CHAPTER 6

ANTI-DUMPING MEASURES

OVERVIEW OF RULES

1. BACKGROUND OF RULES - WHAT IS ANTI-DUMPING?

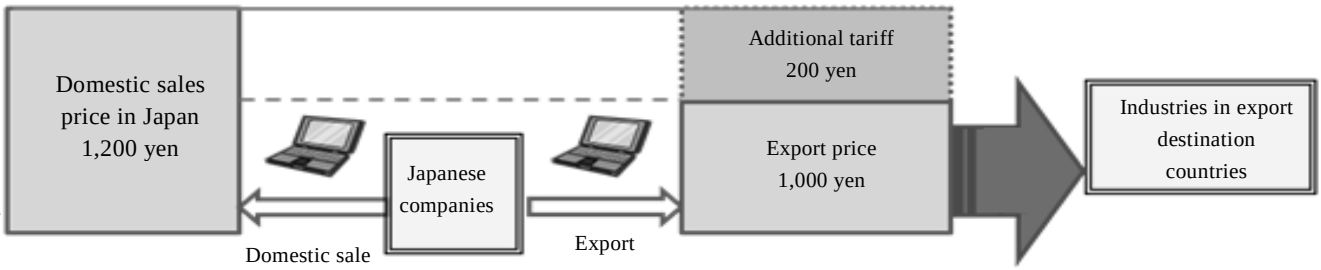
"Dumping" in the WTO Agreements is defined as a situation in which a product is exported to other countries at a price less than its "normal value." "Normal value" usually represents the price for domestic sale in the exporting country. If the export of dumped products does or may cause material injury to the industry of the importing country, the importing country may levy on any dumped product an anti-dumping duty in the amount of the dumping in order to offset or prevent dumping. That is to say, the amount of AD duty is determined by the margin of dumping (the difference between the export price of the product and the domestic selling price of the like product in the exporting country (normal value)) as the upper limit. By adding the margin of dumping to the export price, the dumped price can be rendered a normal value.

When there are no sales in the domestic market (for example, the like product is sold to companies with capital ties at a special price, or exporting countries are under the control of the government of the exporting country, etc.) or when, because of the low volume of sales in the domestic market, etc., such sales do not permit a proper comparison, the margin of dumping shall be determined by comparison with a comparable price of the like product when exported to an appropriate third country or a "constructed normal value" as a normal price (Article 2.2 of the AD Agreement). A "constructed normal value" is the cost of production in the country of origin plus a reasonable amount for administrative, selling and general costs and for profits.

Because AD duties are one of exceptions to the MFN treatment rule (see Chapter 1, Part II), the utmost care must be taken when applying them. However, unlike safeguard measures (see Chapter 8), which are also instruments for the protection of domestic industries, the application of AD measures does not require the government to provide offsetting concessions as compensation or otherwise consent to countermeasures taken by the trading partner. This has increasingly led to the abuse of AD mechanisms in foreign countries. For example, AD investigations are often initiated based on insufficient evidence and AD duties may be continued without meeting the requirements for the continued imposition.

In light of this situation, one of the focal points of the Uruguay Round negotiations was to establish disciplines to rein in the abuse of AD measures as tools for protectionism and import restriction. Although considerable progress was achieved during the Uruguay Round and Doha Round negotiations, many countries still express concern over abusive practices.

Figure II-6-1 Example of Dumping



2. OVERVIEW OF LEGAL FRAMEWORK

(1) OVERVIEW OF INTERNATIONAL RULES

The international AD rules are provided under: (1) GATT Article VI and (2) the AD Agreement. Under the Uruguay Round negotiations, the Tokyo Round Anti-Dumping Code was revised to become the new AD Agreement.

The following section summarizes the WTO Agreement regarding AD measures.

(a) GATT Article VI

The General Agreement on Tariff and Trade (GATT) 1947, Article VI (Anti-dumping and Countervailing Duties) defines AD duty as follows:

Article VI

1. The contracting parties recognize that dumping, by which products of one country are introduced into the commerce of another country at less than the normal value of the products, is to be condemned if it causes or threatens material injury to an established industry in the territory of a contracting party or materially retards the establishment of a domestic industry. For the purposes of this Article, a product is to be considered as being introduced into the commerce of an importing country at less than its normal value, if the price of the product exported from one country to another

   (*a)* is less than the comparable price, in the ordinary course of trade, for the like product when destined for consumption in the exporting country, or,

   (*b*) in the absence of such domestic price, is less than either

      (i) the highest comparable price for the like product for export to any third country in the ordinary course of trade, or

      (ii) the cost of production of the product in the country of origin plus a reasonable addition for selling cost and profit.

   Due allowance shall be made in each case for differences in conditions and terms of sale, for differences in taxation, and for other differences affecting price comparability.

2. In order to offset or prevent dumping, a contracting party may levy on any dumped product an anti-dumping duty not greater in amount than the margin of dumping in respect of such product. For the purposes of this Article, the margin of dumping is the price difference determined in accordance with the provisions of paragraph 1.

(b) AD Agreements

Initially established as a result of the Kennedy Round (signed in 1967, effective in 1968), the AD

Agreement has undergone several revisions, including during the Tokyo Round (signed in 1979, effective in 1980) and the Uruguay Round (signed in 1994, effective in 1995).

The current AD Agreement covers the full spectrum of AD investigations, from the initiation of an investigation to the application of measures. The following summarizes some of the key elements of an AD investigation:

Figure II-6-2 Flow of AD Investigations

Application for AD Investigation

- An application must be submitted on behalf of a representative portion of the domestic industry (the domestic producers whose collective output constitutes 25 per cent or more of the total domestic production of the like product produced by that portion of the domestic industry that expresses support for the application, and at the same time whose collective output exceeds that of the domestic producers expressing opposition to the application.)
- An application must include evidence of facts regarding the dumped imports and the injury to the domestic industry.

Decision to Initiate AD Investigation

- Determination of dumping (compare net prices between "export prices" and "normal values" (domestic selling prices, third country prices or constructed normal values))
- Determination of injury (imported volume of dumped products, price changes, effects on domestic prices, and injury to domestic industries)
- Causal relationship (consider the causal relationship between injury and dumped import and factors other than the dumped imports causing injury)

Preliminary Determination ..... **Provisional Measures**

Provisional measures may be applied only if there is:
- Proper initiation and public notice of investigation (providing adequate opportunities for interested parties to submit information and make comments).
- Preliminary determination on dumping and injury to a domestic industry.
- Determination that provisional measures are necessary.
- Application no sooner than 60 days from the date of initiation.
- Generally no application in excess of four months (six months if requested by exporters or six - nine months when authorities, in the course of investigation, examine whether a duty lower than the margin of dumping would be sufficient to remove injury.)

