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Japan's trade policy challenges in 2019

The focus of attention is on mega FTAs, WTO reform, and the Japan-US trade talks

< Summary >

- ◆ While world trade affairs in 2018 strained under persistent tensions, including US-China trade friction, constant attention needs to be paid to the 2019 outlook on the trade situation that may have a severe impact on the world economy and business environment.
- ◆ The focus of attention is on Japan's direct involvement in trade policies: the promotion of mega FTAs targeting CPTPP expansion and early conclusion of the RCEP negotiations; WTO reform that includes revamping the dispute settlement system; and the Japan-US trade talks, with tough negotiations likely to come to the fore.
- ◆ With difficult challenges mounting, Japan as a flag-bearer for free trade and chair of the G20 in 2019 is greatly expected to play an important leadership role in addressing these issues.

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1. Constant attention to trade affairs in 2019

Since “Tariff Man,” or Donald Trump, ascended to the presidency of the United States, the world’s economic superpower and longtime leader of the global free trade system, constant attention has been paid to rapidly changing world trade affairs. The year 2018 witnessed a series of events that exerted a tremendous impact on the world economy and business environment, for example, the United States imposing additional tariffs on steel and aluminum products under Section 232 of the Trade Expansion Act of 1962 citing a threat to national security, and the European Union (EU), Canada, Mexico, and other countries introducing counter-tariffs in response; the new US-Mexico-Canada Agreement (USMCA) signed after tough talks on overhauling the North American Free Trade Agreement (NAFTA); the US imposing trade sanctions against China for intellectual property rights infringements and other offences under Section 301 of the Trade Act of 1974, and China responding with retaliatory measures against the US; and the UK struggling to negotiate with the EU and finalize its domestic procedures for Brexit (the UK’s exit from the EU).¹ All these issues have been carried over into 2019, with the growing possibility of a shakeup in the global trade order in the future.

Japan will play an important role in countering these gloomy prospects, with the country expected to curb the growing trend toward protectionism and take the initiative in promoting mega free trade agreements (FTAs) and reforming the World Trade Organization (WTO) to complement and sustain the global free trade system. Meanwhile, the Japan-US trade talks, with Japan dealing directly with the United States, are also expected to begin in early 2019. The following sections focus on these three trade issues by examining the challenges to be addressed, and assessing the future outlook.

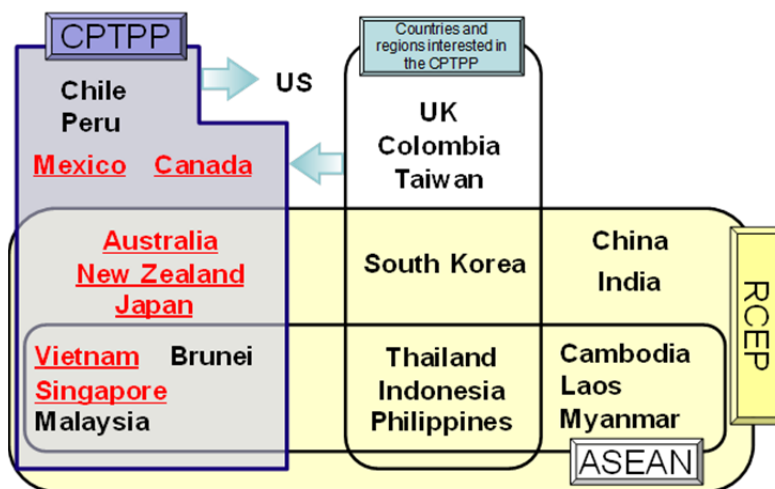
2. Promoting mega FTAs: Expanding the CPTPP and concluding the RCEP negotiations

Japan’s approaches to mega FTAs produced significant results in 2018. At a time when the Trans-Pacific Partnership (TPP) faced the risk of falling apart with the US’s withdrawal, Japan played a central role in finalizing the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP or TPP-11) among the remaining 11 countries. The CPTPP negotiations reached an agreement one year after the US announced its departure from the TPP (January 23, 2017), and the agreement was signed on March 8, 2018. In the months that followed, each participating country made smooth

¹ For details of the US trade policy and its economic impact, see Mizuho Financial Group Research & Consulting Unit, “Rapidly changing US trade policy and its impact on the world economy,” *One Think Tank Report – MIZUHO Research & Analysis*, No. 17, October 19, 2018, among others.

progress in settling their domestic ratification procedures, successfully bringing the CPTPP into force on December 30, 2018. The agreement will first take effect among six countries that include Japan, Mexico, Singapore, New Zealand, Canada, and Australia. Vietnam, having completed its ratification procedures slightly later, will become the seventh CPTPP member, effective January 14, 2019² (Chart 1).

