Asia-Pacific
Economic Cooperation

2007/SOM1/007
Agenda Item: III

Individual Action Plan (IAP) Peer Review of Japan

Purpose: Consideration
Submitted by: APEC Secretariat

APEC
AUSTRALIA 2007

First Senior Officials' Meeting
Canberra, Australia
18 January 2007

Review of Japan's Individual Action Plan (IAP) Peer Review

The IAP Peer Review Session for Japan was held in the afternoon of the 16th of January in Canberra, Australia. It was attended by members from Australia; Brunei; Canada; Chile; China; Hong Kong,China; Indonesia; Japan; Korea; Malaysia; Mexico; New Zealand; Papua New Guinea; Peru; Philippines; Singapore; Chinese Taipei; Thailand; United States and Viet Nam. The CTI Chair and IEG Convenor were present. And the APEC Secretariat, ABAC and PIF were also present.

The Review Team for Japan was comprised of:

Moderator: Mr. Michael Michalak, United States Ambassador for APEC, East Asian and Pacific Affairs, U.S. Department of State.

Experts: Mr Robert Scollay, Director of the APEC Study Center at the University of Auckland in New Zealand, and Ms Chia Siow Yue, Senior Research Fellow at the Singapore Institute of International Affairs.

APEC Secretariat: Eduardo Menez

This report contains the following Annexes:
Annex 1 – Concluding Remarks by the Moderator
Annex 2 – IAP Study Report – Japan 2006
Annex 3 – Presentation by Japan
Annex 4 – Written Questions (to be attached 31 January 2006)

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Concluding Remarks by the Moderator of the Individual Action Plan (IAP) Peer Review of Japan

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IAP PEER REVIEW OF JAPAN
Closing Statement by Moderator
U.S. Ambassador for APEC Michael W. Michalak
January 16, 2007

1. I thank all of you for a very engaging discussion today. I appreciate the comprehensive study report and presentation by our experts, Dr. Robert Scollay from New Zealand and Dr. Chia Siow Yue from Singapore. I would also like to thank the Secretariat for coordinating this Peer Review. Finally, I would like to thank the Japanese delegation led by Mr. Nobuyuki Muto, Deputy Director for International Economic Affairs from the Cabinet Office, Mr. Mashashi Mizukami from the Ministry of Foreign Affairs and Mr. Nobuhiko Sasaki from the Ministry of Trade and Industry. We appreciate all of the experts you have brought from your government to clarify and explain your efforts to date. We thank you for your time and willingness to accept and respond to additional questions raised here today and others that will be submitted in written form to the Secretariat within the next two weeks.

2. We have covered a broad array of topics and I will attempt to summarize some of the key points here. Overall, members agree that Japan has made significant progress in all IAP chapters since its last review in 2002. Japan is on the right track, but more can be done to accelerate this process and fulfill its Bogor commitments by 2010.

3. The Experts report noted that, in general, Japan has a low tariff regime with most categories at 5% or lower. However, tariffs are very high at above 20% in two product categories: (1) agriculture and leather and (2) rubber, footwear and travel goods. Members urged Japan to undertake measures that would facilitate liberalization in these areas.

4. Investment is still an important issue in Japan and essential to sustained growth. Japan is encouraged to improve the implementation of investment promotion policies so that the Prime Minister's goal of doubling FDI by 2010 can be achieved.

5. Japan's non-tariff measures appear to be in accordance with international agreements and arrangements, except in certain agricultural and food safety sectors. Similarly, the Japanese Industrial Standards (JIS) are well

advanced and appear to be aligned with international standards where appropriate.

6. Japan has achieved a commendable level of IPR protection since its last review. It has strengthened IPR laws and efforts in anti-counterfeiting and anti-piracy. Japan has also increased the penalties for IPR violations and has expanded public education in IPR.

7. Members commended the efforts of the Japan Fair Trade Commission (JFTC) to enforce the Antimonopoly Act (AMA) as reflected in the IAP and Study Report. Members noted the detailed plan for the privatization of Japan Post by 2017 and the significant measures planned for October 1, 2007 to initiate this process. Members encouraged Japan to take measures to ensure transparency, openness, and strong supervision of the privatization process, as well as to ensure that equal competitive conditions are established between the private sector and Japan Post.

8. With regard to government procurement, recent data presented in the study report suggests an unfortunate, increasing trend in the proportion of procurements undertaken by single tendering. The value of contracts decided by single and selective tender is higher than that of open tendering.

9. In closing, members commended Japan for its leadership within APEC and look forward to its continued efforts toward achieving the Bogor goals and free and open trade and investment by 2010 for industrialized economies and 2020 for developing economies.

Asia-Pacific
Economic Cooperation

2007/SOM1/007anx2
Agenda Item: III

Study Report of the Individual Action Plan (IAP) Peer Review of Japan

Purpose: Consideration
Submitted by: APEC Secretariat

APEC
AUSTRALIA 2007

First Senior Officials' Meeting
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18 January 2007

IAP Study Report: Japan 2006

Contents

1. Introduction and Executive Summary

Economic reform is a central preoccupation of the Japanese government as it strives to create the conditions for sustainable economic growth in an economy that is emerging from a prolonged period of economic stagnation and is also faced with the expected impact of profound demographic change as well as the ongoing challenge of globalisation. The reform agenda touches virtually every aspect of economic policy. Important changes have been made to the economic policy process, designed to promote greater coherence in economic policy-making and to facilitate more effective decision-making and implementation of policy decisions.

The objectives of APEC's Osaka Action Agenda, and the commitments and initiatives in pursuit of those objectives that are recorded in Japan's IAP, thus form part of a much broader reform agenda in today's Japan. The assessment of progress across the chapters of Japan's IAP produces a mixed picture, ranging from chapters where important progress has been made, to other chapters, where reliance has been placed on the WTO negotiations as the principal vehicle for achieving progress toward the Bogor goals, and where the inability to date of WTO members to conclude those negotiations means that progress has been correspondingly meagre.

Summary of Individual Chapter Assessments

Tariffs

There has been minimal movement in Japan's MFN tariffs and related measures since the last IAP review. Like many other economies Japan has been anticipating that the WTO negotiations would provide the mechanism for further MFN tariff reductions. Nevertheless Japan's MFN tariffs on most items are very low. For all but four product categories the vast majority of applied tariffs are at 5% or lower. The remaining steps required to achieve full duty-free treatment for these products are thus very small. Tariffs above 20% are very largely confined to two product categories, agriculture and leather, rubber, footwear and travel goods, and these are also the product categories in which all of Japan's tariff rate quotas are found. As is well-known tariffs for a small number of agricultural goods are exceptionally high. Domestic reform has an important contribution to make in facilitating liberalisation of the remaining pockets of high

import protection. (Japan has begun to implement agricultural reforms that are expected to prepare the way for significant reductions in peak agricultural tariffs).

In its preferential trade arrangements Japan has generally been willing to provide for the immediate or phased elimination of duties on products for which MFN tariffs are already at low levels. In recent PTAs some selective liberalisation of imports of sensitive agricultural products is also provided, generally subject to the application of tariff rate quotas. Japan is also committed to working toward the objective of full duty-free quota free access for least developed countries.

Non-Tariff Measures

Japan's use of non-tariff measures is in accordance with the normal provisions of international agreements and arrangements. There has accordingly been no requirement for action since the last IAP peer review. Japan makes only minor discretionary use of contingent protection measures.

Services

Japan has made some limited progress towards the Bogor goals of free trade and investment in services since the last IAP, specifically in audio-visual communications services, transport services (port), and energy services. There have also been changes on temporary entry and stay of service providers in medical services. Further planned liberalization is also contained in Japan's offers for the Doha Round. Japan remains highly restrictive in Mode 4, with GATS Horizontal Commitments in only four categories. Services liberalization is also noted in Japan's bilateral EPAs, but these run counter to the MFN principle.

Investment

Japan's inward direct investment (both stocks and flows) are much less than its outward direct investment and its inward FDI stock/GDP ratio is only 2.2% in 2005, much lower than similar ratios for the US and EU, and than Japan's own outward FDI/GDP ratio. Inward FDI flows have also slowed down after 2002. The government has targeted raising the cumulative amount of inward FDI within 5 years and launched the Program for the Promotion of Foreign Direct Investment into Japan in 2004. In March 2006, the

Japan Investment Council set a new goal to double the ratio of Japan's inward FDI stock/GDP ratio to around 5% by 2010 and announced its Program for Acceleration of FDI in Japan. More exhaustive studies are needed to examine the reasons for the low level of inward FDI inflows despite the government initiatives.

Standards and Conformance

Alignment of Japanese Industrial Standards (JIS) with international standards is well advanced. Approval of the fixing of JIS marks by foreign factories and registration of foreign bodies as JIS mark certification bodies appears to be proceeding satisfactorily. Japan is also actively reviewing Japanese Agricultural Standards (JAS) to ensure their relevance to pubic needs and to align them with international standards where appropriate. Japan is confident that its system for registration of Foreign Certification Organizations to conduct grading and append JAS symbols to products will prove to be an advance on the previous system, notwithstanding some initial unhappiness on the part of foreign partners. Based on its experiences Japan has some interesting views on the appropriate use of Mutual Recognition Arrangements (MRAs) which other APEC economies may wish to consider. Japan actively promotes and itself utilises the WTO TBT Agreement as the principal framework for promoting transparency in standards and conformance matters.

Customs Procedures

Since the last IAP review Japan has continued to pursue improvements in the efficiency and transparency of customs procedures. Improvements in efficiency have been reflected in further reductions in time required for clearance of goods through Japanese ports. Important enhancements have been made to advance ruling systems.

Intellectual Property Rights

Japan has achieved a high level of IPR protection and enforcement and further progress has been recorded in its 2006 IAP. Measures have been introduced for effective IPR implementation and protection, including increased penalties for IPR violations. Measures have been introduced to meet the needs of a digital age and stamping out counterfeiting and piracy in Japan and in the broader APEC region. Japan is

emphasising publicity and public education in Japan and technical and training assistance for developing APEC economies.

Competition Policy

Japan has made substantive progress in competition policies/law since the last IAP, focusing on enforcement of the Antimonopoly Act by the Japan Fair Trade Commission. Amendments to the AMA include revision of the surcharge system, introduction of the leniency program, compulsory measures for criminal investigations. The privatisation of Japan Post is proceeding on schedule and will be completed by 2017. Japan has also been implementing the APEC Principles to Enhance Competition and Regulatory Reform and implementing the APEC Transparency Standards for Competition Law and Policy.

Government Procurement

Japan continues to develop its government procurement regime in line with the requirements of the WTO's GPA and domestic measures designed to promote transparency, non-discrimination and fair dealing. Some modest enhancements have been made to the system since the last IAP peer review. It appears that the share of foreign suppliers in total government procurement has tended to decline in recent years, at least when measured by value. The reason for this is not known.

Deregulation/Regulatory Review and Reform

As a central element in its long-term economic strategy, regulatory review and reform continues to be given high priority by the Japanese government. This is reflected in the structures that have been established within the government to support regulatory reform as well as the implementation of successive Three Year Programmes for the Promotion of Regulatory Reform (TPPRRs), which have continued to advance the regulatory reform agenda since the last IAP peer review. Building consensus behind regulatory reform measures can nevertheless at times be a slow and difficult process. The creation of Special Zones for Regulatory Reform is an innovative approach designed to accelerate the regulatory reform process by facilitating the adoption of reforms at the local level, with a view to subsequently evaluating their potential for nationwide adoption.

Implementation of WTO Obligations (including Rules of Origin)

Japan has been conscientiously implementing its Uruguay Round commitments. It is also playing an active part in efforts to complete work on harmonised non-preferential rules of origin in the WTO and WCO. The use of co-equal rules of origin for some products in some of Japan's recent bilateral FTAs is an interesting innovation that may be useful for wider application if it proves successful.

Dispute Mediation

Japan continues to support effective dispute settlement procedures for trade and investment matters, both between governments and between governments and private entities.

Mobility of Business People

Compared to other major OECD countries Japan has been less liberal in facilitating the movement of natural persons, including business people, into Japan. Entry into Japan and temporary residence is governed by the status of residences administered by the Immigration Control and Refugee Recognition Act.

Since the last IAP, there have been efforts to improve the mobility of business people. These have included implementation of the APEC Business Travel Card; relaxation of visa policy including granting of multiple-entry visas; relaxation of temporary residence for certain categories of managerial and professional personnel and service providers. In particular, Japan has allowed limited entry into Japan of healthcare workers under its bilateral EPAs with selected ASEAN countries.

RTAs/FTAs

In recent years Japan is giving priority to establishing EPAs/FTAs, and thus abandoning its traditional WTO-only trade policy. Its EPA/FTA strategy is motivated by the RTA policies pursued by the US and EU as well as more recently by China and India. It sees EPAs/FTAs as conferring economic and political advantages. However, it faces the difficulties of market opening in agriculture, labour intensive industries such as

footwear, leather and leather products, and in relaxing its restrictions on the inflow of foreign labour. Japan has also proposed a Comprehensive Economic Partnership for East Asia (CEPEA) embracing the ASEAN10 economies as well as China, Japan, South Korea and India, Australia and New Zealand.

2. General Issues

2.1. Economic Policy Background

Progress in the areas of economic policy covered by Japan's Individual Action Plans must be viewed as elements in a wider process of economic policy reform. This process of economic policy reforms is in turn driven by the response of the Japanese government to two fundamental challenges of economic management:

- Achieving a return to robust economic growth after the stagnation of the 1990s.
- Providing for sustainable economic growth under expected future conditions that will include intensified global competition and a population that will be both rapidly ageing and declining in absolute numbers.

The response to both of these challenges has included measures to correct the macroeconomic imbalances that had developed during the period of economic stagnation, and measures to strengthen international competitiveness and promote the faster productivity growth that is needed if economic growth is to be sustained as the size of the working population falls. To facilitate the required reforms major changes have been made in the process of economic policy formulation and implementation.

The Economic Policy Process in Japan

Strengthening of the economic policy process has been crucial to the process of economic reform in Japan. A key role has been played by the Cabinet Office (CAO) and the Council on Economic and Fiscal Policy (CEFP). The other two key macroeconomic policy institutions are the Bank of Japan, responsible for monetary policy, and the Ministry of Finance, responsible for fiscal policy and exchange rate policy.

The CEFP is chaired by the Prime Minister and includes the Chief Cabinet Secretary, the Minister of State for Economic and Fiscal Policy, the Minister of Internal Affairs and Communications, the Minister of Finance, the Minister of Economy, Trade and Industry, Governor of the Bank of Japan and four private sector experts. Other ministers, heads of relative organizations and experts attend according to the relevance of their portfolios to the issues being considered by the Council.

The CEFP is responsible for establishing the basic policy framework for economic and fiscal management and structural reform. In line with this basic framework it sets the parameters for each year's budget, and also establishes the policy direction for medium-term fiscal management and structural reform. A vital aspect of the CEFP's role in the policy process is the setting of clear and concrete numerical targets and timetables for policy implementation.

Several key features have enhanced the capacity of this policy process to deliver effective economic reforms. First, the active role played by the Prime Minister as chair of the CEFP is designed to ensure that the authority and prestige of the Prime Minister are firmly behind the reform process. It appears that the role of the Prime Minister may be further strengthened under Prime Minister Abe. Second, the constitution of the CEFP and its role in the policy process is designed to facilitate consistency and comprehensiveness of economic policy. Third, the setting of numerical targets and timetables facilitates the monitoring of implementation of policy decisions. Fourth, transparency is promoted by making the results of CEFP deliberations open to the public.

Policy in the Recovery Phase

In the early 21st century the Japanese government moved away from a policy approach that relied heavily on fiscal stimulus. Emphasis was instead placed on promoting efficiency through structural reform and on allowing recovery to be led by the private sector rather than the public sector.

The results have been encouraging. Economic growth has been positive in every quarter since the beginning of 2005, although the pace of growth has recently appeared to be slowing. Recovery has been facilitated by the elimination of the so-called "three excesses": excessive capital stock, employment and debt. Emerging from their restructuring processes with increased profits, capacity better matched to demand, and more manageable debt positions, firms began to raise their investment levels. This in turn has had a favourable impact on the employment market, as firms once again began to take on additional workers, and unemployment fell from its 2002 peak. Furthermore, the increase in employment occurred mainly among regular workers, whereas the earlier restructuring phase had been characterised by replacement of regular workers by non-regular workers. Reduction of non-performing loans to more manageable levels has

placed the banking system in a better position to play its role as provider of finance to the business sector.

As a result of these developments the latest recovery has been led by private investment and consumption, underpinned by rising business and consumer confidence as business profits and household incomes have increased. Strong growth in the world economy, particularly China and the United States, has also been an important contributing factor. The role of China has been particularly important, as investment in China by Japanese firms has stimulated exports of Japanese capital goods. One spin-off of this has been some adjustment in Japanese views on China, which is increasingly viewed as an important positive factor in Japanese economic performance rather than being viewed primarily as an economic threat.

Another feature of the Japanese economy in recent years has been the persistence of deflation. Eliminating deflation is important in encouraging expectations more favourable to increased economic activity on the part of both businesses and consumers. After almost continuous deflation from late 1999 movement in the consumer price index (excluding fresh food) finally turned positive in the 2005-6 fiscal year. This apparent breakthrough was however due mainly to rising oil prices, without which price movements would have remained negative, and it cannot be stated with confidence that deflationary tendencies in the economy have been completely eradicated. Policymakers nevertheless have a cautiously optimistic view of future price movements.

Against this background cautious steps have been taken over the past year toward the "normalisation" of monetary policy. Both the zero interest rate policy and the quantitative easing policy were lifted during 2006, and attention of the Policy Board began to focus on the level of inflation rate that could be understood as representing price stability from a medium- to long-term viewpoint.

The greater than expected slowdown in growth in late 2006 is of some concern, and there remain significant risks to the continued economic recovery. High oil prices were the risk factor that attracted most attention during 2006. Looking forward, the possibility of a major slowdown in the US economy poses a significant risk.

Future of the Japanese Economy: Challenges and Policy Responses

In the future the Japanese economy, like all economies is confronted with the ongoing challenge of globalisation. Projected changes in demographic structure present another formidable challenge, which Japan faces in common with many other countries, but which appears in particularly acute form in Japan. The decline and ageing of Japan's population is expected to produce over the next century a steady declining trend in the size of the labour force, perhaps of the order of 0.5% per year. Concomitantly, the proportion of aged in the population will rise rapidly. Data from the National Institute of Population and Social Security Research supplied by officials projects that by 2030 almost 20% of the population will be aged 75 or over, compared with 7% in 2000, and almost 30% will be aged 65 or over, compared to 17% in 2000. Even if policies were adopted to alter this outlook, it is in the nature of demographic trends that they can be influenced only very slowly by policy changes.

The demographic outlook poses a challenge to fiscal policy in Japan that is especially acute because of the existing imbalance in the fiscal position. The dimensions of the challenge include both ensuring the sustainability of fiscal policy while providing for the needs of an ageing population, and at the same time maintaining an acceptable degree of equity both between and within generations. The demographic outlook also adds to the challenge of achieving a satisfactory rate of economic growth. Addressing these challenges, while at the same time taking advantages of opportunities open to Japan in the global economy, is a central concern of the CEFP.

Fiscal Consolidation

As a legacy of the policies of the 1990s aimed at promoting economic recovery through fiscal stimulus, Japan's fiscal position is the weakest among major OECD economies, with the largest general government deficit and highest general government gross debt, both measured as a percentage of GDP. In addition to moving away from policies based on fiscal stimulus, the CEFP also gave a high priority to development of a fiscal reform strategy capable of ensuring that fiscal policy settings could be made consistent with policies required to achieve sustainable economic growth over the medium- and long-term.

The fiscal reform strategy recommended by the CEFP and adopted by the Cabinet is divided into three stages. The first stage, from FY2001 to FY2006, has involved efforts to consolidate the fiscal position. The second phase, due to run from FY2007 to FY2011, requires the conversion of the combined primary deficit of the central and local governments into a surplus by FY2011. The third phase, from early 2010s to mid-2010s, envisages locking in the combined primary surplus of the central and local governments and reduction in the ratio of debts of the central and local governments to nominal GDP in a stable manner. The key target in the strategy is thus to reach the point where the debt to GDP ratio begins to fall in a stable manner, instead of continuing to increase.

The fiscal reform strategy requires substantial reform on both the expenditure and revenue sides, and success will be dependent on a sustained commitment over several years. The detail of the reforms to be implemented under the strategy is currently being worked out, based on seven principles recommended by the CEFP and adopted by the Cabinet. It can be expected that the objective of improving the government's fiscal position will be a major driver of economic policy in Japan for the foreseeable future.

Policies for Economic Growth

The projected decline in the size of the workforce taken in isolation will exert a negative influence on economic growth. Maintenance of an adequate level of growth thus depends on achieving a productivity performance with a positive impact on growth that exceeds the negative impact of demographic factors by a substantial margin.

Three important avenues for the development of policies aimed at enhancing economic growth are:

- Structural reform, to improve the efficiency of the domestic economy and create an environment favourable to private sector dynamism.
- Promotion of innovation through increased investment in research and development.
- Increased engagement with the international economy, both to encourage greater international competitiveness and also to capitalise on opportunities offered by Japan's external economic environment.

Officials report that there is now a consensus in the ruling party on the need for more structural reform in order to enhance labour productivity. Reaching consensus on the specific structural reform measures to be undertaken remains a challenge. Some innovative strategies have been adopted to circumvent obstacles to structural reform, and these are discussed below in relation to the IAP chapter on regulatory reform.

The Japanese government sees a role for government investment in basic research to complement the private sector's role as the leading investor in research and development. The government has accordingly decided to invest some 25 trillion yen in research and development over a five year period, to be channelled primarily through research institutions and universities.

The latest OECD survey of the Japanese economy (OECD 2006) emphasises the advantages for Japan of increased engagement with the international economy, at the same time pointing out that on the basis of a number of key indicators Japan's international engagement lags behind that of other major advanced economies. The indicators cited by the OECD are the stock of inward foreign direct investment (FDI), import penetration, and the proportion of foreign workers in the labour force. While recognising that the optimum level of these indicators will be unique to the characteristics of each economy, the OECD nevertheless argues that strengthening Japan's links to the world economy in ways that would raise the level of each of these indicators would pay dividends in terms of boosting productivity growth.

Perhaps the most decisive action taken by the Japanese government to strengthen links with the world economy has been the setting of a target of doubling the stock of FDI as a share of GDP by 2010. Although the increase will be from a low base, this decision clearly signals recognition of the potential contribution of FDI to increased productivity growth.

Hitherto the government has seen the WTO negotiations as the main avenue for reducing or eliminating remaining import barriers. The uncertain future of the WTO negotiations obviously raises questions over this approach, although Japan like other APEC economies remains committed to work for a successful conclusion of the negotiations.

In the meantime, Japan, again like other APEC economies, has been increasingly turning to preferential trade agreements (PTAs) as another avenue for achieving liberalised access to the markets of its trading partners as well as further opening its own markets to imports from its partners. PTAs are also being used as a vehicle to promote cooperation in areas such as investment, government procurement, intellectual property, competition policy and trade facilitation.

The effectiveness of PTAs as instruments for achieving increased import penetration of the Japanese markets depends both on the importance of the selected PTA partners as suppliers to Japan of imports, especially of sensitive products that still face relatively high trade barriers, and also on the degree of bargaining power that the partners are able to exert in seeking inclusion of these sensitive products in the trade liberalisation provisions of the agreements. In addition, all PTAs necessarily discriminate between trading partners. Limited provision for increased import penetration has also been made through some extensions in the product coverage of Japan's GSP (Generalised System of Preferences) scheme, which is in principle non-discriminatory as between developing countries, and by the extension within the GSP scheme of additional concessions for least-developed countries (LDCs).

With their wider scope, Japan's PTAs have also become vehicles for increased access for individuals engaged in the provision of selected services, as in the case of the EPA with the Philippines, and in this way are providing for some increase, albeit very limited at this stage, in the participation of foreign workers in the Japanese economy.

Structural reform clearly has a role in paving the way for increased international engagement. One example is the role of regulatory reforms in improving the environment for foreign investors, both in services and goods product markets. Another example is the role of structural reform in the agricultural sector in preparing the economic and political conditions for reform of agricultural trade policy.

Concluding Comment

The policy framework and process developed by the CEFP and the Cabinet Office has an impressive focus on addressing the long-term challenges facing the Japanese economy. As long as the determination remains to continue focusing on meeting these formidable long-term challenges, this can be expected to drive economic reform in

Japan for the foreseeable future, even if the pace of reform is bound to be uneven and may not always be as swift as reform-minded domestic and overseas commentators would like.

2.2. Japan and The Role of APEC

As a founding member that played a leading role in the establishment of APEC, Japan attaches high importance to APEC, and has continued to provide important support to APEC's work. Japan has been an active contributor to the work of APEC fora and subfora, several of which it has chaired over the years. Japan's willingness to act as the major provider of funding for APEC projects also reflects the importance that it attaches to APEC. In recent years Japan has placed special emphasis on supporting APEC's work in the areas of intellectual property, competition policy, structural reform, standards and conformance, and WTO capacity-building. Japan was the host economy for APEC's 1995 APEC year, which produced the Osaka Action Agenda (OAA), and will also be the host economy for another crucial APEC year in 2010, the target date for achievement of the Bogor goals by APEC developed economies.

The objectives set out in the OAA are very consistent with the objectives of Japan's economic reform process. The increased emphasis now being given to structural reform within the APEC also coincides with Japan's own economic policy priorities, and it is thus no surprise that Japan has been active in promoting this element of APEC's agenda.

APEC is thus seen by Japan as providing an important reinforcement to the reform process in Japan. Although the voluntary nature of APEC means that Japan is not required to negotiate binding commitments within APEC, there is nevertheless value for Japan in the benchmarking function of the APEC Individual and Collective Action Plans.

3. Assessment of Japan's IAP

3.1. Tariffs

Objective

APEC economies will achieve free and open trade in the Asia-Pacific region by

(a) progressively reducing tariff measures

(b) ensuring the transparency of APEC economies' respective tariff measures

Information on applied tariffs from Japan's 2005 IAP is reproduced in Table 3.1. This shows that Japan's import-weighted average applied tariff on all goods is 2.2% and the simple average applied tariff is 7.5%. Just over 40% of tariff lines are duty-free, and the simple average applied tariff for all tariff lines subject to duty (not shown in Table 3.1) is 12.8%.[1] Tariffs of 5% or lower apply to just over 60% of tariff lines. The import-weighted average bound tariff on all goods is 3.1% and the simple average bound tariff rate is 8.0% Japan's IAP thus indicates a relatively small gap in absolute percentage terms between average bound and applied tariffs on either the simple average or import-weighted bases, but a much larger gap between the simple average and import-weighted average rates in both the applied and bound tariff cases. In general, a large gap between simple average and import-weighted average tariffs usually indicates that higher tariffs on some products have a significant effect in discouraging imports of those products.

[1] All tariff rates cited here are taken from Japan's 2005 IAP. These rates appear to be slightly higher than the corresponding rates cited in the WTO's most recent Trade Policy Review of Japan (WTO 2004). Japanese officials also note that WTO 2004 data shows Japan's simple average applied tariff as 3.1%, and that 2005 WTO data shows the percentage of duty-free tariff lines as 53.6% and a simple average bound tariff of 2.9%. The reason for these apparent discrepancies is not known, but obviously the WTO data cited by Japanese officials would lead in some cases to somewhat different inferences from those drawn from the data in the IAP.

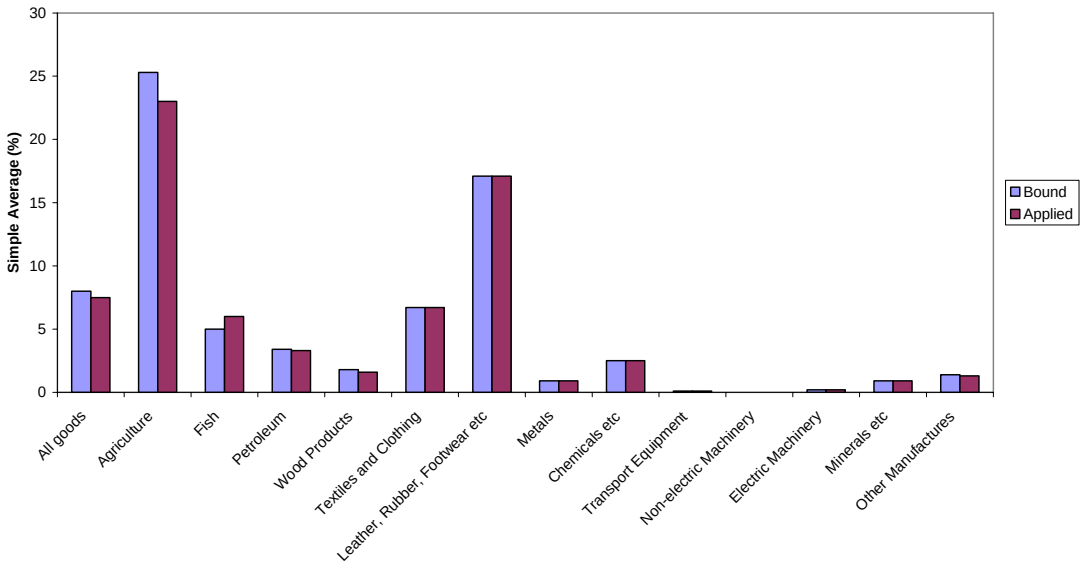
Table 3.1: Applied Tariffs in Japan by Major Product Categories

	Average Tariffs (%)		Percentage by Ad Valorem levels and Specific Duties						
	Simple Average	Import-weighted	Zero	0-5%	5-10%	10-15%	15-20%	Over 20%	Specific
All goods	7.5	2.2	40.8	20.4	20.7	4.7	1.5	4.8	7.0
Agriculture	23.0	9.4	24.3	10.2	13.8	9.4	5.7	20.0	16.6
Fish and Fish Products	6.0	4.7	8.6	46.8	34.3	8.3	0.3	0.9	0.9
Petroleum Oils	3.3	0.7	9.8	31.4	2.0	0.0	0.0	0.0	56.9
Wood, Pulp, Paper and Furniture	1.6	1.6	68.6	14.5	16.9	0.0	0.0	0.0	0.0
Textiles and Clothing	6.7	8.4	2.6	14.4	61.0	9.7	0.0	0.0	12.3
Leather, Rubber, Footwear and Travel Goods	17.1	10.8	34.1	6.3	15.5	8.7	9.2	20.3	6.0
Metals	0.9	0.6	72.8	21.9	1.9	0.0	0.0	0.0	3.4
Chemical and Photographic Supplies	2.5	2.0	32.5	64.2	3.2	0.0	0.0	0.0	0.1
Transport Equipment	0.1	0.0	99.3	0.0	0.7	0.0	0.0	0.0	0.0
Non-electric Machinery	0.0	0.0	100.0	0.0	0.0	0.0	0.0	0.0	0.0
Electric Machinery	0.2	0.1	96.3	3.7	0.0	0.0	0.0	0.0	0.0
Minerals, Precious Stones and Metals	0.9	0.3	76.1	19.0	4.4	0.0	0.0	0.0	0.6
Other Manufactured Articles	1.3	0.6	70.6	19.7	9.6	0.0	0.2	0.0	0.3

Source: APEC 2005

A comparison of simple averages for bound and applied tariffs for the same product categories is presented in Figure 3.1. The structure of bound tariffs depicted in Figure 3.1 is essentially the structure resulting from implementation of Japan's Uruguay

Japan's Bound and Applied Tariffs by Product Category
(Source: APEC 2005)



Round commitments. For the majority of product categories[2] simple average bound and applied tariffs are identical, and the gap between simple average bound and applied

[2] All product categories except agriculture, fish, petroleum and oils, wood, pulp, paper and furniture, and miscellaneous manufactures.

tariffs for other products is generally small. According to the WTO (2004), Japan implemented its Uruguay Round tariff reduction commitments for all but one industrial product by January 1999 (implementation of the reduction commitments for the one remaining industrial product is expected in 2009) and for agricultural products by January 2004 (WTO 2004). Japan's IAP indicates the following reductions of applied tariffs since the last IAP peer review in 2002:

- April 2004: voluntary tariff reduction on 4 industrial product items (9-digit level).
- April 2005: voluntary tariff reduction on 1 industrial product item (9-digit level).

WTO (2004) found no consistent pattern of tariff escalation in Japan's tariff structure. In some cases the level of protection rises with the level of processing while in other cases it declines.

It is clear that Japan's average applied tariffs are very low for most products. Compared to the simple average for all products of 7.5%, the simple average is below 1% for metals, transport equipment, electrical and non-electrical machinery, and mineral products, precious stones and metals, and between 1% and 3.5% for wood, pulp, paper and furniture, chemicals and photographic supplies, petroleum and oils, and miscellaneous manufactures. Double-digit average applied rates are found only for agriculture (23.0%) and leather, rubber, footwear and travel goods (17.1%)[3], while fish and textiles and clothing have average applied rates of 6.0% and 6.7% respectively. High tariffs thus appear to be concentrated in a small range of product categories.

This impression is confirmed by inspection of the information on tariff dispersion from Japan's IAP, also shown in Table 3.1. This shows that ad valorem tariff rates above 20% are found in only three product categories. A breakdown by product category of tariff rates above 20% (not shown in the table) shows that the overwhelming majority (80%) of tariff rates above 20% are found in agriculture, with most of the rest (19%) found in the category of leather, rubber, footwear and travel goods. These are also the

[3] Average tariff rate of leather and leather related products which takes into account of duty-free imports from LDCs is 9%. Leather and footwear produced in LDCs, which accounts for about 40% of all imports of them, enjoy duty-free and quota-free market access as a part of Japan's Generalized Systems of Preference regardless of tariff quotas.

product categories with the highest proportion of tariffs in the 5% to 20% ranges, along with textiles and clothing and fish. If the tariff rates for all other product categories are aggregated before being broken down by tariff rate, the resulting calculation (again, not shown in the table) shows that over 95% of the tariffs for these product categories are either zero or less than 5%.

Agriculture is also the product category with the largest number (though not the highest percentage) of specific duties, which tend to reduce the transparency of high tariffs. Textiles and clothing is the other product category with a large number of specific duties. According to WTO (2004), 93 out of the 100 highest tariffs entailed specific duties, with the simple average of ad valorem equivalents being 39.2%, and the highest ad valorem equivalent being 1,124% for konnyaku tubers.

Officials indicated that there are no official calculations of ad valorem equivalents of specific duties on agricultural products.[4] Nevertheless in an article prepared for Japan's Ministry of Agriculture Forestry and Fisheries, Yamashita (2006) provided the following broad estimates[5] of ad valorem equivalents for selected agricultural products:

Miscellaneous beans, konnyaku root	Over 1000%
Rice, peanuts	500-1000%
Butter, sugar	300-500%
Wheat, starch, raw silk	200-300%

Yamashita argues that Japan's reputation for very high levels of agricultural protection is based on the very high tariffs applying to a relatively small number of agricultural products such as these.

The IAP also indicates that the two product categories with the highest average applied tariffs are also the only product categories where tariff rate quotas are found. The percentage of tariff lines subject to quotas is 5.9% for agricultural products and 13.8% for leather, rubber, footwear and travel goods. Since the last IAP peer review in 2002

[4] Although it is likely that calculations of ad valorem equivalents may have been made in the context of WTO negotiations, these do not have the status of official data, and no such calculations could be made available for the peer review. Japanese officials note that calculations of ad valorem equivalents produce different results, depending on the calculation method and data used.

[5] The estimates provided by Yamashita also do not have the status of official data.

the only change to tariff quotas recorded in Japan's IAP is the abolition of the tariff quota for distilled alcoholic beverages, implemented in the 2003 fiscal year.

Information was provided on some quota utilisation rates for selected agricultural products. This indicates that a number of the larger quotas (for rice, barley and certain dairy products) were fully utilised or even over-utilised, while quotas for some other dairy products as well as ground nuts and silk were heavily under-utilised, with utilisation rates of below 50% in several cases. In general, under-utilisation of quotas can occur for a number of reasons, ranging from inadequate product demand to the existence of hidden administrative barriers to imports. The reason for under-utilisation of quotas in Japan's case is not known.

State trading operates for a certain number of products, again agricultural in nature. The Ministry of Agriculture Forests and Fisheries (MAFF) is the almost exclusive importer of rice, wheat and barley, while the Agriculture and Livestock Industries Commission (ALIC) collects mark-ups on imports of designated dairy products, in 2004 including 54% of butter and butter oil imports and 36% of whey imports.

The MAFF has begun to implement agricultural reforms designed to increase the market orientation of the agricultural sector, which in turn is expected to reduce the cost of agricultural support and improve the political climate for agricultural trade liberalisation. These reforms are discussed further in a subsequent section of this report. Yamashita (2006) notes convergence among the main players in the WTO agricultural negotiations on the notion of a maximum tariff of around 100%. MAFF officials however stated that Japan is not able to accept a maximum tariff of 100% at the present time, and further expressed the view that imposition of such a maximum would undermine the reform efforts.

Japan's GSP scheme is an important market access avenue for APEC developing economies, especially in East Asia. WTO (2004) reports that in 2004 the six developing country beneficiaries making greatest use of the scheme were all developing APEC economies in East Asia. Together these six economies accounted for over 87% of Japan's total imports under its GSP scheme, which in turn accounted for a little under 4% of its imports from all sources.

The coverage of Japan's GSP scheme has been extended somewhat since the last IAP peer review. In the 2003 fiscal year a further 119 items were added to the list of

agricultural and fisheries product items covered by the scheme, making a total of 338 out of 1631 dutiable agricultural and fishery products for which preferential tariff treatment is available to developing countries. All but 100 of 4313 dutiable industrial product items are also covered by the scheme. In the case of industrial product items most items are duty-free under the scheme, with the exception of a small number of sensitive items for which duties are reduced rather than eliminated.

Additional preferential treatment is given to least developed countries (LDCs) under Japan's GSP sheme. There are 155 agricultural and fisheries product items and 1007 industrial product items for which preferential treatment is given only to LDCs. In the case of LDCs preferential treatment available under the scheme consists of duty-free quota-free (DFQF) access for the agricultural and fisheries product items as well as industrial product items. The number of agricultural and fisheries product items covered by DFQF treatment for LDCs was increased from 298 to 496 in the 2003 fiscal year.

Japan is committed to implementing the decision of the WTO's 2005 Hong Kong ministerial meeting on DFQF access for LDCs, irrespective of the outcome of the Doha Development Agenda (DDA). Legislation to implement the decision is now being prepared for approval by the Diet, and implementation is expected in the 2007 fiscal year.

Partners in Japan's recent preferential trading agreements (PTAs) include some economies that are already beneficiaries of Japan's GSP schemes (Malaysia, Mexico and the Philippines) and one that is not eligible for GSP preferences (Singapore). Japan takes a consistent approach to the treatment of imports of industrial and agricultural products from its partners in these agreements. Duty-free treatment is generally provided for most industrial products and some agricultural products, either immediately or phased in over a number of years. This is a relatively small step for Japan to take in relation to products on which duties are already at low levels, especially for partners that are already beneficiaries of Japan's GSP scheme. Highly protected sensitive agricultural products obviously present greater difficulties. These products are either excluded from the tariff liberalisation provisions of the agreement, or included subject to the application of tariff rate quotas. In the latter cases the agreements in some cases provide for the quota quantity to increase over time. The in-quota tariff rate may be set at zero or at some positive rate lower than the MFN rate, either fixed or reducing

over time. For a number of products in the agreements with the Philippines and Mexico the tariff rate quota arrangements are specified only for the initial years of the operation of the agreement, with the arrangements for subsequent years to be subject to later negotiations.

Assessment

There has been minimal movement in Japan's MFN tariffs and related measures since the last IAP review. Like many other economies Japan has been anticipating that the WTO negotiations would provide the mechanism for further MFN tariff reductions. Nevertheless Japan's MFN tariffs on most items are very low. For all but four product categories the vast majority of applied tariffs are at 5% or lower. The remaining steps required to achieve full duty-free treatment for these products are thus very small. Tariffs above 20% are very largely confined to two product categories, agriculture and leather, rubber, footwear and travel goods, and these are also the product categories in which all of Japan's tariff rate quotas are found. As is well-known tariffs for a small number of agricultural goods are exceptionally high. Domestic reform has an important contribution to make in facilitating liberalisation of the remaining pockets of high import protection. (Japan has begun to implement agricultural reforms that are expected to prepare the way for significant reductions in peak agricultural tariffs).

