

R oundtable on Trump 2.0 – How Can We Tackle Trade Policy Issues? (Nov. 25, 2024)

By *Japan SPOTLIGHT*

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Participants



Ambassador Alan Wolff



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Dr. Henry Gao



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Masakazu Toyoda

Introduction

Toyoda: Thank you all very much for joining us. The postwar international order is now in chaos. The war in Ukraine and the conflict in Gaza are becoming more serious. Major countries invoked their veto power in the Security Council of the United Nations, so nothing was decided, unfortunately. The dysfunction of the UN has become apparent. On the international trade front, the World Trade Organization is similarly dysfunctional. On the legislative front, the Doha Round has stalled during negotiations and is not expected to conclude anytime soon. Meanwhile, on the judicial front, the two-tier dispute settlement system is not working. The members of the appellate body, which serves the superior tribunal, have not been appointed, due to opposition from a particular country. And so the dispute settlement mechanism is virtually non-functional. The international order, which has been steadily moving forward for more than 70 years since the end of World War II, has become stagnant and confused. Today I have five questions to discuss.

First, why is the international trading system in such disarray? What is the background? Second, on the legislative side of the WTO,

instead of the agreement of the Doha Round, many agreements such as pluri-agreements, FTAs and RTAs have been established. How should this be evaluated? Third, on the judicial side, will it be possible to rebuild the dispute resolution mechanism under the second Donald Trump administration? Should we expect the MPIA, the Multi-Party Interim Appeal Arbitration Arrangement, to replace the WTO dispute settlement for the time being? Fourth, the CPTPP is said to be the highest level of RTA. Is it possible to expand the number of participating countries of the CPTPP, link it with the European Union and eventually invite the United States, and finally to transplant its high-level rules to the WTO by consensus? Fifth, with the confrontation between the US and China, the concept of economic security has emerged. There is a growing consensus among developed countries that this scheme, at least with China, is necessary.

Will the era of free trade ever come again? We have asked four experts, from the US, Europe, Asia, and Japan to join us at a roundtable discussion on the international trading system. First, from the US, Ambassador Alan Wolff, former deputy director-general of the WTO. Prof. Joost Pauwelyn of the Geneva Graduate Institute

and the law firm of Cassidy, Levy, Kent is joining us from Europe, and Dr. Akihiko Tamura, director of the JETRO Paris office (who is from Japan), is also here. The fourth participant, from Asia, is Prof. Henry Gao from Singapore Management University.

Why Has Chaos Occurred in International Trade?

Toyoda: First, why has there been such confusion in the international trading system? Is it because of the relative decline in the power of the US, which had overwhelming military and economic power after the war? Is not enough being done in the US to address the losers in free trade? Do more and more people have a victim mentality toward free trade? Ambassador Wolff, I'd like to ask you for your opinion.

Wolff: Thank you very much. I'm very pleased to join this distinguished group to discuss these important subjects. You're right, the international trading order *is* in disarray. I do not see this as in any way a sign of US weakness. It has the strongest military by far, and an economy that is the envy of most others. Nevertheless, the US is becoming isolationist. It is no longer supporting the system that it was instrumental in building.

There is good evidence that the high point of the multilateral trading system occurred in 1998 when world leaders, including President Bill Clinton and Nelson Mandela, gathered in Geneva to celebrate the 50th anniversary of GATT and to express their hopes for the success of the new World Trade Organization. Nothing approaching that far-reaching nature of the Uruguay Round agreements that had just been concluded in 1994 on agriculture, services, intellectual property, and product standards, was ever negotiated again. Domestic US support for open trade eroded when technology, container ships, and communications brought stiffer competition from emerging economies. From the US viewpoint, the WTO failed to maintain a balance between open trade policies and the availability of trade remedies where harm was caused by trade. The WTO's problems lie partly in the deficiencies of the WTO structure itself. The creation of a world trade organization was not the original purpose of the Uruguay Round. So there was not a thoughtful and balanced system of governance devised, no effective legislative branch as there was insufficient common ground, no executive as is found in the World Bank, the IMF, or the OECD. Without adequate rules, dispute settlement could not address growing problems of subsidies and state intervention, and it was relied upon to too great an extent. Energy was drained from the WTO as members turned to bilateral and regional agreements. Later, nationalism and populism grew. Trade liberalization clearly had run its course. Substantial trade imbalances over an extended period of time were not politically sustainable. There were many causes of

dysfunction, which we see in the trading system. That's a quick overview of my answer.

Toyoda: Thank you very much. So it's not because of the weakness of the US, it's a problem of the WTO itself. Dr. Gao, please share your view.

Gao: Thank you. It's a pleasure to join this distinguished group and old friends, Aki and Alan. I fully agree with Ambassador Wolff that indeed, in absolute terms, US power has not really declined. I think that one major reason for this is the rise of China. So even though China is a rising national power as well as other nations in what we call Global South, if you look at the military power and GDP of these states, they still cannot match that of the US. But there is the perception from the Chinese leadership that the East is rising and the West is in decline. They think that its time has come, just like what Japan perceived before World War II, that it has risen to such a position that it could challenge the US. This is reflected in two major events in 2008.

The first was the financial crisis sweeping the US and Europe. China was not really affected by the financial crisis because its financial system, ironically, had not been fully opened up for many years after its accession to the WTO and therefore it was insulated from the global shocks brought about by the financial crisis. The second major event in 2008 was the Olympic Games, held in China. That was praised as marking China's coming of age as a major power on the international stage, because it hosted the Olympic Games, which some claimed as the best the world had ever seen. Because of that, China then decided to challenge US dominance. That is one reason behind the disarray in the international system.

