

Opinions toward the forthcoming TPP summit in Bali

Chief delegates and other negotiators of Trans-Pacific Partnership (TPP) member countries are working assiduously in a bid to bring their TPP negotiations to a successful conclusion by the end of 2013. By striking a TPP agreement, member countries are trying to establish a new economic order within the Asia-Pacific region. The envisaged free-trade agreements expected to bring about benefits not only to major business corporations but also to small- and medium-sized companies and people in member countries. The TPP is an indispensable trade framework for Japan if it is to achieve sustainable economic growth and enable people to enjoy more affluent lives at a time when the country is graying rapidly with a declining birthrate.

The TPP would eliminate and reduce tariff and nontariff barriers while promoting the standardization of rules and regulations, and harmonization of certification processes in the Asia-Pacific region. In view of the expected decline in necessary costs when a country responds to various trade rules and the expected decline in export-related clerical work, the TPP should produce a wide range of benefits to consumers. In addition, small- and medium-sized Japanese companies with highly advanced technological expertise should become able to meet overseas demand with their operation bases remaining in Japan.

There are not a few countries in the Asia-Pacific region where protection of investors and their assets is not ensured, laws relating to business licenses and permits are enforced in a discretionary manner, and rules on the terms and periods required for completion of various business procedures are not transparent. If these rules and laws are made fairer and their enforcement becomes more predictable and more transparent under the TPP, business corporations will become able to do business without any major worries in the Asia-Pacific region, the world's growth center. Investor-state dispute settlement (ISDS) is a provision¹ that is covered by all of the 15 investment agreements and nine of the 10 bilateral trade agreements Japan has concluded. The provision is beneficial not only to foreign companies operating in Japan but also Japanese companies operating overseas.

¹ Investor-state dispute settlement is a provision that grants the investor the right to initiate dispute settlement proceedings against a host country if a dispute arises between the investor and the country. The provision enables the investor to choose between filing a lawsuit with a court in the host country and seeking international arbitration.

Ensuring security in the field of energy is one of the highest priorities for Japan, a country scarce in natural resources. In recent years, many cases in which countries rich in natural resources have limited foreign access to such resources have been reported. Given the fact that rules on export tariffs are not stipulated under the World Trade Organization (WTO), establishing such rules under the TPP, as well as a framework that can guarantee the observation of these rules and rules on export restrictions, would contribute greatly to ensuring a stable supply of natural resources for Japan.

Negotiation sectors

1. Access to goods markets

(1) All the negotiating countries should aim for more than 98% tariff elimination with products exceptionally exempt from this step to be limited significantly

What is most characteristic of the TPP is that it is a comprehensive trade agreement seeking high-level trade liberalization. For the free-trade agreement to really serve the interests of Japan and become a framework that can promote the development of the Asia-Pacific region, all the negotiating countries should in principle seek immediate tariff elimination for all goods or phased-in liberalization on goods with tariffs to be removed within about 10 years, while seeking to exempt a very limited range of products from this step. Specifically, Japan should take the initiative in trade liberalization under the TPP by offering more than 98% of its goods for tariff liberalization.

(2) Prohibition of export restrictions and clarification of rules on export tariffs (general abolition of export tariffs)

Many cases have been reported in recent years of countries rich in natural resources restricting foreign access to their resources by introducing rules banning drilling of certain resources and levying export tariffs on certain products bound for foreign countries. In the TPP negotiations, all the countries should seek clarification of the rules on export tariffs and a general prohibition of rules restricting export volume, in a bid to ensure a stable supply of natural resources and foodstuffs.

Banning exports is generally prohibited under WTO rules, with exceptional treatment granted to agricultural products under certain conditions. But no rules are set under the WTO regarding export tariffs. This makes it necessary to seek under the TPP a set of rules on export tariffs (general abolition of export tariffs) and establishment of a framework that can ensure the observation of such rules.