..... **Disclosure of Essential Facts**

- Authorities shall inform the interested parties of the essential facts under consideration which form the basis for the decision whether or not to apply definitive measures.

..... **Price Undertaking**

- After a preliminary determination is made, a price undertaking can be accepted from exporters, thereby suspending or terminating the investigation.

Final Determination

- Authorities shall publish a determination on imposing AD duties and detail the amount of the duties.
- Authorities must provide reasons and facts supporting a determination of dumping margin and injury
- Authorities must provide responses to comments submitted by interested parties.

(2) WTO/The Anti-Dumping Committee

The WTO holds two meetings of the Anti-Dumping Committee (AD Committee) each year to provide a forum for discussing anti-dumping measures. The AD Committee reviews: (i) AD implementing laws of WTO Members to determine conformity with the WTO Agreement; and (ii) reports by Members on AD measures.

The AD Committee has organized two ad hoc forums for discussing specific points of contention. The first is the meeting of the Informal Group on Anti-Circumvention. Circumvention was an issue that was referred to the AD Committee for further study because no conclusions could be reached during the Uruguay Round negotiations. The second is the Working Group on Implementation, which discusses ways to harmonize national discretion in the agreement where the interpretation is or could be vague. (However, these fora are now characterized as providing opportunities for national anti-dumping authorities to have active discussions and share practices.) Japan must use these kinds of forums to ensure that the domestic laws of other Members are written and applied in conformity with the AD Agreement. Should legislation or discretion contravene the Agreement, Japan should report it immediately to the AD Committee and other GATT/WTO forums to seek appropriate remedies.

Furthermore, if an anti-dumping measure is suspected of violating GATT and/or the AD Agreement, Japan should seek resolution through the WTO in dealing with the increased abuse of AD measures by certain countries; if resolution cannot be reached through bilateral consultations, the abuses should be referred to WTO panels and the Appellate Body.

(3) Anti-Circumvention Issues

“Circumvention” generally refers to an attempt by parties subject to anti-dumping measures to avoid paying the duties by formally moving outside the range of the anti-dumping duty order while substantially engaging in the same commercial activities as before.

That being said, this has not yet been confirmed by any official decision of the WTO nor the General Agreement on Tariffs and Trade (GATT) before it. There are differences of opinion on the issue of circumvention among member countries, and no agreement on the necessity and content of regulations under the agreement is in sight. As for circumvention prevention measures (which generally involves imposing AD duties on imports that are deemed as circumvention practices based on the results of an investigation that is simpler than general AD investigations), AD measures may be expanded unreasonably without implementing an appropriate examination, and Japan will need to continue to monitor the laws, regulations and measures of each country. Reference: Considerations when Responding to Other Countries' AD Investigation Procedures

3. POINTS OF ATTENTION IN RESPONDING TO AD INVESTIGATION PROCEDURES OF OTHER COUNTRIES

AD investigations must be concluded within one year after their initiation (Article 5.10 of the AD Agreement). One year may seem a long time, but the amount of work that needs to be done by exporters or producers in exporting countries subject to investigation (hereinafter referred to as “companies subject to investigation”) is quite large, and in actuality companies subject to investigation are pressed for time in many cases. In order to assist Japanese companies that become subject to investigation in making decisions, how they should respond at each stage of investigation is summarized below.

Under international law, WTO member countries need to conduct AD investigations in conformity with obligations/procedures set forth in the WTO AD Agreement. However, AD measures/investigations conform to and are conducted based on domestic laws. Therefore, in case there are more detailed rules in the domestic laws which are based on the WTO AD Agreement, it is necessary to pay attention to comply with these domestic laws. Because responding to AD investigations requires knowledge of domestic laws of countries concerned, and companies may need to have local lawyers to represent and advise them.

(1) OVERALL RESPONSE OF COMPANIES SUBJECT TO INVESTIGATION

Under the AD Agreement, the investigating authorities collect necessary information from companies subject to investigation and other interested parties through questionnaires and on-the-spot inspections, and interested parties are given opportunities to present evidence and express their opinions to defend their interests. As a general rule, the AD Agreement requires that all interested parties in an anti-dumping investigation shall be given notice of the information which the authorities require and opportunity to present in writing all evidence (Article 6.1 of the AD Agreement); opportunity for the defense of their interests (Article 6.2 of the AD Agreement); and opportunities to see all information that is used by the authorities and to prepare presentations on the basis of this information (Article 6.4 of the AD Agreement). AD measures are conducted based on the following information regarding the transactions of interested parties actually exporting the products subject to investigation: general information about the company concerned; information on export transactions and domestic sales transactions, etc. Thus, the responses by the companies subject to investigation will initially be the basis for responding to AD investigations. Companies subject to investigation can utilize these provisions to actively make claims or present evidence to defend their interests in AD investigations/measures. However, companies subject to investigation are not obliged to respond to investigations. They have the option not to respond to investigations in consideration of the costs/burdens required for responding. In this case, however, as described below, they may suffer disadvantages with determinations being made on the basis of the “facts available”, etc. Companies subject to investigation must consider such disadvantages and burdens/costs required for responding to investigations, and then make decisions whether or not to respond, or the extent to which they respond, to AD investigations.

Although procedures of AD investigations are based on domestic laws, WTO member countries are obligated to conduct investigations in accordance with the provisions of the AD Agreement. Therefore, may be effective, in making claims or presenting evidence in the process of investigations, to claim that procedures and decisions of the investigating authorities are inconsistent not only with domestic laws but also with the AD Agreement. Thus, whether or not claims based on the AD Agreement are possible should be discussed in the course of investigation procedures. In particular, if companies subject to investigation intend to request the Japanese government to settle the issue in a WTO dispute settlement proceeding, they should decide how to respond to investigations from the point of view of making the proof of such issue easier. (See (3)(b) - “Utilization of WTO dispute settlement procedures” - for details).

In addition, if more than one Japanese company is subjected to investigation, the requirements regarding injury to domestic industry in the country conducting the investigation and causal link are determined not based on the dumping margins calculated for each company, but rather on the overall exports from Japan. Therefore, for example, when making a claim that factors other than dumped exports are the actual causes of injury to the domestic industry, they will not be effective if the contents of the claims are different from company to company.

(2) RESPONSE AT EACH STAGE OF PROCEDURE

(a) Before the Decision to Initiate AD Investigation

AD investigations are generally initiated upon a written application by the domestic industry (Article 5.1 of the AD Agreement). That application requires that the application form submitted includes evidence of dumping, injury, and a causal link (Article 5.2 of the AD Agreement). The authorities that receive the application are expected to examine the accuracy and adequacy of the evidence provided in the application to determine whether there is sufficient evidence to justify the initiation of an investigation (Article 5.3 of the AD Agreement).

