Keidanren
Japan Business Federation

Call for the Realization of Trade Policies for the New Era — Focus on Reform of the World Trade Organization (WTO) — (Provisional translation)

January 22, 2019

Keidanren

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1. Emerging Trade Friction under the Current WTO

— Reform of the WTO to restore its pull as an international body that responds to members' issues of concern

As the foundation of the global trade order, the WTO's multilateral trading system has helped to curb protectionism and contributed to global economic development and the reduction of poverty. On the other hand, there are concerns about the negative impact on the global economy of the escalating trade friction between the United States and China.

The background to the U.S.-China trade friction is the increase in market-distorting measures caused by State-Owned Enterprises and subsidies, and trade restrictive practices such as data localization requirements and forced technology transfer. [1]

The current WTO multilateral trading system could not be described as functioning effectively in resolving these issues. There is also a conspicuous deviation between the current state of a greatly changing economy, exemplified by technological innovations and the expansion of digital trade, and the rules that have remained the same as when the WTO was first established.

Regarding the WTO's dispute settlement system (quasi-judicial proceedings), the United States has blocked the appointment of WTO Appellate Body members, claiming that the Appellate Body has overstepped its authority and deviated from procedures that members agreed to in the WTO Agreement. As a result, the Appellate Body only has three members, the minimum required to hear an appeal, and it is becoming apparent that its ability to function properly is diminishing.

Believing that the WTO Agreement is inadequate, the United States has adopted an approach of using bilateral deals to address trade measures it considers unfair, using tariffs and other measures based on its own domestic legislation [2] as leverage. Retaliatory actions undertaken by targeted countries have escalated the trade friction even more, to the detriment of both sides.

For the WTO to remain an effective presence as an organization that will respond to members' issues of concern under such circumstances, it will need to restore its pull as an international body that will solve the issues raised by its members, including the United States, and govern fairly and effectively. In particular, in addition to the development of effective rules governing market-distorting and trade-restricting measures, it is also vital that it realize the setting of rules for digital trade and restore the functionality of the Appellate Body.

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1 The United States, under Section 301 of its Trade Act (which provides for the President to take action, including trade sanctions, against foreign countries that either violate trade agreements, such as the WTO, or engage in other unjustified, unreasonable, or discriminatory trade practices), has determined that China's intellectual property infringements and forced technology transfer are unfair trade practices, and imposed additional duties from July 2018. China retaliated immediately by imposing tariffs of its own.

2 In addition to the aforementioned action under Section 301 of the Trade Act, under Section 232 of its Trade Expansion Act (which authorizes the President to take measures to restrict imports from other countries deemed to threaten to impair national security) the United States began imposing additional duties on steel (25%) and aluminum (10%) from March 2018 (with exceptions applying to certain countries and products). China retaliated by levying duties against U.S. imports (15% on 120 items including fruit and 25% on pork and seven other items) in April 2018.

Momentum for reform is building, with the G20 leaders agreeing in the final declaration adopted at the Buenos Aires Summit to support the necessary reform of the WTO to improve its functioning. The members of the WTO should participate in sincere and constructive discussions, including on the points discussed below, to achieve reforms that will enable the WTO to function effectively as the foundation of a rule-based international economic order.

At the same time, it is important for us to spread the preferred rules widely throughout the world through various high-level trade and other agreements, including the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP, also known as the TPP-11 agreement) and the Japan-EU EPA, with a view to their leading to disciplines under the WTO in the future.

2. Reforms of Systems for the Restoration of WTO's Functions

— Toward inclusive economic growth around the world

The WTO multilateral trading system, which was established in 1995, has curbed protectionism through the promotion of liberalization and rule-making such as the Trade Facilitation Agreement and the Information Technology Agreement (ITA), the resolution of disputes and implementation of recommendations and rulings that prevented disputes turning into political issues, and the regular review of the trade policies of its members. It has also played a certain role in the development of the global economy, including that of Japan, and the consequent reduction of poverty, which is the primary aim of the United Nations' Sustainable Development Goals (SDGs).

In recognition of this contribution, Keidanren has long asserted that the WTO should be the foundation of Japan's trade strategy. To achieve globally inclusive economic growth, it is essential that the multilateral trading system under the 164-member WTO continue to function effectively into the future.

