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Provisional Evaluation of the Agreement on the Trans-Pacific Partnership (TPP)

Based on the summary of the TPP agreement by the government of Japan released on October 5, 2015

< Summary >

◆ On October 5, 2015, an agreement was reached on the Trans-Pacific Partnership (TPP) negotiations by the 12 member countries that together comprise 40% of global GDP. The milestone marks the first step toward the implementation of the "mega free trade agreement of the 21st century" that will commit member countries to high levels of liberalization and high standards of rules.

◆ While summaries of the agreement released by the TPP member governments provide an overall picture, specific details remain unknown, leaving many questions unanswered. Hopefully, the full text and annexes will be released before long.

◆ The TPP must still be finalized, officially signed, and approved through the domestic legislative processes in each member country before taking effect. The path to ratification will not be smooth, with attention focused especially on congressional deliberations in the US.

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1. Agreement reached on the TPP negotiations[1]

The Trans-Pacific Partnership (TPP) negotiations reached an agreement on October 5, 2015, at the ministerial meeting held in the US (Atlanta), after five and a half years since the commencement of initial negotiations and approximately two years since Japan's participation in 2013.

The characteristics of the TPP can be summed up as the "mega free trade agreement of the 21st century." Under the trade accord, the 12 participating countries that together comprise 40% of global GDP pledge to achieve high levels of liberalization in trade, services, investment, and government procurement, and to uphold high standards of rules in a wide array of fields, including intellectual property, state-owned enterprise, and electronic commerce. By eliminating much of the tariff and non-tariff barriers and setting a common set of rules throughout the TPP region, the agreement aims to promote regional market integration and greater movement of people, goods, capital and information, both of which are expected to help strengthen Japan's economy.

The agreement is also expected to have a positive impact on the three mega FTAs currently being negotiated by Japan: the Japan-China-Korea FTA, the Regional Comprehensive Economic Partnership (RCEP), and the Japan-EU EPA. Progress in reaching these agreements has been slow, and it is hoped that success on the TPP deal will provide an impetus to advance these talks.

Even so, the settlement of the TPP negotiations will not serve as an automatic driver of the economy or engine to propel the stalling FTA talks. The next step will be how to take advantage of the opportunities provided by the TPP.

2. The big question: will the "sacred" products be protected?

Following the settlement of the TPP negotiations, the TPP member countries published summaries of the negotiation outcomes. In Japan, summaries were released by the Government Headquarters for the TPP, Cabinet Secretariat and by the Ministry of Agriculture, Forestry and Fisheries[2]. These summaries are far more detailed and have a much broader scope compared with the information made public before signing of the

[1] This paper is based upon information as of October 16, 2015.

[2] The Government Headquarters for the TPP, Cabinet Secretariat, *"Summary of the Trans-Pacific Strategic Economic Partnership Agreement (TPP)"* (in Japanese only) and *"Summary of the Trans-Pacific Strategic Economic Partnership Agreement (tentative)"* (both dated October 5, 2015), and the Ministry of Agriculture, Forestry and Fisheries, *"Conclusions of the TPP Market Access Negotiations in Agricultural Products"* and *"Summary of the Basic Agreement on the TPP Negotiations in Agricultural Products (Additional Material)."* (in Japanese only)

previous EPAs concluded by Japan. Still, much of the specifics remain unclear. We must wait for the full release of the text and annexes before a final evaluation of the TPP.

A significant portion of the government documents center on the trade liberalization of agricultural products. Information is provided in great detail, particularly on the five so-called “sacred” products, namely rice, wheat and barley, beef and pork; dairy products, and sweetening resource products. This information is summarized in **Chart 1**. Views on the agreement on these products are largely split in two. Producers on the one hand condemn the agreement, saying the agreed import quotas and the steep tariff cuts on the key products are in breach of the resolution adopted by the Committee on Agriculture, Forestry and Fisheries in both chambers of the Diet. Economists who place emphasis upon agricultural reform, on the other hand, criticize the TPP for offering only limited market access opportunities on the key items—maintaining tariffs on rice in exchange for setting import quotas, for example—thereby lacking the power to trigger agricultural reform.

