

**Toward the Fair, Equitable, Resilient and
Sustainable Trade and Investment Environment**

— Proposal for the Reconstruction of the Free and Open International
Economic Order—

(Provisional translation)

June 18, 2024
Keidanren

Contents

| | |
|--|----|
| I Changes in the Trade and Investment Environment | 1 |
| 1. Fears of a Shift to a Bloc Economy | 1 |
| 2. Growing Importance of Economic Security | 1 |
| 3. Growing Importance of Sustainability | 2 |
| II Basic Direction for the Reconstruction of the Free and Open International Economic Order | 4 |
| III Maintaining and Strengthening Free and Fair Trade and Investment | 6 |
| 1. EPA/FTA | 6 |
| (1) CPTPP | 6 |
| (2) RCEP/ Japan-China-Republic of Korea FTA | 9 |
| (3) EPAs/FTAs with the Global South | 10 |
| 2. Investment Agreements | 12 |
| IV Realization of a Resilient Trade and Investment Environment Incorporating Elements of Economic Security | 12 |
| 1. Emphasis on National Treatment | 12 |
| 2. Addressing Economic Coercion, etc. | 13 |
| 3. Review of Security Exceptions | 14 |
| 4. Collaboration with Like-Minded Countries and Others to Strengthen Supply Chains | 15 |
| V Expanding Free and Fair Trade and Investment through Ensuring Sustainability | 15 |
| 1. Ensuring Regulatory Transparency and Promoting Regulatory Cooperation | 15 |
| 2. Promoting Trade in Environmental Goods | 16 |
| 3. Forming International Agreement on Carbon Border Adjustment, etc. | 17 |
| VI Promoting WTO Reform | 18 |
| 1. Restoring the Dispute Settlement Function | 18 |
| 2. Strengthening the Rule-Making Function | 18 |
| (1) Promoting Initiatives in the Digital Field | 18 |
| (2) Ensuring a Level Playing Field | 19 |
| 3. Strengthening the Monitoring Function for Agreement Implementation | 20 |

I Changes in the Trade and Investment Environment

1. Fears of a Shift to a Bloc Economy

Economic “integration” through increased trade has brought benefits to the world. Over the past 20 years or so, global trade has increased significantly, quadrupling from \$6.1 trillion (2001) to \$24.0 trillion (2023)¹, while the proportion of people living in extreme poverty has decreased by 75% since 1990².

In recent years, however, economic disparities among countries have rather widened, and the global economy has shifted from “integration” to “dispersion”³. In addition, the backlash against globalization and the growing importance of economic security, which will be detailed later, have slowed the pace of further liberalization of trade and investment⁴. Furthermore, the world is becoming increasingly “divided” due to competition and confrontation between the United States and China, Russian aggression against Ukraine, and escalating tensions in the Middle East. In addition, even among Western developed countries that share fundamental values, competition has arisen over industrial policies, including measures to promote strategic industries.

It is estimated that if the world were divided into blocs and the international division of labor and technology transfer were disrupted, the world would lose about 2.5-7% of its GDP⁵. The lesson that must be learned from the 1930s is that a bloc economy could destabilize world peace, and it could even lead to war. This is why action is needed to avoid further “dispersion”.

2. Growing Importance of Economic Security

At the same time, with the current situation where the security scope has extended to the economic field, it has become essential to ensure economic security⁶ in order to

¹ WTO "Global Trade Outlook and Statistics," p. 4.

² Ngozi Okonjo-Iweala, "Why the World Still Needs Trade: The Case for Reimagining-Not Abandoning- Globalization," *Foreign Affairs* Vol. 102, No. 4 (July/August 2023).

³ "Briefing: globalisation in reverse" *The Economist* (May 11, 2024)

⁴ WTO and other governance mechanisms are not functioning well, and the number of new FTAs in force has been declining since the late 2000s (JETRO FTA Database).

⁵ Speech by International Monetary Fund (IMF) First Managing Deputy Director Gita Gopinath at 20th World Congress of the International Economic Association (December 11, 2023)

⁶ According to the "National Security Strategy" (decided by the National Security Council on December 16, 2022, and approved by the Cabinet of Japan), economic security is to ensure Japan's

maintain and enhance the population's livelihood and economic activities. In order to avoid disproportionate dependence on specific countries and regions and to ensure strategic autonomy, it is necessary to develop alternative technologies and stockpiling, as well as alternative markets and supply chain resiliency with sources in additional countries and regions. In securing these alternatives, maintaining a free and fair trade and investment environment is essential. In this sense, free and fair trade and investment and economic security are not inherently contradictory, but mutually reinforcing.

However, while measures to ensure economic security have been taken rapidly across individual countries and regions as well as among like-minded countries, measures to promote free and fair trade and investment are, despite many efforts, underperforming in both the World Trade Organization (WTO) and in each region. In addition, economic coercion, which takes advantage of economic dependence, has been carried out, intensifying the harshness of the business environment.

