



経済産業省
Ministry of Economy, Trade and Industry

**“2013 Report on Compliance by Major Trading Partners
with Trade Agreements – WTO, FTA/EPAs, and BITs”
and
“METI Priorities Based on the 2013 Report”**

April, 2013

Trade Policy Bureau
Ministry of Economy, Trade and Industry

International Economic Dispute Resolution

Using the Report on Compliance by Major Trading Partners with Trade Agreements

Report on Compliance by Major Trading Partners with Trade Agreements

- Experts (“Subcommittee on Unfair Trade Policies and Measures” under the Industrial Structure Council, chaired by Mr. Kazunori Ishiguro, Professor of Graduate Schools for Law and Politics, the University of Tokyo) analyzed problems with trade policies and measures of major trading partners based on international rules, including WTO agreements.
- The report has been published every year since 1992. The 2013 report is the 22nd edition.
- The United States and the EU also publish the same kind of report every year.



METI Priorities

- Select priority issues from among measures analyzed in the report.
- Publish government actions taken for priority issues and their achievements.

14 issues listed
in METI's Priorities.

146 issues listed
in the Report

Avoid unnecessary trade friction

Foreign governments

Point out inconsistencies with the international rules

Action taken from METI Priorities

- Investigate consistency with international rules
- Develop strategies
- Request the abolishment of measures through bilateral consultations
- Raise the issues in multilateral forums
- Utilize dispute settlement mechanisms including WTO

Promote collaboration between govt. and private sector

Industries

Provide information
Request assistance

Present strategies
Report results

Point of 2013 Report and METI Priorities





Report on Compliance by Major Trading Partners with Trade Agreements

1. Points out the actual or potential inconsistencies with international rules of 146 policies/measures of 17 countries and territories. 10 policies/measures are newly listed (high level as with last year).
2. The number of protectionist measures which G20 members have introduced remains at high levels albeit on a decreasing trend, while global economic recovery that has been continuing is slowing down due to the fiscal crisis in Europe etc.
 - In the 2013 report, 6 measures taken in major emerging countries are newly reported as follows.
 - Russia— Introduction of Transport Vehicle Recycling Fee
 - Indonesia— Anti-dumping duty measures on cold-rolled steel sheets originated in Japan
 - India— Introduction of technical regulation on electronics and information technology goods
3. As features of 2013, the following columns are newly published.
 - Developments in multi-layered rule-makings on product regulations
 - Practical tips for taking advantage of the TBT Agreement
 - A revise of the U.S. Model Bilateral Investment Treaty
 - Russia's accession to the WTO etc.




METI Priorities

Select 14 priority issues (including the ones below) from among measures the report addressed.



- 1) Those intended to resolve through bilateral/multilateral consultations and the WTO dispute settlement procedures, etc.

-  ▪ Indonesia: Elimination of Export Restrictions on Mineral Resources
-  ▪ Russia: Correction of Discriminatory System/Implementation of Transport Vehicle Recycling Fee
-  ▪ Brazil: Correction of Discriminatory System/Implementation of Automobile Industrial Product Tax
-  ▪ Ukraine: Revocation of Safeguard Measures against Automobiles

- 2) Those for which the WTO dispute settlement procedures were started

-  ▪ China: Elimination of Export Restrictions on Raw Materials
Elimination of AD Duty Measures on High-Performance Stainless Steel Seamless Tubes Originated in Japan
-  ▪ Canada: Abolition of Local Content Requirements in the Ontario's Feed-in Tariff Program for Renewable Energy
-  ▪ Argentine: Elimination of Import Restrictions on Wide-Ranging Items

- 3) Those urging prompt implementation of the WTO recommendations

-  ▪ United States: Confirming Abolition of Zeroing
-  ▪ EU: Elimination of Import Duties Imposed on IT Products Specified as Non-Dutiable by the WTO Information Technology Agreement

Current status

- Japan continues requesting improvement through opportunities such as talks between two countries and the WTO committees.