Chart 1: Economies related to the CPTPP and RCEP



Note: Among the CPTPP participants, the red (underlined) represent countries with the CPTPP already in effect.
Source: Made by MHRI.

The Japan-EU Economic Partnership Agreement (EPA) finalized in December 2017 was also signed on July 17, 2018. Following the completion of each partner’s domestic (regional) ratification procedures in December of the same year, the EPA is scheduled to come into effect on February 1, 2019.³

The implementation of the mega FTAs such as CPTPP and the Japan-EU EPA is expected to play a key role in preventing the spread of protectionism based on “my country first” policies while complementing the free trade system through multilateral cooperation.

With these major achievements in 2018, Japan will meet the challenges of expanding the CPTPP and concluding the Regional Comprehensive Economic Partnership (RCEP) negotiations in 2019.

To promote CPTPP expansion, senior official-level (chief negotiator) meetings were held on November 20 and 21, 2018 to discuss the accession process and other procedures.

² For details of CPTPP implementation, see Junichi Sugawara, “CPTPP taking effect at the end of 2018,” *Mizuho Insight*, Mizuho Research Institute Ltd. November 1, 2018, among others.

³ For details of the Japan-EU EPA, see Junichi Sugawara, “Signing of the Japan-EU EPA,” *Mizuho Insight*, Mizuho Research Institute Ltd., July 18, 2018, among others.

The rules are expected to be decided officially in January 2019, when the first meeting of the TPP Commission (ministerial meeting) is scheduled to take place, but the TPP provisions are likely to be adopted for the accession procedures.⁴ More specifically, following receipt of a request from an economy that seeks to accede to the Agreement, the TPP Commission establishes a working group to negotiate the terms and conditions for the accession, and decides on whether to accept or reject the accession candidate based on the working group's recommendation. Colombia, Thailand, and the UK, which is set to leave the EU, are expressing their interest or intention to join the CPTPP.⁵ In 2019, Japan will serve as the first chair of the TPP Commission and take the lead in expanding the CPTPP.

The expansion of a regional free trade area boasting a high level of trade and investment liberalization and high standard rules can bring more economic benefits to the participants, thereby raising the incentives for the non-CPTPP economies to accept high level of liberalization and high standards under the CPTPP. Particularly for emerging economies in the Asia-Pacific region, the participation of their neighboring economic partners or rivals in the CPTPP will offer a great opportunity to consider membership.

Early conclusion of the RCEP negotiations is also important in developing the regional free trade area. While the RCEP is considered no match for the CPTPP in terms of liberalization and rules, the realization of the RCEP would provide about half of the world population with a higher level of trade liberalization and rules, surpassing what the WTO can offer. In this respect, it is of great importance for Japan to realize the RCEP that includes China and South Korea, its major trade partners with which Japan has yet to conclude an EPA.

However, a dark cloud looms over an early RCEP conclusion. At the RCEP summit on November 14, 2018, the goal of reaching a substantial agreement was postponed. Opinions remain deeply divided over the rate of tariff elimination between India and other participating countries as well as high-quality rules in the fields of intellectual property and e-commerce between advanced nations, including Japan, and emerging nations. Moreover, national elections scheduled in early 2019 among the RCEP participants, including Thailand, which will serve as the next chair, Indonesia, and India,

⁴ The TPP contains detailed provisions on the accession procedures (Article 30.4), but the CPTPP does not incorporate those provisions (Article 1, paragraph 1). The senior officials meeting in November agreed to follow the TPP procedures for acceding to the CPTPP (The Government Headquarters for the TPP, Cabinet Secretariat, *Outline of the press conference by Director General for Policy Coordination Kazuhisa Shibuya on the TPP11 Senior Officials Meeting in Tokyo in November 2018* (November 21, 2018)).