As far as the sacred items are concerned, there was little surprise in the government announcements that were largely in line with earlier news reports. In contrast, the agreements on other agricultural products came as a revelation. Tariffs on fruits such as oranges, apples, and grapes and on processed foods including tomato ketchup and sausages will be abolished either immediately or over a period between the sixth and

Chart 1: Treatment of important items in the TPP agreement

Rice	○Maintain the state trading system and outside quota tariff rate (341 yen/kg). Establish the quota by country based on the SBS (Simultaneous Buy-Sell Trading) method for the US and Australia.
	・Quota for the US: 50,000 t (to be maintained for the first three years) → 70,000 t (from the 13th year)
	・Quota for Australia: 6,000 t (to be maintained for the first three years) → 8,400 t (from the 13th year)
	○Allocate part of the existing minimum access (767,000 t) to the SBS method (60,000 t), limited to medium-grain rice and rice to be processed.
Wheat	○Maintain the state trading system and outside quota tariff rate（55 yen/kg). Establish new quotas for the US, Australia and Canada (total 192,000 t [initially] → 253,000 t [from the seventh year]/SBS method)
	○Slash 45% of the import mark up by the ninth year and set the amount of mark up for the newly established quota by country at the same level.
Beef	○Reduce tariffs with a safeguard from 38.5% (current) to 9% (from the 16th year).
	・Increase the trigger quantity for safeguard measures (annual) from 590,000 t (initially) to 738,000 t (from the 16th year).
Pork	○Maintain a gate price system and gate price (524yen/kg). Reduce tariffs with a safeguard.
	・Ad valorem duty (current 4.3%): 2.2% (initially) → 0% (from the 10th year)
	・Specific duty (current 482 yen/kg): 125 yen/kg (initially) → 50 yen/kg (from the 10th year)
Dairy products	○Maintain the state trading system and outside quota tariff rate (powdered milk 21.3% + 396 yen/kg, etc., butter 29.8% + 985 yen/kg, etc.). Establish the TPP quota (at the scale of fresh milk).
	・Powdered milk 20,659 t (initially) → 24,102 t (from the sixth year)
	・Butter 39,341 t (initially) → 45,898 t (from the sixth year)
	○Slash the quota tariff rate by the 11th year.
Sugar	○Maintain the sugar price stabilization system for raw sugar, refined sugar, etc.
	・Eliminate tariffs on sugar with a high sucrose content (with the degree of polarization between 98.5 and 99.3) and reduce the adjustment value by a small amount.
	・Concerning sweetened preparations, establish the TPP quota by item (total 62,000 t [initially] → 96,000 t [by item, from the 6th to 11th year]).

Source: Made by MHRI based on the Ministry of Agriculture, Forestry and Fisheries, “*Conclusions of the TPP Market Access Negotiations in Agricultural Products*.” (in Japanese only) sixteenth years after the TPP takes effect, according to the additional material released by the Ministry of Agriculture, Forestry and Fisheries[3]. It has been reported that of the 834 agricultural items for which Japan had never agreed to eliminate tariffs in previous EPAs, about half would be subject to tariff elimination under the TPP[4]. Considering that some of these items currently impose a tariff of over 30 percent, it will be important to examine the potential implications of this change.

The liberalization of the agricultural markets, including the sacred items, will likely be the biggest point of contention in the process to secure Diet approval on the deal. At the press conference held one day after concluding the negotiations, Prime Minister Shinzo Abe stated the government would keep farmers' concerns in mind and do everything in its power to ensure they are able to engage in agricultural production with a sense of security. This is an important statement in that it reaffirms the government's commitment to protect Japanese agriculture after the TPP enters into force. The protection, however, should not come in the form of price support measures that place burdens on consumers. The prime minister has also remarked: "The TPP should not be regarded as a threat; instead, we must seize it as an opportunity, and use it as a catalyst to develop an agricultural sector in which young people can be inspired by their own passions to open up new horizons." The government should continue to support Japanese farmers but through a different approach, shifting the focus to a more constructive strategy that aims to raise competitiveness and expand exports through intensification and added value. The TPP is expected to serve as the catalyst that initiates this process.