Summary of measures

- In December 2008, the Indonesian Parliament passed the amendment to the old Mining Law to establish a New Mining Law. The New Mining Law was promulgated after the President's signature in January 2009.
 - 1) Requirements for high value-added, as well as domestic concentration and refinement
With respect to certain minerals, including nickel and copper, the requirements for domestic concentration and refinement were introduced.
 - 2) Domestic Sales Requirement / Referenced-Price Sales Requirement
Producers are required to allocate a defined minimum percentage of their total sales to the domestic market. The Indonesian Government will set a minimum referenced price for certain minerals.
 - 3) Local content requirements
It requires that domestic products in Indonesia should be given a priority for their usage.
- In May 2012, the Indonesian government decided to impose an export tax of 20% on mineral resources.



Background

1. Background up to the present

- In December 2009, Japan expressed concerns at the Investment Subcommittee established pursuant to the Japan-Indonesia EPA.
- Japan raised the concerns, jointly with the United States and the EU, at the meeting of the WTO Committee on Trade-Related Investment Measures (TRIMs) held in October 2011.
(Japan continued expressing concerns at the above Committee in May and October 2012 and at the Council for Trade in Goods in June 2012.)
- From June to November 2011, the Minister of Economy, Trade and Industry expressed concerns to the Indonesian Vice-President, Economic Coordination Minister, Energy and Mineral Resources Minister, Industry Minister, and Trade Minister, respectively.
- At the Japan-Indonesia summit meeting in June 2012, the Prime Minister raised concerns to the Indonesian President and requested reconsideration.
- At the Japan-Indonesia Dialogue on Material & Mineral Resources Industries in August 2012, the Japanese Government and Industry requested improvement of measures and flexible implementation again.
- At the Indonesia-Japan Joint Economic Forum in October 2012, the Minister of Economy, Trade and Industry and the Japanese Industry repeatedly raised concerns and confirmed that two countries will continue to have dialogues at various levels for an early resolution.

Russia: Transport Vehicle Recycling Fee

Priorities

- Importers and Russian domestic manufactures of vehicles are required to pay the Transport Vehicle Recycling Fee (implemented on September 1, 2012).
- The amount of fee is calculated based on displacement and years in service. In case of new passenger cars, it ranges from approximately ¥50,000 to ¥330,000. The amount of fee on used cars is more than five times of that on new cars.
- Those who are exempt from the vehicle recycling fee are only domestic manufactures who have accepted the obligation to safely dispose wastes. Cars exported from members of the customs union are also exempted.
- It may be inconsistent with the national treatment obligations (Item 2, Article 3 of GATT) in that the possibility of exemption from the vehicle recycling fee is only given to domestic cars and it is ruled out for imported cars.