⁵ As for Colombia, however, the former Manuel Santos administration expressed a positive attitude toward joining the CPTPP, but the current administration of President Ivan Duque, who took office in August 2018, gives priority to concluding the ongoing Japan-Colombia EPA negotiations ("Japan-Colombia Foreign Ministers' Meeting – Agreeing on Economic Partnership," *The Mainichi*, August 18, 2018). Meanwhile, Thailand had expressed its intention to participate by the end of 2018, but changed its policy to decide whether to join the CPTPP before the general election scheduled for early 2019 ("Decision to Join the TPP Made before the Election in February Next Year," *NNA ASIA*, December 6, 2018). The UK can initiate negotiations after departing from the EU (planned on March 29, 2019).

will make it difficult to generate sufficient political momentum for finalizing the negotiations. The RCEP summit set the goal of bringing the talks to conclusion in 2019, but to do so will be no easy task.⁶

3. WTO reform: Responding to a new trade investment climate and improving the functions of the WTO

The multilateral, rule-based free trade system embodied by the WTO is currently facing a crisis. The United States has unilaterally imposed additional tariffs on its trading partners, which in turn have responded with countermeasures. This conflict suggests that while pretending to comply with the WTO agreements,⁷ these countries have recognized the limits of resolving issues through the WTO and instead resorted to self-help to deal with trade disputes.⁸ To restore trust in the WTO and bring these countries back to the settlement table under the WTO framework, WTO reform is indispensable. Roberto Azevêdo, WTO's Director-General, insists on turning the current crisis of multilateralism into an opportunity to save and strengthen it.⁹ During the G20 summit (Buenos Aires, Argentina) held on November 30 to December 1, 2018, the G20 members agreed to review the progress of WTO reform at the next meeting.¹⁰ This issue will also be one of the most important agenda items at the G20 summit (Osaka) in June 2019 chaired by Japan.

The aim of reforming the WTO is divided into two major tasks. The first task is to respond to a new trade investment climate. WTO members sensing the limits of the WTO's problem-solving capabilities complain that the existing WTO rules fail to deal with the digital economy emerging in recent years and some members' state capitalist policies. To overcome these challenges, the WTO needs to review its existing rules and procedures, and formulate a new set of rules.

The other task is to improve the WTO's functions. With its existing systems and

⁶ For details of the RCEP negotiations, see Junichi Sugawara, "Failing to reach a substantial conclusion of the RCEP negotiations by year-end," *Mizuho Insight*, Mizuho Research Institute Ltd., November 15, 2018, among others.

⁷ The United States argues that imposing additional tariffs on steel and aluminum products under Section 232 of the Trade Expansion Act of 1962 is a measure authorized as an exception for national security interests based on the GATT Article XXI. In response, the EU, China and other countries launched countermeasures, claiming they view the US move as a safeguard measure, and their actions are 'rebalancing' measures based on Article 8 of the WTO Agreement on Safeguards. For details, see Tsuyoshi Kawase, "The US exercise of Article 232 of the 1962 Trade Expansion Act on steel and aluminum product imports," *Special Report*, Research Institute of Economy, Trade and Industry, March 29, 2018.

⁸ Tsuyoshi Kawase, professor at the Faculty of Law of Sophia University, comments, "With the US imposing sanctions against China under Section 301 of the Trade Act, the 'rule of law' in the international trading system has been pushed to the limit, shifting toward 'unilateralism.' The unilateral measures and outright power game of the major WTO members have been unprecedented since the establishment of the World Trade Organization (WTO) in 1995." (Tsuyoshi Kawase, "Investigation: US-China trade war – WTO severely weakened by US and China's reckless actions arising from their egos," *Weekly Toyo Keizai*, August 4, 2018). Also see Junichi Sugawara, "Trump's trade policy – Return to 'power-oriented order'," *Economist Eyes*, Mizuho Research Institute Ltd., January 19, 2017.

⁹ World Trade Organization, *DG Azevêdo: We must turn the crisis of multilateralism into an opportunity to strengthen it*, November 16, 2018.

¹⁰ Ministry of Foreign Affairs, *G20 Leaders' declaration, Buenos Aires*, November 30 and December 1, 2018.

procedures flawed or functioning inadequately, the WTO is presently facing challenges that may threaten its very legitimacy, and needs to overhaul its structure.

