

**“2023 Report on Compliance by Major
Trading Partners with Trade
Agreements – WTO, EPA/FTA, and IIA-”
and
“METI Priorities Based on the
2023 Report”**

June 2023

**Multilateral Trade System Department
Trade Policy Bureau**

Overview

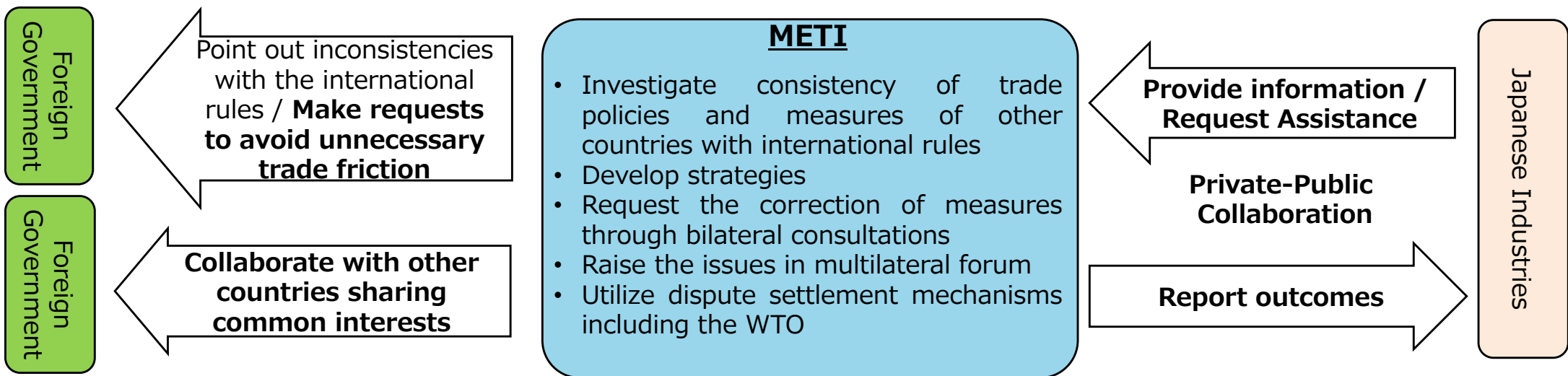
- The Report is a gathered of foreign government trade measures that are questioned in light of the WTO agreements and other international rules based on information from industry, in order to highlight the importance of the rules-based multilateral system.
- The Report has been published every year since 1992 (the 2023 Report is the 32th edition). **The 2023 Report was published on June 16, 2023.**
- **"METI Priorities"** is a list of issues which METI prioritizes to address.

"Report on Compliance by Major Trading Partners with Trade Agreements" (Report of the Subcommittee on Unfair Trade Policies and Measures)

- This is the only report that comprehensively analyzes the status of trade measures in each country in accordance with international rules.
- Experts of **Subcommittee on Unfair Trade policies and Measures under the Industrial Structure Council** have analyzed problems of trade policies and measures of major trading partners based on international rules, including the WTO agreements.

"METI Priorities"

- From the measures pointed in the report, METI has picked up several measures as priority, taking into consideration the interests of the industry. It is used to encourage foreign governments and promote collaboration with industry and foreign governments of similar interest.



1. Report on Compliance by Major Trading Partners with Trade Agreements

Structure of the 2023 Report on Compliance by Major Trading Partners with Trade Agreements

- Composed of three parts, Part I points out various trade policies and measures of foreign countries and analyzes their consistency with the international rules including the WTO agreements. Part II (WTO agreements) and III (FTA/EPA) give a brief summary of international rules.

Preface	Presents the concept of “rule-based” approach, which is to determine the “fairness” of trade policies and measures based on internationally agreed rules
Part I	Points out policies and measures of 20 countries/regions (including China, ASEAN countries, the US, the EU・UK, Australia, Korea, Canada, India, Russia, and Brazil)
Part II	Explains the WTO agreements and WTO-related discussions (including GATT, AD Agreement, Agreement on Subsidy and Countervailing Measures, Safeguard Agreement, GATS, TRIPS, Government Procurement, and E-Commerce) and major cases under each agreement
Part III	Explains Japan’s major EPA/FTA and investment treaties including the CPTPP
References	Exhibits the recent movement in the Ministerial Conferences of the WTO, and also provides a list of WTO dispute settlement (DS) cases.