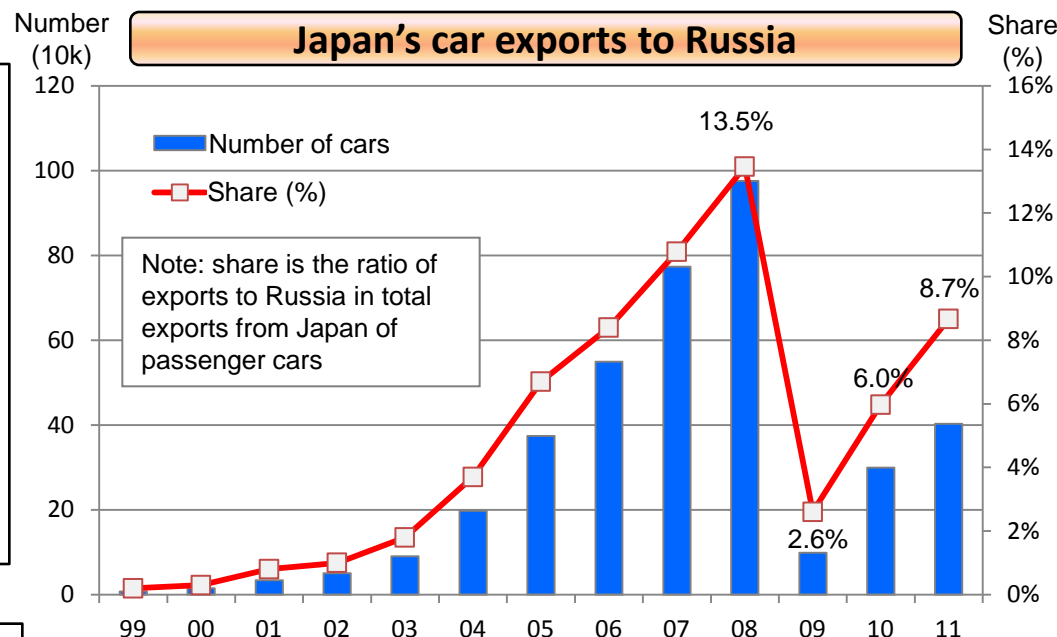
Japan's response

- The Minister of Economy, Trade and Industry expressed concerns to the Russian Minister of Economic Development in June 2012, and to the Russian First Deputy Prime Minister in September 2012.
- At the Japan-Russia Intergovernmental Committee in November 2012, concerns were expressed from the Foreign Affairs Minister and Deputy Director-General of Trade Policy Bureau to the Russian Vice-Minister of Industry and Commerce.
- In November 2012 and February 2013, Director of the Multilateral Trade System Department visited the Ministry of Industry and Commerce and the Ministry of Economic Development of Russia, and expressed concerns and exchanged views.
- In November 2012 and March 2013, Japan, the United States, and the EU jointly expressed concerns at the WTO Council for Trade in Goods.

Action and response going forward

- The Russian government intends to review the system to make it non-discriminatory by eliminating exemption to domestic manufacturers.
- It is expected to take until fall or winter in 2013 to complete the amendment to the system. Japan watches carefully the developments, especially in that review, so the system ensures non-discriminatory nature.

Japan's car exports to Russia



(unit: 100k)	2006	2007	2008	2009	2010	2011
Passenger cars	54.9	77.4	97.6	9.8	29.9	40.3
Of which Used cars	(33.3)	(44.1)	(51.7)	(4.5)	(9.4)	(9.9)

Trade relations with Japan: Total: about ¥950 billion (2011)
(of which transport equipment: 65.5%)



- In October 2012, the Brazilian government announced the Inovar–Auto which continued the 30% increase of IPI on cars for five years from 2013 to 2017 while making it possible for automobile manufacturers to reduce IPI in exchange for (i) achieving the prescribed fuel efficiency standards, (ii) carrying out certain manufacturing processes for car production in Brazil, (iii) investing a certain amount in domestic research and development etc. For imported cars, the IPI reduction would be applied only in condition to the local content usage etc.
- The measure gives unfavorable treatments to imported cars in receiving the benefit of tax exemption. Accordingly, it is likely to be inconsistent with Article III (national treatment requirements) of the GATT. Also, it is likely to be inconsistent with Article III of the GATT, Article 2 of TRIMs, and Item (b), Paragraph 1 of Article 3 of the Agreement on Subsidies and Countervailing Measures in encouraging the usage of local contents.

Conditions for participating in the Inovar–Auto

- (1) Achieving the prescribed fuel efficiency standards by October 2017(fuel efficiency of new cars in 2017 would improve by 12% compared to that in 2012.)
- (2) Carrying out certain manufacturing processes such as assembly and pressing in Brazil.
- (3) Investing a certain amount in domestic research and development, or engineering etc.
- (4) Participating in vehicle labeling program.



Preferential tax treatment to participating companies

1. Grant an exemption of IPI increase for certain time period for cars manufactured in Brazil by participating companies.
2. Allow reduction of IPI increase up to 30% for cars imported by participating companies up to 4,800 cars per year, in proportion to the local content usage etc..

(Note) Conditions and details of preferential treatments differ according to activities of companies ((1) Manufactures in Brazil, (2) Import sales companies, and (3) companies with investment plans)

Background

- Recently, the number of imported cars to Brazil increased (Registered imported cars in 2011: 857,901, 31% of all registered cars) In particular, imported cars of Chinese and Korean manufacturers increased considerably.
- Response from the Brazilian government to increased imported cars**
- Thirty percent Increase (IPI raised from 4~25%to new rates of 34%~55%) of industrial product tax for automobiles (IPI: domestic tax) from December 16, 2011 to the end of 2012 (announced in September 2011).
 - Exemptions of IPI increase are given to manufacturers which meet certain conditions such as (i) the ratio of local contents from within MERCOSUR is 65% or more, (ii) carrying out certain manufacturing processes domestically, (iii) out of total sales, 0.5% or more is reinvested in domestic research and development.
 - It can be regarded as an increased tax on imported cars in effect, because importers may have difficulty in getting exemption by being subjected to such conditions above.
 - Though this system expired at the end of 2012 as a temporal measure, the Inovar–Auto Policy has been implemented as a successive measure.