(1) WTO reform led by the trilateral partners of Japan-US-EU

At present, Japan, the European Union, and the United States are leading the WTO reform efforts in a trilateral partnership. By collaborating with the US, Japan and the EU seek to persuade the US, after it threatened to withdraw from the WTO, to stay involved while working on reform. During the trilateral meeting of the Japanese, US, and EU trade ministers held on September 25, 2018, the three ministers agreed on specific measures to tackle these issues by (1) addressing third countries’ unfair trade behavior, (2) reforming the WTO’s functions and procedures, and (3) cooperating in the promotion of digital trade and e-commerce¹¹ (Chart 2).

Chart 2: Outline of the joint statement on the US-Japan-EU trilateral trade ministers’ meeting (September 25, 2018)

Addressing unfair trade behavior of third countries	Non-market-oriented policies and practices	• Address non-market-oriented policies and practices of third countries that lead to severe overcapacity, create unfair competitive conditions for their workers and businesses, hinder the development and use of innovative technologies, and undermine the proper functioning of international trade.
	Industrial subsidies and state-owned enterprises	• Develop effective rules to address market-distorting behaviors of state enterprises and confront particularly harmful subsidy practices; advance internal steps before the end of 2018 with the aim of initiating negotiations on more effective subsidy rules; and ensure the participation of key trading partners in future negotiations.
	Forced technology transfer policies and practices	• Develop effective means to stop harmful forced technology transfer policies and practices, and deepen discussions on enforcement and rulemaking as tools to address these problems.
WTO reform	<ul style="list-style-type: none"> • Co-sponsor a transparency and notification proposal for consideration at the next meeting of the WTO Council on Trade in Goods. • Discuss the development of a potential joint proposal to promote strengthening of the regular committees’ activities. • Call on advanced WTO members claiming developing country status to undertake full commitments in ongoing and future WTO negotiations. 	
Digital trade	<ul style="list-style-type: none"> • Share growing concerns about the proliferation of digital protectionism, cooperate in facilitating digital trade and growth of the digital economy, and enhance business environments through the promotion of data security. • Welcome the progress of exploratory work under the WTO Joint Statement Initiative on Electronic Commerce, and agree to continue work toward the timely launch of negotiations of a high standard agreement with the participation of as many members as possible. 	
Other	<ul style="list-style-type: none"> • Cooperate to mitigate risks to national security from trade and foreign investment. 	

Source: Made by MHRl based upon the *Joint Statement on the Trilateral Meeting of the Trade Ministers of the United States, Japan, and the European Union* (September 25, 2018).

¹¹ Ministry of Economy, Trade and Industry, *Joint Statement on the Trilateral Meeting of the Trade Ministers of the United States, Japan, and the European Union*, September 25, 2018. The WTO is currently discussing these issues based on the three aspects of (1) strengthening the functions of monitoring and implementing the agreements, (2) reforming the dispute settlement procedures, and (3) reinvigorating the negotiating function (rulemaking).

According to this agreement, (1) third countries' unfair trade behavior refers to (a) non-market-oriented policies and practices, (b) industrial subsidies and state-owned enterprises, and (c) forced technology transfer policies and practices. Despite not naming specific countries, the trilateral leaders were obviously referring to China as a "third country." They are expected to engage in further discussions and formulate new rules at the WTO in the future, but China opposes the introduction of "special and discriminatory" rules on state-owned enterprises in the name of WTO reform.¹²

As the first step to (2) reforming the WTO's functions and procedures, Japan, the US, the EU, Argentina, and Costa Rica have co-sponsored an ongoing proposal aimed at enhancing the transparency of the WTO members' trade policies and practices as well as strengthening the notification requirements.¹³ The WTO Agreement obliges its members to notify the WTO of their trade practices, including subsidies and new regulations, within a specified period. However, few countries actually comply with these notification requirements. In response, the proposed reform suggests punitive measures against any member failing to give notification after a certain period of time, for example, denying the appointment of chairman for WTO council and committee meetings, and requesting payment of additional contributions to the WTO. The proposal also includes capacity building and technical assistance for developing nations having difficulty in meeting the notification requirements.

Enhancing the transparency of each member's trade practices is essential in ensuring compliance with the WTO agreements. The penalties imposed on members for ignoring the notification requirements help urge immediate notification and reveal actual situations such as market-distorting subsidies. It goes without saying that the trilateral leaders submitted this proposal with an awareness of China, which has not sufficiently fulfilled the requirements despite providing large subsidies.

