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Short Curriculum Vitae – Takashi Hoshino

Born in 1954, he graduated from the Kyoto University Faculty of Economics in March 1977, and the Massachusetts Institute of Technology Sloan School of Management in May 1983. He joined the Long-Term Credit Bank of Japan in April 1977. After service in units of Economic Research, and Industry Research departments beginning in May 1983, he was appointed a member of the Board and General Manager of the LTCB Research Institute (in January 1999). Thereafter, he served as Director of the Board and General Manager of both the planning and economic research departments at the Institute for Socio-economic Infrastructure Research and Leader of the strategic unit in the head office of Sanyo Electric Co., Ltd., before his appointment as Legislative Assistant & Policy Secretary for Yoriko Kawaguchi, member of the House of Councilors, from January 2006 to July 2013, and the same appointment for Shoji Maitachi, Member of the House of Councilors, from October 2013 to March 2016. From April 2016: Current post.

As for major publications, he is the author of “Corporate Siting and the Investment Environment in the United States” (Toyo Keizai Shinposha, May 1986), author and editor of “Offshore Siting Data & Manual, US Volume” (LTCB Research Institute, Inc., June 1987), and “The Collapse of Undignified Companies” (PHP Institute, October 1993). He was born in Osaka Prefecture and is now 63 years old.

What is Japan’s Role in Rebooting the WTO?

1. Bright outlook for the world economy in 2018

Rates of growth began rising in the second half of last year, and the outlook for the

world economy is bright for this year.

The Organization for Economic Co-operation and Development (OECD) pointed out that rates of growth were simultaneously improving in almost all countries around the world, and is forecasting a world economic growth rate of 3.7 percent in 2018, higher than that of 3.6 percent in 2017.¹ Due to Synchronous Growth worldwide, the International Monetary Fund (IMF) likewise foresees a decline in the risk of a world economic downswing; if anything, there is a risk of an upswing, in its view.²

There is also a sharp recovery in the world trade volume. The trend of “slow trade” worldwide, i.e., trade that grows more slowly than the world economy, was apparently resolved in 2017 after continuing for several previous years.³

In addition, in the United States, a tax reform bill proposing the biggest tax reduction in about 30 years was passed into law in December, and US stock prices have been rising as a reflection of expectations for economic prosperity. On January 4, the Dow-Jones average topped 25,000 dollars for the first time ever (it finished at 26,214.60 dollars on January 22).

2. The “free trade crisis” that did not break out in 2017

Some experts have observed that these bright outlooks for the world economy bear a resemblance to the Great Moderation around 2005 – 2006. In short, the resemblance is said to lie in high stock quotations, low long-term interest rates, and decline in volatility as financial policy leaned toward tightening in the period corresponding with that of the reform pursued by the Koizumi administration in Japan.⁴

If this observation is raising an issue on a timely basis, it could be that something is proliferating behind the prosperity continuing from the second half of last year. The

¹ (Source) “Economic Outlook and Interim Economic Outlook,” OECD, November 28, 2017.

² (Source) “World Economic Outlook October 2017,” IMF, October 10, 2017.

³ “World Trade Quickly Recovering – Toward Resolution of ‘Slow Trade,’” NIKKEI, November 25, 2017; “Is ‘Slow Trade’ Over?” Mitsui Sumitomo Asset Management Company “Economic Message,” December 28, 2017.

⁴ “Outlook for Rebooting Abenomics: Blind Side in the ‘Great Stability?’” special spring seminar, President Kazumasa Iwata of the Japan Center for Economic Research, January 11, 2018, Japan Center for Economic Research.

related fissures may very well be in the process of getting so serious that they cannot be repaired, as happened when the world economy was jolted after the bursting of the US sub-prime housing loan bubble, which grew in the shadow of the Great Stability, triggered the collapse of Lehman Brothers. This “something” is nothing other than the US withdrawal from free trade. Soon after his inauguration in January 2017, President Donald Trump pulled the United States out of the Trans-Pacific Partnership (TPP) agreement and forced a renegotiation of the North American Free Trade Agreement (NAFTA) with Canada and Mexico, and of the United States - Korea Free Trade Agreement (KORUS) with South Korea.

Although there were apprehensions about Trump’s protectionism even before his inauguration, the fact that the situation did not escalate into a “free trade crisis” in 2017 should be ascribed not so much to a improvement in the situation as to an excessive focus on geopolitical risks associated with Syria and North Korea, for example, such that the issue was left unresolved and carried over into 2018.