Another reason is perception, not the reality, because there's always a difference between perception and reality. In both cases, I would argue that the Chinese perceptions are wrong. They do not reflect reality. But these perceptions drove the Chinese actions. The second perception is that actually exports are not so important in China's economic development. When Barack Obama was campaigning for the presidency, he criticized China for having a large trade surplus. China responded by saying that, although it exports a lot of goods to the US, the US exports a lot of services to China, so the two cancel each other out. But that didn't really work. So China then decided to look for other means. Around that time, 2009, the WTO started the "Made in the World Initiative". I think Ambassador Wolff was still the DDG at the WTO then, so maybe he can share the inside story. The Made in the World Initiative looks at the value added of each country in global trade rather than the pure numbers. Looking at the export of an iPhone that costs \$1,000, for example, it will be recorded as China exporting \$1,000 to the US. But actually most of the value added is not from China, but from the US. The IP is

from Japan, the chips and memory from Europe. The famous iPhone study done by JETRO concluded that China's contribution to the value added of an iPhone is actually less than 10%. It was originally around 7%, but then it rose to about 10%. The Chinese government was really interested in that study. The Chinese Ministry of Commerce (MOFCOM) encourages researchers to look deeper into the so-called trading value added.

They did a report around 2012 or 2013 that broke down the value added of different components of China's exports. One conclusion is really interesting, I discussed this in a [paper](#) I wrote two years ago on the shift from trading in value to trading in values. One of the MOFCOM conclusions was that the role of exports in China's economic development has been exaggerated. They say that, because our value added is so little for these exports, we should not rely on exports, but more on domestic consumption as a main driver of economic growth. That led to the later dual circulation strategy and China's reduction of its reliance on exports. But all that was wrong because where would the money for consumption come from? It came from all these exports Chinese firms did for all these world markets. So I think that is a wrong conclusion. But that was the conclusion that MOFCOM believed and they reported this to the senior leadership, who decided that they didn't need to rely on exports so much, but could challenge the US and rely on domestic consumption.

But 10 years has passed and domestic consumption is not really happening. That is the second reason why China is changing its position. That explains a lot about all these aggressive positions by China, all these trade wars with the US and mini-trade wars with Canada, Australia, Europe, etc. It also explains why China was a threat in other countries with its value chains during the Ukraine war, that highlighted the vulnerability of relying on China in the value chains. That led the world to start to delink or derisk from China. That also explains partly why the US is less interested in the WTO, because the US thinks it is quite risky to rely on partners like China, and therefore it should rely on its own capacity. That's my two cents worth, from the Chinese perspective.

Toyoda: Thank you very much. A very interesting view. Dr. Tamura, could you tell us your views, reflecting both the Japanese and the European perspectives?

Tamura: Thank you very much. I'm honored to be part of this interesting session, meeting some old friends. I'd like to add something to the eloquent statements by Ambassador Wolff and Professor Gao.

I share the view of all the panelists and moderators that the international trading system has been in trouble – not just since yesterday, but for a number of years. Therefore, the reasons for this

trouble must be multifaceted and diverse. I fully agree with Ambassador Wolff that one primary reason for the trouble derives from the systemic defect of this system, including the WTO Secretariat and the WTO system as a whole. Chairman Toyoda hypothesizes that it could be because of the relative decline in the power of the US. I'm not sure whether this is correct. Setting aside whether it is true that the power of the US is declining, the premise of this hypothesis may be the "hegemonic stability theory" advocated by Prof. Charles Kindleberger. But given the fact that this theory is now considered to be an inadequate explanation of what's going on in global society, such as the establishment of the WTO and the prosperity of many international regimes, it's fair to say that having hegemonic countries is unnecessary for stable orders. I would rather point out the importance of ideology for the stability of an international system. The ideology promoted by the UNCTAD in the 1960s, that is, the Prebisch-Singer hypothesis – an import-substitute policy – was not helpful to the prosperity of the developing countries concerned, and thus this UNCTAD campaign aimed at reforming the GATT system got into trouble and eventually failed. My point is that the recipe for a stable order is not the existence of superpowers, but the existence of a sound ideology and philosophy to give practical functionality and sustainability to the "regime" or global society. Therefore, we could argue that one reason why the international trade regime is in the current state may be at least partly because of the confusion of ideology.

The WTO has been in principle based upon the ideology of neo-classical economics, which is to assure us that more liberal more prosperous. However, another idea has emerged, which is that resilience is also important. We have to balance efficiency and resilience. The ideology which used to be placed at the center of the WTO system is now in question. So, to understand and fix the current problem of the WTO, we must go through some ideological switching. But there is no new consensus reached yet among the WTO members. Therefore, some people are starting to look for alternatives. Some people may want to put new ideology into the WTO as a new underpinning. However, that conclusion has not been reached yet. This is one reason why there is confusion in the current WTO system.

Toyoda: Thank you very much for this philosophical stance. It's probably because of a confusion of ideology. Prof. Pauwelyn, could you tell us your view?

Pauwelyn: Thank you. It's a pleasure to contribute to this fascinating debate. I would mention three factors that explain the long-standing trouble the global trading system is in. Firstly, the rise of China as "the factory of the world" and a leading tech power, largely as a result of a state-driven economic system that is radically different

from the market-driven economic system that countries were supposed to have in place as implied by WTO rules. As WTO membership and, especially, the diversity between WTO members grew, it became more and more difficult to adapt WTO rules to new realities, given that the WTO works with consensus. This meant that WTO disciplines, dating from 1994, before the Internet was commercialized, became increasingly less relevant. When a system cannot adapt, it fades. Where the WTO did evolve, by means of dispute settlement, it happened without the support of key WTO members, making things worse. Secondly, as emerging countries captured a larger share of world trade and became more competitive, often driven by state intervention, the US felt not only the gains of trade but increasingly also the pains and dislocations linked to trade. Combined with more inward-looking political trends, this has reduced US willingness to lead the cause of trade liberalization and the WTO, not because of an alleged reduction in US power, but rather from the perception that the US was no longer benefitting from the system. Thirdly, and this is a factor that goes beyond the US and China, in many other countries including Europe, the tables have turned against globalization and openness, with more protectionist and inward-looking politicians in positions of power, such as in the United Kingdom and also in Italy and France. This is a broader societal trend going beyond trade, but deeply affecting the popular support for trade deals. One core reason for this trend is that the system focused too much on liberalization and not enough on how to deal with the negative social, environmental and security spillovers of this liberalization.