China, however, strongly opposes the proposal and condemns the imposition of penalties as inappropriate. While recognizing the importance of ensuring the transparency of each WTO member's trade practices, China argues that no members have fulfilled all of the notification obligations, and that developing countries are unable to meet these obligations due to their lack of capacity.¹⁴ This strong opposition to the very proposal calling for fulfillment of the core obligations reflects the difficult challenges facing WTO reform.

¹² *China's Position Paper on WTO Reform*, released on November 23, 2018 by the Ministry of Commerce of the People's Republic of China.

¹³ World Trade Organization, *Procedures to Enhance Transparency and Strengthen Notification Requirements under WTO Agreements – Communication from Argentina, Costa Rica, the European Union, Japan, and the United States* (JOB/GC/204, JOB/CTG/14), November 1, 2018.

¹⁴ "China criticizes WTO transparency proposal advanced by U.S., others," *Inside U.S. Trade*, November 16, 2018.

To implement reforms on the WTO's functions and procedures, the trilateral leaders also agreed to strengthen the activities of the WTO committees (regular committees) in each field, and to propose initiatives to prevent conflicts and develop rules. As for the current WTO status of "developing country" granting "special and differential treatment", including a grace period for meeting some obligations, the WTO agreements specify no definition of developing countries, with the status relying on the members' self-declaration. Consequently, many emerging countries continue to maintain their "developing country" status. To address this issue, the trilateral leaders have asked that the advanced member states claiming developing country status take on the full commitments in the WTO agreements. In response, China maintains that WTO reform should safeguard special and differential treatment for developing countries, and that it will not give up its status as the world's largest developing nation.¹⁵

To deal with (3) digital trade and e-commerce, during the eleventh WTO Ministerial Conference (Buenos Aires, Argentina) held on December 10 to 13, 2017, WTO member states in favor of actively discussing e-commerce agreed to begin working toward negotiations. To date, nine meetings have taken place, attended by roughly 80 member states, including the trilateral members and China.¹⁶ With the EU and the U.S., Japan is trying to turn these discussions into full-fledged negotiations in the near future.

(2) Reform of the WTO dispute settlement system as an urgent issue

WTO's Director-General Azevêdo claims the reform of the dispute settlement system is the most urgent issue in WTO reform.¹⁷ As one of the WTO's core functions, the dispute settlement system plays an important role in resolving trade conflicts according to the WTO rules to maintain and enhance the organization's structure.¹⁸ But this system is currently facing a serious crisis.

Even so, this issue was not included in the agreement of the Japan-US-EU trilateral meeting because of the current crisis triggered directly by the United States. The US has expressed its strong dissatisfaction with the WTO dispute settlement system, arguing that while the system generally serves to resolve trade disputes based on the agreed rules

¹⁵ Same as footnote 12.

¹⁶ Ministry of Economy, Trade and Industry, *The WTO Ninth Meeting for Exploratory Work on Electronic Commerce Held*, December 19, 2018. At this meeting, WTO members agreed to release a joint statement on the future direction to prepare for an informal WTO ministerial conference scheduled in Davos, Switzerland, in January 2019. China was not included among the 71 countries and regions participating in the *Joint Statement on Electronic Commerce* issued at the eleventh WTO ministerial conference, but the Meeting for Explanatory Work reports that China also participated.

¹⁷ Same as footnote 9.

¹⁸ WTO Agreement Annex 2 "Understanding on Rules and Procedures Governing the Settlement of Disputes (Dispute Settlement Understanding)" stipulates that the WTO's dispute settlement system is "a central element in providing security and predictability to the multilateral trading system (Article 3.2)." Because of this, the dispute settlement system is often referred to as the WTO's "crown jewel." See Ujal Singh Bhatia, *The Problems of Plenty: Challenging Times for the WTO's Dispute Settlement System*, June 8, 2017.

among the US and other WTO members, with the WTO Agreement stipulating that the members' rights and obligations cannot be added to or diminished under the covered agreements (WTO Dispute Settlement Understanding, Article 3.2), the system is actually breaching these rules.¹⁹

Discontented with this situation, the United States continues to refuse to select and reappoint members of the WTO Appellate Body that functions as the second (final) trial under the WTO's two-tiered dispute settlement system. The Appellate Body consists of seven members, three of whom serve on each dispute case, but at present, the body is four members short due to disapproval over member selection and reappointment, resulting in only three remaining members, the minimum number necessary for the system to function. Furthermore, with the terms of two of them expiring in December 2019, this problem must be resolved immediately to avoid a breakdown of the WTO dispute settlement system.