In addition to the growing gap between the actual state of the economy and the rules as they currently stand, there has been an increase in protectionist measures and unilateral actions, and it is becoming increasingly apparent that the WTO's dispute settlement system is starting to become ineffective Under these circumstances, for the WTO to remain an institution that can function effectively in response to today's challenges and the needs of its members, reforms must be pursued, including in the following areas.

(1) Reinvigorating trade liberalization and rule-making functions

a. Promotion of new methods of trade liberalization and rule-making

i) Electronic commerce

With the WTO Doha Round currently in deadlock, the pursuit of new methods of trade liberalization and rule-making is a matter of urgency. This is particular so in light of the widening gap between the actual state of business, including the expansion of technological innovations and digital trade, and the current WTO agreements.

In terms of concrete efforts toward this end, like-minded countries have initiated exploratory work on e-commerce toward future negotiations, based on the joint statement released at the Eleventh WTO Ministerial Conference (MC11) in December 2017[3]. We

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3 Elements dealt with in the exploratory work on electronic commerce
- A) Facilitation of e-commerce
  Electronic signatures and authentications, paperless trading, electronic payments, no customs duties on electronic transmissions, etc.
- B) Liberalization of e-commerce
  Non-discriminatory treatment of digital products, liberalization of data flow, etc. (including the prohibition of data localization requirements), improved commitments to market access for goods and services, etc.
- C) Reliability of e-commerce
  Online consumer protection, unsolicited commercial electronic messages, prohibition of disclosure of important information such as trade secrets and personal information, aspects relating to intellectual property, etc.
- D) Cross-sectoral issues

commend the work being done by these interested members, with Japan, Australia, and Singapore acting as joint coordinators, and call for these discussions to lead to the initiation of actual negotiations at an early stage.

Regarding matters that need to be realized in relation to e-commerce, taking account of existing EPAs and other disciplines[4] (free flow of cross-border data, prohibition of mandatory requirements by the government to locate computing facilities within its territory, prohibition of requirements for disclosure of source codes, etc., permanent obligation not to impose customs duties on electronic transmissions, non-discriminatory treatment of digital products, etc.), discussions should continue, with as many members as possible taking part, with the aim of establishing disciplines of a high standard.

ii) Other liberalization and rule-making approaches

Services Domestic Regulations

With trade in services accounting for a growing share of the economy, it is becoming increasingly important to ensure that domestic regulations on services[5] do not constitute unnecessary barriers to business across borders. A joint statement by multiple members at MC11 called upon all members to intensify work towards concluding the negotiation of disciplines on services domestic regulation in advance of the next Ministerial Conference[6].

Regarding services domestic regulation (qualification requirements, qualification assessment procedures, technical standards and licensing requirements, etc.), increased objectivity and transparency, improved fairness, and reducing the burdens of implementing regulations can be expected to result in the expansion of services trade and investment and improved efficiency of administrative procedures. This will benefit all countries and entities. In terms of specific disciplines, it is important that they include the online publication and advance rulings of relevant legislation, an appeal procedures, granting of opportunities to submit comments prior to new laws and regulations being implemented, setting of examination/processing timeframes, and digitalized and one-

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Publication and exchange of rules and procedures pertaining to regulations, harmonization of regulations and cooperation among members and regulatory authorities, capacity building, etc.

4 The provisions of the TPP Agreement and the Japan-EU EPA include the prohibition of customs duties on electronic transmissions, prohibition of requirements for disclosure of source codes, and provisions regarding unsolicited commercial electronic messages. Meanwhile, the TPP Agreement contains provisions for the non-discriminatory treatment of digital products, cross-border transfer of information (including personal information) by electronic means, and the prohibition of requirements for location of computing facilities, but these provisions are not included in the Japan-EU EPA. The need for inclusion of provisions on the free flow of data into this agreement will be reassessed within three years of the date of entry into force of the Japan-EU EPA (Article 8.81 of the Japan-EU EPA).

5 Discussions on services domestic regulation had been progressing in the WTO Council for Trade in Services Working Party on Domestic Regulation, but they did not lead to an outcome at the Eleventh Ministerial Conference (MC11) in 2017.

