Asia’s mighty trading giants, which have for years benefited from the seemingly inexhaustible US appetite for their exports, have now run headlong into US President Donald Trump’s fierce insistence that the terms of America’s trade with them has been fundamentally unfair. That clash, which could yet lead to trade wars, could upend the global order that has prevailed for decades.
**Tariff Wars and the TPP: The Japan-US Trade Face-off under Trump**  
By Yorizumi Watanabe

US President Donald Trump’s war on the global trading system has generated anger and disbelief among US allies and trading partners — and nowhere more so than in Japan. While the two countries are largely in accord on issues such as North Korea, threatened punitive tariffs on auto imports to the US have threatened to upend cordial ties.

While Japan does not want a bilateral trade deal with the US, the answer may lie in issues already negotiated under earlier Trans-Pacific Partnership talks, writes Yorizumi Watanabe. But first, Trump will have to decide to re-enter the pact he left during the first week of his presidency.

DONALD TRUMP’S May 23 threat to impose an additional 25 percent tariff on top of the current 2.5 percent concessionary tariff on Japanese auto imports to the US has raised serious concerns in Japan. Hiroshige Seko, Japan’s Minister of Economy, Trade and Industry, was unusually candid in saying that the possible additional duty could result in major trouble for the world market and it was beyond his comprehension how imports of Japanese cars into the US constituted “a threat to national security,” as indicated by Trump. Seko also said that any trade measures should be consistent with World Trade Organization rules.

The US tariff threat came amid international scrutiny of Trump’s punitive 25 percent tariffs on steel and 10 percent on aluminum announced in March, which were initially to impact Japan and China; the US’s NAFTA partners, Canada and Mexico, and the European Union at first seemed possibly exempt from the immediate application of the high tariffs. It now appears that the Trump administration has decided to extend the additional tariffs to those countries also, resulting in more criticism and turmoil.

Cecilia Malmström, the EU’s Commissioner for Trade, said the US action would be against WTO rules and that the national security justification cited under Section 232 of the US Trade Expansion Act of 1962 was “far-fetched” on imports from US allies.1 Jean-Claude Juncker, the President of the European Commission, suggested that the EU might bring the issue to the WTO dispute settlement mechanism, while the EU reserved the right to retaliate against the additional duties.

All these reactions echoed the Chinese response to the tariffs in March, when it took the first step in initiating a legal challenge at the WTO over the US national security claims. China has already imposed retaliatory tariffs on US products, citing its right to compensation under the Safeguard Agreement of the WTO, while the US maintained that China had no legal basis for compensatory tariffs, because the US tariffs were national security measures.2

All these adverse developments suggest that a kind of trade war is forthcoming. Is there any solution to resolving trade tensions among these major trading partners? How can trade relations be restored to normality? And what will be Japan’s response to the situation?

TRUMP’S BILATERAL TRADE POLICY

The main feature of Trump’s trade policy is “bilateralism” and an overwhelming focus on the trade deficits the US has been running for quite some time with such countries as China (US$347 billion in 2016), Japan (US$68.9 billion), Germany (US$64.9 billion), Mexico (US$59 billion) and South Korea (US$27.6 billion). In terms of economics, bilateral trade deficits may have no significant meaning, but from a political point of view, they have been used to fuel protectionism among domestic constituencies.

Since the beginning of his presidential campaign, Trump has been vocally hostile to multilateral trade, whether embodied in the WTO or the Trans-Pacific Partnership (TPP), from which he withdrew upon taking office. He condemned both as bad for US workers. This trade bilateralism seems deeply rooted in his conviction that US workers have been victimized by trade agreements that have robbed them of their jobs. The deficits are a convenient justification for going after “unfair trade practices” conducted by countries enjoying massive trade surpluses with the US.

Another important feature of Trump’s trade policy is “deal-making.” For this unconventional US president, trade deficits are an evil that should be rectified by bilateral pressure and possible unilateral sanctions imposed by the US. Instead of making recourse to proper trade negotiations under the WTO or some other agreed forum, Trump and his administration have been trying to force trading partners to come up with measures to reduce the surplus with the US. Failure to agree to a “deal” the US wants will lead to sanctions such as higher duties on steel/aluminum or automotive imports.

This kind of trade policy reminds us of what we used to be known as “trade unilateralism” in the 1980s and the first half of the 1990s, when the main target was almost exclusively Japan, which ran roughly 40 percent of the US trade deficit at its peak, compared to about 9 percent at present. The US Congress then discussed the “Trade Reciprocity Act,” which was designed to limit the market access of countries with unfair trade practices.