Under these circumstances, it is necessary to strengthen supply chains by enhancing cooperation with like-minded countries and regions as well as countries in the Global South. In addition, to maintain a free and fair trade and investment environment, it is essential to reconstruct the international economic order based on the growing importance of economic security, which includes establishing rules aimed at deterring economic coercion.

3. Growing Importance of Sustainability

In addition to ensuring economic security, achieving carbon neutrality is also an extremely important global challenge, which all countries and regions should work together to address. In light of the vastly different energy situations in every country and region, a one-size-fits-all approach is ineffective. Each country needs to work for social transformation and Green Transformation (GX), aiming for carbon neutrality as a common global goal, through realistic and diverse pathways that correspond to each country's circumstances.

national interests, such as peace, security, and economic prosperity, by carrying out economic measures.

On the other hand, increasingly strengthened climate change measures sometimes create tensions with free and fair trade and investment. For example, some countries and regions have introduced Carbon Border Adjustment Mechanism (CBAM) to prevent so-called carbon leakage, however, depending on the design and operation of the system, there could be cause for concern from the perspective of non-discrimination between domestic and foreign countries as to whether such a system is consistent with established international rules, such as those from the WTO. Additionally, there are concerns that discriminatory measures or disguised protectionist measures may spread to other countries and regions. Furthermore, the current situation, where the supply of some essential GX goods and their supply chains depend heavily on specific countries and regions, raises economic security concerns.

In this context, in order to maintain free and fair trade and investment, it is necessary to create rules that ensure goods and services can move efficiently across borders. Efforts are also required to strengthen cooperation with like-minded countries and regions and countries in the Global South to strengthen supply chains.

From the perspective of ensuring sustainability, addressing human rights abuses in foreign countries is also an important issue for trade and investment. Under the United Nations “Guiding Principles on Business and Human Rights” (2011), efforts are being made in various countries and regions, and some of them have made human rights due diligence mandatory rather than making it simply a voluntary effort by companies. In addition, in Europe and the United States, there are examples of trade controls based on the suppression of human rights in foreign countries⁷. What the Japanese government should do in this regard remains to be an issue. For example, if a Japanese company suspends certain transactions due to concerns about human rights abuses as a result of having conducted human rights due diligence, there is a real risk of retaliatory measures by the counterparty. Japanese companies need to be liberated from this situation of “being caught in the middle”⁸. However, this proposal, which is about the

⁷ For more information, see the Interim Report of the Subcommittee on Security Export Control Policy under the Trade Committee of the Industrial Structure Council (June 10, 2021).

⁸ Ibid. p. 13.

reconstruction of the international economic order, only points out the necessity of considering the Japanese government's response to human rights abuses⁹.

Considering the above, the time has come to reconstruct a free and open international economic order that has been built up over time. Until now, Keidanren has emphasized the need to maintain and strengthen free trade and investment when advocating for "reconstruction". However, under existing international circumstances, it is no longer sufficient to simply call for further liberalization. Therefore, this proposal goes into the details of the "reconstruction" and seeks to stimulate domestic and international debate by presenting the basic direction for the reconstruction and measures to consider, while taking into account the reality that the existing order is greatly shaken. The knowledge gained through these discussions will be utilized in the formulation of the "Future Design 2040" (tentative name), which aims to create a vision for Japan's economy and society by the year 2040¹⁰.

II Basic Direction for the Reconstruction of the Free and Open International Economic Order

In light of the changes to the trade and investment environment as described above, the basic directions for the reconstruction of the international economic order are: 1) to maintain and strengthen free and fair trade and investment, to avoid further "dispersion", and to ensure a level playing field (Fairness and Equity), 2) to incorporate the increasingly important economic security factor into the order, and make the free and fair trade and investment environment robust (Resilience), and 3) to achieve sustainability and expansion of free and fair trade and investment in an integrated manner (Sustainability). In other words, it is necessary to promote free and fair trade and investment, economic security, and sustainability in an integrated and mutually

⁹ Keidanren's Policy for Fiscal 2023 "Achieve a Virtuous Cycle of Growth and Distribution" (May 31, 2023) seeks action by the government to ensure that companies are not placed at a disadvantage even if they suspend particular business transactions as a result of human rights due diligence.

¹⁰ See Keidanren's Policy for Fiscal 2024 "Now is the Time to Completely Overcome Deflation and Achieve a Virtuous Cycle of Growth and Distribution" (May 31, 2024).

reinforcing manner by realizing a fair, equitable, resilient, and sustainable trade and investment environment.

Specifically, the following actions are required:

First, at a time when it is extremely difficult to form a multilateral consensus and there is an increasing need to ensure economic security, maximum efforts should be made to achieve free and fair trade and investment by selecting appropriate partners for plurilateral or, if that proves to be too difficult, bilateral agreements.