6 Thirty-two members endorsed the Joint Ministerial Statement on Services Domestic Regulation (Albania; Argentina; Australia; Brazil; Canada; Chile; China; Colombia; Costa Rica; the European Union; Hong Kong, China; Iceland; Indonesia; Israel; Japan; the Republic of Kazakhstan; the Republic of Korea; Liechtenstein; Mexico; the former Yugoslav Republic of Macedonia; the Republic of Moldova; Montenegro; New Zealand; Norway; Peru; the Russian Federation; Singapore; Switzerland; the Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu; Turkey; Ukraine; and Uruguay)

stop-shop services. While it is preferable that all members be involved in negotiations to achieve outcomes, if this proves difficult, a plurilateral group should commence negotiations and achieve outcomes as soon as possible.

Continuation of negotiations on ITA, GPA, EGA, and trade remedies

Members should continue to pursue negotiations on liberalization and rule-making that include the issues of the Doha Round. Upgrading of the list of products covered by the Information Technology Agreement (ITA) and the expansion of its signatories, expansion of the signatories to the Government Procurement Agreement (GPA), and the resumption of negotiations on the Environmental Goods Agreement (EGA) should be pursued. Strengthening disciplines concerning trade remedies remains important and we call for efforts to be made to move negotiations forward.

Resumption of TiSA negotiations

Members should continue to promote the liberalization of multilateral services trade. The aim of the negotiations on a new Trade in Services Agreement (TiSA), which were conducted by several WTO members, was not to add to or amend the WTO Agreement, but they do aim to lead to the future amendment of WTO disciplines. Expectations were high that these negotiations would be concluded in 2016. The possibility of resuming these TiSA negotiations should be explored for the sake of the expansion of a high level liberalization and rule-making for trade in services between WTO members.

b. Reinforcement of disciplines for the promotion of a level playing field

The reinforcement of disciplines concerning market-distorting industrial subsidies and State-Owned Enterprises is essential to ensuring conditions of fair competition.

As well as continuing to take advantage of the discussions in trilateral meetings of the trade ministers of the US, Japan, and the EU[7], and the Global Forum on Steel Excess

7 Japan, the United States, and the EU have discussed, among other things, creating provisions by which subsidies could be presumed to be prohibited when certain criteria are applied, to reverse the burden of proof regarding whether or not a subsidy could be actionable for remedies, as provided in the WTO Agreement on Subsidies and Countervailing measures. In a joint statement on a trilateral meeting between Japan, the United States, and the EU (September 25, 2018), the trilateral partners expressed their intention to advance their respective internal steps before the end of 2018, with the aim of initiating a negotiation on more effective subsidy rules soon thereafter. They also affirmed their commitment to effective means to stop harmful forced technology transfer policies and practices and to deepening discussions on rule-making to address these problems.
Subsidies that fall under Article 6.1 of the WTO Agreement on Subsidies and Countervailing Measures (SCM Agreement) are defined as subsidies of "serious prejudice" (dark amber subsidies: (a) the total ad valorem subsidization of product exceeding 5%; (b) subsidies to cover operating losses sustained by an industry; (c) direct forgiveness of debt). However, under the SCM Agreement, to request remedies against such subsidies, the Member requesting those remedies bears the burden of proof to provide available evidence with regard to (a) the existence and nature of the subsidy in question, and (b) the injury caused to the domestic industry, or the nullification or impairment, or serious prejudice caused to the interests of the Member requesting remedies (SCM Agreement, Article 7).

Capacity[8], bilateral discussions should also be actively pursued to pave the way toward the timely launch of negotiations regarding disciplines on subsidies and State-Owned Enterprises.

Regarding the rectification of trade-restricting measures such as forced technology transfer, current WTO rules are insufficient[9]. The WTO should take reference from progressive disciplines (TPP Agreement and existing investment agreements) and engage in discussions for the creation of rules under the WTO. Method such as that outlined in c. below is worthy of consideration in such discussions.

c. Elevation of EPA/FTA disciplines to the WTO

As one method of restoring the WTO's negotiating function, serious consideration should be given to consolidating similar obligations accepted by members in various agreements such as EPAs and FTAs and turning them into disciplines under WTO agreements.