The European Union is taking active steps to resolve the issue. The EU alongside other WTO members, including China and India, presented proposals for reforming the dispute settlement system,²⁰ but the United States has criticized these proposals as designed to support the rule change confirming the present situation, rather than effectively responding to the concerns raised by WTO members.²¹ It remains to be seen whether the dispute settlement system issue will be resolved.

Meanwhile, Director-General Azevêdo expresses a different concern over the dispute settlement system. After nine members, including the European Union and China, requested WTO dispute settlement proceedings against the US measure imposing additional tariffs on steel and aluminum products under Section 232 of the Trade Expansion Act of 1962 due to a threat to national security, a dispute settlement panel was established.²² DG Azevêdo warns of the risk of referring a case involving the claim of national security concerns to the dispute settlement system, and that the US case should be resolved through talks among the concerned parties.²³ The United States has

¹⁹ Office of the U.S. Trade Representative, *2018 Trade Policy Agenda and 2017 Annual Report of the President of the United States on the Trade Agreements Program*, pp. 22-28. In this section, the United States expresses its dissatisfaction, as described in our report, and criticizes the WTO dispute settlement system by listing (1) the Appellate Body disregarding the 90-day deadline for appeals, (2) the WTO continuing service by persons who are no longer Appellate Body members, (3) panels and the Appellate Body "making law" by issuing unnecessary advisory opinions to resolve a dispute, (4) the Appellate Body reviewing facts and interpreting WTO members' domestic laws anew beyond its role of reviewing issues of law covered in the panel report and legal interpretations developed by the panel, and (5) the Appellate Body claiming its reports are entitled to be treated as precedent.

²⁰ The EU has co-sponsored the proposals (WTO documents, WT/GC/W/752 and WT/GC/W/753) with 11 other WTO members and with China and India, respectively. Japan is not included among both co-sponsors.

²¹ "Shea: Appellate Body reform proposals fail to address U.S. concerns," *Inside U.S. Trade*, December 12, 2018.

²² Panels were established on November 15 and on December 4, 2018, as requested by China, the European Union, Canada, Mexico, Norway, Russia, and Turkey, and by India and Switzerland, respectively. Due to disagreement by the respondent US, separate panels were formed for each request instead of a single panel.

²³ "Azevêdo: Challenging U.S. 232 tariffs at WTO a 'risky' strategy," *Inside U.S. Trade*, December 4, 2018. However, similar dispute cases involving the national security exception (GATT Article XXI) are under way, including Ukraine's request regarding Russia's measures (DS512), Qatar's requests for consultations with the United Arab Emirates (DS526), Bahrain (DS527), and Saudi Arabia

continuously contended that it is not justiciable for the WTO dispute settlement system to determine the legitimacy of trade practices based on the General Agreement on Tariffs and Trade (GATT) Article XXI containing the national security exception. The US made the following comment on the establishment of the dispute settlement panel: “If the WTO were to undertake to review an invocation of Article XXI, this would undermine the legitimacy of the WTO’s dispute settlement system and even the viability of the WTO as a whole.”²⁴

The complainants strongly objected, arguing that if the WTO dispute settlement system cannot decide whether its member states’ trade practices are based on national security interests authorized under GATT Article XXI, then WTO members can invoke Article XXI to justify any type of measure.

If the WTO dispute settlement system accepts the US claim, this may open a huge hole in the WTO Agreement that disciplines its members’ trade practices. On the other hand, if the US claim is denied, the US will express its dissatisfaction and continue blocking the appointment of the WTO Appellate Body members, or even possibly withdraw from the WTO. It is this dilemma that worries DG Azevêdo.