Second, the highest possible level of content, in terms of both market access and rules, should be ensured in both the plurilateral and bilateral agreements. On the other hand, even in cases where a comprehensive agreement is difficult to reach, agreements should at least be made in limited areas, such as trade, investment, digital, etc., that can serve as precursors for more comprehensive agreements in the future.

Third, each country and region should be urged to pay particular attention to ensuring national treatment, which is one of the non-discrimination principles forming the basis of the WTO regime.

Fourth, while the WTO dispute settlement mechanism is not functioning sufficiently, measures should be considered to deter “weaponization of economic relations,” such as economic coercion, and to stabilize the international economic order.

Fifth, to correct excessive dependence on specific countries and regions, supply chains should be strengthened in cooperation with like-minded countries and others.

Sixth, sincere efforts should be made to reach an international agreement on fair carbon border adjustment, etc., so that environmentally friendly goods and services can be traded easily across borders. At the same time, supply chains should be diversified to avoid excessive dependence on specific countries and regions for goods necessary to achieve GX.

Seventh, the importance of the functions that the WTO should fulfill should be continuously emphasized, and its reform should be promoted.

With respect to strengthening cooperation with the Global South, which is essential to maintain and enhance free and fair trade and investment and to ensure economic

security and sustainability, please refer to the “Proposal for Strengthening Ties with the Global South” (April 2024).

III Maintaining and Strengthening Free and Fair Trade and Investment

Japan should strive to maintain and strengthen free and fair trade and investment through the expansion and deepening of Economic Partnership Agreements (EPA)/Free Trade Agreements (FTA) as described below:

1. EPA/FTA

(1) CPTPP

As it is a high-level and comprehensive economic agreement led by Japan, the “Comprehensive and Progressive Agreement for Trans-Pacific Partnership” (CPTPP) is a valuable diplomatic asset. It is essential to position the CPTPP as a pillar for realizing a Free and Open Indo-Pacific (FOIP) and, in the future, a free and open international economic order that includes the United States. In this regard, expanding the Membership and further improving its rules are essential.

(i) Expanding Participation

Expanding the CPTPP Membership, which is the highest level of EPA/FTA that Japan has concluded, is important for free and fair trade and investment. However, it is necessary for aspirant economies to meet the three principles,¹¹ which consists of meeting the high standards of the Agreement, having a demonstrated pattern of complying with trade commitments, and being admitted to the CPTPP under the consensus of current Members.

(a) Republic of Korea (Korea)

First, Korea is expected to apply for Membership¹². Korea has already concluded

¹¹ “Comprehensive and Progressive Agreement for Trans-Pacific Partnership(CPTPP) - Joint Ministerial Statement on the Occasion of the Seventh Commission Meeting” (July 16, 2023)

¹² [Keidanren: Joint Statement of the 30th Keidanren-Korean Economic Association Summit Meeting \(2024-01-11\) \(keidanren.or.jp\)](https://www.keidanren.or.jp/en/press/20240111) (Jan. 11, 2024) (in [Japanese](#)), mentioning that the Federation

FTAs with the U.S. and the EU, demonstrating its willingness and ability to meet and implement rules with robust standards. Korea also shares common challenges with Japan, such as a shrinking domestic market and a need to ensure the security of resources and energy. It is a country that should seek cooperation under the CPTPP, including joint procurement and mutual supply of critical materials and energy. As part of creating an environment to ensure that the significantly improved Japan-Korea relations do not regress, Korea's admission to the CPTPP is crucial.

(b) China

As for China, which has applied to join the CPTPP, it is necessary to carefully assess its compliance with WTO rules and the RCEP Agreement. In particular, the level of the implementation of the RCEP provisions – such as the prohibition of export restrictions, prohibitions on performance requirements in investment, free flow of data, and prohibitions on data localization requirements – serves as a baseline for determining “complying with trade commitments”, which is one of the three principles for joining the CPTPP. Additionally, attention should be paid to how China responds to Japan's request for discussions under the RCEP Agreement regarding China's decision to suspend the import of all aquatic products from Japan. Furthermore, it is necessary to keep an eye on the progress of the Japan-China-Republic of Korea FTA negotiations mentioned later.

(c) Taiwan

Regarding Taiwan, given close economic ties and strategic importance, as well as the Taiwanese business community's request for support in joining the CPTPP, “measures that will contribute to further deepening and developing economic relations” should be considered.¹³

will lobby for Korea to join the CPTPP.

