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A Study on the Substantial impact of US high rate tariff policy on the Korean companies -Based on analysis of Article 301 of the US Trade Law -

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Abstract

Recently, the United States and China have declared a 25% retaliatory tariff for the partner country products of 50 billion dollar scale. "Trade war" is getting full swing. Such conflicts between economic powers may spread to Japan like the domino phenomenon following the EU (European Union) and become bigger in the global trade war. As a result, Korea has an economic system with a high degree of external dependence, and there is an expert's analysis that it will become the largest victim of the global trade war. If the WTO Dispute Settlement Authority approves this US 301 retaliation measure in the same way as the past case (US-EU hormone-treated beef imports), the United States will not import any Chinese imported products Chinese products) can be imposed. If the US launches a special 301 or super 301, which is stronger than the regular 301, then China is very likely to enforce US retaliation against it, and the trade war between the two countries could become a reality. This phenomenon is likely to have a negative impact on Korean companies. In particular, Korea, which is highly reliant on intermediate goods exports to China, is expected to suffer a great deal of damage. Therefore, Korea needs flexible response at home and abroad, it is necessary to enhance the autonomy of companies and protect export industries. Adjusting corporate tax rate as well as domestic industry height will be one way. The long-term (21 months) trade war between the United States and China has resulted in economic uncertainty. The resulting damage must be compensated. It is necessary to prepare the compensation through the economic council between countries. In the future, the punitive damage compensation system should be introduced.

Keywords: *High rate tariffs, Retaliatory Duty, Article 301 of Trade Law, trade war, Protection Trade, Trade Expansion Act Article 232*

1. INTRODUCTION

Recently, the United States and China have declared a 25% retaliatory tariff for the partner country products of 50 billion dollar scale. "Trade war" is getting full swing. Such conflicts between economic powers may spread to Japan like the domino phenomenon following the EU (European Union) and become bigger in the global trade war. As a result, Korea has an economic system with a high degree of external dependence, and there is an expert's analysis that it will become the largest victim of the global trade war. In relation to this, trade friction will be visible at the commencement of the 301 trillion survey of the US Trade Representative (USTR) against China. If the trade friction between the US and China becomes serious, damage to Korea, which is highly dependent on China's exports to China, is also expected. On August 18, 2017, USTR began investigating the United States for damages caused by technology transfer and intellectual property laws, systems and practices in China in accordance with Article 301 of the US Trade Act of 1974.

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On the other hand, China's customs authorities will retaliate with tariffs on \$75 billion more of US goods and resume auto tariffs.[1] It is necessary to enhance the autonomy of companies and protect export industries. Adjusting corporate tax rate as well as domestic industry height will be one way. For these reasons, this study has current affairs. It is also judged in meaningful research fields. If the US imposes reprisals against China pursuant to Article 301, the global trade slowdown is expected to cause damage to Korean companies. It is indispensable to understand this Article 301, it is necessary to grasp the limit sufficiently and to raise the need to deal in advance.

2. US protection and trade measures

2.1. President Trump's protective means of trade, Article 301 of the US Trade Law

Article 301 of the U.S. Trade Act is categorized into the general 301, super 301, and special 301 categories. In 1974, Article 301 to 309 of the Trade Act were merged and called the General 301, and the General 301 Act can be launched by petition in the US industry or USTR's own initiative. Thus, Article 301 has been introduced to eliminate foreign unfair trade practices and to support American companies' entry into overseas markets. Generally, Section 301 refers collectively to Articles 301 to 309 of the Trade Act of 1974. Article 301 of the Trade Act (Article 301) has been strengthened by Article 301 (The Omnibus Trade and Competitiveness Act of 1988). Amendments 301-309 are referred to as "301" or "Regular 301". And, in 1974, the Trade Law Section 310 is called Super 301. Super 301 is subject to investigations, negotiations and retaliation against "unfair trade practices" of all trading partners in the United States. 'Unfair trade practice' includes all unjustifiable, unreasonable, discriminatory, and institutional practices of trading partners. Special Section 301 assesses unfair intellectual property protection systems, laws, and practices of US trading partners. This is a feature that allows you to retaliate against a country that is not well protected.

