

## **COLUMN:**

# **TRILATERAL EU-US-JAPAN TRADE MINISTERS' MEETING**

## **1. INTRODUCTION**

Japan, the United States, and the EU held the First Trilateral Trade Ministers' Meeting in December 2017 at the invitation of Seko, the Japan Minister of Economy, Trade and Industry, to jointly address market-distorting measures taken by third countries. So far, eight meetings have been held to discuss the reinforcing of rules for industrial subsidies and state-owned enterprises, forced technology transfer, market-oriented conditions, and e-commerce.

## **2. OVERVIEW OF DEVELOPMENTS**

On December 12, 2017, the first of the Trilateral Trade Ministers' Meetings was held in Buenos Aires on the occasion of the 11th WTO Ministerial Conference. The ministers agreed to expand trilateral cooperation between Japan, the United States, and the EU to deal with market-distorting measures by third countries, in order to ensure global leveling of competitive conditions.

The Second Meeting was held on March 10, 2018, in Brussels, and the ministers agreed to take joint action regarding the addressing of market-distorting measures by third countries, such as by commencing the reinforcement of rules regarding industrial subsidies, taking into consideration the issues of excess production capacities.

On May 31, 2018, the Third Meeting was held in Paris on the occasion of the OECD Ministerial Council Meeting. The progress of the efforts and future directions were discussed, and along with the general joint statement, statements regarding three different areas were announced: (1) the scoping paper for the reinforcement of industrial subsidy rules, (2) the joint statement on forced technology transfer, and (3) the joint statement on market-oriented conditions.

On September 25, 2018, the Fourth Meeting was held in New York, where a joint statement including five major items was announced, namely: (1) concerns regarding non-market-oriented policies by third countries, (2) industrial subsidies and state-owned enterprises, (3) concerns regarding forced technology transfer policies by third countries, (4) WTO reform, and (5) digital trade and e-commerce.

On January 19, 2019, the Fifth Meeting was held in Washington DC, where the Ministers agreed on the early completion of trilateral text-based work for industrial subsidy rules. In addition, the Ministers also agreed on forwarding the joint proposal for reporting and transparency, working on reinforcement of regular committee activities, as well as cooperation on the timely commencement of e-commerce rule negotiations at the WTO.

On May 23, 2019, the Sixth Meeting was held in Paris. The Ministers agreed to continue working on industrial subsidy rules, and to go forward with outreach toward major Members of the WTO, and also agreed on aiming to reach an agreement regarding the joint proposal on reporting and transparency as soon as possible. With regard to the negotiations on e-commerce at the WTO, they welcomed the progress of the work under the joint statement at Davos on January 25, 2019, and confirmed that they would strive towards the realization of a high-standard agreement with as many WTO Members as possible.

On January 14, 2020, the Seventh Meeting was held in Washington DC, where the Ministers agreed on new categories of prohibited subsidies (e.g. subsidies for ailing companies in fields with excess production capacity) which should be added to the WTO Agreement on Subsidies and Countervailing Measures (ASCM), and to strive toward the progress of specific rule-making regarding state-owned

enterprises and forced technology transfer.

On November 30, 2021, after the change of government in the United States, the Eighth Meeting was held online. The Ministers agreed to renew their Trilateral partnership, focusing on three areas: identifying problems due to non-market practices, developing new tools while utilizing existing tools, and developing rules to address non-market practices, advancing all these in parallel.

(For reference: Joint Statement at the Trilateral EU-US-Japan Trade Ministers' Meeting (November 30, 2021))

Ambassador Katherine Tai, United States Trade Representative, Mr. Hagiuda Koichi, Minister of Economy, Trade and Industry of Japan, and Mr. Valdis Dombrovskis, Executive Vice President of the European Commission, met virtually on 30 November 2021.

The Ministers agreed to renew their Trilateral partnership to address the global challenges posed by nonmarket policies and practices of third countries that undermine and negatively affect our workers and businesses. They agreed to focus their work as trilateral partners in three areas:

- 1) Identification of problems due to non-market practices
- 2) Identification of gaps in existing enforcement tools, and where further work is needed to develop new tools to address such practices, as well as discussing cooperation in utilizing existing tools
- 3) Identification of areas where further work is needed to develop rules to address such practices

The Ministers instructed their staff to advance in parallel on all three focus areas and agreed to review progress regularly.

The Ministers highlighted the importance of WTO reform in an effort to build a free and fair rules-based multilateral trading system that benefits all its members and helps secure shared prosperity for all and reaffirmed their shared commitment to a successful 12th WTO Ministerial Conference, to be held in due course.

### **3. CONSIDERATIONS TOWARDS REINFORCEMENT OF RULES ON SUBSIDIES**

As stated above, a series of discussions on WTO rules governing subsidies has been conducted at the Trilateral EU-US-Japan Trade Ministers' Meeting. At the Seventh Meeting held in January 2020, the parties agreed on specific issues such as the addition of new categories of prohibited subsidies and the improvement of the notification mechanism. Based on the agreement, it is intended that discussions will be put forward with other WTO Members. Specifically, they agreed on a new category of unconditionally prohibited subsidies, such as those for companies that do not have credible restructuring plans, belong to sectors with excess capacity, or cannot obtain financing from the private sector, as well as on the category of subsidy for which the grantor country must bear the burden of proving that there is no adverse effect on trade. The Ministers also agreed to continue work on the additional incentives for notification and the reinforcement of discipline focusing on state-owned enterprises as the provider of subsidies, which would prohibit the provision of subsidies without notification that have been pointed out by other countries, unless the subsidizing country provides appropriate information by a due date. (For details, see the column "Discussions for Strengthening Disciplines on Subsidies" on pp. 290-295 of the 2020 Report on Compliance by Major Trading Partners with Trade Agreements.)

With regard to state-owned enterprises, although the WTO Agreement on Subsidies and Countervailing Measures (ASCM) covers subsidies to such enterprises, it has been pointed out that due

to its limited scope of application, some aspects are insufficient to discipline such enterprises who commit actions that distort competition (for details, see the column “Attempts to Reinforce Discipline on State-Owned Enterprises” on pp. 343-347 of the 2017 Report on Compliance by Major Trading Partners with Trade Agreements). At the Trilateral Trade Ministers’ Meeting, discussions on reinforcing the discipline on state-owned enterprises have been conducted, based on the scoping paper of May 2018.

Forced technology transfer deprives other countries of opportunities to benefit from fair and voluntary technology distribution and innovation, and is inconsistent with the market-based international trading system. The Seventh Meeting discussed possible elements of key disciplines aiming at preventing forced technology transfer measures by third countries. While there have been a trend to prohibit forced technology transfer through bilateral agreements and development of domestic laws, issues such as ambiguous standards by which administrative agencies may require companies to submit technical information, and difficulty in collecting evidence when such requests are made through state-owned enterprises, continue to exist. It is important to continue to promote information gathering in cooperation with other members. (For details, see the column “Discussions on Forced Technology Transfer” on pp. 414-418 of the 2021 Report on Compliance by Major Trading Partners with Trade Agreements.)