¹³ [See Keidanren: Joint Statement of the 51st East Asia Business Conference \(2024-03-14\) \(keidanren.or.jp\)](https://www.keidanren.or.jp/en/press/20240314)

(d) Asian Countries

In order to realize the FOIP, the participation of major Asian countries such as Indonesia,¹⁴ Thailand, and the Philippines is important. From a medium- to long-term perspective, the participation of India, a member of the Indo-Pacific Economic Framework (IPEF) and the Quadrilateral Security Dialogue (Quad), would complement the IPEF, which does not include market access, and would be effective in materializing the high-quality infrastructure advocated by the Quad. India has already concluded EPAs with Japan and Australia, which serves as a stepping stone for India's accession to the CPTPP. Additionally, the United States and India are cooperating through the India-United States Trade Policy Forum (TPF), and if India successfully joins the CPTPP, it is expected to pave the way for the United States to return to the TPP.

(e) The United States

The involvement of the United States is essential for the stability and prosperity of the Indo-Pacific region. Efforts should continue to expand and deepen the CPTPP to encourage the United States to return to the TPP.

(ii) Development of Rules

The CPTPP General Review, which will be fully underway this year, provides an opportunity to further develop the rules. Specifically, it is important to develop rules incorporating the provisions of the IPEF on trade facilitation and supply chains and to expand rules on the free flow of data (e.g., adding the prohibition of algorithm disclosure requirements, and consideration of provisions on government access, etc.). Further, there is a necessity to address market-distorting practices through establishing new provisions for industrial subsidies and utilizing the provisions for state-owned enterprises and forced technology transfers.

In addition, from the perspective of accelerating the transition toward carbon

¹⁴ Dr (H.C.) Airlangga Hartarto, Coordinating Minister for Economic Affairs of the Republic of Indonesia, said in an interview on May 24, 2024, that Indonesia “will apply” to join the CPTPP by the end of the year (The Nihon Keizai Shimbun, May 25, 2024).

neutrality in each economy, the provisions of the environmental chapter should be reviewed as necessary to promote cooperation.

(iii) Others

In terms of international coordination on export controls, a consensus should be reached on the technologies to be controlled under the Wassenaar Arrangement.

In addition, from the perspective of ensuring the effectiveness of sanctions against Russia, etc., regulatory cooperation among Members to prevent the circumvention of exports under the CPTPP should also be promoted.

(2) RCEP/ Japan-China-Republic of Korea FTA

The “Regional Comprehensive Economic Partnership (RCEP) Agreement” is a large-scale FTA that accounts for about 30% of the world's GDP, total trade, and population. Additionally, since many resource-rich countries participate in it, it is also important from the perspective of strengthening supply chains to ensure economic security and sustainability.

Since the RCEP has been in effect for just over two years, the first step should be to ensure transparent implementation by the participating countries. Regarding tariffs, it is important to target tariff reductions on items such as automobiles, auto parts, and steel, which are currently excluded from tariff reductions among some participating countries, and to expedite the schedule for items that are subject to gradual tariff elimination¹⁵. As for the rules, it is necessary to address unresolved issues, such as the introduction of investor-state dispute settlement (ISDS). Review discussions should be initiated without waiting until 2027, five years after the agreement enters into force.

¹⁵ In addition to automobiles, auto parts, steel, as well as televisions, monitors, OLED panels, liquid crystal devices, projectors, interchangeable lenses, lithium-ion batteries, in-vehicle cameras, transformers, amorphous transformers, compressors, pumps, railway vehicle parts, industrial inverters, camera lenses, chemicals (other aromatic hydrocarbon mixtures, benzene, esters of methacrylic acid, adipic acid and its salts and esters, poly(methyl methacrylate), epoxy resins, polycarbonate, polyamide 66, other polyamides, synthetic fiber long filament yarn (other than high tenacity yarn), glass fibers, liquid filters and purifiers, optical fibers and optical fiber cables, acrylonitrile (AN), etc.) are particularly not subject to tariff elimination or are subject to gradual tariff elimination over a long period, especially with respect to China and Korea, and it is necessary to eliminate tariffs or expedite the schedule of tariff elimination.

Furthermore, based on the transparent, smooth, and effective implementation of RCEP, it is necessary to accelerate negotiations aiming for the realization of a comprehensive, high-quality, and mutually beneficial Japan-China-Republic of Korea FTA, which should surpass RCEP in terms of trade in goods and services liberalization, investment liberalization, and rules¹⁶.

(3) EPAs/FTAs with the Global South

Including the CPTPP and RCEP, Japan has already concluded EPAs/FTAs with more than 80% of its trade partners, but not with the Middle East and Africa, and only some countries in South America. Addressing these gaps with high-level EPAs/FTAs remains a challenge.

(i) Mercosur

Mercosur, which includes Brazil – a key Global South representative – is a significant supplier of resources and food, and it is also an important partner in taking countermeasures using biofuels. Concluding an EPA with Mercosur represents a critical milestone for cooperation between Japan and the Global South. Given that the EU-Mercosur EPA has already reached a broad agreement¹⁷ and Korea has also started EPA negotiations with Mercosur¹⁸, it is essential not to fall behind, so negotiations should be initiated this year, while Brazil holds the G20 presidency.