In its preferential trade arrangements Japan has generally been willing to provide for the immediate or phased elimination of duties on products for which MFN tariffs are already at low levels. In recent PTAs some selective liberalisation of imports of sensitive agricultural products is also provided, generally subject to the application of tariff rate quotas. Japan is also committed to working toward the objective of full duty-free quota free access for least developed countries.

3.2. Non-Tariff Measures

Objective

APEC Economies will achieve free and open trade in the Asia-Pacific Region by :

(a) Progressively reducing non-tariff measures

(b) Ensuring the transparency of APEC economies' respective non-tariff measures

Japan retains certain import and export restrictions that are in accordance with special exceptions and other relevant provisions of the WTO agreements, which permit such measures for reasons such as public safety and national and international security. Some measures are also maintained to fulfil obligations under other international agreements, including multilateral environmental agreements (MEAs) such as the Montreal Protocol, the Basel Convention and the CITES. Imports of certain products from specific countries (for example, diamonds from certain African countries) require import approval in accordance with Japan's international arrangements. Special treatment on the import of rice allowed under the WTO Agreement on Agriculture was replaced by tariffs in 1999. Japan's use of tariff rate quotas and state trading in relation to imports is discussed in the preceding section on tariffs.

Information in WTO (2004) indicates that Japan makes only minimal use of anti-dumping, countervailing duty and safeguard measures. Japan continues to make some use of special safeguard measures for some agricultural products (certain dairy, cereal and prepared food products) which it is entitled to do under the WTO Agreement on Agriculture. The majority of these measures are price-based rather than volume-based. It appears that there maybe a declining trend in Japan's use of these measures.

Assessment

Japan's use of non-tariff measures is in accordance with the normal provisions of international agreements and arrangements. There has accordingly been no requirement for action since the last IAP peer review. Japan makes only minor discretionary use of contingent protection measures.

3.3. Services

Objective

APEC economies will achieve free and open trade and investment in the Asia-Pacific region by:

(a) progressively reducing restrictions on market access for trade in services

(b) progressively providing for, inter alia, most favoured nation (MFN) treatment and national treatment for trade in services.

3.3.1. Overview

Japan's deregulation and liberalization of services are covered in its GATS commitments in the Uruguay Round, its initial and revised offers for the Doha Round, its APEC collective action plan, and its recent EPAs with Singapore, Mexico, Malaysia and the Philippines.

Japan states that it is one of few WTO members that made commitments during the Uruguay Round to liberalize trade in services in more than 100 of the 155 stipulated sectors. (It is to be noted that the commitments for developed country members ranged from 87 to 117). The sectoral coverage is fairly extensive, based on GATS positive list approach, and its schedule of specific commitments under the GATS does not have any a priori exclusion regarding sectors and modes of supply. However, there are few commitments on mode 4 movement of natural persons. This is one area where Japan needs to improve on its liberalization commitments, although a small beginning is being made in the bilateral EPAs with the Philippines, Thailand and Indonesia.

In mode 4 it has made few commitments (same as other developed countries). These are Horizontal Commitments in the GATS Scheduled Commitments and are only in 4 categories:

a) *Intra-corporate transferee*: A natural person who has been employed by a juridical person for a period of not less than 1 year immediately preceding date of application for entry and temporary stay in Japan, and who is being transferred for a period of 1 or 3 years (which may be extended) to a branch office, representative office or a juridical person constituted or registered in Japan owned or controlled by or affiliated with the aforementioned juridical person of a Member other than Japan, under the following status ---executives, senior managers, specialist.

b) *Business visitors*: A natural person who stays in Japan for a time period not exceeding 90 days without acquiring remuneration from within Japan and without engaging in making direct sales to the general public or in supplying services himself, for the purpose of participating in business contacts including negotiations for sale of services and/or other similar activities including those to prepare for establishing commercial presence in Japan. Period of stay may be extended.

c) *Independent professionals*: A natural person who is a qualified person listed below, not necessary obtaining a contract to provide services, for a period of 1 or 3 years (which may be extended) provided that the natural person will be engaged in eg one of the following activities of professional services during its temporary stay in Japan ---- legal services supplied by a lawyer; legal advisory services; legal services supplied by a judicial scrivener; legal services supplied by an administrative scrivener; legal services supplied by a certified social insurance and labour consultant; legal services supplied by a patent attorney; legal services supplied by a maritime procedure agent; accounting, auditing and bookkeeping services supplied by an accountant; taxation services supplied by a tax accountant; legal services supplied by a land and house surveyor.

d) *Contractual service suppliers (natural person)*: A natural person who is engaged in one of the following activities during its temporary stay in Japan for a period of 1 or 3 years (which may be extended) on the basis of a personal contract with a public or private organization in Japan ----activities which require technology and/or knowledge at an advanced level pertinent to physical sciences, engineer or other natural sciences; activities which require knowledge at an advanced level pertinent to jurisprudence, economics, business management, accounting or other human sciences; activities which require specific ways of thought or sensitivity based on experience with foreign culture.

In its recent EPAs with Singapore, Mexico, Malaysia and the Philippines Japan has made commitments beyond its GATS commitments in the Uruguay Round. For example, in the EPA with the Philippines --- for the purposes of smooth movement of natural persons a Party may recognize the education or experience obtained, requirements met, or licenses or certifications granted in the other Party for the purposes of the fulfilment, in whole or in part, of its standards or criteria for the authorisation, licensing or certification of natural persons of the other Country.

3.3.2. Japan's Offers on Trade in Services in the Doha Round

Through submission of Initial Offer in April 2003 and Revised Offer in June 2005, Japan made offers on service trade liberalization in the WTO's Doha Round. These offers are based on the request-offer negotiations undertaken on a bilateral basis as well as on-going discussions. These offers by Japan were also developed taking into full account the interests of developing countries. They do not have any a priori exclusion regarding sectors and modes of supply. They have achieved a good level of commitments in modes and sectors such as Movement of Natural Persons, Business Services, Communication Services, Distribution Services, Educational Services, Tourism and Travel Related Services, Transport Services, etc.[6]

3.3.3. Improvements Implemented since last IAP

For most of the services listed, there has been no improvements implemented since the last IAP and no further improvements planned in respect of operational requirements, licensing and qualification requirements of service providers, foreign entry, and discriminatory treatment/MFN. Changes were reported only for the services listed below:

- *Communication services, audio-visual*: improvements implemented since last IAP on foreign entry ----- in terrestrial broadcasting, calculation of the percentage of foreign ownership is changed to include voting shares that foreign persons and others hold indirectly.
- *Transport services, Other*: improvements implemented since last IAP on operational requirements and licensing and qualification requirements of service providers ---- Port transport business: the bill to introduce the regulatory reform at ports other than the preceding 12 major container ports came into force on May 15, 2006.
- *Energy services*: improvements implemented since last IAP on operational requirements and licensing and qualification requirements of service providers.

Further improvements are planned for the following:

- *Communications Services, Telecommunications*: in operational requirements and licensing and qualification requirements of service providers, Japan will continue to take measures for more pro-competitive regulatory framework as appropriate.

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[6] To reduce the length of this section, the list of original and revised offers has been deleted from this revised version of the Study Report.

Changes since last IAP on temporary entry and stay of service providers and intra-corporate transferees

- Facilitation for the APEC ABTC holders: Special lanes for ABTC holders have been established in Chuba International Airport in Feburary 2005, in addition to Narita and Kansai International Airports, and making efforts to establish ABTC special lane in other airports as much as possible.
- Revision of the status of residence of "Medical Services": Ministerial Ordinance to Provide for Criteria of status of residence of "Medical Services" which regulates restrictions on foreign doctors or foreign nurses having Japanese medical licences to engage in medical services in Japan, was revised and came into force in March 2006.
- Revision of criteria for status of residence of person who is to practice as a medical doctor --- abolition of criteria requiring graduation from a college in Japan after completing a course in medical science, restricting practice of medical activities only at a hospital or a medical office in an area where it is difficult to secure a medical doctor, and limiting the practice as a trainee, including its period which is not exceeding 6 years from date of graduation.
- Revision of criteria for status of residence of person who is to practice as a dentist --- abolition of criteria requiring graduation from a college in Japan after completing a course in dentistry; changing the starting point of counting of length of term permitted to practice as a trainee which is not exceeding 6 years from date of graduation to the licensed date as a dentist in Japan.
- Revision of criteria for status of residence of person who is to practice as a public health nurse, midwife or assistant nurse ---abolition of the criteria requiring graduation from and/or completion of the school/training institution in Japan for the public health nurse, midwife or assistant nurse designated in the regulation; changing the starting point of counting of length of term permitted to practice as a trainee, which is not exceeding 4 years from date of graduation to the licensed date as those in Japan.
- Revision of the criteria for status of residence of person who is to practice as a registered nurse ----abolition of the criteria requiring graduation from and/or completion of the school/training institution in Japan for the registered nurse designated in the regulation; changing the starting point of counting and the length of the term permitted to practice as a trainee from 4 years from the date of graduation to 7 years from the licensed date as a registered nurse in Japan.

3.3.4 Entry, Operational Requirements and Discriminatory/MFN Treatment in 2006

There is no sector that has total restrictions on MA, NT and MFN on foreign service providers in Japan's commitments. But there are sectors which have partial restrictions, Business Services, Communication Services, Transport Services, etc. Japan proactively made offer in those sectors where it has promoted liberalization and deregulation since the conclusion of Uruguay Round.

- ***Business services legal:*** Neither nationality nor status of permanent residence is required. However, commercial presence is required. Neither exemption nor recognition is granted with respect to domestic law.
  - Practice of Japanese Law is permitted for a lawyer qualified as "Attorney at Law" under Japanese Law. A Foreign Lawyer Registered in Japan is allowed to practice the law of the country of primary qualification and the designated laws of foreign countries. Practice of third country law is permitted, according to written advice on each issue from competent persons. Recognition as a Foreign Lawyer registered in Japan does exist. There is no MRA for Attorney at Law (Japanese Lawyer). Nationality or status of permanent residence is not required to be registered as foreign lawyers; however, a Foreign Lawyer Registered in Japan is required to stay in Japan for not less than 180 days per year.
  - The amended Special Measures Law Concerning the Handling of Legal Business by Foreign Lawyers came into force on April 1, 2005. This amendment introduced completely new mechanisms for association between Attorneys at Law (Japanese lawyers) and Foreign Lawyers Registered in Japan, including provisions that lift the ban on employment of Attorney at Law by Foreign Lawyer Registered in Japan and introduce the system of foreign law joint enterprises between Attorney at Law and Foreign Lawyer Registered in Japan. Foreign Lawyer Registered in Japan is not allowed to offer advice on Japanese Law.
- ***Business services accounting:*** Under the CPA Law, auditing services must be supplied by CPAs or by Audit Corporation. There is no nationality, residence and specific educational career requirement to sit for CPA examination. Commercial presence is required for mode 1 and 2 by an Audit Corporation.
  - For accounting and auditing, regardless of nationalities, those who have passed Japanese CPA examination are entitled to provide audit certification services in Japan. In addition, anyone is entitled to provide accounting related services (except for audit certification services) even if he is not qualified as a Japanese

CPA. In practice, many foreign citizens and entities have already provided those services.

- The system of CPA examinations was streamlined since January 2006, which made it easier for foreign nationals to take the exam. Current legal framework allows substantial foreign access to the accounting business services on a non-discriminatory and MFN basis
- Japanese GAAP is developed by the Accounting Standards Board of Japan (the "ASBJ"). The ASBJ agrees with the objective of international convergence to achieve high-quality accounting standards, and has carried out a convergence project with the IASB toward international convergence.
- There are about 20 international auditing firms in Japan, including the Big 4.

- ***Business services engineering:*** There are no restrictions in terms of NT and MA for mode 3. But Japan has not made commitment in terms of NT and MA for mode 4 except as indicated in the Horizontal Commitments.
- ***Communications Services postal:*** Japan has made important progress in its reform of Japan Post. Future expansion of business scope is to go through a transparent and fair procedure whereby the PM and MIC will decide, based on the due consideration on fair conditions of competition and business conditions of the Postal Savings Bank and the Postal Insurance Company. An equal footing will be secured in tax liability; requirements for approval of MIC in the event of new business being implemented; avoiding unfair cross-subsidisation.
  - Entry of licenced private sector operations into postal services under "correspondence-delivery businesses" has been allowed since April 1 2003.
  - Based on the laws on the privatization of postal services enacted on October 1, 2005, the Japan Post will be dissolved and the Postal Savings Bank (PSB) will take over the role concerning postal savings services provided by the Japan Post. The PSB are to be regulated based on the Banking Law. Under the Banking Law, a person/an entity has to be approved by the PM when the person/an entity owns no less than 20% of voting shares of banks.
- ***Communications Services, telecommunications:***
  - Restrictions on foreign investment apply only to NTT. All other telecommunications carriers are not subject to the restrictions. With regard to procedures for market entry by foreign businesses, MIC is publishing and providing relevant information by means of "The Manual for Market Entry into Japanese Telecommunications Business" in English which is open to the public on the Ministry's website.

- Foreign capital participation direct and/or indirect in NTT must be less than one third. Japan's requirements for approval for a telecommunications business include an adequate financial basis and a technical capability, and a reliable and rational business plan. Board members and auditors in NTT are required to have Japanese nationality. It is argued that restrictions on foreign investment of NTT are necessary to ensure its independent management and to prevent excessive influence from foreign countries.
- MIC is promoting the relaxation of regulations in the telecommunications sector. There are no regulations under the Telecommunication Business Law imposed on telecommunication carriers covering market entries or notifications of carriers' telecommunications business, on the grounds they are foreign-invested.
- MIC set up "The Study Group on a Framework for Competition Rules to Address the Transition to IP-Based Networks" in October 2005. The Study Group will consider the basic concepts for competition rules and clarify the directions that need to be considered on interconnections/tariff policies toward the early 2010s, when progress in the transition to IP-based networks is anticipated. MIC will consider a review of competition rules including improvement of interconnection rules for next-generation networks, in accordance with the report which is to be published as a result of The Study Group in September 2006.

- ***Communication Services, audio-visual:*** Japan has made no commitments in NT and MA under mode 4 except as indicated in the Horizontal Commitments. No restrictions on MA and NT in mode 3 for motion pictures and video tape production and distribution services, motion picture protection services and sound recording services.
- ***Construction and related engineering services:*** No restrictions exist in NT and MA for the supply of services in mode 3. But no commitments in NT and MA for mode 4 except as indicated in the Horizontal Commitments.
- ***Distribution Services:*** No commitments in NT and MA in mode 4 except as indicated in the Horizontal Commitment. No restrictions on foreign participation under modes 1-3, except for the distribution of several regulated goods and the limitations of the horizontal commitments in national treatment under mode 3. New entrants into petroleum distribution business are required to register to METI by Act of the Quality Control of Gasoline and Other Fuel and Petroleum Stockpiling Act.

- ***Education Services:*** To provide formal education[7], an education service producer is required to establish a school juridical person authorised by the Ministry or governors of prefectures.
  - For primary and secondary educational services, no restrictions in NT in mode 3, and no commitment in NT in mode 1, 2 and 4. For higher education services, no commitments in mode 1, no restrictions in mode 2, no restrictions in NT in mode 3, and no commitments in MA and NT in mode 4 except as indicated in the Horizontal Commitments. Foreign educational institutions can establish a formal educational institution in Japan after establishing a school jurisdicial person.
  - Japanese universities are divided into national, public, and private institutions. As a result of incorporation, national universities can appoint foreigners to a managerial post such as dean or president. Public universities also can appoint foreigners to a managerial post, if they adopt a corporate status.[8] In private universities, there are no restrictions and requirements on foreigners being employed as education service suppliers.
  - In public universities founded by local governments, foreigners can be appointed to professors, associate professors and lecturers.
  - In public schools (other than universities), foreigners are not restricted to instructors, on condition that they must successfully pass the selection process organized by the local government.
- ***Energy Services:*** The Japanese government has engaged in energy policies that are consistent with the 14 non-binding principles endorsed by the APEC Energy Minister in 1996.
  - The government has promoted the Asia Energy Conservation Program. The main contents of this program are: (i) support the implementation of human resource development through the dispatch of experts and the acceptance of trainees; (ii) promote the uptake and utilization of energy conservation equipment and facilities through Japanese business activities; and (iii) actively participate in the Asia-Pacific Partnership, etc.
  - The discussion of full liberalization in electricity retail market will start in 2007, and will include examination of given issues such as (i) securing supply

[7] The formal education is supplied by the schools under Article 1 School Education Law.

[8] National universities became corporate institutions in 2004; public universities founded at the prefectural or city level are free to choose whether to adopt a corporate status.

reliability; (ii) simultaneous pursuit of energy security and environmental preservation; (iii) securing last resort service and universal service; (iv) risk of long-term investments and/or long-term contracts; (v) other practical and technical problems.

- Foreign investors accounted for 11.5% of investment in general power utilities and 22.45% of investment in the 4 largest gas companies.

- ***Environmental Services:*** No restrictions in NT and MA for mode 3; no commitment in mode 4 except as indicated in the Horizontal Commitments in MA and NT listed for supply of services in mode 4.
- ***Financial Services:*** In response to the changing environment surrounding capital markets, the Financial Instruments and Exchange Law was introduced to meet the following objectives: (i) strengthen the protection of investors through establishing a comprehensive legal regime; (ii) enhance the convenience of investors; (iii) accelerate the shift from savings to investment; and (iv) respond to globalization of capital markets The Law covers financial instruments with investment characteristics in a comprehensive manner and entails major changes in the Securities and Exchanges Law and the Financial Instruments and Exchange Law.
  - *Banking:* 69 out of 215 banks in operation in Japan are foreign, accounting for 5.7% of overall collective assets. Local subsidiaries and branches of foreign banks starting business in Japan must be licenced under the Banking Law. Local subsidiaries must be corporations with a capital of 2 billion yen. If an applicant is one whose shareholders totally or partially consist of a person/persons engaging in banking in a foreign country/countries under foreign legislation, the PM shall examine whether banks in the foreign country are entitled to a status equivalent in substance to the one given under the Banking Law. Foreign banks with subsidiaries and branches in Japan are subject to the same regulations as those applied to domestic banks. However, in the context of GATS, Japan maintains one reservation to MFN and national treatment in the banking sector, which is that "the deposit insurance system does not cover deposits taken by branches of foreign banks".
  - *Securities:* A foreign broker-dealer who is engaged in the securities business in foreign jurisdiction under the legislation of that jurisdiction, cannot in principle engage in securities business in Japan unless it registers a branch office in Japan. It can by permission from the FSA, sell and purchase securities in the securities exchange market without registering a branch office. If it intends to engage in

certain businesses such as trade in over the counter derivatives contract on a security, authorization from the FSA is necessary.

- *Insurance*: Local subsidiaries and branches of foreign insurance companies starting business in Japan must be licensed by Japan. Local subsidiaries must be corporation or mutual company with capital of one billion yen; in the case of a branch, it must deposition 200 million yen with the nearest deposit office. A foreign insurer who obtained a licence from the PM under the Insurance Business Law is required to have a minimum capital of 1 billion yen.

- ***Health related and social services:*** No commitments on MA in mode 3 except that there is no limitation on participation of foreign capital in hospital service.
  - Operating hospitals and clinics for profit is prohibited in Japan. But establishment of hospitals and clinics is not restricted as long as they are non-profit and comply with the standards and procedures specified in the Medical Services Law. Each prefecture develops a medical plan with medical area and number of required beds, and is allowed to give a recommendation to those who plan to establish hospitals in an area that has already excessive number of beds.
  - The entry of private entities into the social services welfare market is regulated by the welfare systems for the elderly, the handicapped, children, etc. Generally, institutional service is strongly restricted; e.g. the Long term Care Insurance Law provides that corporation including joint stock company is able to participate as service provider of in-home care, if it meets the requirements for staff and equipments and has a prefectural governor's approval. The establishment of "special nursing home for the elderly" is restricted to local government and social welfare foundations established under the Social Welfare Service Law. For "healthcare facilities for the elderly requiring longterm care" and "medical facilities for the elderly requiring longterm care", the founder is restricted to local government and medical corporations established under the Medical Services Law etc. It is necessary to get approval for establishing a social welfare foundation or medical corporation.
- ***Tourism and travel related services:*** No commitments exist in NT and MA for mode 4 and no restrictions exist in NT except as indicated in the Horizontal Commitments.
- ***Recreational, Cultural and Sporting Services:*** No restrictions of MA and NT in mode 3 of supply of the Entertainment Services, News Agency Services, Libraries and Archives Services and Sporting and other Recreational Services; no

commitment in terms of NT and MA in mode 4 except as indicated in Horizontal Commitments.

- ***Transport Services rail:*** No restrictions exist in NT and MA in rail transport services except where exceptions are registered in Japan's Schedule of Commitments of GATS. No restrictions exist in terms of demand-supply adjustment on passenger rail industry
- ***Transport Services road:*** No restrictions exist in NT and MA in road transport services except where exceptions are registered in Japan's Schedule of Commitments in GATS.
- ***Transport Services maritime:*** No restrictions or discriminatory measures affecting foreign participation in international maritime transport services. Maritime cabotage services are reserved to Japanese ships, which must be owned by (i) a natural person with Japanese nationality: or (ii) a juridical person established under Japanese law, all the representatives must have Japanese nationality and not less than two-thirds of the executives administering the affairs of the juridical person must have Japanese nationality.
- ***Transport Services air:*** Permission from the Minister of Land, Infrastructure and Transport for conducting air transport businesses as a Japanese air carrier is **not** granted to the following natural person or entity applying for the permission:
  a) a natural person who does not have Japanese nationality;
  b) a foreign state, or public entity or its equivalent thereof;
  c) an enterprise or other entity constituted or organized under the laws of any foreign state;

  d) an enterprise represented by the natural person or entity referred to in (a), (b) or (c) above; an enterprise of which more than one-third of the members of the board of directors is composed of the natural person or entity referred to in (a), (b) or (c) above; or an enterprise of which more than one-third of voting rights is held by the natural person or entity referred to in (a), (b) or (c) above.

  In the event an air carrier becomes the natural person or entity referred to (a) through (d) above, the permission will lose effect. The conditions for the permission also apply to enterprises, such as holding companies, which have effective control over the air carriers.

  Cabotage by foreign air carriers is prohibited.

In air transport sector of APEC, each economy shall circumstantially implement "8 Options for More Competitive Air Services" on a voluntary basis. Taking this into consideration, Japan is implementing flexibly and proactively various measures such as facilitation of cooperation between air carriers, designation of multiple air carriers and flexible air cargo transport, under the framework of bilateral air services agreements.

Assessment

Japan has made some limited progress towards the Bogor goals of free trade and investment in services since the last IAP, specifically in audio-visual communications services, transport services (port), and energy services. There have also been changes on temporary entry and stay of service providers in medical services. Further planned liberalization is also contained in Japan's offers for the Doha Round. Japan remains highly restrictive in Mode 4, with GATS Horizontal Commitments in only four categories. Services liberalization is also noted in Japan's bilateral EPAs, but these run counter to the MFN principle.

3.4. Investment

Objective

APEC economies will achieve free and open investment in the Asia-Pacific region by:

(a) Liberalizing their respective investment regimes and the overall APEC investment environment by, inter alia, progressively providing for MFN treatment, and ensuring transparency; and

(b) Facilitating investment activities through, inter alia, technical assistance and cooperation.

3.4.1 Review of Japan's Investment Regime

The WTO has no regulatory regime on investment except for TRIMS, and the investment issue is not part of the Doha Agenda. Japan's investment policy regime (on inward FDI) draws on the *OECD Capital Liberalization Code* and APEC's *Non-binding Investment Principles* and *Menu of Options for Investment Liberalization and Business Facilitation.*

3.4.1.1 Extent of Inward and Outward Investment in Japan

Statistics on stocks and annual flows of inward and outward direct investment for 1996-2005 and the ratios of inward to outward direct investment are given below

Inward and Outward Direct Investment Position (stock) (JPY billion, %)

	Inward Direct investment Position (a)	Outward Direct investment Position (b)	Ratio of Inward-Outward Direct Investment Position (a/b)
End of 1996 C.Y.	34,730	299,990	11.6
End of 1997 C.Y.	35,190	353,340	10.0
End of 1998 C.Y.	30,130	312,160	9.7
End of 1999 C.Y.	47,130	254,250	18.5
End of 2000 C.Y.	57,820	319,930	18.1
End of 2001 C.Y.	66,320	395,550	16.8
End of 2002 C.Y.	93,690	364,780	25.7
End of 2003 C.Y.	96,100	359,320	26.7
End of 2004 C.Y.	100,980	385,810	26.2
End of 2005 C.Y.	119,030	456,050	26.1

Source : MOF)

Inward and Outward Direct Investment (Flows) (JPY billion, %)

	Inward Direct Investment (a')	Outward Direct Investment (b')	Ratio of Inward-Outward Direct Investment (a'/b')
1996 C.Y.	248	25,485	1.0
1997 C.Y.	3,901	31,449	12.4
1998 C.Y.	4,179	31,616	13.2
1999 C.Y.	14,513	25,906	56.0
2000 C.Y.	8,969	34,008	26.4
2001 C.Y.	7,585	46,586	16.3
2002 C.Y.	11,585	40,476	28.6
2003 C.Y.	7,332	33,389	22.0
2004 C.Y.	8,456	33,487	25.3
2005 C.Y.	3,059	50,459	6.1

Source: MOF

The following are to be noted:

- Inward direct investment in Japan is substantially smaller than outward direct investment in terms of both stock and annual flows. In 2002-2005, inward stock is only 25% of the outward stock. This imbalance contrasts sharply with the ratios for the US and the EU.
- Annual flows are more volatile ---it rose sharply from 248 billion yen in 1996 to 14,513 billion yen in 1999 and fluctuated below that level in subsequent years. In particular, inward flows fell sharply after 2002.
- UNCTAD data show that in 2005, Japan's inward FDI stock is equivalent to 2.2% its GDP, much lower than the 13.0% for the US and 33.5% for the EU. Japan's inward FDI stock /GDP ratio of 2.2% is also significantly smaller than its outward FDI stock/GDP ratio of 8.5%
- Foreign affiliated firms in Japan accounted for only 2.34% of total business sales in Japan in FY2004, with 4.6% for manufacturing and 1.3% for non-manufacturing. In the same year, employment in foreign affiliates accounted for 1.0% of employment for all businesses, with 2.7% for manufacturing and 0.6% for non-manufacturing.

3.4.1.2 Japan's Investment Regime and Recent Changes

- Japan's 2006 IAP states that Japan "maintains a highly liberalized open investment regime. It has, in principle, no performance requirements and no restriction on foreign exchange or repatriation of funds related to foreign investment." In view of this, it is puzzling why Japan's inward FDI is rather low as compared to its outward

FDI and as compared with the US and EU, and why inward flows have slowed considerably after 2002.

- "Liberalizing" measures on inward flows in recent years:
  a) Inward FDI have been changed from prior notification to ex-post reporting. Prior notification is still required only for (i) those cases which may conceivably be classified as sectors related to national security, public order, or public safety; and (ii) those cases which are not required to be liberalised under the OECD Capital Liberalisation Code. Additionally, a few categories of business, such as telecommunications and transportation , have some restrictions on investment by foreign investors. (see under 14.2.3 below)
  b) Japan has established legal and taxation systems to facilitate flexible corporate reconstruction, introduced accounting and financial reporting systems that comply with international standards, developed labour market and deregulated such sectors as telecommunication and financial sectors in order to revitalize its economy.
  c) The government has targeted raising the cumulative amount of inward FDI by 2005 and launched the *Program for the Promotion of Foreign Direct Investment into Japan* in 2003. It now consists of 87 concrete measures under 5 categories: (i) disseminating information on investment opportunities in Japan; (ii) improving the business environment; (iii) reviewing administrative procedures; (iv) creating favourable employment and living environments; (v) improving local and national government's structures and systems. The list of measures is given in the 2006 IAP. The cumulative foreign investment in Japan rose from 6.6 trillion yen at end-2001 to 11.9 trillion yen at end-2005.
  d) Improving the business environment includes:
     - Limited Liability Partnership Act enacted in April 2005.
     - New Corporate Code established in June 2005;
     - Industrial Revitalization Corporation and Resolution and Collection Corporation have been effectively utilizing debt equity swaps to reform the domestic business environment and facilitate cross-border M&As. These debt-equity swaps are operated in a fairer and more transparent manner.
     - To improve the transparency, regulations were revised and it became obligatory for every stock exchange market to disclose the quarterly financial and performance report from April 2004.
     - To facilitate new business start-up, the government expanded the range of the venture business that can enjoy the benefit of the Angel Tax, under

which the amount invested in designated venture businesses can be deducted from share transfer profits of the same year.

- In order to facilitate M&As, the Development Bank of Japan introduced a low-interest lending scheme in April 2004.
- Approval procedures of medical devices have been streamlined in order to speed up the procedure.

e) Japanese PM announced in January 2006 the aim to "promote further investment with even grander targets". In March 2006, the Japan Investment Council set a new goal to double the ratio of Japan's inward FDI stock against its GDP to around 5% by 2010. To realize the new target, JIC announced its *Program for Acceleration of FDI in Japan,* emphasizing three areas: (i) regional centres for economic growth and improved quality of life; (ii) improvement of an investment environment capable of overcoming global competition; (iii) domestic and international public relations activities.

3.4.2. Specific Measures On and Affecting Foreign investment

3.4.2.1 Non-discrimination

Japan is "work(ing) toward reducing or eliminating MFN exceptions". National treatment applies to investment in wide range of sectors nation-wide in terms of establishment, ownership, finance capitalisation and other measures except for certain sectors. For these exceptions, the Japanese government has been studying alleviation/abolition of regulations on entry by foreign capital in the light of international developments.

- In accordance with the WTO Basic Telecommunications Agreement (of Feb 1998), all restrictions on foreign ownership and foreign board members in Type I telecommunications carriers (except for NTT and KDD) have been removed. Following the abolition of the KDD Law in July 1998, restrictions on foreign ownership and foreign board members in KDD were abolished.
- In addition, although the mining industry is exempted from liberalisation under the OECD Code, only ex post facto reporting is required as of April 1998 with the revision of the Foreign Exchange and Foreign Trade Law.
- Japan does not discriminate against foreign investors in terms of establishment of local branches, diversification of business and operations, in general
- Liberalisation of foreigners' access to domestic financial instruments has improved considerably since Japan's "Financial Big Bang" in 1998.

- Japan amended the Law on Business Foreign Securities Firms to introduce the system permitting direct access to domestic stock exchanges by foreign securities companies without an obligation of branch establishment

3.4.2.2 Preferential Treatment

Japan does not have an industrial policy promoting special industrial sectors or types. Foreign corporations are encouraged to "make effective use of Japan's regional resources and assets, improve industrial infrastructure, raise people's quality of life, and pursue other such actions that contribute to the autonomous development of Japan's regional and local economies." Several special zones have been created to stimulate FDI into Japan, e.g. the Special Zones of Kitakyushu City and Kobe City**.**

3.4.2.3 Restricted Sectors and Activities

In addition to the strictures of the OECD Code on Liberalization of Capital Movements, inward FDI restrictions in Japan are based on the Foreign Exchange and Foreign Trade Law, whereby it is possible for Japan to prohibit or stop inward FDI on grounds of a threat to national security**.** There are no restrictions on land purchase and land use by foreign investors. The sectors and activities for which prior notification of inward FDI is still required under the Foreign Exchange and Foreign Trade Law are:

- 15 sectors concerning national security: These are sectors which could threaten the country's security such as aircraft, armament, nuclear power, space development and explosive production industries; sectors which could disturb public order such as electricity, gas, heat supply, telecommunications, broadcasting, water, railroad and passenger transport industries; and sectors which could make it hard to maintain public safety such as biological and security industries.
- 5 exceptional sectors: These are sectors which could adversely affect smooth operation of the national economy such as oil; leather and leather products; agriculture, forestry and fisheries; air transport; and maritime industries.

3.4.2.4 Performance Requirements

Japan prohibits performance requirements that go beyond the TRIMS illustrative list.

3.4.2.5 Transparency

In March 2006, Japan commenced preparations in line with the adopted 3-year plan for translating Japanese laws and ordinances into foreign languages. The Revised

Administrative Procedure Law, which includes legislation of the Public Comment Procedure, was promulgated on 29 June 2005 and enforced on 1 April 2006.

3.4.2.6 Mergers and Acquisitions

There were 179 cross-border M&As in 2005. The Corporate Code of 2005 (enforced in May 2006), facilitated the reorganization of corporations:

- abolished the minimum capital requirement etc. to facilitate creation of new corporations;
- introduced a Japanese version of limited liability company (godo kaisha) as a new type of company;
- deregulated the restrictions on merger considerations etc. (will take effect in May, 2007)
- recognized the importance of the tax system, and are discussing with tax authorities etc. to aim at tax reform in FY2007.

3.4.2.7 Entry and Stay of Foreign Personnel

Japan's Immigration control is based on the status of residence system under the Immigration Control and Refugee Recognition Act. There are 14 statuses of residence for employment, with periods of stay of either 3 years or 1 year. *(see chapter 13 on Mobility of Business People)*

- Japan has clarified and published the treatment of the status of residence of "investor/business manager" and the status of "intra-corporate transferee" on the website to increase public awareness. It clarified the criteria for landing permission of "Investor/Business Manager"
- Japan facilitated the approval process of status of residence by expanding the mutual recognition of engineer's qualifications. In Dec 2001, Japan revised the Ministry of Justice Ordinance so that a foreigner who has passed the IT examination or obtained the IT qualification as announced in the Official Gazette can fulfil the requirement for landing permission, regardless of academic background or job experience.
- Since Feb 2004, foreign students seeking jobs in Japan after graduation from universities/colleges may change their status of residence from "College student" to "Temporary visitor" and extend their period of stay if their universities/colleges recommend them as eligible candidates to change their status of residence to seek jobs in Japan. Such students may stay in Japan for up to 180 days and upon individual application and permission, may engage in activities other than those authorised under the status of residence for not more than 28 hours a week.

- Since March 2004, Japan has been granting certificates of eligibility for status of residence generally within 2 weeks from date of receipt of applications submitted by foreign nationals who have employment contracts with companies that are regarded as **"**good performance" company
- Japan has implemented the APEC Business Travel Card.

3.4.2.8 Foreign Service Suppliers

Japan has committed 102 fields (e.g. telecommunication, construction, distribution, finance, and transportation, etc.) concerning market access (MA) and national treatment (NT). It has made additional revised offers under GATS and is also considering more improvements.

3.4.2.9 Investment Guarantees, Dispute Settlement and Avoidance of Double Taxation

- There are no restrictions on repatriation of funds and on the convertibility of currencies for overseas transfer of funds in principle**.** However, Japan may restrict transfer of funds to foreign countries under its Foreign Trade and Foreign Exchange Law, such as relating to (a) bankruptcy, insolvency or protection of the rights of creditors; (b) issuing, trading or dealing in securities; (c) criminal or penal offences.
- There are various mechanisms for resolving disputes and for enforcing solutions, including allowing foreign investor to appeal to the competent authority, judicial settlement and mechanism of settlement of investor-state disputes provided by international agreements Japan has concluded. When foreign investors wish to bring the dispute with Japanese private sector to a Japanese court, they are given treatment no less favourable than the treatment accorded in like circumstances to the Japanese investors or investors of a third country.
- Japan has signed BITS with 11 economies (China, Hong Kong, Korea, Mongolia, Russia, Vietnam, Bangladesh, Pakistan, Sri Lanka, Turkey, and Egypt) and implemented 3 EPAs (with Singapore, Mexico and Malaysia). Almost all of these BITs and EPAs stipulate that states under investment dispute have to consent to the submission of investment dispute to particular international conciliations and arbitrations.
- Japan has 45 Income Tax Conventions (which apply to 56 countries), most of which provide reduced withholding tax rates at source countries. The Japan-US Tax Convention (New Tax Treaty) went into effect on 30 March 2004 and is expected to further promote bilateral investments. In 2006, the Protocol amending the tax treaty

with India and a new tax treaty with UK also went into effect on 28 June and on 12 October respectively. In December 2006, Japan signed the Protocol amending the tax treaty with the Philippines, and is currently negotiating with Netherlands, UAE, Kuwait and France. (Japan and France already reached an agreement in principle on the amendment of the existing tax convention last July).

3.4.2.10 Other Investment-related Measure:

- *IPR protection*: Foreigners' IPR are generally protected in the same way as those of Japanese. This measure is elaborated under *Chapter 7.*
- *Competition policy:* This measure is elaborated under *Chapter 8*
- Technology transfer: prior notification is required for conclusion, renewal, or revision of contracts on technology introduction with non-residents in cases necessary for protection of national security interest etc
- Start up companies and venture capital: Japan has established an "angel tax" system. To facilitate new business start up, the government expanded the range of venture business that can enjoy the benefits of the Angel Tax and eased the condition for tax cuts with regard to capital gain. The DBJ helps nurture new businesses by providing its clients with information, advice and loans, through utilisation of its know-how as well as domestic and international networks.

Assessment

Japan's inward direct investment (both stocks and flows) are much less than its outward direct investment and its inward FDI stock/GDP ratio is only 2.2% in 2005, much lower than similar ratios for the US and EU, and than Japan's own outward FDI/GDP ratio. Inward FDI flows have also slowed down after 2002. The government has targeted raising the cumulative amount of inward FDI within 5 years and launched the Program for the Promotion of Foreign Direct Investment into Japan in 2004. In March 2006, the Japan Investment Council set a new goal to double the ratio of Japan's inward FDI stock/GDP ratio to around 5% by 2010 and announced its Program for Acceleration of FDI in Japan. More exhaustive studies are needed to examine the reasons for the low level of inward FDI inflows despite the government initiatives.

3.5. Standards and Conformance

Objective

APEC economies will, in accordance with the Declaration on APEC Standards and Conformance Framework and with the Agreement on Technical Barriers to Trade (TBT Agreement) and the Agreement on the Application of Sanitary and Phytosanitary Measures (SPS Agreement) attached to the WTO Agreement:

a. align their domestic standards with international standards;

b. encourage recognition of conformity assessment including mutual recognition arrangements in regulated and voluntary sectors;

c. promote cooperation for technical infrastructure development to facilitate broad participation in mutual recognition arrangements in both regulated and voluntary sectors; and

d. *ensure the transparency of the standards and conformity assessment of APEC economies.*

Japan is continuing work on aligning Japanese Industrial Standards with international standards. In the 2004 fiscal year, for example a further 183 JIS standards were adopted from or based on international (ISO/IEC) standard. This brought to 92% the proportion of JIS standards with corresponding international standards that have been aligned with those international standards. In particular Japan has completed alignment of existing standards with international standards for the four priority areas agreed by APECs Subcommittee on Standards and Conformance (SCSC), namely electrical and electronic appliances, food labelling, rubber products and machinery, as well as the additional priority areas of electrical and electronic equipment, standards and guidelines on conformity assessment and management systems, and safety of information technology equipment.

Officials commented that obstacles to further alignment with international standards include technological issues such as differences in the voltage of electricity supply.

Japan is also proposing the adoption of JIS standards as international standards in cases where international standards do not exist or are inappropriate, and in some cases the withdrawal of international standards that are deemed inappropriate. The procedures for approving the affixing of JIS marks by foreign factories and accrediting foreign certification bodies as JIS mark certification bodies are said to be working satisfactorily. Japanese officials report that they have detected no special areas of concern with JIS standards, noting for example that few issues with Japanese standards have been raised at the WTO.

In the case of Japanese Agricultural Standards (JAS), the JAS Law has required since 1999 that the JAS be reviewed every 5 years "to facilitate the conformance of JAS with international standards, and actively abolish unnecessary standards and revise standards in order to meet public needs." As of September 2006 this review process had led to the abolition of standards for 38 items and the establishment of new standards for 8 items, while standards for 60 items were revised. This left 218 standards for 71 items in place, compared to 352 standards for 101 items in 1999. Officials advise that although revisions of JAS are undertaken essentially in line with Codex standards, it is not easy to identify the exact percentage of standards being aligned, because of differences between the structures of JAS and Codex that make direct comparison difficult. JAS may depart from Codex standards where this is necessary to reflect consumer preferences or different manufacturing practices. Nevertheless Japan considers international standardisation via Codex is important for fair trade practices, and believes that revision where appropriate of Codex standards as well as national standards can contribute to this.