2023年版

不公正貿易報告書

WTO協定及び経済連携協定・投資協定から見た
主要国の貿易政策

Newly Listed Cases (3 cases) and Newly Listed Formation of Economic Partnership (1 Partnership)

(※In general, measures are published as of end of February 2023)

<Newly Listed Cases>

Country	Measure	Outline
Part I Chapter 1 “China”	Revision to The Government Procurement Law of the People's Republic of China	In July 2023, the Government of China published a draft on revision of the Government Procurement Law. It expands the scope of the procuring entities to include public interest state-owned enterprises that operate public infrastructure and public service network. In addition, it added a local content requirement providing preferential treatment for products with a high added value ratio within China, and provisions on national security. There are possible inconsistencies with national treatment under Article 3 of the GATT and Article 17 of the GATS, the commitments under China's WTO Accession Protocol under which it promised to be subject to the obligation, and the transparency rule under Article 16.4.1 of the RCEP Agreement. There is also a fear that the consistency with non-discrimination under Article 4 of the GPA that China is currently negotiating to join may become an issue.
Part I Chapter 4 “EU, United Kingdom”	Carbon Border Adjustment Mechanism (CBAM)	In May 2023, the EU's regulation regarding the CBAM was established. This measure imposes a levy in the form of an obligation to purchase CBAM certificates in accordance with the carbon content of imports. It is to be implemented from October 2023, but during the transition period until the end of 2025, importers will be obliged to report information on carbon content, etc., but not to pay the levy yet. Depending on the details of measures such as carbon content calculation methods, imports may be placed at a disadvantage compared to domestic goods, and consistency with the national treatment obligation may become an issue. The measure may be justified under the general exception of GATT Article 20 (e.g. paragraph (g) for conservation of exhaustive natural resources), but it would require that the design of the measure be appropriate to its objective, which is to prevent carbon leakage.
Part I Chapter 8 “Canada”	Regulations on Prohibition of Certain Toxic Substances	In May 2022, the proposed revision to the Regulations on Prohibition of Certain Toxic Substances was published. The proposed revision prohibits the import, sale, etc. of products using decabromodiphenylethane (DBDPE). DBDPE is used in a wide range of applications including electrical and electronic equipment, industrial machinery, automobiles, etc. However, currently, the possibility of developing and producing alternatives to DBDPE is not foreseeable. Therefore, if the revision is enforced, there will be significant impacts on the industry. On the other hand, while the objectives of the prohibition is to protect human health and the environment, DBDPE is not prohibited in other countries and regions outside of Canada. Therefore, the necessity of the prohibition is doubtful. If the prohibition is more trade-restrictive than necessary to fulfill legitimate objectives, it would not be consistent with Article 2.2 of the TBT Agreement.

<Newly Listed Formation of Economic Partnership >

Part and Chapter	Economic Partnership	Outline
Part III Chapter 1 “Overview”	Progress in the Indo-Pacific Economic Framework (IPEF)	<p>The IPEF was launched in May 2022 as an economic framework for realizing innovative, inclusive, and sustainable economic growth in the Indo-Pacific region, which is leading the global economic growth. IPEF Negotiations are underway with all 14 participating countries, seeking to establish a framework in the region that balances high standard rules with concrete benefits through cooperation.</p> <p>(*) Subsequently, at the IPEF Ministerial Meeting in May 2023, Ministers announced the substantial conclusion of the negotiations of the IPEF Supply Chain Agreement and the launch of the Regional Hydrogen Initiative.</p>

Columns

- 6 columns are posted.
- We conducted deep analysis on recent topics such as “Recent discussions on economic coercion”, “Preferential treatment of domestic products and technology acquisition”, and “WTO Appellate Body issue”, an important issue of WTO reform, etc.

