REGIONAL FOCUS & CONTROVERSIES

Japan's Unspoken Currency Manipulation by Monetary Policies: A Chinese Lawyer's Perspective

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During the past few years, the Bank of Japan has injected billions of yen into the economy and pursued a monetary easing policy. Japan has plausible arguments, namely that its current policies are needed to support the growth of the economy and to spur inflation. However, these measures result in a weakened yen and increase trade imbalances between Japan and other Asian countries, particularly China. This article argues that Japan's practice is rooted in protectionism and examines such actions under the IMF Agreement and the WTO system. It is suggested that the Chinese government should adopt diplomatic and judicial approaches to urge Japan to return to normal monetary policies.

Keywords

Devaluation, Yen, Quantitative Easing Policies, Exchange Rates Manipulation, IMF, WTO

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1. Introduction

Since Shinzo Abe became prime minister of Japan on December 26, 2012, the Bank of Japan ("BoJ") has introduced a series of economic reform to correct its current economic recession.[1] As traditional monetary policies have limits in combating recession and deflation, Japan turned to a radical quantitative easing policy aimed at depreciating the Japanese yen. These measures have resulted in substantial depreciation of the yen *vis-a-vis* other currencies. The depreciation of yen has helped to bolster Japanese exports, but is at the expense of Japan's trading partners.

While there are many commentaries on this issue, most of which focus on economic or political implications.[2] This research, however, will provide an in depth analysis of whether Japan's policy could be challenged under relevant international treaties including the IMF Agreement, Article XV of the GATT 1994, or the Subsidies and the Countervailing Measures Agreement [hereinafter SCM Agreement]. It will discuss what kinds of remedies would be available if Japan has violated any of its international responsibilities. This paper is composed of five parts including Introduction and Conclusion. Part two will provide background on Japan's monetary policies and the criticisms against them. Part three will examine the rules and regulations under the IMF that govern the 'exchange arrangements' and "exchange rate policies." Part four will clarify the relationship between exchange rates and international trade, as well as the question of what arguments can be given to Japan's quantitative easing as a measure that may impair the commitments made in trade agreements, particularly the WTO rules. Part five will suggest political and legal strategies to encourage a change in Japan's monetary policies.

1 D. Pilling, *Premise of Shinzo Abe's Economic Plan is that 15 Years of Deflation Have Sapped Japan's 'Animal Spirits,'* Financial Times, Jan. 2, 2014, *available at* http://www.ft.com/intl/cms/s/0/c26bc078-673d-11e3-a5f9-00144feabdc0.html#axzz2ws0OYKqB (last visited on Apr. 17, 2014).

2 *See generally* Bonkwan Koo, *Abenomics, Finally a Solution to Revive Japan?*, 6 SERI Q. 30 (2013); A. Field, *Japan's Three-Arrow Attack*, 14 J. Com., 19 (2013); A. Pereira & S. Allard, *Recent Development: Looking to Fill an International Regulatory Gap: Brazil Brings the Issue of Exchange Rates and Trade Before the World Trade Organization*, 26 Emory Int'l L. Rev. 535 (2012).