

# Chapter 8

# 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 in the same way. 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, with the exception of 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. From July 2019, the method of calculating the fee in lieu of domestic manufacture was revised: 15% of the domestic price for logs of Douglas fir, Western Red cedar, and Yellow cedar from coastal areas of province-owned forests; 10% to 50% of the domestic price for other softwood logs; and C\$1/m<sup>3</sup> for hardwood logs. Since

December 15, 2019, the maximum tax rate on other softwood logs has been reduced to 35% of the domestic price. In September 2020, the revised Manufactured Forest Products Regulation (MFPR) went into effect, requiring that Western Red cedar and Yellow cedar lumber exported from coastal areas be processed to the finished product (with some exceptions including exports to locations more than 3,000 miles away), and imposing a fee in lieu of domestic manufacture on roughly processed lumber of Western Red cedar and Yellow cedar. In addition, for species other than Western Red cedar and Yellow cedar, the maximum cross-sectional area of lumber that can be exported outside the province was lowered from 0.2m<sup>2</sup> to 0.1m<sup>2</sup>.

#### <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 CPTPP 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 went into effect, December 30, 2018) .From November 2019 to June

2020, Canada's largest log exporter stopped logging in its own forests in the context of its business strategy. Since then, Japan's log imports from Canada have declined significantly, even to zero in May and September 2020. An article on this matter was published in the Nihon Keizai Shimbun on July 16, 2020, and an editorial was published in the same newspaper on September 25 of the same year.

In response to these developments, Japan has requested the Canadian government to implement the measures properly on occasions such as the meeting of the Japan-Canada Joint Economic Committee held on December 3, 2020.

## 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 Measures>

As of 2019, the simple average bound tariff rate for non-agricultural products is 5.1%, somewhat higher than the levels of major developed countries such as Japan, US, and EU, and there are some high bound tariff products, including footwear (maximum 20%), bags (maximum 18%), clothing (maximum 18%), parachutes (maximum 15.7%), railway-related products (maximum 11.3%), and cutters and knives (maximum 11.3%). Unbound tariff items include ships and tankers (maximum applied tariff rate of 25%). The binding coverage on non-agricultural products is 99.7% as of 2019.

#### <Concerns>

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#### <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. Elimination of tariffs on 201 items started gradually in July 2016. By January 2024, tariffs on all 201 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 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.

In terms of the impact of the COVID-19, on March 16, 2020, in accordance with Article 2 of the Goods for Emergency Use Remission Order, Canada temporarily eliminate import tariff and took other measures on emergency supplies, which are necessary things to respond to epidemics, disasters, and other emergencies ) imported by or on behalf of public health agencies, hospitals, and first response organizations (e.g., police, fire and local civil defense groups, including medical response teams), effective from the same date, as long as necessary, for the purpose of supporting the response to the COVID-19. In addition, from April 6, 2020 Canada took measures to temporarily eliminate import tariffs on emergency supplies imported by or on behalf of public or private care residences, such as seniors' residences, nursing homes and shelters.

In addition, on May 5, 2020, in accordance with Article 1 of the Certain Goods Remission Order, for the purpose of supporting the response to the COVID-19, Canada temporarily eliminated import tariffs on a list of medical products and personal protective equipment (PPE) jointly identified by the World Health Organization (WHO) and the World Customs Organization (WCO) as critical for combatting the COVID-19, as well as the relevant classification guidance by the Canada Border Services Agency; and

medical products (PPE, diagnostic test kits, face and eye protection, gloves, protective clothing, disinfectant supplies, medical equipment, thermometers, wipes, medical supplies, and other products (soaps, etc.)).

## 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 October 25, 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 of absolute or relative increase in the imports of them and threat of serious injury to the domestic industry, and introduced safeguard measures to impose additional tariffs on the portion of imports in excess of tariff quotas (duty-free quota) from May 13, 2019 to 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 overcapacity problem, 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.