3. On the brink of dysfunction – the World Trade Organization (WTO)

The free trade crisis is gradually coming to the surface with the ebbing of leadership on the part of the United States, which had been pushed free trade in an even high-handed manner since effectuation of the General Agreement on Tariffs and Trade (GATT), and after the 1995 launch of the World Trade Organization (WTO) as well. The WTO Ministerial Conference held in Buenos Aires in December of last year ended without the adoption of a ministerial declaration.⁵ The United States asserted that priority should be given to reform of the WTO toward rectification of unfair trade. It was at loggerheads with newly industrializing and developing countries, and did not take part in the discussion on the main agenda. As a result, the ministers did not come to an overall conclusion in their discussions.

What is behind the WTO’s position on the verge of dysfunction? The two main factors are governance problems at the WTO and the change in the power relationships

⁵ “WTO Dysfunction,” Yomiuri Shimbun, p. 9, December 15, 2017. The WTO Ministerial Conference is held once every two years as a general rule and is the WTO’s highest decision-making organ. The last one drew the participation of ministers and other officials from the 164 member countries.

among the major players (particularly the United States and China).

Before going into these factors, I would like to reconfirm the function and role of the WTO in the world economic order while drawing comparisons with the GATT. This will make the seriousness of the situation more comprehensible.

4. Formulation of rules in new fields and trade dispute settlement

The WTO is an international institution that was established on January 1, 1995, based on a 1994 agreement resulting from negotiations in the Uruguay Round. It determines, implements, and operates various international rules related to trade. At the same time, it takes approaches to new trade issues. The GATT, its predecessor, was run not as an international institution but as a provisional organization. Along with the substantial augmentation of trade rules, the need to establish an international institution with a firmer foundation was widely recognized, and this led to the establishment of the WTO.⁶

With the establishment of the WTO, the trade system in the world economy was reinforced in the following ways as compared to the GATT order.

- Reinforcement of existing trade rules⁷
- Formulation of rules in new fields
- Reinforcement of dispute settlement procedures
- Assurance of unified operation of agreements

Of particular importance are the formulation of rules in new fields and reinforcement of procedures for dispute settlements.

(1) Formulation of rules in new fields

⁶ The WTO stipulated the principle of non-discrimination in trade (most favored nation status and national treatment) and other basic rules, and laid the foundation for the multilateral trade system. The GATT order was launched in 1948, and Japan joined it in 1955.

⁷ Preparation of agreements related to trade in specified articles (agriculture, textiles). Revision of existing agreements concerning international trade rules (anti-dumping, safeguards, etc.) and augmentation of their scope.

The WTO has the task of preparing agreements on trade in services in addition to that in goods, and agreements on trade-related intellectual property rights and investment measures. The center of the industrial structure in developed countries is shifting from manufacturing to services and information and communications industry. In the process, it is becoming increasingly important to make rules in new fields apart from those of goods.

In particular, the formulation of rules in the field of electronic commerce is a high-priority agenda, partly because the major countries have positioned fields fusing information and communications technology and use of “big data” as “strategic growth industries”. Moreover, there is deep-seated division among major countries in respect of thinking on the handling of information and data. Even the United States, where all of the information and communications service giants such as Google, Amazon, and Microsoft are based, is in a position that does not permit it to distance itself from the discussion on rule-making.⁸

(2) Reinforcement of dispute settlement procedures

The WTO dispute settlement system was prepared on the basis of the practices and procedures built up under the GATT. It has the status of a quasi-judicial system.

The existing system was bolstered as compared to the GATT era in three ways. The first is the change from a single-tiered to a two-tiered system. The WTO instituted the Appellate Body, a standing body for examination and final ruling on appeals, so that countries can seek a reconsideration of legal interpretations in the report by the panel (an Appellate Body subcommittee).

The second is that the efficacy of the procedure was strengthened for the purpose of swifter and smoother performance.⁹ In the GATT age, decision-making in the whole

⁸ Japan and other developed countries are calling for “principle of freedom of data flow,” but there is a movement toward “digital protectionism” among developing countries. In June 2017, China effected a cyber security law that grants the government a wide range of discretionary powers. It compels the installation of servers and other devices in China, and there are fears that it may lead to control of the transborder flow of data and demands for disclosure of source codes. Vietnam, too, is considering the introduction of similar legislation.

⁹ <http://www.mofa.go.jp/mofaj/gaiko/wto/funso/seido.html>

procedural flow was consensus-based. As a result, the procedure would come to a halt if the country which lost in the inquiry opposed adoption of the panel report. In the WTO, however, procedural automation has been ensured so that a conclusion is definitely reached.¹⁰

The third is the prohibition of unilateral measures. In the past, the way in which the United States would press trade partners to open their markets by threatening unilateral sanctions based on Section 301 of the US Trade Act was considered a major problem. The existing system includes a rule prohibiting the invocation of unilateral measures that are not based on the WTO dispute settlement procedure in response to trade disputes.

