

DISPUTE SETTLEMENT SYSTEMS IN ASIAN FTAs: ISSUES AND PROBLEMS

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ABSTRACT

Asian countries have actively engaged in global FTA races and led rule development in terms of FTA negotiations. While proliferating FTAs raise concern for growing inconsistency problems between the WTO and FTAs, this paper shows diverging approaches in Asian FTAs in relation to dispute settlement systems that are the core element of the legal basis for FTAs. Broadly speaking, many Asian FTAs adopt a “WTO type” dispute settlement system. Asian FTAs involving the United States, however, have invariably employed the “NAFTA type” dispute settlement system that puts more emphasis on prompt implementation by unilateral retaliation, monetary settlement, and numerical limit for special disputes typically concerning labor and the environment. Since more Asian countries are negotiating FTAs with the United States, this divergent approach toward dispute settlement systems in FTA should be thoughtfully realigned to ensure a coherent development between WTO and FTA systems.

KEYWORDS: *FTA, Dispute Settlement System, implementation*

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