

Japan's Export Curbs on Korea: an Unjustifiable Threat to the Global Trading Order



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As the president of this year's G20 summits, Japan led the leaders' declaration on June 29, 2019 that reconfirmed the G20 members' unwavering support for the principles of free, fair, non-discriminatory, transparent, predictable and stable trade. Two days later, on July 1, Japan announced a set of new control procedures to be placed on exports of Japanese materials, revising its export control regulations to the Republic of Korea. Japan claims its reasons for taking these measures lie in the deterioration of the trust relationship between Korea and Japan, making it difficult to coordinate export control measures, and that "inappropriate instances" had been witnessed in Korea's export controls.

As the first of these new control measures, on July 4, Japan changed the export requirements for its photoresist, etching gas and fluorinated polyimide products – three crucial materials and components used by Korean manufacturers in the semiconductor, smartphone and display industries – classifying these as strategic materials that would now require individual export licenses. This measure effectively means that any Japanese company wishing to export any of the three items above now needs to complete a separate export screening process by the Japanese

government for each shipment it contracts for. The approval process is expected to require approximately 90 days from day of application. As a second export control measure, on August 2, Japan removed Korea from its "white countries" entitled to preferential treatment. The implementation of this measure signifies a wider range of high-tech materials and components will now require individual approval from the Japanese government for each contract before they can be exported to Korea. In this manner the Japanese government has established the legal grounds to restrict exports of a wide range of intermediate materials to Korea at will, thus creating substantial uncertainty for Korean businesses importing these materials and components from Japan.

Japan's export curbs on Korea are leading to great concerns over the resulting loss of stability and efficiency spilling over from the Korean and Japanese economies, out to the global economy as well. For instance, in the case of etching gas, one of the items already subject to the Japanese government's new control measures, over 90% of the high-purity material used by major Korean manufacturers is imported from Japan. If Japan's exports of etching gas to Korea are suddenly cut back by the new measures, Korea's production of semiconductors will inevitably suffer setbacks, at least in the short term. As of 1Q 2019, Korean manufacturers account for over 70% of the global market for DRAM products. During the year of 2018 alone, Korea exported a total of US\$126.7 billion worth of semiconductors to destinations such as the U.S., China, Taiwan, Hong Kong, Vietnam, the Philippines and India. This means that a setback in Korea's semiconductor production would cause a significant disruption in global supplies of semiconductors. The semiconductor industry is a crucial element of the global production and supply chain, which has been efficiently established over a long period of time, and has a global impact in both direct and indirect terms for the manufacturing of electronics, electric products, machinery, automobiles, as well as the service sectors of communications and IT services, among other. This interconnected state of affairs means the negative impact created by Japan's recent export control measures will be truly disruptive for the global economy.

In addition, there are significant grounds to view Japan's actions as a violation of WTO regulations, thus posing a threat to the rules-based multilateral trading system and mutual trust between nations. While Japan claims the measures do not violate WTO regulations in any way, once it has been established that exports of the items in question to Korea were restricted to a substantial extent, Japan's recent actions will constitute a violation of Article 11(1) of the GATT, which prohibits export restrictions against other WTO members, and "Most-Favoured-Nation (MFN)" treatment mandated under Article 1 of the GATT. Though the Japa-

nese government continues to claim its measures are justifiable on national security grounds, citing the national security exceptions provided for in Article 21 of the GATT, it has yet to clearly respond to the Korean government's request for a coherent explanation of how exporting these items to Korea constitute a threat to Japan's national security. Instead, the Japanese government has changed its position repeatedly by now regarding the main reasons behind its new control measures on exports to Korea, adding weight to the analysis by multiple experts and media that these actions are indeed politically motivated against a decision delivered by the Supreme Court of Korea last year. In October 2018, the Supreme Court ruled that Japanese companies who had forced Koreans to labor under Japanese occupation must compensate these victims for their forced labor. The Japanese government led by Prime Minister Abe is responding to issues of history by imposing economic retaliatory measures, thus harming the trust relationship between the two nations, causing a rift within the WTO order and damaging the principle of mutual prosperity in the region. We consider these actions a form of adventuristic policies which will ultimately weaken Japan's political status and economic leadership on the global stage.

As trade restriction measures imposed without justifiable grounds to intentionally disrupt the cross-border business activities of its trading partners and closely inter-connected economies on their production networks altogether, these actions are hardly what we would expect from a country such as Japan – one which has enjoyed the benefits of free trade more than any other nation following the second World War and grown into the third-largest economy in the world. Japan's measures will, without doubt, harm free trade and the international division of labor. Furthermore, these measures will disrupt the closely intertwined global supply chain and cause significant damage not only to the Korean and Japanese economies, but the global economy and international order of trade as well. Therefore, it should be encouraged for countries to act together against any export restrictive measures and preserve free trade. As the sitting chair of the G20 who just recently produced a joint statement with leading economies around the world to realize the vision of free, fair, and non-discriminatory trade, Japan should further demonstrate its commitment to this vision as a consistent and responsible member of the global trade order. **KIEP**