Specifically, one possibility may be to have the countries commit to these obligations as part of WTO agreements and open them up to participation by other WTO members in the future. As a preface to this, we look forward to the WTO Secretariat conducting a comparison and analysis of the disciplines under the various EPAs/FTAs and other agreements, and to the relevant committees conducting research of possible draft provisions.

d. Active promotion of plurilateral negotiation (approach for sector-specific negotiation among several countries)

As Keidanren has recommended in the past[10], the pursuit of sector-specific negotiations

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8 The decision to establish the Global Forum on Steel Excess Capacity was made at the G20 Hangzhou Summit after the topic of the excess capacity in the steel industry was raised at the leader level at the 2016 G7 Ise-Shima Summit. It was formed in December of that year by 33 members of the G20 and OECD with interest in the problem of steel overcapacity. An inaugural ministerial meeting was held in November 2017 in Berlin, followed by a second ministerial meeting in September 2018 in Paris, where reports were made on the progress being made to redress the problem. After Japan assumed the G20 Chair, it convened a working-level meeting in December 2018 in Tokyo to review the status of those efforts.

9 China's Cybersecurity Law and other related legislation impose obligations for the storage in China of personal information and important data and for security assessment when such data are being transferred across borders. These requirements would not be inconsistent of provisions on National Treatment (GATS Article 17), Domestic Regulation (GATS Article 6.5), and the preparation, adoption and application of mandatory standards (TBT Agreement Articles 2.2 and 5.1.2), and multiple countries, including Japan, the United States, and the EU, have expressed their concern in the meetings of the Council for Trade in Services and the TBT Committee. On the other hand, the current WTO Agreement does not prohibit data localization or forced technology transfer per se.

10 Keidanren recommended such an approach in its Proposals for Redefining of Trade Strategy (April 16, 2013) and Call to Rebuild the WTO Multilateral Free Trade and Investment System (May 19, 2015). The latter pointed out that, since plurilateral talks take place among willing countries and address specific fields, the countries are not bound by single undertaking constraints and can avoid current barriers to decision-making, and there is no requirement to obtain the agreement of all WTO members, and proposed the adoption of the critical mass method, that is, a method in which, when the volume of goods or services subject to negotiations by participating countries reaches a certain proportion of world trade (90% is the target in the case of tariffs), tariffs and/or rules applying to the relevant field would be

by several like-minded countries would be an effective approach to the early realization of high-level agreements that meet the needs of business. This approach is one that should be actively promoted in the WTO.

It should be made possible for several members to commence negotiations in the WTO, on the premise that those negotiations are open to other members to join at a later stage. It has been pointed out that, under current circumstances, there is a tendency for some members that have no intention of participating in the setting of new rules to block other members' efforts. In moving negotiations forward, the challenges presented by the present principle of consensus must be overcome. Members that do not agree must not be allowed to block the initiation of negotiations on issues such as e-commerce and services domestic regulation.

e. Definition of developing countries and clarification of special and differential treatment

One problem that could be cited as contributing to the sense of the unfairness of the WTO held by some members is the special and differential treatment provided to developing countries.

Currently, whether or not a country, including emerging economies, is a developing country in the WTO is a matter of self-designation and no clear criteria have been established. The disparity in the content and extent of obligations accepted by each member is a factor behind the delays and difficulties in negotiations, and it also dilutes the effects of any agreements reached.

To remedy this situation, consideration should be given to adopting clear, economic criteria[11] as the definition of a developing country. Special and differential treatment should be positioned as an exception to the rule and provided on a time-limited basis on the premise that the country in question will accept the full obligation in the future in principle.

In particular, emerging countries with large economies should immediately undertake full commitments in various agreements.

f. Expansion of Secretariat support for the advancement of negotiations

From the viewpoint of advancing discussions and negotiations, the Secretariat should be

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eliminated or harmonized and the results of the agreement would be shared among all WTO members, including those that did not participate in the negotiations (example: ITA).