FTAs & RTAs – Are They Strengthening International Trade?

Toyoda: Thank you very much for your view. Now to the second question. On the legislative side of the WTO, instead of the Doha Round Agreement, pre-agreements, FTAs, and RTAs have been established many times. How should this be evaluated from the perspective of strengthening the international trading system? Some call it an undesirable spaghetti bowl situation. Prof. Gao, Singapore is a member of ASEAN and has concluded around 30 FTAs. How do you evaluate the current situation with so many FTAs and RTAs?

Gao: Going back to Singapore's first FTA, which was concluded in 1992 with ASEAN neighbors, due to the rise of other trading blocs such as NAFTA and the EU, which were both largely concluded by 1992, Singapore felt it also needed to promote regional economic integration at the ASEAN level. At the ministerial conference held in Singapore in 1992, Singapore proposed building an ASEAN-wide FTA. That changed the nature of ASEAN. The main reason for its initial establishment in 1967 was to deal with the spread of

Communism from China. It was mainly established as a political organization, but in 1992 it was transferred into an economic organization promoting economic integration. Singapore's FTA strategy is composed of three components. The first is to promote regional integration and regional economic development, as Singapore is part of ASEAN, because Singapore realized that it is the only rich developed country in the region and it cannot survive on its own if its neighbors are poor. That is why it has always tried to promote regional economic integration since 1992. By doing that, Singapore is trying to ensure that all countries in ASEAN reach similar levels of economic development. There would be no great disparity and therefore the boat would be lifted for everyone and the other countries would not be envious of Singapore.

The second component of the strategy is to build friendships with the major powers. Until recently, Singapore was the only country in the world that had a bilateral FTA with each of the big four countries/groups, the US, the European Union, China, and Japan. But this changed with the conclusion of the RCEP. South Korea also now has all these FTAs. By doing that, Singapore tried to maintain the balance of the great powers in the region. The US is our traditional ally. Singapore recognized that the US is the benign hegemon. As some Singapore officials say, it is much easier to work with the devil you know than with the devil you don't. But China is emerging. Singapore recognized that it has to build a good relationship with China. So it has been courting China by signing both the bilateral FTA and also the ASEAN-wide FTA, and now the RCEP. The EU and Japan are also very important, so Singapore has signed FTAs with them.

The third strategic component is to build path-finding agreements or model agreements with like-minded countries. This is most evident in the TPP. The TPP started out as the agreement Singapore signed in 2005 with three likeminded friends – New Zealand, Chile and Brunei – in order to build this high-standard agreement. Hopefully, the US will join and this would make it a global agreement. The original name of the P4 agreement was the Trans-Pacific Strategic Economic Partnership (TPSEP); this evolved into the TPP and now the CPTPP. The other example is the Digital Economy Partnership Agreement (DEPA), which is basically the TPP for digital trade. Singapore again is trying to use the DEPA by teaming up with New Zealand and Chile as a way to design some new rules for digital trade and to then multilateralize this at the WTO level. This already happened to some extent with the conclusion of the substantive negotiations of the JSI on e-commerce. These three components comprise Singapore's strategy and that tells us how a small country like Singapore, a country with the highest trade to GDP ratio in the world, as high as 400%, achieves balance in the face of all this great power competition, and the emergence of rising economic blocs. I think this provides very interesting lessons to other smaller economies.

Toyoda: Thank you very much. Prof. Pauwelyn, could you share your views?

Pauwelyn: The EU has been the absolute champion of Preferential Trade Agreements (PTAs). It now has preferential trading arrangements with most of its trading partners either because of PTAs in place (37 at the last count, covering close to 70 countries) or Generalized System Preferences (GSP) with many developing countries. However, given the high trade volumes of countries like the US and China with whom the EU does not have a PTA (it also stopped granting GSP to China), a large chunk of EU trade still happens under WTO (MFN) rules. Given the diversity in WTO membership and the consensus rule to conclude new agreements at the WTO, it is unsurprising that PTAs have thrived since the late 1990s. However, since 2015, the increase in new PTAs concluded has peaked. With the election of Trump in 2016 and his immediate withdrawal from the TPP, it is unlikely that the US is going to conclude new PTAs anytime soon. The EU has just reached a political agreement with Mercosur countries on a PTA, but the big question is whether EU member states will ratify it. Also, in Europe the appetite for traditional PTAs is dwindling. If anything, the trade agreements in vogue today are not so much about trade liberalization but about how to deal with trade spillovers, be they environmental or labor-related. They are not across-the-board PTAs but sector-specific or even product-specific.

Toyoda: Thank you. Dr. Tamura, Japan has also concluded more than 20 FTAs and has four under negotiation. What is your assessment of Japan's FTAs? Is it time to clean up the spaghetti bowl situation?

Tamura: Japan's FTA policy began relatively late, compared with other more active and aggressive players in the field. The first Japanese FTAs, or EPAs, were enacted with Singapore and Mexico, early in the 21st century. Japan's FTA policy has been based upon real business activity that had already unfolded mainly in Southeast Asia. We already had the de facto integration situation of our industry with ASEAN counterparts, including Singapore, Taiwan, Indonesia, and others. Our FTA policy has been built upon that real industry movement.

