

Chapter 9

Canada

Quantitative Restrictions

Export Restrictions on Logs

<Outline of the Measure>

The Province of British Columbia has prohibited the export of a portion of softwood logs in order to protect its domestic industry. For province-owned forests, the provincial law stipulates that lumber produced from forests in the province shall be used or processed within the province while, for privately-owned forests, the federal law stipulates so. Logs are exported only where they are recognized as surplus materials that are not used within the province. For province-owned forests, the Lieutenant-Governor or the Provincial Minister of Forests, Lands and Natural Resource Operations determines whether or not logs are surplus materials through examinations conducted by the Timber Export Advisory Committee (TEAC). Meanwhile, for privately-owned forests, the Minister of International Trade makes such determinations through examinations conducted by the Federal Timber Export Advisory Committee (FTEAC). With regard to lumber produced from province-owned forests, export is banned for all of Yellow cedar and Western Red cedar and high-quality logs of Douglas fir, Western hemlock, and Sitka Spruce, etc., excluding some areas, such as native settlements. In addition, the government imposes a “fee in lieu of domestic manufacture” (equivalent to an export tax), depending on tree species and grades, on the exportation of logs produced from province-owned forests. Furthermore, the amount obtained by multiplying the tariff rate (5-15%) by the factor calculated based on the difference between export price and domestic price (1.1 for the first quarter of 2020) has been imposed on logs produced from the coastal part of province-owned forests since 2013. In July 2019, the calculation formula for the fee in lieu of domestic manufacture was revised for some logs produced from the coastal part of province-owned forests, and 10-50% of domestic price or 1 Canadian dollar/m³ was adopted accordingly. The fee has been 10-35% of domestic price or 1 Canadian dollar/m³ since December 15, 2019.

<Problems under International Rules>

Export is prohibited or restricted to protect domestic industry, and thus there is an extremely high possibility that the measure violates GATT Article 11.1. Though the measure is taken by a local government, the Canadian government should consider appropriate measures to ensure the compliance with the agreement based on GATT Article 24.12.

Through multilateral and bilateral consultations, Japan is urging the Canadian government to correct the measure.

<Recent Developments>

In the TPP Agreement, both Japanese government and the Canadian government exchanged a side letter regarding the trade of forestry products. It stipulates that the Canadian government shall issue an approval when the government receives an application for log export to Japan submitted in accordance with the procedures stipulated in Canada’s related laws or regulations (it comes into force as of the day on which the TPP Agreement for Japan and Canada comes into effect, December 30, 2018).

Tariffs

Tariff Structure

* This particular case was included in light of the following concerns despite it being a trade or investment policy or measure that does not expressly violate the WTO Agreements or other international rules.

<Outline of the Measure>

Canada's current simple average bound tariff rate for non-agricultural products is 5.1%, a somewhat higher rate than those of Japan, the United States and the EU. There are high bound tariff products such as footwear (maximum 18.2%), clothing (maximum 18%), parachutes (maximum 15.7%), railway-related products (maximum 11.3%), and cutters and knives (maximum 11.3%), while there are ships and tankers (maximum applied tariff rate of 25%) and so on as unbound tariff products. The binding coverage on non-agricultural products is 99.6%.

<Concerns>

High tariff rates themselves do not, per se, conflict with WTO Agreements unless they exceed the bound rates. However, in light of the spirit of the WTO Agreements of promoting free trade and enhancing economic efficiency, it is desirable to reduce tariff rates to the lowest possible rate.

<Recent Developments>

With the aim of expanding the number of items subject to elimination of tariffs on IT products, ITA expansion negotiations were launched in May 2012, and an agreement was reached in December 2015. Tariff elimination concerning 201 subject items began in July 2016, and was completed on around 90% of them as of July 2019. By January 2024, tariffs on the remaining items will have been completely eliminated for 55 members (see 2. (2) "Information Technology Agreement (ITA) Expansion Negotiation" in Chapter 5 of Part II for details). As for Canada, elimination of tariffs started in July 2016. For example, high tariff items for which tariffs are to be eliminated by Canada include polishing pads (12%), static converters (11.3%), parts for static converters (9.7%), etc. Tariffs on all subject items including the above items were eliminated gradually and have been completely eliminated by July 2019.

Safeguards

Steel Safeguards

<Outline of the Measure>

The Canadian ministry of finance started an investigation on safeguards for steel imports on October 11, 2018. It triggered a provisional measure to impose an additional 25% tariffs on seven steel products (heavy plate, concrete reinforcing bar, energy tubular products, hot rolled sheet, pre-painted steel, stainless steel wire, wire rod), on 25 October 2018, when the actual import of each product exceeds the average import amount of the relevant product for the past three years (2015 to 2017). In May 2019, the Canadian government decided to impose safeguard measures on two items, namely heavy plate and stainless steel wire, based on its finding absolute or relative increase in the imports of them and threat of serious injury to the domestic industry. The safeguard measures have been introduced, imposing additional tariffs on the portion exceeding the tariff rate quotas (tariff exemption quotas) for the period between May 13, 2019 and October 24, 2021. The following three-phase degressive tariff rates have been used: 20% (2019/5/13-2020/5/12) → 15% (2020/5/13-2021/5/12) → 10% (2021/5/13-10/24) for heavy plate; and 25% (2019/5/13-2020/5/12) → 15% (2020/5/13-2021/5/12) → 5% (2021/5/13-10/24) for stainless steel wire.

<Problems under International Rules>

As a background of the measures, the global steel oversupply, import restrictions imposed by other countries and Section 232 measures implemented by the US were referred to. There is a room for debate on its consistency with "unforeseen developments" (generally interpreted as circumstances that could not be foreseen at the time of the tariff negotiation and that would cause changes in the competitive

relationship between domestic and imported products, such as technological innovation and changes in consumers' preference), which is one of the prerequisites of imposing a safeguard measure (GATT Article 19.1(a)).

<Recent Developments>

After the investigation commenced, Japan expressed its concerns in its government opinion, at the safeguard committee, etc. Japan will closely monitor the trade diversions of the subject products into Asia, etc., and the risks of "rush" exports to Canada to quickly exhaust the tariff quotas, and reach out to the Canadian government as necessary.