11 The WTO classifies Least Developed Countries (LDCs) according to the United Nations' List of Least Developed Countries, recognizing countries that meet the following three criteria as LDCs (on the premise of the consent of the country in question). The list is reviewed once every three years.

a. Per capita GNI (three-year average) is below a certain criterion (e.g. Less than 1,035 USD for 2011-2013)
b. Human Assets Index (HAI): An index established by the UN Committee for Development Policy (CDP) to indicate the level of human capital. Based on indicators for the percentage of population undernourished, mortality rate for children aged five years or under, gross secondary school enrolment ratio, and adult literacy rate.
c. Economic Vulnerability Index (EVI): structural vulnerability to economic and environmental shocks.

allowed to actively provide services such as the preparation and proposal of possible solutions and the collection and analysis of objective data. Collaboration with the OECD and other international institutions would be beneficial in this regard.

(2) Strengthening of implementation monitoring function

a. Strengthening of disciplines regarding notification requirements (subsidies, trade remedies)

Japan, the EU, and the United States have submitted to the Council for Trade in Goods proposals that call for the strengthening of the notification requirements regarding subsidies, etc., encourages explanation of the reasons for the delay and the anticipated time-frame for notification in the event that such notification is delayed, and the application of penalties if a notification is not submitted by a certain deadline[12].

We commend the efforts of the trilateral partners, including the above proposal, and look forward to the timely realization of strengthened notification requirements for subsidies, etc.

In addition, from the standpoint of strengthening the function for monitoring of the implementation of WTO agreements, we call for discussion of the reinforcement of disciplines such as members' disclosure of information regarding application of trade remedies, including the introduction of penalties, with the aim of the reinforcement and thorough implementation of notification requirements.

b. Active utilization and reinforcement of activities of regular committees, etc.

The various bodies and committees of the WTO are carrying out their functions of ensuring steady implementation of WTO agreements. The Council for Trade in Goods and the Council for Trade in Services have been established under the General Council,

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12 In addition to Japan, the United States, and Europe, this proposal was endorsed by Argentina, Costa Rica, Chinese Taipei, and Australia. It also encourages other Members to provide counter notifications of another Member's failure to meet notification obligations. Developing countries whose administrative organizations make notifications difficult institutionally may request assistance from the WTO Secretariat. In such cases, administrative measures will not be applied. The proposed administrative measures are as follows:

(1) After one but less than two full years from a notification deadline, the following measures shall be applied to the Member at the beginning of the second year:
   a. representatives of the Member cannot be nominated to preside over WTO bodies;
   b. questions posed by the Member to another Member during a Trade Policy Review need not be answered;
   c. the Member will be assessed a supplement over its normal assessed contribution to the WTO budget;
   d. the Secretariat will report annually to the Council for Trade in Goods on the status of the Member's notifications; and
   e. the Member will be subject to specific reporting at the General Council meetings.

(2) After two but less than three full years following a notification deadline,
   a. the Member will be designated as an Inactive Member;
   b. representatives of the Member will be called upon in WTO formal meetings after all other Members have taken the floor, and before any observers; and
   c. when the Inactive Member takes the floor in the General Council, it will be identified as such.

and each of these councils have a number of field-specific committees under them.

The invigoration of these various committees is another important perspective. Members should be proactive in raising any issues related to the implementation of relevant agreements at the respective Council or committee and participate in constructive discussion of those issues.

Japan, the United States, and the EU are discussing the promotion of sharing of best practice among committees and the improvement of efficiency, with a view to submitting a joint proposal from the perspective of the strengthening of the activities of these regular committees. We look forward to these discussions taking concrete shape at an early stage.

For example, regarding the Technical Barriers to Trade (TBT) Agreement, in addition to holding sessions to debate individual agenda items, the TBT Committee has a mandate to review annually the implementation and operation of the Agreement and submit proposals for amendments to the text of this Agreement to the Council for Trade in Goods.

Taking reference from the activities of other committees that have proven to be effective, WTO members should consider reviewing implementation monitoring activities, in light of the activities that each Council and committee covers.

(3) Reform of the dispute settlement system

— Expectations for concrete discussions toward the immediate restoration of the functions of the Appellate Body

Until recently, the WTO's dispute settlement process had functioned effectively by employing a negative consensus approach, in which the rulings by panels and the Appellate Body are adopted unless the Dispute Settlement Body formed a consensus to reject a ruling, thus ensuring that the WTO could implement those rules.