There are some common elements between the trade unilateralism of the 1980s and the Trump era. The notion of “fairness,” determined by the end results of trade competition, i.e. the bilateral trade account, is at the heart of this approach rather than multilaterally agreed trade rules. Trade in this view is a metaphor for a track race; there should be strict equality among all runners at the starting line, but once the race starts, the end results should simply reflect the strength and capability of each runner and there should be no interference by anybody. Likewise, in international trade, conditions preset by tariff concessions previously negotiated as a result of “reciprocal and mutually advantageous concessions”3 should be applicable on the basis of the most-favored-nation (MFN) principle in trade competition, but the results of such competition should reflect only the comparative advantage of the...
trading partners and there should be no interference by the "visible hand" of any country involved.

In the 1980s and the first half of the 1990s, prior to the establishment of the WTO, there was a very useful device to defuse trade tensions that was often called a "grey-area measure," because it was deemed neither inconsistent with the General Agreement on Tariffs and Trade (GATT), the precursor to the WTO, nor in conformity with it. These were examples of "voluntary export restraints" (VERs), a GATT-bypassing process considered mainly among private stakeholders.

The first Japanese recourse to a VER was in the cotton textile trade in the mid-1950s, and VERs have been used since then on various products where Japan enjoyed comparative advantages in its trade with the US and Europe, up until the end of the GATT era on such products as semi-conductors, electric appliances and cars. VERs contributed to calming down trade frictions on those products.

The picture after the WTO’s establishment, however, has completely changed, because VERs are now considered inconsistent with WTO obligations. Although they were useful to lower the volume of exports, they nevertheless penalized consumers in importing countries as well as price-competitive late-comers to the import market, thus distorting international trade. Therefore, even if the Trump administration forwards the request to cut short Japanese car exports to the US in bilateral talks, Japan will not be in a position to accept it, because this could violate Japan’s international obligations under GATT Article XI, which prohibits quantitative restrictions on imports and exports.

Wanting to increase US exports to Japan, the Trump trade team might pressure the Japanese government to lower agricultural tariffs on such products as beef, wine and dairy products in line with benefits already given to TPP members and others, in effect putting the US on the same footing as Australia, New Zealand, Chile and even Europeans, once the Japan-US Economic Partnership Agreement (EPA) comes into force as early as spring 2019.

It is not, however, possible for Japan to come up with this kind of agreement in favor of the US, because it would constitute a prima facie violation of the MFN principle stipulated in Article I of the GATT. The only way to do so would be in a bilateral free-trade agreement between Japan and the US, to which Japan has been adamantly opposed.

A JAPAN-US ‘DEAL’ AND THE TPP

Prime Minister Shinzo Abe and President Trump have met half a dozen times and spoken on the phone more than 20 times. They have played golf together three times. On the issue of North Korea, both leaders share similar concerns and approaches. On trade issues, however, they are far apart. Trump insists that bilateral trade deals are better than multilateral agreements, loudly condemning the TPP and the WTO as bad for the United States, while Abe has tried to persuade the US president to come back to the TPP, which is a 21st-century advanced form of a trade agreement intended to capture the dynamism of the Asia-Pacific region.

As a compromise, Japan and the US agreed to establish a bilateral framework led by Taro Aso, Japan’s Vice Premier and Minister of Finance, and US Vice President Mike Pence to discuss economic issues between two countries.

The US side pushed for a bilateral US-Japan Free Trade Agreement to be discussed under the framework, but Japan did not want to talk about a bilateral "deal," and the Aso-Pence framework was reduced to discussions around minor issues such as safeguards on beef imports or economic co-operation. Following the summit talks between Abe and Trump in April 2018, the two countries agreed to set up a new platform under the Aso-Pence framework for talks co-chaired by Toshimitsu Motegi, Japanese Minister of Economic Recovery, and Robert Lighthizer, the United States Trade Representative (USTR). The main task given to Motegi and Lighthizer was to discuss trade issues between the two countries, including ways to reduce the US trade deficit with Japan.

This new ministerial framework is called the Free, Fair, and Reciprocal (FFR) talks and the first meeting is due to be held sometime in July following the Abe-Trump summit just before June’s G-7 Summit.