My view of the Japanese FTA with ASEAN and Asian counterparts is not necessarily negatively affected by this slightly complicated situation. Indeed, many people argue that the complexity of FTA webs are like a spaghetti bowl, as you mentioned. However, the positive side of our web of FTAs with ASEAN is much larger than the technical complexity of FTAs with ASEAN counterparts. One of the sources of complexity of many FTAs is the diversified style of rules of origin (ROO). Some FTAs adopt certain types of ROO, and others

adopt different types.

However, our FTAs with ASEAN counterparts have been more or less standardized. Therefore, the downside of the complexity of the multiple styles of ROO has been reasonably addressed. Moreover, while the complexity of ROO has particularly a negative impact on manufactured products, which have to go through multiple manufacturing processes, at least as far as simpler products are concerned, including agriculture, there is much less of a downside to the spaghetti bowl. I think the spaghetti bowl effect has been exaggerated as far as FTAs in Asia are concerned. Rather, we should look at the positive side of FTAs particularly in the context of economic security. As I stated before, we are going through some shift of ideology or philosophy as the underpinning for the global trading order. I feel that we have to go through some supply chain adjustment process, or we may have to address our overdependence of trade or the economy on certain specific players. In order for us to address that, we may have to go for a certain level of friend-shoring. You may feel this pathway is a bit paradoxical, but I am of the view that a certain level of friend-shoring would rather help us regain confidence in the global trade order. FTAs may be considered as a rather effective way to form friend-shoring. Of course, it depends on the degree. However, the FTAs should not be considered as a negative standing block to move on to a more international order. Instead it should be considered an effective way to address ideological confusion currently incurred by the global trade order.

Toyoda: Thank you very much. Ambassador Wolff, the US has also concluded 14 FTAs with 20 countries. I understand that Congress has rejected the idea of entering into the TPP. The US-China conflict appears to be a constant background factor.

Wolff: I have learned a lot from the comments of my colleagues. The US did not have a coherent position with respect to FTAs. If you look at the FTAs of the US, they're random, there's no strategy. The US started with Canada, which made a lot of sense. The two countries are at a similar level of development and share a long common border. Their auto industries were deeply integrated already under the 1965 auto agreement, with an enormous amount of trade going back and forth across the border. Mexico was added in, without a lot of thought, other than it helped to stabilize a neighbor to our south. But each of the following FTAs do not have a particular theme. An FTA with Australia is not the same or motivated by the same issues as an FTA with Central America. The latter was to stabilize the region, so it had a foreign policy objective. Looking at the structure of the WTO, no one assumed back in the 1940s when GATT was drafted that Article 24, which gives permission to have discriminatory arrangements, was going to take as major a role as it ultimately did. That largely grew out of the colonial relationships that the EU, France

and the UK in particular, had with emerging countries. The US insisted that they become free trade agreements rather than preferential arrangements that worked in one direction only, in favor of the former colonial master. The system grew up. Now we're in an era when there's been little multilateral trade liberalization at all during the WTO timeframe, other than the agreement on information technology products. So FTAs became a default. Countries could not make progress going forward on a multilateral basis, so they tried to make progress otherwise. Into this came the US competition with China. The TPP was designed to put the US very much back in the Asia-Pacific region in order to offset China. And then the US lost interest in liberalization, became very sensitive to trade liberalization, and did not join the TPP when Trump came into office in 2017. The first thing he did was to get the US out of the TPP.

So we, in the US, are left without a strategy for the use of free trade agreements. I think they perform a very useful role in the current international trading system. They allow for additional liberalization, but are also laboratories for going further with respect to rules, like the Digital Economy Partnership Agreement (though not strictly an FTA), which allows rule-making to proceed among a subset of those who are interested, and that trend is growing. The US salutes and has been supportive of ASEAN and regional integration in Africa, the African Continental Free Trade Agreement. It does not object to the RCEP and was supportive of Japan and others going ahead with the CPTPP. The US is absent from all of these arrangements and, in a move against trade liberalization, it plans to join none of them. I don't see that changing in the next four years, and we'll see who gets elected in the 2028 election. For most countries and the EU, RTAs and FTAs are a default arrangement as long as the WTO is unable to reach agreements or get past the consensus rule. But there are issues that have to be addressed with a multilateral approach to be effective. Climate change is not a regional problem. The digital economy is not a regional but a global issue. Pandemic preparedness is not a regional but a global question. So there's a role for the WTO to come back in if it can cure its institutional deficiencies. One really hopes that this will occur.

Now, will the WTO rules be able to play any role whatsoever in the US-China competition? Potentially. I think that eventually there will be a new equilibrium reached in the US-China competition. It's possible that the template partially exists within the WTO's rules. Further work can be done to give guardrails to that competition. This will have to be addressed separately, I believe.

As far as the dispute settlement system is concerned, without an overhaul from the ground up, a complete change, I don't see that as playing a role in the US-China competition. There's a failure of transparency and in the rules. Moreover, WTO dispute settlement only works when there's a rule to apply that has clearly been agreed. We don't have sufficient rules on state involvement in the economy,

or governing subsidies. So I don't see WTO dispute settlement at this stage playing a role in normalizing US-China trade relations.

The Multi-Party Interim Appeal Arbitration Arrangement (MPIA)

Toyoda: Thank you very much. That's very interesting. We can go back to this judicial issue later. On question three, on the MPIA, will it be possible to review the dispute settlement mechanism of WTO under the Trump administration? It seems Ambassador Wolff is saying that it won't. But should we then expect the MPIA, the Multi-Party Interim Appeal Arbitration Arrangement, to replace WTO dispute settlement for a while? Prof. Gao, I understand you are not necessarily positive about the MPIA. Why is that? Do you expect that, under the Trump administration, there will be any appointments of members of the appellate body?

