

WTO 분쟁대응 법률자문 공고

산업통상자원부는 WTO 한일 공기압밸브 반덤핑 분쟁(DS504)의 효과적인 대응을 위해 우리측 자문기관을 선임하여 해외 법률자문사와 함께 상시 법률자문과 대응전략 수립을 위한 협업 체계를 구축하고자 합니다. 이에 본 사업의 수행을 위한 제안서를 제출받고자 하오니, 많은 지원 바랍니다.

2016년 7월 12일
산업통상자원부장관



Ministry of Trade,
Industry and Energy

1. 개요

- 계약내용: WTO 분쟁대응 법률자문(한-일 공기압 밸브 반덤핑 분쟁(DS504))
- 계약기간: 계약 체결시 ~ 패널절차 종료시까지
- 계약금액: 계약으로 정한 수입료 및 자문료 지급

2. 서류 접수 및 심사

- 제출서류: 제안서(양식: 자유)
- 제출기한: '16.7.12.(화)~'16.7.25.(월) 18:00까지
- 제출처: 산업통상자원부 통상법무과(우편접수 또는 전자우편)
 - * 우편접수는 제출기한 내 도착분에 한함
 - 우편: (30118) 세종시 한누리대로 402 정부세종청사 13동 통상법무과(044-203-5773, jungsun@motie.go.kr)
- 심사방법: 서류심사(필요시 대면심사)

3. 기타 사항

- 제출된 서류는 일체 반환하지 않으며, 제출된 서류에 기재된 사항이 사실과 다르거나 허위로 작성된 경우에는 선정을 취소할 수 있음
- 제안서 평가결과의 내용과 심사결과는 공개하지 않음

붙임 1: 제안서 포함 내용

붙임 2: 자문기관 선정 평가요소

붙임 3: 일본의 양자협약 요청서

붙임 4: 일본의 패널설치 요청서

[붙임 1] 제안서 포함 내용

1. 대상 조치의 개요

2. WTO 패널 분쟁 대응 전략

3. 대응팀 구성 방안

☐ 회사 소개

☐ 담당팀 구성 방안

☐ 특징 및 장점

4. 국제통상(국제분쟁, 반덤핑 등 무역구제, 기타 통상 이슈 등)
관련 주요 사례 수입 실적

5. 비용 추정

[붙임 2] 자문기관 선정 평가요소

1. 대응을 위한 전문성

☐ 관련 대응 실적

☐ 담당인력 현황

2. 협업 및 의사소통 능력

☐ 對정부·업계 협력

☐ 對외국 로펌 협력 및 관리

3. 해당 분쟁에 대한 이해도

☐ 쟁점에 대한 분석 능력

4. 소요 비용



16 March 2016

(16-1580)

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Original: English

KOREA - ANTI-DUMPING DUTIES ON PNEUMATIC VALVES FROM JAPAN

REQUEST FOR CONSULTATIONS BY JAPAN

The following communication, dated 15 March 2016, from the delegation of Japan to the delegation of Korea and to the Chairperson of the Dispute Settlement Body, is circulated in accordance with Article 4.4 of the DSU.

Upon instructions from my authorities, I hereby request, on behalf of the Government of Japan ("Japan"), consultations with the Government of the Republic of Korea ("Korea") pursuant to Articles 1 and 4 of the *Understanding on Rules and Procedures Governing the Settlement of Disputes*, Article XXIII:1 of the *General Agreement on Tariffs and Trade 1994* ("GATT 1994"), and Articles 17.2 and Article 17.3 of the *Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994* ("AD Agreement"). These consultations are with respect to Korea's measures imposing anti-dumping duties on valves for pneumatic transmission ("pneumatic valves") from Japan, as set forth in the Korea Trade Commission ("KTC") notices and reports in Investigation Trade Remedy 23-2013-5, dated 20 January 2015, any and all annexes, amendments, or notices related to these anti-dumping measures, and the underlying documents and factual information that led the Korean authorities to impose these anti-dumping duties.