Due to this reinforcement of the dispute settlement procedure, the average annual number of dispute cases handled increased from 6.7 in the GATT age (314 over the years 1948 – 1994) to 24.3 in the WTO age (535 over the years 1995 – 2017). It may be gathered that the procedure is functioning effectively and heightening reliability in the eyes of member countries.¹¹

The procedure was most applied by or against the United States (which brought 115 cases against other countries and had 134 cases brought against it), followed by the European Union (97 and 84, respectively). Japan brought 23 cases against other countries and had 15 cases brought against it. Even China, which joined the WTO in 2001, has already been involved in many cases; it brought 15 cases against other countries and had 39 cases brought against it.¹² It may seem surprising that the United States, which is apt to take unilateral action on trade issues, has been making the most use of the WTO, but this could indicate that it, too, has high ratings of the WTO dispute settlement procedure.

Next, let us delve into the background factors that have led the WTO, this cornerstone of the free trade order, to the brink of dysfunction.

<http://www.mofa.go.jp/mofaj/press/pr/gaikou/vol32.html> (“Diplomacy” Vol.32, pp133-135)

¹⁰ In the WTO, a ruling is determined unless it is unanimously opposed. This approach is termed “negative consensus.”

¹¹ The figure for the number of cases indicates the number for which consultation was requested, which is the first step in the procedural process.

¹² The breakdown of cases by country is based on data from the WTO website https://www.wto.org/english/tratop_e/dispu_e/dispu_by_country_e.htm (accessed on January 18, 2018).

5. Governance problems and the change in the power relationships among key players

The major factors are: WTO governance problems and the change in power relationships among major WTO member countries, particularly the United States and China. I shall take a detailed look at each of these factors below.

[Governance problem 1] – The limits of the consensus approach –

The WTO has been operated on the principle of unanimity from the time of the GATT's establishment (when the member countries numbered 23). Now, however, the member countries number 164, and this principle is reaching its limits.¹³ There has also been criticism to the effect that the determination of new rules would be extremely difficult, and that the WTO is becoming affected with problems of the sort hampering the United Nations. At the same time, it must not be forgotten that the WTO continues to function effectively in the aspect of enforcement of dispute settlements.¹⁴

[Governance problem 2] – Problems related to the Appellate Body –

The United States claims that the Appellate Body, which is the second tier and makes the final ruling in the dispute settlement procedure, has been taking action that is not based on agreements or approved by the Dispute Settlement Body (DSB). Viewing this as a problem, since August of last year it has taken three positions on the Appellate Body as “hostage” and is applying pressure for solution of this issue.^{15 16}

The EU and other members are against linkage of the problem raised by the United States with Appellate Body appointments, and take the stand that precedence should be

¹³ The number of member countries in the various GATT Round periods increased from 74 in the Kennedy Round (1964 – 1967) to 82 in the Tokyo Round (1973 – 1979) and 93 in the Uruguay Round (1986 – 1994).

¹⁴ China, for example, is complying with rulings in all cases of dispute settlement which it lost.

¹⁵ As an example in support of its position, it cites Article 15 of the rules, which was determined by the Appellate Body members themselves and states that a member may stay on an assigned case even after the end of his or her term. The US position is that this, in effect, amounts to appointment of members, and ought to be approved by the DSB.

¹⁶ The Appellate Body members serve a term of four years and may be reappointed for a second term only. The terms of three members from the EU, Latin American, and Asian quotas were up by the end of 2017, but the United States remains opposed to the start of the screening process for selection to fill these vacancies.

accorded to the latter. The issue has consequently grown into a major point of confrontation between the United States and the EU.

At present, there are consequently three vacancies on the Appellate Body, which has a total membership of seven. There are fears that, if this unusual situation continues, the dispute settlement functions of the Appellate Body will be brought almost to a halt.¹⁷

[Change in the power relationships of major players 1] – Ebbing of US leadership –

Under the Trump administration, which emphasizes bilateral negotiations, the priority of WTO-related problems has clearly been lowered. Because of the lack of smooth progress in appointments to key positions and paucity of personnel with depth in trade issues, the Office of the United States Trade Representative (USTR) has had its hands full with the NAFTA renegotiation, which is a priority item on the administration's agenda.¹⁸ The United States has not exhibited a stance of positive approaches even as regards consultation on the formulation of WTO rules in new fields.

In connection with US trade with China, the Trump administration is becoming increasingly discontent with the status quo as regards excess supply of steel and aluminum, and subsidies linked to export of low-cost goods. Instead of trying to find a solution in the framework of WTO procedures for dispute settlement, however, it has taken a stance leaning more toward invoking unilateral measures.¹⁹

Both President Trump and USTR Robert Lighthizer are apparently convinced that countries posting a net surplus in their trade with the United States are taking away US jobs and will unilaterally (and spontaneously) make concessions if the US adopts a tough line against them in bilateral negotiations. This very thinking, nevertheless, is eroding the idea of multilateral free trade, which rests on the establishment of most

¹⁷ <https://jp.reuters.com/article/wto-trump-idJPKBN1DS08N> Three Appellate Body members must give their approval to decisions on each case.