Abe’s persistent efforts to tout the merits of the TPP to the US leader were echoed by his closest ally in the ruling Liberal Democratic Party, Akira Amari, the former Minister of Economic Recovery and chief negotiator of the TPP, when he appeared at the Brookings Institution in Washington, DC, on May 2. “President Trump criticizes China about being unfair on intellectual property theft, forced technology transfer, forced disclosure of source code, restrictions on the free flow of information and subsidies for agricultural products. But these are all the things that are covered by TPP. So what is advocated by Trump is really the rules of the TPP,” Amari said.

Amari explained that following the US withdrawal from the TPP in January 2017, Japan helped lead the 11 remaining participants to conclude negotiations for a modified version of the deal by the November 2017 APEC meetings and subsequently signed the deal in Santiago, Chile, in March 2018. The 11 parties agreed to suspend 22 provisions that the US strongly backed, such

And if the US administration can be pacified by symbolic concessions, then Asian countries should offer them. There is always the danger, to be sure, that modest concessions will encourage Washington to make even more unreasonable demands. But concessions are also a way of buying time for sanity to reassert itself among American policy-makers.
as data protection for bio-medical products and 70-year copyright protection, with the understanding that these suspended provisions could be reopened once the US rejoins the TPP.

Amari also said that the new Comprehensive and Progressive TPP (CPTPP), commonly known as TPP-11, would go into effect probably in early 2019, once six out of the 11 countries ratify the agreement. Japan has been pushing to ratify the deal as soon as possible, perhaps during the summer session of the Diet. Even in the absence of the US, Japan was quite determined to go ahead with TPP-11 for two reasons: 1) Japan did not want to lose momentum on making rules to cover its production network across the Asia-Pacific region with a higher level of market access; and, 2) Japan wanted to prepare a common platform to accommodate the US when the current administration alters its position on international trade policy or in the event that Trump is succeeded by a more TPP-friendly president.

It is my view that the original TPP was actually a de facto bilateral Japan-US FTA disguised by the participation of the other 10 countries in the original deal. Among the 12 participating countries, only the US and New Zealand did not already have an FTA or EPA with Japan, and Japan and the US were engaged in extensive bilateral market-access negotiations on both manufactured goods and agricultural products.

Japan is, of course, highly sensitive on agriculture, in particular five categories: rice, wheat, dairy, beef/pork, and sugar and products containing sugar. The big issue for the US is automobiles. Through intense negotiations between Japan and the US, the US obtained a 15-year dispensation on the tariff elimination of 2.5 percent duties, while Japan in return could get fairly substantial exemptions for tariff elimination on roughly 19 percent of agricultural products. Thus, it was a workable exchange of concessions on sensitive issues between the two countries. For both sides, it was the best “deal” they could both live with. This is the reason why the results of the TPP negotiations were often described as being made of “artisinal crystal glass,” meaning they were fragile and easy to destroy.

CONCLUSION: IS A TPP U-TURN POSSIBLE?

Japan’s agricultural market has become increasingly open as a result of its various FTAs and EPAs. For instance, since 2016, Chile has been No. 1 in wine sales in Japan, ahead of traditional market leader France, thanks to the Japan-Chile EPA, which came into effect in 2007, phasing out tariffs in stages over 10 years. Australian beef is taking over from US beef in the Japanese market because of preferential duties that are lower than the 38.5 percent MFN duty that still applies to US beef. The Japan-EU EPA is expected to come into effect in March 2019; it will give preferential market access to European agricultural products over US products. In order to overcome this disadvantage, the US agriculture lobby has been fiercely campaigning for the eventual US return to the TPP. There are two ways that the US could make a U-turn on TPP — either by going back to the original 12-nation TPP that the US signed in 2016, or by joining the new TPP-11 through renewed bilateral negotiations with the 11 members. The former is simpler and more straightforward, but the problem is that TPP is a major legacy of former US President Barack Obama, and Trump would presumably have to make the whole thing seem like his idea. The latter approach is more procedural and has the problem that few countries would want to restart laborious negotiations in which the US would be even more demanding than previously.

In January, at the World Economic Forum in Davos, Trump spoke positively for the first time about the TPP, and said that he would consider the possibility of either individually negotiating with the members or negotiating with a group of countries, provided that the agreement was good for the US. Trump also floated the idea of the US rejoining the TPP in a White House meeting with lawmakers in April, but he and his administration quickly lowered these expectations.

It is, therefore, up to Trump’s administration to make up its mind on whether the US wants to be integrated into the well-developed production networks of the Asia-Pacific region, or turn its back on higher quality market access and more advanced trade rules. Japan, for its part, should be in no rush to agree to bilateral FTA talks with the US and should instead keep pressuring the US to rejoin the TPP as soon as possible.

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