2. Unification of rules of origin and procedures for issuing certificates of origin, and the establishment of accumulation rules in response to globalization of value chains

Trade agreements tend to have different rules of origin and different procedures for issuing certificates of origin, a factor hampering the smooth operation of global value chains by business corporations. If these rules and procedures are unified, business corporations will become able to concentrate their resources on activities aimed at creating new value. Consequently, high-quality goods and services will be provided to consumers at reasonable prices and in a more stable manner. For small- and medium-sized Japanese companies to use their technological strength and expertise in global markets while keeping their operational bases in Japan, Japan should seek unification of rules of origin among the TPP member countries, while seeking to limit the number of products exempt from the proposed unified rules. Japan also should aim for adoption of an accumulation rule which is deemed especially suitable for Japan's industrial structure.

3. Government procurement markets need to be opened as much as under the protocol amending the WTO's GPA

Establishing a fair government procurement market leads to effective utilization of public funds and fair competition among private business corporations, thus increasing the efficiency of the overall economy. Infrastructure-related government procurement demand is expected to grow, especially in newly emerging countries. Building infrastructure systems in response to such demand, however, requires highly advanced technological strength, expertise and know-how. Even in non-signatory countries and states, to the WTO's Government Procurement Agreement (GPA), their procurement markets should be opened under the TPP as much as GPA signatories are required to open their markets under rules set under the protocol amending the GPA.

4. Strengthening effective protection of high-level intellectual property rights, the scope of protection and enforcement of criminal sanctions against intellectual property right violations

Establishing a system in which intellectual property rights are protected is an important part of the infrastructure for companies operating overseas, and is therefore indispensable for the Asia-Pacific region to achieve sustainable economic development. It is especially important to establish a system aimed at preventing distribution of counterfeit and pirated goods and services, and making criminal action against such property rights violations effective. It is necessary for TPP to craft a framework for enhancing broad-based cooperation

among member countries involving their customs, judiciary and patent authorities, including information sharing and mutual dispatch of personnel with expertise in relevant fields.

5. The need to create a competitive environment aimed at promoting fair competition so that all market participants can compete on an equal footing

The TPP negotiators should strive to establish a competitive environment in which all market participants, including state-owned and state-run enterprises, can compete with each other fairly, freely and on an equal footing, so that measures being envisaged to create such an environment are implemented effectively. It is also important to establish the necessary legal framework for their implementation to serve the interests of all the participating countries.

6. Investment: Ensuring the principle of national treatment, and banning demands made in some countries for implementing special measures and enhancing predictability and transparency regarding enforcement of rules for business permits and licensing

The TPP should devise a system aimed at protecting investors and their investment assets. The TPP also should establish a system banning performance requirements that are often filed in emerging countries. Among such requirements are restrictions on foreign investment, demands to employ local people and demands for technological transfer to the host country. In emerging countries, legal systems concerning business permits are often enforced in a discretionary manner while rules on the term and period that are required for completion of various business procedures are not transparent in some other countries. Under these circumstances, the TPP should craft a framework aimed at enhancing predictability and transparency regarding enforcement of such laws.

On the ISDS provision, the TPP should propose an international arbitration system that is fair enough to win understanding from member countries.

7. Others

(1) International harmonization on standards and certification processes, and trade facilitation

In addition to promoting international harmonization on standards and certification processes, enhancing the transparency of trade rules, and simplifying and speeding up trade procedures contribute greatly to efficient business operations. If these measures are implemented, business corporations can shorten their lead times and cut costs that would otherwise be necessary for them to respond to various rules. By doing so, it leads eventually to bringing about benefits to consumers over a wider area. Also, small- and medium-sized

companies would be able to use their technological strength and expertise when responding to overseas demands.

(2) Establishment of institutional systems with an eye toward promoting multilateral trade liberalization.

In view of the ongoing globalization of corporate value chains, ensuring trade liberalization in a multilateral manner would contribute to making the economic activities of industries and enterprises in the world more efficient. All the TPP negotiating countries should strive to establish trade rules that are consistent with WTO rules, with an eye toward promoting multilateral trade liberalization under the TPP.

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