

# 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's Non-automatic 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 abolished the Advance Sworn Import Declaration (*Declaración Jurada Anticipada de Importación*; DJAI) and introduced a new import licensing system using the Comprehensive Import Monitoring System (*Sistema Integral de Monitoreo de Importaciones*; SIMI) on December 31, 2015. The system requires import license for all the imports except the temporary import, and 87.6% of the total falls under automatic import license items, and the rest falls under non-automatic import license items (fiber, footwear, automobile/electronic parts, etc.) In terms of promoting the export and simplifying the trade procedure, the automobile/electronic parts etc. were excluded from the non-automatic import license items gradually. However, in January 2020, electronic/electrical appliances, automobiles, motorcycles, and automobile parts were added to the non-automatic import license, which then took up about 15% of the total.

The system stipulates that the government agencies related to issuing the non-automatic import licensing “will judge the application within ten days” but “can extend the period if necessary.” In the past, the non-automatic import license could be acquired in about 72 hours at maximum after the application. However, after January 2020 when the target items were increased, the examination takes more time. Therefore, Japan will continue paying attention to whether the system is being operated consistently the WTO Agreement, as well as collecting information regarding the implementation status of Argentina.

(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 1 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 in the same year, 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) Turkey's Definitive Safeguard Measures on Imports of Certain Steel Products**

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

The Turkish government started an investigation on safeguards for steel imports on April 27, 2018. It triggered provisional measures on October 17, 2018 (for 200 days) to impose an additional 25 tariff on five steel products (flat products, long products, railway material, tubes and pipes and hollow profiles, stainless steel), when the import of each product exceeds the averaged import amount of the relevant product for the past three years (2015 to 2017). In May 7, 2019, the Turkish government terminated the investigation without taking the measures, since there was no absolute and relative increase in the import amount of the target products, and no threat of serious injury to the domestic industry.

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

As a background of the safeguard investigation, Turkey referred to the global steel oversupply, import restrictions imposed by other countries and Section 232 measures implemented by the US. There was a room for debate on its inconsistency with “unforeseen developments” (generally interpreted as circumstances that could not be foreseen at the time of tariff concession negotiations, and that would cause changes in competitive relationship between domestic and imported products, such as technological innovation and changes in consumers’ preference), which is one of the prerequisites for imposing a safeguard measure (GATT Article 19.1(a)).

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

After the investigation commenced, Japan had expressed its concerns in its government opinion, at the safeguard committee, and at the public hearing. We appreciate that the Turkish government terminated the investigation without taking measures in light of our concerns.

### **(4) EAEU Definitive Safeguard Measures on Imports of Certain Steel Products**

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

The EAEU (Eurasian Economic Union)<sup>i</sup> started a safeguard investigation for import of three types of steel (hot-rolled steel products, cold-rolled steel products, coated steel products) on August 7, 2018. On August 8, 2019, the EAEU published the final decision and determined adopting the safeguard measures for hot-rolled steel products, finding absolute and relative increase in imports, and threat of serious injury to the domestic industry. It has imposed the safeguard measure with 20% additional tariffs for the excess of the tariff quotas (tariff-free quotas) for one year from December 1, 2019.

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

As a background of the safeguard investigation, EAEU referred to the global steel oversupply, import restrictions imposed by other countries and Section 232 measures implemented by the US. There is a room for debate on its inconsistency with “unforeseen developments” (generally interpreted as circumstances that could not be foreseen at the time of tariff concession negotiations, and that would cause changes in competitive relationship between domestic and imported products, such as technological innovation and changes in consumers’ preference), which is one of the prerequisites for imposing a safeguard measure (GATT Article 19.1(a)).

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

After starting the investigation, Japan expressed its concerns in its government opinion and at the safeguard committee. Japan will continue to reach out to the EAEU investigation authority to mitigate possible impact of the measures on Japanese products.

<sup>i</sup> The member countries are Belarus, Kazakhstan, Russia, Armenia, and Kyrgyzstan.

## **(5) GCC Definitive Safeguard Measures on Imports of Certain Steel Products**

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

On October 23, 2019, the GCC (Gulf Cooperation Council)<sup>ii</sup> started a safeguard investigation for import of nine categories of steel products: 1. Flat hot-rolled coils and sheets, 2. Cold-rolled flat steel coils and sheets, 3. Metallic coated steel, 4. Organic coated steel, 5. Reinforced steel bars and wire rod, 6. Circular, square and rectangular sticks and rods, 7. Sections, 8. Angles and shapes, and 9. Welded and seamless pipes and tubes including items for transporting water, gas and oil.

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

As a background of the safeguard investigation, GCC referred to the global steel oversupply and import restrictions imposed by other countries. There is a room for debate on its inconsistency with “unforeseen developments” (generally interpreted as circumstances that could not be foreseen at the time of tariff concession negotiations, and that would cause changes in competitive relationship between domestic and imported products, such as technological innovation and changes in consumers’ preference), which is one of the prerequisites for imposing a safeguard measure (GATT Article 19.1(a)).

### **<Recent Developments>**

After the investigation commenced, Japan expressed its concerns at the safeguard committee. Japan will continue to reach out to the GCC investigation authority to mitigate possible impact of the measures on Japanese products.

## **(6) 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-.

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<sup>ii</sup> The member countries are Saudi Arabia, the United Arab Emirates, Bahrain, Oman, Qatar, and Kuwait.