

A Study on the Investigation Rules of Foreign Trade Barriers in China

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Summary

Taking advantage of its accession to the WTO, China utilized international commerce rules with the two aspects of “shield” and “sword”, and came to actively protect the country’s own interests. This is because, similar to Japan in the past, a foreign trade policy based on so-called “aggressive legalism” is developing in China also. In fact, China’s aggressive legalism can be confirmed from the number of cases of invocation of such things as the utilization of WTO dispute resolution procedures and anti-dumping. Moreover, via introducing the “Investigation Rules of Foreign Trade Barriers”, which can be called unilateral measures, the transformation of foreign trade policy in China became clearer.

China’s Investigation Rules of Foreign Trade Barriers implemented an investigation of other countries’ trade and investment barriers, and were introduced with the aim of eliminating adverse effects for Chinese firms. China’s Ministry of Commerce carried out the investigation after receiving requests from domestic firms, and in the cases where the existence of trade barriers was confirmed, the following measures would be taken with a given country: 1) bilateral discussions; 2) the commencement of a multilateral dispute resolution mechanism, and; 3) other appropriate measures. Actually, in 2004 an investigation was carried out of Japan’s quota system for the import of seaweed, and the Japanese government, after a series of developments, would approve the importation of Chinese seaweed from 2005. In addition, in 2011 an investigation was carried out on the United States’ renewable energy support policy and subsidy policy, and the final judgement was shown that six of the US government support programs violated the WTO agreement.

This paper, after examining the development of aggressive legalism in China amid the heightening possibility of the realization of a Japan–China–ROK FTA and an East Asian Regional Comprehensive Economic Partnership (RCEP) after the agreement on the Trans-Pacific Strategic Economic Partnership Agreement (TPP), analyzes the substantive and procedural regulations of the Investigation Rules of Foreign Trade Barriers and raises policy suggestions. In particular, while making comparison with Section 301 of the US Trade Act and the EU’s Trade Barriers Regulation, it makes clear the characteristic features in the regulations and the problems in the system’s operation.

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