Chart 2: The preamble and 30 chapters of the TPP

0. Preamble	8. Trade Remedies	16. Competition Policy	
1. Institutional Provisions and General Definitions	9. Investment	17. State Owned Enterprises (SOEs)	24. SMEs
2. Trade in Goods	10. Cross Border Trade in Services	18. Intellectual Property	25. Regulatory Coherence
3. Textiles and Apparel	11. Financial Services	19. Labour	26. Transparency and Anti Corruption
4. Rules of Origin	12. Temporary Entry for Business Persons	20. Environment	27. Administrative and Institutional Provisions
5. Customs	13. Telecommunications	21. Cooperation and Capacity Building	28. Dispute Settlement
6. SPS (Sanitary and Phytosanitary Measures)	14. E-Commerce	22. Competitiveness and Business Facilitation	29. Exceptions
7. TBT (Technical Barriers to Trade)	15. Government Procurement	23. Development	30. Final Provisions

Source: Made by MHRI based on the Government Headquarters for the TPP, Cabinet Secretariat, "*Summary of the Trans-Pacific Strategic Economic Partnership Agreement (TPP),*" (in Japanese only) etc.

[3] The Ministry of Agriculture, Forestry and Fisheries, *"Summary of the Basic Agreement on the TPP Negotiations in Agricultural Products (Additional Material)."*

[4] For example, Asahi Shimbun, "*Elimination of tariffs on 400 food items*" on October 9, 2015.

3. A few points of note on the agreement

As reported, the TPP agreement consists of a preamble and 30 chapters. (**Chart 2**) The information published by the participating countries provides an overall picture but the specifics are elusive. The Japanese government document, in particular, focuses on alleviating concerns about the agreement, as is clear from the detailed explanations given on the sacred products. However, with the exception of some of the agreed terms summarized in **Chart 3**, the document stops short of revealing specifics on the concessions Japan has obtained from its trading partners in such areas as reduction or elimination of tariffs, liberalization of services and investment, and access to the government procurement market. In the area of the government procurement market, for example, the document merely states the general principle that "Japan will have improved access in countries like Malaysia and Vietnam," with the essential details, such as the standard value and names of the relevant agencies, left unmentioned. We understand the details were not disclosed because, for one thing, the text has yet to be finalized, and for another, the government needs to take into account the domestic circumstances of its trading partners when publishing information about their opening of markets. It is, nonetheless, important that details on market access and rules under the TPP be made public as soon as possible.

Rather than recite information released by the Japanese government, which can readily be obtained from government documents[5], this paper will build on that

Chart 3: Liberalization measures in the countries of negotiation in the agreement

Industry	Partner Country	Commitment of the partner country
Automobile	【United States】	Tariffs to be eliminated immediately for over 80% of automobile parts items (currrently 2.5% for most items).
		Tariff rate for passenger vehicles (currently 2.5%) to be reduced from the 15th year after enforcement of the agreement and eliminated in the 25th year after thereof.
	【Canada】	Eliminate the tariff rate for passenger vehicles (currently 6.1%) in the fifth year.
	【Vietnam】	Eliminate the tariff rate for passenger vehicles over 3,000 cc (currently about 70%) in the tenth year.
Retail	【Malaysia】	Relax the foreign investment rate restriction (0% → 30%).
	【Vietnam】	Abolish the "Economic Needs Test" when opening retail stores to facilitate smooth store opening (grace period of five years after enforcement).
Banking	【Malaysia】	Increase the maximum number of foreign banks' branches (8 → 16).
		Eliminate, in principle, restrictions on foreign banks installing ATM outside branches.
	【Vietnam】	Relax the foreign investment rate restriction on local banks (15% → 20%).

Source: Made by MHRI based on the Government Headquarters for the TPP, Cabinet Secretariat, "*Summary of the Trans-Pacific Strategic Economic Partnership Agreement (TPP),*" etc.

[5] Refer to note 2.

information to discuss some of the less obvious but potent concerns found in the government official's presentations[6] and in the information released by the TPP parties other than Japan[7].