Part and Chapter	Title	Outline
Part II “Overview of the WTO Agreements	Business supply chain, and human rights and environmental issues	As the introduction of laws and regulations to respect human rights has progressed, mainly in Europe and the United States, and business enterprises are required to strengthen their efforts, this column will provide an overview of trends in laws and regulations in various countries and also focus on environmental protection perspectives. In addition, this column will introduce the efforts of the Japanese government to encourage respect for human rights by Japanese business enterprises.
Part II “Overview of the WTO Agreements	Recent discussions on economic coercion	This column will provide an overview on the discussions on economic coercion, touching upon on some background on the recent focus on these discussions. The column will also give an overview on certain features of economic coercive measures and points to be considered when identifying such measures, and will indicate future political issues.
Part II “Overview of the WTO Agreements”	COVID-19 and trade	This column introduces progress regarding COVID-19 and trade in the international field, including the WTO(e.g., the Ottawa Group's Trade and Health Initiative, etc.) and provides an overview of COVID-19 trade related measures' consistency with the WTO rules.
Part IV “Justifiable reason”	Security Exceptions – Interpretation of GATT Article 21	This column analyzes the recently published WTO panel reports with respect to the interpretation and application of the security exception (e.g. Article 21 of GATT), and then overviews the recent discussions on the security exception in the WTO Agreement.

Columns

Part and Chapter	Title	Outline
Part II Chapter 9 "Trade-related investment measures"	Preferential treatment of domestic products and technology acquisition	In recent years, some governments and their related departments have been increasingly favoring domestically produced goods in the context of their procurement. Such preferential treatment of domestic products is problematic in that it can create obstacles to trade and investment activities by foreign firms and may also lead to technology transfer in a manner that goes against the will of the firms. This column introduces preferential measures for domestically produced goods in some countries, such as China and Indonesia, as well as related rules in WTO agreements, economic partnership agreements, and investment agreements.
Part II Chapter 17 "Dispute Settlement Procedures under WTO"	WTO Appellate Body issue	This column addresses the issue of the Appellate Body that has ceased its functions since December 2019. It describes (1) the United States' long-standing criticisms of the Appellate Body, (2) discussions at the WTO over the reform or dispute settlement system, (3) the Multi-Party Interim Appeal Arbitration Arrangement (MPIA) as an interim measure to address the disfunction (including Japan's participation in MPIA in March 2023), and (4) the measures against appeals into the void by the EU and Brazil.

2. METI's Priorities

Summary of METI Priorities Based on the 2023 Report on Compliance by Major Trading Partners with Trade Agreements (published on June 16, 2023)

- The Report has continuously presented, for 30 years since its first issuance, the concept of “rule-oriented”. Japan has made efforts to establish new trade-related rules, and actively used the WTO dispute settlement procedures to remove adverse effects brought by the rule-inconsistent measures by trade partners.
- The Appellate Body members have been long vacant since December 2019, and “appeal-into-void” cases have been piled up where the case is appealed to leave the cases in limbo. As a result, the WTO DS procedures face critical situation where rule-based governance for international trade would not work well. We will make maximum effort for the restoration of dispute settlement function. At the same time, we will ensure the effectiveness of WTO dispute settlement system in the interim by utilizing MPIA, which Japan joined this March.
- In recent years, there has been increasing concern that non-market measures by some emerging countries could present a risk to the foundation of the multilateral trading system, including fair competition and market functions. We will make further efforts, including rules-making, to ensure level playing field through various fora such as the WTO, G7, and the Japan-US-EU Trilateral Ministerial Meeting.
- Furthermore, given that there is an increasing concern with economic coercion, we will strengthen our cooperation with like-minded partners to evaluate, prepare for, deter, and respond to economic coercion.
- In addition to responses to such systemic problems, we will work on the individual policies and measures

METI's Priority Cases listed in the 2023 Report

- China's revision to the Government Procurement Law and recommended national standard for office devices are added to the list as measures that should be closely monitored

(1) Issues for which the WTO DS procedures have already started

- China: Anti-Dumping Measures on Stainless Products (panel)
- Korea : Measures Affecting Trade in Commercial Vessels (Consultation) (collaborate with the MLIT)
- Korea: Sunset Review Administration on Stainless Steel Bars from Japan (Appellate Body)
- India : Tariff Treatment on Certain Goods (Appellate Body)
- India: The Safeguard Measures on Hot-Rolled Steel Products (Appellate Body)

(2) Issues to be resolved through bilateral and multilateral consultations with possible use of the WTO DS Mechanism

- China : Inappropriate Application of AD Measures
- US : Import Adjustment Measures pursuant to Section 232 of the Trade Expansion Act of 1962
- US and Emerging Economies : Sunset Review Practice (Term-end Review for the Continuation of AD Measures) and Inappropriate Long-Standing AD Duty Measures on Japanese Products

※ As for the following issues, METI will proceed with comprehensive policy measures, including rule-making, to ensure a level playing field, in addition to the efforts to address these issues through the WTO and bilateral consultations with possible use of the WTO DS Mechanism based on the current WTO rules.

