated



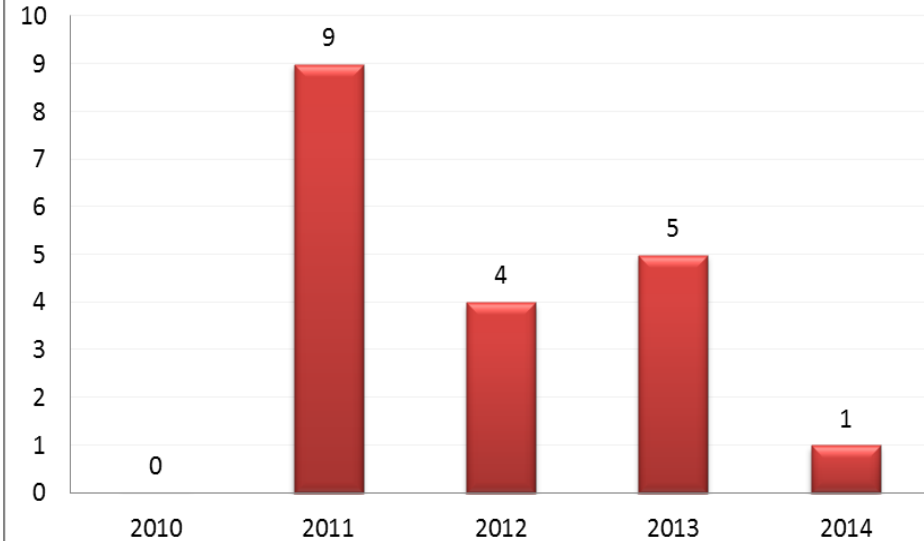
Based on i-TIP, accessed 5 June 2014

Safeguard measures in force

Safeguard Measures In Force (World)

