

Chapter 8

Canada

QUANTITATIVE RESTRICTIONS

EXPORT RESTRICTIONS ON LOGS

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/m³ 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 0.2m² to 0.1m².

<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 has been urging the Canadian government to correct the measure.

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 CPTPP Agreement for Japan and Canada went into effect, December 30, 2018).

In response to these developments, Japan has been requesting the Canadian government to implement appropriate measures on occasions such as the meeting of the Japan-Canada Joint Economic Committee held in March 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. For definitions of tariffs, tariff rates, binding ratio, and bound tariff rates, see Chapter 5.1.

<Outline of the Measures>

The Customs Act, the Customs Tariff, the General Preferential Tariff and Least Developed Country Tariff Rules of Origin Regulations, and related legislation provide for tariff rates, countervailing duties, etc. MFN or the Comprehensive and Progressive Agreement on Trans-Pacific Partnership (CPTPP) tariff rates, etc. are applied to imports from Japan. In addition, tariff preferences (tariff exemption system, drawback system, etc.) are applied to imports intended for re-export.

In 2021, the simple average bound tariff rate for non-agricultural products in Canada 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%). The binding ratio for non-agricultural products in 2021 was 99.7%, and unbound items include ships and tankers (maximum applied tariff rate of 25%). And the simple average applied tariff rate of non-agricultural products in 2021 was 2.1%.

<Concerns>

As long as a high tariff itself does not exceed the bound rate, there is no problem in terms of the WTO Agreements, but in light of the spirit of the WTO Agreements that promotes free trade and enhances economic welfare, it is desirable to reduce tariffs as much as possible.

<Recent Developments>

With regard to the ITA expansion negotiations concluded in December 2015 to promote greater market access for IT products (see 2. (2) “Information Technology Agreement (ITA) Negotiation” in Chapter 5 of Part II for details), Canada began eliminating tariffs on 201 subject items 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 the subject items including these were eliminated by July 2019.

In addition, the following measures were taken in response to the spread of the COVID-19:

- a Exemption from tariffs on emergency supplies
In March 2020, in accordance with the Goods for Emergency Use Remission Order Article 2, Canada Border Services Agency (CBSA) took a measure to temporarily exempt from import tariffs on emergency supplies. The measure is applied if the items are necessary to respond to epidemics, disasters, and other emergencies and products are imported by or on behalf of public health agencies, hospitals, and first response organizations (e.g., police, fire department and local civil defense groups, including medical care teams). In addition, from April 2020, Canada took a measure to temporarily exempt from tariffs on emergency supplies imported by or on behalf of public or private care residences, such as seniors’ residences, nursing homes, and shelters. This measure was subsequently terminated in May 2022.
- b Exemption from tariffs on medical supplies
In May 2020, CBSA took a measure to temporarily exempt from tariffs on 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.)) imported by all importers including companies, distributors, and individual Canadians in accordance with the Certain Goods Remission Order, Article 1. The above items were covered by the list of medical products and personal protective equipment (PPE) jointly specified as critical for the COVID-19 pandemic by the World Health Organization (WHO) and the World Customs Organization (WCO), and relevant classification guidance by the CSBA. This measure was subsequently terminated in May 2022.

<Outline of the Measures>

In May 2022, the proposed Prohibition of Certain Toxic Substances Regulations was announced and TBT notification was implemented. The proposed Regulations include prohibition of import, sales, etc. of products using decabromodiphenyl ethane (DBDPE). The Regulations set the transition period to be, for example, five years after the promulgation for electric and electronic equipment, specific parts of automobiles, as well as electric and electronic equipment and automobiles equipped with them.

While DBDPE is widely used in electric and electronic equipment, industrial machinery, automobiles, etc., currently there are no alternative materials for DBDPE, and the prospect of development or production of such alternative materials cannot be foreseen. Therefore, if this prohibition is enforced, there will be an enormous impact on the industry.

<Problems under International Rules>

If this prohibition is more trade restrictive than is necessary for achieving its legitimate goals, it may be in violation of Article 2.2 of the TBT Agreement.

While the purpose of the measure is to protect human health and preserve environment, DBDPE is not regulated in any countries or regions other than Canada. In addition, according to reports from industry players, the risks DBDPE poses to humans and the environment are small. Therefore, the necessity of this prohibition is questionable.

In July 2022, the Japanese government expressed concerns at the TBT Committee and submitted its comments on the TBT notification to the Canadian government in the same month.

Japan will continue to monitor developments around the proposed Regulations and continue to urge Canada to correct its measures.

STANDARDS AND CERTIFICATION SYSTEM ²

PROHIBITION OF DBDPE UNDER THE PROPOSED PROHIBITION OF CERTAIN TOXIC SUBSTANCES REGULATIONS