(ii) GCC, United Arab Emirates (UAE)

Middle Eastern countries are not only energy suppliers, but are also attracting investment in other areas, such as renewable energy to reduce dependence on oil. Negotiations for the Japan-GCC FTA should be promptly resumed,¹⁹ as agreed upon

¹⁶ For example, rules should include discipline on trade-distorting subsidies, provisions on digital (cross-border data flows, prohibition of data localization requirements, prohibition of source code disclosure requirements, non-discrimination principle, prohibition of algorithm disclosure requirements, etc.)

¹⁷ June 28, 2019

¹⁸ May 25, 2018

¹⁹ On July 16, 2023, during Prime Minister Kishida's visit to Saudi Arabia, he and GCC Secretary General Jersem Al-Budaiwi agreed to resume negotiations for a Japan-GCC FTA in 2024.

last year, and simultaneously, an FTA with the UAE should be pursued. In light of the fact that negotiations for the Korea-GCC FTA²⁰ and the Korea-UAE Comprehensive Economic Partnership Agreement (CEPA)²¹ have already been concluded, it is essential for Japan to take action.

(iii) African countries

African countries are rich in natural resources, and their importance as consumer markets is expected to increase as their populations grow. Considering the potential for future market and economic integration under the African Continental Free Trade Area (AfCFTA), the first step should be to establish a foundation for Japanese companies to enter the region through investment agreements, and then explore the possibility of EPAs/FTAs based on this foundation.

(iv) Turkey, Colombia

Given that significant time has elapsed since the start of negotiations with both countries, it is necessary to conclude the negotiations as soon as possible so as not to lose momentum. With respect to Turkey, in particular, Japan has traditionally been inferior to Korea and the EU in terms of competitive conditions, and in addition, discriminatory measures such as additional tariffs and regulatory measures have been taken against non-EPA/FTA countries. To address these issues, a comprehensive and high-quality agreement should be reached this year, which marks the 100th anniversary of the establishment of diplomatic relations.

(v) Bangladesh

The decision to initiate EPA negotiations with Bangladesh was made in March of this year with a view to its graduation as a Least Developed Country (LDC) in November 2026. Considering the growth potential associated with population increase, regional and geopolitical importance, etc., a comprehensive and high-level EPA should be

²⁰ December 28, 2023

²¹ October 14, 2023

concluded, taking into account the contents of the report of the Joint Study Group on the possibility of the EPA²².

2. Investment Agreements

In parallel with the EPAs/FTAs mentioned above, investment agreements need to be enhanced in terms of both quality and quantity to further promote foreign direct investment by Japanese companies. Particularly amid increasing uncertainty about the global economy, it is important to promote the liberalization of foreign direct investment and to ensure the protection of investment assets from an institutional perspective, as well as to secure the highest possible level of agreement, even if disadvantages to Japanese companies are not currently apparent²³.

Specifically, as indicated in the “Action Plan for the Promotion of Investment-Related Agreements and Improvement of the Investment Environment (Verification of Results and Future Policies)”²⁴, investment agreements should be promoted, particularly with Latin America and Africa. In addition, from the perspective of promoting Ukraine’s reconstruction, steady progress should be made in negotiations to review the investment agreement with the country, which was announced in February of this year.

IV Realization of a Resilient Trade and Investment Environment Incorporating Elements of Economic Security

1. Emphasis on National Treatment

While Most Favored Nation (MFN) Treatment remains an important principle underlying the WTO regime, it is realistic to promote EPAs and FTAs with selected partner countries and regions, as already mentioned, in light of the current situation where economic security is becoming increasingly important, in addition to the

²² “Report of the Joint Study Group on the possibility of an Economic Partnership Agreement (EPA) between Japan and the People’s Republic of Bangladesh” (December 27, 2023)

²³ For Keidanren’s basic position on investment agreements, see [Policy Proposal on Investment Treaties \(2019-10-15\) \(keidanren.or.jp\)](https://www.keidanren.or.jp/en/policy-proposal-on-investment-treaties-2019-10-15)

²⁴ Formulated in March 2021 to review the results of the “Action Plan for improvement of investment climate through promoting the conclusion of investment-related treaties” formulated by the Japanese government in 2016, and to set forth future policies.

difficulty of reaching multilateral consensus.

In addition, it is necessary to grant National Treatment to countries and regions, in other words, to promote trade and investment under the non-discrimination rule with those committed to certain criteria, such as the elimination of tariffs on industrial products; the avoidance of export restrictions on resources, energy, and food; the prohibition of performance requirements for inward direct investment; and promoting Data Free Flow with Trust (DFFT)²⁵.