Gao: I am not in favor of the MPIA. Apologies to Prof. Pauwelyn who is now serving on the MPIA. We are friends but we differ in our view on this. The MPIA has two problems. The first is a constitutional problem, because it denies the members the right to appeal, which is guaranteed by the DSU of the WTO. The second is more practical, because I expect that there could be practical difficulties if some MPIA members decide not to honor the agreement, not to appeal into the void, notwithstanding the existence of the MPIA agreement. That could be really messy. I agree with Ambassador Wolff that under the Trump administration it seems highly unlikely that we are going to get the appellate body back, at least for the next four years. My preferred solution would have been for the WTO members to have a vote on the appellate body appointment process, so that they can appoint WTO appellate body members through majority voting, because that is already provided for in the Marrakesh Agreement establishing the WTO, which does not have any special rules for the appointment of the appellate body, unlike some other issues such as amendment or interpretation, which might require unanimity or a two-thirds or three-fourths majority. So I think voting would be the best solution, because with voting, we also deter other WTO members from trying in the future to abuse their power to block a consensus or block decisions on important issues. Having voting might anger Trump and make it more difficult for the members to work together with the US. I think this all depends on how Trump deals with the WTO this time around. If he's willing to work with WTO members, then let's hold off on voting and try to work with the US. But if he's not at all interested in the WTO, I do not see the value of trying to engage the US in the WTO. Maybe it's time to invoke the voting clause in the Marrakesh Agreement, because Trump doesn't like the WTO. Why should we stay out of the voting option just to placate the US, when the US is not interested in the WTO? We'll have

to wait and see.

Toyoda: Thank you very much. It's an interesting idea. Do you think majority voting can be accepted by other members, including the US?

Gao: It's not just the US. European nations and most developed countries also have reservations regarding voting because there are only about 30 developed countries in the WTO, a minority; they are afraid that if you start this precedent of voting, you might open the floodgates. But if you balance the risk of opening the floodgates and the risk of not having a functional dispute settlement system, the value of a functional dispute settlement system greatly outweighs the risk of voting. Also, I don't think voting would be abused in the future because even if some members try to get a vote, without the support of major members, it would not be able to get through in the WTO. On this appellate body issue, it is every WTO member against one single member, the US, the only one blocking it. If the US teamed up with China or the EU blocking, that would be different. It's just the US sabotaging the WTO, because it's unhappy with certain decisions. That's why I think we should try voting, to warn the US that if you try this again in the future, it's not going to work. You cannot hold the WTO hostage forever.

Toyoda: Thank you very much. Dr. Tamura, I understand you are in favor of the MPIA, which Japan joined last year. How do you evaluate the role of the MPIA?

Tamura: Japan is a member of the MPIA. I'm not saying that the MPIA is going to provide a solution to the successful revival of the appellate body or the conclusion of the discussion on dispute settlement reform. I don't have any clear answer. The MPIA could be considered an effective pathway to resolve concrete disputes among certain WTO members. The MPIA will be utilized only amongst the WTO members which participate in this MPIA system. The US is not a member of the MPIA. Therefore, the MPIA will not provide an effective solution to disputes between the US and China. Nevertheless, we also have to recognize that in certain cases involving economic coercion by China, the MPIA has been successfully solving these specific cases. Therefore, the MPIA should be considered an effective means to provide solutions to some disputes. But it does not mean that it will provide us with a decisive pathway to addressing the dispute settlement reform.

Toyoda: Thank you very much. That's very practical. Prof. Pauwelyn?

Pauwelyn: I am a member of the MPIA pool of appeal arbitrators,

but I speak in my personal capacity. I do not see a re-start of the appellate body as we knew it happening, neither in the short nor the long term. We can only expect a fully functioning dispute settlement system (DSM) once key substantive WTO rules have been reformed or added. In addition, the DSM itself needs updating and we must learn lessons from what went wrong. I am thinking specifically about making the system more efficient, faster and more responsive to members' needs, with a better balance between adjudicator independence and WTO members' input and oversight. Until these substantive and DSM reforms materialize, I expect a menu of options and variable geometry as to how WTO members can settle their disputes, from trade concerns before WTO committees, political negotiations, consultations and mediation, to WTO panels, with or without the possibility to block or appeal, and dispute settlement under PTAs. In this more complex setting, the MPIA has a role to play, and for those WTO members wanting dispute settlement at the WTO which cannot be blocked, it will most likely be the only option in the medium term. Another possible function of the MPIA is as a shadow, with the option to appeal (and the inability to appeal into the void) providing an incentive to settle cases, find compromises, or allow WTO panels to be adopted. We have already seen this since the creation of the MPIA: only one actual MPIA appeal proceeding was held. Yet the shadow of the MPIA meant that disputes between MPIA participants saw a much greater settlement rate (including by means of adoption of the panel's report) than other WTO disputes, where the new normal has become appeal into the void, thereby blocking the process. A final role the MPIA can play is as a testing ground for new ideas and possible reforms: an MPIA case needs a prior bilateral agreement at the start of each panel. In such bilateral agreements, disputing parties can include certain reforms or invite/allow the arbitrators to take certain steps to enhance the efficiency of the process and possibly correct certain "mistakes" from the past.

Toyoda: Thank you very much. Ambassador Wolff, as a former deputy director-general of the WTO, what is your evaluation? I understand the US does not support the MPIA. But, under the Trump administration, will it be possible to restructure the dispute resolution mechanism? We understand that the US criticizes the appellate body because it interprets the GATT Article on its own, and does not adhere to time limits. Why did the US oppose the MPIA when the WTO dispute settlement is not functioning?