Revision of the JAS Law in March 2006 introduced new requirements for allowing Registered Japanese or Overseas Certifying Bodies to conduct grading and append JAS symbols to their products. The new requirements incorporate ISO Guide 65 as the objective registration criteria for certifying bodies to follow. Japanese officials consider that the new procedures are simpler than the previous ones and that the adoption of ISO Guide 65 contributes to enhanced transparency of the registration system. There has been some negative comment from foreign organisations on the requirement for use of the Japanese language throughout the registration process and on the requirement for annual audits. Nevertheless Japanese officials report that most organisations registered under the previous JAS Law are re-applying under the new system, and that applications from some new organisations have also been received. The Japanese

government will pay for audits in the first year of the new system, but no decision has been made on whether this will continue in subsequent years.

Since July 2003 Japan's Food Safety Commission has been undertaking safety assessments of genetically modified (GM) foods, based on standards that have been drawn up for safety assessment of GM foods and food additives produced by GM microorganisms and policies for the safety assessment of GM products. GM foods and food additives that have not been subject to such assessments may not be imported into or sold in Japan. Mandatory labelling provisions for GM foods have been in effect since 2001.

Japan's experience of Mutual Recognition Arrangements (MRAs) has been interesting. Japan has participated in Part I of the APEC Mutual Recognition Arrangement on Electrical and Electronic Equipment (APEC EE MRA). It has however declined to participate in Parts II and III of the APEC EE MRA, on the grounds that they are not cost effective and that they duplicate the IECEE/CB scheme of the International Electrotechnical Commission (IEC) for the same products, which it regards as more effective and which it believes is preferred by industry. Japan also participates in Part I of the APEC Telecom MRA (APEC Mutual Recognition Arrangement for Conformity Assessment of Telecommunication Equipment)

Overall, Japan has a cautious approach toward APEC MRAs (APEC Mutual Recognition Arrangements) and government-to-government Mutual Recognition Agreements (MRAs) in general, believing that the industry needs should be one of the essential criteria for determining whether any MRAs for particular product categories are desirable. This implies in turn a need for greater consultation with industry to establish where MRAs might be needed and to ensure that any MRAs that may be proposed are likely to be effective. Japan is not sure of the need for any further APEC MRAs. Officials did mention Good Laboratory Practice (GLP) and Good Manufacturing Practice (GMP) as areas where MRAs may be useful, for example in promoting transparency. Japan's MRA with the European Union (EU)covers GLP for chemicals and GMP for medicinal products.

Japan's MRAs with the EU and Singapore also cover electrical products and telecommunications terminal equipment and radio equipment, and its experience in these areas has been one of the factors leading to a change in its views on MRAs. These

MRAs follow the traditional model, where the government of one country ("Country A") designates its own conformity assessment bodies (CABs) in relation to the regulations of the other country ("Country B"), and the results of conformity assessment procedure on this basis is accepted by Country B. Japan now considers that an alternative cross-border designation model is more desirable, whereby the government of one country ("Country A") designates the CABs of the other country ("Country B") in relation to its own ("Country A's") regulations.

Japan also believes that the WTO's TBT (Technical Barriers to Trade) Agreement, especially the notification requirements of that Agreement, provides the best framework for transparency in TBT matters. It would like to encourage more comprehensive implementation of the TBT Agreement by APEC members. Twelve Japanese standardising bodies have accepted the WTO/TBT Code of Good Practice for the Preparation, Adoption and Application of Standards, and Japan has been proactive in implementing the provisions of the TBT Agreement.

Japan is a member of and active participant in key international standardising bodies: the International Organization for Standardization (ISO), the International Electrotechnical Commission (IEC), the Codex Alimentarius Commission, and the International Telecommunications Union (ITU). In the Asia-Pacific region Japan participates in the Asia Pacific Laboratory Accreditation Cooperation (APLAC), the Asia Pacific Legal Metrology Forum (APLMF), the Asia Pacific Metrology Programme (APMP), the Pacific Accreditation Cooperation (PAC) and the Pacific Area Standards Congress (PASC). It also provides technical assistance on standards and conformance matters to APEC developing economies.

Assessment

Alignment of Japanese Industrial Standards (JIS) with international standards is well advanced. Approval of the fixing of JIS marks by foreign factories and registration of foreign bodies as JIS mark certification bodies appears to be proceeding satisfactorily. Japan is also actively reviewing Japanese Agricultural Standards (JAS) to ensure their relevance to pubic needs and to align them with international standards where appropriate. Japan is confident that its system for registration of Foreign Certification Organizations to conduct grading and append JAS symbols to products will prove to be an advance on the previous system, notwithstanding some initial unhappiness on the part of foreign partners. Based on its experiences Japan has some interesting views on

the appropriate use of Mutual Recognition Arrangements (MRAs) which other APEC economies may wish to consider. Japan actively promotes and itself utilises the WTO TBT Agreement as the principal framework for promoting transparency in standards and conformance matters.

3.6. Customs Procedures

Objective

APEC economies will facilitate trade in the Asia-Pacific region by simplifying and harmonising customs procedures.

Japan has continued to add enhancements to its customs procedures. The basic element of the system is the Nippon Automated Cargo Clearance System (NACCS), an online computer system network connecting customs houses, customs brokers, banks and other related parties. Paperless procedures for the arrival and departure processes have been available for many years through NACCS. Extension of paperless procedures to the food sanitation and plant and animal quarantine processes, and to the export and import licensing processes, has been facilitated by linking NACCS to the computer systems operated for those processes. The Simplified Declaration Procedure for imports allows authorised importers meeting specified criteria to follow simplified cargo release procedures, using paperless declarations, and paperless procedures are also available for export declarations. Japan has a long-established risk management system, using the Customs Intelligence and Management System (CIMAS), a database system, supplemented by the Customs Intelligence Database System (CIS), which facilitates a statistical approach to risk management.

Enhancements added since the last IAP peer review include the following:

- provision of access to NACCS via the internet (2003)
- further enhancement of paperless trading by introducing the Customs Entry Procedure Entry System (CuPES) for all procedures except those processed by NACCS (2003)
- introduction of a single-window system, where users complete all necessary import or export procedures in a single input and a single transmission (2003)
- creation of trade facilitation special zones (2003)
- expansion of system for applications for import suspension by the Customs authorities, covering goods infringing various forms of intellectual property rights. (2003)
- acceptance by NACCS of electronic transfer payment of customs duties and adoption of Simultaneous Import Permit upon Arrival System for sea cargo,

available for cargo that has undergone pre-arrival declaration using NACCS. This means that such cargo need not be carried into the customs area, and instead can be issued with an import permit as soon as its arrival is verified (2003).

- Introduction of a pre-arrival examination system for export sea cargo, allowing an export permit to be issued immediately after the export declaration is presented, provided that inspection is not required; examinations take place under this system before cargoes are brought into a customs area. (2004)
- Adoption of simplified import declaration procedures for air cargoes with customs values of ¥200,000 or under and which are subject to zero duty. (2004)
- Reduction of the overtime service fee (2005)

As a measure of the effectiveness of these changes, information provided by the Cabinet office, based on time release surveys, shows that from 2001 to 2004 the total average time from arrival of sea cargo in port to release by customs declined from 73.8 hours to 67.1 hours, or by 9%. The average customs clearance time declined over the same period by over 12%, from 4.9 hours to 4.3 hours. These improvements are a continuation of the trend toward more efficient customs clearance and port handling that began in the early 1990s.

Japan has fully implemented 15 of the 16 elements of the APEC collective action plan (CAP) for customs procedures, and anticipates early completion of the final element. Japan acceded to the revised Kyoto Convention in 2001, with acceptance of 13 out of 25 chapters of Specific Annexes. Japan participates actively in work programmes on customs procedures within the World Customs Organization (WCO).

Transparency in customs procedures is pursued through several avenues. For the benefit of foreigners an English language website provides information on customs-related matters, customs procedures for imports and exports, trade statistics, and customs procedures for travellers. English language publications on Japan's customs law are available in ordinary bookstores. Information in the Japanese language on Japan's customs procedures is disseminated through a number of media, including the official gazette ('kanpo"), a customs answer system by fax, and the Japan Customs website, as well as Customs counsellors who handle telephone and face-to-face enquiries in addition to dealing with complaints from the public. Public comment is sought on changes in customs laws and regulations, but not on tariff changes.

Since the last IAP peer review there have been further enhancements to the advance ruling systems on tariff classification, customs valuation, tariff rates, origin of goods and other customs-related matters. Information on the Advance Classification Ruling System is made available to applicants by e-mail. Replies on advance classification rulings have been stored in a database which has been accessible via the Customs website since 2002, subject to domestic confidentiality requirements. In 2005 written replies to requests for advance valuation rulings have been introduced, and these are also available via the Customs website, again subject to domestic confidentiality requirements. Applicants dissatisfied with written advance rulings may request the Customs to review such rulings. A multi-stage process of protest, appeal and judicial action is available for appeals against decisions and other actions of Japan Customs.

Assessment

Since the last IAP review Japan has continued to pursue improvements in the efficiency and transparency of customs procedures. Improvements in efficiency have been reflected in further reductions in time required for clearance of goods through Japanese ports. Important enhancements have been made to advance ruling systems.

3.7. Intellectual Property Rights

Objective

APEC economies will, in conformance with the principles of the TRIPS Agreement, ensure adequate and effective protection, including legislation, administration and enforcement of intellectual property rights, foster harmonization of intellectual property rights systems in the APEC region, strengthen public awareness activities and promote dialogue on emerging intellectual property policy issues, with a view to further improve intellectual property rights protection and use of the intellectual property rights systems for the social and economic benefit of members.

3.7.1 Japan's General Approach to IPR in 2006

Japan has been implementing various measures and procedures to expedite granting of IPRs, and ensuring adequate enforcement against IPR infringements. It has been updating its IPR system and enhancing the level of IPR protection.

- The Intellectual Property Strategic Program in July 2003 comprised some 270 measures to be implemented by ministries and agencies; 400 new measures were added in 2004 and 450 in 2005. All the four industrial property laws (Patent Law, Utility Model Law, Design Law and Trademark Law) and Copyright Law will add a provision to prohibit exportation of counterfeit and pirated goods. The Customs Law has also been amended, to come into effect on January 1 2007, to prohibit the exportation of counterfeit goods. In recent years, Japan has also provided technical assistance in IPR to other APEC economies.
- The Basic Law on Intellectual Property (enacted in November 2002) has produced significant results:
  a) *Creation:* University IP offices and technology licensing organizations were developed in order to have study results patented and transferred into private hands. There was a dramatic increase in patents awarded to universities, patent licensing, income from patent rights, university-launched venture companies and provisions for employee inventions were revised.
  b) *Protection:* The Intellectual Property High Court was established to handle IP lawsuits. An action plan to expedite and rationalize patent examination procedures and mass hiring of fixed-term patent examiners led to the speedier

patent examination system. As for trade secrets, the Unfair Competition Prevention Law was amended to introduce criminal penalties for persons who use or disclose outside Japan trade secrets that had been kept within Japan, and persons who violate confidentiality orders outside Japan that had been made by a Japanese court in civil actions related to trade secrets. The Customs Law and Customs Tariff Law were also amended to strengthen Customs enforcement on counterfeits and pirated goods at the border.

c) *Utilization:* The Trust Business Law was amended so that IPR can be entrusted and corporations can be trust administrators. Local governments are also planning strategies on IP and IP headquarters have been created in nine areas.

d) *Contents:* The Law on Creation, Protection and Promotion of the use of Contents was enacted. Private activities such as the establishment of Entertainment Lawyers' Network and Visual Industry Promotion Organization were started. Regional organization trademark system was created and study of food culture was promoted under cooperation between the public and private sectors.

e) *Human resource development:* Comprehensive strategy was compiled and law schools and graduate schools specializing in IP were established. Also, networks of personal contacts such as lawyers and patent attorneys were launched.

- In February 2006, the Strategic Council on Intellectual Property announced Phase II plan to carry out future reforms. Under Phase I (2002-2005) it implemented basic system reforms and developed frameworks for cooperation between industry, academia and government. Under Phase II (2006-2008) it aims to increase the effectiveness of the reforms to make Japan an intellectual property-based nation, strengthen Japan's international competitiveness through the use of IP; and improve systems to cope with new tasks.

3.7.2 TRIPS Implementation

By end 1995 Japan had completed revision of its Patent Law, Copyright Law and related laws and regulations to implement TRIPS and has put these revisions into effect. Since 1995, Japan Customs has conducted border control based on TRIPS, which is incorporated into Customs Tariff Law. Further measures planned include continuation of border measures to prevent infringement of IPR under TRIPS.

3.7.3 Expeditious Granting of IP Rights

Japan provides protections for IPRs under its various laws, including the Patent Law, the Utility Model Law, Trademark Law, Design Law, Copyright Law, Seeds and Seedlings Law, and Unfair Competition Prevention Law. It is signatory to WIPO, TRIPS and various international treaties and conventions. For promoting international harmonization of legal frameworks, the Japan Patent Office (JPO) regularly holds Trilateral Conference with patent offices in US and Europe.

Since the last IAP, Japan has amended the Patent Attorney Law in April 2002 providing patent attorneys with authority to act as attorney in alternative dispute resolution of copyright infringement. On further actions planned, under the "Intellectual Property Strategic Program 2006", the JPO will pursue comprehensive measures to facilitate acceleration of patent examination processes; seek efficient utilization of the electronic system under the Madrid protocol; continue to introduce appropriate IPR protection systems that are adapted to international harmonization; and actively promote discussions with other countries about modernization of Patent Cooperation Treaty processes and construction of global network. On trademark consisting of the combination of a regional name and a product/service name, Japan has introduced a new system in the amendment of the Trademark Law in which such trademark could be registered as a regionally-based collective marks in an early stage in order to protect region brand more adequately and to support enhancing competitiveness and revitalising the regional economy. This system is not the same as protection/registration of GIs but as a system under the Trademark Law.

3.7.4 Enforcement of IP Rights

Foreigners' IPR are generally protected in the same way as those of Japanese IPR. Japan has been implementing various measures to handle such IPR lawsuits more expeditiously, including the establishment of the Intellectual Property High Court in 2005 and the increase in number of judges dealing with IPR cases.

- In June 2005 Japan further amended the Seeds and Seedlings Law, extending the duration of plant breeder's right (PBR) by 5 years and expanding the scope of PBR to include not only seeds, seedlings and harvested materials but also to processed products of registered varieties. In June 2006 Japan commenced enforcement on exportation of goods infringing PBRs.

- Japan revised the Unfair Competition Prevention Law in 2003 to reduce the burden of rightholders to prove the misuse of trade secrets and the damages done by the misuse.
- Japan amended the Unfair Competition Prevention Law in June 2005 to strengthen protection of trade secret and expand the range of criminal penalties; amendment went into effect in Nov 2005.
- Japan revised the Customs Tariff Law in 2005. Goods which violate the Unfair Competition Prevention Law have been treated as import-prohibited goods since March 2006. In April 2006, Japan Customs introduced a mechanism that the Customs may consult IPR experts during the procedure of application for import/export suspension and the identification procedures.
- Japan's IPR legislation provides for civil and administrative procedures against IPR infringements. There is an appeal system for industrial property rights. Under the Customs Law, Japan prohibits import of goods infringing patent rights, utility model rights, design rights, trademark rights, copyrights, neighbouring rights, lay-out design rights, and plant breeders' rights. Japan also prohibits imports of goods which violate the Unfair Competition Prevention Law. Likewise, these prohibitions apply to infringing export goods. For right holders, application for import/export suspension is available to suspend import/export of infringing goods at border more effectively.

The 5 major areas of IPR protection in a digital age are:

- *Patent related problems*: Japan has implemented all the measures which were agreed upon under the Japan-US Framework for a New Economic Partnership in 1994.
- *Expanding protection for copyright works disseminated over the Internet*: Authors have the right of interactive transmission under Japan's Copyright Law and performers, producers of phonograms, broadcasting organisations and cable-casting organizations have the right of making transmittable in accordance with WCT and WPPT. The law also provides the articles concerning technological protection measures, and right management information in order to strengthen the protection of works etc in the online environment.
- *Effective protection for well known trademarks*: Japan has been observing all the obligations relating to the protection of well known marks under the Paris Convention and TRIPS Agreement. In addition, a provision of the 1996-revised Trademark Law provides that a trademark shall not be registered if it is another

person's trademark which is well known abroad and if it is used for unfair intentions (To gain an unfair profit or intention to cause damage to another person). Japan has built a database of the trademarks registered as the defensive mark and trademarks identified as well known mark in trials and lawsuits. The database is made public on the website and used in examinations and trials.

- *Protection of geographical indications*: The Unfair Competition Prevention Law prevents any indication which may cause mis-recognition of place of origin. Also the Trademark Law refuses or invalidates a trademark registration which includes such geographical indications. In addition, with regard to additional protection for geographical indications for wines and spirits stipulated in TRIPS Agreement, it has been enforced by administrative action under the Law Concerning Liquor Business Associations and Measures for Securing Revenue from Liquor Tax. Moreover, the Trademark Law refuses or invalidates a trademark, including a geographical indication which is used for wine or spirits not originating in the region. Japan has disclosed all the lists of protected GIs to which JPO examiners refer in trademark examination. As the beverage industry in Japan is administrated by the National Tax Agency, this agency exclusively enforces the protection systems of GIs regarding wines, spirits and sake.
- *Effective protection for trade secrets:* In 1990 Japan introduced trade secret protection rules by revising the Unfair Competition Prevention Law to be in accordance with TRIPS. In response to the growing calls for the reinforcement of trade secret protection the law was revised again in 2005 to punish the following:
  (a) A person who uses or discloses outside Japan a trade secret that had been kept within Japan and a person who violates a confidentiality order outside Japan that had been made by a Japanese court in civil actions related to trade secrets.
  (b) A person who had been an officer or an employee, had offered or received a request to use or disclose a trade secret while in office, and uses or discloses it after leaving the job, even without acquiring or copying a medium containing a trade secret.
  (c) A judicial person whose employee without an authorized access to a trade secret commits an offence of violating it (by imposing a fine not more than 150 million yen)

  Heavier penalties for violation are imposed (from "imprisonment with labour for not more than three years, or a fine of not more than three million yen" to "imprisonment with labour for not more than years, a fine of not more than five million yen or both"). The penalty was further toughened by an amendment in 2006

slated to take effect on 1 January 2007, to "imprisonment with labour for not more than ten years, a fine not more than ten million yen or both" for a person who violates a trade secret, and to "a fine not more than 300 million yen" for a judicial person.

3.7.5 Anti-Counterfeiting and Piracy

In June 2005 APEC trade ministers endorsed a series of Anti-Counterfeiting and Piracy measures including guidelines for authorities to seize and destroy pirated goods and support to increase the capacity of economies to deal with counterfeiting. The APEC Anti-Counterfeiting and Piracy Initiative is part of efforts intended to strengthen IPP and overcome damage caused to regional innovation and commercial competitiveness, especially for small businesses. The Initiative includes a range of measures for implementation by APEC economies, including:

a) *Reducing trade in counterfeit and pirated goods*: Economies aim to reduce counterfeit and pirated goods trade and combat transnational networks that produce and distribute them. Actions include establishing guidelines for authorities to inspect, suspend, seize and destroy goods and equipment used in counterfeit and pirated goods trade.
b) *Reducing online piracy:* Appropriate legal regimes and enforcement systems to be enacted to curtail online piracy and to undermine the online trade in counterfeit goods. This includes development of guidelines to prevent Internet sales of counterfeit goods.
c) *Increasing cooperation to stop piracy and counterfeiting:* Operational contact and sharing of information between customs and law enforcement agencies will be increased to combat counterfeiting and piracy networks.
d) *Increasing capacity building to strengthen anti-counterfeit and piracy enforcement:* Ability to develop and manage effective anti-counterfeiting and piracy enforcement systems will be increased through education and training throughout the APEC region.

Japan has adopted and strengthened measures against counterfeiting and piracy. Under its Copyright Law, the following activities are considered as constituting copyright infringements, with civil or criminal liabilities--- to import pirated copies for distribution; to distribute or possess for distribution pirated copies knowing such infringement; to use pirated copies of computer programs in works knowing that the copies are illegally made. The amended law promulgated in December 2006 stipulates

that the exportation or possession for exportation of pirated goods for busikness will also be considered as constituting copyright infringements. The amended law will come into force on 1 July 2007.

3.7.6 Penalties for IPR Violations

The number of IPR violations in Japan are rising:

	2001	2002	2003	2004	2005	2006.1-6
No. of cases cleared	173	246	245	359	492	254
No. of persons arrested	340	435	431	644	805	394

To deter rising cases in recent years of infringement of trade secrets and counterfeiting, the Unfair Competition Prevention Law amendment went into effect in November 2005, to (i) strengthen criminal penalties for infringement of trade secrets and (ii) introduce criminal penalties for counterfeits.

Penalties for IPR infringements are:

- For trademark rights, copyrights, patent rights ---imprisonment for up to 5 years or a fine of up to 5 million yen and corporation penalty fine of up to 150 million yen.
  (The amended Copyright Law, which will come into force on 1 July 2007, toughens criminal penalties to "imprisonment for more than 10 years or a fine not more than 10 million yen or both" for a person who infringes copyright, right of publication or neighbouring rights" and to "a fine not more than 300 million yen" for a judicial person etc)

For design rights, utility model rights ---imprisonment for up to 3 years or a fine of up to 3 million yen, and corporation penalty fine of up to 100 million yen.

3.7.7 Public Education and Transparency

- The Japan Copyright Office (JCO) holds a variety of copyright workshop programs for officials of local governments in charge of copyright, and librarians and teachers for dissemination of information and enlightenment regarding copyright
- Since FY2002, JCO has implemented a comprehensive "Let's Study Copyright Project" for education and promotion of copyright, targeting school children and adults. The Course of Study for junior high and high schools adopted since 2002 includes a description of copyright protection. To assist the copyright education in schools, JCO compiled a copyright education manual for teachers, while developing and providing a variety of software programs for school children and comic magazines to be used by junior high school students.

- Japan actively encourages efforts intended to enhance awareness of IPR in universities. Japan has established the graduate school system for training highly specialised legal professionals to train professionals in IPR.
- In December 2006, JPO conducted “Anti-counterfeits and pirated goods campaign” for consumers. JPO will continue to hold seminars and develop education materials and distribute them
- JCO and METI give some advice on activities of Contents Overseas Distribution Association, the private organisation that promotes countermeasures against piracy in Asian regions.
- To promote exchange of information between IPR business entities overseas and in Japan, the International Licensing Seminar has been held since 2000.
- Examination Guidelines: In recent years laws and regulations relating to IPR have been published on the website of the Ministry of Internal Affairs and Communications (MIC) which is linked with JPO and JCO websites. JPO also publishes laws/regulations and its amendments on its website, including Examination Guidelines for priority under the Paris Convention and examination and preparation of registerability of Utility Models in 2004; for conversion of applications and for an application for patent based on a utility model registration in line with revision of the Patent Law and Utility Model Law in March 2005; and
  for medicinal inventions and for industrially applicable inventions in April 2005.
- Measures for SMEs: filing assistance in prior art searches for patent applications. These measures have been implemented continuously.

3.7.8 IPR Service Centres

The APEC IPR Service Centre was proposed by Japan in 2002 and agreed by APEC economies for implementation in June 2003. APEC IPR Service Centres are aimed at providing information on IPR protection, such as economy-wide codes (civil, administrative, criminal), laws (copyright, trademark, patents, etc) and other enforcement regulations and decrees; contact information for government authorities; and other information economies may wish to make available to the interested public.

Japan established the "Office of Intellectual Property Protection" in August 2004 to guide and provide information related to counterfeiting and piracy for private entities and also established IPR Service Center in November 2004, establishing a new website on the METI Office for Intellectual Property Right Infringement. This Office has received 419 of inquiry and consultation by the end of August 2006.

3.7.9 APEC Cooperation on IP Issues

- Since March 2004, the design gazette database has been available in English. In 2005 information on industrial property system of 42 countries and regions and relevant treaties on the JPO website was updated. Further action planned include - continuing support and cooperation for APEC economies in establishing and operating the plant breeder's right protection systems.
- By March 2006, JPO had received 213 trainees from both public and private sectors of APEC economies.
- In recent years, Japan has provided technical assistance on IPR to other APEC members:
  a) *Cooperation in the Development of Human Resources:* JPO dispatches experts and seminar instructors in various areas of IPR to developing countries through WIPO Funds-in-Trust/Japan and JICA to provide on-site instruction regarding examination practices, computerization etc. JICA also dispatches JPO officials to engage in JICA technical cooperation projects being implemented in the IP offices of recipient countries, and as individual experts on IPR administration. JCO dispatches experts and seminar instructors specialized in copyright to developing countries and invites officers of related authorities or staff of related organizations of these countries as trainees through voluntary contribution to WIPO Funds-in-Trust. JCO also dispatched experts to the seminars organized by JICA.
  b) *Computerization and Information Processing:* From May 1999 to May 2003, JPO carried out technology transfers and human resource development for the modernization of industrial property rights administrative procedures of the IP Office of the Philippines, through establishing a database, systems applicable to the old law, PCT and patent administrative procedures. Since November 2004, follow-up cooperation for this project has been carried out. From April 2000 to June 2004, JPO carried out the "Modernization of Industrial Property Administration Project in Viet Nam," a four-year project for the modernization of administrative procedures at the National Office of Intellectual Property of Viet Nam; since January 2005, the second phase of the project has been implemented. Through the utilization of the IP Information System, efficient application processing, management, and information services for IPR administration will be available in Viet Nam. In Malaysia, a JICA industrial development study, including establishing a computerized industrial design administration system that started in July 2002, was completed in February 2005.

In Indonesia, a JICA study on intellectual property rights administration through the utilization of ICT was launched in June 2005 and has been under way ever since.

- JCO encourages other countries to conclude WCT and WPPT through international conferences such as APEC. JCO also actively participates in the discussions to carry out early adoption of the treaties on Audiovisual Performances and Broadcasting Organisations.

Assessment

Japan has achieved a high level of IPR protection and enforcement and further progress has been recorded in its 2006 IAP. Measures have been introduced for effective IPR implementation and protection, including increased penalties for IPR violations. Measures have been introduced to meet the needs of a digital age and stamping out counterfeiting and piracy in Japan and in the broader APEC region. Japan is emphasising publicity and public education in Japan and technical and training assistance for developing APEC economies.

3.8. Competition Policy

Objective

APEC Economies will enhance the competitive environment in the Asia-Pacific region by introducing or maintaining effective and adequate competition policy and/or laws and associated enforcement policies, ensuring the transparency of the above, and promoting cooperation among APEC economies, thereby maximizing, inter-alia, the efficient operation of markets, competition among producers and traders, and consumer benefits.

3.8.1. Overview of Japan's Competition Policy and Laws

Japan has made substantive progress in competition policy in recent years to promote free and fair competition, focusing on vigorous enforcement of the Act Concerning Prohibition of Private Monopolization and Maintenance of Fair Trade (Antimonopoly Act or AMA) since it was enacted in 1947.

The AMA mainly prohibits three types of business practices --- private monopolization; unreasonable restraint of trade; and unfair trade practices. The AMA has undergone several amendments in recent years:

- 1997: amendment included revision of the complete prohibition of holding companies and repeal of the international contract notification system. In addition, through the Omnibus Act for reform of the exemptions system, repeal of the exemptions system and limitation and clarification of the range of exemptions for 35 systems based on 20 individual laws outside the AMA.
- 1998: amendment to reduce the scope of reporting and notification requirement regarding mergers and stockholdings and to improve examination procedures.
- 1999: a law aimed at abolishing the depression cartel systems for the depression and rationalization and abolishing a law on the exemption systems of the AMA were enacted. A law abolishing Article 21 of the AMA was enacted on June 19, 2000, in response to the liberalization of the electric power supply and gas businesses.
- 2000: With the creation of a corporate division system, the AMA was revised to incorporate provisions for the divisions either through the joint establishment or through acquisitions, that are similar to those for M & As. The revision came into force on April 1, 2001.

- 2002: Amendment including elimination of the regulation on the maximum amount of shareholding by large-scale firms, as well as the increase of the maximum fine applicable to corporations was enacted on May 29
- Amendments passed in April 2005 and implemented in January 2006 are expected to significantly strengthen the FTC's capabilities to enforce the AMA and to eliminate and deter anti-competitive activities, in particular hard core cartels and bid rigging activities:
  a) *Revision of the surcharge system:* The rate of surcharge, which is ordered and paid by an enterprise engaged in unreasonable restraint of trade, was increased.
  b) *Introduction of a leniency program:* In order to encourage violators to withdraw from cartel and restore competition, the leniency program apply immunity from or reduction in surcharge payments to enterprises that meet statutory conditions (e.g., enterprises committing unreasonable restraints of trade shall voluntarily disclose the existence of violations and provide related information to the JFTC).
  c) *Introduction of compulsory measures for criminal investigations:* The provisions related to compulsory measures for criminal investigations were developed for cases where officers of the JFTC may inspect, search and seize based on court-issued warrants. For aggressive criminal accusations against vicious and serious cases, the enhancement of the ability to collect evidence is necessary for fact-finding by the JFTC.
  d) *Revision of hearing procedures:* The amendment introduced a system where the JFTC issues an order for elimination measures after having provided a respondent with a preliminary opportunity to submit his/her opinion.
- Japan Government decided on the 3-Year Program for Promoting Regulatory Reform in March 2001 and established the "Council for Regulatory Reform" to promote regulatory reform.

Number of legal actions for AMA violations since 2002

	2002FY	**2003FY**	**2004FY**	**2005FY**
Private Monopolization	0	1	2	0
Bid-rigging	30	14	22	13
Cartels (excluding bid-rigging)	3	3	2	4
Unfair Trade Practices	3	7	8	2
Others	1	0	1	0
Total Cases	37	25	35	19

Japan Fair Trade Commission

JFTC is in charge of enforcing the AMA.

- Its independence is sufficiently protected by the AMA, which provides that the JFTC shall be administratively attached to the Prime Minister, the chairman and the commissioners perform their duties independently and may not be removed from office during their term of office against their will.
- Its investigative powers cover the authority to make administrative investigation, to make compulsory investigation for criminal cases, and to make general investigation.
- It imposes strict and vigorous measures against price cartels, bid-riggings and other violations of AMA.
- It published the Report on Issue Concerning Postal Services and Competition Policy coinciding with Enactment of the Law on Privatisation of Postal Services in April 2006.
- Its website posted competition laws, regulations, guidelines and administrative rulings; databases of its decisions and court judgements related to AMA violations. Information on competition law and policy are available in English.

AMA measures dealing with horizontal and vertical restraints, abuse of dominance, and M&As

- Horizontal restraints such as hard-core cartel are mainly prohibited as "unreasonable restraint of trade". Vertical restraints such as discriminatory treatment, tie-in sales and resale price restriction are prohibited as "unfair trade practices", and "private monopolization". When the JFTC finds violation of the AMA, it can render a cease and desist order against the respondent to eliminate such conducts. In the case of a hard-core cartel, a surcharge is levied and criminal sanctions can also be levied.
- Abuse of dominant market position is prohibited as "private monopolization". Such actions are

  prohibited and subject to cease and desist orders. The AMA prohibits a business combination, interlocking directorates, mergers, divisions, and acquisitions of business if the effect of the combination may substantially restrain competition in a particular field of trade.
- Mergers, divisions, and acquisitions of business above certain scale thresholds must notify the JFTC in advance.
- For stockholdings, if the voting right holding ratio exceeds 10%, 25% or 50% by stockholdings, the parties must submit a report to the JFTC within 30 days after stockholdings.

Criteria used to assess the approval of mergers

Features of JFTC's Merger Guidelines:

- The assessment of mergers is more consistent with economic logic, and more congruent with the ones in the EU and US merger guidelines (than ever).
- Horizontal, vertical and conglomerate mergers are covered.
- . Safe harbor rules for mergers are adopted. Presumptive illegality rules are not.
- . The approach to remedial actions is explained.

Determination of Relevant Markets:

- . A relevant market is principally determined by demand substitution.
- . Product and geographic dimensions specify the boundary of a relevant market.
- Price discrimination and supply substitution are also taken into consideration.

3.8.2. Privatization of Japan Post

The privatisation of Japan Post, to be completed by 2017, has been divided into several phases:

I. Preparation phase:

a) Established Headquarters for the promotion of PPS in the Cabinet, chaired by Prime Minister. (10 Nov.2005)

b) Established Japan Postal Services Holding Company to take charge of preparation and planning of privatization. It set up the special planning board for privatization. (23 Jan 2006)

c) Established Postal Services Privatization Committee under the Headquarters for the promotion of PPS. (1 April 2006)

d) Enabled Japan Post to expand its business into international logistics. (17 April 2006)

II. Privatization phase:

a) *Measures to be taken on October 1, 2007:*
   - Japan Post Law, Postal Savings Law, Postal Life Insurance Law and relevant laws will be revoked.
   - Postal Service Company, Post Office Company (Over-the-counter services network company), Public Successor Corporation (Incorporated Administrative Agency Management Organization for Postal Savings and Postal Life Insurance) will be established. Japan Postal Services Holding Company will have whole

outstanding shares of Postal Service Company and Post Office Company.

- Postal Savings Bank/Postal Insurance Company will be given a Bank/Insurance business license and start bank/insurance business. The license will be given on some conditions including continuous agency contracts to sustain sound, proper and stable businesses while special provisions to Banking/Insurance Business Law are applied. The exercise of the voting right will be stipulated in the certificate of incorporation of the Postal Savings Bank / Postal Insurance Company to enable continuous exercise of the voting right by Japan Postal Services Holding Company.
- Japan Postal Services Holding Company will abolish the special planning board for privatisation and its role of preparation and planning of privatization will be discharged. It will start its role as a shareholding company. According to the business succession plan, new privatized companies and Public Successor Corporation will succeed the business from Japan Post.
- Employees of Japan Post will lose the status as government official and become staff members of the privatized companies.
- The Law concerning Abolishment and Amendment of Related Laws will amend Postal Services Law and other related laws and introduce interim measures as needed.

b) *Measures to be taken during the transitional period:*

- Japan Postal Services Holding Company: In the Law of PPS, special exemption clauses to Banking/Insurance Business Law will be introduced which enables JPSHC to hold bank /insurance company and non-financial companies concurrently.
- Postal Savings Bank: PSB will transfer funds equivalent to deposit insurance premium on deposits accepted from Public Successor Corporation, which will be exempted, to Japan Postal Services Holding Company. Special provisions to Banking Law to put limitation of maximum deposit, scope of businesses, having subsidiary and merger, etc. (At the beginning of transitional period, the scope of businesses will be the same as that of Japan Post. Then according to the progress of privatization and based on the opinions from Postal Services Privatization Committee, competent ministers will give approvals to expand the scope.)
- Postal Insurance Company: Special provisions to Insurance Business Law to put limitation of maximum insurance coverage, scope of businesses, having subsidiary and merger, etc. (At the beginning of transitional period, the scope of businesses will be the same as that of Japan Post. Then according to the progress

of privatization and based on the opinions from Postal Services Privatization Committee, competent ministers will give approvals to expand the scope.)

- Postal Service Company: Consideration for other private companies engaged in the same type of businesses, etc.
- Post Office Company: Consideration for other private companies engaged in the same type of businesses, etc.

c) *Promotion of and Supervision over the Privatization***:**

- The Postal Services Privatization Committee will implement the overall review about the progress of the privatization every 3 years, and state opinion about the privatization to the chair of Headquarters for the promotion of PPS.
- The Postal Services Privatization Committee states opinion about the enactment of government/ministerial ordinances, approvals by competent ministers etc.

d) *Disposal of Shares:* Japan Postal Services Holding Company is obliged to gradually dispose all the voting shares of Postal Savings Bank and Postal Insurance Company no later than September 30, 2017.

e) *Taxation System:* necessary measures will be taken to ensure smooth transition process and succession of businesses from Japan Post to newly established bodies.

III. Completing Privatization by October 1, 2017

a) The role of Headquarters for the promotion of PPS and Postal Services Privatization Committee will be discharged and the special provisions on Postal Savings Bank and Postal Insurance Company will be revoked. On the Postal Savings Bank and Postal Insurance Company, upon the decision by the competent ministers or complete disposal of their voting shares, the special provision would be revoked even before October 2017.

b) *The final structure of the institutions on completion of the privatisation exercise***:**

- Postal Savings Bank and Postal Insurance Company, which will be ordinary joint stock companies without government affiliations, will conduct businesses under the Banking/Insurance Business Law and other financial laws generally applied to financial institutions.
- Japan Postal Services Holding Company, Postal Service Company and Post Office Company, which are “government affiliated joint-stock companies”, will be supervised by the competent minister.

3.8.3 Implementing APEC Principles to Enhance Competition and Regulatory Reform

Japan has been addressing various activities concerning competition policy and regulatory reform focusing on the following issues in the "Grand Design for Competition Policy" under the Osaka Action Agenda that has provided non-discrimination, comprehensiveness, transparency etc. as general principles to achieve the Bogor Goal of free and open trade and investment no later than the year 2010 for developed economies.

- Rigorous enforcement of the amended Antimonopoly Act ---stringent action against price cartels/ bid-riggings; stringent action against conducts that deter new entrants; improvement of merger review addressed to increasing M&As.
- Building a competitive society with rules ---promotion of proper provisions of information for consumers as participants to markets; encouragement of fair business practices
- Creation of competitive environment ---promotion of regulatory reform; promotion of measures for prevention of bid-riggings; encouragement of entrepreneurs' compliance

3.8.4 Implementing APEC Transparency Standards for Competition Law and Policy

- The JFTC has been publishing amendments of law and regulations of the Antimonopoly Act as well as administrative measures such as cease-and-desist orders against violations etc., through official gazettes, press releases, Internet and various pamphlets etc. on the same day.
- The JFTC has provided entrepreneurs with opportunity to present their views on the contents of orders and to submit evidence before issuing cease-and-desist orders to entrepreneurs in accordance with the provisions of the AMA. Furthermore, if entrepreneurs are dissatisfied with the orders of cease-and-desist measures, they are able to request for hearing procedures to the JFTC.

3.8.5. Cooperation Arrangements With Other APEC Economies

- JFTC and Australian Competition and Consumer Commission continued to discuss possibility of formal cooperation agreement on anti-competitive activities.
- Japan and US signed bilateral agreement on cooperation of anti-competitive activities in Oct 1999.

- Japan's EPAs with Singapore, Mexico, and Malaysia have chapters on competition policy in which each country has committed to take measures against anti-competitive activities, and to cooperate in controlling anti-competitive activities. As for cooperation on competition law enforcement between competition authorities, the Japan-Singapore EPA provides for notification and exchange of information in telecommunications, electricity and gas. The Japan-Mexico EPA provides for notification, cooperation, coordination, positive comity and negative comity. In the Japan-Malaysia EPA, elements for enforcement cooperation are prescribed as future issue and will be considered when the Agreement is reviewed
- JFTC has been holding bilateral meetings for exchange of views with other APEC economies, participated in discussion of OECD Competition Committee; and participated in International Competition Network.

Assessment

Japan has made substantive progress in competition policies/law since the last IAP, focusing on enforcement of the Antimonopoly Act by the Japan Fair Trade Commission. Amendments to the AMA include revision of the surcharge system, introduction of the leniency program, compulsory measures for criminal investigations. The privatisation of Japan Post is proceeding on schedule and will be completed by 2017. Japan has also been implementing the APEC Principles to Enhance Competition and Regulatory Reform and implementing the APEC Transparency Standards for Competition Law and Policy.

3.9. Government Procurement

Objective

APEC Economies will

(a) Develop a common understanding on government procurement policies and systems, as well as on each APEC economy's government procurement practices; and

(b) Achieve liberalization of government procurement markets throughout the Asia-Pacific region in accordance with the principles and objectives of the Bogor Declaration, contributing in the process to the evolution of work on government procurement in other multilateral fora.