These measures at issue appear to be inconsistent with Korea's obligations under, among others, the following provisions of the GATT 1994 and the AD Agreement:

1. Articles 3.1 and 3.2 of the AD Agreement because Korea's analysis of the volume effects of the imports under investigation ("subject imports") did not involve an objective examination based on positive evidence;
2. Articles 3.1 and 3.2 of the AD Agreement because Korea's analysis of the price effects of the subject imports did not involve an objective examination based on positive evidence;
3. Articles 3.1 and 3.4 of the AD Agreement because Korea's analysis of the impact of the subject imports on the domestic industry at issue did not involve an objective examination, on the basis of positive evidence, of the impact of the dumped imports on the domestic industry, including an evaluation of all relevant economic factors and indices having a bearing on the state of the domestic industry;
4. Articles 3.1 and 3.5 of the AD Agreement because Korea failed to demonstrate that the dumped imports were, through the effects of dumping, causing injury to the domestic industry, with an involvement of an objective examination of the alleged causal relationship between the subject imports and the alleged injury to the domestic industry, on the basis of all relevant positive evidence before the authorities;
5. Articles 3.1 and 3.5 of the AD Agreement because Korea failed to consider adequately all known factors other than the subject imports that were injuring the domestic industry at the same time and incorrectly attributed the effects of other factors to the subject imports;

6. Articles 3.1 and 3.5 of the AD Agreement because Korea's causation determination lacks any foundation in its analyses of the volume effects, price effects and/or impact of the subject imports, irrespective and independent of whether Korea's flawed volume analysis and/or flawed price depression/suppression analysis, on the one hand, and Korea's flawed impact analysis on the other, would be inconsistent with, respectively, Articles 3.1 and 3.2 of the AD Agreement and Articles 3.1 and 3.4 of the AD Agreement;

7. Articles 3.1 and 4.1 of the AD Agreement because Korea made a determination of injury having improperly defined the domestic industry and, as a result, failed to base its determination on positive evidence and conduct an objective examination of the facts with respect to the domestic industry producing the like product;

8. Articles 6.5 and 6.5.1 of the AD Agreement because Korea: (a) treated as confidential information provided by the interested parties as such without good cause shown; (b) failed to require the applicants to furnish non-confidential summary thereof; and (c) where such summaries were provided, they were not in sufficient detail to permit a reasonable understanding of the substance of the information submitted in confidence;

9. Article 6.9 of the AD Agreement because Korea failed to inform the interested parties of the essential facts under consideration which form the basis for the decision to impose definitive anti-dumping measures;

10. Articles 12.2 and 12.2.2 of the AD Agreement because Korea failed to provide in sufficient detail the findings and conclusions reached on all issues of fact and law the investigating authorities considered material, as well as all relevant information on the matters of fact and law and reasons which have led to the imposition of final measures; and

11. Korea's anti-dumping measures on the subject imports also appear to be inconsistent with Article 1 of the AD Agreement and Article VI of the GATT 1994 as a consequence of the apparent breaches of the AD Agreement described above.

Korea's measures also appear to nullify or impair the benefits accruing to Japan directly or indirectly under the cited agreements.

Japan reserves the right to address further factual claims and legal issues under other provisions of the WTO Agreement regarding the above matters during the course of the consultations.

Japan looks forward to receiving Korea's reply to the present request in due course. Japan is ready to consider with Korea mutually convenient dates and venue for consultations.



10 June 2016

(16-3171)

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Original: English

KOREA - ANTI-DUMPING DUTIES ON PNEUMATIC VALVES FROM JAPAN

REQUEST FOR THE ESTABLISHMENT OF A PANEL BY JAPAN

The following communication, dated 9 June 2016, from the delegation of Japan to the Chairperson of the Dispute Settlement Body, is circulated pursuant to Article 6.2 of the DSU.

My authorities have instructed me to request the establishment of a panel with respect to the measures by the Republic of Korea ("Korea") imposing anti-dumping duties on valves for pneumatic transmission ("pneumatic valves") from Japan. Japan submits this request pursuant to Articles 4.7 and 6 of the Understanding on Rules and Procedures Governing the Settlement of Disputes ("DSU"), Article XXIII of the General Agreement on Tariffs and Trade 1994 ("GATT 1994"), and Article 17.4 of the Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994 ("AD Agreement").

On 15 March 2016, Japan requested consultations with Korea.¹ Japan and Korea held consultations on 28 April 2016, with a view to reaching a mutually satisfactory solution. Unfortunately, the consultations failed to settle the dispute.