Wolff: I found the comments of my colleagues on the panel very helpful in addressing this question. There is some history to US rejection of the MPIA. Why did the US find the MPIA was not very helpful? It was not designed to help the US by answering its primary objections. The real objections of the US were originally that it could not use trade remedies, anti-dumping, countervail, that these trade

remedies often didn't make it through the dispute settlement process. The US had not gotten what it bargained for in the Uruguay Round, in the anti-dumping agreement and as it affected countervail as well. So there was an imbalance in the system from the US point of view, due to the inability to employ trade remedies in a manner the US thought it had negotiated for, while trade liberalization had taken place.

Other problems emerged, such as the question of national security. No other WTO member agrees with the US that it was appropriate to use Article 21 as a justification for placing import restrictions on steel and aluminum. Meanwhile, it is bizarre that Russia could be justified in using a national security exception when it attacked a neighbor. So Article 21 is problematic as it's currently drafted. Part of the solution is that a country cannot use Article 21, the national essential security exception, as an excuse to apply protectionist measures. However, when a country does invoke Article 21 with good reason, it cannot be cost-free. This has to be solved.

Part of the problem is that the rules as they exist at present are insufficient to deal with issues that the US finds itself in litigation on before the WTO panels with respect to China, such as finding a subsidy in the Chinese system. The rather technical problem of the Appellate Body – the definition of what is a “public body” – was an issue of deep concern to the US.

Then the US itself began using subsidies for industrial policy purposes. The rules on subsidies are inadequate. Returning to binding dispute settlement for the US is not just a Trump issue, it's just not going to happen, absent far-reaching reforms. The MPIA, which I thought was deeply deficient, is not bad as a patch to the existing system if we want to keep it, with some reforms. I think some argue in the first case that came through that the MPIA could be an effective means of coming to agreed resolution to settle disputes. Prof. Gao's idea of having a vote, however, might just force the US out of the WTO entirely. The US is not going to agree to be bound by the MPIA. It will resist losing its ability to address fraudulent claims that it is appealing when there is no appeal available, or to be bound by an appellate body process by vote, in which it would naturally vote against the MPIA. We have to find a pragmatic way forward. The MPIA was one. Those who want to join it, do, and it seems to be working. Pragmatism is very important to the world trading system. The members of the WTO have found a partial way towards a solution. I hope they can go further.

Could an Expanded CPTPP Replace the WTO?

Toyoda: Thank you very much. A very pragmatic view. Now, question number four. Of the RTAs, the CPTPP is said to be the highest level. Some believe that the CPTPP should be expanded with

more participating countries, with the EU, and eventually with the US. What do you all think? Dr. Tamura, I understand that this is exactly what you are suggesting. What are your thoughts on China's application to join the CPTPP? If China can meet the requirements and join the CPTPP, then many others will join, which is equivalent to transplanting the CPTPP into the WTO by consensus. What is your view on this CPTPP as a basis to promote more integration, first with the EU, then the US, and finally China?

Tamura: As far as the CPTPP is concerned, I see it as the crown jewel for Japanese trade policy. As you correctly pointed out, the CPTPP is one of the highest-level FTAs in global trade policy. So we have to be quite prudent and smart in how to utilize the FTA in order for us to carry out global trade policy. In that respect, qualified potential members can apply to join the CPTPP. Applications are welcome.

You refer to the EU, an economic unit with the highest-level and reform-minded regime. So we can consider how to make a connection between the CPTPP and the EU. As Ambassador Wolff correctly pointed out, one benefit of an FTA is its use as an experimental field for new ideas on rules. One possible experiment in collaboration between the EU and the CPTPP could be to find a new subsidy rule. No doubt the EU has its own ideas on how to set up rules on subsidy, and particularly the rules to distinguish between good subsidies or bad subsidies. The CPTPP may want to discuss those rules with the EU. This discussion could be built upon the Japan-EU-US trilateral proposal on industrial subsidies, which was submitted to the WTO in 2020. So there are many ways of utilizing the CPTPP to move on to the eventual goal of prosperous global trade and order. Regarding the application by China to the CPTPP, there must have been lots of discussion amongst members on whether China is qualified and whether China has the will and capability to continue to satisfy the conditions. Maybe I'm a little biased because I'm physically in Europe, but I currently feel that there is a consensus that we must reduce dependence on China and diversify the supply chain for the sake of economic security. So I personally don't see any rationale for having the addition of an FTA with China on top of the RCEP. However, there must have been some discussion amongst members of the CPTPP about that.

Toyoda: Thank you very much. Ambassador Wolff, you worked for the WTO as a deputy director-general. May I ask you whether there is any possibility that the US will join the CPTPP under the Trump administration, or even after that? Why has the US, which was originally enthusiastic about the TPP, changed so much? You have already explained this to some extent, but could you please elaborate on the reasons why the US did not join the CPTPP?