The basic framework for Japan's government procurement regime is provided by its membership of the WTO Government Procurement Agreement (GPA), which emphasises the principle of non-discrimination between domestic and foreign suppliers, and the 2001 Act for Promoting Proper Tendering and Contracting for Public Works (the so-called "Proper Tendering Act"), which emphasises as basic principles "secure transparency", "promote fair competition", "proper implementation of works" and "abolish improper actions." The "Proper Tendering Act" provides measures that can be taken to prevent bid-rigging and other "improper actions" relating to public works contracts, including notification of improper actions to the Japan Fair Trade Commission (JFTC), which may demand that heads of ministries take necessary actions to eliminate bid-rigging. WTO (2004) reports that in 2003-4 there were two cases in which such action was taken by the JFTC.

GPA provisions cover government procurement contracts above a specified value thresholds undertaken by all central government entities, all 47 prefectures, 12 designated cities with populations of over 500,000, and certain public corporations. In line with GPA requirements government procurement is conducted without restrictions on supplier nationality or origins of products and services. No price or other types of preferences are granted to domestic suppliers. An agreement was reached in 2002 among all government ministries on measures to ensure non-discriminatory, transparent

and fair procurement of computer information systems. The regime now includes several features aimed at enhancing these characteristics. A practical guidebook regarding Japan's overall government procurement system and tendering procedures is published annually and is available on the internet in both Japanese and English. Information on tenders is published in the official gazette ("kanpo") at least 40 days prior to tender closing dates, and tenderers are promptly notified of the outcomes of tenders, including name and address of the winning tenderer, coverage of the contract, date of award, and successful tender price. An Office of Government Procurement Review exists to review complaints over tendering procedures. According to WTO (2004) one complaint was filed over the period between 2002 and 2004.

An enhancement to the process since the last IAP peer review has been the introduction of an on-line system for submission and opening of tenders via the internet. The government intends to move to an electronic contracting system in the near future.

Each tender may operate on the basis of open tendering, selective tendering or single tendering, all of which may be permissible under the GPA. In the case of selective tendering the procuring entity may specify the qualifications required from tenderers and select tenderers who meet the qualifications, who then compete in the tender under the lowest tendered prices method. In the case of single tendering the preferred tenderer will be selected from among the qualified suppliers. An alternative to the lowest tendered prices method is the overall greatest value method, where factors additional to prices may be taken into account. The latter method has been used for major sectors such as public undertakings, computers, communication technology and medical appliances.

Government officials provided the following information on the shares of procurement undertaken by each of the procurement methods in the years 2002 to 2004:

Shares of government procurement by each tendering method, by number of contracts (%)			
	2002	**2003**	**2004**
Open tendering	80.7	79.1	75.1
Selective tendering	0.4	0.4	0.6
Single tendering	18.9	20.5	24.3

Shares of government procurement by each tendering method, by value (%)			
	2002	**2003**	**2004**
Open tendering	63.1	63.3	54.2
Selective tendering	1.5	1.5	1.7
Single tendering	35.4	35.2	44.1

These figures suggest an increasing trend in the proportion of procurement undertaken by single tendering. They also suggest that the average value of contracts decided by single and selective tendering is higher than in the case of open tendering. Nevertheless officials indicate that government intends to reduce the incidence of single tendering.

The shares of foreign suppliers in total government procurement over the years 2002-4, as advised by government officials, together with the corresponding figure for 2000 provided in WTO (2004) were as follows:

Shares of foreign suppliers in total government procurement (%)				
	2000	**2002**	**2003**	**2004**
By value	6.9	4.2	4.2	3.7
By number of contracts	2.7	2.1	2.7	2.0

Measured by value there appears to be a clear trend for the share of foreign suppliers in total government procurement to decline, although the trend is not so clear when procurement is measured by number of contracts. WTO (2004) reports that the share of foreign suppliers is highest for tenders operated on a single tenderer basis, and lowest for tenders operated on the selective tenderer basis (in fact the share in selective tenders was zero in each of the two years cited).

Assessment

Japan continues to develop its government procurement regime in line with the requirements of the WTO's GPA and domestic measures designed to promote transparency, non-discrimination and fair dealing. Some modest enhancements have been made to the system since the last IAP peer review. It appears that the share of foreign suppliers in total government procurement has tended to decline in recent years, at least when measured by value. The reason for this is not known.

3.10. Deregulation/Regulatory Review and Reform

Objective

APEC economies will facilitate free and open trade and investment in the Asia-Pacific Region by, inter alia:

a. *enhancing the transparency of regulatory regimes; and*

b. *eliminating domestic regulations that may distort or restrict trade, investment or competition and are not necessary to achieve a legitimate objective.*

Although many of the reforms listed in Japan's IAP relate to the period prior to the last IAP peer review, it is clear that the commitment of the Japanese government to regulatory review and reform has been ongoing. This follows from the central role of structural reform in the government's forward-looking economic strategy. It is reflected in the existence of an Office for the Promotion of Regulatory Reform within the Cabinet Office, and the Council for Regulatory Reform (formerly the Council for the Promotion of Regulatory Reform), which reports directly to the Prime Minister. The Prime Minister receives an annual report from the Council, and orders any necessary responses to the issues raised in the Council's report. This structure emphasises the Prime Minister's commitment to regulatory reform.

A Three Year Program for the Promotion of Regulatory Reform (TPPRR) was adopted in 2001. A second TPPRR was adopted in 2004.

Although commitment to regulatory reform exists at the highest political level, officials also made clear that consensus is expected to be the normal modality for decisions on regulatory reform. The Prime Minister or Cabinet may step in to break deadlocks on key measures where consensus cannot be reached through the normal processes. In addition to the Prime Minister and Cabinet, the Diet, the bureaucracy and the ruling party all have important roles in the process of building consensus around regulatory reform measures, which accordingly can sometimes by necessity be slow and painstaking. Consensus may be particularly difficult to achieve on measures that have important social implications.

A key initiative aiming to speed up the process of regulatory reform during the first TPPRR was the 2002 legislation for establishment of Special Zones (SZs) for Structural Reform, coordinated by the Office for the Promotion of Special Zones for Structural Reform. Under this initiative local entities may propose regulatory reforms to be applied in a defined local area, and mechanisms exist to encourage the adoption of these reforms on a nationwide basis in cases where they are shown to be successful and appropriate. Proposals may be made by any local entity – local governments, local organisations, companies or individuals – although in practice the majority of proposals come from municipal governments. The decision as to whether each proposal should be implemented is based on an evaluation process involving negotiations between the Office for the Promotion of Special Zones and the ministries with responsibilities relevant to the proposal. Since proposals in practice relate to a wide range of policy areas there are no universal criteria for deciding which proposal will be adopted.

After approved measures in Special Zones have been operating for a year they will be evaluated by an Evaluation Committee, which is an advisory body made up of local officials, academics and private sector representatives. A key task of the Evaluation Committee is to assess whether reforms that have been successful in the SZs should be recommended for implementation on a nationwide basis. Negotiations between the Office for the Promotion of Special Zones and relevant ministries, and sometimes between different affected ministries, are generally needed to secure nationwide implementation, although ministries may also decide on their own initiative to adopt reform proposals on a nationwide basis, should they so wish. Appeals may be made to the Prime Minister in cases where consensus cannot be reached.

There is considerable momentum behind the Special Zones initiative. To date 878 distinct Special Zones have been created. Officials indicate that 64 of the 78 special measures assessed by the Evaluation Committee have been earmarked for nationwide implementation, and a further 210 measures are scheduled for evaluation after they have been in operation for one year. This is in addition to reform measures proposed for Special Zones that were adopted immediately for nationwide implementation. Reforms implemented in SZ have spanned a wide range of sectors and activities, including education, culture, agriculture, international logistics, environmental management, industrial restructuring and urban renewal. An example of an important reform in the agricultural sector that was introduced through the Special Zones initiative is provision for company ownership and use of farmland.

The key initiative in the second TPPRR has been the establishment in 2006 of the Market Testing System, whereby public services provided by national or local government are thrown open to competitive tendering by both public and private sector bidders. Competition in the provision of basic and business infrastructure is especially to be promoted. Other issues to be addressed under this new TPPRR are the establishment of regulatory review criteria and issues related to immigration and the residency status of foreign citizens.

Each year priority sectors are targeted for regulatory reform. In 2006 the targeted sectors are telecommunications and broadcasting. Other sectors that have been earmarked for reform include agriculture, energy, health, nursing and childcare, construction, and financial services.

Assessment

As a central element in its long-term economic strategy, regulatory review and reform continues to be given high priority by the Japanese government. This is reflected in the structures that have been established within the government to support regulatory reform as well as the implementation of successive Three Year Programmes for the Promotion of Regulatory Reform (TPPRRs), which have continued to advance the regulatory reform agenda since the last IAP peer review. Building consensus behind regulatory reform measures can nevertheless at times be a slow and difficult process. The creation of Special Zones for Regulatory Reform is an innovative approach designed to accelerate the regulatory reform process by facilitating the adoption of reforms at the local level, with a view to subsequently evaluating their potential for nationwide adoption.

3.11. Implementation of WTO Obligations (including Rules of Origin)

Objectives

APEC Economies will ensure full and effective implementation of Uruguay Round outcomes within the agreed time frame in a manner fully consistent with the letter and spirit of the WTO Agreement:

On Rules of Origin, APEC Economies will:

(a)Ensure full compliance with internationally harmonized rules of origin to be adopted in relevant international fora; and

(b) Ensure that their respective rules of origin are prepared and applied in an impartial, transparent and neutral manner.

Japan's IAP notes that it has so far implemented its Uruguay Round tariff reduction commitments completely, and intends to fulfil its remaining commitment in timely fashion. It has implemented all its GATS commitments and in 2005 submitted an extensive revised offer on services as part of its contribution to the Doha Development Agenda (DDA) negotiations. It has implemented its notification obligations under the WTO TRIPS Agreement, and made the necessary amendments to its laws in order to implement the main provisions of that Agreement.

Japan has been proactive in pursuing the agenda set out in the WTO Agreement on Rules of origin. It has been actively involved in the Harmonization Work Programme (HWP) being jointly undertaken by the WTO and WCO, and would like to see early finalisation of the proposed Harmonised Rules of Origin (HRO). It believes that harmonised rules are appropriate in the context of actions in under the Agreements on Anti-Dumping, Subsidies and Countervailing Measures, and Safeguards. It has played a leading role on the WTO Committee on Rules of Origin, acting as vice-chair of that Committee since 2003.

Japan considers that change in tariff classification (CTC) is appropriate as the basic approach to rules of origin in both non-preferential and preferential contexts. It nevertheless considers that the regional value content (RVC) method is useful for some products. It is also necessary to take into account the preference for RVC rules on the part of some trading partners. Thus RVC rules are prevalent in some of Japan's bilateral FTAs.

In the most recent bilateral FTAs there is provision for co-equal rules of origin for some products, whereby origin is conferred by either a designated change in tariff classification or a specified level of regional value content. If this approach proves successful in practice it may provide a useful model for FTAs elsewhere in the APEC region.

Assessment

Japan has been conscientiously implementing its Uruguay Round commitments. It is also playing an active part in efforts to complete work on harmonised non-preferential rules of origin in the WTO and WCO. The use of co-equal rules of origin for some products in some of Japan's recent bilateral FTAs is an interesting innovation that may be useful for wider application if it proves successful.

3.12. Dispute Mediation

Objective

APEC Economies will:

(a) *Encourage members to address trade disputes cooperatively at an early stage with a view to resolving their differences in a manner which will help avoid confrontation and escalation, without prejudice to rights and obligations under the WTO Agreement and other international agreements and without duplicating or detracting from WTO dispute settlement procedures*

(b) Facilitate and encourage the use of procedures for timely and effective resolution of disputes between private entities and governments and disputes between private parties in the Asia-Pacific region; and

(c) Ensure increased transparency of government laws, regulations and administrative procedures with a view to reducing and avoiding disputes regarding trade and investment matters in order to promote a secure and predictable business environment.

Japan respects the WTO dispute settlement process, including in cases where the decision has gone against Japan. Recent examples of disputes settled through the WTO dispute settlement mechanism include the dispute between Japan and the United States on apple imports, settled in 2005, and the dispute between Japan and Korea over import quotas on dried laver and seasoned laver, settled in 2006. Japan regards the WTO dispute settlement process as an effective mechanism for settling disputes between economies on WTO-related trade matters and considers it preferable that the dispute settlement arrangements in preferential trading agreements are consistent with the WTO dispute settlement procedures.

An Office of the Trade and Investment Ombudsman (OTO) exists to handle complaints from both foreign and domestic businesses over government regulations that impede trade between Japan and other countries. The OTO also seeks to resolve misunderstandings and improve regulations affecting trade. If the complaint is not resolved to the complainant's satisfaction it will be referred to the Grievance Resolution

Committee of Market Access, which can issue non-binding recommendations as to how the complaint should be addressed. The OTO handled numerous complaints in the 1980s and early 1990s, but the number of complaints has dwindled to very low levels in the period since the last IAP peer review. Since the OTO began hearing complaints in 1981 import-promoting resolutions have been made in just over half of the cases handled. The OTO also proactively seeks information from foreign representatives in Japan on market access problems. This process can lead in some cases to a ministerial decision by the Office of Market Access, chaired by the Prime Minister. This process was followed in a small number of cases in 2004 and 2005.

A new arbitration law was introduced in 2003, based on the UNCITRAL Model Law on International Commercial Arbitration. The English translation has been available on the internet since 2004. According to officials it seems to be used effectively.

Assessment

Japan continues to support effective dispute settlement procedures for trade and investment matters, both between governments and between governments and private entities.

3.13. Mobility of Business People

Objective

APEC Economies will enhance the mobility of people engaged in the conduct of trade and investment in the Asia-Pacific region.

3.13.1 Immigration Control and Refugee Recognition Act

In comparison with many other OECD countries, Japan continues to maintain a fairly restrictive inward movement of natural persons under its Immigration Control and Refugee Recognition Act. In recent years, it has streamlined and expedited immigration inspection examination of status of residence; examined the categories of status for entry into Japan and the measures to accept personnel in special or technical fields; and also examined the case for accepting a wide range of foreign personnel, including recent EPAs signed with ASEAN countries

- **Visa policy:** The Japanese government has simplified application documents and visa procedures where appropriate.
  - Multiple-entry visas for temporary business visitors from APEC region are valid for up to 5 years and can be obtained, depending on their business qualifications and regardless of their nationalities. In most countries, including all the APEC economies, Japanese embassy/consulate issues multiple-entry visas.
  - Since 1 January 2005, Japan has relaxed the requirements for issuance of multiple-entry visas for temporary visitors from Asia Pacific countries including APEC. Currently, the following are qualified to apply multiple-entry visas --- persons in position of (i) manager or above, or (ii) employee working for more than 1 year, in a company that fulfils the following conditions ----government and public enterprises; companies listed in the stock exchange; Japanese companies that are members of the Japan Chamber of Commerce in the cities where Japanese embassies or consulate-generals are located and have their head offices or corresponding addresses in Japan; joint corporations that are co-invested with Japanese companies that are listed on the stock exchange in Japan, and subsidiary companies or representative offices of those Japanese companies; companies that have continual transactions with Japanese companies that are listed on the stock exchange in Japan. This information is available on the websites.

- In general, possibility of visa waiver for temporary business visitors could be considered comprehensively, taking into consideration the dual objectives of promoting people-to-peole exchanges and maintaining domestic security.
- Japan participated in the ABTC scheme since April 1 2003

- **Temporary residence relaxations**: Business people can enter and reside in Japan with the status of residence if they fulfil the conditions prescribed in the Immigration Control and Refugee Recognition Act and the Ministerial Ordinance. Period of stay, without extension, is either 1 year or 3 years, with the maximum period permitted in most cases. The maximum period for re-entry permit is 3 years. Under the Special Zones system, Japan has been actively implementing the deregulation of immigration measures
  - The restriction on maximum period of stay for status of "Intra-company transferee" was abolished by revise Ministerial Ordinance to provide for Criteria in January 1998. From October 1999, extended maximum period of stay from 1 year to 3 years for statuses of residence such as "Intra-company transferee". Clarified and published treatment of status of residence of "Investor/Business Manager" and "Intra-company transferee" on the website.
  - Since October 2003, extension of maximum period of stay of some data processing specialists in the special zone from 3 to 5 years.
  - Since February 2004, foreign students are permitted to stay in Japan for up to 180 days after graduation and engage in activities other than those earlier authorized.
  - In February 2004, revised Ministerial Ordinance on status of "Skilled Labor" to accept sommeliers. Also, revised MOJ Ordinance on status of "Medical Services" to expand the places where foreign medical doctors can engage in medical services.
  - Since March 2004, granted certificate of eligibility for status of residence generally within 2 weeks from application by foreign nationals who have employment contracts with companies that are regarded as "good performance" company.
  - On March 30, 2006, Ministerial Ordinance to provide criteria for status of residence of "Medical Services" which relaxes the restrictions on foreign doctors and foreign nurses having Japanese medical licences to engage in medical services in Japan.

3.13.2 Entry and Employment of Foreign Service Providers

Foreign service providers can enter and reside in Japan with status of residence such as intra-company transferees, business visitors, independent professionals, and service suppliers on the basis of a contract with public or private organizations in Japan. Their requirements for entry are stipulated in the Immigration Control and Refugee Recognition Act. Foreigners who intend to engage in the activities such as "Intra-company Transferee", "Legal/Accounting Service" etc, should fulfil the requirements provided for by a MOJ ordinance.

- Japan has no quantitative restrictions on such inflows.
- Criteria of "good performance company" used for granting certificates of eligibility for status of residence are as follows:
  (i) A company of which applications for the certificate of eligibility have never been denied for the past three years.
  (ii) A company which is listed in the Tokyo Stock Exchange or has the same scale as that.
- Measures being undertaken and planned for the inflow of foreign workers: As Japan's productive population decreases, the acceptance of foreign workers will be considered as follows:
  - The statuses of residence or conditions for landing permission will be reviewed for foreign workers who are highly valued in professional or technical fields according to changes in the economy and society.
  - Accepting foreign workers in fields that are not valued as professional or technical at present will also be given consideration in light of the decrease in the productive population, while also taking into account "the need to maintain Japan's economic vitality and national living standards, the public consciousness and the existing conditions of the nation's economy and society." Considerations are given not only to new industrial fields, Japanese language aptitude and other conditions for accepting foreign workers but also to the positive and negative impacts on Japan's industry and public welfare which includes domestic security, domestic labour market, industrial development, restructuring, and social costs.

Entry and Employment of Foreign Experts in Managerial and Engineering Positions:

- Based on the Osaka Action Agenda, work has been progressing on the "APEC Engineer Mutual Recognition Project" for the promotion of mutual acceptance of engineer qualifications within the APEC region. Japan has actively participated in studies for this project. In October 2003, Japan and Australia signed a mutual

recognition of the Professional Engineer qualification framework, and accordingly Japan revised ministry ordinances to receive Professional Engineer from Australia.

- Foreign IT technicians employed in a specific Special Zone have status of residence "Designated Activity" and are not allowed to move employment to other Special Zones. However, this regulation was abolished on 24 November 2006, and this project was applied nationwide.

Entry and Employment of Foreign Doctors and Nurses

Since March 2004 there has been relaxation of restrictions on health workers. The number of foreigners registered with the status of residence of "Medical Services" for 2001-2005 are:

Year	2001	2002	2003	2004	2005
Numbers	95	114	110	117	146

3.13.3 Provisions on Movement of Natural Persons in EPAs/FTAs.

Provisions for short-term visitors, intra-corporate transferees and investors are as follows:

- ***Short-term business visitors:*** Entry and temporary stay will be granted to a natural person of the other Party who stays in Japan for a period not exceeding 90 days without acquiring remuneration from within Japan and without engaging in making direct sales to the general public or in supplying services himself, for the purposes of participating in business contacts or other similar activities.
- ***Intra-company transferees:*** Entry and temporary stay will be granted to a natural person of the other Party who has been employed, by a juridical person of the other Party that supplies services in Japan or by an enterprise of the other Party that invests in Japan, for a period not less than one year immediately preceding the date of his application for the entry, and who is being transferred to a branch office, a juridical person or an enterprise constituted or registered in Japan owned or controlled by the aforementioned juridical person or enterprise of the other Party. When such a person is engaged in activities which require technology or knowledge at an advanced level pertinent to physical sciences, engineering, or other natural sciences, or in activities which require knowledge at an advanced level pertinent to jurisprudence, economics, business management, accounting or other human sciences, the natural person is, in principle, required to complete college education (i.e. bachelor's degree) or higher education.

- ***Investors:*** Entry and temporary stay will be granted to a natural person of the other Party who is engaged in the activities to commence the operation of business in Japan, to invest in business in Japan and to operate or manage that business, provided that the national complies with immigration laws and regulations applicable to entry and temporary stay.

3.13.4 Implementing the APEC Business Travel Card

The ABTC scheme provides bona fide frequent business travellers with visa-free travel and expedited airport processing when visiting participating APEC economies. Australia, Korea, and Philippines successfully adopted the ABTC scheme in 1998 and have since been joined by Brunei, Chile, China, HK, Indonesia, Japan, Malaysia, NZ, PNG, Peru, Singapore, Taipei, Thailand, Vietnam, bringing the total number of participating APEC economies to 17.

Japan has issued 1,715 ABTC as of end-August 2006. Japan works to issue the cards within three months after acceptance of application. Japan's criteria for issuing ABTC are as follows:

- A member or a staff of the ABAC(APEC Business Advisory Council) Japan committee
- A manager or an employee who is in charge of trade or investment to overseas by a company whose sales of export and import amount to 100 million yen or more in the previous year, or whose investment amounts to 50 million yen or more in the past year
- A manager or an employee who is in charge of trade or investment to overseas by a company which belongs to an organization composing the Support Council for ABAC Japan.

Assessment

Compared to other major OECD countries Japan has been less liberal in facilitating the movement of natural persons, including business people, into Japan. Entry into Japan and temporary residence is governed by the status of residences administered by the Immigration Control and Refugee Recognition Act.

Since the last IAP, there have been efforts to improve the mobility of business people. These have included implementation of the APEC Business Travel Card; relaxation of visa policy including granting of multiple-entry visas; relaxation of temporary residence for certain categories of managerial and professional personnel and service providers. In particular, Japan has allowed limited entry into Japan of healthcare workers under its bilateral EPAs with selected ASEAN countries.

3.14. RTAs/FTAs

3.14.1 Japan's EPA/FTA Trend and Characteristics

The trend towards EPAs and FTAs represents a significant change in Japan's foreign trade policy in recent years. While emphasizing that the WTO continues to play an important role, Japan argues (MOFA October 2002 document) that FTAs offer a means of strengthening partnerships in areas not covered by the WTO and achieving liberalization beyond attainable levels under the WTO. Also, the EU and US have pursued policies oriented towards creation of large-scale regional trade frameworks, and Japan views it is also necessary for Japan to address FTAs in strengthening its economic relationships with other countries.

- *Economic advantages of FTAs*: They expand markets, promote a more efficient industrial structure, improve the competitive environment; help expand and harmonize existing trade-related regulations and systems. Japan's EPAs include not only trade liberalization but also a wide range of areas such as trade facilitation, investment, intellectual property rights, competition, labour mobility, and economic cooperation. Problematic for Japan in EPA negotiations are its highly protected sectors such as agriculture, footwear, leather and leather products, and movement of natural persons.
- *Political and diplomatic advantages of FTAs*: They help consolidate political relationships and expand Japan's global and regional partnerships.
- FTAs could also have a negative systemic effect on the WTO, and disadvantage countries that are not members. They lead to a "spaghetti bowl" of diverse rules of origin and product standards and conformance which raise business transaction costs.

In December 2004, the Japanese government approved the Basic Policy Towards Further Promotion of Economic Partnership Agreements (EPAs), that clarified the criteria for identifying countries/regions with which Japan is willing to negotiate:

- Creation of international environment beneficial to Japan ----community building and stability and prosperity in East Asia; strengthen Japan's economic power and tackle political and diplomatic challenges; reinforce Japan's position in the international society, including the WTO talks, through partnership and cooperation with related countries/regions.

- Attainment of economic interests of Japan --- substantially expand and facilitate trade in goods and services as well as investment; eliminate economic disadvantages caused by absence of EPA/FTA; promote stable import of natural resources and safe food, and diversification of suppliers; promote Japan's economic and social structural reforms; promote acceptance of specialized and skilled workers.
- Promote EPAs emphasising speed and quality: Japan aims to conclude high quality comprehensive EPAs covering not only market liberalization but also investment, IP and other areas.

The current status of Japan's EPA negotiations is as follows:

- South Korea and China: FTA negotiations with South Korea have been suspended. Improving political relations with South Korea could lead to resumption of negotiations and the initiation of negotiations with China.
  However, there are also sensitivities on agriculture.
- EPAs with ASEAN: The Japan-Singapore and Japan-Malaysia EPAs have been implemented; Japan-Philippines EPA has been signed and awaits implementation; the text of the Japan-Thailand EPA negotiations has been finalized (but there has been no further progress since the military coup in Thailand); and the Japan-Indonesia and Japan-Brunei EPAs have been agreed in principle by both sides. Japan's major economic interests in ASEAN are to secure it as a base for Japanese outward investments, a market for its manufactures and services, a secure source of supply for energy and other natural resources, and enforcement of IPR. In turn, the ASEAN countries are interested in accessing the rich Japanese market, attracting Japanese FDI, and for the Philippines, Thailand and Indonesia, exporting natural resources, food and labour to Japan.

Table below shows the EPAs/FTAs that Japan has implemented, signed, or been negotiating or studying:

With:
Singapore: signed in January 2002, entered into force on 30 Nov 2002, partial review initiated in April 2006.
Mexico: signed in September 2004, entered into force on 1 April 2005. Without the EPA Japanese businesses had faced relatively high tariffs in comparison with those of NAFTA and EU.
Malaysia: signed in December 2005, entered into force on 13 July 2006;

Philippines: signed in September 2006. On movement of natural persons, Japan will allow entry of Filipino qualified nurses and certified careworkers that satisfy certain requirements and will allow them to work, after completing training in the Japanese language and other skills, as preparation for obtaining national licences. Duration of stay –up to 3 years for nurses, 4 years for certified careworkers. After taking the national licence examinations, successful candidates will be allowed to work as qualified nurses and certified careworkers.

Thailand: text of agreement finalized during negotiations in June 2006;

Indonesia: negotiations launched in July 2005; 6th round of negotiations held in October 2006. Both sides agreed in principle on major elements in November 2006.

Vietnam: The first round of negotiations will be held in January 2007.

Brunei: negotiations launched in June 2006; 3rd round of negotiations held in October and November 2006. Both sides agreed in principle on major elements in December 2006.

ASEAN10: Negotiations commenced in April 2005, to be concluded within 2 years; 5th round of negotiations in July and August 2006.

Republic of Korea: negotiations launched in Dec 2003. Negotiations suspended in November 2004, after 6 rounds.

Chile: negotiations launched in February 2006. After the 4th round, both sides agreed in principle on major elements in September 2006.

Gulf Cooperation Council (GCC): negotiations launched in September 2006.

India: joint study group met 4 times since July 2005. Negotiations to be launched in January 2007..

Switzerland: joint study launched in October 2005; 5th meeting held in November 2006.

Australia: joint study launched in November 2005; 5th meeting held in September 2006; in December 2006 both countries agreed to launch negotiations in 2007.

Japan's EPAs/FTAs include provisions on matters that are not fully covered by WTO Agreements, such as trade facilitation (customs), investment, competition policy, government procurement, e-commerce, movement of natural persons, and improvement of the business environment.

- *Services:* In the GATS, Japan made commitments in 104 sub-sectors of w/120 classification (155 sub-sectors), and in the WTO-revised offer (2005) of Japan includes 112 sub-sectors. In the Japan-Singapore EPA, Japan made commitments in 134 sub-sectors and in the Japan-Malaysia EPA, Japan made commitments in 140

sub-sectors. In Japan-Mexico EPA, the 'Negative-List approach' was adopted for services, in contrast to the positive-list approach in the other EPAs and in the GATS

- *Intellectual property:* Japan made commitments in its EPAs that go beyond the TRIPS Agreement in several areas --- such as enhanced enforcement (border measures, civil and criminal remedies), protection of well-known trademarks, and the adoption of the classifications for patents, as well as for trademarks of goods and services under the Strasbourg Agreement and the Nice Agreement respectively.
- *Customs Procedures:* Rules on Customs Procedures in the EPAs are mostly based on "the Agreement of Revised Kyoto Convention".
- *TBT and SPS:* Japan and its EPA/FTA partners have made no commitments that extend beyond their WTO commitments.

The ASEAN-Japan Framework was signed in October 2003 with the following objectives:

- Strengthen economic integration between ASEAN and Japan through the creation of a CEP;
- Enhance the competitiveness of ASEAN and Japan in the world market through strengthened partnership and linkages;
- Progressively liberalize and facilitate trade in goods and services as well as create a transparent and liberal investment regime;
- Explore new areas and develop appropriate measures for further co-operation and economic integration;
- Facilitate the more effective economic integration of the newer ASEAN countries and bridge the development gap among the ASEAN member states.

A major problem in negotiations on the Japan-ASEAN EPA (AJCEP) is how to achieve a common list, common schedule and common rules of origin, as Japan already has bilateral EPAs with several individual ASEAN economies.

3.14.2.Issues in Japan's EPAs and FTAs

3.14.2.1 *WTO Consistency*

As Japan is a developed country, its FTAs have to comply with the requirements of GATT Article XXIV and GATS V rather than the enabling clause for developing countries. Japan considers its FTAs as fully compliant with GATT Article XXIV --- in terms of sectoral and product coverage; no increase in restrictions on third parties; and a transition period not exceeding 10 years.

However, there is ambiguity in the interpretation of the "substantially all trade" provision of Article XXIV. Japan favours, a trade-based coverage benchmark but recognizes both advantages and disadvantages. In Japan's Submission on Regional Trade Agreements to WTO Negotiating Group on Rules (28 October 2005), it has put forward the following proposals on "substantially all trade" in goods coverage:

- A comprehensive approach covering both the quantitative and qualitative aspects. The quantitative benchmark should be defined in such a way as to effectively avoid exclusion of products with a large trade flow. The benchmark should be as simple as possible. The specific figure as a threshold of the benchmark should be discussed at a later stage when more convergence is achieved in many related issues. Between the two types of quantitative benchmarks on coverage, a tariff line-based test does not reflect the trade volume of products and can score a high coverage rate even when it allows a higher exclusion of products with a large trade volume. A trade-based test does not cover products with no trade, although it reflects an actual pattern of trade, and as a result it is likely to allow a higher exclusion in products with no trade. Japan prefers the trade-based test.
- Some qualitative aspects to be considered would include tariff elimination with a longer transition period; assessment of tariff quotas; extent of tariff reduction; impact of RTA upon development; influence of measures of trade remedy; exclusion of a major sector.
- An adequate transition period should not exceed 10 years. But it should be further discussed in what exceptional cases a longer period may be admitted, and whether a positive evaluation could be given for duty elimination beyond the transition period in the context of the qualitative benchmark.

3.14.2.2 Treatment of agriculture in Japan's EPAs:

- Japan states that in its EPAs with Singapore, Mexico and Malaysia, tariffs are eliminated for sufficiently high percentage of total trade. Also, these agreements cover all major areas of products. Hence Japan disagrees with critics that the extent of liberalization for agricultural products are limited and thus prevent Japan from reaping larger benefits from its EPAs/RTAs.
- Critics point to the Japan-Singapore EPA which excludes from liberalization imports of cut orchids and ornamental fish from Singapore, a non-agricultural country and even though the amount of imports are not large. Korean economists Il Sakong (JCER Bulletin July 2006), and Ahn Se Young (RIETI 13 July 2006) also

highlight problems with agricultural market opening by Japan as one of the reasons for suspension of the Japan-Korea FTA negotiations.

3.14.2.3 Treatment of labour flows in Japan's EPAs:

Southeast Asian economies are keen to increase their flows of labour to Japan under EPA/FTA arrangements, particularly in non-technical areas. However, Japan's basic policy is that it is possible to offer entry to workers in professional and technical fields, but is very reluctant in accepting non-skilled workers, resulting in protracted bilateral negotiations and ending with Japan making some limited concessions.

- *Japan-Philippines EPA*: The Philippines government asked Japan to allow Filipino nurses and caregivers, as well as baby sitters and other unskilled workers to enter and work in Japan. There is also a call for mutual approval of qualifications related to medical and welfare services. Japan agreed to accept up to 1000 Filipino nurses and caregivers over a 2-year period, but they will be required to obtain relevant Japanese professional qualifications during the period of training (3 years for nurses and 4 years for caregivers).

The question of whether workers should be accepted from abroad in the medical and nursing care services is controversial in Japan. In order to become a medical doctor or nurse in Japan, it is necessary to take national examinations for the relevant profession and in principle from a Japanese university or nursing school. Non-Japanese nurses are not, in general, allowed to work as professionals, even if they have the professional qualifications, but are permitted under the Immigration Control and Refugee Recognition Act to enter Japan as trainees for a limited time period. Japan's nursing sector is split over accepting Filipino workers: some see them as a solution to Japan's ageing population and shrinking labour force; others fear the working conditions for Japanese nurses will deteriorate with a new, cheaper pool of labour from nearby. The EPA with the Philippines will test whether Japan is serious about opening its labour market. The EPA with the Philippines is Japan's first that includes provisions on the movement of nurses and caregivers.

- Japan also agreed to accept Thai nursing careworkers provided they have obtained the official Japanese certification, under its EPA negotiations with Thailand,
- In the current Japan-Indonesia EPA negotiations, Indonesia is also requesting Japan to accept Indonesian nurses and caregivers.

3.14.2.4 Japan's proposal for CEPEA or ASEAN+6

Two separate proposals for an East Asia FTA are now under consideration in East Asia.

- An East Asia FTA comprising the ASEAN10, China, Japan and South Korea have been under discussion and study for quite a while. First proposed by China, it was endorsed by the ASEAN+3 economic ministers who called for a feasibility study of the proposal. It includes the ASEAN10 and its 3 FTA partners in northeast Asia.
- In April 2006, Japan's METI proposed an East Asia EPA comprising the ASEAN+3 countries as well as Australia, New Zealand and India (CEPEA), that is, members of the East Asia Summit, "in order to achieve an efficient, mature market economy area for East Asia as a whole, and for Japan to lead the economic integration of East Asia." The scope is that of an EPA, covering trade in goods, rules of origin, services, investment, intellectual property, economic cooperation, etc, aimed at ----further developing regional production network unique to East Asia; establishing free, fair and rule-based market economy; ASEAN as driving force of East Asian Economic Integration; and keeping the open dynamism to the partners who engage in East Asia.
- Japanese Trade and Industry Minister Nikai presented the Japanese proposal for a track 2 study on the CEPEA at the 26 August 2006 meeting with his ASEAN counterparts. ASEAN governments agreed to the proposal but reiterated the need to conclude the various ASEAN+1 EPA/FTA initiatives, including the ASEAN-Japan CEP before considering the larger CEPEA venture.
- Minister Nikai also proposed a 10 billion yen fund to establish the Economic Research Institute for ASEAN and East Asia (ERIA) that will make intellectual contribution to the regional efforts driven by ASEAN. ASEAN Ministers requested Japan to discuss this proposal further with the ASEAN Secretariat. It will be established by mid-2007.

Assessment

In recent years Japan is giving priority to establishing EPAs/FTAs, and thus abandoning its traditional WTO-only trade policy. Its EPA/FTA strategy is motivated by the RTA policies pursued by the US and EU as well as more recently by China and India. It sees EPAs/FTAs as conferring economic and political advantages. However, it faces the difficulties of market opening in agriculture, labour intensive industries such as footwear, leather and leather products, and in relaxing its restrictions on the inflow of foreign labour. Japan has also proposed a Comprehensive Economic Partnership for

East Asia (CEPEA) embracing the ASEAN10 economies as well as China, Japan, South Korea and India, Australia and New Zealand.

3.15 APEC Food System

Actions in connection with the APEC Food System that fall under the chapter headings of the Osaka Action Agenda are considered above under those headings. Significant actions with specific relevance to the APEC Food System have been undertaken under the headings of both Standards and Conformance and Regulatory Review and Reform. Some liberalisation of agricultural trade barriers is beginning to occur through Japan's EPAs.

In addition to these actions some substantial reforms have been initiated in the agricultural sector. These reforms are important for improvement in the efficiency in the agricultural sector and increasing the economic welfare of Japanese consumers. They are also important in preparing Japan for the liberalisation of agricultural trade policy, which in turn will further enhance the achievement of the objectives of the APEC Food System. From the perspective of the government's long-term economic strategy reforms in the agricultural sector have an important role in reducing the budgetary burden of agricultural support. Consensus has been gradually building in favour of agricultural reform, including within the ruling party.

Important measures for reform of the agricultural sector have been introduced in both 2004 and 2006. In addition to completing the lifting of remaining controls on rice distribution the main thrust of these measures is to increase the market orientation of the agricultural sector and to encourage the consolidation of farming on larger, more efficient farms operated by full-time "core" farmers. A feature of the reforms is the change in the basis for support payments to farmers, making them less connected to the production of specific crops or the acreage set aside from production, so that farmers' decision as to which crops to plant and the amount of land to be set aside can be more related to market trends. After a transitional period through to 2006 these reforms are to be fully implemented in 2007.

3.16 Trade Facilitation

Contributions to implementation of the APEC Trade Facilitation Action Plan have been made by Japan under many of the OAA chapter headings, especially services, standards and conformance, customs procedures and business mobility. These actions were discussed earlier in the report under the relevant headings.

The assessment of Japan's implementation of the Trade Facilitation Action Plan provided in Japan's IAPs shows that 89 of the 97 items in the plan have been implemented. Of these, 79 items have been completed and 10 items are still in progress. Of the 10 items still in progress, seven are in the area of standards and conformance, two in the area of customs procedures and one in the area of business mobility. A further eight items remain to be implemented, of which four are under the heading of customs procedures, two under standards and conformance and one each under business mobility and electronic commerce.

ANNEX 1: QUESTIONS SUBMITTED BY IAP EXPERTS AND FIVE APEC ECONOMIES AND JAPAN'S REPLIES

QUESTIONS SUBMITTED BY INDEPENDENT EXPERTS

Overview

1. Japan has emerged from over a decade of economic stagnation. Please briefly highlight, with relevant statistics, Japan's economic performance in 2000-2006, What are the explanatory factors? What are the challenges to economic growth in the medium term, particularly with a rapidly ageing population and the economic rise of China?

Reply from Japan

Japanese economy has emerged from its long-term stagnation after the collapse of the bubble economy and continues to recover since January 2002.

The following factors form the background of this recovery. Firstly, the elimination of the excesses in employment, capital stock and debt led to a strengthening of the corporate structure so that corporate profits and business investment has been increasing. Secondly, resiliency in the corporate sector is extending into the household sector as seen in the decline of the unemployment rate and the moderate increase of wages.

【Reference materials】 ●Comparison between the present time and Mar 2001

< Factors improved >

	Mar 2001	():changes	The present time
1．Nominal GDP (seasonally adjusted and annualized)	507,079.7 billion yen (Jan-Mar 2001)	→ (+0.7%)	510,791.5 billion yen (Apr-Jun 2006)
2．Real GDP (seasonally adjusted and	509,931.8 billion yen	→	551,545.2 billion yen

annualized)	(Jan-Mar 2001)	(+ 8.2%)	(Apr-Jun 2006)
3 . Business investment (seasonally adjusted)	74.4 trillion yen (Jan-Mar 2001)	→ (+ 20.6%)	89.7 trillion yen (Apr-Jun 2006)
4 . Corporate profit (Current profit. seasonally adjusted)	9.2 trillion yen (Jan-Mar 2001)	→ (+ 57.6%)	14.5 trillion yen (Apr-Jun 2006)
5 . Non-performing loans (the major banks) Non-performing loans ratio (the major banks)	18.0 trillion yen 5.3% (Jan-Mar 2001)	→ (- 74.4%) → (- 3.5%pt)	4.6 trillion yen 1.8% (Mar 2006)
6 . Number of cases of bankrupt	1,703	→ (- 38.3%)	1,051 (Jul 2006)
7 . Unemployment rate (seasonally adjusted)	4.8%	→ (- 0.7%pt)	4.1% (Jul 2006)
8 . Effective ratio of job offers to applicants (seasonally adjusted)	0.63	→ (+ 0.46pt)	1.09 (Jul 2006)
9 . Number of employee (seasonally adjusted)	53.84 million	→ (+ 1.2%)	54.49 million (Jul 2006)
10 . Consumer prices (General, excluding foods. year-on-year changes)	- 0.9%	→ (+ 1.1%pt)	0.2% (Jul 2006)
11 . Stock prices (The Nikkei Stock Average)	13,827 yen (25 Apr 2001)	→ (+ 14.2%)	15,794 yen (11 Sep 2001)

< Factors not improved >

	Mar 2001	():changes	The present time
1 . Government debt (	368 trillion yen	→	527 trillion yen

the outstanding balance of ordinary government bonds)	(Mar 2001)	(+ 43.4%)	(Mar 2006)

Japan must promote the policy to enhance the growth potential and competitiveness for economic growth, dealing with such issues as rapid decline and ageing of population and the growing competition due to the economic rise of China and other Asian countries.

