

**“2021 Report on Compliance by Major  
Trading Partners with Trade  
Agreements – WTO, EPA/FTA, and IIA-”  
and  
“METI Priorities Based on the 2021  
Report”**

**June 2021**

**Multilateral Trade System Department**

**Trade Policy Bureau**

# Overview

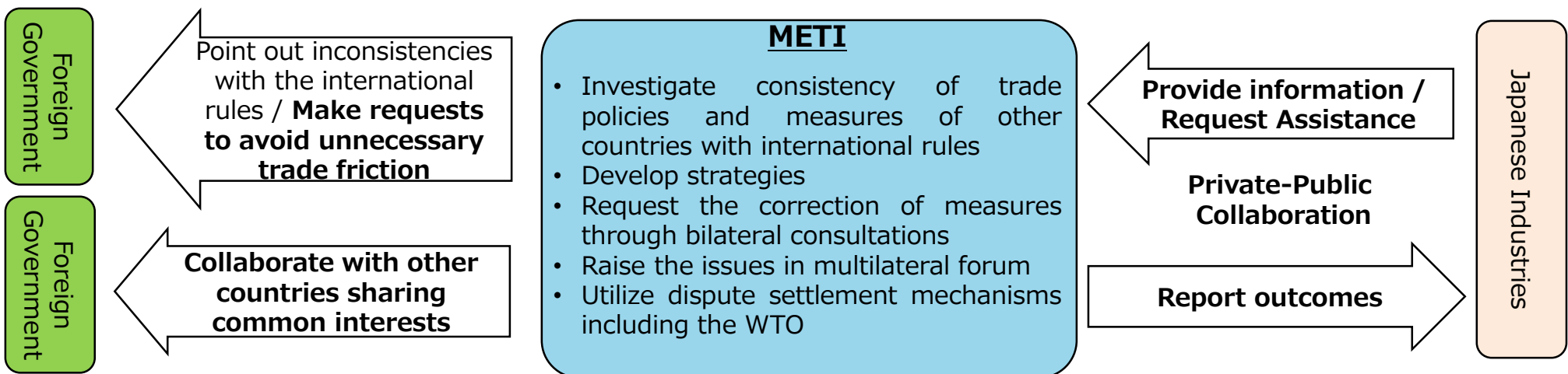
- The Report is a gathered of foreign government trade measures that are questioned in light of the WTO agreements and other international rules based on information from industry, in order to highlight the importance of the rules-based multilateral system.
- The Report has been published every year since 1992 (the 2020 Report is the 30<sup>th</sup> edition). **The 2021 Report was published on June 25, 2021.**
- **Select priority issues** from measures analyzed in the Report and make public government actions and their outcomes.

## “Report on Compliance by Major Trading Partners with Trade Agreements” (Report of the Subcommittee on Unfair Trade Policies and Measures)

- This is the only report that comprehensively analyzes the status of trade measures in each country in accordance with international rules.
- Experts of **Subcommittee on Unfair Trade policies and Measures under the Industrial Structure Council** have analyzed problems of trade policies and measures of major trading partners based on international rules, including the WTO agreements.

## “METI Priorities”

- From the measures pointed in the report, METI has picked up several measures as priority, taking into consideration the interests of the industry. Use to encourage foreign governments and promote collaboration with industry and foreign governments of similar interest.