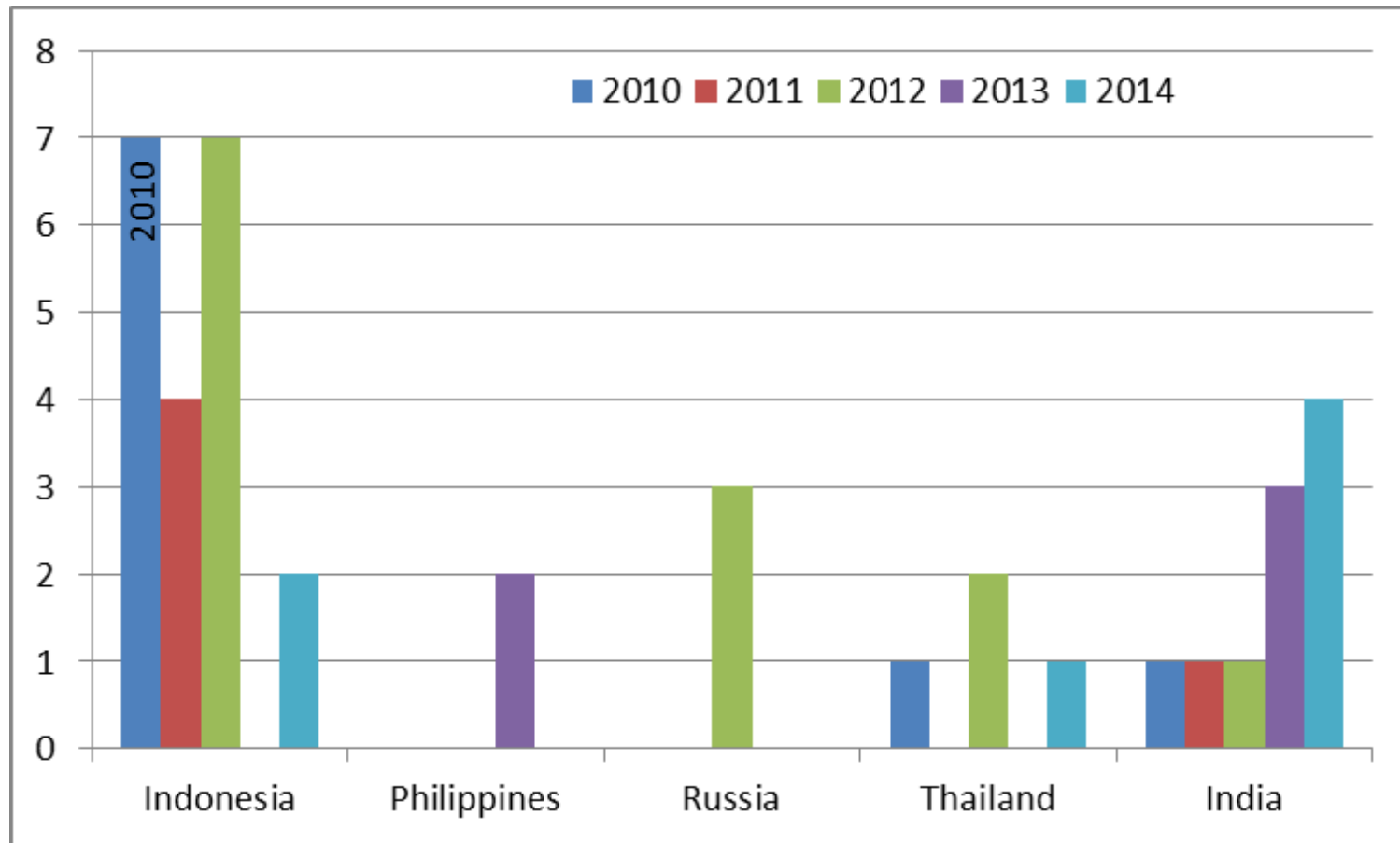


Safeguard Measures in Force (APEC)