2. Addressing Economic Coercion, etc.

If a free and fair trade and investment regime is functioning properly, it is feasible, to some extent, to address the “weaponization of economic relations,” including economic coercion,²⁶ by securing alternative markets in the face of import restrictions from a third country, or by diversifying procurement sources when faced with enforced export restrictions.²⁷ However, even if alternative markets or sources of supply can be found, this may impact prices,²⁸ and additional measures are necessary in the current situation where there are concerns about bloc economy. In this regard, the G7 Hiroshima Summit launched the “Coordination Platform on Economic Coercion”²⁹ and decided on a policy of using early warning, rapid information sharing, and support for targeted countries and regions. In addition, the IPEF Supply Chain Agreement defines cooperation for increasing production of essential goods in the event of supply chain disruptions.

In this context, the terms of reference for conducting the General Review endorsed at

²⁵ [B7 Tokyo Summit Joint Recommendations \(2023-04-20\) \(keidanren.or.jp\)](https://www.keidanren.or.jp/en/press/20230420) proposes the launch of the “Free and Fair Trade and Investment Club” as a high-level trade and investment framework with the G7 members and the EU at its core. The “Club” should be open to any country and region that commits itself to meet certain criteria within a set period of time. In return, each Club member is encouraged to provide the other members with national treatment to the extent possible.

²⁶ Economic coercion is defined in the G7 Leaders’ Statement on Economic Resilience and Economic Security at the G7 Hiroshima Summit (May 2023) as an attempt to “exploit economic vulnerabilities and dependencies and undermine the foreign and domestic policies and positions of G7 members as well as partners around the world”.

²⁷ OECD Trade Policy Paper “Trade Impacts of Economic Coercion” (May 2024 No. 281), notes that (1) Open markets, a rules-based trading system, and the WTO can assist targeted countries in finding and accessing alternative markets, and (2) Pooling resources and establishing bilateral agreements also play an important role.

²⁸ Ibid OECD Trade Policy Paper

²⁹ See G7 Leaders’ Statement on Economic Resilience and Economic Security (May 20, 2023)

the CPTPP Ministerial Meeting in November 2023 state that the rules based multilateral trading system, including as a means for responding to economic coercion, should be further complemented.³⁰ This should be realized by, for example, creating alternative export markets within the CPTPP region when CPTPP members are targeted by import restrictions. In addition to these mitigation measures, with reference to the “EU Anti-Coercion Instrument,”³¹ it is necessary to consider a system that enables coordinated and joint countermeasures³² to be invoked if any CPTPP member becomes subject to economic coercion by a third country or region.

Economic coercion is difficult and time-consuming to prove even if it is against WTO disciplines,³³ and the WTO’s dispute settlement procedures are not fully functional. Under such circumstances, establishing a new provision in the CPTPP pertaining to responses to economic coercion as described above would be significant for Japan, at least to contain and deter coercive actions.³⁴

3. Review of Security Exceptions

Under the WTO’s Security Exceptions (GATT Article 21), some countries and regions are currently determining the scope of “security purposes” on their own and taking trade restrictive measures, and the current provisions are not fully functioning as a discipline for trade restrictive measures in the name of security purposes.³⁵ The risk of such abuse

³⁰ See “Terms of reference for conducting the General Review of CPTPP” (November 15, 2023)

³¹ “Regulation of the European Parliament and of the Council on the protection of the Union and its Member States from economic coercion by third countries” was politically agreed in June 2023 and entered into force in December 2023. The Regulation allows a wide range of countermeasures against economic coercion of the EU or its Member States by third countries, including the suspension of tariff concessions, the introduction of restrictions on imports and exports, exclusion from government procurement, and the introduction of measures affecting trade in services, as a last resort, if such coercion cannot be stopped through consultations and other means.

³² “Adoption of Regulation to Deter EU Economic Coercion Measures”, Nishimura & Asahi Newsletter (November 6, 2023), categorizes the measures to counter economic coercion into four main approaches: (1) strengthening supply chains (reducing dependence on specific countries), (2) providing economic support to industries subjected to economic coercion, (3) utilizing international frameworks such as the WTO and responding based on international rules, and (4) taking countermeasures against countries that engage in economic coercion. The newsletter analyzes that the EU regulation establishes the framework for approach (4), recognizing that approach (3) does not always allow for effective responses.

³³ OECD Trade Policy Paper, above.

³⁴ Keidanren’s “A Renewed Leap Forward for Japanese Industry” (April 16, 2024) states that “It is also important to respond to countries that do not follow the rules based on reciprocity”.

³⁵ Regarding the “emergency in international relations” under GATT Article 21, the recent panel

is further heightened as the scope of security is expanding into the economic sphere. It is also not clear what requirements must be met to be able to take countermeasures against such trade restrictive measures.

Based on the awareness of the above issues, GATT Article 21 should be reviewed, and consideration should be given to developing rules (including requirements and grounds for countermeasures) that will lead to the curbing of trade restrictive measures, including economic coercion as a whole.