- China : Industrial Subsidies
- China: Regulations related to Cybersecurity and Data
- China: Forced Technology Transfer
- Vietnam: Cybersecurity Law / the Draft Decree on Personal Data Protection

(3) Issues on which Japan urges prompt implementation of the WTO recommendations

- Brazil : Discriminatory Preferential Taxation and Charges Affecting Automobile Sectors, etc.

(4) Issues on which close attention needs to be paid due to significant effect on trade and investment although details are unclear

- China: Revision to The Government Procurement Law <New>
- China: Recommended National Standard for Office Devices <New>
- China: Export Control Law
- China: Issuance of Anti-Suit Injunctions (ASI) by Chinese courts in standard essential patent lawsuits
- US: Zeroing (Inappropriate Calculation of AD Duties) Including Abusive Zeroing In the Cases of Targeted Dumping
- US: A Bill on Tax Incentives on Electric Vehicles
- EU: A Draft Regulation on a Carbon Border Adjustment Mechanism (CBAM)
- India: Digital Personal Data Protection Bill
- India: Inappropriate Application of Trade Remedy Measures

Progress since last year

2022 Priorities

(1) Issues for which the WTO DS procedures have already started



China: AD Measures on Stainless Products



Korea : Measures Affecting Trade in Commercial Vessels



(collaborate with the MLIT)



Korea: Sunset Review Administration on Stainless Steel Bars



India : Tariff Treatment on Certain Goods



India: The Safeguard Measures on Hot-Rolled Steel Products

(2) Issues to be resolved through bilateral and multilateral consultations with possible use of the WTO DS Mechanism



China : Inappropriate Application of AD Measures



China: Issuance of Anti-Suit Injunctions (ASI) by Chinese courts in standard essential patent lawsuits <New>



US : Import Adjustments based on the Section 232



US and Emerging Economies : Inappropriate Long-Standing AD Duty Measures

※ issues to be resolved with comprehensive policy measures for ensuring level-playing field, including rule-making, in addition to WTO and other bilateral consultations.



China : Industrial Subsidies



China: Regulations related to Cybersecurity and Data



China: Forced Technology Transfer



Vietnam: Cybersecurity Law / the Draft Decree on Personal Data Protection

(3) Issues on which Japan urges prompt implementation of the WTO recommendations



Brazil : Discriminatory Preferential Taxation

(4) Issues on which close attention needs to be paid due to significant effect on trade and investment although details are unclear



China: Export Control Law



US: Zeroing



US: A Bill on Tax Incentives on Electric Vehicles <New>



EU: A Draft Regulation on a Carbon Border Adjustment Mechanism (CBAM) <New>



India: Personal Data Protection Bill / Draft National e-Commerce Policy



India: Inappropriate Application of Trade Remedy Measures

2023 Priorities

(1) Issues for which the WTO DS procedures have already started



China: AD Measures on Stainless Products



Korea : Measures Affecting Trade in Commercial Vessels



(collaborate with the MLIT)



Korea: Sunset Review Administration on Stainless Steel Bars



India : Tariff Treatment on Certain Goods



India: The Safeguard Measures on Hot-Rolled Steel Products

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China : Inappropriate Application of AD Measures



US : Import Adjustments based on the Section 232



US and Emerging Economies : Inappropriate Long-Standing AD Duty Measures

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China : Industrial Subsidies



China: Regulations related to Cybersecurity and Data



China: Forced Technology Transfer



Vietnam: Cybersecurity Law / Decree on Personal Data Protection

(3) Issues on which Japan urges prompt implementation of the WTO recommendations



Brazil : Discriminatory Preferential Taxation

(4) Issues on which close attention needs to be paid due to significant effect on trade and investment although details are unclear



China: Revision to The Government Procurement Law <New>



China: Recommended National Standard for Office Devices <New>



China: Export Control Law



China: Issuance of Anti-Suit Injunctions (ASI) by Chinese courts in standard essential patent lawsuits



US: Zeroing



US: A Bill on Tax Incentives on Electric Vehicles



EU: Regulation on a Carbon Border Adjustment Mechanism (CBAM)



India: Digital Personal Data Protection Bill



India: Inappropriate Application of Trade Remedy Measures