2.2. General 301 set

General Section 301 makes it possible to investigate and retaliate against the unjustifiable, unreasonable, discriminatory laws, institutions and practices of US trading partners. General 301 Actuation is differentiated by mandatory measures and discretionary measures. The USTR must undertake a mandatory investigation of 'unjustifiable' acts of trading partners in violation of US international legal rights. If the trade partner denies a fair opportunity for establishment of an American company, it may be considered as an "unreasonable" person who does not protect intellectual property rights, neglects anti-competitive behavior, The USTR may, in its discretion, decide whether to commence an investigation. The USTR also has the discretion to investigate whether the laws, policies and practices of the trading partner countries are 'discriminatory' to deny the most-favored-nation treatment or national treatment of US goods, services and investments. Can decide. This is not only the ambiguity of the standard, but also the "unjustifiable". It is a sufficient provision to give justification for the excuse to undertake a mandatory investigation. It seems necessary to take a more specific means of subdivision and case study. They should also negotiate to reduce discretionary measures. The USTR will decide whether or not to initiate an investigation within 45 days, and if the USTR makes its own initiative, it can initiate the investigation within 30 days of the decision. Negotiations should be completed within 18 months if the WTO is not covered by other trade agreements.

2.3. Super 301 set

The core article of the United States General Trade Act, Article 310, is generally referred to as "Super 301". Super 301 will investigate the "unfair trade practice" of the trading partner by designating the priority foreign country practice (PFCP), which has the greatest impact on the USTR's reduction in US exports. The President of the United States can resurrect Super 301 by an administrative order at any time. In view of the invocation requirements, the USTR must specify its own PFCP and initiate a mandatory investigation into it. Therefore, unlike the general 301 series, the Super 301 can not be invoked by the industry's petition, but only by the initiative of USTR itself. The USTR will designate a PFCP within 30 days from the publication date (March 31) of the National Trade Estimate (NTE) report annually. USTR must initiate investigations and negotiations within 90 days of PFCP designation. The retaliatory measures are the same as the general 301 cases, but the

scope of the investigation is larger than the general 301 cases, and the USTR has to initiate a compulsory investigation on the PFCP, thus functioning as a stronger trade sanction measure.

2.4. Special 301 set

On the other hand, Article 182 of the Trade Act 74, which prescribes procedures for protection of intellectual property rights and designation procedures for countries with bad market access, is referred to as "special 301 trillion". Its enforcement requirements are that the USTR imposes onerous and egregious laws, policies and practices that deny Americans fair and equal market access as a result of violations of international law or existing agreements in relation to US intellectual property rights. We designate the country as 'Priority Foreign Country (PFC)'. For countries designated as PFCs, the USTR must conduct a special 301 investigation. Since 1989, the US has announced the NTE report before March 31 every year and (1) "Priority Foreign Country (PFC)", (2) "First of all," PWL (Priority Watch List) ", "Watch list" is specified. Within 30 days after the announcement of this NTE report, the USTR will conduct a procedure for negotiations with the PFC for a period of six months (extendable up to nine months) and two consultations, automatically when the agreement is not made, automatically start investigation and consultation. From the beginning of the day, it is possible to take retaliatory measures in the future by applying 301 trillion activations. As a retaliatory measure, the USTR does not agree with the country designated by the PFC, and it is normally possible to take retaliatory measures like 301 trillion steps. If the dispute settlement is not successful within the negotiation period, the USTR can decide retaliation and retaliation can be carried out within 30 days from the retaliation decision date. However, it is subject to discretion to decide whether it is subject to survey in the annual evaluation of the special 301 article. USTR different general 301 article. Since the inauguration of the WTO's stay recently, one-sided retaliation under the invitation of the special 301 article of the United States is illegal under international law.

2.5. Limit of Article 301

301 trillion triggers are seen as trade sanctions that were mainly used (especially in 1980) before the WTO system was established, and when WTO dispute resolution agencies did not exist. To make unilateral trade sanctions through 301 trillion triggers today's US without approval of WTO dispute settlement institutions, it is contradictory to international law. According to the 1974 Trade Law, unless an agreement is made after deciding 301 trillion of the WTO member countries (including China), the United States will adopt the WTO dispute resolution agency judgment based on the correspondence trade agreement between the two countries to be followed. This time China's 301 trillion survey against the US in this country is not a survey carried out with PFCP or PFC specified, but measures adopting common 301 pairs arbitrarily. China has the right to ask the US to resolve disputes through the WTO arbitrarily. If the US invokes the 301 Special Jonas Super 301 article which is more powerful than the general 301 trillion in the future, China is highly likely to carry out retaliatory measures against the United States accordingly, and the trade war between the two countries has been realized. It may be.

