

# Chapter 12

## Other Matters

Although the following measures fall outside the scope of the countries/regions covered in this report, they are addressed below since they are recent measures having trade-distorting effects.

### **(1) Argentina - Introduction of an Import License System**

#### **<Outline of the Measure>**

In November 2008, the Argentine government introduced an import license system for approximately 400 items, including metal products (elevators, etc.), that would require applications to be submitted along with information on the importers/exporters, the prices and quantities of the goods to be imported, etc. The number of subject items was increased to approximately 600 in February 2011.

Additionally, the Argentine government implemented trade balancing requirements (for example, requiring one-dollar of export or domestic investment as a condition for the same amount of import) and domestic production requirements aimed at restraining imports.

In February 2012, the prior import declaration system (DJAI) was introduced. It requires those intending to import to register designated items with the Federal Administration of Public Revenue (AFIP) and obtain its approval prior to initiating import procedures.

On January 2013, the non-automatic import license was abolished; however, the other measures (the prior import declaration requirements and the trade balancing requirements) continue to remain valid.

#### **<Problems under International Rules>**

The trade balancing requirements violate GATT Article XI, which prohibits export restrictions in principle, because the issuance of licenses requires meeting trade-balancing requirements for exports of Argentine products, etc. In addition, the trade balancing requirements are orally-rendered guidance not based on specific laws or regulations and therefore also violate GATT Article X, which requires trade regulations to be published.

The prior import declaration system involves arbitrary discretions by Argentine authorities and thus violates GATT Article XI. It also violates the transparency principles of GATT Article X and Articles 1, 3, and 5 of the WTO Agreement on Import Licensing Procedures, etc.

#### **<Recent Developments>**

Since 2009, Vice-Minister for International Affairs of Ministry of Economy, Trade and Industry, the Japanese Embassy in Argentina, and Japanese industries have repeatedly requested the Argentine government to make improvements in the measure. In the WTO, Japan has expressed concerns together with the United States, EU and other countries at the WTO Import Licensing Committee, the TRIMs Committee, and the WTO Council for Trade in Goods since 2009. In particular, 14 Members including Japan, the United States and EU jointly expressed their concerns in March 2012 at the WTO Council for Trade in Goods. However, since no improvement had yet been seen, the EU requested bilateral consultations with Argentina based on the WTO Agreements in May of the same year. In August 2012, Japan requested bilateral consultations along with the United States and Mexico, taking into account the request for improvement by the industries (Japan Foreign Trade Council, Japan Machinery Center for Trade and Investment and JEITA, the Tokyo Chamber of Commerce and Industry, and the Japan Chamber of Commerce and Industry), and the consultations were carried out in Geneva in September of the same year. However, Japan could not obtain a satisfactory resolution.

Therefore, in December of the same year, Japan jointly with the United States and the EU requested the establishment of a panel. The panel was established in January 2013, and a panel report, which upheld the claims of Japan, the United States and the EU that export restrictions by Argentina do not comply with GATT Article XI: 1 (general elimination of quantitative restrictions), was released in August 2014. Argentina appealed against the panel's decision in September 2014, but in January 2015, the Appellate Body released a report which supported the panel report and recommended Argentina to bring the measure into conformity with the WTO Agreements. However, the panel and the Appellate Body did not make a determination regarding the transparency principles of GATT Article X and Articles 1, 3, and 5 of the WTO Agreement on Import Licensing Procedures, etc.

While the time limit for Argentina to comply with the recommendation was the end of December 2015, Argentina announced on December 31, 2015, that it had abolished the Advance Sworn Import Declaration (*Declaración Jurada Anticipada de Importación*; DJAI), but announced the introduction of a new import licensing system called the Comprehensive Import Monitoring System (*Sistema Integral de Monitoreo de Importaciones*; SIMI) in place of the DJAI. SIMI is a system comprising of automatic licensing system (18,000 items) and non-automatic licensing system (nearly 1,400 items). Since it stipulates that "the application will be judged within ten days" for non-automatic import license but "the period can be extended if necessary," the difference from DJAI is unclear. In addition, there are doubts about whether or not its contents are consistent with the WTO Agreements. Therefore, Japan will continue paying attention to immediate correction of measures which were acknowledged as being inconsistent with the WTO agreements, as well as collecting information regarding the implementation status.

(For details of the point regarding quantitative restrictions, please see Part II Chapter III, Major Case (4).)

## **(2) Customs Valuation Measure and Additional Tariff Measure Taken by Turkey on Imported Rubber Tires.**

### **<Outline of the Measure>**

In May 2016, the Turkish government set the customs valuation unit for two items of rubber tires at 5 dollars/kg, and implemented the measure to establish procedures and regulations for import surveillance measures on products that do not exceed the customs valuation unit of 5 dollars/kg.

Furthermore, in September 2016, the Turkish government introduced an additional tariff measure to raise the applied tariff rate on such products up to the bound rate.

### **<Problems under International Rules>**

Based on the measures, the Turkish government imposes tariff after correcting the customs valuation value of products whose actual transaction value is lower than 5 dollars/kg to customs valuation unit stipulated in the measures (5 dollars/kg). Therefore, the measures may be in violation of GATT Article VII, which stipulates that customs price should be based on actual price, and Section I of Article I, Section II (f)(g) of Article VII, of the Agreement on the Implementation of GATT Article VII (Customs Valuation Agreement).

In combination with the additional tariff measure introduced in September, the applied tariff rate has exceeded the bound tariff rate, and it may violate GATT Article II, which stipulates the exemption of tariff exceeding bound tariff rates.

### **<Recent Developments>**

Since the introduction of the measures, Japan has requested the Turkish government to provide detailed explanation and expressed its concern about the case. As a result, in April 2017, the Turkish government announced the decrease of customs valuation unit to 3 dollars/kg from 5 dollars/kg. With this, the effects of customs valuation measures on Japanese enterprises have been improved. However, the applied tariff rate has remained at up to the bound tariff rate, so Japan will continue paying attention to future actions, and will request the Turkish government for correction of additional tariff measures if necessary.

### **(3) GATT Article II Violations Regarding Taxation of Flat Panel Displays**

Please see page 179 of the 2017 Report on Compliance by Major Trading Partners with Trade Agreements -WTO, FTA/EPA and IIA-.