Wolff: The US has shown no interest whatsoever in joining the CPTPP during either of the last two administrations, either the Trump administration, once it came out of the TPP, or the Biden administration, which had an opportunity, if it wished, to rejoin the CPTPP. There's a reaction against trade liberalization, against free trade agreements, by both political parties in the US. Now, I hope that view will change after January 2029; it is not impossible that it will. Presidential leadership just has not been provided in the US to emphasize the value of trade. It's a little like the EU and the UK on the benefits of the EU, that led to the Brexit vote. They did not sell the British people the importance of openness to trade, to the economy of the UK, and that risked losing other members as well. There are strong headwinds of populism or retrenchment. I understand it's a very challenging environment. That does not mean that change cannot take place. The Congress was very protectionist in 1930. Just four years later, in 1934, Franklin Roosevelt came along and said, let's have reciprocal trade agreements to open up markets home and abroad, and was successful in putting the US on this path. In 1970, there was major quota legislation, worse than tariffs, that was favorably considered by the congressional committees. And again, just four years later, in 1974, beginning with the leadership in 1973 of Richard Nixon, again, major authority was given to the executive to enter into trade liberalizing agreements. So presidential leadership makes an enormous difference. The US is going to experiment with high tariffs, obviously. That's quite apparent from Trump's statements. And there'll be a reaction. The American people will decide whether it was a good thing to have high tariffs on all products from all countries and much higher tariffs on products from China, and we'll see whether that experiment will change their view. The future is not told yet, but we can see possibilities from past history where protectionism gives way eventually to international cooperation and further interchange with trade. I look forward to that taking place.

Toyoda: Thank you very much. That is very optimistic thinking. I'd welcome that. Prof. Gao, Singapore is keen on FTAs. From Singapore's or Asia's perspective, what do you think of this idea? Can the CPTPP be expanded and somehow include the EU agreement and then invite the US to join?

Gao: As I said, Singapore was one of the initial founders of the TPP agreement. The original idea was to have this high-standard agreement, including all the key issues the US is interested in, like digital trade, competition, SOE rules, etc., and then attract the US to come in. Actually when the TPP was negotiated 20 years ago, the US did become interested and did indicate that it would like to join. But because of domestic political reasons, mainly problems with financial services and liberalization, the US didn't join then, and it

was only after Obama became president that it was announced in 2010 that the US would join the TPP agreement. So Singapore, and most of the countries in Asia, actually welcome the US to come back to the TPP. Because, to them, the US is like a friend, right? But China, which is in the neighborhood, is like a relative. You can choose your friends, but you cannot choose your relatives. You have to live with your relatives forever. So that is the reality here. That's why, even though Singapore always welcomed the US to come back to the region, it also stated on numerous occasions that Singapore doesn't want to choose between the US and China. It would welcome both because it realizes that, even though it would like to be friends with the US, China is not going away. China is going to be the relative in this region forever and it has to live with China.

That is why Singapore has always promoted this idea of open regionalism as championed by APEC and signed not only the TPP, but also the RCEP. When China applied to join the CPTPP a few years ago, many commentators were skeptical, but in an [op-ed](#) I wrote for the *Nikkei* at that time I argued that actually China's TPP application is more serious than most people think, because right after the TPP negotiations concluded about 10 years ago, China started translating all the chapters of the TPP and MOFCOM studied all these provisions carefully to see what reforms were needed for China to comply with the obligations under the TPP, and where the gaps were. It was only after this careful evaluation that MOFCOM decided that China should apply to the TPP. So I think China is ready, because if you look at some of the problematic chapters where people might say that China will never be able to meet the high standards of the TPP, I have a different view.

For example, regarding SOE, I discussed this in my [book](#) *Between Market Economy and State Capitalism*, where I look at the provisions in the TPP SOE chapter and China's accession protocol commitments on SOEs. I argue in the book that actually the obligations on SOEs in the TPP are not significantly higher than the ones already contained in China's accession protocol. So they are possible for China to meet. Similarly, on digital trade, many people were saying that China would never be able to accept provisions on the free flow of data and prohibition on data localization requirements but actually for China the main concern is cyber-security. As long as concerns with cyber-security can be addressed, China would be ready to accept these two provisions, and that was later confirmed by China's accession. China's has joined the RCEP, which does include provisions on free flow of data and data localization requirements, but also includes this security exception, presumably at China's request. So I don't think the TPP standards are that high for China to meet. I think the main reason why it has taken so long is because everyone was waiting for the US to come back to the TPP. Everybody was hoping that, even though in a first Biden administration, it was not possible for the US to join the TPP

for political reasons, in a second Biden term the US would be able to join. But now that Trump is coming back, that is not going to happen. So everybody realized they had to look at the Chinese accession more seriously. Maybe in the next four years they will realize that, rather than waiting for the US indefinitely, they should welcome China back to the TPP. That's why I remain optimistic on China's application to join the TPP over the next four years.

Toyoda: Thank you very much for your very interesting view. What is your opinion, Prof. Pauwelyn?

Pauwelyn: The CPTPP is not really on the radar screen of the EU. That said, and to the surprise of many, the UK did join the CPTPP. PTAs are politically impossible in the US, it seems. In the EU they are increasingly difficult. Even the EU-Canada Comprehensive Economic and Trade Agreement (CETA), has still not been ratified and it is hard to think of a country closer to the EU than Canada. In this context, the political conclusion of the EU-Mercosur FTA is a daring move by EU Commission President Ursula Von der Leyen. It remains unclear whether EU members like France, Italy, Poland, and The Netherlands will ever ratify this deal. My sense is that the future is not PTAs, let alone mega-deals like the CPTPP, but rather mini-deals, on specific topics, in specific sectors, even for specific products, and often bilaterally concluded or between a variable group of like-minded countries, depending on scope and topic. A good example in this respect is the Agreement on Climate Change, Trade and Sustainability (ACCTS) recently concluded by Costa Rica, Iceland, New Zealand, and Switzerland.

Will Economic Security Dominate International Trade Rules?

Toyoda: Thank you very much for your thought-provoking view. Finally, question number five. This is about derisking with China. Developed countries currently believe that derisking with China is essential and the Trump administration seems to be willing to decouple. What are your thoughts on the idea that there will no longer be free trade from the standpoint of economic security in the true sense of the word under the US-China conflict? First, Ambassador Wolff.