¹⁸ As of December 1, 2017, the Trump administration had filled only 33 percent of all of the executive posts for which appointments must be approved by the Senate. In terms of department, the corresponding rate is 48 percent at the Department of Commerce and 22 percent at the State Department. (Source) "Tracking how many key positions Trump has filled so far," Washington Post, 2017/12/1.

¹⁹ For steel, it is reportedly preparing to invoke Section 232 of the Trade Expansion Act of 1962 on the grounds of security for steel, and Section 301 of the 1974 Trade Act for violation of intellectual property rights by China.

favoured nation status, national treatment, and rule by law.

The Trump administration is now in the process of destroying, with its own hands, the free trade order which the United States has protected and expanded for so many years.

[Change in power relationships among major players 2] – China, a country yearning for recognition as a market economy

China, whose President Xi Jinping stressed his country's determination to be a champion of free trade and the WTO at the 2017 Davos Conference, is making extensive use of the WTO procedure for dispute settlement. Moreover, it has followed the rulings even in cases it lost, as noted above. In the WTO, nevertheless, there has not arisen the same sort of situation as in the area of military power and security, where China is starting to fill the vacuum left by the recession of US influence.

Neither exercising leadership in the formulation of new rules nor fulfilling its own pledges at the time of its entry into the WTO, China has, on the contrary, taken a line of respect for vested interests (= opposition to deregulation) and emphasis on national sovereignty as a “developing country” or “the world's biggest market.”²⁰

While the list of individual issues includes reduction of surplus production capacity and export tariff reductions and exemptions for steel materials, China's biggest concern is to acquire recognition as a country with a market economy. Over the first 15 years since its admission to the WTO in 2001, China was subject to restrictions owing to its handling as a “non-market economy”.²¹ It has asserted that these restrictions expired in 2016, 15 years after its admission. The EU and the United States, however, stand opposed to China's recognition as a “market economy” because, in their view, China has not fulfilled its pledge to open up its market.²² In December 2016, China filed an

²⁰ The WTO accession protocol for China contains pledges regarding rules for state-owned enterprises and the opening of markets for public works projects, among others.

²¹ In the WTO agreement, non-market economies are defined as those countries whose government controls exchange rates, production activities, and other matters. If China wins the status of a market economy, its trade partners will be less able to take countermeasures such as anti-dumping duties against it.

²² <https://jp.reuters.com/article/china-us-idJPKBN1DU35P> ; <https://www.bloomberg.co.jp/news/articles/2017-12-01/P09FAP6KLVR401> Japan has also taken a stance opposed to recognition.

action against the EU and the United States with the WTO for failing to recognize it as a market economy. This case is still under deliberation in the panel.

6. Rebooting of the WTO under Japanese initiative

What kind of role should Japan discharge in this connection? After President Trump decided to pull out of the TPP, the administration of Shinzo Abe was left dumbfounded for a while. But beginning in the second half of last year, it seems to have firmed up its determination to have Japan come to the fore and lead the discussion aimed at maintenance and expansion of the free trade order. This was the right decision for Japan.

While various international conferences are proceeding in line with this policy even today, I would like to emphasize the following three points for rescuing the WTO from dysfunction. The first is early effectuation of the TPP 11 agreement. I would like to see Japan strengthen its approaches to Canada, Vietnam, and other countries with issues, and to promptly make rules marked by the highest level of quality.

The second is to keep the United States from resorting to unilateral measures not recognized by the WTO in the process of dispute settlement. To this end, Japan must work with the EU and do all it can to help the United States win results with which it will be satisfied even within the framework of the WTO procedure for dispute settlement, by collecting data for supporting arguments and grounds fully reflecting the US claims.

The third is to persuade the EU to abandon its distrust of the United States and organize a united front consisting of Japan, the United States, and the EU in consultations aimed at the formulation of rules for new fields. Only Japan can build a bridge between the EU and the United States. More specifically, this united front is of critical importance in consultations concerning the field of electronic commerce, in which there is a particularly wide gap in thinking between developed countries on the one hand and newly industrializing and developing ones on the other.

The world economy entered 2018 in an extremely favorable tone of simultaneously

high levels of growth and stock quotations. A huge pitfall could be waiting, however, if we neglect efforts to maintain and improve the foundation supporting the world economic order in the aspect of trade. Japan has a crucial role to play in the WTO.

(End)