Japan's response

- The Minister of Economy, Trade and Industry pointed out to the Brazilian Minister of Development, Commerce and Industry the possible infringement of WTO rules in May and November 2012, respectively.
- METI Vice-Minister for International Affairs expressed concerns and requested cooperation including information provision at the Japan-Brazil Joint Committee on Promoting Trade and Investment in November 2012.
- Japan expressed concerns jointly with the U.S., the EU and Australia at the WTO Council on Trade in Goods in November 2012. and March 2013 as well as the Market Access Committee in October 2011.

Background

- July 2011 : The Ukrainian government initiated the SG investigation on automobiles.
- April 2012: The Inter-Departmental Commission for International Trade of Ukraine decided the imposition of the SG measures.
 - Details of the final decision and the timing of the imposition of the measures were not made public.
 - Taxation of 6.46% on 1000-1500cc engine cars and 15.1% on 1500-2200cc engine cars.
- March 2013: The imposition of the SG measures was announced. They would take effect after 30 days from the announcement date (March 14, 2013) (effective for 3 years), with the tax rates of 6.46% on cars of 1000-1500cc displacement, 12.95% on 1500-2000cc displacement.

The number of imported cars in Ukraine decreased drastically between 2008 and 2010 (The number of imported cars from Japan in 2010 did not reach the level of those compared to in 2008)

→ **The SG measures at issue are highly likely to be inconsistent with the requirements for the SG Agreement - e.g. “increase of import”, causation between “increase of import” and damage to domestic industry.**

Japan’s Response

October 2011, April 2012

Japan expressed concerns at the WTO SG Committee (jointly with EU in October, and with EU and Korea in April)

March 2012

Hearings were held at the Ukrainian Ministry of Economic Development and Trade, with attendance from the Japanese Embassy in Ukraine

June 2012

Director General of Manufacturing Industries Bureau in METI sent a letter requesting suspension of implementation to Ukrainian Minister of Economic Development and Trade

March 2013

Japan expressed concerns at the WTO Council on Trade in Goods

April 2013

Japan requested the consultations with Ukraine under the SG Agreement.

Director in METI had a meeting with a high-level officer at the Ministry of Economic Development and Trade and requested the withdrawal of the measures.

Number of imported cars in Ukraine (Unit: Thousand cars)

2006	2007	2008	2009	2010
178.9 (+69%)	259.6(+45%)	376.0 (+45%)	61.3 (-84%)	106.7(+74%)

Source: Ukrainian Association of Car Importers

Japanese car export to Ukraine (*Not including those from third countries) (Unit: Cars)

	2007	2008	2009	2010	2011	2012
1000cc-1500cc	2,506	6,349 (+153.4%)	1,109 (-82.5%)	2,021 (+82.2%)	2,328 (+15.2%)	1,304 (-44.0%)
1500cc-2200cc	33,692	45,212 (+34.2%)	4,200 (-90.7%)	6,987 (+66.4%)	11,576 (+65.7%)	8,157 (-29.5%)
Total	36,198	51,561 (+42.4%)	5,309 (-89.7%)	9,008 (+69.7%)	13,904 (+54.4%)	9461 (-32.0%)

Source: Japan Automobile Manufacturers Association, Inc.

[Reference: Number of cars sold in Ukraine (Unit: Thousand cars)]

	2008	2009	2010	2011	2012
All markets	610.2	175.2(-71.3%)	169.5(-3.2%)	207.4(+22.4%)	237.6(+14.5%)
(Of which imported cars)	295.5	114.7(-61.2%)	119.9(+4.5%)	135.6(+13.1%)	204.9(+51.1)

(Number of cars manufactured by Ukrainian car manufacturers (2012) Total 69.7 thousand cars)

Source: Ukrainian Association of Automobile Manufacturers and Ukrainian Association of Car Importers



Summary of measures

- The Chinese government restricts the export quantities of many raw materials by export quotas.
- It imposes high rates of export taxes (40% on coke, 30% on zinc, up to 25% on rare earths, etc. in 2011)
- It exercises control over parties permitted to export under the export licensing system.
- Export quotas are not consistent with Item 1, Article XI (general elimination of quantitative restrictions) of GATT.
- Export duties are not consistent with China's WTO accession protocol (abolition of export taxes).