3. WTO LEGALITY OF ARTICLE 301 OF THE TRADE ACT

3.1. Regulations of the US Trade Act and related WTO agreements

According to the relevant provisions of the US Trade Law, - Article 301 : USTR's response in case of violation of US rights interests through trade agreements, Action regulation. - 302-303 : Begin investigating whether or not infringement. - Article 304 : The USTR will issue an order or after the above (302-303) survey has begun 18 US rights, profit before the early date for the month, Determine whether or not you have been infringed. - Article 305 : From the date of decision to decide the action determined pursuant to Article 306, Enforced within 30 days. - Article 306 : The USTR has been informed by a counterpart, Whether or not the dispute resolution is carried out is based on a "reasonable period", Review within 30 days of completion and take action, Determine whether. - Article 307-310 is composed of related supplementary regulations.

3.2. Analysis of US Trade Law

the case of the United States, although the legislative powers are the exclusive powers of the Parliament under the principle of strict separation of powers, there is a tendency to expand the delegation of administrative authorities and responsibilities. In the case of Korea, the customs clearance system maintains the order of import and export through various regulations on import and export goods.[2] The United States implements multilateral trade-related legislation to secure its own interests and pursues export expansion of the United States through elimination of foreign unfair trade practices. Furthermore, we actively utilize anti-dumping and countervailing tariff system for relief of US industrial damage caused by unfair trade practices, and we operate a government procurement system based on reciprocity. Also, it is expected that there will be limits to legislation as it is because there is a body (such as a steel import permit system) where substantial departments of legislative contents of Congressional protection trade tend to violate the WTO Agreement. Considering the factors of internal resistance and external resistance due to the influence of domestic industry on trade policy related to this, suppression of overseas relocation of enterprises and induction of foreign investment in the United States and anti-dumping·Safeguard·countervailing tariff etc. The use of various kinds of trade remedy measures and currency manipulation anticipate protection trade measures through national designation etc.[3]

3.3. Analysis and consideration

Article 301 of the U.S. Trade Act stipulates a time limit. This regulation sometimes gives you the ability to make your own decisions before the WTO dispute process ends. This is against the prima facie WTO agreement. However, the Statement of Administrative Action submitted to Congress by the executive branch when the United States implements the outcome of the UR negotiations removes this illegality.

4. IMPACT ON KOREAN COMPANIES

4.1. Negative impact on our business

If the WTO Dispute Settlement Authority approves this US 301 retaliation measure in the same way as the past case (US-EU hormone-treated beef imports), the United States will not import any Chinese imported products Chinese products) can be imposed. If the US-China trade war is realized, it is expected that there will be a blow to the countries that export intermediate goods to Korea as well as Korea. In particular, Korea, which is highly reliant on intermediate goods exports to China, is expected to suffer a great deal of damage.

4.2. Dependence of Korean companies on China's economy

According to a recent report by the US Conference Board, a nonprofit private economic research institute, South Korea's dependence on the Chinese economy is the highest among the surveyed countries (Korea, the US, EU, Japan, Australia, India and Indonesia). The Bank of Korea (2016) estimated that if the Chinese export to the US declined by 10%, the total export of Korea would decrease by 0.36%. Considering this analysis, strengthening of protection trade by the trade friction between US and China In the second half of the year.[4] In order to effectively cope with these protection-trade measures, it is important to take preventive measures and it seems necessary to build infrastructure for related industries. We need to overcome import control measures basically through various localization strategies along with export marketing innovation that combines cultural elements such as continuous diversification of export markets and Korean style.[5]

4.3. Future measures

In November 2018, there is also a policy route ahead of the US mid-term election. This is an incorrect policy, Korean companies are determined to enhance the national competitiveness through collaboration, and the intention of companies that gradually reduce car production in advance is considered important. We also need to find ways to reduce car imports. The customs officer who is the taxpayer of the customs duty shall, when it is deemed necessary for the realization of the tax receipt under the Customs Act, pursuant to Article 108 (1) of the Customs Act, the customs duties shall be deemed to be the goods which are reduced or exempted from customs duties in accordance with the Customs Act or other laws, treaties, To provide security equivalent

to the amount of customs duties that are exempted or paid in installments when importing the goods.[6] We will improve this domestic tariff provision, and subsequently closely analyze Article 232 of the Trade Expansion Law related to the car tariffs of the Trump Government.