(1) Currency issues addressed in the preamble

Let us start with the TPP preamble. Preambles do not normally attract attention, but I choose to take it up because of its remarks pertaining to the currency issues, a topic of strong interest to the US Congress. Some lawmakers in Congress have strongly demanded the inclusion of a provision to address currency manipulation by America's trading partners. With the Obama administration and the negotiating countries opposed to this idea, TPP finance officials worked out a side deal separate from the TPP, agreeing to work together to strengthen macroeconomic cooperation, including cooperation on currency issues.[8] Reference to this side deal is reportedly mentioned in the preamble. There are already voices in the US calling on Congress to reject the TPP for inadequately addressing such currency concerns. Much attention will be focused on how the agreed solution will impact the congressional deliberations on implementing the TPP legislation.

(2) Japan-U.S. auto deal

Despite the relative abundance of information on the concessions and commitments made on auto and auto parts, certain points require attention in the government releases. This is the arrangement that is part of the TPP but reached in the bilateral negotiations between Japan and the US (parallel negotiations) that were undertaken separately from the TPP negotiations.

This arrangement contains two measures that potentially have a direct impact on Japanese car exports to the US. The first is the special safeguard mechanism. Under the TPP, members are permitted to take emergency actions (safeguard measures), such as restoring tariffs to their original level, in the event of a surge in import shipments causing or threatening to cause a serious injury to the domestic industry due to a tariff reduction or elimination. Under the Japan-U.S. bilateral agreement on the automotive sector, the rules are such that the measures are easier to invoke than the standard safeguard measures: the period during which the parties retain the right to exercise safeguards is longer, for example.

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[6] The Government Headquarters for the TPP, Cabinet Secretariat, "*TPP Ministerial Meeting, Briefing by Kazuhisa Shibuya, Councilor at the Cabinet Secretariat*." Disclosed via YouTube (https://www.youtube.com/watch?v=NRhkm5kMnG4).

[7] Based on materials disclosed by the governments of the US, Canada, Australia, New Zealand and Singapore.

[8] The Ministry of Finance, "*Statement of the Finance Minister concerning the Basic Agreement on the Trans-Pacific Strategic Economic Partnership Agreement (TPP)*" (dated October 6, 2015) (in Japanese only). Also refer to the Ministry of Finance, *"The Joint Press Release by the Macroeconomic Policy Authorities of the TPP Nations"* (dated October 6, 2015).

The second is the countermeasures in the event of noncompliance. If Japan breaches the terms of the agreement, the US reserves the right to reinstate the MFN tariffs (the "snap-back" provision) or to extend the period of time before the auto tariffs are eliminated; in the event of noncompliance by the US, Japan would be authorized to raise tariffs on taxable items other than cars on a scale equivalent to the U.S. countermeasures, according to the Japanese government document. The remedies vary between the two countries because Japan has already removed all tariffs on auto imports from the US, meaning it would be pointless to apply the same provision to both countries. The snap-back clause was put in place in the Korea-U.S. FTA (KORUS), but the delay of tariff cuts is a new remedy introduced for the first time. As such, the U.S. government document emphasizes that it goes "beyond anything that was included in KORUS and NAFTA." Note that if the US actually invokes the tariff-cut delay based on this provision, the tariffs on Japanese cars will remain in place even in the 25th year.

Some of these provisions in the Japan-U.S. bilateral agreement have been introduced in similar forms in the trade pact between Japan and Canada.

(3) Cross-border trade in services

Apart from introducing principles such as the national treatment obligation, government documents provide little information on cross-border trade in services. We know nothing about country- and field-specific liberalization commitments except for the examples summarized in **Chart 3**.

As for Japan, the government document states it has secured full reservations in a number of sectors and activities, including social services (e.g., health care, social security, and social insurance), government assets, public training, broadcasting, elementary and secondary education, energy, fishing in territorial waters, security guard services, and land transactions. Presumably the purpose here is to allay public concerns that the TPP could negatively affect our daily lives in these fields.

Documents released by both Australia and New Zealand mention that Japan agreed to open up its private education service market, but the details are unknown.

While the foregoing provides just a few examples of the concerns and questions related to currency issues and market access, there are many more uncertainties throughout the rest of the chapters. These shall be revisited once further information becomes available.