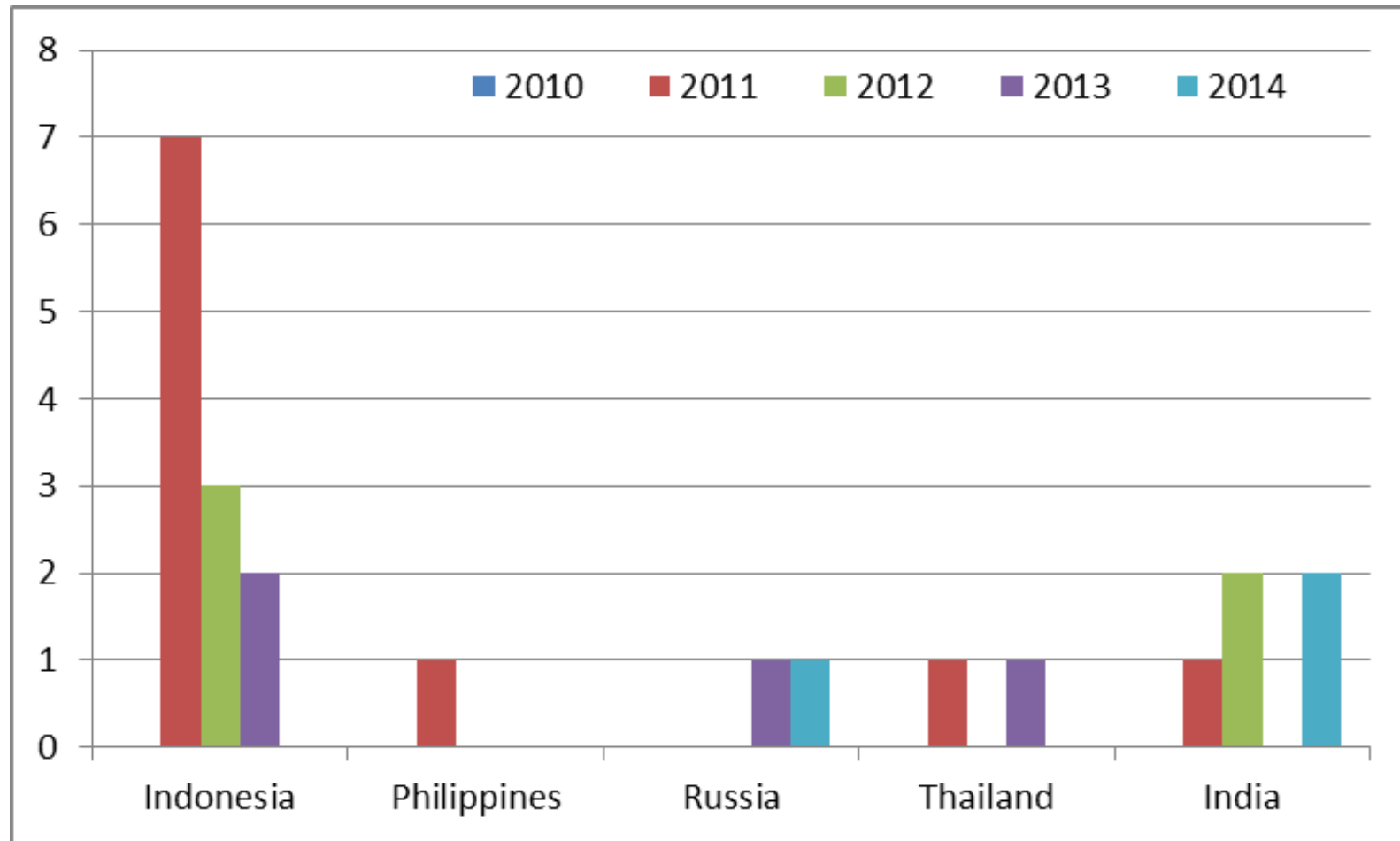
Based on i-TIP, accessed 5 June 2014

Initiations, by Asian Economy



Based on i-TIP, accessed 5 June 2014

Measures in force, by Economy

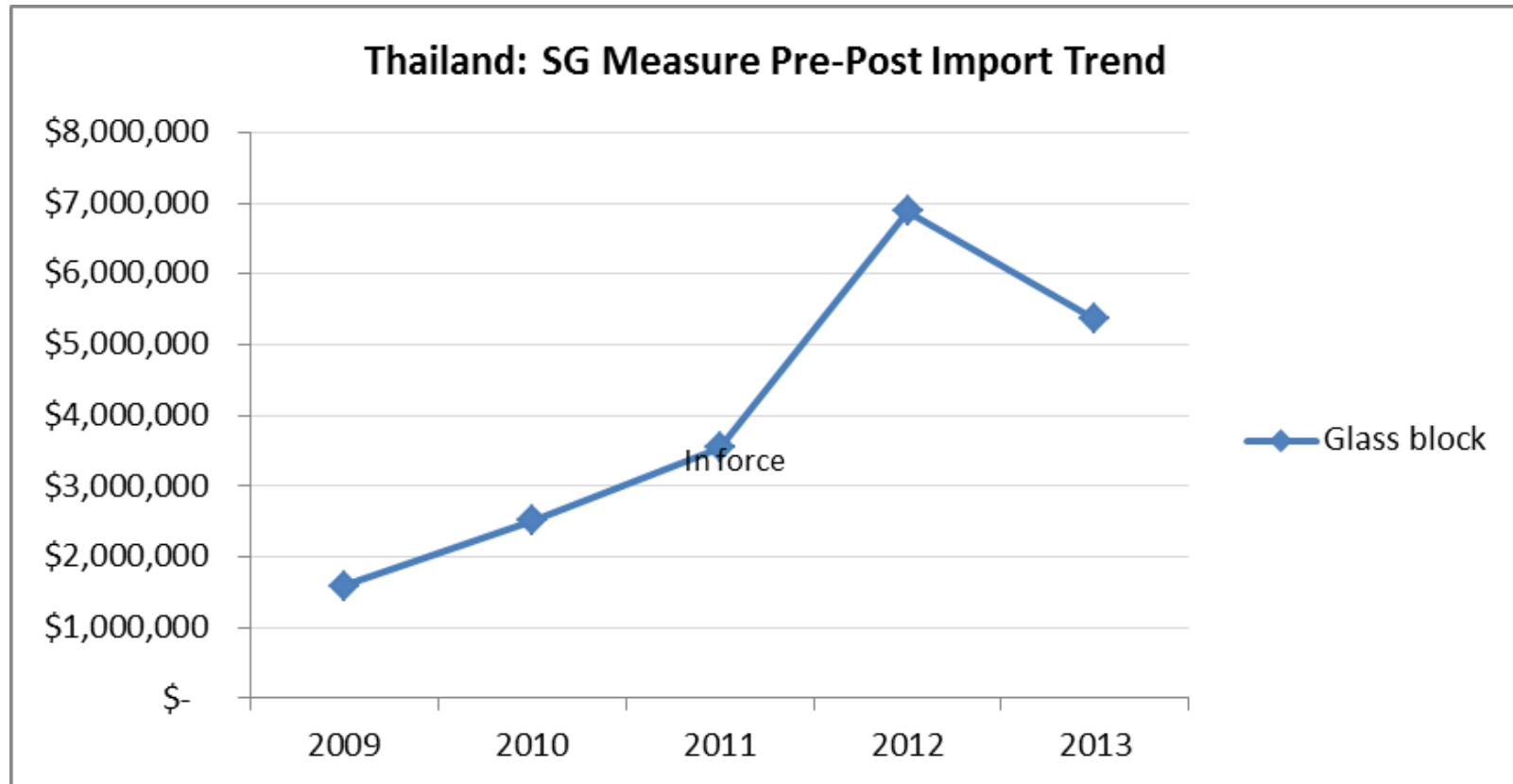


Based on i-TIP, accessed 5 June 2014

Products, type of measures and impacts

- Products come from a variety of sectors
- Measures are mostly additional tariffs ad valorem (some specific) and few TRQs
- Impacts 1 - in terms on imports at home