The authorities are not allowed to publicize the application until a decision has been made to initiate an investigation (Article 5.5 of the AD Agreement). However, information on the application for the initiation of an investigation may sometimes leak, and some companies (usually competitors) are eager to obtain such information.

(b) After the Decision to initiate AD Investigation

A notice is published in the initiating country's official gazette (such as the Federal Register in the U.S.) when a decision is made to initiate an investigation (commonly an announcement also is posted on the website of the investigating authorities). In addition, notifications are made to interested parties, including exporters, producers, importers, etc., that are known to the government of the exporting country (usually by the embassy in the country of the exporting company or the investigating authorities). At this time, responses by companies subject to investigation officially begin. Typical work to be done after the decision to initiate investigation is as follows:

1) Close examination and discussion of the content of the application form and attached evidence

As described above, the application form contains the details of AD duty requirements, and evidence is attached. Companies subject to investigation can therefore understand the content of, and reasons for, the application by closely examining the content of the application form and evidence received from the domestic industry requesting initiation of an AD investigation, and make objections as required.

2) Verification of Scope of Products Subject to Investigation

The scope of products subject to investigation can be identified by referring to the determination to initiate the investigation and the application form. Accordingly, the scope of products equivalent to domestic products can also be identified. Companies subject to investigation first need to understand precisely which products are subject to investigation and to collect basic information on these products. In subsequent responses to the investigation, in particular, information on export price, export volume and market share in the importing country, etc. will be important.

Sometimes the scope of products subject to investigation is misstated (for example, HS codes (tariff schedule) of the products that are not subject to investigation are included as the HS codes of the products subject to investigation). In case of such misstatement, immediately pointing this out to the investigating authorities and requesting the exclusion of products that should not be included in the scope of investigation, etc. is important.

In many cases, high performance or high value-added products that cannot be manufactured by the

domestic industry in the importing country are exported from Japan. In such cases, even if dumping is determined to exist, no injury is actually caused to the domestic industry. What normally is done in such cases is to present evidence to show that no competition with domestic products actually exists, and to make a request to exclude the products concerned from the scope of products subject to investigation. Furthermore, in cases where the scope of products subject to investigation is wide, product categories that are not in mutually competitive relationships are sometimes included. In such cases, it is also important to discuss whether or not to make a request for the use of analysis that takes into consideration a mutually competitive relationship between products in determining injury(for example, determining injury to the domestic industry for each of the respective product categories in mutually competitive relationships, etc.)

When a company has concerns about products subject to investigation, (1) it may check the notice of the decision to initiate the investigation and the application form to confirm what products are subject to investigation, and point to any unclear scope of products subject to investigation. If its product is included in the scope of products subject to investigation and amounts to a high-performance, high-value-added product that the importing country's domestic industry cannot make, the company may (2) request exclusion of the product from investigation (note, however, that the authorities have broad discretion regarding such scope determinations) or (3) request that the authorities undertake an analysis based on competitive relations between products in line with precedents given in the WTO DS cases in which injury is determined.

(c) Answering Questionnaires and On-the-Spot Investigation

i) Answering questionnaires

After the decision to initiate an investigation, the investigating authorities send questionnaires to companies subject to investigation, etc. in order to determine the existence of dumping and injury, and companies subject to investigation are expected to answer the questionnaires (see Article 6.1 of the AD Agreement). If a company subject to investigation does not reply within the specified period (which must be at least 30 days after receiving the questionnaires (Article 6.1.1 of the AD Agreement)), investigating authorities may make determinations on the basis of the "facts available", as described below. An extension of the time limit for reply may be requested, and the authorities should give due consideration to any such request and grant an extension whenever practicable.

AD investigations generally are divided into a "dumping investigation" and an "injury investigation" (see Figure II-6-2). In dumping investigations, general information such as the organizational structure of the company (including affiliates) and characteristics of the products subject to investigation, etc., as well as detailed data on individual transactions, production costs and relevant expenses, etc. will be involved. In injury investigation, in addition to the general information set out above, operational and financial information (including production capacity, inventories, production volume, export volume, and average export price, etc.) will be investigated. In most cases, the period covered by the questionnaires is the past one year in dumping investigations and the past three years, including the year subject to the dumping investigation, in injury investigations.

The extent to which companies subject to investigation answer these questionnaires is basically decided in consideration of the costs and benefits associated with responding to the investigation. Answering the questionnaires in a dumping investigation, in particular, requires examination, collection and verification of enormous volumes of data, including data of transaction partners, etc., and sometimes data is required to be submitted in categories that are different from items managed by the companies. Therefore, the burden is quite large. In addition, calculating the dumping margin

sometimes requires submission to investigating authorities of highly confidential information, including data on expenses related to production and sales of the products, etc., If companies subject to investigation do not respond to the questionnaires (including cases where contents of the answers are insufficient, only parts of questions were answered, or questions on dumping or on injury are not answered), “facts available” are used for the portions not answered, in accordance with Article 6.8 of the AD Agreement . As a result, for example, claims of the domestic industry (data on the application form, etc.) may be used, very possibly leading to disadvantageous determinations made against such companies (the use of “facts available” would be limited to the portions not answered in the above context). Companies subject to investigation need to consider such advantages and disadvantages, as well as the importance of the products subject to investigation, and then decide the extent to which they should respond.

Recent anti-dumping investigations frequently have based their decisions on sampling (Article 6.10 of the AD Agreement). Since the authorities shall, as a rule, determine an individual margin of dumping for each known company (the first sentence of Article 6.10 of the AD Agreement), the exceptional use of a sampling investigation is appropriate only “in cases where the number of exporters, producers, importers or types of products involved is so large as to make such a determination [of an individual margin of dumping for each known company] impracticable” (the second sentence of Article 6.10 of the AD Agreement). The authorities shall determine an individual margin of dumping even for a company left out of a sampling investigation if the company submits the necessary information (including contents of a questionnaire) in time for that information to be considered during the course of the investigation (the first sentence of Article 6.10.2 of the AD Agreement). However, if the number of exporters or producers is so large that individual examinations would be unduly burdensome to the authorities and prevent the timely completion of the investigation, the authorities are not required to determine individual margins of dumping for companies submitting the necessary information (proviso of Article 6.10.2 of the AD Agreement).) Sampling investigations inconsistent with the AD Agreement occasionally have occurred. Therefore, if a company suspects that a sampling investigation is defective and disadvantages those subject to the investigation, it should submit comments to the authorities as early as possible.

ii) On-the-Spot investigation

In order to verify information provided or to obtain further details, the investigating authorities may carry out on-the-spot investigations at head offices and/or factories, etc. of the companies that answered the questionnaires (Article 6.7 of the AD Agreement). Although implementation of on-the-spot investigations may vary between countries, several investigation officers spend a few days at each company examining accounts and vouchers, etc. and verifying the completeness and accuracy of data on sales and costs submitted as answers to the questionnaires. On-the-spot investigations may require gathering large volumes of accounts, etc., which are usually maintained separately at a number of business locations. Company officials must explain in detail concrete sales-related information and financial and accounting systems, usually through interpreters. This imposes a heavy burden on companies. However, if companies do not respond to on-the-spot investigations, accuracy of the answers will not be verified, and “facts available” may be used, possibly leading to disadvantageous determinations. Whether on-the-spot investigations take place before or after the preliminary determination depends on the country.