These challenges affect the core functions of the WTO structure, and finding solutions is far from easy. To address the issues raised by the United States, WTO members have no other choice but to initiate discussions involving US participation. Furthermore, less than one year remains before the terms of the two WTO Appellate Body members expire. Japan clearly has an extremely important role to play as chairs of the G20 summit in 2019 and the WTO General Council.²⁵

4. Japan-US trade talks: Japan highly likely to face tough negotiations

At the Japan-US summit meeting held on September 26, 2018, both countries agreed to enter into new bilateral trade negotiations. For the United States to initiate trade negotiations, the government must notify Congress of its intent 90 days prior to starting negotiations under the Bipartisan Congressional Trade Priorities and Accountability Act 2015 (TPA). In addition, the US government is required to publish “a detailed and comprehensive summary of the specific objectives with respect to the negotiations”, at least 30 days before the start of trade talks. The Trump administration formally notified Congress of the planned trade talks with Japan on October 16, 2018, and released the “United States-Japan Trade Agreement (USJTA) Negotiations – Summary of Specific

(DS528). See Kawase’s paper in footnote 7 for details.

²⁴ “U.S.: Ruling on 232 tariffs would undermine ‘viability’ of WTO,” *Inside U.S. Trade*, October 29, 2018.

²⁵ The General Council is the WTO’s highest-level decision-making regular body on behalf of the ministerial conference held every two years, and leads the discussions on reform. The current chair is held by Junichi Ihara, Ambassador of the Permanent Mission of Japan to the International Organizations in Geneva.

Negotiating Objectives” on December 21 of the same year. With the negotiation date likely affected by the US side tied up with a 90-day “short-term battle” (until March 1, 2019) in the US-China talks, the Japan-US trade talks, referred to as “Trade Agreement on goods (TAG)” in Japan and “US-Japan Trade Agreement (USJTA)” in the United States,²⁷ are ready to begin after January 20, 2019.

As shown in the different names applied to the trade agreement, the Japanese and US governments are not necessarily on the same page in terms of the range of negotiations, but the talks are likely to center on goods trade at the first stage. The Trump administration, concerned about its chronic goods trade deficit with Japan, is expected to present Japan with strong requests during the negotiations, focusing particularly on agricultural products and automobiles.²⁸

To negotiate the liberalization of trade in Japan’s agricultural, forestry and fishery products, the joint statement of the previous Japan-US summit states that the United States will respect Japan’s position on its previous economic partnership agreements, including the TPP, as the maximum level of liberalization. But there are strong voices in the US demanding further liberalization.

As for automobiles, Japan is expected to respect the US stance outlined in the joint statement that negotiation outcomes will be designed to increase production and jobs in the US automobile industry. With Japan imposing no tariffs on imported cars, however, there are concerns that the United States may call on Japanese businesses to expand investment in the US and restrict automobile exports.²⁹

In this respect, attention should be paid to the United States-Mexico-Canada Agreement (USMCA) signed on November 30, 2018, because the US is likely to use this agreement as a model to prepare for trade negotiations with Japan. The USMCA contains unprecedentedly stricter rules of origin for automobiles and auto parts, and quotas or “de facto quantitative restrictions” on automobile imports in side letters. In response to strong requests from certain US automobile industries and labor unions, exchange rate provisions are also included in the agreement. The United States is expected to present similar demands during its trade talks with Japan³⁰ (**Chart 3**).

²⁷ The Japanese government, for example, describes the Japan-US summit meeting in September 2018 as “The two leaders agreed to enter into negotiations for a Japan-U.S. Trade Agreement on goods (TAG)” on the Ministry of Foreign Affairs’ website (https://www.mofa.go.jp/mofaj/na/na1/us/page4_004367.html, accessed on December 17, 2018). On the other hand, the US government titles are shown as, for instance, “Request for Comments on Negotiating Objectives for a U.S.-Japan Trade Agreement” in the government report on the public hearing on December 10 (Docket Number USTR-2018-0034).

²⁸ US Trade Representative Robert Lighthizer’s notification to Congress on opening trade talks with Japan points to automobiles, agriculture, and services as sectors where US exporters face tariff and nontariff barriers in the Japanese market.

²⁹ For details of the joint statement of the Japan-US summit in September 2018, see Junichi Sugawara, “Agreeing to enter into negotiations for a Japan-US Trade Agreement on goods,” *Mizuho Insight*, Mizuho Research Institute Ltd., September 27, 2018, among others.