To this end, the "Basic Policies for Economic and Fiscal Management and Structural Reform 2006", which was adopted by the Cabinet on 7 July, stipulates that the government will promote a comprehensive initiative for economic growth with the aim of enhancing Japan's potential growth of the economy and competitiveness, and advance fiscal consolidation.

In an effort to enhance the potential growth of the economy and international competitiveness, the "Basic Policies" incorporate various policies in the following 5 policies areas;

i) Strengthening international competitiveness,
ii)Improving productivity(Innovation in the IT and service industries,
iii) Revitalizing local economies and SMEs,
iv) Creating new demand through the opening up of public services to the private sector and relevant regulatory reforms, etc, and
v) Establishing institutional infrastructures to improve productivity(Human resources, Equipment, Money, Technology, Knowledge).

In addition, the Government must consistently and continuously conduct well-balanced economic and fiscal management that regards enhancing the growth potential and advancing fiscal consolidation as being both inseparable and necessary.

Regarding fiscal consolidation, the "Basic Policies" stipulates Roadmap and targets:

(1) The government will achieve a surplus in the primary balance of the central and local governments combined by FY2011,
(2) The central and local governments will ensure the prevention of a divergence in the ratio of debts of the central and local governments to nominal GDP, and stable reduction of the ratio in the term from early 2010s to mid-2010s.

By steadily implementing measures decided in "Basic Policies 2006", while continuously promoting fiscal consolidation and various structural reform, the government aims to enhance the growth potential in the medium to long-term (See Annex).

2. The latest OECD survey of Japan indicates that in comparison with other advanced APEC economies and OECD economies, Japan has relatively low import penetration, low inward FDI, and low inflow of foreign workers. From these indicators, Japan is less integrated into the world economy. Which sectors of the Japanese economy are the most integrated, and which the least integrated? What policy initiatives and measures are being considered to foster greater integration?

Reply from Japan

Different criteria results different outcome in calculating the level of integration so that we cannot in general specify the most or the least integrated sector. Nevertheless, Japan will enhance its economic integration through the WTO and FTA.

3. How far has Japan advanced towards the Bogor Goals of free and open trade and investment by 2010 for developed economies? Please comment on Japan's progress in meeting the Bogor goals to date. What progress has been made since the last IAP review in 2002? What are Japan's future policies and action plans to reach the Bogor Goals?

Reply from Japan

Japan is making steady progress towards the Bogor Goals. For instance, Japan has concluded economic partnership agreements with three APEC economies. The scope of these agreements is not limited to trade in goods and services, but also include other economic fields such as investment, intellectual property rights protection, controls on anticompetitive behavior, improvement of the business environment, mobility of people and cooperation.

Next, Japan started to implement the APEC Business Travel Card(ABTC) scheme on April 1st, 2003, which is highly regarded by the business community.

And finally, Japan is determined to work towards the objective of duty-free and quota-free market for all LDC's products. Tariffs have been reduced or eliminated on many items.

4. How does Japan view the importance of APEC as a forum? How has APEC specifically made a difference to Japan's market access, national treatment, and MFN policies and regulatory frameworks?

Reply from Japan

Making use of non-binding and voluntary-based principles, APEC has a great potential to create extremely high quality guidelines and best practices that cannot be achieved in the WTO or FTA. Japan thinks that APEC should complement the WTO and FTA by addressing political messages for fast-forwarding DDA negotiations and making FTA model measures for the purpose of achieving trade and investment liberalization, including open market access, national treatment, and MFN.

5. What have been the main changes in Japan's trade and investment regime since the last IAP peer review in 2002? What are the policy initiatives being planned for the future?

Reply from Japan

The most remarkable change in Japan's trade and investment regime since the last review is that the Japanese government concluded Economic Partnership Agreements (EPAs) with two more economies; Mexico and Malaysia. The former came into effect on April 1st, 2005 and the latter on July 13th, 2006. Strengthening multilateral trading system through WTO and promoting economic partnership through EPAs/FTAs are two main pillars of the Japanese economic diplomacy. Japan will make every possible efforts to resume the DDA process. At the same time, Japan will continue to conduct EPA/FTA negotiations in a suite manner.

6. Please describe Japan's views on the causes of the recent breakdown of the WTO negotiations, and any views that Japan may have as to specific conditions that must be fulfilled in order for the negotiations to resume. Does Japan have any plans to change its approach to trade policy as a result of the difficulties in the WTO negotiations?

Reply from Japan

The Doha Round (DDA) negotiations were suspended as a result of the inability to bridge the gap in negotiating positions, despite the utmost efforts by WTO Members. For resumption of talks, Members should (1)ensure what is currently on the table is maintained,(2)pursue a realistic landing point, (3)look at long-term benefits rather than short-term pains.

Japan has no intention of changing its approach to trade policy. Japan will continue to pursue steady progress in the two axes, the WTO and the EPA/FTAs, the former maintaining and strengthening the multilateral trading system while the latter complementing this process. Accordingly, Japan will provide its utmost efforts towards the early resumption of DDA negotiations, and is committed to setting the negotiations back on track to realize the early conclusion of the Round.

Tariffs and Non-Tariff Measures

7. The latest OECD survey of the Japanese economy notes that although formal trade barriers are generally relatively low, the level of import penetration in Japan is the lowest in the OECD, and lower than might be expected even after controlling for factors such as country size, transport costs, and per capita income. We would be interested in the views of government officials and researchers as to the reasons for the low level of import penetration.

Reply from Japan

Japan placed an emphasis on high value-added production, importing raw materials and exporting manufactured products. This is thought to be one of the reasons of relatively low level of import penetration in Japan. However, Japan has one of the highest

percentage gain in import penetration level among OECD countries. This fact proves Japan's willingness to open markets.

8. Please indicate the commodities for which imports are partly or wholly handled by state trading entities. In each case please indicate the nature of any applicable state-legislated import rights or monopoly rights enjoyed by the relevant state-trading entity, and the share of total imports of the commodity concerned handled by the state trading entity.

Reply from Japan

Based on the Foreign Exchange and Foreign Trade Law, approval for import must be obtained for specified categories of goods such as, drugs, chemical substances, nuclear materials, and so on. We have not calculated the share these to total imports.

【Cereals and their processed products】

Commodities:

Rice and its processed products
Wheat, meslin, triticale and their processed products
Barley and its processed products

State-legislated rights :

State trading entity (MAFF) can import and sell rice, wheat, and barley, and can export them.
MAFF collects mark-ups on import rice, wheat and barley which are bound in the Schedule XXXVIII-JAPAN in the WTO Agreement.

Share (2004FY) :

(Rice) 99.8%
(Wheat) 99.9%
(Barley) 99.9%

Source : WTO notification of State Trading

【Raw silk】

Commodities:

Raw silk(including doupion silk) .As for the tariff item number of the specific products, see the notification on the administration of tariff quotas(G/AG/N/JPN/1).

State-legislated rights :

Agriculture and Livestock Industries Corporation (ALIC) is authorized to import raw silk.
ALIC deals with in-quota imports of raw silk.

Share (2004FY) :

0%

Source: WTO notification of State Trading

【Milk Products】

Commodities:

Designated dairy products for general use(skimmed milk powder, skimmed milk solids, whole milk powder and solids, condensed milk, buttermilk powder and other solids, whey and modified whey, butter and butter oil).

State-legislated rights :

Agriculture and Livestock Industries Corporation (ALIC) collects mark-ups on imported designated dairy products which are bound in Schedule XXXVIII-Japan in the WTO Agreement.

Share (2004FY) : Designated dairy products for general use 98%

Source: WTO notification of State Trading

9. Please indicate the data sources from which comprehensive information on Japan's tariffs can be obtained (eg WTO Integrated Database, APEC Tariff Database etc), and indicate in each case whether the public has unrestricted access to these databases. Please also indicate any instance where the data is not available in English.

Reply from Japan

Regarding the data on Japan's tariffs, Japanese version is available on the Japan Customs Homepage and the English version is available on the APEC Tariff Database. Both are available for the public without any particular restrictions.

10. Has Japan considered the future direction of its tariff policy in the event that the WTO negotiations cannot be resumed? Please outline any views or policies that Japan has developed on this point.

Reply from Japan

Japan makes utmost efforts towards the early resumption of the negotiations, and is committed to setting the negotiations back on track to realize the early conclusion of the Round. Therefore Japan has not considered its tariff policy, based on such assumption.

11. Please outline the current status of Japan's implementation of the WTO Information Technology Agreement (ITA).

Reply from Japan

Japan is fully implementing WTO Information Technology Agreement (ITA).

12. GSP preferences appear to be an important avenue of access to the Japanese market for APEC developing economies. Please indicate the products for which GSP preferences are not currently available.

Reply from Japan

Please refer to the following website which provides the information of the GSP including the list of products under the scheme.
http://www.mofa.go.jp/policy/economy/gsp/index.html

13. Please outline the current status of Japan's implementation of duty-free quota-free access for LDC products, including any decisions that have been made about the future extension of duty-free quota-free access. Does Japan is fully committed to implementing Development Initiative, regardless of the progress of the WTO negotiations, and to complying with the decision expanding duty-free quota-free treatment to the LDCs.

Reply from Japan

Currently, Japan provides duty-free and quota-free market access for 86 per cent of products originating from LDCs, defined at the tariff line level.

Japan is fully committed to implementing Development Initiative, regardless of the progress of the WTO negotiations, and to complying with the decision adopted in the Hong Kong Ministerial Declaration on expanding duty-free quota-free treatment to the LDCs.

14. Please list the products subject to specific duties, and also products subject to "alternate duties", where both specific and ad valorem rates are specified, with the higher of the two rates being the applied rate. Please also indicate the current ad valorem equivalent of each specific duty. In the case of "alternate duties", please indicate both the ad valorem rate and the current ad valorem equivalent of the specific duty rate, and indicate which of the two rates is currently being applied. In the case of products subject to tariff rate quotas, please include both the in-quota and out-of-quota duty rates.

Reply from Japan

As per **attached #1**. The figures on ad valorem equivalent of a specific tariff or alternate duties vary depending on calculation method and data used, and there is no official data on that equivalent level.

As for “alternate duties”, both rates are applied based on the price of each import, so it is not possible to indicate which of the two rates is currently being applied.

15. Does Japan have any plans to convert specific duties to ad valorem duties?

Reply from Japan

Japan does not have any specific plans to convert specific duties to ad valorem duties so far.

16. Please list all products with an ad valorem tariff rate, or ad valorem equivalent of a specific tariff rate, exceeding 100%, indicating the ad valorem or ad valorem equivalent rate applied in each case. In the case of products subject to tariff rate quotas, please include both the in-quota and out-of-quota duty rates where applicable. Does Japan have any plans to reduce these “peak tariffs”?

Reply from Japan

There is not any product with an ad valorem tariff rate over 100%. In addition, an official data with ad valorem equivalent of a specific tariff data does not exist as explained in answer of No14.The reduction of tariff rates will be considered in accordance with the negotiation in the WTO Doha Round.

17. Has any research been undertaken on the extent to which Japan’s “peak tariffs” exceed the level needed to achieve their objective, e.g. where the objective of an out-of-quota tariff is to exclude all imports in excess of the quota, the extent to which the tariff exceeds the level required to be prohibitive?

Reply from Japan

The tariff rate for each product is reviewed every fiscal year to evaluate the existing customs duty level under the annual revision of customs tariff law and others. Evaluation of potential impact is carried out in such process.

18. What products are subject to tariff rate quotas (TRQs)? What are the current quota levels in each case? How are the TRQs allocated?

Reply from Japan

As per **attached #2**. The Ministry of Agriculture, Forestry and Fisheries and Ministry of Economy, Trade and Industry allocate tariff quota to applicants based on prior allocations, plans to utilize allocations, and so on. Tariff quota certificates are issued by the Ministries so that importers can prove their tariff quota allocations to Japan Customs.

19. In relation to Japan's TRQs, have there been cases where quotas have not been fully utilised? Please list the cases where this has occurred in the latest year for which statistics are available, indicating the degree of under-utilisation in each case and any information that may be available on the reason for the under-utilisation.

Reply from Japan

As per **attached #2**

20. Please provide information on Japan's use of special safeguard (SSG) measures over the period 2004-2006.

Reply from Japan

As per attached **#3 and 4**

21. Japan's latest IAP indicates that in respect of non-tariff measures, no further action is planned and/or no further action is required. Can this be taken as an indication that Japan considers that it has eliminated all non-tariff barriers to imports?

Reply from Japan

Japan considers that all the import/export prohibition and restrictions that Japan implemented were in accordance with the special exception provisions and other

relevant provisions of the WTO agreements. In this regard, Japan doesn't maintain any non-tariff barriers to imports.

Services

22. How has Japan achieved the objectives of the APEC Policy Framework for Work on Services? How has Japan implemented the APEC Menu of Options for Voluntary Liberalisation, Facilitation and Promotion of Economic and Technical Cooperation in Services Trade and Investment?

Reply from Japan

In order to liberalize and facilitate trade in services, Japan has actively been engaged in WTO negotiations. Japan is actually one of the few countries that made commitments during the Uruguay Round to liberalize trade in services in more than 100 of the 155 sectors stipulated in w/120.

Japan also regards the work of APEC GOS in this field, especially the Menu of Options for Voluntary Liberalisation, Facilitation and Promotion of Economic and Technical Cooperation in Services Trade and Investmet (MOO), as important contribution to the support of WTO. To implement and follow up the MOO, Japan organized the APEC Seminar on Trade in Health Services in 2003, and has also supported various GOS seminars and symposia through sending speakers and participants.

23. Japan made commitments to liberalise trade in services through commercial presence (Mode 3) in more than 100 of the 155 sectors during the Uruguay Round. What are the major remaining sectors where no commitments have been made? What are the restrictions on Mode 4?

Reply from Japan

Japan's schedule of specific commitments under the GATS does not have any a priori exclusion regarding sectors and modes of supply.

Japan has made commitments in mode 4 horizontally across sectors, which are manifested in the Horizontal Commitments section of the GATS Scheduled

commitments. These commitments are hence applicable to all sectors, and divided into four different categories, i.e., (a) Intra-corporate transferees, (b) Independent Professionals, (c) Business Visitors and (d) Contractual Service Suppliers (natural person).

Under category (a), a natural person who falls under the definition of (i) executive, (ii) senior manager or (iii) specialist are permitted to provide services in his capacity as an employee of a juridical person by a WTO Member other than Japan provided.

Under category (b), a natural person who is qualified as "Bengoshi (lawyer)", "Shiho-Shoshi (judicial scrivener)", "Gyosei-Shoshi(administrative scrivener)", "Shakai-Hoken-Romushi(social insurance and labour consultant)etc. are permitted to provide services, not necessarily obtaining a contract to provide services, for a period of one or three years, which may be extended, during its temporary stay in Japan.

Under category (c), a natural person is permitted to stay in Japan for a period not exceeding 90 days for the purposes of participating in business contracts. The period of stay may be extended.

Under category (d), a natural person who is engaged in one of the identified categories of activities such as "Engineer", "Specialist in Humanities/International Services", etc. during its temporary stay in Japan for a period of one or three years, which may be extended, on the basis of a personal contract with a public or private organization in the territory of Japan, is permitted to enter into Japan.

24. Did Japan make substantial offers on service trade liberalisation in the WTO's Doha Round? In what sectors and modes of supply?

Reply from Japan

Through submission of Initial Offer in April 2003 and Revised Offer in June 2005, Japan made substantial offers on service trade liberalization in the WTO's Doha Round. These offers are based on the request-offer negotiations undertaken on a bilateral basis as well as the on-going discussions that have been made on various occasions. These offers were also developed taking into full account the interests of developing countries. They also do not have any a priori exclusion regarding sectors and modes of supply.

They have achieved a good level of commitments in modes and sectors such as Movement of Natural Persons, Business Services, Communication Services, Distribution Services, Educational Services, Tourism and Travel Related Services, Transport Services, etc.

The outlines of Japan's Initial Offer and Revised Offer are **attached (#5).**

25. What are the services sectors and activities that have total or partial restrictions on market access, national treatment and MFN on foreign service providers? What changes have been made between 1996 and 2006? What are the changes in the levels of foreign participation?

Reply from Japan

There is no sector that has total restrictions on market access, national treatment and MFN on foreign service providers in Japan's commitments. On the other hand, there are sectors which have partial restrictions on market access, national treatment and MFN on foreign service providers in Japan's commitments, i.e., Business Services, Communication Services, Transport Services, etc. Japan proactively made offer in those sectors where it has promoted liberalization and deregulation since the conclusion of Uruguay Round. For example, in Telecommunications Services, based on the regulatory reform in this sector, in the initial offer, it has offered to remove reservations regarding limitation on the foreign capital participation as well as the nationality requirements on board members and auditors for KDD, and it has offered to relax the limitation on the foreign capital participation for NTT (from 20% to 33%).

26. Are there cases where Japan has liberalised beyond its GATS commitments? Are there any areas in which Japan is considering further measures to enhance access of foreign service suppliers beyond its GATS commitments?

Reply from Japan

There are cases where Japan has liberalized beyond its GATS commitments in the EPAs such as The Japan-Singapore Economic Agreement for a New Age partnership, Agreement between Japan and the United Mexican States for the Strengthening of the Economic Partnership, Agreement between the Government of Japan and the

Government of Malaysia for an Economic Partnership, Agreement between Japan and Republic of the Philippines for an Economic Partnership, etc.

Japan's commitments under the GATS have achieved a good level of commitments in modes and sectors. Japan will continue to make improvements taking into full account the interests and requests of other Members.

27. Japan has liberalised services under Mode3 but remains fairly restrictive under Mode4. How have the restrictions on Mode 4 affect the operations of foreign service suppliers?

Reply from Japan

Japan has made commitments in mode 4 horizontally across sectors, which are manifested in the Horizontal Commitments section of the GATS Scheduled commitments. These commitments are hence applicable to all sectors, and divided into four different categories, i.e., (a) Intra-corporate transferees, (b) Independent Professionals, (c) Business Visitors and (d) Contractual Service Suppliers (natural person).

Under category (a), a natural person who falls under the definition of (i) executive, (ii) senior manager or (iii) specialist are permitted to provide services in his capacity as an employee of a juridical person by a WTO Member other than Japan provided.

Under category (b), a natural person who is qualified as "Bengoshi (lawyer)", "Shiho-Shoshi (judicial scrivener)", "Gyosei-Shoshi(administrative scrivener)", "Shakai-Hoken-Romushi(social insurance and labour consultant)etc. are permitted to provide services, not necessarily obtaining a contract to provide services, for a period of one or three years, which may be extended, during its temporary stay in Japan.

Under category (c), a natural person is permitted to stay in Japan for a period not exceeding 90 days for the purposes of participating in business contracts. The period of stay may be extended.

Under category (d), a natural person who is engaged in one of the identified categories of activities such as “Engineer”, “Specialist in Humanities/International Services”, etc. during its temporary stay in Japan for a period of one or three years, which may be extended, on the basis of a personal contract with a public or private organization in the territory of Japan, is permitted to enter into Japan.

28. Please indicate the different licensing and regulatory authorities for the different services sectors.

Reply from Japan

Services Sectors	Licensing and Regulatory Authorities
1. Business Services	Ministry of Justice Ministry of Land, Infrastructure and Transport Ministry of Health, Labour and Welfare Financial Services Agency Ministry of Education, Culture, Sports, Science and Technology Ministry of Economy, Trade and Industry Ministry of Agriculture, Forestry and Fisheries Ministry of Finance
2. Communication Services	Ministry of Internal Affairs and Communications Ministry of Economy, Trade and Industry Ministry of Education, Culture, Sports, Science and Technology
3. Construction and Related Engineering Services	Ministry of Land, Infrastructure and Transport
4. Distribution Services	Ministry of Economy, Trade and Industry Ministry of Agriculture, Forestry and Fisheries Ministry of Finance
5. Education Services	Ministry of Education, Culture, Sports, Science and Technology Ministry of Economy, Trade and Industry

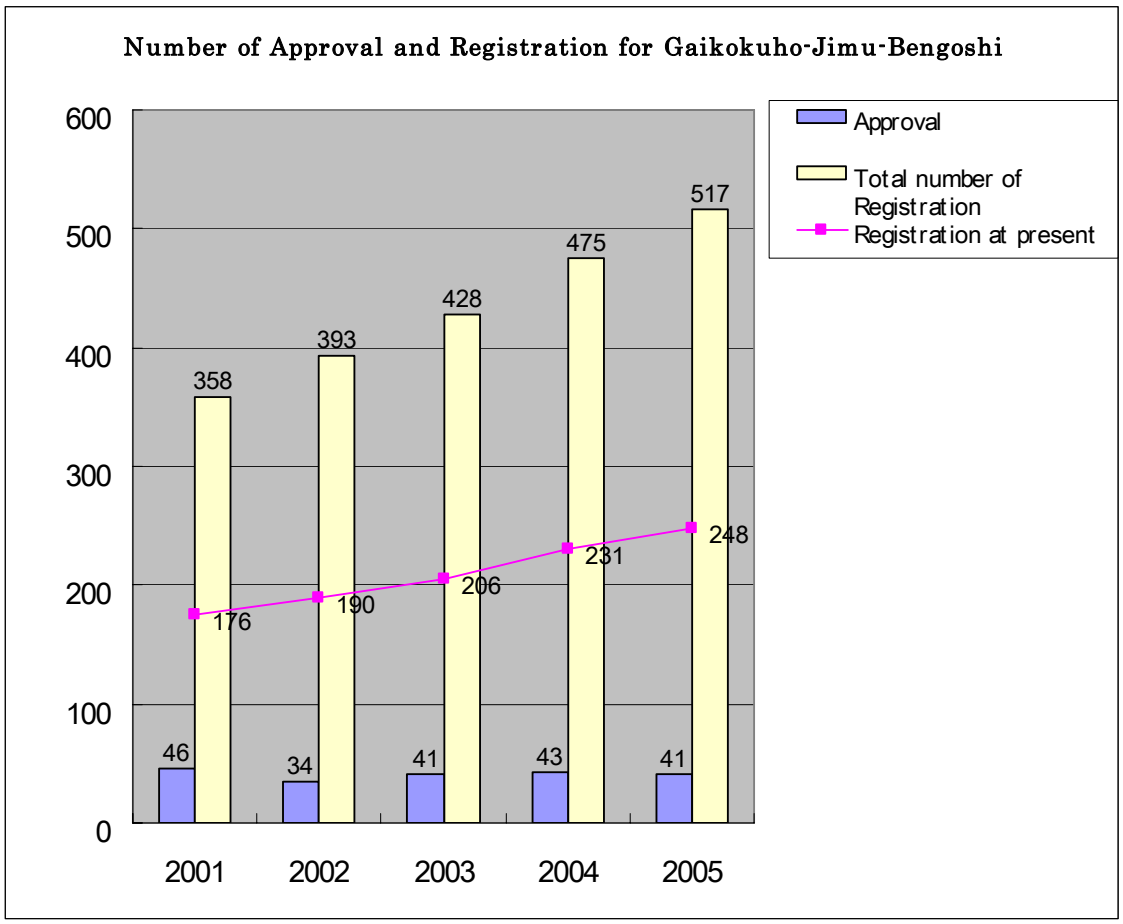
6. Environmental Services	Ministry of Environment Ministry of Economy, Trade and Industry Ministry of Land, Infrastructure and Transport Ministry of Agriculture, Forestry and Fisheries
7. Financial Services	Financial Services Agency
8. Health related and Social Services	Ministry of Health, Labour and Welfare
9. Tourism and Travel related Services	Ministry of Land, Infrastructure and Transport
10. Recreational, Cultural and Sporting Services	Ministry of Education, Culture, Sports, Science and Technology
11. Transport Services	Ministry of Land, Infrastructure and Transport Ministry of Finance

Business/professional Services: Legal, Accounting, Engineering and Architecture

29. What has been the impact of Japan's market access commitments in business services (legal, accounting, engineering, architecture) on the entry for foreign professionals?

Reply from Japan

With regard to legal services, please refer to the chart attached.



Under the accounting and audit system of Japan,

(a) Regardless of nationalities, those who have passed Japanese CPA examination are entitled to provide audit certification services in Japan. In addition, anyone is entitled to provide accounting related services (e.g. compilation services of financial statements, services to examine or plan financial affairs, or consultation services in the accounting area), except for audit certification services, regardless of their qualifications in Japanese CPA license. In practice, many foreign citizens and entities have already provided those services.

(b) The system of CPA examinations was streamlined from those with five steps (under three-phase) to those with two steps (under a single-phase) in January 2006, which ease foreign nationals to take the exam.

With regard to architect, in Japan, we do not make distinction between Japanese architects and foreign architects. Therefore, we cannot estimate the impact.

30. Please summarise the residency and citizenship requirements before foreigners are allowed to practice a business/profession in Japan?

Reply from Japan

In the Immigration Control and Refugee Recognition Act of Japan, requirements of residence and/or nationality for foreigners to engage in business /services in Japan aren't stipulated.

31. Regarding professional qualifications, please outline the steps that Japan has been taking to develop mutual recognition agreements.

Reply from Japan

With regard to a mutual recognition agreement of qualification as Attorneys at Law (Japanese lawyers), Japan has not studied specifically any economies at this moment.

32. Japan has signed or are negotiating EPAs/FTAs with a number of countries. What are the provisions in these EPAs/FTAs for mutual recognition agreements in business/professional services?

Reply from Japan

Japan prescribes "mutual recognition" of service suppliers in its EPAs with Singapore (Article 93), Malaysia (Article 103) and Philippines (Article 78 and 112) based on the concept of the Article 7 of GATS.

Example (the first paragraph of Article 112 of Japan-Philippines EPA): For the purposes of smooth movement of natural persons under this Chapter, a Party may recognize the education or experience obtained, requirements met, or licenses or certifications granted in the other Party for the purposes of the fulfillment, in whole or in part, of its standards or criteria for the authorisation, licensing or certification of natural persons of the other economy.

33. To what extent has Japan reduced barriers in order to allow foreign lawyers to practice law in Japan? Are foreign law firms allowed to offer advice on Japanese Law?

Reply from Japan

The amended Special Measures Law Concerning the Handling of Legal Business by Foreign Lawyers came into force on April 1, 2005. This amendment introduced completely new mechanisms for association between Attorneys at Law (Japanese lawyers) and Foreign Lawyers Registered in Japan, including provisions that lift the ban on employment of Attorney at Law by Foreign Lawyer Registered in Japan and introduce the system of foreign law joint enterprises between Attorney at Law and Foreign Lawyer Registered in Japan.

Foreign Lawyer Registered in Japan is not allowed to offer advice on Japanese Law.

34. To what extent are accounting standards in Japan aligned with international financial reporting standards? How many international auditing firms operate in Japan?

Reply from Japan

Japanese GAAP is developed by the Accounting Standards Board of Japan (the "ASBJ"). The ASBJ agrees with the objective of international convergence to achieve high-quality accounting standards, and has carried out a convergence project with the IASB toward international convergence.

Regarding the consistency between Japanese GAAP and IFRSs, the CESR carried out an equivalence assessment during 2005, and concluded in June 2005 that Japanese GAAP (like U.S. and Canadian GAAPs) is, taken as a whole, equivalent with IFRSs.

For the second question, the precise number of auditing firms is not certain, but about twenty international auditing firms, including those of Big 4 operate in Japan.

35. To what extent has Japan reduced obstacles to allowing foreign architects to practise in Japan?

Reply from Japan

Under the system we have, a person qualified as an architect in another country can be qualified in Japan through a process different from ordinary examinations. Furthermore, we are actively involved with the APEC Architect Project. Japan and Australia have begun talks on the mutual recognition of qualifications of architects between the two countries.

Communication services- postal, telecommunications, audio-visual:

36. Has reform of the postal savings system in Japan allowed for the entry of foreign financial service providers?

Reply from Japan

Based on the laws on the privatization of postal services enacted on October 1, 2005, the Japan Post will be dissolved and the Postal Savings Bank (PSB) will take over the role concerning postal savings services provided by the Japan Post.

The Japan Postal Services Holding Company which starts its role as a shareholding company will have whole stocks issued by the PSB at the beginning of the privatization transition period. Meanwhile, the Japan Postal Services Holding Company must dispose of all PSB's stocks during the privatization transition period (by end-September 2017) in a phased manner, in accordance with relevant laws. In addition, there is no limitation on the participation of foreign capital in holding stocks of Japanese banks, foreign companies can obtain stocks of the PSB.

On the other hand, the PSB are to be regulated based on the Banking Law as well as other private banks from the beginning of the privatization transition period. In the Banking Law, a person/an entity is required to be approved by the Prime Minister (its power is delegated to the Commissioner of the Financial Services Agency) when a person/an entity owns no less than 20% of voting shares of banks. Therefore, when

entities including foreign companies obtain no less than 20% of stocks the PSB, they have to get approval from the Financial Services Agency.

37. Rapid technological, institutional and policy changes have occurred in the telecommunications sector. Please give a brief overview of the changes in the policy framework.

Reply from Japan

Ministry of Internal Affairs and Communications (MIC) set up "The Study Group on a Framework for Competition Rules to Address the Transition to IP-Based Networks" in October 2005, and to study the directions of competition rules to address the transition to IP-based networks in the telecommunications sector. The Study Group will consider the basic concepts for competition rules and clarify the directions that need to be considered on interconnections/tariff policies toward the early 2010s, when progress in the transition to IP-based networks is anticipated.

The MIC will consider a review of competition rules including improvement of interconnection rules for next-generation networks, in accordance with the report which is to be published as a result of The Study Group in September 2006.

38. Liberalisation of Japan's telecommunications sector has intensified competition and brought down telecommunications charges. There are no foreign ownership or management restrictions, except in the case of the NTT Corporation What further measures are contemplated? Are there numerical limitations on the number of licences issued to foreign telecommunications suppliers? What is the percentage of the Japanese market served by foreign telecommunications suppliers?

Reply from Japan

(1) The restrictions on foreign investment apply to NTT Corporation only. All other telecommunications careers are not subject to the said restrictions. The Japanese telecommunications market is competitive. For this reason, the Ministry of Internal Affair and Communications (MIC) does not contemplate any further measures. With regard to procedures for market entry by foreign businesses, the MIC is publishing and providing relevant information by means of "The Manual

for Market Entry into Japanese Telecommunications Business" in English which is open to the public on the Ministry's website.

(2) There are no numerical limitations.

(3) The MIC has been and is promoting the relaxation of regulations in the telecommunications sector. There are no regulations under the Telecommunication Business Law imposed on telecommunication carriers covering market entries or notifications of carriers' telecommunications business, on the grounds they are foreign-invested. Therefore, the MIC does not know what percentage of the Japanese market is served by foreign suppliers.

39. Are there changes contemplated in rules regarding foreign ownership and government ownership of shares in NTT?

Reply from Japan

NTT East and NTT West are the telecommunications careers on which the people's daily lives depend and are indispensable in terms of national security, as well as being obligated to provide universal telecommunications services. Accordingly, restrictions on foreign investment pertaining to NTT Corporation, the holding company of NTT East and NTT West, are necessary to ensure its own and independent management and to prevent excessive influence from any foreign countries. For this reason, the government of Japan has no plan to relax foreign capital restrictions at this point in time.

40. To what extent has Japan implemented its MRAs with Singapore and the EU on Conformity Assessment for Telecommunications Equipment?

Reply from Japan

The MRA between Japan and Singapore is under coordination towards early implementation.

On the other hand, the MRA between Japan and the EU has been implemented since 2002. Two Japanese Conformity Assessment Bodies (CABs) and four CABs of the EU are currently registered and in operation.

Education services:

41. What restrictions are there on foreigners opening private schools and universities in Japan? What are the criteria and conditions?

Reply from Japan

There are no restrictions on foreigners opening private schools and universities in Japan.

42. As a result of corporatization, foreigners may now be appointed to any post in national university corporations. What are the restrictions and requirements on foreigners being employed as education service suppliers in Japan's schools and universities?

Reply from Japan

In public universities[9], foreigners can be appointed to professors, assistant professors and lectures.

In public schools, foreigners are not restricted to instructors, on condition that they must successfully pass the selection process organized by the local government.

In Japan's national university corporations, public university corporations and private universities, there are no restrictions and requirements on foreigners being employed as education service suppliers.

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[9] Japanese universities are divided into national, public, and private institutions. National universities (*kokuritsu-daigaku*) became corporate institutions in 2004. From the same year, public universities (*koritsu-daigaku*), can also become corporate institutions, depending on local government's decision.

Energy services:

43. Please describe the progress made by Japan in developing and building upon the non-binding principles endorsed by APEC Energy Ministers in 1996

Reply from Japan

The Japanese government has engaged in energy policies that are consistent with the 14 non-binding principles endorsed by the APEC Energy Minister in 1996. For example, in order to realize an open market (Principle 3), the Japanese government has gradually implemented regulatory reforms in the retail electricity and gas markets. In addition, to implement Principles 2, 6, 8, 9, 11, 13, and 14, the Japanese government has promoted the Asia Energy Conservation Program. The main contents of this program are;

(1)Support the implementation of human resource development through the dispatch of experts and the acceptance of trainees,
(2) Promote the uptake and utilization of energy conservation equipment and facilities through Japanese business activities, (3) Actively participate in the Asia-Pacific Partnership, etc.

44. .From 2000 the retail electricity market was partially liberalised. Are there plans to completely liberalise the market? What is the share of foreign investment in electricity and gas utilities?

Reply from Japan

The discussion of full liberalization in electricity retail market will start in 2007. Considering the condition of options available to customers, the following factors should be discussed at that time with great care; (1)Security of supply reliability, (2)Simultaneous pursuit of energy security and environmental preservation, (3)Security of last resort service and universal service, (4)Risk of long-term investments and/or long term contracts, (5)Other practical and technical problems.

The investment ratio to general power utilities by foreign investors is 11.5% in average (1.9% to 15.8%, depends on the company)

The investment ratio to 4 largest gas companies by foreign investors is 22.4% in average (0.9% to 32.7%, depends on the company)

Financial services:

45. Could you please update us on Japan's rationalisation and liberalisation of financial services, including prudential and regulatory framework and transparency improvements. Have the changes been adequate to meet the challenges of increasingly complex financial instruments?

Reply from Japan

(1). In response to the changing environment surrounding capital markets, the Financial Instruments and Exchange Law was introduced to meet the following objectives:
a) strengthening the protection of investors through establishing a comprehensive legal regime
b) enhancing the convenience of investors
c) accelerating the shift from savings to investment
d) responding to globalization of capital markets

(2). The Law covers financial instruments with investment characteristics in a comprehensive manner and entails the following major changes.
a) The Securities and Exchange Law will be renamed as the "Financial Instruments and Exchanges Law (widely known as the "Investment Services Law")."
b) The Financial Instruments and Exchange Law will widen regulatory coverage by defining collective investment scheme in a comprehensive manner.
c) The Financial Instruments and Exchange Law will define sales and solicitation, investment management and advisory, and asset management as primary businesses and subject each type of businesses to regulations.
d) The Financial Instruments and Exchange Law provides regulatory flexibility, depending on the content of the business as well as on the nature of investors (professional or general).
e) The Financial Instruments and Exchange Law will relax regulations based on general regulatory review. In the case of asset management companies, regulations will be relaxed from approval system to filing system.

(3). Moreover, the Law will strengthen penalty for fraud in disclosure and illegal transactions to maximize the protection of investors as well as to ensure pubic confidence in the securities market.

(4). Furthermore, the Law will revise the disclosure system and will provide options for organizational structure of stock exchange markets to ensure proper implementation of self-regulatory activities.

46. Are there continuing plans to liberalise foreign participation in Japan's financial sector? What are the legislations and regulations that affect the capacity of foreign banks to establish a presence in the Japanese market?

Reply from Japan

Japan believes that Japan's financial sector is already fully liberalized and has no major barriers to foreign participation in the sector.

47. What is the extent of foreign participation Japan's financial services? As at end-March 2004, there were 225 banks, among which 72 were foreign. Please provide an update on the extent of foreign banks in Japan ---their number, share of assets, deposits and loans. Foreign banks may enter the Japanese market by establishing branches, agencies, or subsidiaries after obtaining a licence. Under the Banking Law, foreign banks with Japanese branches or agencies are subject to regulations no less favourable than those applied to domestic banks. What are the restrictions that apply to foreign bank subsidiaries in Japan?

Reply from Japan

As for an update on the extent of foreign banks' participation, 69 out of 215 banks in operation in Japan are foreign. Their overall collective assets is 4.58 billion yen and their share of assets is 5.7%. With respect to foreign bank subsidiaries, they are subject to the same prudential regulations as Japanese domestic banks.

48. Please briefly introduce Japan's existing regulatory regime in the banking sector, in particular as compared to its specific commitments made in the GATS context. What are the main exceptions to MFN and national treatment?

Reply from Japan

In the context of GATS, Japan maintains only one reservation to MFN and national treatment in the banking sector, which is that "the deposit insurance system does not cover deposits taken by branches of foreign banks".

49. Japan has undertaken significant reorganization of its banking sector, including several mergers. How have the mergers affect the competitive environment in banking? What has been the trend in non-performing loans (NPLs) in recent years?

Reply from Japan

In Japan, competitive environment of financial sector has been developed through deregulation and establishment of financial safety-net framework since the late 1980s. In response to such deregulation and liberalization, consolidation and restructuring in banking sector has taken place recently.

The impact of above can be the following:
(a) due to consolidation and restructuring, efficiency in management and financial strength of financial institutions improved both through economy of scale (rationalization of personnel and outlets allocation, drastic system investment, etc.) and economy of scope(human resource, introduction of financial products with advanced technology, etc.)

(b)also, by consolidation and restructuring, we have seen the emergence of financial conglomerates that enable offering consumers a wider variety of financial products covering banking, insurance and securities, as groups headed by holding companies

Overall, consolidation and restructuring of financial sector has contributed in building consumers' confidence on financial system or improvement of convenience or user-

friendliness, by promoting each financial institution's efforts under competitive environment, coupled with the alleviation of non-performing loan problem.

Japan has focused its efforts to solve non-performing loan issues according to the 'Financial Revival Program' formulated in October 2002 and achieved the target of the Program of halving non-performing loan ration of major banks (8.4% in March 2002 to 2.9% in March 2005). The ratio continues to be in decreasing trend since after March 2005. (1.8% in March 2006)

Small-and-medium-sized or regional financial institutions also steadily reduced their non-performing loan ratios overall, as we have taken series of measures on such issues as industrial revitalization, facilitation of SMEs finance and strengthening of management capacity of those financial institutions based on the Action Program on Relationship Banking

50. The insurance sector in Japan has also undergone substantial changes. How do the regulations in insurance-related licensing affect foreign entry and operations in the Japanese insurance market? Are there differences in treatment (granting licences and requirements for solvency margins) between Japanese and foreign insurance providers?

Reply from Japan

In order for a foreign insurance company to enter Japanese insurance market, it has to either establish a corporation (individually or jointly) and obtain license for insurance company, or set up a branch and should be licensed for foreign insurance company's branch. In fact, foreign insurance businesses have taken both ways to play in Japanese insurance market. Standards to examine applications for these licenses applied indiscriminately regardless of the nationality of applicants.

Health related and social services:

51. In March 2006, the Japanese government revised the Ministerial Ordinance to Provide for Criteria on Status of Residence of "Medical Services", which regulates restrictions on foreign doctors or foreign nurses having Japanese medical licences to engage in medical services in Japan. Are there numerical restrictions on the

inflow of health-related workers? What are the provisions on entry of health workers in the EPA with the Philippines?

Reply from Japan

As for the former question, the answer is no, there aren't any numerical restrictions.

As for the latter, if Japan-Philippines EPA takes effect, working of Filipino nurse and Certified careworker in Japan is enabled under some conditions.