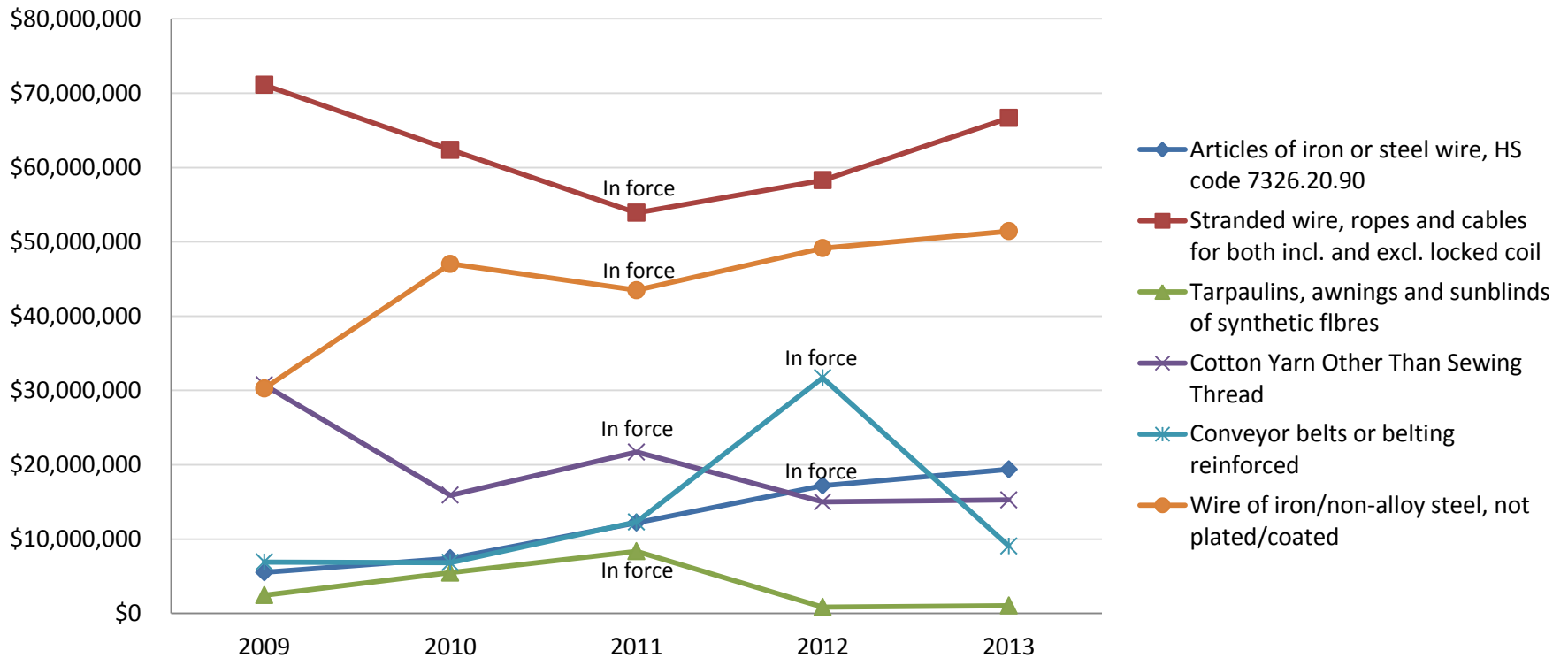
Thailand



Based on i-TIP, accessed 5 June 2014

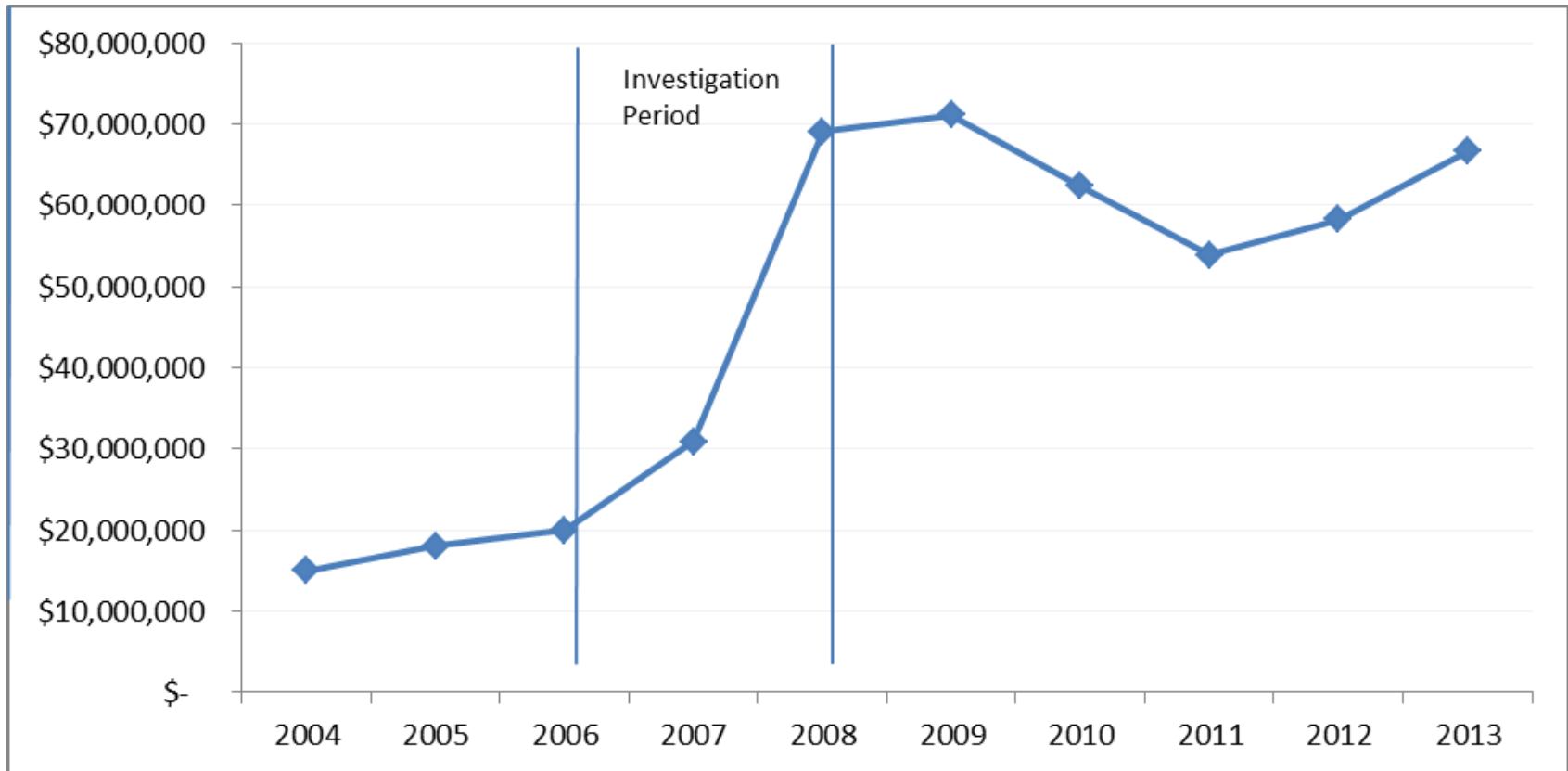