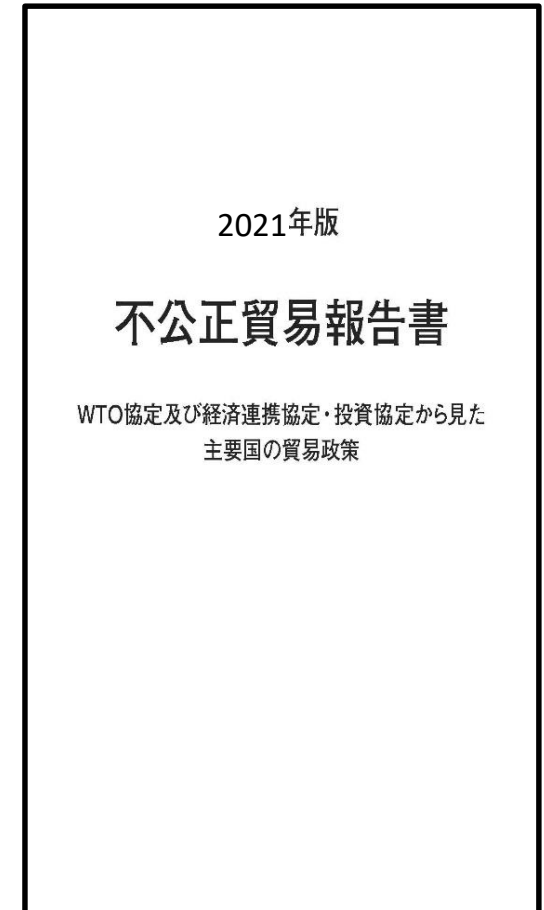


# **1. Report on Compliance by Major Trading Partners with Trade Agreements**

# Structure of the 2021 Report on Compliance by Major Trading Partners with Trade Agreements

- Composed of three parts, Part I points out various trade policies and measures of foreign countries and analyzes their consistency with the international rules including the WTO agreements. Part II (WTO agreements) and III (FTA/EPA) give a brief summary of international rules.

Preface	Presents the concept of “rule-based” approach, which is to determine the “fairness” of trade policies and measures based on internationally agreed rules
Part I	Points out approximately 150 policies and measures of 20 countries/regions (including China, ASEAN countries, the US, the EU·UK, Korea, Russia, India, and Brazil)
Part II	Explains the WTO agreements and WTO-related discussions (including GATT, AD Agreement, Agreement on Subsidy and Countervailing Measures, Safeguard Agreement, GATS, TRIPS, Government Procurement, and E-Commerce) and major cases under each agreement
Part III	Explains Japan’s major EPA/FTA and investment treaties including the CPTPP
References	Exhibits the recent movement in the Ministerial Conferences of the WTO, and also provides a list of WTO dispute settlement (DS) cases.



# Newly Listed Cases (10 cases)

(※In general, Measures are published as of end of February 2021)

Country	Measure	Outline
Part I Chapter 1 "China"	Anti-dumping measure against Polyphenylene Sulfide (PPS)	In May 2019, the Government of China initiated the anti-dumping investigation against the PPS imported from Japan, the United States, Rep. of Korea and Malaysia. In November 2020, the Government of China determined the existence of dumping, injury to the domestic industry and the causal link between the dumping and injury, and made a final determination to impose the anti-dumping duty on the imports of the subject product. The imports of Japanese product are not likely to be the cause of injury, which casts doubt on its consistency with, in particular, Article 3.4 and 3.5 of the AD Agreement.
Part I Chapter 2 "Indonesia"	Import Restriction measure on air-conditioners	The regulation of minister of trade(No.68,2020) by Indonesia was enacted on August 25 and came into effect on August 28, providing import licensing on electric products (air-conditioners). Only holders of general import license (API-U) can import air-conditioners, but they must get prior import approval by MOI. As there have been delays of approval for a few months and limitation of approved numbers, it is concerned that the measure is an import restriction that is inconsistent with the WTO Agreement.
Part I Chapter 2 "Indonesia"	Safeguard investigation on Carpets and other textile	Indonesia initiated a safeguard investigation on Carpets and other textile on June 10,2020. On September 21, the investigating authority recommended the imposition of the additional tariffs for three years. Indonesia imposed the safeguard measure accordingly on February 17,2021. Japan has concerns on its consistency with the prerequisites of imposing safeguards such as "unforeseen developments" and "only to the extent necessary" to prevent injury.
Part I Chapter 2 "Indonesia"	Local content requirement of televisions	Indonesia provided in the regulation of the minister of communication and information No.4, 2019 (effective as of June 2020) that more than 20 % of "local content level" is required for digital broadcast televisions. As the use of local parts would be counted into the local content level, the measure provides preferential treatment to the use of local parts and may be inconsistent with Article 2.1 of TRIMs agreement and Article 3.4 of GATT.