Many countries also hold public hearings (see Article 6.2 of the AD Agreement). In public hearings, in addition to companies subject to investigation and domestic industries, in many cases participation of user industries in the importing country may be permitted. They are given

opportunities to express their opinions with regard to the AD duty requirements (product substitutability, etc.) and the impacts of the imposition of AD measures (*i.e.*, that procurement of raw materials within the importing country may become difficult due to due to stagnation in export, etc.). However, considering users' opinions in determining the AD duty requirements is not required under the AD Agreement. Since public hearings are conducted by the investigating authorities, they may provide a good opportunity to understand, based on the questions they ask the participants, what their concerns are. As with on-site-investigations, the timing of conducting public hearings depends on the country.

(d) Preliminary decision

Under the AD Agreement, the investigating authorities are not required to make preliminary determinations, but many countries do so to give interested parties opportunities for rebuttal. When a preliminary determination is made, the investigating authorities shall give public notice of such determination (Articles 12.2 and 12.2.1 of the AD Agreement). Preliminary determinations are very important because the investigating authorities' judgments on the AD duty requirements will be made public for the first time through these determinations. Companies subject to investigation are given opportunities to analyze the content of determinations and to closely examine whether any unreasonable findings have been made, or whether any inconsistencies with domestic laws of the country where investigations are conducted or with the AD Agreements exist, and then to submit rebuttal arguments.

If a preliminary affirmative determination has been made (i.e. dumping, injury, and a causal link are determined to exist and the AD duty is found necessary to prevent injury during the investigation period), the investigating authorities may take provisional measures (provisionally impose AD duties or request the deposit of a cash deposit or bond equal to the amount of the provisionally estimated AD duty) (Articles 7.1 and 7.2 of the AD Agreement).

(e) Informing about Essential Facts and Final Determination

Before making a final determination, the investigating authorities shall inform all interested parties of the essential facts and give them opportunities to offer rebuttal arguments (Article 6.9 of the AD Agreement). It should be assumed that essential facts that were disclosed will be used in the final determination, so this will be the last opportunity that interested parties are given to offer any rebuttal arguments. Special attention should be paid in particular to analysis or findings that have changed from the preliminary determination or findings related to rebuttal arguments that have been submitted. This will permit examination of whether any changes are inconsistent with the AD Agreements, and whether any unreasonable findings have been made regarding the rebuttal arguments from interested parties.

After providing essential facts and receiving rebuttal arguments from interested parties, the investigating authorities make a final determination. As with the preliminary determinations, public notice of final determinations shall be given (Articles 12.2 and 12.2.2 of the AD Agreement). If a final affirmative determination is made, companies subject to investigation need to analyze and discuss the content of the final determination, and decide whether to initiate judicial proceedings in the importing country or request the Japanese government to use the WTO dispute settlement procedures, etc.

(3) INVOLVEMENT OF THE GOVERNMENT IN THE RESPONSES TO INVESTIGATIONS

As described above, companies subject to investigation take the major role in responding to AD investigations. However, when the protection of companies' rights under AD investigations or AD measures are deemed insufficient in light of the AD Agreement, the government of the exporting country can support companies subject to investigation in responding to investigations in order to protect the interests of domestic companies or industries and secure the enforcement of trade rules..

(a) Support for Investigation Procedures

In AD investigation procedures, the government may submit comments as an interested party or government officials such as embassy staff may participate in public hearings, etc. and offer opinions to support the claims of companies subject to investigation (see Article 6.11(ii) of the AD Agreement). In addition, the WTO Anti-Dumping Committee meets twice a year and provides an opportunity to point out inconsistencies of anti-dumping investigation problems with WTO rules.

WTO member countries can utilize such measure if the requirements of the WTO Agreements are not met. Therefore, how the government of the exporting country can support the companies should be decided with due consideration of the consistency of the measures taken by the investigating authorities with the AD Agreement.

(b) Utilizing WTO dispute settlement procedures

After the Utilization of WTO dispute settlement procedures imposition of AD duties (or provisional imposition of AD duties), the consistency of the measure or procedures with the WTO Agreements may be challenged in a WTO dispute settlement proceeding (see Chapter 17, Part II). In utilizing these procedures, companies subject to investigation need to note the following points:

1) When cases of AD measures are brought under the WTO dispute settlement procedures, special rules apply. First, the Panel and Appellate Body can use only the evidence submitted during the investigation procedures. They cannot consider evidence submitted for the first time in the dispute settlement proceeding. Second, the Panel and Appellate Body shall determine whether the investigating authorities' establishment of the facts was proper and whether their evaluation of those facts was unbiased and objective (Article 17.6 (i) of the AD Agreement). The two above restrictions mean that in order to determine that the measure to impose AD duties is inconsistent with the WTO Agreements in a WTO dispute settlement proceeding, the investigating authorities' determinations need to be determined unreasonable in light of the evidence and facts presented to the investigating authorities during the investigation procedures. Consistency with the WTO Agreements in WTO dispute settlement proceedings is determined on this basis.

Therefore, companies subject to investigation need to respond to the investigations with consideration given to the above restrictions relating to the WTO dispute settlement provisions. More concretely, important evidence must be submitted during the investigation procedures. In addition, all necessary claims need to be made explicitly in writing to be included in the investigation record. According to WTO case precedent, information requested to be submitted in the questionnaires, etc. is not the only important information. Thus taking the opportunities described in 3. above and voluntarily submitting necessary evidence should be seriously considered. For example, in some previous cases the investigating authorities did not actively collect information on the competitive relationship between the products subject to investigation and the

products equivalent to domestic products, but such evidence turned out to be important in the determination of injury and causal link and so the voluntary submission of evidence by a company subject to the investigation was very important.

2) WTO dispute settlement procedures can be used only by the government. Therefore, where the utilization of WTO dispute settlement procedures is likely, cooperating with the government, including the Ministry of Economy, Trade and Industry, in the investigation process is important.

More concretely, it is important to share with the government from the early stage of the investigation relevant documents, including the written decision on the initiation of an investigation by the investigating authorities and the evidence involved in the investigation, as well as exchanging information with the government on legal issues in investigation and how to respond in anticipation of the dispute settlement procedures.