4.4. small conclusion

As a means to protect domestic industries, the protection effect of tariffs is gradually weakening in reality. In particular, in addition to the reduction of the tariff rate of the MFN (Most Favored Nation) of the WTO member countries, the recent diffusion of the FTA, etc. made meaningless tariffs as a means of protection.[7] In this sense, retaliation tariffs on playing cards have not been fairly fair recently, and they can be evaluated in a policy-like manner to lower the national competitiveness. This is judged in consideration of situations that are conscious of the outcome of the US midterm elections that will come into effect sooner than economic utilization to strengthen international competitiveness.

However, there is a possibility that the scale of trade will shrink globally if the scope of US tariffs expands or other countries begin to respond to the US with retaliatory tariffs in the future. Especially, if the domestic trade of major countries such as China shrinks due to the trade dispute with the US, it could have an indirect effect on Korea. According to the Korea Development Institute (KDI), "Korea's gross domestic product (GDP) can be reduced by about 0.31% if China's export to the US declines by 10% due to trade disputes.[8]

In the future, the provisions of ordinary related bills that do not take into consideration unilateral measures to maximize the national interests of their own countries or changes in international norms (such as Article 301, trade restrictive measures, anti-dumping systems, etc.) will be through WTO dispute settlement procedures etc. It is expected to cause disputes with trading partners. Since the policy trends of FTAs have been converted into their use in the conclusion of the FTA since 2016, detailed research on the utilization of FTAs should be conducted.[9]

Again, considering that South Korea's exports to the US are 13% level of the total exports and the recent trend of increase, and the fact that the amount of export bypasses also is large, the negative influence that the deterioration of world trade conditions has on domestic industry I am analyzing it is big. Especially since the card trump government, in the worst case where the vicious circle structure of the US economic downturn → protectionism strengthening → the economic downturn of the world is formed, it is expected that the blow to the whole Korean industry will be great.[10] Korea relies on the United States and China for 40% of exports. If Trump's protectionism deteriorates trade relations between the US and China, our exports are hit hard. China is receiving 25% and 13% of our exports. 70% of the products we export to China are intermediate goods, and China is reprocessing them and exporting them to the US.[11] This is a part that needs to improve the industrial structure to reduce the export of intermediate goods. In the end, the US and China implemented the first phase of the US-China trade on December 13, 2019. Officials of the two countries said they had agreed on the text of the first phase of the trade pact and would avert imposing further tariffs on each other.[12] The Global equity markets and oil prices surged on news of the trade agreement. This has caused confusion in economic policies around the world. Furthermore, it has caused economic damage to the individual.

5. CONCLUSION

The domestic economy, which US President Donald Trump had hoped to recover while imposing import tariffs imported from South Korea etc. and tariff rates on aluminum at a high rate, suffered from a burden. The government considers the impact of high tariff rates on domestic economies such as exports soon Last year, total domestic exports amounted to \$ 5700 billion. Among them, US exports of steel was about 3.7 billion dollars, which was about 0.7% of the total. Aluminum's export volume to the US is about 200 million dollars, which is much lower than that of steel. In particular, it is a shame that the uncertainty about the US has come at a time when the domestic economic recovery can be resilient. In recent years, investment has continued to increase in the domestic economy thanks to strong exports. As of January, production and consumption rebounded significantly, showing a recovery trend. As the news of the North-South summit and

the summit of the North American summit were relayed, it was expected that the 'geopolitical uncertainty' that has kept the backbone of the domestic economy steady has been lifted. In the future, however, the "trade war" in the United States may shrink the economic sentiment around the world and cause financial market instability. Accordingly, the government intends to strengthen risk management on risk factors such as trade issues in the future. Despite this difficult situation, Trump claims to impose a "fair trade" on imposing high tariffs on imported steel and aluminum. If the trade conflict between the United States and China gets deeper and the US raises tariffs on China, the deterioration of China's exports to the United States will also have a negative impact on South Korea's exports to China. From this viewpoint, it is judged that Korea needs to maintain continuity of tariff policy and make efforts to strengthen national competitiveness.

The long-term (21 months) trade war between the United States and China has resulted in economic uncertainty. The resulting damage must be compensated. It is necessary to prepare the compensation through the economic council between countries. In the future, the punitive damage compensation system should be introduced.

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