4. Collaboration with Like-Minded Countries and Others to Strengthen Supply Chains

In order to ensure a stable supply of resources, energy, and food, and to avoid excessive dependence on specific countries and regions for materials necessary for GX, it is essential to continue strengthening collaboration with like-minded countries and regions, as well as countries in the Global South.

As part of this effort, it is important to promote effective initiatives by the Japan-U.S.-EU trilateral partnership. The U.S.-EU Trade and Technology Council (TTC) has been promoting concrete cooperation between the U.S. and the EU, and in light of these developments, Japan and the EU should also strengthen their cooperation under the framework of the Japan-EU EPA. Thus, this would enhance the trilateral collaboration between Japan, the United States, and the EU.

V Expanding Free and Fair Trade and Investment through Ensuring Sustainability

1. Ensuring Regulatory Transparency and Promoting Regulatory Cooperation

In order to minimize the negative impact on trade and investment without compromising the objectives of regulations that countries and regions adopt for environmental protection purposes, it is necessary to ensure regulatory transparency and

report interprets that it does not necessarily have to be limited to situations related to military or defense interests, but it must have a serious and significant impact on international relations. For example, the panel in the case of the United States — Origin Marking Requirement (DS597) interpreted the “emergency in international relations” under this provision as “a situation of the utmost seriousness, such as a breakdown or near breakdown in relations between states or other international relations actors,” but noted that it does not need to be limited to defense or military interests and should be considered on a case-by-case basis.

to promote regulatory cooperation, including harmonization and mutual recognition of international standards and norms.

For example, Japan has made efforts to reduce so-called non-tariff barriers in the negotiation process of the Japan-EU EPA by promoting mutual recognition of standards and norms, etc., in a manner that reflects the voice of businesses. Finally, the Japan-EU EPA includes a chapter on regulatory cooperation, which stipulates that prior to publication, both regulatory authorities would provide opportunities for submitting opinions, pre- and post-evaluation, and an exchange of information on best practices regarding regulatory measures related to trade and investment. Leveraging this experience, efforts should be made to ensure the transparency and interoperability of regulations, including different standards and norms in each country.

2. Promoting Trade in Environmental Goods

In addition to the dissemination of environmental goods through EPAs/FTAs, negotiations on the Environmental Goods Agreement (EGA), a voluntary initiative among countries and regions under the WTO, should be resumed. In this context, it is important, for example, to include hybrid vehicles, which are not currently on the list of environmental goods, from the perspective of promoting decarbonization in the transportation sector.

Furthermore, resuming EGA negotiations among multiple countries and regions, while incorporating the needs of the Global South, is also an important step in restoring the function of the WTO's multilateral framework. Negotiations should be resumed promptly and concluded before 2035, which is when EU law will require all new cars sold to have zero CO₂ emissions.

Additionally, to implement projects in areas where Japan has strengths, such as hydrogen/ammonia co-firing technology, it is essential to accelerate the schedule for tariff reductions on necessary goods through RCEP and eliminate investment barriers, including foreign investment restrictions.

3. Forming International Agreement on Carbon Border Adjustment, etc.

Discussions on the WTO compatibility of systems for climate change measures, such as CBAM, should be intensified in the “Committee on Trade and Environment” (CTE).

In designing and operating CBAM, a major challenge is to enable fair and comparable calculation of greenhouse gas emissions embodied in products. Specifically, there are concerns about whether national treatment for products can be ensured regarding the handling of both positive and negative carbon pricing measures (regulations, energy taxation, allocation of ETS free allowances, electricity rate reductions, etc.) in each country, and whether an excessive procedural burden will arise.

It is estimated that about 50 countries in the world have currently introduced 73 different carbon pricing mechanisms worldwide.³⁶ While the purpose of CBAM to prevent carbon leakage is agreeable, if discriminatory measures or disguised protectionist measures spread to other countries and regions, and the scope of targeted items expands, the existence of different systems, including different methods for calculating the embodied emissions of goods in different countries and regions, would not only have a trade distorting effect, but would also cause a significant business disruption and slow the distribution of goods through the global supply chain. There are also concerns about trade friction due to retaliatory measures, which could hinder the global dissemination of products with excellent environmental performance. It is desirable to ultimately reach an agreement on the fair nature of carbon border adjustments in a multilateral setting, while holding parallel discussions in bilateral and plurilateral forums.

Therefore, first, under the leadership of the WTO-CTE, and in effective collaboration with Inclusive Forum on Carbon Mitigation Approaches (IFCMA) of the Organization for Economic Cooperation and Development (OECD), the International Monetary Fund (IMF), the World Bank, and the United Nations Conference on Trade and Development (UNCTAD), serious efforts should be made to reach an international agreement on fair

³⁶ Joint contributions by WTO Director General Ngozi Okonjo-Iweala, European Commission President Urszula von der Leyen, and IMF Managing Director Kristalina Georgieva [No more business as usual: the case for carbon pricing \(ft.com\)](#)

carbon border adjustments. This includes the concept of carbon pricing and the calculation methods for emissions embodied in products.

