

# Review of White Paper on International Trade 2000 – Regulatory Reform, Formation of WTO Rules and NGOs –

By Iwata Kazumasa

This year's White Paper on International Trade is an excellent handbook that explicitly shows how to steer Japan's trade policy hereafter and ways to revitalize Japan's economy. The Japanese government has so far made it the best policy to maintain a multilateral free-trade system while taking a critical view of regional integration. It is significant that the white paper stressed the importance of regional integration under a "multi-layered trade policy" and committed Japan to conclude free-trade agreements with Singapore, South Korea and Mexico. This marks a significant change in Japan's postwar trade policy.

The shift of policy reminds us of the fact that the United States failed to launch a new round of multilateral trade negotiations which it proposed at a ministerial meeting of the General Agreement on Tariffs and Trade (GATT) in 1982 and moved to form the North American Free Trade Agreement (NAFTA). The failed ministerial meeting of the World Trade Organization (WTO), GATT's successor, in Seattle late last year led Japan and many other nations to reaffirm the significance of regional integration and free-trade

Figure 1 Effects of regional integration : intra and extra-regional impact

Effects of regional economic integration		Content	Appraisal	
			Members	Non-members
Static effects	Trade creation	Regional trade expands through elimination of regional trade barriers	+	+ (indirect)
	Trade diversion	Elimination of regional trade barriers leads to shift from effective (low-cost) extra-regional imports to regional imports	-	-
	Terms of trade	Common tariffs strengthen purchasing power of countries within grouping, pushing down extra-regional import prices	+	-
Dynamic effects	Competition promotion	Elimination of regional trade barriers leads to market expansion, allowing lower costs through scale merit	+	+ (indirect)
	Market expansion	Opening regional markets boosts regional market competition pressure, improving productivity	+	+ (indirect)

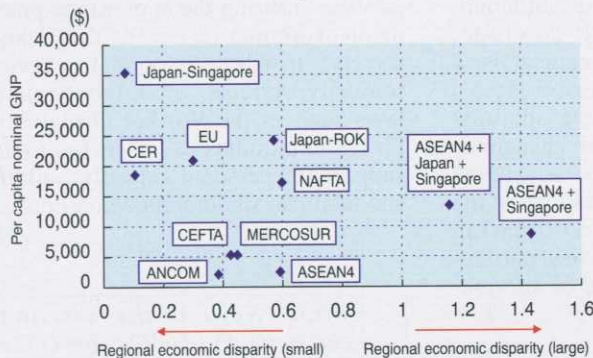
agreements.

In Chapter 3. "Widening and deepening regional interdependence," the white paper clearly describes the positive aspects of regional integration and free-trade pacts by skillfully building up positive analyses. (Figure 1, 2) I feel sympathy with the white paper's view that regional integration and the formulation of free-trade regions should be promoted, while paying due heed to the complementary aspects of economic structures, and that they should play a role of complementing multilateral free trade systems, centering on the WTO. The white paper, however, made virtually no reference to the negative aspects of regional integration. The question is to what extent the discriminatory effect of regional integration and free-trade

regions on outside nations can be curbed. It should be noted that discriminatory regulations in NAFTA such as "yarn forward" and direct investment-related "local contents regulations," like the abuse of anti-dumping measures, represent law-based protectionism and have the great effect of distorting international trade. Efforts should be made toward removing the thorny aspects of regional integration by promoting a global free-trade system. Japan should aim to establish the best possible model of free-trade regions in the Asia-Pacific, based on the non-discriminatory principle.