4. When will the TPP come into force?

The TPP will come into force after the deal is finalized, officially signed, and approved through the domestic legislative processes of the individual member countries. In the US, the president is required by law to notify Congress of his intention to sign the treaty at least 90 days prior to signing. As of the date of this paper, notification has not been given. It is expected to be done soon, but even then, the agreement will not be signed until early next year, at the earliest. After the deal is signed, each TPP country will proceed with its domestic processes and notify New Zealand, the depository for the TPP, when completed.

The TPP can come into force in three ways: (a) If all twelve countries complete their domestic legislative processes within two years of the signing, the deal will come into force 60 days after the twelfth country gives notification of the completion of its domestic processes. In other words, if even a single country fails to ratify the agreement during the first two years, then the rest of the signatories will have to wait until that country completes its processes, and in the meantime the TPP will not be binding. (b) If two years elapse and all twelve countries still have not completed their domestic processes, the TPP will come into effect 60 days after the expiration of the two-year period, but only if at least six countries have given notification of the successful completion of their domestic processes and those six or more countries, between them, represent 85 percent or more of the total GDP of the twelve original signatories. (c) If, upon the lapse of two years, the minimum requirement of “six or more countries comprising 85 percent of GDP” is not fulfilled, then the TPP will come into force 60 days after the requirement is fulfilled. The implementation provision stating that the treaty cannot come into force in the first two years after signing until all signatories complete their domestic processes sets the hurdle high. In the case of the Japan-ASEAN Comprehensive Economic Partnership (AJCEP), for instance, the deal was to take effect when Japan and one of the ten ASEAN countries gave notification of the completion of their domestic processes, and it did so as early as eight months after signing, on December 1, 2008, in four countries that

Chart 4: Enforcement conditions of the TPP agreement

Country	Share to total GDP
United States	60.5%
Japan	17.7%
Canada	6.6%
Australia	5.4%
Mexico	4.5%
Malaysia	1.1%
Singapore	1.1%
Chile	1.0%
Peru	0.7%
New Zealand	0.7%
Vietnam	0.6%
Brunei	0.1%
Total	100.0%

Japan and the US are indispensable since the share to total GDP cannot reach 85% if either is missing.

The total of Japan, the US, and the bottom seven countries does not reach 85%
－Either Canada, Australia or Mexico has to be added.

Source: Made by MHRI based on IMF statistics.

included Japan and Singapore[9]. To fulfill the GDP requirement described above in (b) and (c), both Japan and the US need to complete their domestic processes for the TPP to come into force. In addition, the combined GDP of Japan, the US, and the bottom seven TPP countries would not reach the 85% threshold, meaning either Canada, Australia or Mexico would also have to ratify the deal. (**Chart 4**)

If the TPP sails through the domestic legislative processes in all twelve countries, it could come into force in late 2016. Some of the member countries, however, face a difficult task ahead in securing legislative approval, the US foremost among them. With the November 2016 presidential and congressional races approaching, the TPP bill has already become a hot topic in the election campaigns. Should the Obama administration fail to win congressional approval for the agreement, we cannot rule out the possibility that calls for renegotiation under a new president and Congress will grow stronger in the US.

There is a precedent for this: KORUS was signed under President George W. Bush but was renegotiated by the Obama administration. US Trade Representative Michael Froman, who was also involved in the KORUS supplemental negotiation, was quick to assert that a renegotiation of the TPP agreement would be a vastly different business from the renegotiation of a bilateral deal such as KORUS, given that the TPP balances the competing interests of twelve countries across thirty-one areas.[10] That the top negotiator was forced to publicly reject any renegotiation the moment the settlement was reached is indicative of the formidable challenges that lie ahead in the U.S. Congress.

The TPP agreement will have significant impact not only for the member countries but for the Asia Pacific region and the world at large, but it is merely the first step toward realizing the “mega FTA of the 21st century.” The deal now faces an arduous and possibly long journey ahead before coming into force. For now, we will wait for the day when the full text and annexes revealing the details of the agreement are made public.

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9 The agreement was enforced successively in countries where their respective internal procedures were completed, but Indonesia has not yet completed its internal procedure even though the agreement was signed seven and a half years ago. The agreement becomes effective only in the countries notifying the completion of their internal procedures, and the same applies to the TPP.

10 “Froman Says TPP Cannot Be Renegotiated; Announces Enforcement Plan,” *Inside U.S. Trade*, dated October 15, 2015.