Background and actions going forward

- In March 2012, Japan, jointly with the United States and the EU, made a request for WTO consultations for three items—rare earths, tungsten and molybdenum. In April, Japan had WTO consultations with China, jointly with the United States and the EU.
- In June, based on the outcome of the consultations, Japan, jointly with the United States and the EU, made a request for the establishment of a panel. In July, a panel was established.
- The panel is scheduled to publish a report around the end of 2013.
- In addition, as for nine raw materials (preceding case by the United States, the EU and Mexico), China implemented the recommendations by the end of 2012—the deadline for the implementation (Export quotas were abolished for five items—bauxite, coke, fluorspar, silicon-carbide and zinc. Export taxes were abolished for seven items—bauxite, coke, fluorspar, magnesium, manganese, silicon metal and zinc, and duty rate for yellow phosphorus became in compliance with the protocol.)

[Reference] Summary of the preceding case of nine raw materials (United States, the EU and Mexico vs. China)

(1) Targets

Imposition of export quotas, export duties etc. for bauxite, coke, fluorspar, magnesium, manganese, silicon-carbide, silicon metal, yellow phosphorus, and zinc)

(2) Background

In June 2009, consultations under the WTO Dispute Settlement rules were requested. A panel was established in December. In July 2011, the panel published a report (The United States, the EU, and Mexico won the case). China appealed to the Appellate Body. However, in January 2012, the Appellate Body published a report that sustained most of the panel findings and rulings.

(3) Points of argument

- Export duties are not consistent with China's accession protocol, and the exception clause Article 20 of GATT does not apply in this case.
- Export quotas are not justified as they do not fulfill the requirements for environmental protection exception under item (b) of GATT Article 20 nor resource conservation exceptions under item (g) of the same Article. → Environmental protection and resource conservation should be dealt basically by domestic environmental regulations and production quotas.



- ◆ On November 8, 2012, Chinese Ministry of Commerce (MOFCOM) gave a public notice of the final determination to impose the anti-dumping (AD) measure (AD duties to be imposed in the coming 5 years) regarding the AD investigation on Japanese and EU high-performance stainless steel seamless tubes. (The investigation was initiated in September 2011. After the preliminary determination in May 2012, provisional AD duties were imposed.)
- ◆ The AD measure is highly likely to be inconsistent with the WTO AD Agreement because of flaws in the determination of injury and causation, and deficiencies in the investigation procedures, and Japanese steel industry requested the Japanese government to bring this case to the WTO dispute settlement mechanism. Accordingly, on December 20, 2012, the Japanese government requested consultations with the Chinese government under the WTO Agreement. The consultations were held from January 31 to February 1, 2013.
- ◆ On April 11, 2013, the Japanese government requested the establishment of a panel under the WTO Agreement based on the result of the consultations with China.

Summary

[Targets] Japan, EU

[Period of AD investigation] September 8, 2011-November 8, 2012

[Import in China] 2010 About 6,500 tons

(60% from Japan and 30% from EU)

2011 About 8,000 tons

(80% from Japan and 10% from EU)

[AD margins in the final determination for Japanese companies]

9.2% - 14.4%

*AD margins in the final determination for EU companies:

9.7 % - 11.1%

Issues for international rules etc.

■ Almost all Japanese export products are high-grade steel used in ultra supercritical boilers in coal-fired power plants. As there are no competing companies with Japanese export products in China now, it seems to be no injury to the Chinese domestic industry.