# Newly Listed Cases (10 cases)

Country	Measure	Outline
Part I Chapter 2 "Philippines"	Safeguard Measure on automobiles	The Philippines initiated a safeguard investigation on automobiles (passenger cars and light commercial vehicles) on 6 February, 2020. On February 1, 2021, the Philippines imposed a provisional safeguard measure (for 200 days). Since the covered products are not listed in the Philippines' WTO concession, it appears inconsistent with Article 19.1(a) of GATT or may not be recognized as a WTO safeguard (violating MFN treatment obligations (Article I of the GATT)).
Part I Chapter 4 "EU· United Kingdom"	Regulation concerning batteries and waste batteries	EU notified its new proposal for a regulation concerning batteries and waist batteries to the TBT committee in January 2021. In order to reduce carbon emissions etc., the proposal includes a regulation which prohibits market access of those products that exceed a certain amount of carbon emissions in their entire lifecycle.
Part I Chapter 10 "India"	Import prohibition on air-conditioners	In October 2020, India published an import prohibition measure on air conditioners (limited to those with refrigerants) and immediately enforced it without any transitional measure. The measure prohibits importation of air conditioners with refrigerants and is likely to be inconsistent with Article XI:1 of the GATT.

# Newly Listed Cases (10 cases)

Country	Measure	Outline
Part I Chapter 10 "India"	Tightening EPA rules of origin procedures	Regarding the new rule (CAROTAR 2020) concerning the determination of origin under the trade agreement, which came into effect in September 2020, Japan points out concerns about the consistency with the Japan-India CEPA, and introduces the subsequent efforts by the Indian side to improve operations.
Part I Chapter 10 "India"	Investigation on PVC Suspension Grade Resin under Comprehensive Economic Partnership Agreement between Japan and the Republic of India ("CEPA")	India announced that it initiated a safeguard investigation on PVC Suspension Grade Resin under Comprehensive Economic Partnership Agreement between Japan and the Republic of India. Japan has concerns on whether there is a causal relationship between imports of Japanese products and injury to the domestic industry.
Part I Chapter 12 "South Africa"	Investigation on extension of the safeguard measure for certain flat-rolled products of iron, non-alloy steel or other alloy steel	South Africa notified to the WTO its initiation of investigation on the extension of the safeguard measure on July 24, 2020. On August 7, South Africa notified only domestically its decision to extend the measure for one year (without WTO notification). The measure has been extended and imposed violating the Safeguard Agreement, without clear basis of extension.

# Columns

- 12 columns are posted.
- We conducted deep analysis on recent topics such as “COVID-19 and trade”, “Trade and environment”, “Brexit from the European Union”, and “WTO Appellate Body Issue”, an important issue of WTO reform, etc.

Part and Chapter t h	Title	Outline
Part I Chapter 4 “EU· United Kingdom”	Brexit from the European Union	As of the end of 2020, the United Kingdom completed its full withdrawal from the EU. This section introduces the process and issues of the withdrawal, the content of the agreed trade agreement between the UK and the EU, and considers the future relationship of the UK and Japan.
Part II “Overview of the WTO Agreements”	COVID-19 and trade	This column introduces progress regarding COVID-19 and trade in the international field, including the WTO( e.g., the Ottawa Group's Trade and Health Initiative, etc.) and provides an overview of COVID-19 trade related measures' consistency with the WTO rules.
Part II “Overview of the WTO Agreements”	Trade and environment: overview and WTO consistency of carbon border adjustment measures	As the EU plans to submit a proposal of carbon border adjustment measure in July 2021, the article revisits (i) the recent developments of discussion in Japan, the US and the EU respectively regarding the measure, and (ii) the issues under the WTO Agreement regarding the measure.
Part II Chapter 1 “Most-Favored- Nation Treatment Principle”	Developing Country Status – Issues related to Special and Differential Treatment (S&D)	This column introduces the proposal by the United States in February 2019 concerning the thresholds for graduation from the developing country status based on self-designation under the WTO and the recent development of discussions as well as the history and change of the role of S&D.