Indonesia

Indonesia: SG Measure Pre-Post Import Trend

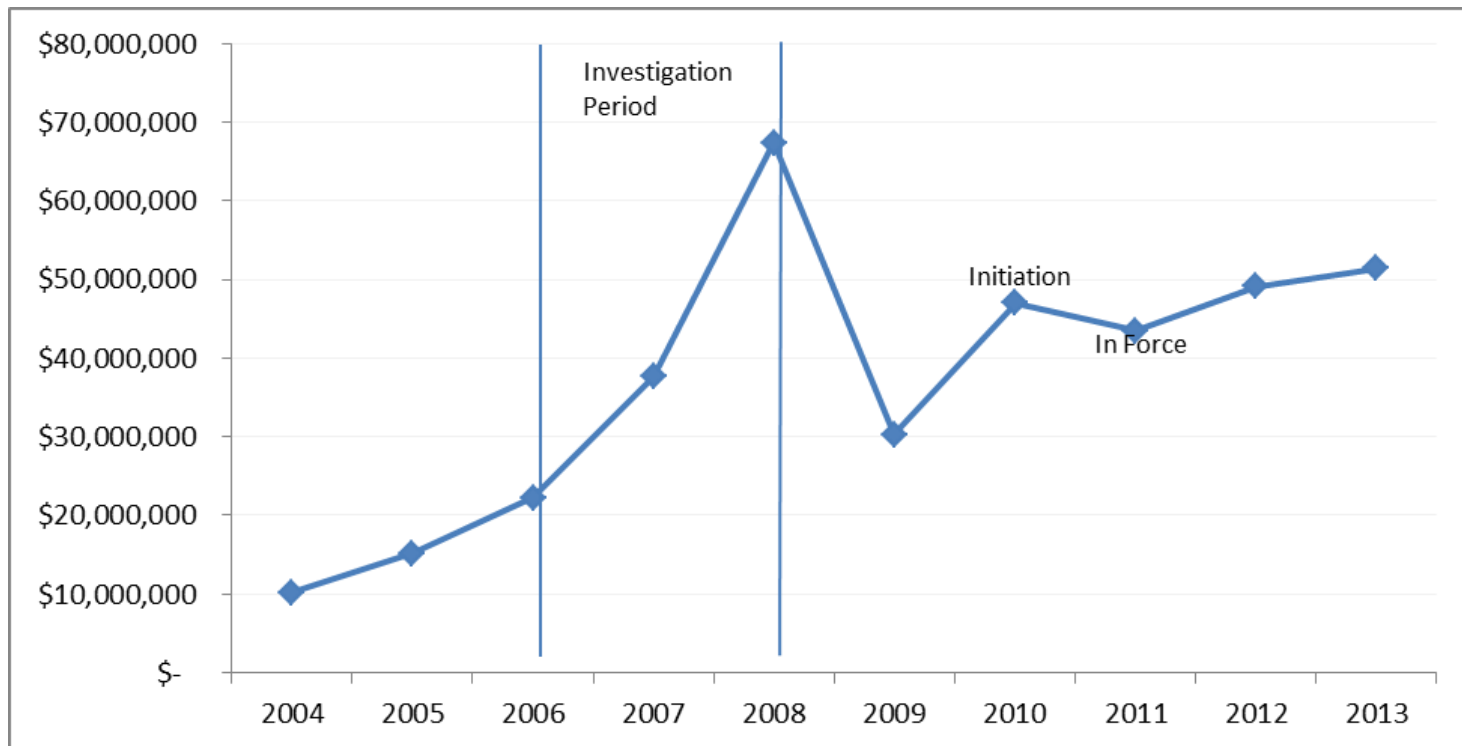