■ This AD measure is likely to be inconsistent with the WTO Agreements for, *inter alia*, the following reasons:

- Flaws in the determination of injury
- Flaws in the determination of causation
- Insufficient disclosure of essential facts

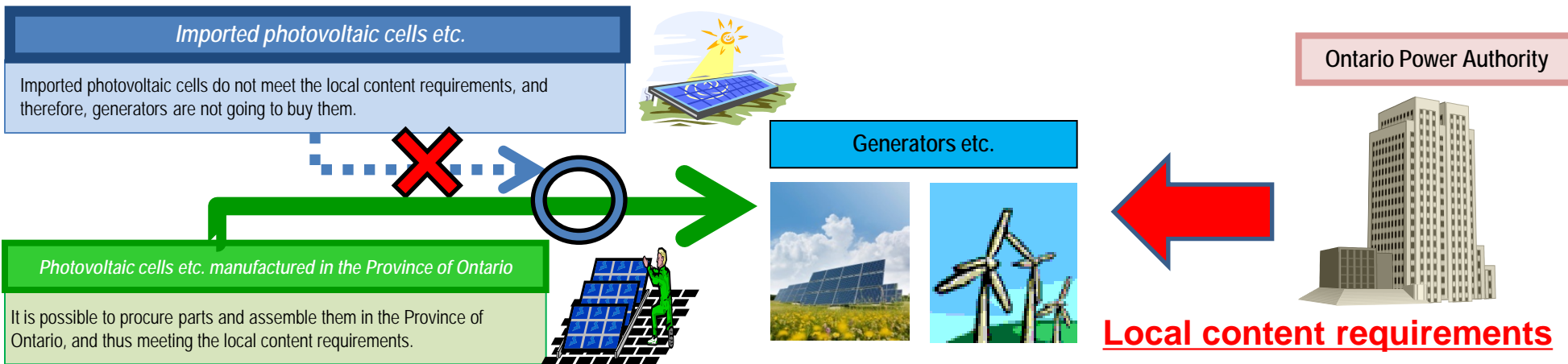
Background up to the present

- September 8 2011 MOFCOM gave a public notice of the initiation of AD investigation.
- September 28 2011 Japanese companies filed countersuits (Registration for participating in the investigation).
- October 14 2011 The Minister of Economy, Trade and Industry requested the Chinese Minister of Commerce for consideration of Japanese companies regarding this AD case.
- METI Vice-Minister for International Affairs and Director-General of Manufacturing Industries Bureau requested high-level officials of MOFCOM and Ministry of Industry and Information Technology to exclude Japanese products.
- May 8 2012 MOFCOM gave a public notice of a preliminary determination on AD measures (Provisional AD duties were imposed from May 9).
- May 12 2012 The Minister of Economy, Trade and Industry requested the Chinese Minister of Commerce to exclude Japanese products.
- August 7 2012 MOFCOM disclosed essential facts on the industry injury investigation.
- August 31 2012 MOFCOM gave a public notice of extension of the investigation period by half year (until March 8 of the following year).
- September 26 2012 MOFCOM disclosed essential facts on the dumping investigation (Dumping margins were revised).
- November 8 2012 MOFCOM gave a public notice of the final determination.
- December 18 2012 The Japan Iron and Steel Federation and Special Steel Association of JAPAN jointly submitted a request letter to the Minister of Economy, Trade and Industry to bring this case to the WTO dispute settlement mechanism.
- December 20 2012 The Japanese government requested consultations with the Chinese government under the WTO Agreement.
- January 31 - February 1 2013 The consultations were held in Tokyo (EU participated as a third party).
- April 11 2013 The Japanese government requested the establishment of a panel under the WTO Agreement.



Summary

- In May 2009, the Province of Ontario of Canada enacted the “Green Energy Act,” and thereby established a fixed price purchase system (Feed-in Tariff Program). The system stipulates that electricity to be purchased should be generated by electricity generating facilities with a certain percentage or more of value-added in the Province of Ontario. (local content requirements)
- The measure is inconsistent with Paragraph 4, Article 3 of the GATT (national treatment) and Item (b), Paragraph 1 of Article 3 of the WTO Subsidies and Countervailing Measures Agreement (prohibition of subsidies contingent on the use of domestic over imported goods)
- In addition to the resolution of this problem, it is also important to prevent the spread of similar measures in other countries.