VI Promoting WTO Reform

The role of the WTO remains critical as a framework for realizing a free and fair trade and investment environment. A roadmap for WTO reform should be drawn up under short-, medium-, and long-term time frames, and efforts should be made to restore the WTO's functionality as soon as possible.

1. Restoring the Dispute Settlement Function

In order to restore the functionality of the WTO, there is an urgent need to restore the dispute settlement function, which is the “last resort” of the WTO. If the current situation, where panel rulings can be blocked by “appealing into the void” to the Appellate Body, is left unaddressed, unfair measures will remain uncorrected, and it may encourage unilateral sanctions and other forceful resolutions. It is essential to reach a definitive conclusion this year.

Until the dispute settlement function is fully restored, the Multi-Party Interim Appeal Arbitration Arrangement (MPIA)³⁷ should be utilized to resolve disputes among participating countries and regions, and efforts should be made to expand the number of participating members to enhance its effectiveness.

2. Strengthening the Rule-Making Function

(1) Promoting Initiatives in the Digital Field

(i) Realizing Data Free Flow with Trust (DFFT)

To promote DFFT, which is important for the development of the global economy, a permanent ban on customs duties for electronic transmissions should be agreed to.³⁸ The discussions on the e-commerce agreement at the WTO among participating Members should be concluded as soon as possible, including for the remaining issues

³⁷ MPIA was launched as an interim response to the suspension of the functioning of the Appellate Body. As of March 2023, 52 Members including the EU, Australia, Canada, China, Singapore, New Zealand, and Brazil are participating. Japan joined in March 2023.

³⁸ [Towards the 12th WTO Ministerial Conference \(2021-09-14\) \(keidanren.or.jp\)](https://www.keidanren.or.jp/en/press/20210914)

such as cross-border data flows as well as prohibitions on data localization requirements and source code disclosure requirements. To this end, it is necessary to continue urging the United States, which withdrew its support for these in October 2023, to reconsider its position. Along with these provisions, the provisions on the protection of ICT products using encryption should also be agreed upon as soon as possible in cooperation with participating Members to promote DFFT. Furthermore, the non-discriminatory treatment of digital products, which is not currently on the agenda of the Joint Statement Initiative on E-Commerce, should also be brought to the table for discussion to promote the global development of the content industry.

In addition, with regard to ensuring reliability, the results of projects aimed at ensuring interoperability between different regulations and systems under the Institutional Arrangement for Partnership (IAP), established under the OECD, should be reflected in the above WTO discussions. Additionally, the commercially meaningful disciplines resulting from the discussions at the WTO should be incorporated into the e-commerce chapters of future EPAs/FTAs.

(ii) Expanding the Membership of the Information Technology Agreement (ITA) and Updating its List of Products

In order to ensure the free flow of IT products and to promote infrastructure development in the digital society, the ITA's Membership should be expanded, and its list of products should be updated.³⁹ The social landscape has changed significantly since the conclusion of ITA2, and digital products are expected to contribute significantly to solving social issues related to the environment and energy. In resuming the negotiations, the significance of promoting trade in new digital equipment in light of the changes in the social environment should also be considered.

(2) Ensuring a Level Playing Field

To ensure a level playing field, discussions should be held with a view of revising the

³⁹ Towards the 12th WTO Ministerial Conference (2021-09-14) (keidanren.or.jp)

Agreement on Subsidies and Countervailing Measures (SCM Agreement) to discipline at least excessive subsidies to state-owned enterprises and market-distorting subsidies that encourage overproduction. Based on the “Joint Statement of the Trilateral Meeting of the Trade Ministers of Japan, the United States and the European Union,”⁴⁰ efforts should be accelerated to form a critical mass. In this context, it is necessary to discipline market-distorting subsidies that encourage overproduction, etc., and to promote coordination among like-minded countries on the requirements for domestic subsidies necessary to produce critical materials such as semiconductors and the promotion of GX. In particular, it is sometimes difficult to even point out that free trade and fair competitive conditions are being distorted because the actual mechanisms and processes for deciding on subsidy payments are often not transparent. As such, efforts should also be made to ensure transparency.

3. Strengthening the Monitoring Function for Agreement Implementation

In order to deter protectionist measures through compliance with WTO agreements, the monitoring function for agreement implementation should be strengthened, including thorough enforcement of notification obligations.

⁴⁰ At the Trilateral Meeting of the Trade Ministers of Japan, the United States and the EU (January 14, 2021), it was proposed that unlimited government guarantees be defined as prohibited subsidies and that the SCM Agreement be revised so that the subsidizing country should bear the burden of proof to demonstrate that the subsidy does not cause significant adverse effects.