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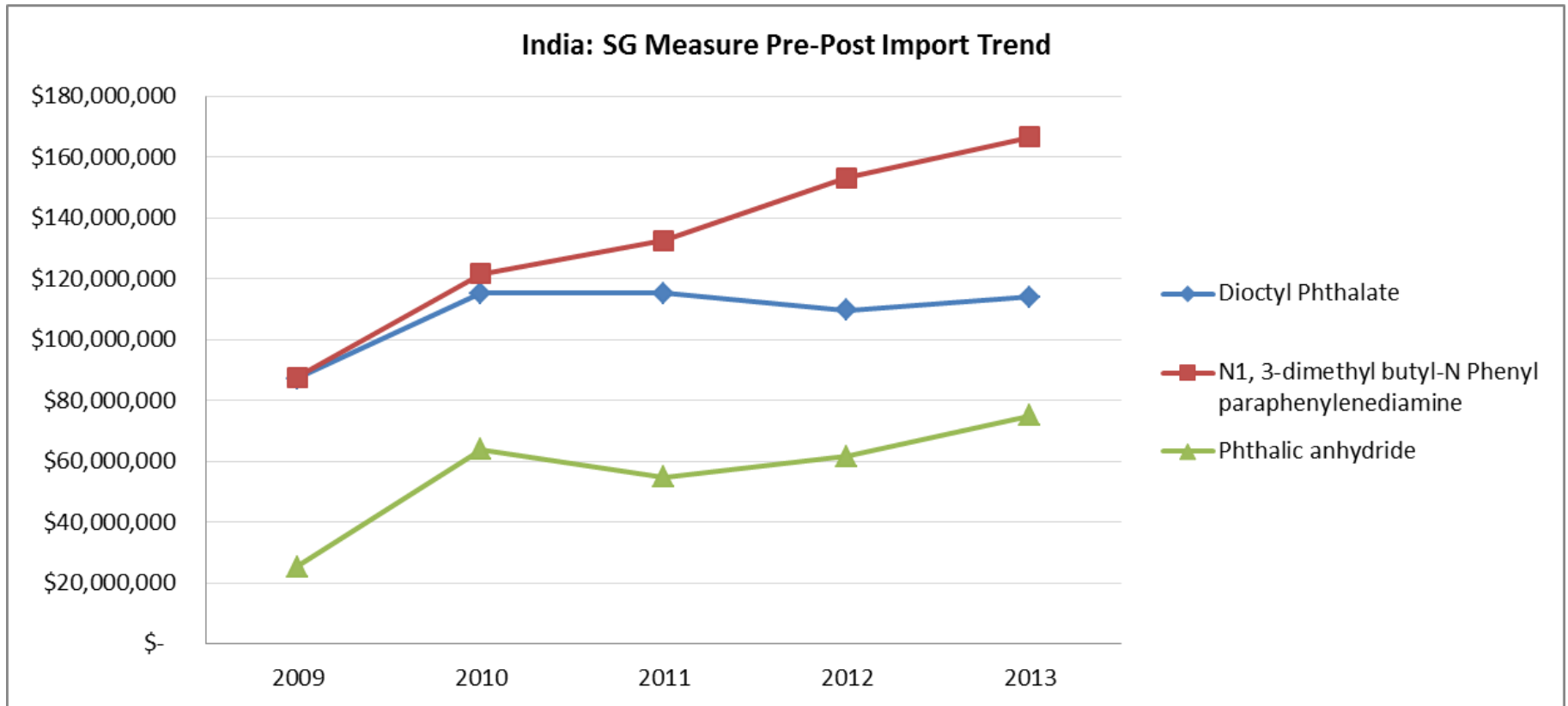
Stranded wire