Tourism and travel related services:

52. Are there restrictions on foreign entry for tourism and travel related services, such as foreign tourist guides and foreign travel agencies?

Reply from Japan

For Mode 1, 2 and 3, no restrictions exist in terms of either national treatment （NT）

or market access (MA), while Mode 1 for hotel and restaurant services (excluding catering) and tourist guide services are unbound due to the lack of technical feasibility. No commitments exist in terms of NT and MA for mode4, except as indicated in the horizontal commitments of the Schedule of Specific Commitments.

Transport services- rail, road, other:

53. What are current restrictions on foreign ownership and entry into air, maritime, and land transport services? What is the extent of foreign participation and involvement in the provision of transport services? What has been the impact of domestic operational requirements on foreign entry?

Reply from Japan

Land Transport

・ There are no restrictions which only apply to foreign service suppliers in land transport services.

・ There are some foreign entry cases in road transport services.

・ We do not recognize that the domestic operational requirements impact foreign entry.

Maritime

There are no restrictions or discriminatory measures affecting foreign participation in international maritime transport services. Maritime cabotage services are reserved to Japanese ships, which must be owned by:

a) a natural person with Japanese nationality: or

b) a juridical person established under Japanese law.

As regards b), all the representatives must have Japanese nationality and not less than two-thirds of the executives administering the affairs of the juridical person must have Japanese nationality.

Air Transport

A permission of the Minister of Land, Infrastructure and Transport for conducting air transport businesses as a Japanese air carrier is not granted to the following natural person or entity applying for the permission:

(a) a natural person who does not have Japanese nationality;

(b) a foreign state, or public entity or its equivalent thereof;

(c) an enterprise or other entity constituted or organized under the laws of any foreign state;

(d) an enterprise represented by the natural person or entity referred to in subparagraph (a), (b) or (c) above; an enterprise of which more than one-third of the members of the board of directors is composed of the natural person or entity referred to in subparagraph (a), (b) or (c) above; or an enterprise of which more than one-third of voting rights is held by the natural person or entity referred to in subparagraph (a), (b) or (c) above.

In the event an air carrier becomes the natural person or entity referred to in subparagraphs (a) through (d) above, the permission will lose effect. The conditions for the permission also apply to enterprises, such as holding companies, which have effective control over the air carriers.

Cabotage by foreign air carriers is prohibited.

54. What are the prospects for Japan to go beyond its GATS commitments in terms of transport services?

Reply from Japan

Japan has been actively engaged in EPA/FTA negotiations in terms of transport services, as well as WTO negotiations.

Especially, aiming at further liberalization in the maritime transport services, Japan will continue to make effort to reach an agreement in the WTO negotiations on the GATS framework.

With regard to the field of air transport, Japan finds no need to change the current coverage of the Annex on Air Transport Services at present.

55. What plans does Japan have to implement a more competitive air services in accordance with Bogor Goals? Will Japan be pursuing an "open skies policy" with its APEC member economies?

Reply from Japan

In air transport sector of APEC, each economy shall circumstantially implement "8 Options for More Competitive Air Services" on a voluntary basis. Taking this into consideration, Japan is implementing flexibly and proactively various measures such as facilitation of cooperation between air carriers, designation of multiple air carriers and flexible air cargo transport, under the framework of bilateral air services agreements.

In Asia Pacific regions where the level of economic development and social systems differ among countries, it is inevitable for the development of air transport services that each economy circumstantially ensures opportunities of market access on a reciprocal basis. It is inappropriate to impose drastic and uniform liberalization of air transport, regardless of circumstances of each economy.

Investment

56. What is the share of foreign investment into Japan accounted by each of the main types of FDI - greenfield, M&A, expansion? What are the sectors in which each type of FDI is mainly found? Please provide statistics on inward FDI into Japan in recent years, with breakdowns by sectors/activities and sources/destinations.

Reply from Japan

In the Japanese Balance of Payments statistics, such type of FDI is not accounted.

FDI for Japan in Appendix table of the Balance of Payment (BP), which is published at the following web site:
http://www.mof.go.jp/bpoffice/e1c004.htm

57. What is the ratio of inward to outward investment flows and stocks? What policies and measures are used to facilitate inward investments and outward investments?

Reply from Japan

Ratio of Inward-Outward Direct Investment Position

(JPY billion, %)

	Inward Direct investment Position (a)	Outward Direct investment Position (b)	Ratio of Inward-Outward Direct Investment Position (a/b)
End of 1996 C.Y.	34,730	299,990	11.6
End of 1997 C.Y.	35,190	353,340	10.0
End of 1998 C.Y.	30,130	312,160	9.7
End of 1999 C.Y.	47,130	254,250	18.5
End of 2000 C.Y.	57,820	319,930	18.1
End of 2001 C.Y.	66,320	395,550	16.8
End of 2002 C.Y.	93,690	364,780	25.7
End of 2003 C.Y.	96,100	359,320	26.7
End of 2004 C.Y.	100,980	385,810	26.2
End of 2005 C.Y.	119,030	456,050	26.1

Source : International Investment Position

(Ministry of Finance, Japan)

Ratio of Inward-Outward Direct Investment (JPY billion, %)

	Inward Direct Investment (a')	Outward Direct Investment (b')	Ratio of Inward-Outward Direct Investment (a'/b')
1996 C.Y.	248	25,485	1.0
1997 C.Y.	3,901	31,449	12.4
1998 C.Y.	4,179	31,616	13.2
1999 C.Y.	14,513	25,906	56.0
2000 C.Y.	8,969	34,008	26.4
2001 C.Y.	7,585	46,586	16.3
2002 C.Y.	11,585	40,476	28.6
2003 C.Y.	7,332	33,389	22.0
2004 C.Y.	8,456	33,487	25.3
2005 C.Y.	3,181	50,497	6.3

Source : Balance of payments (Ministry of Finance, Japan)

58. What is the share and contribution of foreign affiliated firms to GDP and production, total employment, and total sales?

Reply from Japan

Sales Comparison with All Businesses

(100 billion yen, %)

	Foreign affiliates A			Total businesses B			A／B		
	2003fy	2004fy	Diffenrence from the previous year	2003fy	2004fy	Diffenrence from the previous year	2003fy	2004fy	Diffenrence from the previous year
Total	325	320	▲ 1.5	13,347	14,204	6.4	2.4	2.3	▲ 0.1
Manufacturing	193	188	▲ 2.8	3,849	4,097	6.4	5.0	4.6	▲ 0.4
Non-Manufacturing	132	133	0.3	9,497	10,107	6.4	1.4	1.3	▲ 0.1

Number of Employees Comparison with All Business

〈Thousands of employees, %〉

	Foreign Affiliates A				Total Businesses B				A／B	
	2003 fy	Difference from the previous year	2004 fy	Difference from the previous year	2003 fy	Difference from the previous year	2004 fy	Difference from the previous year	2003 fy	2004 fy
Total	435	48.1	431	▲ 0.9	42,353	▲ 0.5	42,594	0.6	1.0	1.0
Manufacturing	236	17.2	229	▲ 3.0	8,636	▲ 6.5	8,501	▲ 1.6	2.7	2.7
Food and beverages	3	46.0	3	0.0	1,216	▲ 13.9	1,223	0.6	0.3	0.3
Chemical and medical products	50	11.7	51	3.4	441	1.8	433	▲ 1.8	11.3	11.9
Petroleum	1	▲ 14.2	1	▲ 6.5	27	▲ 15.6	26	▲ 3.7	5.4	5.3
Non-ferrous metal	1	▲ 14.7	1	▲ 1.5	146	▲ 2.7	144	▲ 1.4	0.6	0.6
General machinery	12	21.0	13	3.8	894	▲ 2.1	905	1.2	1.4	1.4
Electrical and electronic equipment	9	25.4	9	0.7	1,471	▲ 4.4	571	▲ 0.5	3.1	1.7
Information and communication equipment	37	111.5	38	3.5			893			4.3
Motor vehicles and other transport equipment	102	1.9	89	▲ 12.9	936	2.3	958	2.4	10.9	9.3
Precision instrument	7	▲ 6.9	8	21.7	208	▲ 8.4	210	1.0	3.3	3.9
Non-Manufacturing	199	115.8	202	1.5	33,717	1.2	34,093	1.1	0.6	0.6
Information and communication	27	85.6	22	▲ 18.5	…	…	1,452	…	…	1.5
Transport	3		4	14.6	…	…	2,658	…	…	0.1
Wholesale trade	45	13.2	49	9.8	3,073	▲ 8.7	3,024	▲ 1.6	1.5	1.6
Retail	40	176.3	35	▲ 13.6	5,909	15.6	5,897	▲ 0.2	0.7	0.6
Services	28	78.7	26	▲ 5.1	…	…	5,629	1.5	…	0.5

Notes: The survey covers those enterprises (excluding the financial/insurance and real estate industries) which met the following conditions as of the end of March 2005.

(1)Enterprises in which foreign investors hold more than one-third of the stocks or shares

(2)Enterprises invested in by holding companies in which foreign investors hold more than one-third of the stocks or shares, and in which the combined direct and indirect investment ratios held by foreign investors exceeds one third

Source: The 39th Survey of Trends in Business Activities of Foreign Affiliates (Japanese/English)

http://www.meti.go.jp/english/statistics/h_main.html

Regarding GDP and production, see the Table 49 'foreign direct investment database' in UNCTAD website. http://www.unctad.org

59. What has been the experience of foreign firms operating in Japan regarding obstacles/barriers to setting up/expanding business in Japan? What are the major obstacles that they face? Are they different from those faced by domestic firms?

Reply from Japan

Excepting national security-related industries, Japan considers that there are no legal issues regarding barriers or obstacles to setting up or expanding businesses in this country.

60. Have APEC efforts in the investment area, such as non-binding investment principles and Menu of Options for Investment Liberalisation and Business Facilitation been helpful to Japan? Have they been actively referred to in designing and implementing changes to Japan's investment regime? In particular, to what extent has Japan implemented the non-binding investment principles on non-discrimination, national treatment, and entry and sojourn of personnel?

Reply from Japan

The Non-binding Investment Principles (NBIP) and the Menu of Options (MOO) for Investment Liberalization and Business Facilitation have made substantial contribution to the development and implementation of Japan's investment policy. Especially, in the latter half of the 1990s, Japan conducted surveys on trade and investment facilitation based upon requests from private sector such as ABAC and urged APEC economies to improve investment climate through the development of the Menu of Options.

On the other hand, the NBIP and the MOO have promoted liberalization and facilitation of Japan's investment regime to some extent. For instance, as for non-discrimination (most-favored-nation treatment), there are only a few examples of Japan's preferential treatment to specific economies such as those based upon bilateral fisheries agreement. In principle, Japan extends national treatment to foreign investors with exceptions as provided for in domestic laws, regulations and policies in such sectors as mining, broadcasting, ownership and operation of Japanese nationality vessels and aircraft, etc.

With regard to entry and sojourn of personnel, Japan has permitted the temporary entry and sojourn of key foreign technical and managerial personnel for the purpose of engaging in activities connected with foreign investment. The period of stay as investors/business manager is decided as one of two options of three years and one year.

61. FDI into Japan has been small compared to other OECD economies. Why is it so? Although the stock of inward FDI into Japan tripled between 1998-2002, the pace of inflows has slowed in recent years and actually fell in 2005. Why did this happen? Please provide an assessment of the effectiveness of recent government measures aimed at attracting inward FDI? What are the obstacles to FDI in Japan?

Reply from Japan

The stock of inward FDI into Japan increased 1.8 trillion yen between 2004-2005, and the stock increased 0.5 trillion yen between 2003-2004. Therefore, the pace of inflows has not slowed down.

Cf. the stock of inward FDI into Japan
The end of 2003 : 9.6 trillion yen
2004 : 10.1 trillion yen
2005 : 11.9 trillion yen

62. The government plans to launch a new Program by June 2006. Please elaborate on this new Program.

Reply from Japan

Within reach is the achievement of Prime Minister's aim to double the stock of FDI in Japan in five years by presenting Japan as an attractive destination for foreign firms. The Japanese Government will further promote inward FDI to double its ratio to GDP to around 5% in 2010. To realize the new target, the Japan Investment Council (JIC), chaired by Prime Minister and attended by all ministers, has announced its resolution "Program for Acceleration of FDI in Japan." Based on the resolution, the Japanese Government will take measures in JIC Expert Committee's Report, emphasizing three areas, namely 1) promote investment in local regions, 2) improve comprehensive investment environment with sense of urgency, and 3) promote greater understanding by public information activity.

63. Are there sectors and activities where the government is particularly encouraging inward foreign investment?

Reply from Japan

As far as the government is concerned, Japan does not have special industrial sectors or types that should be promoted. We expect foreign corporations to take a perspective that we would call "being part of local communities as part of the larger world" in the sense that we expect them to make effective use of regional resources and assets, improve

industrial infrastructure, raise people's quality of life, and pursue other such actions that contribute to the autonomous development of local regional economies.

64. Are there sectors and activities that are wholly or partially closed to foreign investors and foreign service suppliers? Is there full national treatment in the unrestricted sectors? Please indicate the various sectoral laws that restrict foreign investments and foreign service suppliers.

Reply from Japan

JETRO (Japan External Trade Organization) acts as a comprehensive window and point of contact for Japanese Inward Foreign Direct Investment. Foreign Direct Investment inward restrictions are based on the Foreign Exchange and Foreign Trade law.

It is possible for Japanese authorities to prohibit or stop the foreign direct investment inward if it is assessed that such investment would represent a threat the national security of Japan based on the current Foreign Exchange and Foreign trade law.

65. What plans does Japan have to further liberalise foreign investment regulations relating to services?

Reply from Japan

Japan has made a high level commitment by liberalization in the service field, and submitted additional revised offer. Though it is not easy to make further commitment, Japan is considering more improvement in the service sector field where we don’t make a commitment .

66. Under what conditions and circumstances is there discrimination against foreign investors in terms of establishment of local branches, diversification of business and operations? Are there plans and programs to remove these exceptions to national treatment? What are the possible exceptions to MFN treatment?

Reply from Japan

Not especially. See Q64.

67. "In general" Japan does not discriminate against foreign investors in terms of the establishment of local branches, diversification of business and operations. Under what specific circumstances would restrictions be applied?

Reply from Japan

Not especially. See Q64.

68. With the switch from prior notification to ex post facto reporting of foreign investments, what are the remaining sectors and activities for which prior notification of inward FDIis still required? Are there plans to remove the prior notifications? Besides the notification requirements, what are the other specific restrictions on inward FDI in the various services sectors?

Reply from Japan

Prior notification system concerning direct inward investment (Foreign Exchange and Foreign Trade Law Article 27) applies to the following industry sectors;

1. 15 sectors concerning national security (The OECD Code on Liberalization of Capital Movements, Article 3)

a) sectors which could threaten the country's security such as aircraft, armament, nuclear power, space development and explosive production industries.
b) sectors which could disturb public order such as electricity, gas, heat supply, telecom, broadcasting, water, railroad and passenger transport industries.
c) sectors which could make it hard to maintain public safety such as biological and security industries.

2. 5 exceptional sectors (The OECD Code on Liberalization of Capital Movements, Article 2)

sectors which could adversely affect smooth operation of the national economy such as oil, leather and leather products, agriculture, forestry and fisheries, air transport and maritime industries.

69. In what sectors has Japan undergone liberalisation thar may affect market access, national treatment or MFN status for foreign service providers? How significant are these changes in the context of achieving the Bogor goals of free and open

trade and investment? Please list those service sectors that had total or partial restrictions in 1998 and compare that to the information for 2006.

Reply from Japan

Japan has committed 102 fields (for instance telecommunication, construction, distribution, finance, and transportation, etc.) concerning the market access and the national treatment in a wide service field over 102 fields of 155 small classification fields of service field classification table which WTO secretariat made.

70. What are the present approval requirements for the purchase by foreigners of all categories of land and real estate? Are there restrictions on land use by foreign investors?

Reply from Japan

There is no restriction on purchase and use of land by foreign investors.

71. In terms of national treatment, are the various subsidy schemes to assist industry, finance, agriculture, forestry and fisheries and transport sectors, available to both foreign and domestic enterprises?

Reply from Japan

Regarding subsidies for industry, there are some subsidy schemes that are available for both domestic and foreign enterprises.

We do not have such subsidy schemes for financial sector.

As for subsidies for transport sectors, there are some. (e.g. anti-disaster measures of rail transport services, maintenance and repair services of road transport equipment, aviation security)

72. What has been the extent of cross-border M&As in Japan in recent years? Please provide the statistics. What are the remaining barriers and impediments to cross-border M&As in Japan? Please explain the revisions to the Commercial Code to facilitate M&As by foreign companies. To what extent do taxation provisions impede cross-border M&A, and are there plans to address any such impediments?

Reply from Japan

The new Corporate Code enforced in May 2006 ①abolished the minimum capital requirement etc. to facilitate creation of new corporations, ②introduced a Japanese version of LLC (godo kaisha) as a new type of company, and ③deregulated the restrictions on merger considerations etc. (although the Corporate Code took effect in May 2006, the provisions related to the deregulation of merger consideration will take effect in May, 2007) to facilitate reorganization of corporations.

These measures improve environment of business activities in Japan, and therefore facilitate foreign direct investment.

About deregulation of restrictions on merger considerations, we recognize the importance of the tax system, and are discussing with tax authorities etc. to aim at the achievement of the tax reform in 2007 fiscal year.

The number of cross-border M&A into Japan was 179 in 2005.

73. What mechanisms are there for dispute settlement between foreign investors and the Japanese government and Japanese private sector? Please provide information on investment disputes by industry, home country, and nature of complaint.

Reply from Japan

In Japan, both international and domestic remedy is available for investors. In the event of an investment dispute, the parties under the investment dispute are encouraged to settle the dispute amicably through consultation. If the investment dispute cannot be

settled through such consultations within certain period, the investor may submit such dispute either to the courts of justice or administrative tribunals of the Party, or to the international tribunal for conciliations or arbitrations. In the latter case, the state in dispute may consent to the submission of the case to the international tribunal for conciliations and arbitrations. Almost all of the BITs or EPAs which Japan has concluded, stipulate that states under investment dispute have to consent to the submission of investment dispute to international conciliations and arbitrations.

When foreign investors wish to bring the dispute with Japanese private sector to a Japanese court, they are given treatment no less favorable than the treatment accorded in like circumstances to the Japanese investors or investors of a third country.

*In the Japan-Philippine EPA, the provisions relating to investor-state dispute settlement will be negotiated in the future.

74. How many bilateral investment treaties has Japan entered into? Are BITS incorporated into Japan's EPAs? What are the exceptions on BIT and EPA guarantees on transfer of funds?

Reply from Japan

11 Bilateral Investment Treaty (BIT) and 3 Economic Partnership Agreement (EPA) have already entered into force in Japan. All EPAs have the chapter on investment.
(Information)
BIT: Egypt, Sri Lanka, China, Turkey, Hong Kong, Pakistan, Bangladesh, Russia, Mongol, Korea and Vietnam.
EPA: Singapore, Mexico and Malaysia.

Japan may restrict transfer of funds to foreign countries in accordance with "the Foreign Trade and Foreign Exchange Law", relating to a) bankruptcy, insolvency or protection of the rights of creditors; b) issuing, trading or dealing in securities; c) criminal or penal offences and so on.

75. What are the provisions on investment in the EPAs/FTAs with Singapore, Malaysia, Thailand and the Philippines? Specifically, what are the provisions for national treatment and prohibition of performance requirements?

Reply from Japan

Singapore:
Please refer to Articles from 71 to 89 of the Japan-Singapore EPA for the provisions on investment. Specifically, please refer to its Article 73 and 76 for national treatment, and its Article 75 and 76 for prohibition of performance requirements.

Malaysia:
Please refer to Chapter 7 (Articles from 73 to 93) of the Japan-Malaysia EPA for provisions on investment. Specifically, please refer to its Article 75 for national treatment and Article 79 for prohibition of performance requirements.

The Philippines:
Please refer to Chapter 8 (Articles from 87 to 107) of the Japan-Philippines EPA for the provisions on investment. Specifically, please refer to its Article 89 for national treatment and Article 93 for prohibition of performance requirements.

Thailand:
With regards to the EPA between Japan and Thailand, since it has not been signed yet, we would like to refrain from providing the provisions concerned.

76. What is the impact of the 2005 Corporate Law on foreign investment?

Reply from Japan

Refer to the Q72.

77. To what extent has the creation of Special Zones for Structural Reform stimulated FDI into Japan?

Reply from Japan

Aiming to stimulate FDI into Japan, several special zones have been put into practice. For instance, Special Zone of Kitakyushu City, Fukuoka for International Logistics aims to strengthen competitiveness of its harbor, by taking advantage of the special measures

such as the service of custom clearance operations off the regular working hours, reduction of the charges for extra operation, promotion of acceptance of foreign researchers and prioritized processing of the entrance and visa examination for foreigners. For another instance, in Kobe City, Hyogo, "International Port Offshore Production Zone" and "Medical High Technology Industries Zone" have been implemented and it is inviting foreign companies and thus promoting regional development by the almost same special measures as Kitakyushu City deployed. So far, 59 foreign or foreign-affiliated firms have come to be located in the area. (The goal is to invite 100 headquarters of foreign or foreign-affiliated firms by 2010.)

Standards and Conformance

78. Japan's latest IAP states that 92% of JIS standards that have corresponding international standards have been aligned with them. Please comment on any specific difficulties in aligning the remaining JIS standards with international standards.

Reply from Japan

Major difficulties reside in fundamental technological problems such as difference of voltage of power supply system in Japan.

79. Could we please also have an update on progress in aligning JAS standards with international standards. What percentage of JAS standards have been aligned with international standards? Japan's latest IAP states that the JAS Law (Law Concerning Standardization and Proper Labelling of Agricultural and Forestry Products) requires the MAFF to "review the JAS every five years to facilitate the conformance of JAS with international standards, and actively abolish unnecessary standards and revise standards in order to meet public needs". Please summarise the results of the most recent five year review undertaken in accordance with this instruction, and outline any specific difficulties faced in aligning JAS standards with international standards.

Reply from Japan

(1) The every-five-year review of all Japanese Agricultural Standards was incorporated in the JAS Law in 1999. While there were 352 standards for 101 items in 1999, there are 218 standards for 71 items in September 2006. Since 1999 until September 2006, Ministry of Agriculture Forestry and Fisheries (MAFF) has been reviewing all standards and 60 items were revised, 38 items were abolished, and 8 items were newly established.

(2) All the revisions made to the Japanese Agricultural Standards are basically in line with Codex Standards established by the Codex Alimentarius Commission.

(3) The exact percentage of standards being aligned is difficult to identify, because Codex Standards and Japanese Agricultural Standards have different structures and they are not simply comparable. While Codex Standards have provisions on hygiene, heavy metals, pesticide residues, while Japanese Agricultural Standards do not have them.

(4) MAFF certainly faces difficulties in aligning the JAS standards with the Codex Standards as other countries do, and not all of the Codex Standards are necessarily taken into account for elaborating or revising the Japanese Agricultural Standards, because of consumers' preferences and manufacturing practices on food. MAFF believes international standardization at Codex is important for fair trade practices, and also participates in elaborating or revising Codex Standards to reflect Japan's situations.

80. Please comment on Japan's experience in approving the affixing of JIS marks by foreign factories and in accrediting foreign bodies as JIS mark certification bodies. Have any specific problems been encountered in this regard?

Reply from Japan

No specific problems have been encountered.

81. Please comment on Japan's experience in allowing Registered Foreign Certification Organizations to conduct grading and append JAS symbols to their products. Have any specific problems been encountered with this procedure?

Reply from Japan

(1) The revised JAS Law in March 2006 incorporated ISO Guide 65 as the objective registration criteria for certifying bodies. ISO Guide 65 provides the general requirements for certification bodies to follow and it is actually applied to bodies in many other countries as well. The adoption of ISO Guide 65 contributes to enhancing transparency and benefits applicants for the registration system under the JAS Law.

(2) Please note that the law and ordinances on the JAS and other information are available at the English website for sake of certifying bodies applying from overseas.

82. Does Japan consider that its experience with APEC MRAs has been useful? Please advise if Japan intends to join any further APEC MRAs such as the APEC MRA on Conformity Assessment of Foods and Food Products? Does it perceive any specific difficulties with this or other APEC MRAs?

Reply from Japan

APEC EE MRA consists of three parts, which are Part I: Information Exchange, Part II: Mutual Recognition of Test Reports, and Part III: Mutual Recognition of Certification. Though Japan participates in Part I of the MRA, it has no plan to participate in Part II or Part III because they are evaluated not cost-effective. On the other hand, APEC economies can enjoy the existing more efficient mechanisms such as IECEE/CB scheme which have the same effects on trade facilitation.

MRAs generally require convergence of standards in all the countries concerned. Japan considers that convergence of food standards is difficult to achieve either bilaterally or multilaterally, because of differences in climate condition, and natural environments.

83. Please outline the current state of progress in Japan's discussions with foreign countries on a possible MRA on building standards.

Reply from Japan

The Japanese Building Codes have been performance-based. The procedure to evaluate and certify the performance of building materials and products graded by foreign standards is established and there are already many such cases.

84. Japan has MRAs on Conformity Assessment Procedures with the EU and Singapore. Please advise the status of consultations on establishing similar MRAs with other countries, especially APEC members.

Reply from Japan

At present, Japan has no such consultations with any countries on establishing MRAs similar to the one with EU or Singapore in the field of electric/electronic products. Japan regards a governmental MRA as the last resort to be chosen only in cases where no other similar mechanism exists on the side of the private sectors. Furthermore, when considering a governmental MRA in the field of electric/electronic products, other type of MRA so called "cross-border designation type" which consists of a pair of unilateral overseas designation systems referred to in article 6.4 of the WTO/TBT is chosen because it is considered more efficient for the governments in account of administrative cost while maintaining the same effects for the industries.

This stance has already been consolidated through its review on the existing MRAs which have not been utilized almost at all especially in the electrical safety area because of the coexistence of the more efficient mechanisms such as IECEE/CB scheme, in other words, because of the lack of the 'real' needs of the relevant industries which is the most basic prerequisite to be examined at the beginning stage.

85. Please outline the "necessary measures" mentioned in Japan's latest IAP that have been implemented in the area of standards and conformance in order to be consistent with the APEC Transparency Standards.

Reply from Japan

Please refer to the section of "Continuously strive to increase transparency of their standards and conformance requirements, including implementation of APEC Leaders'

Transparency Standards on Standards and Conformance" under "Chapter 5: Japan's Approach to Standards and Conformance in 2006" of Japan's latest IAP for the details.

Customs Procedures

86. Please outline Japan's current status in implementing each of the SCCP CAP items. For those items that are not fully implemented, what is the economy's target completion date?

Reply from Japan

Among the 16 CAP items of the SCCP, Japan has fully implemented 15 items. As for the "APEC Framework" CAP which has been partially implemented, Japan is aiming for the early completion.

87. Does Japan request public comment on changes (including proposals) to customs laws/regulations? If so, what is the process through which this is done?

Reply from Japan

In principle, revisions to cabinet orders or ministerial orders request public comment, while tax, including tariff, constitutes an exception. Hence, revisions in relation to tariff do not necessarily require public comment

(Public Comment Process)
When public comment process is required, Japan Customs announces launch of such a process on "e-Gov" Website. Comments are submitted via mail, fax and e-mail.

88. Do Japanese Customs have valuation specialists for specific valuation areas?

Reply from Japan

No, Japanese Customs valuation specialists deal with general valuation matters. They are not specialized in specific valuation areas such as related party transactions and treatment of royalties/license fees.

89. Are the advance rulings provided by Japan Customs binding?

Reply from Japan

Yes, the advance rulings are respected by Japan Customs as far as they are valid.

90. Please summarise the systematic risk management techniques utilised by Japan Customs.

Reply from Japan

Japan Customs, for the purpose of processing effectively and speedily the increasing amount of import and export declarations, separates high-risk cargos from low-risk cargos by utilizing the relevant database system (i.e. CIS), which systematically stores and manages the information about trade and shipment records; high risk cargos mean the ones which proper declaration has not been made, while low risk cargo are less likely to have such a problem. Accordingly, Japan Customs, by inspecting high-risk cargos intensively on one hand and simplifying the inspections on low-risk ones on the other, achieves well-focused and efficient enforcement from a risk management perspective.

（Sea Cargo Screening System）
Sea-Cargo Screening System, launched in March 2006, selects high-risk cargos though acquiring necessary information, such as Manifesto Information and Storage Cargo Information, from Nippon Automated Customs Clearance System (NACCS).

91. Is there provision for independent judicial review of Japan Customs' decisions on appeals against decisions made on customs matters? If so please outline the process involved in the independent judicial review.

Reply from Japan

Regarding the decisions made by administrative agencies which considered to be a wielding of administrative authority, including Customs' decisions on appeals against

decisions made on customs matters, claims of repeal could be filed under the provisions of the Law on suits against the government.

92. Please briefly outline how Japan complies with the APEC Transparency Standards in respect of customs procedures.

Reply from Japan

Japan adopts the following measures to comply with the APEC Transparency Standards in respect of customs procedures:

(1)Making information regarding laws, regulations and customs procedures etc on official gazettes and the Customs website.
(2)Implementing "Public Comment"
(3)Advance rulings
(4)Making public the results of the advance rulings
(5)Review and appeal
(6)Customs Counsellors

Intellectual Property Rights

93. Japan stated that it would update its IPR protection system in 2001-2010 to meet the changing needs and work to enhance the levels of IP protection. The Basic Law on Intellectual Property was enacted in November 2002 and a strategic program in July 2003 consisted of about 270 items of measures to be implemented by ministries and agencies. The Strategic Program of 2004 added new measures. What has been the progress in implementing the Basic Law and strategic programmes, and how have they contributed to protection of intellectual property rights? Does Japan have further measures plans in mind to improve IPR protection?

Reply from Japan

Following the enactment of the Basic Law on Intellectual Property in November 2002, Japan took forward achieving the goal of making Japan an "intellectual property-based nation." In July 2003, the Policy Headquarters adopted the Intellectual Property Strategic Program 2003 consisting of about 270 measures. Then the Policy

Headquarters added necessary measures in each year's program; 400 measures in 2004 and 450 measures in 2005. As part of the programs, all the four industrial property laws of the Patent Law, Utility Model Law, Design Law and Trademark Law (excluding Copyright Law) will add a provision to prohibit exportation of counterfeit goods as an act of infringement and also Customs Law will be amended to prohibit the exportation of goods which infringe those industrial property rights at border. These amendments will come into effect on January 1, 2007.

The Basic Law on Intellectual Property has produced a rich harvest for the past three years.

a) creation
University intellectual property offices and Technology licensing organizations were developed throughout the nation in order to have study results patented and transfer them into private hands. There was a dramatic increase in patents awarded to universities, patent licensing, income from patent rights, university-launched venture companies and provisions for employee inventions were revised.

b) protection
Intellectual Property High Court was established to handle lawsuits over intellectual property. An action plan to expedite and rationalize patent examination procedures and mass hiring of fixed-term patent examiners led to the speedier patent examination system. As for trade secrets, The Unfair Competition Prevention Law was amended to introduce criminal penalties for a person who uses or discloses outside Japan a trade secret that had been kept within Japan, and a person who violates a confidentiality order outside Japan that had been made by a Japanese court in civil actions related to trade secrets. Customs Law and Customs Tariff Law were also amended to strengthen Customs enforcement on counterfeits and pirated goods at the border.

c) utilization
Trust Business Law was amended to so that IPR can be entrusted and corporations can be trust administrators. Local governments are also plotting strategies on IP and intellectual property headquarters were created in nine areas.

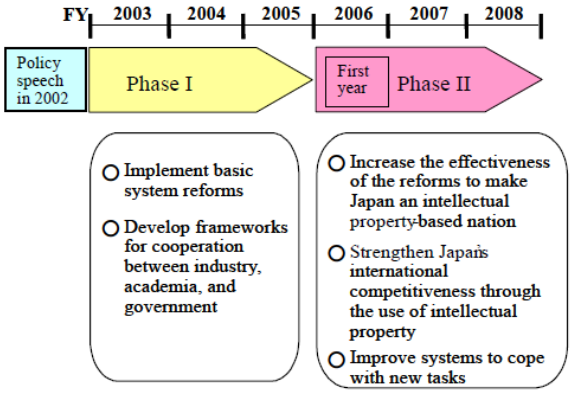
d) contents

Law on Creation, Protection and Promotion of the use of Contents was enacted to establish the basic philosophy of the listed above. Private activities such as the establishment of Entertainment Lawyers' Network and Visual Industry Promotion Organization started. Regional organization trademark system was created and study of food culture was promoted under the cooperation between the public and private sectors.

e) human resource development

Comprehensive strategy was compiled and law schools and graduate schools specialized in IP were established to improve the education system. Moreover, networks of personal contacts such as lawyers and patent attorneys were launched.

At the meeting of the Policy Headquarters held in February 2006, the Strategic Council on Intellectual Property announced the 3 year measures plan (Phase II) to carry the reform to future.



For further information, Intellectual Property Strategic Program 2006 is available on website of Prime Minister of Japan and His Cabinet;
http://www.kantei.go.jp/jp/singi/titeki2/keikaku2006_e.pdf

94. In June 2005 APEC trade ministers endorsed a series of Anti-Counterfeiting and Piracy measures including guidelines for authorities to seize and destroy pirated goods and support to increase the capacity of economies to deal with counterfeiting. To what extent has Japan adopted and strengthened measures against counterfeiting and piracy? What measures have Japan taken to handle the infringement of copyright on the Internet?

Reply from Japan

Under the Copyright Law of Japan, the following activities are considered as constituting copyright infringement and have possibilities to be charged with civil or criminal liabilities;
(1)to import pirated copies for distribution,
(2)to distribute or possess for distribution pirated copies knowing such infringement,
(3)to use pirated copies of computer programs in works knowing that the copies are illegally made.

In addition, based on the result of consideration under the Copyright Subcommittee of the Council for Cultural Affairs, GOJ is planning to submit a bill amending the law to the Diet, for empowering customs to control the export of pirated copies at the border as early as possible.

Concerning the protection for copyrighted works disseminated over the Internet, it is stipulated that authors have the right of interactive transmission in Article 23 and performers, producers of phonograms, broadcasting organizations and cablecasting organizations have the right of making transmittable in Article 92bis, 96bis, 99bis, 100 quarter of the Copyright Law of Japan in accordance with WCT and WPPT. The law also provides the articles concerning technological protection measures (Article 120bis) and right management information (Article 113) in order to strengthen the protection of works etc. in the online environment.

Moreover, strengthened penalties are planned in accordance with the result of the study in the Copyright Subcommittee of the Council for Cultural Affairs.

95. Please provide statistics on violations of IPR in Japan. What are the penalties for IPR violations?

Reply from Japan

○ Intellectual property offenses in the last 5 years

	2001	2002	2003	2004	2005	2006.1-6
No. of cases cleared	173	246	245	359	492	254
No. of persons arrested	340	435	431	644	805	394

○ Criminal responsibility (penalties) for infringement on intellectual property

・ Infringement on trademark rights

Imprisonment for up to 5 years or a fine of up to 5 million yen
Corporation penalty: A fine of up to 150 million yen

・ Infringement on copyrights

Imprisonment for up to 5 years and or a fine of up to 5 million yen
Corporation penalty: A fine of up to 150 million yen or both

・ Infringement on patent rights

Imprisonment for up to 5 years or a fine of up to 5 million yen
Corporation penalty: A fine of up to 150 million yen

・ Infringement on design rights

Imprisonment for up to 3 years or a fine of up to 3 million yen
Corporation penalty: A fine of up to 100 million yen

・ Infringement on utility model rights

Imprisonment for up to 3 years or a fine of up to 3 million yen
Corporation penalty: A fine of up to 100 million yen

The Copyright Law of Japan imposes an imprisonment of up to five years or a fine of up to five million Yen, or both against copyright infringement only with the formal complaint by right holders.

In cases where anyone distributes, manufactures, imports or possesses a device or program for the circumvention of technological measures or circumvents technological measures in response to a request from the public as a business, the law imposes an imprisonment of up to three years or a fine of up to three million Yen, or both.

Also, the law mainly considers the following acts as constituting copyright infringements and imposes an imprisonment of up to three years or a fine of up to three million Yen, or both;
(1) to add, remove or alter intentionally right management information for profit,
(2) to distribute, import for distribution, communicate or make transmittable to the public copies of works etc. knowing that right management information has been added, removed or altered without authority for profit,

In addition, the law imposes penalties against other infringements, such as infringement of moral right of authors or performers after their death.

Infringement by corporation etc. shall be punishable by a fine of up to 150 million Yen. Moreover, strengthened penalties are planned in accordance with the result of the study in the Copyright Subcommittee of the Council for Cultural Affairs.

96. What has been the impact of the amendment to the Unfair Competition Prevention Law that went into effect in November 2005?

Reply from Japan

The Unfair Competition Prevention Law was amended in 2005 and was enforced in November 2005 in Japan. The purpose of this amendment is (1) strengthened criminal penalties for infringement of trade secrets and (2) the introduction of criminal penalties for counterfeits. We are sure that this amendment will exercise a deterrent effect for the infringement of trade secrets and counterfeitting, cases of which have been increasing in recent years.

97. Japan holds various workshops on copyright for public officials, teachers and librarians for dissemination of information and enlightenment regarding copyright. What has been the effectiveness of these workshops?

Reply from Japan

Since FY 2002, GOJ has implemented a comprehensive project for education and promotion of copyright. It is called, “Let’s Study Copyright Project” and the project targets every age group from school children to the general adult public.

The new Course of Study for junior high and high schools adopted by the government in 2002 included a description of matters on copyright protection. To assist the copyright education in schools, GOJ compiled a copyright education manual for teachers, while developing and providing a variety of edutainment software programs for school children and comic magazines to be used by junior high school students.

Also, GOJ holds a variety of copyright workshop programs for librarians, teachers and officials of local governments in charge of copyright as well as for the general public. Every number of venues and participants of each workshop programs and volumes of comic magazines distributed to junior high school students is steadily growing.

98. In recent years, Japan has actively worked to provide technical assistance on IPR to other APEC members. Please provide an overview of Japan's efforts.

Reply from Japan

1. Cooperation in the Development of Human Resources

The JPO dispatches experts and seminar instructors specialized in various areas of intellectual property rights to developing countries through WIPO Funds-in-Trust/Japan and Japan International Cooperation Agency (JICA) mainly for periods of about two weeks. The dispatched experts mainly provide on-site instruction regarding examination practices, computerization and so forth.

The JICA also dispatches JPO officials as long-term experts in order to engage in JICA technical cooperation projects being implemented in the IP offices of the respective recipient countries, and as individual experts on intellectual property right administration.

Agency for Cultural Affairs also dispatches experts and seminar instructors specialized in copyright to developing countries and invites officers of related authorities or staff of related organizations of these countries as trainees through WIPO Funds-in-Trust (APACE program) and JICA.

2. Computerization and Information Processing

(1) Modernization of Industrial Property Administration Project in the Philippines

The JPO carried out technology transfers and human resource development for the modernization of industrial property rights administrative procedures of the IP Office of the Philippines from May 1999 to May 2003, through establishing a database, systems applicable to the old law, PCT and patent administrative procedures. Since November 2004, follow-up cooperation for this project has been carried out.

(2) Utilization of Intellectual Property Information in Viet Nam

The JPO carried out the "Modernization of Industrial Property Administration Project in Viet Nam," a four-year project for the modernization of administrative procedures at the National Office of Intellectual Property of Viet Nam, from April 2000 to June 2004. This project was aimed at developing human resources through the automation of administrative work. Since January 2005, the second phase of the project ("Utilization of Intellectual Property Information in Viet Nam") has been carried out. Through the utilization of the IP Information System, efficient application processing, management, and information services for intellectual property rights administration will be available in Viet Nam.

(3) Support for Utilization of Information Technology through JICA Development Studies in Malaysia and Indonesia

The JPO also carries out development studies in cooperation with JICA. In Malaysia, a JICA industrial development study, including establishing a computerized industrial design administration system that started in July 2002, was completed in February 2005.

In Indonesia, a JICA study on intellectual property rights administration through the utilization of information and communication technology was launched in June 2005 and has been under way ever since.