When the government discusses the utilization of WTO dispute settlement procedures, it must consider the benefits to the overall industry that exports the products concerned in addition to the benefits to the individual companies that were investigated. It is therefore desirable that support from the overall industry is obtained in cases where the WTO dispute settlement procedures likely will be used.

4. NEGOTIATION PROGRESS ON THE REVISION OF THE AD AGREEMENT IN DOHA DEVELOPMENT AGENDA

(Please see pages 385-389 in the 2016 Report on Compliance by Major Trading Partners with Trade Agreements –WTO, FTA/EPA and IIA-)

5. RECENT DEVELOPMENTS

Traditionally, the majority of AD measures are imposed by the United States, the European Union, Canada and Australia. This, in part, reflects the fact that developed countries have been quicker to implement AD regimes. However, in recent years, some emerging countries have also begun to apply AD measures, including China, India, the Republic of Korea, and Brazil (see Figure II-6-3). At present, a number of AD measures have been taken against Japan by emerging countries. (See Figure II-6-4). There are many issues related to impositions by these countries, such as: 1) the lack of transparency of the AD investigation procedures; 2) insufficient explanation of the determination by investigation authorities; and 3) the lack of sufficient opportunities to present opinions by interested parties.

It is important to monitor the increased use of AD measures, as well as Members' application of AD measures to ensure that their procedures and methods comply with the AD Agreement. In addition, we should pay attention to those developing countries, while the decreasing tendency to bring AD cases before the WTO Dispute Settlement Body.

Figure II-6-3 Number of Anti-Dumping Investigations by WTO Members (As of December, 2017)

	1995-1999	2000-2004	2005-2009	2010-2014	2015	2016	2017	Total (1995-2017)
US	134	222	84	87	42	37	54	660

EU	186	117	102	63	11	14	9	502
Canada	56	77	18	45	3	14	14	227
India	132	268	192	148	30	69	49	888
China	5	104	69	40	11	5	24	258
Rep. of Korea	41	36	31	19	4	4	7	142
Indonesia	32	28	20	42	6	7	1	136
Turkey	13	76	55	36	16	17	8	221
Mexico	37	42	18	32	9	6	8	152
Brazil	68	48	64	189	23	11	7	410
Argentina	93	92	73	59	6	23	8	354
Japan	0	2	4	2	2	1	2	13
Others	455	322	272	307	66	90	57	1,569
Total	1,252	1,434	1,002	1,069	229	300	248	5,532

Source: WTO Semi-annual Report[1] Unit: Case

(* AD investigations against the same items from multiple countries have been calculated as one case each).

Figure II-6-4 List of continued AD measure cases against Japanese products (56 cases) (as of June 30, 2018)[2]

China (18 cases)		
Product	**Date of Imposition**	**Developments**
Polyvinyl Chloride (PVC)	2003.09.29	2015.09.28 continuance
Optical Fiber	2005.01.01	2017.01.1 continuance *a
Chloroprene Rubber	2005.05.10	2017.05.09 continuance *a
Electrolytic Capacitor Paper	2007.04.18	2013.04.18 continuance *a
Bisphenol A (BPA)	2007.08.30	2013.08.29 continuance
Methyl Ethyl Ketone	2007.11.22	2013.11.20 continuance
Acetone	2008.06.09	2014.06.06 continuance
Photographic Paper and Photo Board	2012.03.22	2018.03.23 continuance
Resorcinol (Resorcin)	2013.03.23	
Pyridine	2013.11.20	
Optical Fiber Preform	2015.08.19	2018.07.11 continuance
Methyl Methacrylate	2015.12.01	2018.02.28 continuance
Unbleached Sack Paper	2016.04.10	
Polyacrylonitrile Fiber	2016.07.14	
Oriented Magnetic Steel Sheet	2016.07.23	
Fe-Based Amorphous Alloy Ribbon	2016.11.18	
Vinylidene Chloride-Vinyl Chloride Copolymers	2017.04.20	
Methyl Isobutyl Ketone	2018.03.20	

Source: WTO Statistics (G/ADP/N/300/CHN) *Based on the left material with necessary adjustment

[1] WTO website（https://www.wto.org/english/tratop_e/adp_e/AD_InitiationsByRepMem.pdf）

[2] Among the states with AD measures to Japan after 1995, these states (continuing AD measures to Japan as of June 30, 2016) are enumerated in the descending order of case numbers.

United States (18 cases)		
Product	**Date of Imposition**	**Developments**
PC Steel Wire Strand	1978.12.08	2015.04.23 continuance
Carbon Steel Butt-Weld Pipe Fittings	1987.02.10	2016.08.23 continuance
Brass Sheet & Strip	1988.08.12	2017.10.31 continuance
Gray Portland Cement & Clinker	1991.05.10	2017.07.17 continuance
Clad Steel Plate	1996.07.02	2018.12.18 continuance
Stainless Steel Wire Rod	1998.09.15	2016.08.15 continuance
Stainless Steel Sheets	1999.07.27	2017.10.03 continuance
Small Diameter Seamless Pipe	2000.06.26	2017.11.13 continuance
Large Diameter Seamless Pipe	2000.06.26	2017.11.13 continuance
Tin mill products	2000.08.28	2018.07.11 continuance
Welded Large Diameter Line Pipe	2001.12.06	2013.10.29 continuance
Polyvinyl Alcohol	2003.07.02	2015.05.27 continuance
Thermal diffusion nickel-plated hot-rolled flat steel products	2014.05.29	2017.12.07 continuance
Non oriented electromagnetic steel sheet	2014.12.03	
Cold-Rolled Steel Sheet	2016.07.14	
Hot-Rolled Steel Sheet	2016.10.03	
Thick Plate	2017.05.25	
Reinforcing Steel Bar	2017.07.14	

Source: WTO Statistics (G/ADP/N/300/USA) *Based on the left material with necessary adjustment

India (7 cases)		
Product	**Date of Imposition**	**Developments**
Polyvinyl Chloride (PVC)	2008.01.23	2014.06.13 continuance
Acid Phthalic Anhydride	2015.12.04	
Hot-Rolled Steel Sheet, Thick Plate	2017.05.11	
Cold-Rolled Steel Sheet	2017.05.12	
Toluene diisocyanate	2018.01.23	
Resorcin	2018.03.21	
Methyl Ethyl Ketone	2018.04.24	

Source: WTO Statistics (G/ADP/N/300/IND) *Based on the left material with necessary adjustment

Republic of Korea (6 cases)		
Product	**Date of Imposition**	**Developments**
Stainless Rods and Section Steel	2004.07.30 (Partial price	2017.06.02 continuance (three-year duration)