Background and actions going forward

June 2010	On the margin of APEC Trade Ministers' Meeting, the Minister of Economy, Trade and Industry and the Foreign Minister requested correction of measures to the Canadian Minister of International Trade. In September, consultations under the WTO agreements were requested. In October, WTO consultations were held.
January 2011	Province of Ontario raised the local content ratio to 60%. In June, absent satisfactory response from Canada, Japan requested the establishment of a panel. The panel was established in July. In August, the EU requested WTO consultations.
March and May 2012	Panel meetings were held (Jointly with the EU. The United States participated as a third party and supported the arguments made by Japan and the EU).
June 2012	On the margin of APEC Trade Ministers meeting, the Minister of Economy, Trade and Industry requested the Canadian Minister of International Trade to voluntarily rectify the measure before the issuance of a panel report.
December 2012	The panel published a report (which accepted most of the arguments made by Japan and the EU, and recommended correction by Canada.
February 2013	Canada (on Feb 5), Japan and the EU (on Feb 11) appealed, respectively.
Beginning of May 2013	The Appellate Body will issue its report.

- After the global financial crisis in 2008, Argentina has introduced non-automatic licenses (targeting 400 items on the basis of HS codes). Moreover, the number of items subject to the system was **increased to 600 in February 2011**. In many cases, it **took 100 days or more** to issue an import license, and as a result, export from Japanese companies to Argentina has been delayed (Export of automobiles, their parts, motorcycles, cell phones, PCs, tires etc. has been affected).
- Moreover, **the trade balancing requirements (requiring one-dollar export as a condition for one-dollar import)** and **the prior import declaration requirement** were introduced for importers, with the effect of restricting imports.
- In May 2012, the EU requested consultations with Argentina under the WTO Agreement. Eight countries (Japan, the United States, Canada, Australia, Mexico, Guatemala, Turkey, and Ukraine) participated as third parties (observers).
- In August 2012, **Japan, the United States, and Mexico requested consultations**, which were **held in September**.
- In December 2012, **Japan, jointly with the United States and the EU, requested the establishment of a panel**. The panel was established in January 28, 2013.
- Although there has been some progress including the abolition of non-automatic import licenses on January 26, 2013 (just before the establishment of the panel), other measures (trade balancing requirements and prior import declaration requirements) are still in place.

Summary of measures

The Argentina government



Traders



Apply for an import license



Import Restriction
by imposing conditions



Non-automatic licenses
Trade balancing requirements
Prior import declaration requirements

Has been
abolished

- Inconsistent with Article XI of the GATT (general elimination of quantitative restrictions)
- Japanese companies are affected, and some goods have become **de facto impossible to export to Argentina**.

Request from Japan etc.

- Since 2009, requests have been continuously made from METI Vice-Minister for International Affairs, Director of Multilateral Trade System Department, MOFA Deputy Minister for Foreign Affairs, and Japanese Ambassador to Argentina.
- In June 2011, Japan Machinery Center for Trade and Investment and Japan Electronics and Information Technology Industries Association (JEITA) sent a letter requesting improvement to the Argentina Minister of Industry.
- Japan continued to express concerns at the Council for Trade in Goods and the Committee on Import Licensing. 14 countries/areas expressed concerns at the Council for Trade in Goods held in March 2012.
- In July 2012, Japanese industry* requested for improvement to the Japanese government.
* JETRO, Japan Machinery Center for Trade and Investment and JEITA, The Tokyo Chamber of Commerce and Industry, and The Japan Chamber of Commerce and Industry



Achievements

- In February 2012, **Japan and the United States agreed on a memorandum. The United States amended the Department of Commerce regulation for abolition of zeroing.**

Summary of measures

- The United States imposes anti-dumping duties by determining dumping exports by foreign companies based on an unjustified calculation method called “zeroing.”
- Japanese bearings industry has been imposed unjustified AD duties based on zeroing since 1989. For its annual export to the United States of about ¥11.6 billion, it is paying excessive AD duties of about ¥1(one) billion.

Background

1. Background up to the present

- In November 2004, Japan requested consultations with the United States under the WTO Agreement.
- In January 2007, the WTO Appellate Body made a determination that zeroing was inconsistent with the WTO agreement, and recommended the United States to abolish it.
- In August 2009, the WTO Appellate Body determined that the United States had not implemented the WTO recommendations after their deadline.
- In April 2010, Japan requested the arbitration procedure to determine the amount for the countermeasures against the breach of the WTO recommendation (imposition of retaliatory tariffs on imports from the United States)
- In December 2010, Japan and the United States agreed to suspend the arbitration procedure.
- In February 2012, Japan and the United States agreed on a memorandum for resolution of this dispute. Based on the memorandum, the United States amended the Department of Commerce regulation for abolition of zeroing.
- In August 2012, Japan withdrew the request for countermeasures based on the memorandum (the request for arbitration was also withdrawn).