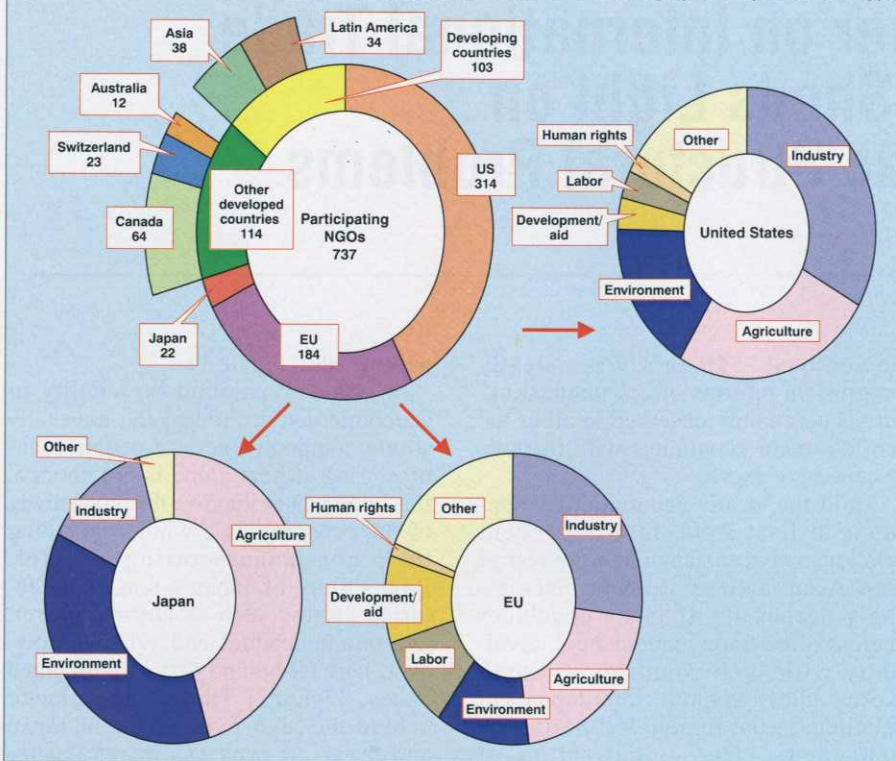
The failed WTO ministerial meeting in Seattle, like in the case of the failed talks on Multilateral Agreement on Investment (MAI) in 1998, brought into bold relief the importance of complaints filed by Non-Governmental Organizations (NGOs) in the process of forming international laws and rules. (Figure 3) As the white paper pointed out, it is important to disclose information to and secure the transparency of such a process for NGOs, which express citizens' voices on a global

Figure 2 Per capita nominal GNP levels and regional economic disparities in main regional integrations/groupings (1997)



Source : World Development Report 1998/99 (World Bank)

Figure 3 NGOs which participated in the Seattle WTO Ministerial Meeting by country, area, and type



Source : WTO Secretariat

scale, and at the same time to have them participate in the process and empower them to make proposals for good use of their expertise. (Figure 4) In the environmental area, expertise of NGOs is being utilized to set international rules.

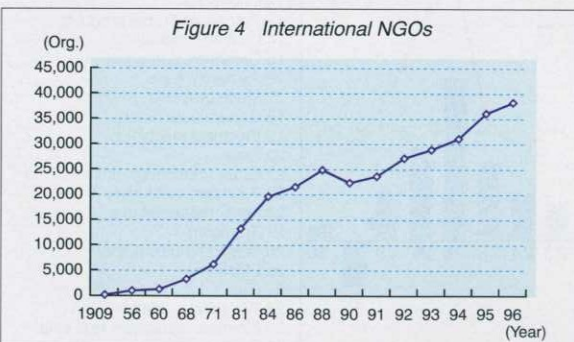
The filing of complaints by NGOs is closely related to the contemporary law and democracy paradigm shift. German social philosopher Jürgen Habermas says that while the 19th century was dominated by "bourgeois formal law," which endorsed personal liberty and a formal equality under law, the 20th century was dominated by "materialized law," which was aimed at

realizing specific social purposes. Today, he says, is in transition to a period of "proceduralized law," in which rules are formed through people's participation in discussions under a constitutional democracy. Under "proceduralized law," the legitimacy of the administration's law-based activities is questioned on the basis of the Constitution. The exercise of power by the administration is monitored on the principle of separating the three powers. Thus "proceduralized law" is "general law" aimed at transforming the administration into a more democratic system, in which people participate. This law paradigm shift has been promoted by the legitimacy deficit of law and the crisis of constitutional states.

Deregulation, which started to be implemented by developed nations in the 1980s, was renamed regulatory reforms in the 1990s. The renaming appears to have been caused by this law and the democracy paradigm shift. The white paper analyzes regulatory reforms in

industrialized nations in detail that are indispensable for the revitalization of the Japanese economy. I believe regulatory, administrative and judiciary reforms in Japan are not the exception to the paradigm shift. The view is growing that efficient regulations (administration) can be achieved only by the active participation of individuals and regulated persons in the process of working out regulations by the government and implementing regulations by the administration. This seems to mean the deepening of the democratic decision-making process.

The drastic change of legal philosophy is also reflected in the rule-making by the WTO. For example, telecom reference documents, signed after the Uruguay Round global trade negotiations, are noteworthy despite a number of shortcomings (confusion of regulatory reforms and competition law) in that they show a transition to "general law," which is made up of several social norms (competition, transparency, etc.) from "materialized law" ("particularized law" according to British legal sociologist Roger Cotterell). During the next round of comprehensive trade negotiations, a conflict between "materialized" trade law (anti-dumping regulations) and a general competition law (fair competition) and tense relations between (conventional, specific) regulations or industrial policy and competition law will become the main points of contention. Domestic regulatory reforms, the formulation of WTO rules and the filing of complaints by NGOs in the process of forming rules are closely linked. They are phenomena that derive from the same root. **JUI**



Source : International organizations by year and type 1909-1996 (Union of International Associations)

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