However, the United States has claimed that the WTO Appellate Body (the body for appeals of dispute cases) has overstepped the authority and proceedings that were agreed by members under the WTO Dispute Settlement Understanding (DSU). Raising various concerns about the Appellate Body, such as continued service by persons who are no longer Appellate Body members[13], its disregard of the 90-day deadline for preparing appeals, issuing advisory opinions on issues not necessary to resolve a dispute, its review of facts and review of a member's domestic law de novo, and the Appellate Body's claims that its reports are entitled to be treated as precedent, the United States has continued to block the appointment of Appellate Body members. This situation must be resolved as soon as possible and the functions of the Appellate Body restored.

Leaving the positions on the Appellate Body vacant for an extended period will lead to the protraction and delay of matters currently under review, exacerbating the Body's inability to perform its functions as prescribed in the Agreement. This includes the requirement to produce its reports within 90 days, which was one of the concerns raised by the United States. We hope that the United States and other interested members will engage seriously in this matter and work to fill the vacancies in the Appellate Body as a matter of urgency.

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13 2018 Trade Policy Agenda, US Trade Representative (February 28, 2018)

Currently, in light of the concerns raised by the United States, several countries have submitted proposals for reform, including the EU, India, and China[14]. However, these proposals have not necessarily addressed the United States' concerns about the scope of the authority of the Appellate Body. Concrete discussions should be pursued to pave the way for substantive reform of the rules and systems, including this point.

These reforms should not undermine the functions needed to ensure the steady implementation of WTO agreements from a business perspective. We call for improvements that will contribute to the early resolution of disputes, taking the speed of business into consideration.

14 On November 26, the EU, China, India, and other countries submitted proposals for amendments to the Dispute Settlement Understanding (DSU) of the WTO Agreement to the WTO General Council. The proposing countries and the contents of their proposed amendments are as follows:
WT/GC/W/752: EU, China, India, Canada, Norway, New Zealand, Switzerland, Australia, Republic of Korea, Iceland, Singapore, Mexico

a. regarding continued service by persons who are no longer Appellate Body members, the outgoing person shall complete the disposition of an appeal in which the oral hearing has been held;
b. In no case shall the proceedings exceed 90 days, unless the parties agree otherwise on a proposal from the Appellate Body;
c. clarify in a footnote to the DSU that the "issues of law covered in the panel report and legal interpretations developed by the panel" do not include the panel findings with regard to the meaning of the municipal measures of a party but do include the panel findings with regard to their legal characterisation under the covered agreements" ;
d. add wording that will limit the Appellate Body to addressing the issues "to the extent necessary for the resolution of the dispute"; and
e. hold regular meetings between the Appellate Body and WTO Members (establishing an opportunity for members to express their views.)

WT/GC/W/753 (Proposed Additional Amendments): EU, China, India

a. change the term for Appellate Body members from the current maximum of two 4-year terms to a non-renewable but longer term of 6-8 years (extendable by 2 years if there is a vacancy);
b. increase the number of Appellate Body members from 7 to 9;
c. changes in the employment conditions of the Appellate Body members from a part-time job to a full-time, prohibition to engage in any other occupation of a professional nature;
d. expand the administrative and legal functions of the Secretariat (amendment of DSU not required); and
e. launch the selection process to replace outgoing Appellate Body members automatically no later than X [e.g. 6] months before the expiry of their term of office.

3. Promotion of Economic Partnerships, etc. to Supplement the WTO

— Continued liberalization and expansion of progressive rules through economic partnership agreements (EPAs), etc.

At a time when liberalization and rule-making are unable to be achieved under the WTO at a pace and with the contents that business expects, in addition to the reforms of the WTO detailed in 2. above, it is essential that it be complemented in those areas that go beyond the contents and undertakings covered by the WTO. From this perspective, we must continue to expand liberalization and progressive rules with other countries through the pursuit of the economic partnership agreements and other frameworks mentioned below.