Wire of iron



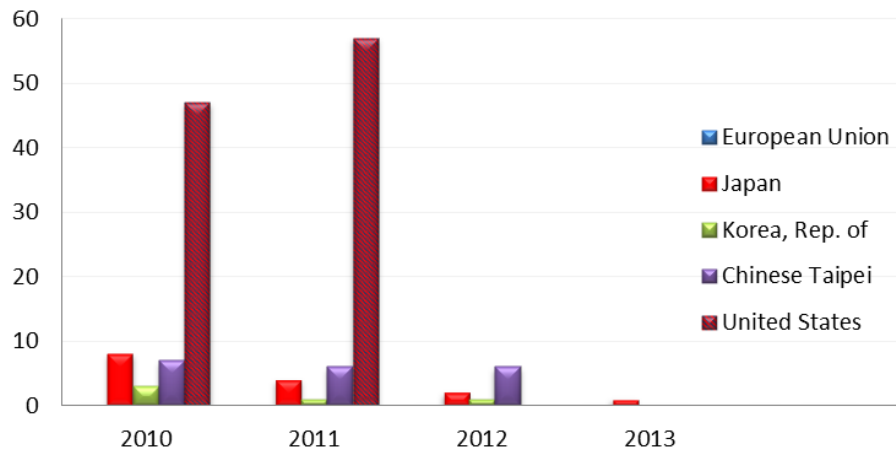
India



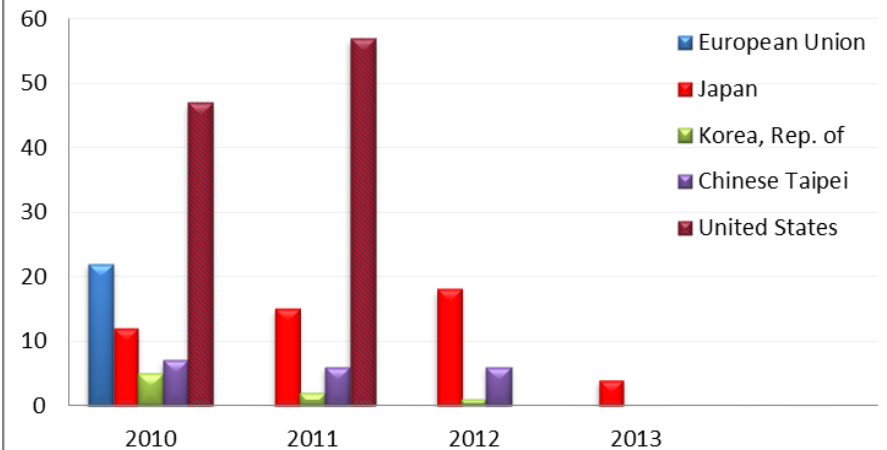
Based on i-TIP, accessed 5 June 2014

Special safeguards

Special Safeguard Measures in Force



Special Safeguard Measures Initiated



Based on i-TIP, accessed 5 June 2014

Other issues

- Impact 2 - in terms of compensation
- National and global cost-benefit?
- What about “protection diversion”?
 - 44 cases in dispute settlement cite SA
 - intra-LA
 - Intra-Europe
 - Intra APEC
 - India

SAFEGUARD PROVISIONS IN ASIA-PACIFIC PREFERENTIAL TRADE AGREEMENTS

Safeguards and PTAs

- As per WTO discipline - safeguard action is to be taken on a multilateral basis and the remedy is in form of additional duty (over and above the applied rate of duties)
- However, some PTAs disallow use of safeguards
- Where allowed, the preferential safeguards measures vary according to the rules provided in each agreement. Where applicable it is in the form of partial/full withdrawal of tariff concessions (snap back), usually during the transition period of tariff liberalisation.

Safeguards in Asia-Pacific PTAs

- In Asia-Pacific PTAs, the provisions relating to Safeguard vary and the rules are not harmonised:
 - PTAs allow for global safeguards to be taken as per WTO rules on multilateral basis.
 - Some PTAs disallow any safeguard action (both the global as per WTO as well as preferential)
 - Some PTAs stipulate only WTO SG and preferential SG actions cannot be taken for surge in imports due to tariff concessions.
 - Others allow both types of safeguard actions to be taken depending on the nature of imports.

Reference to WTO rules on GS

- Some Economies in their PTAs retain their rights to take global safeguard action as prescribed under WTO SA and GATT Article XIX:
 - ASEAN
 - Australia
 - New Zealand
 - China
 - India
 - Malaysia
 - Pakistan
 - Republic of Korea
 - Turkey, etc.

Some PTA do not allow SG

- The Singapore-New Zealand, Singapore-Australia, EFTA-Hong Kong, China agreements provide that parties will not initiate global safeguard action. The imports are excluded from SG actions.
- Some PTAs also prescribe that imports from the PTA partners will be excluded from global safeguard actions if imports are not a substantial cause for serious injury or threat thereof. (Singapore India, India RoK, Australia Thailand, US's PTAs with Australia, Columbia, Israel, RoK etc.)
- ATIGA does not prescribe for preferential safeguard measures. It only prescribes for global safeguard measures to be taken on multilateral basis.

Bilateral Safeguards

- Majority of the PTAs in Asia-Pacific allow safeguard actions:
 - Due to balance of payment issues
 - Surge in imports due to preferential tariff causing serious injury
- Protection for infant industry as well as special SG for agricultural goods have also been provided. (RoK – Chile, EU – Chile, EU – Andorra etc.)

Bilateral Safeguards

- Most of the PTAs allow for suspension of tariff concessions (snap back) – partial or full, depending on the nature of injury and imports.
- China, India, RoK follow this approach in their PTAs.
- The PTA safeguard do not allow the duties to go beyond the applied rate of duty at any given point of time.
- In some PTAs the provisions of *de minimis* have been observed: ASEAN's PTAs with ANZ, China, RoK, India; India – RoK; China – Singapore etc.

Bilateral Safeguards

- In some PTAs provisions relating to provisional or emergency safeguard measures have been provided (APTA, SAFTA, etc.).
- The PTAs also contain provisions relating to consultations, compensation and retaliation. (APTA, SAFTA, RoK's PTAs, Japan's PTAs, India's PTAs, Australia – New Zealand, etc.)

Way Forward

- Different provisions for application of SG for the same Economy which is party to different PTAs create confusion and problems for exporters as well as negotiators.
- Most of the Economies in Asia-Pacific are developing and LDCs and they do not have effective mechanism to capture preferential trade data. Hence, despite the provisions being there, they cannot initiate any effective SG action.

ROLE OF UN

Building capacity

- Building awareness
- Design of appropriate legislation
- Building Institutions
- Training for government officials to implement (investigation, notification etc)
- Setting up monitoring and impact analysis
- Handling interest groups' pressures
- CASE STUDY - MYANMAR

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