2. Actions going forward

- Japan will continue to closely monitor the implementation of the new regulation of the United States whether zeroing will be completely abolished.




Achievements and the current status

- **Multi-functional machines** exported from Japan are **cleared customs without import duties** in each EU member country.
- As for **flat-panel displays**, **Japan keeps making requests** for the complete implementation of the panel report.

Summary of measures


- The EU is a member of the Information Technology Agreement, and therefore, is obliged to make covered IT products free of tariffs; however, the EU imposed tariffs on IT products which should be free of tariffs (multi-functional machines, PC monitors and the like).
*The EU argued that they were not covered by ITA due to diversification and sophistication by technological developments.
- Japanese companies are exporting to the EU about ¥240 billion only for multi-functional machines, with the resultant annual excess tariff payment of about ¥14 billion.



Multi-functional machine with the functions of copier, fax machine, and printer
EU tariff rate: 6%



PC monitor with DVI port
EU tariff rate: 14%



Set top box with recording functions
EU tariff rate: 13.9%

Background

- In May 2008, Japan requested consultations under the WTO dispute settlement procedures, jointly with the United States and Chinese Taipei. The panel was established to discuss the issue in September 2008.
- In August 2010, **the panel released a report supporting all the claims Japan made**. Since the EU did not file an appeal to the WTO Appellate Body, the report was adopted at the Dispute Settlement Body (DSB) meeting in September 2010, and **WTO recommended correction to the EU**.
- The EU **announced an implementation measure** in an official gazette dated June 25, 2011.
 - Multi-functional machines: Abolition of 6% tariff (2.2% tariff on those whose main function is copying)
 - STB: No tariff in principle (Note) PC monitors: the rule to impose 14% tariff across the board had already been abolished.
- The EU announced a new regulation concerning classification criteria for **multi-functional machines** in an official gazette dated February 9, 2012. Multi-functional machines exported from Japan are **cleared without tariff at customs of each EU member**.

Actions going forward

- As for flat-panel displays, Japan keeps making requests so that the EU customs tariff table will be designed and operated in conformity with the panel report.

Feature Column 1: Practical Tips for Taking Advantage of the TBT Agreement

- The WTO/TBT Agreement (*) is the international rule to discipline the unnecessarily trade-restrictive product regulations. From the strategic viewpoint of individual companies, by effectively using this Agreement, they can expect to prevent the damage to be caused by trade-restrictive regulations on products by foreign governments.
- In recent years, interpretations of the TBT Agreement are becoming clearer through the activities of the TBT Committee and relevant WTO cases which has increased in number.
- In this column, we have shown the prescription as to how Japanese industries could respond by using the TBT Agreement when faced with trade-restrictive regulations on products by foreign governments.
 1. Viewpoint for finding out problems: Summarized the essence for judging WTO-consistency
 2. Actual utilization of the TBT Agreement: Summarized the practical tips at each step
(Analysis of measures → Inquiry to the foreign government
→ the TBT Committee → the WTO dispute settlement procedures)



(*) Technical Barriers to Trade (TBT) Agreement is an agreement to discipline product standards and certification procedures in member countries. For this fiscal year, in addition to this new column, Chapter 10 (standards and conformity assessment systems) in Part II was fundamentally revised, with the addition of the interpretations of the TBT Agreement which is becoming increasingly clear, among others.

Feature Column 2: Developments in Multi-Layered Rule-Makings on Product Regulations

- Recently, as corporate activities beyond national borders are increasing and diversified, Japanese companies are increasingly facing problems of regulations in emerging countries. To each government and company, problems of product regulations has become a vital interest.
- Under such circumstances, various players are making multi-layered movements for formulating rules on product regulations.
 - The EU is promoting international standard formulation by the international standards organizations on which it has strong influence, with the intention of disseminating such standards to other countries in order to achieve regulatory harmonization for the benefit of EU industries.
 - The United States traditionally emphasizes standardization led by industries, with the basic policy of increasing the influence of US standards organizations and encouraging other countries to adopt the rules formulated by such organizations.
 - Some companies are successfully taking part in the rule-makings on product regulations and making better business environment which is beneficial to their own.