99. APEC has approved the establishment of IPR Service Centres for member economies. These will provide important information related to protecting IPRs, such as economy-wide codes (civil, administrative, criminal), laws (copyright, trademark, patents, etc) and other enforcement regulations and decrees; contact

information for government authorities; and other information economies may wish to make available to the interested public. Please outline and comment on Japan's experience with its IPR Service Centre established in 2004.

Reply from Japan

IPR Service Centers provide information related to protect IPRs and to inform regulation agency, such as Police. The center plays a role against counterfeiting and piracy. It was proposed by Japan in 2002 and was agreed to establish "APEC IPR Center(s)" in the member economies at the MRT held in June 2003. The Japanese government established "Office of Intellectual Property Protection" in August 2004 to guide and provide information related to counterfeiting and piracy for private entities and also established IPR Service Center in November 2004 with establishing a new website on the METI. These are in Office for Intellectual Property Right Infringement, METI. The office of Intellectual Property Protection has received 419 of inquiry and consultation by the end of August 2006.

Competition Policy

100. What steps have been taken to implement the non-binding APEC principles (non-discrimination, comprehensiveness, transparency, accountability) to enhance competition and regulatory reform? What steps have been taken to implement the APEC Transparency Standards for Competition Law and Policy?

Reply from Japan

The Government of Japan has been addressing various activities concerning competition policy and regulatory reform focusing the following issues that are clarified in the "Grand Design for Competition Policy" under the OSAKA ACTION AGENDA that has provided non-discrimination, comprehensiveness, transparency etc. as general principles) to achieve the Bogor Goal of free and open trade and investment no later than the year 2010 in the case of industrialized economies.

(1) Rigorous enforcement of the amended Antimonopoly Act

(a) Stringent action against price cartels / bid-riggings
(b) Stringent action against conducts that deter new entrants
(c) Improvement of merger review addressed to increasing M&As

(2) Building a competitive society with rules
(a) Promotion of proper provisions of information for consumers as participants to markets
(b) Encouragement of fair business practices

(3) Creation of competitive environment
(a) Promotion of regulatory reform
(b) Promotion of measures for prevention of bid-riggings
(c) Encouragement of entrepreneurs' compliance

In furtherance of paragraph 1 (Prompt publication of laws, regulations, procedures and administrative rulings) of the General Principle of the Leaders' Statement for implementation of the APEC Transparency Standards, the JFTC has been publishing amendments of law and regulations of the Antimonopoly Act as well as administrative measures such as cease-and-desist orders against violations etc., through official gazettes, press releases, internet and various pamphlets etc. on the same day.

In addition, in furtherance of paragraph 4 (Ensuring opportunities to provide reasonable notice, etc.) and paragraph 5 (Ensuring prompt review and correction of final administrative actions) of the General Principle of the Leader's Statement for implementation of the APEC Transparency Standards, the JFTC has provided entrepreneurs with opportunity to present their views on the contents of orders and to submit evidence before issuing cease-and-desist orders to entrepreneurs in accordance with the provisions of the Antimonopoly Act. Furthermore, if entrepreneurs are dissatisfied with the orders of cease-and-desist measures, they are able to request for hearing procedures to the JFTC.

101. Please provide an overview of Japan's competition policy and laws and the changes that have been made since 1997 and since the last IAP peer review in 2002.

Reply from Japan

Japan's competition policy has been implemented with the aim of contributing toward the democratic and sound development of national economy and the securing of consumer benefits, based mainly on the "Act concerning Prohibition of Private Monopolization and Maintenance of Fair Trade", the "Premiums and Representations Act ", and the "Subcontract Act".

The Antimonopoly Act provides rules which entrepreneurs should observe in carrying out their business operations in free economic society, and regulates such acts as impede fair and free competition. Broadly speaking, the conducts regulated by the Antimonopoly Act are divided into 1.private monopolization, 2.unreasonable restraint of trade, and 3.unfair trade practices. The summaries of regulation against these conducts are as follows respectively.

(1) Private monopolization
If any entrepreneurs try to exclude competitors from the market individually or by combination with other entrepreneurs by means of unjust low-price sales, discriminatory prices, etc. or monopolize the market by obstructing business activities of new-comers to the market, such acts are prohibited as "private monopolization (exclusion type)." Moreover, if any dominant entrepreneurs try to control the market by restraining business activities of other entrepreneurs through the acquisition of stock, dispatch of officers, etc., such acts are also prohibited as "private monopolization (control type)."

(2) Unreasonable restraint of trade
If any entrepreneurs or any constituent entrepreneurs of trade associations consult with each other to jointly determine product prices, sales and production volumes, etc., which should be determined voluntarily by each entrepreneur, and restrain competition as the result, then such acts are regarded as "cartels," and prohibited. Such arrangements, nevertheless by gentlemen's agreements, by word of mouth, or by any other forms, are regarded as "cartels," if some kind of arrangement exists among these entrepreneurs and if they eventually take a concerted action. Furthermore, "Bid rigging" means that several entrepreneurs participating in bidding for e.g. public works of the central and local governments and public procurements consult with each other in advance to

determine the contractors and contract prices, and it is prohibited as one of the unreasonable restraint of trade.

(3) Unfair trade practices

The Antimonopoly Act designates the conducts tending to impede free competition and to undermine the foundation for competition as "unfair trade practices," and prohibits such conducts. The designated conducts are, for example, as follows; Refusal to deal; Discriminatory pricing and discriminatory treatment; Unjust low price sales; Deceptive customer inducement; Unjust high price purchasing; Tie-in sales; Abuse of dominant bargaining power; Resale price restriction; Dealing on exclusive terms; Dealing on restrictive terms; Interference with competitors' transactions; and Unfair low price sales.

In addition, business combinations including mergers etc. are prohibited by the Antimonopoly Act if they may cause a substantial restraint of competition in any particular field of trade. "Particular field of trade" is generally defined individually in accordance with type of product or service handled by merged companies, geographical extent to which such products or services are traded, and the specific phase of transactions. The judgement on whether the effects of the merger may substantially restrain competition is made by comprehensively taking into account various factors such as market share and status of import and entry in the market.

(1997)

The Amendment to the Antimonopoly Act included revision of the complete prohibition of holding companies and repeal of the international contract notification system. In addition, through the Omnibus Act for reform of the exemptions system, repeal of the exemptions system and limitation and clarification of the range of exemptions for 35 systems based on 20 individual laws outside the AMA.

(1998)

The Antimonopoly Act was amended to reduce the scope of reporting and notification requirement regarding mergers and stockholdings and to improve examination procedures.

(1999)

A law aimed at abolishing the depression cartel systems for the depression and rationalization and abolishing a law on the exemption systems of the Antimonopoly Act were enacted on July 23, 1999. A law which aimed at abolishing Article 21 of the AMA was enacted on June 19, 2000, in response to the liberalization of the electric power supply and gas businesses.

(2000)

With the creation of a corporate division system, the Antimonopoly Act was revised to incorporate provisions for the divisions either through the joint establishment or through acquisitions, that are similar to those for mergers and acquisitions. The revision was promulgated on May 31, 2000 and came into force on April 1, 2001.

(2001)

The JFTC prepared a draft amendment to the Antimonopoly Act, including elimination of the regulation on the maximum amount of shareholding by large-scale firms, as well as the increase of the maximum fine applicable to corporations. And the amendment act was enacted on May 29, 2002

(2004 ~)

The bill to amend the Antimonopoly Act was submitted to the 161st extraordinary Diet session on October 15, 2004. Remaining under deliberation, the bill was carried over to the next 162nd ordinary Diet session and passed on April 20, 2005. The amended act was put into practice in January 2006.

The outline of the amendment to the Antimonopoly Act is as follows.

(A)Revision of the surcharge system

- The rate of surcharge which is ordered and paid by an enterprise engaged in unreasonable restraint of trade was increased as follows:

Manufacturers, etc.	Large-sized enterprises: 6% → 10% Small and Medium-sized enterprises (SMEs): 3%→ 4%
Wholesalers	Large-sized enterprises: 1% → 2% SMEs: 1% (no change)
Retailers	Large-sized enterprises: 2% → 3% SMEs: 1% → 1.2%

- Reducing a surcharge rate by 20% on those enterprises whose duration of violation is less than 2 years and which have ceased the unlawful conduct more than one month before the Japan Fair Trade Commission (JFTC) initiates an investigation.
- Increasing a surcharge rate by 50% on those enterprises which were ordered another surcharge payment order within 10 years.
- Expanding the scope of conduct subject to the surcharge system and imposing a surcharge on those enterprises engaged in Private Monopolization (only in the case of enterprises which control the business activities of other enterprises) that restrains the price of their goods or services or that may affect the price of their goods or services by substantially restraining the volume of their supply, market share or customers.

(B) Introduction of a leniency program

In order to give violators an incentive to withdraw from cartel and pursue early restoration of competitive order, we introduced a leniency program and shall apply immunity from or reduction in surcharge payments to enterprises that meet statutory conditions (e.g., enterprises committing unreasonable restraints of trade shall voluntarily disclose the existence of violations and provide related information to the JFTC).

1st applicant before initiation of investigation = total immunity
2nd applicant before initiation of investigation = 50% deducted
3rd applicant before initiation of investigation = 30% deducted
Any applicant after initiation of investigation = 30% deducted
Note: The total number of enterprises which may be applied under the leniency program is less than or equal to 3.

(ア) Introduction of compulsory measures for criminal investigations

For aggressive criminal accusations against vicious and serious cases, the enhancement of the ability to collect evidence is necessary for fact-finding by the JFTC. Therefore, the provisions related to compulsory measures for criminal investigations were developed for cases where officers of the JFTC may inspect, search and seize based on court-issued warrants.

(イ) Revision of hearing procedures

Regarding the fast-changing and globalized economy, enhancement of effective processing of cases and speedy restoration of competition is necessary. Therefore, we abolished the current recommendation system where we issue a recommendation to an entrepreneur and then make a decision as an administrative measure. We introduced a system where the JFTC issues an order for elimination measures after having provided a respondent with a preliminary opportunity to submit his/her opinion. We also provided the related provisions for amendment.

102. Please summarize the key features of the Anti-Monopoly Act (AMA), specifically measures to deal with horizontal and vertical restraints, abuse of dominance, and M&As. What are the activities/sectors which are exempt from the Anti-Monopoly Act, and are there plans to reduce the number of such exemptions?

Reply from Japan

Horizontal restraints such as hard-core cartel are mainly prohibited as "unreasonable restraint of trade" under the Section 3 of the AMA. Vertical restraints such as Discriminatory Treatment, Tie-in Sales and Resale Price Restriction are mainly prohibited as "Unfair Trade Practices" under the Section 19, as well as "Private Monopolization" under the Section 3 of the AMA. When the JFTC finds that there exists any violation of the AMA, it can render a cease and desist order against the respondent to eliminate such conducts (Section 7). In the case where a hard-core cartel is conducted, a surcharge is levied on the violating firms, etc., and criminal sanctions can also be levied on the violating firms, etc. by the JFTC's filing a criminal accusation with the Public Prosecutor General.

Abuse of dominant market position is prohibited as "private monopolization" under the Section 2 (5) of the AMA. Any conducts trying to exclude competitors from the market individually or by combination with other entrepreneurs by means of unjust low-price sales, discriminatory prices, etc. or monopolize the market by obstructing business activities of new-comers are prohibited and are subject to cease and desist orders (These conducts are called "private monopolization (exclusion type)"). Moreover conducts trying to control the market by restraining business activities of other entrepreneurs through the acquisition of stock, dispatch of officers, etc. are also prohibited and may

subject to surcharge orders as well as cease and desist orders (These conducts are called "private monopolization (control type)").

The Antimonopoly Act prohibits a business combination (stockholdings (Article 10 of the Antimonopoly Act), interlocking directorates (Article 13), mergers (Article 15), divisions (joint establishment divisions and acquisition divisions) (Article 15-2), and acquisitions of business (Article 16) if the effect of the combination may substantially restrain competition in a particular field of trade.

As for mergers, divisions, and acquisitions of business, the parties which are above the certain scale thresholds must notify the JFTC in advance if they plan to conduct mergers, divisions, and acquisitions of business (Article 15, 15-2 and 16 of the Antimonopoly Act).
As for stockholdings, if the voting right holding ratio exceeds 10%, 25% or 50% by stockholdings, the parties which are above the certain scale thresholds must submit a report to the JFTC within 30 days after stockholdings (Article 10 of the Antimonopoly Act).

Most of exemption systems derive from the specific nature of business operations in certain sectors. Among them are a cartel that is allowed by the road transportation law to maintain lifeline access necessary for the dairy life of local residents, and an international transportation cartel based on the marine transportation law and the aviation law which is also allowed in other countries.

In July 1997, 89 exemption systems under 30 individual laws were existent. After further review as to the necessity, at present, the number has been declined to 21 systems under 15 laws.

103. Is the Japan Fair Trade Commission a fully independent body? What kind of investigative powers does it have? Amendments that came into effect in January 2006 are expected to strengthen FTC's capabilities to enforce the AMA. What has been the experience so far in implementing the amendments to the AMA? Have the 3 basic prohibitions (private monopolisation, unreasonable restraint of trade, and unfair trade practices) been effective? What constitutes "abuse of dominant bargaining position" under the Act? What is meant "procedural fairness in enforcement" of the AMA?

Reply from Japan

The independence of the JFTC is sufficiently protected by the AMA, which provides that the JFTC shall be administratively attached to the Prime Minister, the chairman and the commissioners perform their duties independently and may not, against his or her will, be removed from office during his or her term of office.

Generally JFTC has 3 investigative powers as follow.

(1) The authority to make administrative investigation

FTC may, in order to conduct the necessary investigation with regard to a case of violation, take the following measures mainly:

(a) Ordering persons concerned with a case or witnesses to appear for interrogating, hearing their views or collecting reports from them;

(b) Ordering experts to appear to have them give expert testimony;

(c) Ordering persons holding accounting books, documents, and other matters to submit the same, or retaining such submitted matters at FTC;

(d) Entering any places of business of the persons concerned a case, or other necessary sites and inspecting conditions of business operation and property, accounting books, documents, and other matters. (Sec. 47-1)

(2) The authority to make compulsory investigation for criminal cases

When necessary to investigation a criminal case, FTC staff members designated by FTC may take some special measures (e.g. they may visit, search, or seize with a warrant issued in advance by a judge of the district court or the summary court having jurisdiction over the location of FTC (Sec. 102)).

(3) The authority to make general investigation

FTC may, if necessary for the performance of its functions, make investigation or entrust the investigation (e.g. ordering government agencies, juridical persons established by a special law or an order, entrepreneurs, or organizations of entrepreneurs, or their personnel to appear before the Commission, or requiring them to submit necessary reports, information, or documents (Sec. 40))

It is a significant policy challenge for Japan to promote structural reform and to realize economic society based on market mechanism and principle of self-discipline. The Bill to amend the AMA, which aims to eliminate culture of collusive practices and to establish competition policy appropriate for 21st century, was approved April 20th, 2005

and came into force January 4th, 2006. Main features of the amendment are as following:

(a) Revision of the surcharge system
(b) Introduction of a leniency program
(c) Introduction of compulsory measures for criminal investigations
(d) Revision of hearing procedures, etc.

It is still half a year since the enactment of the amended law, however, taking an example of leniency program, the JFTC has received 26 leniency applications in just three months from January 4, 2006 until March 31, 2006 on the contrary to some concerns about the applicability of the program.

The JFTC has actively taken measures against the violation of the AMA such as private monopolization, unreasonable restraint of trade and unfair trade practices so far. We believe that the enforcement against the violation of the AMA, especially hard-core cartels, would be strengthened by the recent amendment of the AMA, including raise of surcharge rates, introduction of leniency programs and introduction of investigation procedures for criminal accusation cases.

In cases where a firm in a dominant bargaining position on the strength of continuous transaction relationships, engages in such conduct that brings disadvantageous position to its trading partners unjustly in the light of normal business practices, those trading partners may be obstructed from trading based on their free and independent judgement and the firm's competitors or the other firms which intend to deal on reasonable terms may be put in a disadvantageous position. Such conducts fall under the category of unfair trade practice (Article 14 (Abuse of Dominant Bargaining Position) of the JFTC Notification "Designation of Unfair Trade Practices" (1982).)

Article 14 of the JFTC Notification classifies abuse of dominant bargaining position into five types of conduct.

(1) Causing the other party in continuous transaction to purchase a commodity or service other than the one involved in the said transaction;
(2) Causing the other party in continuous transaction to provide for oneself money, service or other economic benefits;
(3) Setting or changing transaction terms in a way disadvantageous to the other party.

(4) In addition to any act coming under the preceding three paragraphs, imposing a disadvantage on the other party regarding terms or execution of transaction; or
(5) Causing a company which is one's other transacting party to follow one's direction in advance, or to get one's approval, regarding the appointment of officers of the said company.

Abuse of dominant bargaining position by the large-scale retailers or the specified shippers are specifically prohibited by the other JFTC Notifications ("Designation of Specific Unfair Trade Practices by Large-Scale Retailers Relating to the Trade with Suppliers (2005)" and "Designation of Specific Unfair Trade Practices when Specified Shippers Assign the Transport and Custody of Articles (2004).")

When those illegal conducts has been recognised, the JFTC issues cease and desist orders which is the administrative measure aimed at a prompt elimination of illegal conducts**.**

On July 21 th, 2006, Antimonopoly Act Basic Study Group issued "Points at Issue," which includes relevant issues, e.g. whether it is appropriate or not to conduct the hearing procedure after an administrative order is issued.

104. Please provide statistics on the number of legal actions for AMA violations since 2002 and by category of offences (private monopolisation, bid rigging, cartels, unfair trade practices, others). What are the financial penalties for violations?

Reply from Japan

The number of legal action against AMA violations is as follows.
(FY April-March)

	2002	**2003**	**2004**	**2005**
Private Monopolization	0	1	2	0
Bid-rigging	30	14	22	13
Cartels (excluding bid-rigging)	3	3	2	4
Unfair Trade Practices	3	7	8	2
Others	1	0	1	0
Total Cases	37	25	35	19

The AMA provides surcharge payment orders as the financial penalty against violations. Surcharge payment orders are the administrative measure given to such cases as cartels, bid riggings, and private monopolization (control type).

105. What is the position currently on public sector monopolies? Please explain the government policy towards relinquishing ownership and control of state-owned-enterprises and phasing out the special treatment they enjoy? What are the critieria and process of privatisation? What are the remaining SOEs ---in which sectors/activities? . Apart from Japan Post, what other public corporations are slated for privatisation over the next 5 years? What is the approach being taken toward the privatisation of Japan Post?

Reply from Japan

Preparation Period

The Government of Japan …

○Established Headquarters for the promotion of PPS in the Cabinet, chaired by Prime Minister. （10/Nov./2005）

- Undertake overall coordination relevant to the promotion of PPS.
- Report the results of the review undertaken by Postal Services Privatization Committee to the Diet.
- Vice-chair: Chief Cabinet Secretary; Minister of State for Privatization of the Postal Services; Minister of State for Financial Services; Minister of Internal Affairs and Communications; Minister of Finance; Minister of Land, Infrastructure and Transport.

○Established Japan Postal Services Holding Company in advance, which is in charge of preparation and planning of privatization. It set up the special planning board for privatization. （23/Jan./2006）

○Established Postal Services Privatization Committee under the Headquarters for the promotion of PPS. （01/Apr./2006）

- State opinions about the justifiability of business expansion of Japan Post into

international logistics.

- State opinions when the competent ministers approve the business succession plan.
- Consist of 5 members with 3-year term of office and has its own secretariat

○Enabled Japan Post to expand its business into international logistics. (17/Apr./2006)

●Japan Postal Services Holding Company established subsidiary companies in advance, which are supposed to be "Postal Savings Bank" and "Postal Insurance Company".(1/Sep./2006)

●Japan Postal Services Holding Company draws up the plan for the succession of business from Japan Post.

●If there are some problems with information system development which might be crucial obstacles to the privatizing process, Headquarters for the promotion of PPS may decide to postpone implementation of the laws until April 1, 2008 through strict procedures.

Privatization (on October 1, 2007)

○**Measures taken on October 1, 2007**

- Japan Post Law, Postal Savings Law, Postal Life Insurance Law and relevant laws will be revoked.
- Postal Service Company, Post Office Company (Over-the-counter services network company), Public Successor Corporation (Incorporated Administrative Agency Management Organization for Postal Savings and Postal Life Insurance) will be established.
- Japan Postal Services Holding Company will have whole outstanding shares of Postal Service Company and Post Office Company.
- Postal Savings Bank/Postal Insurance Company will be given a Bank/Insurance business license and start bank/insurance business.
- The license will be given on some conditions including continuous agency contracts to sustain sound, proper and stable businesses while special provisions to Banking/Insurance Business Law are applied.
- The matter concerning the exercise of the voting right will be stipulated in the certificate of incorporation of the Postal Savings Bank / Postal Insurance Company to enable continuous exercise of the voting right by Japan Postal Services Holding Company.
- Japan Postal Services Holding Company will abolish the special planning board for privatization and start the role as a shareholding company, while its role of

preparation and planning of privatization will be discharged.

- According to the business succession plan, new privatized companies and Public Successor Corporation will succeed the business from Japan Post.
- The employees of Japan Post will lose the status as government official and become staff members of each privatized companies.
- The Law concerning Abolishment and Amendment of Related Laws will amend Postal Services Law and other related laws and introduce interim measures as needed.

Privatization (Transitional period)

○**Measures taken during the transitional period**

- Japan Postal Services Holding Company: In the Law of PPS, special exemption clauses to Banking/Insurance Business Law will be introduced which enables JPSHC to hold bank /insurance company and non-financial companies concurrently.
- Postal Savings Bank: PSB will transfer funds equivalent to deposit insurance premium on deposits accepted from Public Successor Corporation, which will be exempted, to Japan Postal Services Holding Company. Special provisions to Banking Law to put limitation of maximum deposit, scope of businesses, having subsidiary and merger, etc. (At the beginning of transitional period, the scope of businesses will be the same as that of Japan Post. Then according to the progress of privatization and based on the opinions from Postal Services Privatization Committee, competent ministers will give approvals to expand the scope.)
- Postal Insurance Company: Special provisions to Insurance Business Law to put limitation of maximum insurance coverage, scope of businesses, having subsidiary and merger, etc. (At the beginning of transitional period, the scope of businesses will be the same as that of Japan Post. Then according to the progress of privatization and based on the opinions from Postal Services Privatization Committee, competent ministers will give approvals to expand the scope.)
- Postal Service Company: Consideration for other private companies engaged in the same type of businesses, etc.
- Post Office Company: Consideration for other private companies engaged in the same type of businesses, etc.

○**Promotion of and Supervision over the Privatization**

- The Postal Services Privatization Committee will implement the overall review

about the progress of the

- privatization every 3 years, and state opinion about the privatization to the chair of Headquarters for the promotion of PPS.
- The Postal Services Privatization Committee states opinion about the enactment of government/ministerial ordinances, approvals by competent ministers etc.

○**Disposal of Shares**

- Japan Postal Services Holding Company is obliged to gradually dispose all the voting shares of Postal Savings Bank and Postal Insurance Company no later than September 30, 2017.

○**Taxation System**

- With regards to taxation system, necessary measures will be taken to ensure smooth transition process and succession of businesses from Japan Post to newly established bodies.

Finishing Privatization (October 1, 2017)

○**The role of Headquarters for the promotion of PPS and Postal Services Privatization Committee will be discharged and the special provisions on Postal Savings Bank and Postal Insurance Company will be revoked.**

- Regarding Postal Savings Bank and Postal Insurance Company, upon the decision by the competent ministers or complete disposal of their voting shares, the special provision would be revoked even before October 2017.

○**The structure of the institutions as of finishing privatization:**

- Postal Savings Bank and Postal Insurance Company, which will be ordinary joint stock companies without government affiliations, will conduct businesses under Banking/Insurance Business Law and other financial laws generally applied to financial institutions.
- Japan Postal Services Holding Company, Postal Service Company and Post Office Company, which are "government affiliated joint-stock companies", will be supervised appropriately by the competent minister.

106. What are the provisions on competition policy that Japan has entered into in its EPAs/FTAs?

Reply from Japan

Japan has entered into three EPAs with Singapore, Mexico, and Malaysia so far. Each EPAs has a chapter of competition policy in which each country have committed to take measures against anti-competitive activities, and to cooperate in the field of controlling anti-competitive activities.

As for cooperation on competition law enforcement between competition authorities, the Japan-Singapore EPA provides articles on notification and exchange of information on the condition that the scope of cooperation is limited to the areas of telecommunications, electricity and gas. The Japan-Mexico EPA provides articles on notification, cooperation, coordination, positive comity and negative comity. In the Japan-Malaysia EPA, elements for enforcement cooperation are prescribed as future issue and will be considered when the Agreement is reviewed.

107. What has been the impact on the competitive environment in Japan of the increase in M&A activities and restructuring of enterprises in recent years What criteria are used to assess the approval of mergers?

Reply from Japan

(1) Features of JFTC's Merger Guidelines

- The assessment of mergers is more consistent with economic logic, and more congruent with the ones in the EU and US merger guidelines (than ever).
- Horizontal, vertical and conglomerate mergers are covered.
- Safe harbor rules for mergers are adopted. Presumptive illegality rules are not.
- The approach to remedial actions is explained.

(2) Determination of Relevant Markets

- A relevant market is principally determined by demand substitution.
- Product and geographic dimensions specify the boundary of a relevant market.
- Price discrimination and supply substitution are also taken into consideration.

(3) The Effects of Horizontal Mergers

- Common safe harbor for horizontal mergers:

・ A merging parties' combined market share is 10% or less.

・ A merging parties' combined market share is 25% or less and the HHI is less than 1000.

● Non-coordinated (unilateral) effects and coordinated effects are examined.

● Analysis of non-coordinated effects:

・ Safe harbor regarding non-coordinated effects:

- A merging parties' combined market share is 25% or less, at least one rival's market share is 10% or more, and the HHI is less than 1800.
- A merging parties' combined market share is 35% or less, at least two rivals' market shares are 10% or more, and the HHI is less than 1800.
- An increment in HHI is less than 100, and at least one rival's market share is 10% or more.

・ The status of merging parties: market shares, market share ranks, pre-merger rivalries among the parties.

・ The competitive pressures from non-merging firms: market shares, differences in market share between a merged firm and its rivals, excess capacity for supply, the degree of product differentiation.

・ The potential and actual competitive pressures: import and entry, the presence of adjacent product and geographic markets, competitiveness in vertically related markets.

・ Efficiency and viability of merging parties.

● Analysis of coordinated effects:

・ The status of merging parties and rivals: the number of participants, similarity in product and cost structure, pre-merger rivalries among the merging parties, excess capacity for supply.

・ The relevant market environments: transparency in business transactions, frequency and size of orders, stability and maturity in demand, the speed of technological development, pre-merger competitiveness.

・ The potential and actual competitive pressures: import and entry, the presence of adjacent product or geographic markets, competitiveness in vertically related markets.

・ Efficiency and viability of merging parties.

(4) The Effects of Vertical and Conglomerate Mergers

●Common safe harbor for vertical and conglomerate mergers:

・ A merging parties' market share is 10 % or less.

・ A merging parties' market share is 25% or less and the HHI is less than 1000.

・ A merging parties' market share is 25 % or less, at least one rival's market share is 10% or more, and the HHI is less than 1800.

・ A merging parties' market share is 35% or less, at least two rivals' market shares are 10% or more, and the HHI is less than 1800.

●Vertical or horizontal market foreclosure, facilitating coordinated effects, and elimination of potential competition are considered.

●Analysis: the aspects examined here are similar to the ones explained in horizontal mergers.

(5) Remedies

●Following types of remedies are considered.

・ Remedies to restore or minimize a change in market structure: divestiture of a part of business, reduction in the shareholding ratio, etc.

・. Remedies to enhance competition that will be confronted by the merged firm: requiring access to essential inputs for import or entry, licensing know-how or intellectual property rights, etc.

・ Remedies to exclude or limit the merged firm's action to take advantage of the increased market power: a commitment to non-discriminatory behavior, obligation to refrain from information exchange (which may lead to collusion among firms), etc.

Government Procurement

108. Please review Japan's government procurement regime between 1996 and 2006 in light of the 'APEC Non-Binding Principles on Government Procurement' adopted in 1999, and highlight the steps taken to improve the consistency with the Non-Binding Principles.

Reply from Japan

With a view to further enhancing transparency of government procurement, Japan, as a party to the Agreement on Government Procurement (GPA) in WTO, which went into effect in 1996, is implementing government procurement through fair, open and transparent procedures in accordance with the provisions of the GPA, as well as the APEC Non-Binding Principles.

- Value for Money

Japan has developed its government procurement system complying with the concept of value for money. Under Japan's government procurement system, to the extent that fairness of competition is not impaired, each procuring entity is allowed to specify qualifications of suppliers to participate in tendering procedures and review their capabilities of implementing contracts. Those qualified suppliers with sufficient capabilities are invited to competitive tenderings with the lowest tendered prices method, where contract is awarded to the tenderer who has offered the greatest advantage in terms of tendered prices. The combination of the registration of qualifies suppliers and the lowest tendered prices method aims to achieve the best available value for money in the acquisition of goods and services.

Also, overall greatest value method, where not only prices but also other various factors are considered, has been implemented for major sectors such as public undertakings, computers, communication technology and medical appliances.
In 1999 Japan amended the governmental ordinance relating to self-governing of local governments to expand the adoption of overall greatest value method to the sub-central governing entities.

- Open and Effective Competition

On April 1 2001, Proper Tendering Act came into force. Its basic principles are "secure transparency", "promote fair competition ", "proper implementation of works" and "abolish improper actions". It has contributed to enhancing the transparency, fairness, and competitiveness in Japan's government procurements to high levels.

- Accountability and Due Process

Japan has made much effort to make its government procurement as transparent as possible and to enhance accountability. For example, a practical guidebook regarding the overall government procurement system of Japan, including tendering procedures, is annually published and this is also available on the Internet both in Japanese and English.

Also, necessary information on tenders is published in the official gazette ‘Kanpo’ at least 40 days in advance of the closing date, and also is available on the Internet. In addition, outcomes of tenders, including subject matter of the contract, date of award, name and address of the winner and successful tender price, are notified to tenderers in writing promptly.

JETRO also has made a database designed to provide information domestically and abroad on government procurement published in the "Kanpo", through the Internet. This Government Procurement Database System provided by JETRO has been hyperlinked to the APEC Home Page. The annual Report on Government Procurement comprising individual procurement results is also published.

- Fair Dealing

Fair Dealing is also one of the core elements in Japan’s government procurement system and every possible effort has been made to conduct fair dealing.

For example, as stated above, Proper Tendering Act was enforced to promote fair competition in April 2001, the basic principles of which are "secure transparency", "promote fair competition ", "proper implementation of works" and "abolish improper actions"

The Office of Government Procurement Review has been working to handle complaints from any suppliers and stakeholders.

- Non-Discrimination

In Japan, government procurement is conducted without any restrictions on suppliers' nationalities or origins of products and services, based on the principle of non-discrimination and open tendering procedures.

109. Please indicate the activities, transactions or sectors that are not covered by Japan's GPA commitments, indicating the reason for the exception in each case.

Reply from Japan

Japan's commitments under the GPA reflect the result of previous negotiations and mutual acceptance with other GPA Parties. They are included in Japan's Annexes 1 through 5 of Appendix I of the GPA in the form of positive lists. (It is therefore difficult to indicate the activities, transactions, and sectors that are *not* covered and their reasons in a comprehensive manner as requested.)

110. Please provide information on Japan's use of electronic tendering systems for government procurement, and comment on any difficulties experienced with this system by foreign bidders.

Reply from Japan

[NOTE]
The following answers are applied only to services and goods of government procurement, excluding public works.

An electronic tendering system for government procurement was introduced into each Ministry individually from FY2003 to FY2004. At the moment, that system has been

operated by parallel paper and electronic use. However, the Japanese government has been making an effort to increase the percentage of electronic tendering.

The electronic tendering system for government procurement will be consolidated in FY2008.

The Japanese government also promotes the standardization of the electronic tendering system, deployment of the systems and manner of operation of the system.

111. Is it necessary to be a registered supplier to bid on all government contracts? If not, please explain which tenders require registration and which do not, and indicate the procedure involved in becoming a registered supplier. What is the percentage of foreign suppliers in each of the main categories of registered supplier, and has this percentage been increasing or decreasing in recent years? What are the main constraints on increasing the share of foreign suppliers in the total number of registered suppliers?

Reply from Japan

An ordering ministry or agency can define the qualification for participating in general competitive bidding, thinking it is needed.

Specifically, each ministry or agency can define qualification required about the performance of construction and manufacturing and selling, the number of employees, the scale of management, etc. according to the amount of money etc. for every kind of contract. In order to participate in competition, it is required to have this participating qualification that each ministry or agency defines.

[NOTE]
The following answers are applied only to services and goods of government procurement, excluding public works.

Necessary documents for qualification, which are the application form for qualification to participate, certificate of registered matters (or other documents equivalent to this certificate), etc, should be submitted to the appropriate contact point of each ministry and agency through the Internet, mail or hand-carrying.

Each ministry and agency examines the qualification, and inputs the application data into the common operating system for government procurement.

With regard to qualification for the tendering system, the percentage of all foreign suppliers who have the qualification for participating in competitive contracts for products and sales of goods (This qualification is valid from FY2004 to FY2006.) is 0.71%.

The total number of suppliers who have the unified qualification for participating in competitive contracts for products and sales of goods (This qualification is valid from FY2004 through FY2006.) is 63,735 (29 September 2006).

The number of suppliers including those with foreign capital is 458 (29 September 2006).

The percentage of all foreign suppliers who have the single qualification for participating in competitive contract for products and sales of goods (This qualification is valid from FY2001 through FY2003.) is 0.69%. The percentage of all foreign suppliers who has valid single qualification from FY2004 through FY2006 is 0.71%. Therefore, the percentage of foreign suppliers has been increasing slightly.

[Reference]
The total number of suppliers who have single the qualification for participating in competitive contracts for products and sales of goods (This qualification is valid from FY2001 through FY2003) is 65,284 (31 March 2004).

The number of suppliers including those with foreign capital is 456 (31 March 2004).

There are no constraints on foreign suppliers applying through the electronic tendering system for government procurement.

112. Please outline the procedure for public disclosure of the results of government tenders.

Reply from Japan

We disclose the results of government tenders including the information of winning tenderers through official gazettes in accordance with the paragraph 18 of Agreement on Government Procurement and other related domestic laws and regulations.

113. Is any information available on the percentage of government tendering decisions that are subject to complaints or appeals, and the percentage of complaints or appeals that are upheld?

Reply from Japan

Such information is not available.

114. To what extent is information on government procurement policies, procedures and results available in English and other languages besides Japanese?

Reply from Japan

In pursuance to Article 24, Paragraph 5 of the GPA, Japan has informed the WTO the laws and regulations relevant to the GPA, including any changes thereto, which are thus available in all three official languages of the WTO (English, French and Spanish). Annual statistical data of procurement activities by the GPA-covered entities have also been submitted to the WTO in pursuance to Article 19, Paragraph 5. With regard to each intended procurement by the GPA-covered entities, necessary information is published in English in the form of summary notice in Kanpo (Official Gazette). In addition, the Ministry of Foreign Affairs publishes annually a practical guide regarding the government procurement system of Japan, entitled "Questions and Answers on Government Procurement Contracts", both in Japanese and English.

115. For each of the years since 2002, please provide data on the share of government procurement (above the WTO GPA threshold, and excluding procurement for public works) accounted for by open tendering, selective tendering, and single tendering, and on the share of procurement from foreign suppliers within each category, both in value and contract terms. Please comment on possible reasons

for any trends indicated by this data, particularly any tendency for the share of foreign suppliers to decrease over time.

Reply from Japan

The following data cover procurement contracts made by entities in Annexes 1 and 3 of the WTO Agreement on Government Procurement, and for goods and services (excluding construction work, architectural, engineering and other technical services) of which value were above 100,000 SDR.

Share of each government procurement tendering (contract terms)

	2002	2003	2004
Open Tendering	80.7(%)	79.1	75.1
Selective Tendering	0.4	0.4	0.6
Single Tendering	18.9	20.5	24.3

Share of each government procurement tendering (in value)

	2002	2003	2004
Open Tendering	63.1(%)	63.3	54.2
Selective Tendering	1.5	1.5	1.7
Single Tendering	35.4	35.2	44.1

The share of procurement from foreign suppliers

	2002		2003		2004	
	Value	Contract Terms	Value	Contract Terms	Value	Contract Terms
Share of Foreign Suppliers	4.2(%)	2.1(%)	4.2	2.7	3.7	2.0

The share of procurement from foreign suppliers within each tendering category (open tendering, selective tendering and single tendering) is not known.

116. Please outline the processes involved in selective tendering and single tendering, and the criteria for deciding when these forms of tendering are to be used. Are foreign suppliers likely to experience any particular difficulties with these forms of tendering?

Reply from Japan

As for the selective tendering and single tendering, we appropriately select a contractor or a bidder out of qualified suppliers as in accordance with the paragraph 9, 10 and 15 of Agreement on Government Procurement and with the related domestic laws and regulations. Foreign and domestic companies are equally eligible to participate in bidding.

117. Please outline Japan's experience with implementing the 1994 Action Plan on Reform of the Bidding and Contracting Procedures for Public Works and the 2001 act for promoting Proper Tendering and Contracting for Public Works (the "Proper Tendering Act"), and comment on any remaining problems with government procurement procedures for public works. What has been the share of foreign suppliers in public works contracts in each year since 2002?

Reply from Japan

In order to implement government procurement of public works through transparent, fair and non-discriminatory procedures, the Government of Japan formulated in 1994 "the Action Plan on Reform of the Bidding and Contracting procedures for Public Works" which included the introduction of open and competitive bidding procedure. The Government of Japan has also sincerely observed the Agreement on Government Procurement of the WTO ("GPA"), and the Japanese construction market has been internationally open.

Based on "the Act for promoting Proper Tendering and Contracting for Public Works" which entered into force in 2001, we are making an effort to ensure the public trust and to promote the sound development of the construction industry.

While we do not survey the share of foreign suppliers in public works contracts, the amount of contracts for construction works above the threshold of the GPA awarded by the central government entities was 6,272,899 thousand SDRs, and these contracts had been awarded through non-discriminatory procedures.

118. Please briefly outline how Japan complies with the APEC Transparency Standards in respect of government procurement.

Reply from Japan

Transparency Standards on Government Procurement requires each economy to ensure that sufficient and relevant information is available to all interested parties consistently and in a timely manner through a readily accessible, widely available medium. In this regard, Japan sincerely has complied with the Transparency Standards. For example, a practical guidebook regarding the overall government procurement system of Japan, including tendering procedures, is annually published and this is also available on the Internet both in Japanese and English. Also, necessary information on tenders is published in the official gazette 'Kanpo' at least 40 days in advance of the closing date, and also made available on the Internet. Outcomes of tenders, including subject matter of the contract, date of award, name and address of the winner and successful tender price, are notified to tenderers in writing promptly.

119. Does Japan plan any further steps to improve its government procurement regime?

Reply from Japan

(1) Japan will continue to fulfill its obligations under the GPA and to endeavor, on top of these obligations, to enhance the transparency, fairness and competitiveness of government procurement based on voluntary measures.
(2) Japan will further develop and promote the electronic tendering systems for government procurement. Japan also plans to introduce electronic contract system in the near future.
(3) Japan will further promote green procurement, which will contribute to environmental conservation through the reduction of adverse impacts on environment.
(4) Japan will review the consistency of its government procurement system with the non-binding principles revised by the Government Procurement Experts Group.

Degulation/Regulatory Review and Reform

120. Japan's latest IAP lists many examples of regulatory reform. These seem to date mainly from the period 1996-2002. Please provide an update on regulatory reforms undertaken in the period since 2002, including those implemented under

the Three-Year Program for Promoting Regulatory Reform (TPPRR) that was adopted in 2001. What have been the main achievements of that program?

Reply from Japan

The main achievement of the TPPRR adopted in 2001 is the establishment of Special Zones for Structural Reform (legislated December 2002), as further explained in No.122 and No.123.
As for the new TPPRR adopted in 2004, the main achievement as of August 2006 is the establishment of Marketing Testing System (legislated June 2006), a system whereby public services provided by the national or local governments are thrown open to competitive tendering between the public and private sector bidders under transparent, impartial, and fair conditions of competition. Marketing Testing is designed to expose public services traditionally performed by civil servants to the discipline of competition.