Korea's measures imposing anti-dumping duties on pneumatic valves from Japan are set forth in the Korea Trade Commission's "Resolution of Final Determination on Presence of Dumped Facts of Valves for Pneumatic Transmissions from Japan and Injury to the Domestic Industry", a determination based on the Office of Trade Investigation's "Final Report on Dumping Fact and Injury to Domestic Industry of Japanese Produced Valves for Pneumatic Transmissions" in Investigation Trade Remedy 23-2013-5, both dated 20 January 2015, including any and all annexes and amendments thereto.²

Japan considers that these measures are inconsistent with Korea's obligations under the following provisions of the AD Agreement:

1. Articles 3.1 and 3.2 of the AD Agreement because Korea's analysis of a significant increase of the imports under investigation did not involve an objective examination based on positive evidence;
2. Articles 3.1 and 3.2 of the AD Agreement because Korea's analysis of the effect of the imports under investigation on prices in the domestic market for like products did not involve an objective examination based on positive evidence; and because Korea failed to properly consider whether the effect of the imports under investigation was to depress prices to a significant degree or prevent price increase, which otherwise would have occurred, to a significant degree;
3. Articles 3.1 and 3.4 of the AD Agreement because Korea's analysis of the impact of the imports under investigation on the domestic industry at issue did not involve an objective examination based on positive evidence, including an evaluation of all relevant economic factors and indices having a bearing on the state of the domestic industry at issue;

¹ WTO/DS504/1, circulated on 16 March 2016

² These anti-dumping measures are identified in Korea's notification G/ADP/N/280/KOR dated 6 April 2016.

4. Articles 3.1 and 3.5 of the AD Agreement because Korea failed to demonstrate that the imports under investigation were, through the effects of dumping, causing injury to the domestic industry based on an objective examination of the alleged causal relationship between the imports under investigation and the alleged injury to the domestic industry, on the basis of all relevant positive evidence before the authorities;

5. Articles 3.1 and 3.5 of the AD Agreement because Korea failed to consider adequately all known factors other than the imports under investigation that were injuring the domestic industry at the same time and therefore incorrectly attributed injury caused by these other factors to the imports under investigation;

6. Articles 3.1 and 3.5 of the AD Agreement because Korea's demonstration of causation lacks any foundation in its analyses of the volume of the imports under investigation, the effects of the imports under investigation on prices, and/or the impact of the imports under investigation on the domestic industry at issue, irrespective and independent of whether Korea's flawed analysis of the volume and/or flawed analysis of the effects of the imports under investigation on prices, on the one hand, and Korea's flawed analysis of the impact of the imports under investigation on the domestic industry on the other, would be inconsistent with, respectively, Articles 3.1 and 3.2 of the AD Agreement and Articles 3.1 and 3.4 of the AD Agreement;

7. Articles 3.1 and 4.1 of the AD Agreement because Korea failed to make an objective examination based on positive evidence in defining the domestic industry producing the like product and consequently in making a determination of injury;

8. Article 6.5 of the AD Agreement because Korea treated allegedly confidential information provided by the interested parties as confidential without good cause shown;

9. Article 6.5.1 of the AD Agreement because Korea: (a) failed to require the applicants to furnish non-confidential summaries of their submissions, questionnaire responses, and amendments thereof; and (b) where such summaries were provided, they were not in sufficient detail to permit a reasonable understanding of the substance of the information submitted in confidence;

10. Article 6.9 of the AD Agreement because Korea failed to inform the interested parties of the essential facts under consideration which formed the basis for the decision to impose definitive anti-dumping measures;

11. Article 12.2 of the AD Agreement because Korea failed to provide in sufficient detail the findings and conclusions reached on all issues of fact and law the investigating authorities considered material by the investigating authorities; and

12. Article 12.2.2 of the AD Agreement because Korea failed to make available all relevant information on the matters of fact and law and reasons which have led to the imposition of final measures.

As a consequence of the apparent breaches of the AD Agreement described above, Korea's anti-dumping measures on the imports under investigation are also inconsistent with Article 1 of the AD Agreement and Article VI of the GATT 1994.

Korea's measures also nullify or impair the benefits accruing to Japan directly or indirectly under the cited agreements.

Accordingly, Japan respectfully requests that, pursuant to Articles 4.7 and 6 of the DSU, Article XXIII of the GATT 1994, and Article 17.4 of the AD Agreement, the Dispute Settlement Body establish a panel to examine this matter, with the standard terms of reference as set out in Article 7.1 of the DSU.

Japan asks this request to be placed on the Agenda for the meeting of the Dispute Settlement Body to be held on 22 June 2016.