# Columns

Part and Chapter	Title	Outline
Part II Chapter 6 “Anti-Dumping Measures”	<i>Korea – Pneumatic Valves</i> (DS504) and injury finding under Article 3 of the Anti-Dumping Agreement	To introduce the panel and the Appellate Body reports in DS504, which adopted the core claims of Japan and found that Korean AD measures were inconsistent with the WTO Agreement, in light of the development of the international discipline of the Anti-Dumping Agreement (e.g. price comparability).
Part II Chapter 6 “Anti-Dumping Measures”	Panel report of <i>Korea – AD measure on Stainless Steel Bars</i> case (DS 553)	In November 2020, the WTO panel report on the decision by Korea to extend the AD duties on Japanese stainless steel bars upon the third sunset review was published. The article explains the outline of the panel report which found the determination by the Korean authority of likelihood of recurrence of injury to be inconsistent with the AD Agreement, and clarified that it is required in sunset reviews as well to find an objective and reasonable relationship of causal nature.
Part II Chapter 9 “Trade-Related Investment Measures”	Criteria of consistency with agreements of local content requirements	Local content requirements are likely to be inconsistent with the national treatment obligation, but are still used as means to develop and expand the domestic industries, and have become complexed in their design and structure. This article confirms the relevant principle and criteria, taking into account the development of findings in prior cases, and lists up the types of measure discussed in practice.
Part II Chapter 12 “Trade in Services”	Trends in inward investment regulations in each country	In recent years, regulations on inward FDI have been strengthened mainly in Europe and the United States, particularly from the viewpoint of security, in response to the change in circumstances such as increases in inward FDI aimed at acquiring sensitive technologies, the rise of government-affiliated funds, and the outbreak of the novel coronavirus. This section outlines regulatory trends in Europe, the United States, and Japan.

# Columns

Part and Chapter	Title	Outline
Part II Chapter 13 “Intellectual property”	Discussions on Forced Technology Transfer	Forced technology transfer has been a shared concern among countries, such as in the Trilateral Meeting of the Trade Ministers of the Japan, US and EU. This column introduces the global trends and issues regarding forced technology transfer.
Part II Chapter 17 “Dispute Settlement Procedures under WTO”	WTO Appellate Body Issue	This column addresses the issue of the Appellate Body that has ceased its functions since December 2019 and introduces the United States’ long-standing criticisms and discussions at the WTO over the proposals for the Appellate Body reform as well as the Multi-Party Interim Appeal Arbitration Arrangement (MPIA).
Part II Addendum-2 “Electronic commerce”	Revision of international taxation rules in the context of the economic digitalization	This column provides the OECD's discussion on revising international taxation rules to address the taxation challenges that have become conspicuous in the wake of the growth of digital economy, and trends of each country to introduce its own taxation measures for capturing digitized economic activities.
Part II Chapter 1 “Issues on Trade in Goods”	Digitization of certificate of origin procedure in EPAs using a third-party certification system	Regarding the digitization of EPA certificate of origin procedure using a third-party certification system, this column explains the current situation and the necessity to introduce this digitization in Japan, international trends in ASEAN, China, South Korea, etc., and the status of Japan's efforts.

## **2. METI's Priorities**

# Summary of METI Priorities Based on the 2021 Report on Compliance by Major Trading Partners with Trade Agreements (published on June 25, 2021)

- Resolve individual issues through bilateral / multilateral discussions and the WTO dispute settlement procedures. Promote discussions among the WTO members toward a long-lasting solution for the WTO dispute settlement mechanism, considering the situation in which the Appellate Body has ceased its functions.
- The need for a rules-based international order has increased due to market-distorting measures by some emerging economies, as well as trade restrictions taken with the spread of COVID-19 in an "own-country-first" or "protectionist" manner. We further promote efforts for ensuring level playing field through various fora such as the WTO and the Japan-US-EU Trilateral Ministerial Meeting. We continue to monitor and follow up trade and investment measures as a member of the WTO and G20, and strengthen the function of the WTO through WTO reforms.
- Pay close attention to and deal with regulations on cross-border data transfers and measures taken by some countries on the grounds of national security, so that they will not be excessively broad.

# METI's Priority Cases listed in the 2021 Report

- A case with China (Anti-Dumping Measures on Stainless Products) is listed as a new issue for which the WTO DS procedure has already started.
- The Philippines' SG measures on automobiles, China's forced technology transfer, and Vietnam's Cybersecurity Law are also added to the list.