Republic of Korea (6 cases)		
Product	**Date of Imposition**	**Developments**
	undertakings)	
Ethyl Acetate	2008.08.25	2015.11.19 continuance
Stainless Steel Plate	2011.04.21	2016.12.06 continuance
Ethanolamine	2014.12.30	
Pneumatic Transmission Valve	2015.08.19	
Glassine paper	2018.07.22	

Source: WTO Statistics (G/ADP/N/300/KOR)

Australia (2 cases)		
Product	**Date of Imposition**	**Developments**
Alloy thick steel plate	2014.11.15	
Hot alloy/non-alloy shaped steel	2014.11.20	

Source: WTO Statistics (G/ADP/N/300/AUS)

Canada (3 cases)		
Product	**Date of Imposition**	**Developments**
Certain steel plate	2014.5.20	
Large-Diameter Welded Line Pipe	2016.10.20	
Reinforcing Steel Bar	2017.05.03	

Source: WTO Statistics (G/ADP/N/300/CAN)

Thailand (2 cases)		
Product	**Date of Imposition**	**Developments**
Cold Rolled Stainless Sheets	2003.03.13	2015.02.25 continuance
Hot Rolled Steel Sheets	2003.05.27	2015.05.21 continuance

Source: WTO Statistics (G/ADP/N/300/THA)

Brazil (1 case)		
Product	**Date of Imposition**	**Developments**
Radial tyres	2014.11.24	

Source: WTO Statistics (G/ADP/N/300/BRA)

EU (1 case)		
Product	**Date of Imposition**	**Developments**
Grain-oriented flat-rolled products of electrical steel (GOES)	2015.10.30	

Source: WTO Statistics (G/ADP/N/300/EU)

Mexico (1 case)		
Product	**Date of Imposition**	**Developments**
Seamless Steel Tubes	2000.11.11	2015.11.11 continuance

Source: WTO Statistics (G/ADP/N/300/MEX)

6. ECONOMIC ASPECTS AND SIGNIFICANCE

Anti-dumping measures are considered special measures within the GATT/WTO framework. They enable the selective imposition of duties, and therefore, have the potential of being used as discriminatory trade policies. With respect to tariff rates, multiple rounds of trade negotiations have reduced average tariff rates on industrial goods in the United States, the European Union, Canada, Japan and other leading countries to below 5 percent. One backlash from this reduction has been that some of average AD duties over 100 percent. Furthermore, lately, there are someAD investigations that are suspected to have been invoked for the purpose of protecting certain industries which are positioned important in the growth strategy of the country. Especially, actions in which a country buys time for growth of its own industry by determining dumping for a product for which other countries have more competitive industries and more competitive prices through an intransparent procedure or method , should be considered problematic. For this reason, once an anti-dumping measure is applied, the volume of imports to the countries imposing AD measures drops dramatically and, in some cases, ceases altogether (trade chilling effect). The impact on companies subject to investigation and the relevant industries (including domestic industries in the importing country that uses the products of these companies) is enormous.

(1) THE INFLUENCE OF INITIATING INVESTIGATIONS

The mere initiation of an AD investigation will have a vast impact on exporters. When an AD investigation is initiated, products under consideration may become far less attractive to exporters already leery of having to potentially pay extra duties.

Initiation of an AD investigation also places significant burdens on the companies being investigated. They must answer numerous questions from the authorities in a short period of time and spend enormous amounts of labour, time and money to defend themselves. Such burdens obviously have the potential to impair ordinary business activities. Thus, regardless of their findings, the mere initiation of an investigation is in itself a large threat to companies exporting products. We note that there are many cases where companies subject to investigation decline partially to respond to the questionnaires from the authorities because of the enormous burdens involved. In such cases, the rule of “facts available” applies. The AD Agreement provides that the investigating authorities can make determinations on the basis of the “facts available” (Article 6.8 of the AD Agreement). “Facts available” means the investigating authority may make their determinations solely on the material that the authority was able to collect in situations in which any company subject to investigation does not provide necessary information within a reasonable period or submitted information that could not be verified

(2) EFFECTS ON TECHNOLOGY TRANSFERS (UNFAIR EXPANSION OF THE PRODUCT SCOPE SUBJECT TO ANTI-DUMPING DUTIES)

Anti-dumping (AD) duties are imposed on “products” of which the existence of dumping and injury caused by them was determined by the investigating authorities. In the determination of AD duties, the scope of products subject to investigation and possible precedent must be clearly set out.

In cases where new products developed after the AD duty determinations (post-determination developed products) are also deemed to be included in the scope of the products subject to duty imposition, AD duties will also be imposed on these products. There are some cases where the definition of the products subject to investigation is broadly interpreted and the scope of products subject to duty imposition is actually expanded. In addition, as a measure to prevent circumvention in some cases, the authorities impose AD duties on post-determination developed products of the

same kind as the products subject to investigation. Furthermore, in some cases, the scope of products subject to investigation is broadly set at the initial stage to prevent circumvention. However, in cases where the types and characteristics of the post-determination developed products and the products subject to duty imposition differ significantly, the authorities should investigate whether or not the new products, in view of the differences in technology used and markets targeted, are having a detrimental impact on the domestic markets initially investigated before considering imposition of AD duties on them. There are obvious problems in expanding the application of existing AD measures without conducting such an investigation. We have strong expectations for more appropriate administration in this regard.

As described above, if the scope of duty imposition is unfairly expanded by reason of a “like product” definition, it would have an adverse influence on new product development, consumer choice and, ultimately, technological advancement. In contrast, if the post-determination developed products conceptually equivalent to the products subject to investigation are excluded from the subjects of duty imposition, circumvention will arise after imposing measures, which could impair effectiveness of the AD measures for domestic-industry protection.

With consideration to the adverse effect of limiting the scope of an investigation, suffice it to note here that all such cases demonstrate the potential impediment to technological progress that comes from facile expansions of the coverage of “like product” in AD proceedings.

(3) Retarding the Benefits of Globalization of Production

As the economy becomes more global in scope, companies are transferring their production overseas to their export markets or to developing countries where costs are lower. However, when such transfers take place for products that are subject to AD duties, they are often assumed to be attempts at circumvention. Anti-circumvention measures that inadequately distinguish between production-shifting for legitimate commercial reasons and for circumvention purposes risk not only distorting trade but also shrinking investment.

Furthermore, as Japanese companies transfer their production overseas, or outsource to overseas companies in developing countries, cases are arising where third party countries begin to implement anti-dumping measures against the countries in question, targeting the products manufactured in such ways. Care must be taken in relation to this issue, which is one of the risks of the globalization of manufacturing. In this instance, since Japan is not the subject of the investigation, it is difficult for the Japanese government to respond. It is necessary for Japanese companies when they expand their operations overseas to sufficiently ensure that AD measures are imposed proactively by countries such as China and India.