As the main pillar of its trade strategy, Japan has pursued the negotiation of what have become known as mega free trade agreements (FTAs), namely the Trans Pacific Partnership (TPP), the Regional Comprehensive Economic Partnership (RCEP) [15], and the Japan-EU EPA. Its efforts have borne fruit with the conclusion of the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTTP, also known as TPP11) and the Japan-EU EPA, resulting in a high level of liberalization and progressive rules. Amid concerns about the expansion of protectionist/trade-restricting measures, market-distorting actions, and unilateral actions, Japan, as President of the G20 for 2019, must leverage these outcomes and advocate the importance of a rule-based, free and open international economic order.

At the same time, as well as aiming for conclusion of RCEP and Japan-Turkey EPA with comprehensive and high-quality contents in 2019 and the early realization, to a high standard, of a Japan-China-ROK FTA, Japan should also initiate EPA negotiations with Mercosur (Southern Common Market) [16] at an early stage.

Japan should also actively pursue the expansion of TPP11 participant countries by welcoming others that share the same values. Although this may not be feasible in the short term, we hope that one day the U.S. will return to the fold, considering the strategic and economic significance of this framework.

Regarding the trade talks that the leaders of Japan and the United States agreed to initiate in a summit meeting in September 2018, we hope that these talks will lead to the further expansion of U.S.-Japan trade and, in turn, contribute to the economic development of a free and open Indo-Pacific region based on fair rules.

To complement the aforementioned agreements, from the perspective of developing a global business environment, there is a need to protect, liberalize, and facilitate cross-border investments through the establishment of such rules mainly by concluding bilateral and regional EPAs as well as Bilateral Investment Treaties[17]. In particular, Investor-State

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15 See "Request Regarding the Japan-China-ROK FTA and the Regional Comprehensive Economic Partnership (RCEP)" (May 17, 2016) (http://www.keidanren.or.jp/policy/2016/036.html) (Japanese only)

16 See "Roadmap for an Economic Partnership Agreement between Japan and Mercosur" (July 23, 2018) http://www.keidanren.or.jp/en/policy/2018/062.html

17 See "Calling for Accelerated Conclusion of Investment Agreements — Toward Establishment of 21st-Century International Investment Rules" (December 15, 2015)

Dispute Settlement (ISDS) is a mechanism that will facilitate the acceptance of foreign investment and improve the predictability of the investment business by guaranteeing the non-discriminatory, non-arbitrary protection of foreign investments based on investment agreements.

From these kinds of perspectives, ISDS plays an important role in economic growth and job creation in the country receiving the investment, making it an important framework that should be included in investment agreements[18]. The premise of providing protection for cross-border investment through such frameworks has always been that it should be up to each country to decide, based on international rules, if it will accept any kind of foreign investment.

In addition, to deal with other challenges of global business that are not included in the above, it is essential to pursue frameworks that will complement these agreements, such as tax treaties[19] and social security agreements[20].

4. Roles of Japan and its Business Sector

— Hopes for Japan's leadership as G20 President

Trade and investment are the wellspring of economic growth, and every country, including developing countries, must create an environment in which its citizens can widely enjoy the benefits of that growth. To achieve this, it is essential that all countries maintain and strengthen rule-based, free and open business environments under the WTO's multilateral trade system, and curb any protectionist and trade-restricting measures and unilateral actions that are not based on rules.

During its presidency of the 2019 G20, it is important that Japan promote the reform of the WTO, including the points outlined above, and display leadership through various forums, including its trilateral talks with the United States and the EU.

To pursue these endeavors in a proactive way, the Japanese business sector should strive to communicate the significance of a rule-based, free and open, multilateral international economic order, which will contribute to the SDGs.

Keidanren will cooperate with the business sectors of other countries and work to make this goal a reality.

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http://www.keidanren.or.jp/en/policy/2015/119.html

18 Ibid.

19 See "Proposal for Fiscal 2019 Tax Reform" (September 18, 2018) (3. International taxation (3) Expansion of tax treaty networks) (http://www.keidanren.or.jp/en/policy/2018/073.html)

20 See "Call for the Early Conclusion of a Social Security Agreement with Vietnam" (June 19, 2018) (http://www.keidanren.or.jp/policy/2018/050.html) (Japanese only)