

CHAPTER 12

OTHER MATTERS

(1) ARGENTINA'S IMPORT LICENSE SYSTEM

<OUTLINE OF THE MEASURES>

Since 1999, the Argentine government has required the acquisition of non-automatic import licenses for a total of 17 categories of items, including paper products, metal products, fibers, toys and footwear. While the non-automatic import license system was abolished in January 2013, the trade balancing requirement and the prior import declaration system described below still remain.

The Argentine government first implemented trade balancing requirements that are not based on specific laws or regulations (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. While some of these requirements have been abolished, the rest of them still remain.

In addition, in February 2012, the prior import declaration system (DJAI) was introduced. It requires import business operators to register designated items with the Federal Administration of Public Revenue (AFIP) and obtain its approval prior to initiating import procedures.

Since the DJAI covered all imports, it virtually functioned in the same manner as the non-automatic import license system. The DJAI was abolished in December 2015, and the import license system was introduced using the Comprehensive Import Monitoring System (Sistema Integral de Monitoreo de Importaciones; SIMI). As a result, business operators were required to acquire import licenses for all imports, either automatic or non-automatic licenses depending on the items. However, as the economy deteriorated, the time taken to acquire non-automatic import licenses increased. In October 2022, the SIMI was replaced by the Import System of the Argentine Republic (Sistema de Importaciones de la República Argentina: SIRA). As a result, while the import license system remains the same, the monitoring of importers' violation of laws or regulations and their financial capacity was reinforced.

<PROBLEMS UNDER INTERNATIONAL RULES>

The trade balancing requirements violate Article XI of GATT, 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 Article X of GATT, which requires trade regulations to be published.

The prior import declaration system involves arbitrary discretions by Argentine authorities and thus violates Article XI of GATT. It also violates the transparency principles of Article X of GATT and Articles 1, 3, and 5 of the WTO Agreements on Import Licensing Procedures, etc.

<RECENT DEVELOPMENTS>

Since 2009, 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 Article XI: 1 of GATT (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 Article X of GATT and Articles 1, 3, and 5 of the WTO Agreements 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 23, 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, and the items covered by the non-automatic import license

was increased to 1,500 items. Subsequently, household appliances and cryptocurrency mining equipment were added to the list of the covered items in July 2022, while many finished products, mainly including machinery, were added in early October 2022, which increased the number of covered items to about 2,800. Based on these circumstances, in October 2022, the United States submitted a questionnaire to the WTO Import Licensing Committee and raised new and existing concerns about Argentina's import license system.

The system stipulates that the government agencies related to issuing the non-automatic import licensing "will find 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, and the number of the target items was increased.

Since the inauguration of the new administration of President Milei in December 2023, the import license system has been abolished and the Argentinian government's import control has been eliminated as of February 2024. However, considering that the new administration has just been inaugurated, it is necessary to keep paying close attention to future developments.

(For details of the point regarding quantitative restrictions, please see Part II Chapter III, Major Case (4).)

(2) TURKEY'S RESTRICTION ON ELECTRIC VEHICLE IMPORTS

<OUTLINE OF THE MEASURES>

In November 2023, the Turkish government announced that it would require permits from customs authorities, the Ministry of Industry and Technology and other ministries of Turkey for the import of EVs originating from countries other than the EU member states and the countries that have an FTA with Turkey, and this measure came into effect in December 2023. The requirements for the issuance of the permit include a requirement for establishment of an after-sale maintenance system. Specifically, they include requirements (a) that it is certified by the *Türk Standardlari Enstitüsü* (TSE) that at least 20 authorized service stations have been established in seven regions of the country by the importer for the after-sale assembly, maintenance and repair of the products, (b) that the person in charge of purchase, sale, maintenance and repair of EVs holds a certificate of qualification exclusively for the purchase, sale, maintenance and repair of EVs specially issued by the TSE or the Vocational Qualifications Authority, (c) that a call center with at least 40 staff members is established in Turkey to provide services regarding the vehicle types to be imported, (d) that the manufacturer of the products to be imported deploys an authorized agent residing in Turkey, and (e) that the importer submits a written guarantee stating that the importer accepts the procedures to be followed for the monitoring, control and inspection of the battery systems.

<PROBLEMS UNDER INTERNATIONAL RULES>

This measure may violate Article I: 1 of GATT in that it discriminates between products made in the countries that have an FTA with Turkey and those made in the other countries concerning whether permits are required.

<RECENT DEVELOPMENTS>

Japanese government has expressed its concern in the bilateral discussions with Turkey that this measure discriminates vehicles

made in the countries that have an FTA with Turkey and vehicles made in Japan. Japan will continue to work for the early elimination of the impact of this measure on the automotive industry.

(3) RESTRICTIONS ON IMPORTS OF AQUATIC PRODUCTS AND OTHER FRESH FOOD IN HONG KONG AND MACAU

Hong Kong and Macau announced that Hong Kong would suspend the import of aquatic products and Macau would suspend the import of fresh food, including aquatic products, both originating from 10 Japanese prefectures (Tokyo, Fukushima, Ibaraki, Miyagi, Chiba, Gunma, Tochigi, Niigata, Nagano, Saitama) to address food safety concerns, triggered by the discharge of the ALPS treated water into the sea from TEPCO's Fukushima Daiichi Nuclear Power Station (FDNPS) in Japan, which was carried out in August 2023. In September 2023, both Hong Kong and Macau also made WTO notifications in accordance with Annex B 6 of the SPS Agreement (notification after implementations of measures in case of emergency).

The discharge of the ALPS treated water into the sea from FDNPS is consistent with relevant international safety standards. However, Hong Kong and Macau express their abstract food safety concerns and does not provide any scientific evidence for the specific risk to the safety of Japanese food products by the discharge of ALPS treated water. In addition, it is not clear whether an objective risk assessment was properly conducted. Therefore, there is a concern that the alleged suspension of imports may be unjustified and not based on "scientific principles" stipulated in the SPS Agreement.

In response to Hong Kong's and Macau's WTO notifications, Japan submitted its counterarguments in writing to the WTO concerning Hong Kong in September 2023 and concerning Macau in October 2023, which were circulated to all Members. Japan also made a request for consultations in accordance with Annex B 6 (c) of the SPS Agreement concerning Hong Kong in October 2023 and concerning Macau in November 2023. In addition, at the meeting of the WTO SPS Committee (November 2023, March 2024), WTO Council for Trade in Goods (November 2023), and WTO Committee on Market Access (October 2023, March 2024), Japan urged Hong Kong and Macau to immediately repeal their measures on the grounds that there were concerns under the WTO Agreements.

In addition, when Algernon Yau, Secretary for Commerce and Economic Development of Hong Kong, paid a courtesy visit to Fusae Ota, Minister of Economy, Trade and Industry of Japan, in June 2023, Ms. Ota explained the safety of the discharge of the ALPS treated water into the sea. Japan also called for the immediate lifting on the occasion of such as the ministerial meetings in November 2023 (Nishimura, Minister of Economy, Trade and Industry of Japan and Yau, Secretary for Commerce and Economic Development of Hong Kong).

Japan will continue to sincerely explain its efforts related to the discharge of the ALPS treated water into the sea and the results of monitoring, etc., in a transparent manner and strongly call for the immediate lifting of import restrictions on Japanese food products.