(4) Conclusion

As the above discussion indicates, AD measures are usable by Member countries against unfair trade practices under GATT and other WTO Agreements, but once taken, they have significant impacts on export transactions. Therefore, arbitrarily taking AD measures could adversely affect trade and are critical to a wide range of business activities. It should also be noted that the consumers and user industries in the importing country may also suffer disadvantages when AD measures are abused. Therefore, care must be taken so that the AD system is properly utilized in order to provide relief to domestic industries of importing countries that are injured by unfair trade, without causing the adverse effects that may be caused by arbitrarily taking measures.

7. USE OF SALES PRICES OF A THIRD COUNTRY IN RELATION TO ANTI-DUMPING DUTIES IMPOSED ON CHINA (THE ISSUE OF CHINA'S MARKET ECONOMY STATUS)

(1) PROBLEM AREAS

In accordance with an agreement upon China's accession to the WTO in 2001 (China's Accession Protocol), with respect to the determination of the dumping margin (the gap between the normal value and the export price) for exports from China, WTO Members are allowed to compare prices of products exported from China with alternative prices (e.g., domestic sales prices of a third country) as normal values, not domestic sales prices in China.

Behind this, there is a recognition that in China the market economy has not sufficiently developed, as exemplified by excessive subsidies, low-interest loans from the government, and competition distortion by state-owned companies, and accordingly that true domestic prices are unknown or unreasonably low, and thus cannot be appropriately compared with export prices, making it difficult to calculate an appropriate difference (dumping margin)..

A part of the supporting provisions for the above agreement (Subparagraph 15(a)(ii) of China's Accession Protocol)[3] expired in December 11, 2016, when 15 years passed since the accession of China. Due to the expiration, how to treat dumping determination for exports from China afterwards became an issue of international debate (so called the (Non-)Market Economy issue).

What underlie this international debate are the arguments regarding legal interpretations resulting from the expiration of a part of the relevant provisions. This debate also draws attention in the context of the question of whether China should be treated as a market economy country when behind China's excess capacity issue are said to be market-distorting subsidies from the government (including market-distorting low-interest loans given by government-affiliated financial institutions to particular industries)

(2) POLICY ACTION OF EACH COUNTRY

(a) The United States

In its AD Act (the Tariff Act of 1930 [§1677(18)]), the U.S. defined a "non-market economy (NME) country" as a country for which alternative prices can be used when conducting an investigation for imposition of AD duties, and the U.S. Department of Commerce separately

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[3] Article 15 of Accession of the People's Republic of China:
(a) In determining price comparability under Article VI of the GATT 1994 and the Anti-Dumping Agreement, the importing WTO Member shall use either Chinese prices or costs for the industry under investigation or a methodology that is not based on a strict comparison with domestic prices or costs in China based on the following rules:
(i) If the producers under investigation can clearly show that market economy conditions prevail in the industry producing the like product with regard to the manufacture, production and sale of that product, the importing WTO Member shall use Chinese prices or costs for the industry under investigation in determining price comparability;
(ii) The importing WTO Member may use a methodology that is not based on a strict comparison with domestic prices or costs in China if the producers under investigation cannot clearly show that market economy conditions prevail in the industry producing the like product with regard to manufacture, production and sale of that product.
(…)
(d) Once China has established, under the national law of the importing WTO Member, that it is a market economy, the provisions of subparagraph (a) shall be terminated provided that the importing Member's national law contains market economy criteria as of the date of accession. In any event, the provisions of subparagraph (a)(ii) shall expire 15 years after the date of accession. In addition, should China establish, pursuant to the national law of the importing WTO Member, that market economy conditions prevail in a particular industry or sector, the non-market economy provisions of subparagraph (a) shall no longer apply to that industry or sector.

determined that China is an NME country. The U.S. maintains the treatment of China as an NME country and takes the position to continue using alternative prices in an AD investigation on China's exports after the expiration of Subparagraph 15 (a)(ii) of China's Accession Protocol.

Moreover, in October 2017, the United States conducted an AD investigation on Chinese aluminum foil and re-determined China as an NME country under the domestic law for the first time in eleven years since 2006. The reason for this determination was that the market mechanism was not properly functioning as the Chinese government, the Communist Party, etc. were distorting incentives for major economic entities (financial institutions, the manufacturing industry, the energy industry, and infrastructures, etc.) by directly or indirectly managing resources distribution as the owners of these entities or through giving instructions on performance goals to these entities based on national industrial projects, etc.

(b) EU

In December 2017, the EU amended its AD regulation (REGULATION (EU) 2017/2321). The AD regulation before the amendment (REGULATION (EU) 2016/1036) specifically named China and other countries as "NME countries" for which the use of alternative prices was allowed. It also required the use of such alternative prices in AD duty investigations in principle. On the other hand, the amended regulation simply provides that the use of alternative prices is allowed for countries and industries for which a significant market distortion has been found to be occurring, instead of using the term "NME country" or designating specific countries as NME countries. However, the new regulation provides that a report to the effect that a significant market distortion is found is to be produced when the European Commission has enough evidence to support such fact.

In December 2017, the European Commission issued a report under the new regulation to the effect that a significant market distortion was found with respect to China, clearly stating that alternative prices are allowed to be used in AD investigations against China. The findings in the above report included the following: [1] the framework for economic activities in China continues to be distinct in that the state authority has a definitive power over the determination of resources distribution and pricing; [2] the distribution and pricing of elements influencing production activities (land property, energy, the capital system, raw materials, labour, etc.) are significantly influenced by the state authority; and [3] as a result of specifically examining the four industries that have been frequently subject to the EU's AD investigations (namely steels, aluminum, chemicals, and ceramics), it was found that the above two findings also apply to these four industries. Based on these findings, the report concluded that there was a significant market distortion occurring in China, as prices and costs in China were heavily interfered with by the government, rather than being formed by the power of the free market.

(c) Japan

As for Japan, Articles 2, Paragraph 3 of the Cabinet Order on Anti-Dumping Duties stipulates that third country prices may be used in an investigation for imposition of AD duties on Chinese products.

After December 11 of 2016, Japan has continued to interpret that third country prices can be used in an AD investigation on Chinese products, and necessary amendments were made to the Guidelines on Procedures for Countervailing and Anti-Dumping Duties to clarify this interpretation.

(d) Other Countries

In 2005 when Australia was about to start FTA negotiations with China, it announced that it would treat China as a market economy country in its AD investigation. In 2005, the Republic of Korea also pledged that it would treat China as a market economy country. In an AD investigation

into Chinese products, the two countries apply the same rules as those for AD investigations into products of other market economy countries. Brazil made a political commitment with China to recognize China as a market economy in 2004. However, it has not yet amended its domestic laws and regulations and has continued to use third country prices in an AD investigation on Chinese products in practice.