³⁰ The USMCA’s section on exchange rate matters stipulates, as illustrated in Chart 3, that a request for dispute settlement can be submitted only in the case of breaching “Transparency and Reporting” commitments (Articles 33.5 and 33.8). But some labor unions

Chart 3: Examples of agreed items in the USMCA

Item	Outline	Expected impact of similar provisions included in the Japan-US agreement
Rules of origin	<ul style="list-style-type: none"> Extremely strict rules of origin (e.g., high percentage of regional value content). 	<ul style="list-style-type: none"> Necessary to raise intra-regional procurement rates for exports to the US.
De fact quantitative restrictions	<ul style="list-style-type: none"> The US may impose additional tariffs (Section 232 measures) exceeding the MFN tariff on a certain extra volume or value of automobile and auto part imports. Mexico and Canada may take measures of equivalent commercial effect in response, if the US imposes additional tariffs, and retain their right to submit requests to the WTO. 	<ul style="list-style-type: none"> Declining exports to the US causing domestic production to fall depending on the level of regulations on volume or value and additional tariffs.
Exchange rates	<ul style="list-style-type: none"> Obligation to publicly disclose exchange rate practices, e.g., foreign exchange reserves and interventions, and permitted to request dispute settlement in the case of continuous breaching of obligations and failing to settle the dispute through consultations. Allows the complainant country to suspend substantially equivalent concessions when a breach of obligation is verified in the dispute settlement procedures. Introduction of a consultation mechanism for competitive devaluations and other matters. 	<ul style="list-style-type: none"> Likely to affect exchange rates, despite the unlikely chance that so-called retaliatory tariffs will be invoked. In the case of the TPP, Agreement on exchange rates policy in the "Joint Declaration of the Macroeconomic Policy Authorities of TPP Countries".
FTA with a non-market economy	<ul style="list-style-type: none"> The Contracting Party intending to conclude an FTA with a non-market economy is required to (1) inform the other Parties of its intention to start negotiations at least 3 months prior to starting negotiations and (2) disclose the full text of the agreement at least 30 days before the date of signature. The other Parties are authorized to demand to terminate the USMCA on six months' notice and replace it with a bilateral agreement as between them. 	<ul style="list-style-type: none"> Likely to affect the RCEP and Japan-China-South Korea FTA negotiations if the Japan-US agreement that includes these provisions is reached early.

Source: Made by MHRI based upon the USMCA.

Attention also needs to be paid to the impacts of CPTPP and Japan-EU EPA implementation on the Japan-US trade talks. American corporations and exporters absent from both trade agreements will be placed at a competitive disadvantage in the Japanese market, compared with member states' rivals. A typical example is agricultural, forestry, and fishery products, including beef and pork. In the case of beef, for instance, the MFN (most-favored nation) tariff imposed on WTO members is 38.5%, but the rate will be lowered to 27.5% for CPTPP members on the effective date of the CPTPP and drop further to 26.6% on April 1, 2019. While beef imports from CPTPP members account for 56.7% of Japan's imported beef, 43% of the remaining 43.3% comes from the United States. In other words, after the CPTPP takes effect, the US will essentially be the only country not applicable to the CPTPP's preferential tariffs.

This means that the longer the Japan-US trade talks drag on, the longer US exporters will be at a disadvantage in the Japanese market. The implementation of both trade agreements is expected to increase pressure within the United States on the need for an early conclusion of the Japan-US negotiations and to prompt the US to adopt a more conciliatory attitude toward Japan.

On the other hand, if the negotiations flounder, the United States may well demand

and other organizations are asking for stronger provisions included in the trade agreement with Japan ("Currency, auto, customs concerns aired at USTR hearing on U.S.-Japan FTA," *Inside U.S. Trade*, December 10, 2018).

concessions from Japan by threatening to impose additional tariffs on automobiles and auto parts under Section 232 of the Trade Expansion Act, despite the agreement to set this aside during the talks at the previous Japan-US summit. Launching the CPTPP and the Japan-EU EPA may also make the United States impatient, resulting in the US adopting a more hardline stance against Japan during the trade negotiations. In this sense, implementing these trade agreements may be a double-edged sword for the Japan-US trade talks.³¹

As outlined above, 2019 will continue to see trade affairs raising alarming concerns. With serious challenges mounting, Japan is highly expected to lead the world by bearing the flag of free trade and to play a leadership role in addressing these trade issues as chair of the G20 summit in 2019.

³¹ Same as footnote 2 in this respect.