## (1) Issues for which the WTO DS procedures have already started

- China: Anti-Dumping Measures on Stainless Products (Request for Consultation) <New>
- Korea : Measures Affecting Trade in Commercial Vessels (Consultation) (collaborate with the MLIT)
- Korea: Sunset Review Administration on Stainless Steel Bars from Japan (Appellate Body)
- India : Tariff Treatment on Certain Goods (panel)
- India: The Safeguard Measures on Hot-Rolled Steel Products (Appellate Body)

## (2) Issues to be resolved through bilateral and multilateral consultations with possible use of the WTO DS Mechanism

- China : Industrial Subsidies
- China : Cybersecurity Law and relevant regulations
- China : Forced Technology Transfer <New>
- China : Inappropriate Application of AD Measures
- Vietnam : Cybersecurity Law / the Draft Decree on Personal Data Protection <New>
- The Philippines : Safeguard Measures on Automobiles <New>
- US : Import Adjustment Measures pursuant to Section 232 of the Trade Expansion Act of 1962
- US and Emerging Economies : Sunset Review Practice (Term-end Review for the Continuation of AD Measures) and Inappropriate Long-Standing AD Duty Measures on Japanese Products

## (3) Issues on which Japan urges prompt implementation of the WTO recommendations

- Brazil : Discriminatory Preferential Taxation and Charges Affecting Automobile Sectors, etc.

## (4) Issues on which close attention needs to be paid due to significant effect on trade and investment although details are unclear

- China : Foreign Investment Law
- China : Export Control Law
- US : Zeroing (Inappropriate Calculation of AD Duties)
- India : Personal Data Protection Bill / Draft National e-Commerce Policy <New>
- India : Inappropriate Application of Trade Remedy Measures <New>

# Progress since last year

## 2020 Priorities

### (1) Issues already referred to the WTO Dispute Settlement Mechanism



Korea : Measures Affecting Trade in Commercial Vessels  
(collaborate with the MLIT)



Korea : Sunset Review Administration on Stainless Steel Bars



India : Tariff Treatment on Certain Goods



India : The Safeguard Measures on Hot-Rolled Steel Products

### (2) Issues to be resolved through bilateral/multilateral consultation with possible use of the WTO dispute settlement mechanism



China : Subsidies on Aluminum



China : Cybersecurity Law



China : Inappropriate Application of AD Measures



US : Import Adjustments based on the Section 232



US : Inappropriate Long-Standing AD Duty Measures



Vietnam : Regulation for Import of Automobiles

### (3) Issues on which Japan urges Prompt Implementation of the WTO Recommendations



US : Zeroing



Korea : The AD Duty Measures on Pneumatic Valve ⇒Improvement



Brazil : Discriminatory Preferential Taxation

### (4) Issues in which Japan gives special attention because details of measures are still unclear and potential impacts on trade and investment are relatively large



China : Foreign Investment Law



China : Draft of Export Control Bill



Vietnam : Regulation for Import of Automobiles ⇒Improvement



India : Safeguard investigation on Single mode Optical Fibrer  
⇒Improvement

## 2021 Priorities

### (1) Issues already referred to the WTO Dispute Settlement Mechanism



**China : AD Measures on Stainless Products <New>**



Korea : Measures Affecting Trade in Commercial Vessels  
(collaborate with the MLIT)



Korea : Sunset Review Administration on Stainless Steel Bars



India : Tariff Treatment on Certain Goods



India : The Safeguard Measures on Hot-Rolled Steel Products

### (2) Issues to be resolved through bilateral/multilateral consultation with possible use of the WTO dispute settlement mechanism



China : **Industrial** Subsidies



China : Cybersecurity Law **and relevant regulations**



**China : Forced Technology Transfer <New>**



China : Inappropriate Application of AD Measures



**Vietnam : Cybersecurity Law etc. <New>**



**The Philippines : Safeguard Measures on Automobiles <New>**



US : Import Adjustments based on the Section 232



US **and Emerging Economies** : Inappropriate Long-Standing AD Duty Measures

### (3) Issues on which Japan urges Prompt Implementation of the WTO Recommendations



Brazil : Discriminatory Preferential Taxation

### (4) Issues in which Japan gives special attention because details of measures are still unclear and potential impacts on trade and investment are relatively large



China : Foreign Investment Law



China : Export Control Law



US : Zeroing



**India : Personal Data Protection Bill etc. <New>**



**India : Inappropriate Application of Trade Remedy Measures <New>**