On the other hand, even after the expiration of a part of the supporting provisions on December 11 of 2016, Canada maintains its provisions so that third country prices can be used in an AD investigation into Chinese products. As for India, third country prices can be used in an AD investigation on China under domestic laws and regulations and in practice, and the Indian government has not announced any plan to change this situation.

(3) WTO DISPUTE SETTLEMENT PROCEDURES

On December 12 of 2016, China requested bilateral consultations under the WTO Agreements with the U.S and the EU regarding the issue of China's market economy status.

In the case with the United States (DS515), China made a second request for consultation with the United States in November 2017, following its re-designation as an NME country in the aforementioned AD investigation on aluminum foil. However, after that, China has not made a request for the establishment of a panel against the United States.

In the case with the EU (DS516), a panel was established in April 2017. The procedures are still ongoing with the participation of twenty countries as third parties, including Japan, the United States, Canada, Mexico, Brazil, Australia, and Russia. The United States made the following legal arguments in its third party opinion (already published): [1] while "price comparability" between normal value and export price is a prerequisite under Article VI of the GATT, domestic prices and costs in NME countries are distorted and thus lack such price comparability; therefore, domestic prices and costs in such countries should not be used as normal values; [2] even after the expiry of Section 15(a)(ii) of China's Accession Protocol, the remaining text of (a) supports the above interpretation of Article IV of the GATT; therefore, the use of alternative prices should be continued to be allowed in AD investigations against China (as long as China remains as an NME country); [3] Since China still remains as an NME country today, WTO Members are allowed to use alternative price against China.

Thus, the issue will be resolved through WTO dispute settlement procedures.

8. JAPAN'S ANTI-DUMPING ACTIONS

There are three laws and regulations relating to the AD Agreement in Japan: Article 8 of the Customs Tariff Law, the Cabinet Order on Anti-Dumping Duties, and the Guidelines on Procedures for Countervailing and Anti-Dumping Duties. The authority is required to take action based on these laws and regulations when a complaint is made by Japanese industries, claiming that they are suffering injury caused by dumped imports.[4] The investigating authorities will respond to questions and consultations as needed, including questions on trade remedy measures, application procedures, etc.[5] The overview of recent investigations is shown in Figures II-6-5 to II-6-8 below.

[4] These laws and regulations are to be reviewed as necessary to maintain consistency with the WTO agreements. In April 2017, Japan amended the Cabinet Order on Anti-Dumping Duties and the Guidelines on Procedures, etc. Concerning Anti-Dumping Duties, in order to reduce the burden of application procedures.
http://www.meti.go.jp/policy/external_economy/trade_control/boekikanri/download/trade-remedy/20170401_release.pdf

[5] See the following website for the flow of procedures from application to duty imposition:
http://www.meti.go.jp/policy/external_economy/trade_control/boekikanri/trade-remedy/taxation.html

Figure II-6-5 Anti-dumping Investigation on Electrolytic Manganese Dioxide from Australia, Spain, China and South Africa

History	
31 January 2007:	Complaint (from two Japanese companies) to impose antidumping duties was accepted
27 April 2007:	Investigation was initiated
14 June 2008:	Provisional Antidumping duties were imposed
1 September 2008:	Antidumping duties were imposed
30 August 2012:	Complaint (from two Japanese companies) to extend anti-dumping duties was accepted Australia was excluded due to withdrawal of production
30 October 2012:	Investigation was initiated on the extension of imposition period
15 October 2013:	Investigation on the extension of imposition period was extended
6 March 2014:	Period of AD duty imposition was extended
2 March 2018:	Complaint (from two Japanese companies) to extend anti-dumping duties was accepted
6 April 2018	Investigation was initiated <**Anti-dumping duty rates** **Australia:** All companies: 29.3% **Spain:** All companies: 14.0% **China:** All companies: 46.5%; One company: 34.3%; **South Africa:** All companies: 14.5%

Figure II-6-6 Anti-dumping Investigation on Cut-sheet Paper from Indonesia

History	
10 May 2011	Complaint (from eight Japanese companies) to impose anti-dumping duties was accepted
29 June 2011	Investigation was initiated
26 June 2013	Decision not to impose AD duties

Figure II-6-7 Anti-dumping Investigation on Toluene Diisocyanate from China

History	
17 December 2013	Complaint (from one Japanese company) to impose antidumping duties was accepted
14 February 2014	Investigation was initiated
4 December 2014	Preliminary determination was made
25 December 2014	Provisional AD duties were imposed
12 February 2015	The investigation period was extended
17 April 2015	AD duties were imposed
AD rate China: 69.4%	

Figure II-6-8 Anti-dumping Investigation on Potassium from the Republic of Korea and China

History	
3 April 2015	Complaint (from one Japanese company) to impose antidumping duties was accepted
26 May 2015	Investigation was initiated Determination was made not to impose Anti-dumping duties
25 March 2016	Preliminary determination was made
9 April 2016	Provisional AD duties were imposed
9 August 2016	AD duties were imposed
AD rate China: 73.7% Korea: 49.5%	

Figure II-6-9 Highly Polymerized Polyethylene Terephthalate from China

History	
6 September 2016	Complaint (from four Japanese companies) to impose antidumping duties was accepted
30 September 2016	Investigation was initiated
4 August 2017	Preliminary determination was made
2 September 2017	Provisional AD duties were imposed
28 December 2017	AD duties were imposed
AD rate China: 39.8-53.0% (depends on the supplier)	

Figure II-6-10 Carbon Steel Butt Welded Joint from the Republic of Korea and China

History	
6 March 2017	Complaint (from three Japanese companies) to impose antidumping duties was accepted
31 March 2017	Investigation was initiated
8 December 2017	Preliminary determination was made
28 December 2017	Provisional AD duties were imposed
31 March 2018	AD duties were imposed
AD rate Korea: 41.8-69.2% (depends on the supplier) China: 57.3%	

9. ANTI-DUMPING CASES IN THE WTO DISPUTE SETTLEMENT PROCESS

From the establishment of the WTO to the end of February 2018, there were 521 consultation requests under the WTO dispute settlement procedures, including 117 cases involving anti-dumping measures. Of the 117 AD measure cases, six cases were brought by Japan[6] (DS162 (US – 1916 AD Act), DS184 (US – Hot-Rolled Steel), DS244 (US – Corrosion Resistant Steel Sunset Review), DS322 (US – Zeroing and Sunset Review), DS454 (China – HP-SSST), and DS504 (Republic of Korea – Pneumatic Valves).

[6] https://www.wto.org/english/tratop_e/dispu_e/dispu_agreements_index_e.htm?id=A6#