Wolff: Both sides, China and the US, are moving towards what has been euphemistically called derisking but in reality moving further in the direction of decoupling. It may be impossible at the extreme but is being attempted, and it has economic costs. It is proceeding, but it will face increasing difficulties. There's a current likelihood that China will face a separate higher tariff schedule in the US. That has nothing to do with the WTO rules – it's completely contrary to them – but

we're already in that zone of lack of application of the trade rules between the US and China, at least with respect to tariffs. A new equilibrium has to be reached ultimately in US-China economic relations. How quickly that will occur is hard to say, but it could come relatively quickly. Trade historians remember that the US and Japan had great difficulties in the 1980s. Japan evolved, it changed. US policies did as well, in reaction. Here with China there's a national security issue, a geostrategic aspect that did not exist with Japan. So, even if there's a new equilibrium, there's likely to be an uneasy relationship for some time to come. An unknown is the degree to which China will move away from state direction of its economy that other countries worry a lot about and also move towards greater consumption at home, and not export-led growth. A lot of the future relationship will depend a great deal on whether China moves in the direction of more accommodating macroeconomic policies that will determine trade flows. I am not optimistic in the near term for there to be a further degree of great openness between the US and China, but I do see some possibilities of a less contentious economic relationship at some point.

Toyoda: Thank you very much. Dr. Gao, what is your view about the relationship between economic security and free trade?

Gao: Overall I agree with Ambassador Wolff that there is a possibility that the situation will improve, but it has to get worse before it gets better, since a lot of people are worried about the Trump presidency because they fear it may be disruptive of the world trade order and he's going to have a trade war with China and possibly with other countries. But I think at least with regard to China, over the past 23 years since China's accession to the WTO, people expected China to become more fully integrated and to move up the value chain, from labor-intensive industries to technology-intensive and maybe even capital-intensive industries. So then people would have more income and more money to spend, and China would become a rich country just like Japan and the other Asian Tigers. Then China would change its economic model.

But that has not happened because the political system in China is such that the people do not have a say in the process, in the redistribution of wealth. So that is why you see, even after 40-plus years of economic development, the shift has not really happened. You still have an economic model that largely depends on investment rather than consumption as a main driver of growth. That explains why, despite all these years of economic development, you still have such a large deficit between the US and China, though the expectation was that, as Chinese people get richer, they will be able to buy more goods from the US and then the trade balance would improve. But that didn't happen. So if Trump does put in place the 60% tariff or even 100% against China, as he threatened, hopefully

this would force China to negotiate with the US and the negotiation would result in agreement on deeper structural issues that should have been tackled in the phase two agreement of the US and China, which never happened. So, hopefully, the phase two negotiation would happen and this would address the deeper structural issues in China. Then China would have to change its economic model so that the fruits of economic development would be shared more with the people, rather than going back to the state or going back to the firm as reinvestment. Then, when the people have more money, they would be able to consume more and import more, and that would improve China's trade balance with the rest of the world, including the US. And then we would have a rebalance in the world economy. That is the best-case scenario, which I really hope will play out in the next few years.

Toyoda: Thank you very much. Dr. Tamura, what do you think about the idea that there will no longer be free trade from the standpoint of economic security?

Tamura: Everybody has been discussing the possible protectionism that may be implemented by Trump. It's difficult to get a clear picture of what kind of policy is going to be taken by the new US administration. Nevertheless, at least amongst developed countries, there seems to be consensus that we have to diversify our supply chain, so-called derisking. Therefore, our trade policy is going to move in that direction. If that derisking process is to take place dramatically, it's going to incur tremendous cost as well. So the process of derisking is going to unfold gradually, over the mid to long term. It depends on the nature of the product concerned. If a product is considered strategically crucial, the derisking process will advance quickly. But, generally speaking, the derisking process is going to move gradually. So we are moving in the direction based upon the idea of economic security, a process where we pursue a new equilibrium between efficiency and resilience. That new pursuit of the new ideology will be carried out for the time being. Maybe after this process, eventually we will be able to find a new equilibrium where we may have greater confidence in the revival of the global trading order. But until then, our uneasiness about the global trading order will continue.

Toyoda: Thank you very much. Prof. Pauwelyn, what's the European view?

Pauwelyn: Economic security is increasingly prominent also in EU circles. In the recently installed European Commission, the very title of Trade Commissioner has been changed to Trade and Economic Security Commissioner. That says a lot. The EU is taking sanctions and export controls more seriously. It is also expanding and

diversifying access to critical raw materials, and reducing dependency on China. But a genuine decoupling with China is not on the books, a different picture from the US. The EU view seems to be rather one of derisking, but not decoupling. We may restrict trade with China when it comes to a small portion of trade, where economic and other security concerns arise. Yet, other trade flows with China will likely continue even though they are under stricter scrutiny under EU trade defense instruments. Given the cost for business of high energy prices in Europe as well as a series of EU green deal measures, the competitiveness of EU industry is going to be one of the key concerns of the new European Commission. In the coming years, the future of the EU steel industry, for example, as well as many other energy-intensive industries such as ceramics, paper or plastics, is at stake. Voices are raised that these industries are strategic and must be saved so we keep a minimum production in Europe for purposes of economic security. Also, climate change is increasingly linked to security concerns. What the permissible outer-limits of trade restrictions in the name of economic security are or will become, remains uncertain. WTO panels have interpreted the GATT Article 21 exception for essential security measures rather narrowly. But the US has appealed these panels into the void. It remains unclear whether WTO rules offer a genuine check on such measures. Checks-and-balances may also come from scrutiny under domestic rules and procedures as well as the fear of emulation: if one country defines security excessively broadly, the risk is that others will follow suit, and this can backfire.

Toyoda: Thank you for your views. We have had a wonderful discussion among four people with different regional perspectives. Thank you all very much for this insightful and stimulating discussion.

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