121. In 2004 Japan adopted a new TPPRR, which is understood to comprise several hundred measures. Please indicate the main sectors and issues covered by this new TPPRR, and the main objectives that this new TPPRR seeks to achieve. Is it possible to obtain a progress report on the implementation of this new TPPRR, highlighting the main achievements to date?

Reply from Japan

The main sectors and issues covered by the new TPPRR are quick and full-scale introduction of Market Testing, Promotion of the opening-up of government enterprises to the public sector, Establishing regulatory review criteria, Responding to the falling birthrate, Promotion of competition in basic and business infrastructure, Immigration and residential status of foreign citizens, Medical care, Education, Agriculture, estates and housing, etc.

The main objective of the new TPPRR is to advance social and economic structural reform in Japan, and through these reform, to promote systematic, active and fundamental regulatory reform in each area of Japanese government administration from such perspective as 1) achieving sustainable economic growth through revitalization of the economy, 2) achieving a highly transparent, fair, and credible

economy, 3) realizing a lifestyle that may facilitate various choices, and 4) realizing an internationally open economy.

The follow-up to the implementation of new TPPRR is conducted by the Cabinet Office. The latest progress report as of August 2006 is available on website http://www.kisei-kaikaku.go.jp/publication/2006/0905/index.html and will be available in booklet as well (both in Japanese only)

122. Please provide brief information on how the Special Zones for Structural Reform Act operates and on the rationale for this approach to deregulation. What are the criteria used in deciding whether to approve applications for exemptions under the Act? To what extent have the exemptions approved under the Act been utilised in practice? How does the Japanese government assess its experience with the Act to date? Is there any evidence that deregulation achieved the Special Zones is spreading to the rest of the Japanese economy?

Reply from Japan

The basic framework of the Special Zones for Structural Reform works as follows:
- The Special Zones for Structural Reform are the specified areas in which special regulatory measures are taken to promote nationwide deregulations as well as to stimulate
the local economy.

- The list of special regulatory measures is supposed to be made based on the periodical collections of proposals from any private enterprises and local governments. All the proposals are evaluated whether they could be put in practice or not through the negotiations between the Office for the Promotion of Special Zones for Structural Reform and Ministries in charge. There are no universal, comprehensive criteria for it because the proposals are related to various fields, but the proposals which may violate the social security or any other values of the society are not to be adopted.

- The areas for Special Zones for Structural Reform are determined on the basis of applications from the local governments to the national government. The local governments also specify special regulatory measures in the applications, from the menu

prepared by the national government beforehand.

It is theoretically considered that the nationwide deregulation can be promoted after the accumulation of experiences of Special Zones. Therefore the special regulatory measures which are one year old or so are supposed to be evaluated by an advisory body named "Evaluation Committee", which is a part of the Headquarters for the Promotion of Special Zones for Structural Reform. The members of the committee are selected from private sectors and academia, whose role is impartial bystanders. The Headquarters has earmarked sixty-four measures for nationwide implementation out of the seventy-eight special regulatory measures evaluated to date in line with the committee's recommendations. For example, there was a special regulatory measure to allow private companies limited by shares to enter agriculture business, which had been deployed in 50 special zones across the nation. The Evaluation Committee evaluated the measure in the second half of the year 2004 and decided to expand it to the whole nation because there had not been found any harmful results due to the measure.

Most of the special regulatory measures are practiced well and 878 distinctive special zones have been created across the country since applications for special zones for structural reform were made available in April, 2003.

123. It is understood that some applications for exemptions under the Special Zones for Structural Reform Act have been opposed by local authorities and private sector interests. What have been the main reasons for these objections and to what extent have they impeded progress under the Act?

Reply from Japan

The purpose of Special Zones for Structural Reform is to promote regional development and stimulate economic activity and the creation of Special Zones are depend on the voluntary initiatives of local governments and private companies. As for that, there sometimes happen that people concerned the matters express objections due to the conflicts of their interests (e.g. the case of permission of pay transportation service by NPO, which may compete against taxi business). However it is understood that the objections are not so severe in many cases that they would not prevent the regulatory measures from implementation.

Implementation of WTO Obligations and Rules of Origin

124. In Japan's view, what are the major issues remaining to be resolved in the WTO/WCO Harmonization Work Programme (HWP) on non-preferential rules of origin? What is Japan's position on these outstanding issues?

Reply from Japan

Japan thinks machinery and implications of the implementation of the Harmonized Rules of Origin(HRO) on other WTO agreements(Agreement on AD, Agreement on SG and Agreement on CVD) remain mainly on HWP.

We have basically supported the tariff-shift approach on machinery. Regarding the remedies which are taken in the Agreement on AD, Agreement on Subsidies and Countervailing Measures and Agreement on Safeguards, it is reasonable to consider that the harmonized rules of origin must be applied.

Japan has been leading the discussion on Committee on Rules of Origin. We think members must promote their efforts to complete HRO early.

125. Does Japan consider that the non-preferential rules of origin being developed by the WTO/WCO might provide useful models for the design of rules of origin in preferential trading agreements?

Reply from Japan

Japan considers that some concepts are useful, and refers to the models developed by the WTO/WCO during the course of bilateral negotiations.

126. Does Japan have a view on the relative merits of regional value content (RVC) and change in customs classification (CTC) as the bases for rules of origin in preferential trading agreements? To what extent is any such view reflected in the rules of origin in the preferential trading agreements that Japan has negotiated to date?

Reply from Japan

Japan considers that the CTC is basic method to judge whether a good is originating or not from the countries that preferential treatment is given.

On the other hand, RVC method is useful in case that many kinds of materials are necessary in the production of a good. Japan adopts appropriate rules taking account of the nature of each good.

127. In regard to preferential trading agreements, what is Japan's view on the correct interpretation of the GATT Article XXIV requirements for coverage of "substantially all trade" and for implementation within a "reasonable period of time."

Reply from Japan

With regard to Japan's view on the interpretation of the requirements of "substantially all the trade" and "reasonable period of time (transition period)", please refer to the following document #6(TN/RL/W/190) .

128. It is understood that some economies have indicated they have some difficulty in interpreting Japan's schedules of its commitments under the GATS. Does Japan have any plans for simplifying or clarifying its GATS schedules?

Reply from Japan

Japan's schedule of specific commitments under the GATS is based on the request-offer negotiations undertaken on a bilateral basis as well as the discussions that have been made on various occasions. It has achieved a good level of transparency and clarity and Japan will continue to make improvements taking into full account the interests and requests of WTO Members. In this light, if there is any place where economies feel difficulties in interpretation, Japan would like to be informed on a bilateral basis.

Dispute Mediation

129. Please provide an overview of how Japan has settled disputes with other economies with respect to trade and investment, citing a few recent examples.

Reply from Japan

For example, with respect to trade disputes with other WTO Members, Japan settled those in accordance with relevant rules governing the settlement of disputes under the WTO. Recent disputes include the one on import quotas on dried laver and seasoned laver (the case between Japan and Korea; settled in January 2006) and the one on measures affecting the importation of apples (the case between Japan and the United States; settled in August 2005).

130. Japan's latest IAP indicates the processes available for addressing disputes between foreign private entities and the Japanese government. To what extent do these processes provide for enforceable resolution of such disputes? To what extent have these processes been utilised and what have been the main results?

Reply from Japan

With regard to dispute mediation, Japan recognizes the importance of WTO's international rules and the promotion of FTAs/RTAs and bilateral investment protection treaties.

Japan also has been a contracting party to the International Center for Settlement of Investment Dispute.

131. Please provide an assessment of the effectiveness of the steps taken to date to increase the transparency of domestic legal institutions?

Reply from Japan

The English translation of the new arbitration law has been open to the public in March, 2004 on the homepage, and seems to be used effectively.

132. What is Japan's view on the relationship between the WTO dispute settlement process and the dispute settlement mechanisms available within preferential trading agreements, and how has this view been reflected in the preferential trading agreements that Japan has negotiated to date?

Reply from Japan

Japan's view on this issue is that dispute settlement process within EPAs needs to be in line with the Understanding on Rules and Procedures Governing the Settlement of Disputes established within the framework of the WTO. And Japan considers that, if dispute settlement mechanism under EPAs is very different from that under the WTO, rule-making process on trade and investment issues may be disturbed by providing extremely different or contradictive precedents of dispute settlement mechanism from those provided under the WTO.

Mobility of Business People

133. Foreign service providers can enter and reside in Japan with status of residence such as intra-corporate transferees, business visitors, independent professionals, and contractual service suppliers. What are the requirements for entry? Are there numerical restrictions on such inflows?

Reply from Japan

The requirements for foreigner's landing are stipulated in the article 7, paragraph1 of the Immigration Control and Refugee Recognition Act. Foreigners who intend to engage in the activities described in the right-hand column of Annexed Table I (2) and (4) such as "Intra-company Transferee", "Legal/Accounting Service" etc, should fulfill the requirements provided for by a Ministry of Justice ordinance. Regarding the Immigration Control and Refugee Recognition Act and The criteria provided for in Article 7, Paragraph 1 (2) of Immigration Control and Refugee Recognition Act please visit the web-site of the Ministry of Justice below.
http://www.moj.go.jp/ENGLISH/information/icrr-04.html
http://www.moj.go.jp/ENGLISH/information/mopca-01.html

We do not have any quantitative restriction.

134. What are the criteria of "good performance company" used for granting certificates of eligibility for status of residence?

Reply from Japan

The criteria of "Good performance company" are as follows,

・ a company of which applications for the certificate of eligibility have never been denied for the past three years.

・ a company which is listed in the Tokyo Stock Exchange or has the same scale as that.

135. What measures have Japan implemented under the WTO on the mobility of business people? Has Japan implemented the APEC Business Mobility Group standards?

Reply from Japan

The commitments on MNPs under the WTO are covered by the current regulations of the Immigration Control and Refugee Recognition Act, therefore, we have implemented no additional measures so far. Japan has been sincerely implementing BMC standards.

136. Please explain the implementation of the APEC Business Travel Card in Japan. How many ABTC cards have been issued by Japan to date? What are the criteria for issuance of the card and how long does it take for issuance?

Reply from Japan

The number of ABTC cards Japan has issued is 1,715 as of end-August 2006. Japan's own criteria for obtaining ABTC are as follows:

An applicant shall satisfies one of the following conditions; a) a member or a staff of the ABAC(APEC Business Advisory Council) Japan committee b) a manager or an

employee who is in charge of trade or investment to overseas by a company whose sales of export and import amount to 100 million yen or more in the previous year, or whose investment amounts to 50 million yen or more in the past year c) a manager or an employee who is in charge of trade or investment to overseas by a company which belongs to an organization composing the Support Council for ABAC Japan. And Japan is dedicated to issue the card within three months after acceptance of application.

137. Please explain Japan's visa policy. Are further simplification of application documents and visa procedures being planned? What are the countries that qualify for multi-entry visas for temporary business visitors? Is Japan considering expanding the visa waiver program?

Reply from Japan

Japan is engaged in effort to issue visas in an appropriate manner to promote sound exchanges of people, and at the same time, to prevent undesirable persons from entering Japan. Under this policy, Japanese government has simplified application documents and visa procedures where it is appropriate. Further simplification should be studied. Multiple-entry visas for temporary business visitors can be obtained regardless of applicants' nationalities if their business careers meet the qualifications. In most countries and regions including all APEC economies, Japanese embassy/consulate issues multiple-entry visas promptly. Detailed information regarding applicant's qualifications can be referred on our website. Further possibility of visa waiver should be examined comprehensively, including the dual perspectives of promoting people to people exchanges while maintaining domestic security.

138. What are the provisions for short-term visitors, intra-corporate transferees and investors in Japan's EPAs/FTAs? What are Japan's plans with respect to extending these privileges to other APEC member economies?

Reply from Japan

The EPAs which have come into effect so far are only between Singapore, Mexico and Malaysia. The provisions for short-term visitors, intra-corporate transferees and investors are as follows;

[Short-term business visitors]

Entry and temporary stay will be granted to a natural person of the other Party who stays in Japan for a period not exceeding 90 days without acquiring remuneration from within Japan and without engaging in making direct sales to the general public or in supplying services himself, for the purposes of participating in business contacts or other similar activities.

[Intra-corporate transferees]

Entry and temporary stay will be granted to a natural person of the other Party who has been employed by a juridical person of the other Party that supplies services in Japan or by an enterprise of the other Party that invests in Japan for a period not less than one year immediately preceding the date of his application for the entry, and who is being transferred to a branch office, a juridical person or an enterprise constituted or registered in Japan owned or controlled by the aforementioned juridical person or enterprise of the other Party.

When such a person is engaged in activities which require technology or knowledge at an advanced level pertinent to physical sciences, engineering, or other natural sciences, or in activities which require knowledge at an advanced level pertinent to jurisprudence, economics, business management, accounting or other human sciences, the natural person is, in principle, required to complete college education (i.e. bachelor's degree) or higher education.

[Investors]

Entry and temporary stay will be granted to a natural person of the other Party who is engaged in the activities to commence the operation of business in Japan, to invest in business in Japan and to operate or manage that business, provided that the national complies with immigration laws and regulations applicable to entry and temporary stay.
Currently, Japan's EPA negotiations are under way between the Philippines, Thailand, Korea, Indonesia, Chile, Brunei and ASEAN countries. Japan and Vietnam are preparing to start EPA negotiation.

139. What are the provisions for foreign worker inflows in Japan's EPAs/FTAs? Please list countries, occupations and qualifications? Are there numerical quotas specified?

Reply from Japan

A. Japan accepts natural persons who are engaged in activities committed in the EPAs from the countries with which the Japan's EPAs have already come into effect as explained in 138, but there is no comprehensive list of services concerned.

In the Japan-Malaysia EPA, as natural persons who engage in professional services, services supplied by service supplier qualified as "Bengoshi", "Gaikoku-Ho-Jimu-Bengoshi", "Benrishi", "Kaijidairishi", "Koninkaikeishi" and "Zeirishi" are listed.

In every EPA, neither Party shall impose or maintain any quantitative restriction relating entry.

140. In view of Japan's rapidly ageing and shrinking population and specific labour shortages, what are the measures being undertaken and planned to increase the inflow of foreign workers?

Reply from Japan

As the measures responding to the population-declining society amid the falling birthrate and ageing population, it is not appropriate to simply supplement the decline by accepting foreign nationals alone. It should be considered along with birthrate-boosting measures, improvements in labor force participation ratios for women and elderly people, and other measures in various fields. As the productive population decreases substantially, it is important for Japan to further promote the acceptance of foreign workers in professional or technical fields. The statuses of residence or conditions for landing permission will be reviewed for foreign workers who are highly valued in professional or technical fields according to changes in the economy and society. Accepting foreign workers in fields that are not valued as professional or technical at present will also be given consideration in light of the decrease in the productive population, while also taking into account the need to maintain Japan's economic vitality and national living standards, the public consciousness and the

existing conditions of the nation's economy and society. In this respect, consideration should be given not only to new industrial fields, Japanese language aptitude and other conditions for accepting foreign workers but also to the positive and negative impacts on Japan's industry and public welfare which stretch over a wide range of factors covering domestic security, the domestic labor market, industrial development, restructuring and social costs.

141. Is Japan considering further liberalisation and deregulation on employment of foreign experts in managerial and engineering positions? Please give an update of Japan's participation in the APEC Engineer Mutual Recognition Project. Please explain future plans for mutual recognition of professional qualifications to promote temporary movement of experts.

Reply from Japan

Based on the Osaka Action Agenda adopted at the APEC summit meeting of 1995, work has been progressing on the "APEC Engineer Mutual Recognition Project" for the promotion of mutual acceptance of engineer qualifications within the APEC region. Japan has actively participated in studies for this project, toward the realization of mutual recognition of the Professional Engineer qualification with corresponding qualifications overseas.

In October 2003, Japan and Australia signed a mutual recognition of the Professional Engineer qualification framework, the first example of bilateral mutual recognition under this project. In response to this signature, Japan revised ministry ordinances and has been ready to receive Professional Engineer from Australia.

142. How many foreign doctors and nurses are there in Japan since the March 2004 relaxation of restrictions on these health workers?

Reply from Japan

Unfortunately, we don't have any statistics which you requested.

Alternatively, we would like to provide the number of foreigners registered with the status of residence as "Medical Services" for the last five years.

Year	2001	2002	2003	2004	2005
Numbers	95	114	110	117	146

143. Are foreign IT technicians employed in a specific Special Zone allowed to move employment to other Special Zones?

Reply from Japan

Under the current regulation, foreigners who engage in designated data processing activity with the status for residence"Designated Activity"in a Special Zone are not allowed to move to another Special Zone. However, this regulation will be abolished on 24 November 2006, and this project will be applied nationwide.

APEC Food System

144. The latest OECD survey of Japan mentions that from 2006 the Japanese government is "shifting towards a multi-commodity system in which support will be concentrated on larger more efficient farms." Please provide more information on this policy shift and the contribution it is expected to make to achievement of the goals of the APEC Food System.

Reply from Japan

Government of Japan reviewed its various support systems that have assisted wide range of farmers evenly, and decided to replace them with a new direct payment system whose beneficiaries are focused on certain type of farmers with competitiveness and clear vision to expand their farming.

The new payment system, which is scheduled to be implemented from April 2007, covers production of rice, wheat, soy, beet and other crops, and is expected to lead Japan's agriculture into desirable structure where major share of production are sustained by large scale farmers with efficient farming and solid financial base.

145. The OECD also notes the target established in the 2005 Basic Plan of raising self-sufficiency in food from 40% to 45% by 2015, and comments that concerns that this target might be achieved through increased protection would be alleviated to

the extent that "policies would focus primarily on reducing costs to consumers by eliminating distortions to trade and production decisions." The OECD also notes a Japanese government estimate that the monetary cost borne by consumers…amounted to…2.1% of GDP in 2001". To what extent is the objective of reducing this monetary cost to consumers embodied in current government policy, and what measures would be required to ensure that achievement of this objective is consistent with the food self-sufficiency target?

Reply from Japan

(1) The long-term decline in the food self-sufficiency ratio is attributed to considerable change in dietary habits such as increased consumption of livestock products, oils and fats, as well as the decline in total cultivated area, mainly due to increased land being deserted by farmers.

(2) In order to fulfill the policy goal of increasing the self sufficiency ratio, the Japanese government has taken various measures for both improvements of food consumption pattern and enhancement of efficient and competitive farming. These include the nation-wide educational activities encouraging well-balanced diet, so called "Japanese type of Diet", as well as policy reform designed to nurture large scale efficient farmers, who can well respond to demands of food industry and local consumers.

(3) These policy measures do not make conflict with the government's efforts to eliminate distortions to trade and introduce market mechanism to farmers' fiscal management.

146. Please explain the implications of the 2004 amendment to the Law for the Stabilization of Supply-Demand and Price of Staple Food, including the provisions relating to the domestic distribution of rice.

Reply from Japan

The 2004 amendment to the Staple Food Law implemented reforms in such areas as the production adjustment system and the distribution system of rice.
(1) The reforms in the area of production were carried out from the viewpoint of promoting the initiative of rice farmers and farmer's organizations in the supply-

demand adjustment system. From this standpoint, the former adjustment system, under which the government unilaterally allocated acreage of land to be diverted from rice production, was replaced with the new system, under which farmers voluntarily adjust their local production level in accordance with the corresponding demand projection objectively foreseen by the government.
(2) Rice distribution system was also reformed and almost fully liberalized. Deregulation was carried out and the former distribution system, under which the government specified the rice distribution channel, through the registration of domestic distributors , and ensured that rice is distributed as planned by government, was abolished.

RTAs/FTAs

147. Please explain Japan's EPA/FTA strategy. Please provide information on the EPAs/FTAs that Japan has concluded and that are under negotiation. What new EPAs/FTAs are being planned by Japan over the next 5 years?

Reply from Japan

Economic Partnership Agreements (EPAs) contribute to the development of Japan's foreign economic relations as well as the attainment of its economic interests as a mechanism to complement the multilateral free trade system centering on the WTO. Simultaneously, EPAs facilitate structural reforms of Japan and its partners. EPAs also contribute to the creation of international environment further beneficial to Japan in the light of the political and diplomatical strategy.

In order to achieve these goals, Japan's EPAs include not only trade liberalization but also wide range of areas such as investment and intellectual property rights.

Furthermore, ministries and agencies work vigorously on the promotion of EPAs together as a team, by exchanging views at the Council of Ministers on the Promotion of Economic Partnership. In December 2004, they approved the Basic Policy Towards Further Promotion of Economic Partnership Agreements (EPAs), that clarified the criteria for identifying countries/regions with which Japan is willing to negotiate EPAs.

Agreements with Singapore, Mexico and Malaysia are in force, and the one with Philippines was signed in September 2006. The text of the agreement with Thailand was already finalized. Japan has currently been in bilateral negotiations with Korea (since December 2003), Indonesia (since July 2005), Chile (since November 2005) and Brunei (since June 2006). In addition, Japan has been negotiating with ASEAN as a whole since April 2005, and is set to start negotiation with GCC (the Gulf Cooperation Council) in September 2006.

As for future works, Japan shall promote comprehensive and high-quality EPAs by considering the following elements generally;

- Whether it contributes to create international environment further beneficial to Japan and to ensure its economic interest.
- Situation of its partner countries/regions
- Feasibility of EPA/FTAs

148. Japan's EPAs/FTAs include provisions on matters that are not yet covered by WTO Agreements, such as investment, competition policy, improvement of the business environment and electronic commerce. To what extent do the provisions on such matters impose "hard" obligations on the parties?

Reply from Japan

Singapore:

The Japan-Singapore EPA includes provisions on matters, such as investment, competition policy and electronic commerce. As for the investment, provisions on items, such as National Treatment, Prohibition of Performance Requirements and protection of investments, are prescribed for enhancement of investment opportunities. As for the Competition Policy, provisions on anti-competitive activities and cooperation on controlling such activities are prescribed. As for the electronic commerce, provisions on items, such as cooperation on paperless trading, are prescribed for enhancement of efficiency of trade. The JSEPA has no provisions on Improvement of the Business Environment.

Mexico

In the Chapter of Investment, there is a provision of the National Treatment and the Most-Favored-Nation Treatment and it also obligates each party not to impose or enforce those requirements, such as to achieve a given level or percentage of domestic content.

In the Chapter of Competition Policy, no provision imposes "hard" obligations on both parties. Both parties shall, in accordance with their respective laws and regulations, cooperate in the field of controlling anticompetitive activities.

In regard to Improvement of the Business Environment, for the purposes of addressing the issues, a Committee for the Improvement of the Business Environment shall be established.

There is no provision on the electronic commerce in this agreement.

Malaysia:

In the Chapter of Investment, there are provisions on the National Treatment and the Most-Favored-Nation Treatment and it also has provisions for Prohibition of Performance Requirements.

In the Chapter of Competition Policy, no provision imposes "hard" obligations on both parties. But it requires both Parties to endeavour to review and improve or adopt laws and regulation to effectively control anti-competitive activities.

In regard to Improvement of the Business Environment, for the purposes of addressing the issues, a Committee for the Improvement of the Business Environment shall be established.

Electronic commerce is one of the areas of cooperation in the field of ICT in Implementing Agreement (Article 29).

149. In areas such as services, intellectual property, trade facilitation, customs procedures, government procurement, TBT and SPS, to what extent have Japan and its EPA/FTA partners made commitments that extend beyond their WTO commitments?

Reply from Japan

Services;
In the context of GATS (1994), Japan made commitments in 102 sub-sectors of W/120 classification (155 sub-sectors), and in respect of the WTO-revised offer (2005), Japan made commitments in 112 sub-sectors of the classification. On the other hand, in the Japan-Singapore EPA, Japan made commitments in 134 sub-sectors of the above classification, and in the Japan-Malaysia EPA, Japan made commitments in 139 sub-sectors of the same classification. (Note: In Japan-Mexico Economic Partnership Agreement, the Parties adopted 'Negative-List approach' for Trade in Services and Investment. In such case, proper comparison of the commitment level with WTO/GATS is difficult.)

Intellectual property;
With regard to intellectual property protection, Japan have made commitments with its EPA partners that go beyond WTO commitments (the TRIPS Agreement) in several areas; for instance, enhanced enforcement (border measures, civil and criminal remedies), protection of well-known trademarks, and the adoption of the classifications for patents, as well as for trademarks of goods and services under the Strasbourg Agreement and the Nice Agreement respectively.

Customs Procedures;
Rules on Customs Procedures in the bilateral EPAs which Japan has concluded are mostly based on "the Agreement of Revised Kyoto Convention", which was adopted in WCO.

Government Procurement;
As for Government Procurement, Japan and its EPA/FTA partners have made no commitments that extend beyond their WTO commitments in government procurement area.

TBT & SPS;
As to TBT and SPS, basically, Japan considers that the provisions regarding TBT and SPS are not necessary elements in EPAs. We think it is enough to reaffirm the rights and the obligations under the WTO Agreement and to establish a mechanism for exchange of information, if necessary in the context of EPAs.

150. To what extent have Japan and/or its partners sought in their various EPAs/FTAs to limit the use of trade remedies relative to their permitted use under the relevant WTO articles and agreements? Please provide details where relevant and comment on whether such measures are perceived to create any problems in relation to the MFN obligations of WTO members.

Reply from Japan

With regards to trade remedies under the WTO, such as safeguards measures, we have not limited their application in EPAs which we have signed before.

151. Please outline the basis on which Japan and its EPA/FTA partners have assessed that their agreements comply with the requirements of GATT Article XXIV.

Reply from Japan

Japan has three agreements in force so far; the EPAs with Singapore, Mexico and Malaysia.

In these agreements tariffs are eliminated for sufficiently high percentage of total trade.

Moreover, these agreements cover all major areas of products. There are no more highly restrictive regulations on the third parties than before the entry into force of the agreement.

For these reasons, Japan considers that its agreements are fully complying with the requirements of GATT Article XXIV.

152. To what extent are the tariff elimination provisions in Japan's EPAs/FTAs qualified by provisions such as tariff rate quotas, special safeguards, or bilateral emergency actions? Please provide details where relevant and comment on the consistency of such measures with the parties' WTO obligations.

Reply from Japan

Tariff rates quotas and bilateral safeguard measures are the measures which are consistent with EPAs. Japan ensures consistency of these measures with WTO Agreement.

153. The latest OECD survey of Japan comments that the high level of agricultural protection in Japan is preventing Japan from "reaping larger benefits from regional trade agreements" and notes limitations on the extent of liberalisation for agricultural products in Japan's FTAs with Mexico and Malaysia and in its proposed FTAs with Thailand and the Philippines. Please provide details of the treatment of agricultural products in these FTAs. Does Japan have plans to overcome its difficulties in liberalising agricultural trade within its EPAs/FTAs?

Reply from Japan

Japan has three agreements in force so far; the EPAs with Singapore, Mexico and Malaysia. In these agreements tariffs are eliminated for sufficiently high percentage of total trade. Moreover, these agreements cover all major areas of products. Therefore we disagree with the view that extent of liberalization for agricultural products are limited and therefore preventing Japan from reaping larger benefits from regional trade agreements.

154. The OECD survey also notes that the estimated economic benefits to Japan from the EPAs/FTAs that it has concluded to date are rather small, while much larger economic gains could be expected from EPAs/FTAs with economies with whom Japan is not currently negotiating such agreements, including China and the USA among APEC economies. These gains could be captured in bilateral EPAs/FTAs with the economies concerned, or in larger plurilateral agreements that included those economies (such as an East Asian FTA in the case of China, or an FTAAP in the case of the USA). Please comment on the constraints on Japan's ability to move in these directions.

Reply from Japan

(1) Japan promotes EPAs in accordance with the Basic Policy Towards Further Promotion of Economic Partnership Agreements (EPAs). The basic policy includes the following;

- Promoting EPAs as a mechanism to complement the multilateral free trade system centering on the WTO.
- Promoting economic partnerships with East Asian countries as its focus.
- Identifying the criteria to decide countries/regions with which Japan is to negotiate the EPAs.

(2) the United States

Liberalization of trade and investment between Japan and US has developed in wide range of area including movement of natural persons and information, let alone trade and investment. The two countries have developed various types of cooperation through frameworks for comprehensive and constructive dialogue, in addition to bilateral agreements in such areas as competition policies, social security agreements, tax treaties. As a result, since Japan and the US have already addressed numerous issues which could be covered by the EPAs, the possible benefits of the Japan-US EPA may be less than expected. Furthermore, we also need to take into account the fact that Japan and the US account for nearly 40% of the world GDP. Therefore, we have to deliberately examine the potential impact that the Japan-US EPA might have on the world economy.

(3) China

Japan-China EPA/FTAs could be considered as one of the options in the future. However, Japan puts its priority on calling on China to implement WTO obligations steadily at this moment. Furthermore, the government of Japan is currently calling for China to start negotiations on Japan-China-Korea investment treaty to set highly transparent rules of investment. It is more imperative for Japan to see China tackling these matters than launching EPA/FTA negotiations.

155. Is it possible to comment on the reasons for the suspension of Japan's FTA negotiations with Korea, and on the prospects for a resumption of those negotiations?

Reply from Japan

Since the negotiation with Korea is still underway, we cannot provide the details of the negotiation. We are always open to resume the negotiation.

156. The proliferation of EPAs/FTAs is creating a "spaghetti bowl" of rules of origin and standards and conformance requirements. Has this added to the complexity and transaction costs facing Japanese importers, exporters and suppliers? How does Japan propose to resolve the issue?

Reply from Japan

At the negotiation of new EPAs, Japan endeavors to make convenient and reliable systems of rules of origins (ROOs) for users of both countries, taking into account of those in the existing EPAs. Since the ROOs of the Japanese EPAs share the same basic principle, they would not cause serious troubles for their users.

157. Convergence in rules of origin would be one response to the "spaghetti bowl" problem, and we would be interested to know more about Japan's possible approach to this. In relation to RVC-based rules of origin, it appears that Japan's approach in its bilateral EPAs/FTAs has been to seek a relatively high RVC percentage, as high as 60% in some cases. What is the reason for seeking such a high RVC percentage? In the ASEAN-Japan negotiations ASEAN is reportedly seeking an RVC percentage of 40%, with full cumulation. What if any are the obstacles to Japan accepting ASEAN's proposal, and would this also result in the RVC percentage being reduced to 40% in Japan's existing bilateral agreements with individual ASEAN members? Would Japan envisage any problems in the establishment of a 40% RVC-based rule as the "norm" in FTAs involving East Asian economies?

Reply from Japan

In the case of the Japan-Malaysia Economic Partnership Agreement and the Japan-Philippines Economic Partnership Agreement, the bilateral EPAs, the threshold level of Qualifying Value Content or RVC is 40 percent when value-added rule is applied. Japan declines to comment on any queries relating to the ongoing negotiations.

158. Asian economies are keen to increase the flow of labour to Japan under EPA/FTA arrangements. Are there plans to accommodate these demands by expanding the sectors in which foreign workers are allowed in Japan, particularly in non-technical areas?

Reply from Japan

Acceptance of foreign workers is an important issue under EPA/FTA negotiations with Asian countries as well as liberalization in trade in goods and services. Our basic policy on EPA/FTA negotiations is that it is possible to offer entry to workers in professional and technical fields while we are very cautious in accepting non-skilled workers.

159. Do Japan's various EPAs/FTAs have a uniform dispute settlement mechanism?

Reply from Japan

While the agreed provisions differ from agreement to agreement according to each negotiation, Japan's EPAs/FTAs have very similar dispute settlement mechanisms.

Trade Facilitation

160. In relation to the APEC Trade Facilitation Action Plan, please provide an update on Japan's progress in implementing the items listed as "pending" in Japan's most recent IAP.

Reply from Japan

We are sorry to inform you that we fail to identify the pending items. Next time we revise our IAP, we will conduct a thorough self-examination and find out.

ATTACHMENTS TO EXPERTS' QUESTIONNAIRE:

Attachment 1

HS2006	Description	Tariff Quota
040819000	Egg yolks, fresh, cooked by steaming or by boiling in water, moulded, frozen or otherwise preserved	
040899000	Bird's eggs, not in shell, other than dried	
100590099	Maize (corn), n.e.s.	Out
150420000	Fats and oils and their fractions, of fish, other than liver oils, not chemically modified	
151311000	Coconut (copra) oil, crude, not chemically modified	
151319000	Coconut (copra) oil and its fractions, not chemically modified, n.e.s.	
151511000	Linseed oil, crude, not chemically modified	
151519000	Linseed oil and its fractions, not chemically modified, n.e.s.	
170220200	Maple syrup	
170230100	Glucose and glucose syrup, not containing fructose or containing in the dry state less than 20% by weight of fructose, containing added flavouring or colouring matter	
170230210	Glucose and glucose syrup, not containing fructose or containing in the dry state less than 20% by weight of fructose, containing added sugar, not containing added flavouring or colouring matter	
170230229	Glucose and glucose syrup, not containing fructose or containing in the dry state less than 20% by weight of fructose, n.e.s.	
170240100	Glucose and glucose syrup, containing in the dry state at least 20% but less than 50% by weight of fructose, excluding invert sugar, containing added flavouring or colouring matter	
170240210	Glucose and glucose syrup, containing in the dry state at least 20% but less than 50% by weight of fructose, excluding invert sugar, containing added sugar	
170240220	Glucose and glucose syrup, containing in the dry state at least 20% but less than 50% by weight of fructose, excluding invert sugar, n.e.s.	
170260100	Other fructose and fructose syrup, containing in the dry state more than 50% by weight of fructose, excluding invert sugar, containing added flavouring or colouring matter	
170260210	Other fructose and fructose syrup, containing in the dry state more than 50% by weight of fructose, excluding invert sugar, containing added sugar	
170260220	Other fructose and fructose syrup, containing in the dry state more than 50% by weight of fructose, excluding invert sugar, n.e.s.	
170290211	Sugar syrup of centrifugal, including invert sugar and other sugar and sugar syrup blends containing in the dry state 50% by weight of fructose	

170290219	Sugar syrup (excluding of centrifugal), including invert sugar and other sugar and sugar syrup blends containing in the dry state 50% by weight of fructose	
170290290	Artificial honey, including invert sugar and other sugar and sugar syrup blends containing in the dry state 50% by weight of fructose	
170290300	Caramel	
170290510	Sugars and sugar syrups containing added flavouring or colouring matter, n.e.s.	
170290521	Sugars and sugar syrups containing added sugar, n.e.s.	
170290529	Sugars and sugar syrups, n.e.s.	
200911190	Orange juice, frozen, containing added sugar, n.e.s.	
200912190	Orange juice, not frozen, of a Brix value not exceeding 20, containing added sugar, n.e.s.	
200919190	Orange juice, not frozen, containing added sugar, n.e.s.	
200921190	Grapefruit juice, of a Brix value not exceeding 20, containing added sugar, n.e.s.	
200929190	Grapefruit juice, of a Brix value exceeding 20, containing added sugar, n.e.s.	
200931190	Juice of any other single citrus fruit, of a Brix value not exceeding 20, containing added sugar, n.e.s.	
200939190	Juice of any other single citrus fruit, of a Brix value exceeding 20, containing added sugar, n.e.s.	
200941190	Pineapple juice, of a Brix value not exceeding 20, containing added sugar, n.e.s.	
200949190	Pineapple juice, of a Brix value exceeding 20, containing added sugar, n.e.s.	
200961190	Grape juice (including grape must), of a Brix value not exceeding 30, containing added sugar, n.e.s.	
200969190	Grape juice (including grape must), of a Brix value exceeding 30, containing added sugar, n.e.s.	
200971190	Apple juice, of a Brix value not exceeding 20, containing added sugar, n.e.s.	
200979190	Apple juice, of a Brix value exceeding 20, containing added sugar, n.e.s.	
200980119	Juice of any other single fruit, containing added sugar, n.e.s.	
200990119	Mixtures of juice, containing added sugar, n.e.s.	
210690221	Sugar syrup, containing added flavouring or colouring matter, of sugar centrifugal	
210690229	Sugar syrup, containing added flavouring or colouring matter, n.e.s.	
210690246	Preparations with a basis of fruit juices, of an alcoholic strength by volume of less than 1% vol	
220430119	Other grape must, of an alcoholic strength by volume of less than 1%, containing added sugar, n.e.s.	
220600100	Other fermented beverages (for example, cider, perry, mead), of an alcoholic strength by volume of less than 1% vol	

220890230	Beverages with a basis of fruit juices, of an alcoholic strength by volume of less than 1% vol	
290611000	Menthol	
350510200	Dextrins and other modified starches, other than starch derivatives, n.e.s.	
350520000	Glues based on starches, or on dextrins or other modified starches	
380910000	Finishing agents, dye carriers to accelerate the dyeing or fixing of dye-stuffs and other products and preparations (for example, dressings and mordants), of a kind used in the textile, paper, leather or like industries, with a basis of amylaceous substan	
511111021	Woven fabrics of carded wool or of carded fine animal hair, containing 85% or more by weight of wool or of fine animal hair, of a weight exceeding 200 g/m2 but not exceeding 300 g/m2, excluding those of containing more than 10% by weight of silk	
511119020	Woven fabrics of carded wool or of carded fine animal hair, containing 85% or more by weight of wool or of fine animal hair, of a weight exceeding 300 g/m2, excluding those of containing more than 10% by weight of silk	
511120021	Woven fabrics of carded wool or of carded fine animal hair, containing less than 85% by weight of wool or of fine animal hair, mixed mainly or solely with man-made filaments, of a weight exceeding 200g/m2, excluding those of containing more than 10% by we	
511130021	Woven fabrics of carded wool or of carded fine animal hair, containing less than 85% by weight of wool or of fine animal hair, mixed mainly or solely with man-made staple fibres, of a weight exceeding 200 g/m2, excluding those of containing more than 10%	
511190021	Woven fabrics of carded wool or of carded fine animal hair, containing less than 85% by weight of wool or of fine animal hair, of a weight exceeding 200 g/m2, excluding those of containing more than 10% by weight of silk, n.e.s	
511219020	Woven fabrics of combed wool or of combed fine animal hair, containing 85% or more by weight of wool or of fine animal hair, of a weight exceeding 200 g/m2, excluding those of containing more than 10% of weight of silk	
511220021	Woven fabrics of combed wool or of combed fine animal hair, containing less than 85% by weight of wool or of fine animal hair, mixed mainly or solely with man-made filaments, of a weight exceeding 200 g/m2, excluding those of containing more than 10% by w	
511230021	Woven fabrics of combed wool or of combed fine animal hair, containing less than 85% by weight of wool or of fine animal hair, mixed mainly or solely with man-made staple fibres, of a weight exceeding 200 g/m2, excluding those of containing more than 10%	
511290021	Woven fabrics of wool or of fine animal hair, containing less than 85% by weight of wool or of fine animal hair, of a weight exceeding 200 g/m2, excluding those of containing more than 10% by weight of silk, n.e.s.	

520511021	Cotton single yarn (other than sewing thread), containing 85% or more by weight of cotton, not put up for retail sale, of umcombed fibres, measuring 714.29 dtex or more, consisting wholly of cotton, unbleached, not mercerized	
520511022	Cotton single yarn (other than sewing thread), containing 85% or more by weight of cotton, not put up for retail sale, of uncombed fibres, measuring 714.29 dtex or more, consisting wholly of cotton, excluding those unbleached, not mercerised	
520511029	Cotton single yarn (other than sewing thread), containing 85% or more by weight of cotton, not put up for retail sale, of uncombed fibres, measuring 714.29 dtex or more, containing not more than 10% by weight of synthetic fibres or acetate fibres, mixed w	
520512021	Cotton single yarn (other than sewing thread), containing 85% or more by weight of cotton, not put up for retail sale, of uncombed fibres, measuring less than 714.29 dtex but not less than 232.56 dtex, consisting wholly of cotton, unbleached, not merceriz	
520512022	Cotton single yarn (other than sewing thread), containing 85% or more by weight of cotton, not put up for retail sale, of uncombed fibres, measuring less than 714.29 dtex but not less than 232.56 dtex, consisting wholly of cotton, excluding those unbleach	
520512029	Cotton single yarn (other than sewing thread), containing 85% or more by weight of cotton, not put up for retail sale, of uncombed fibres, measuring less than 714.29 dtex but not less than 232.56 dtex, containing not more than 10% by weight of synthetic f	
520513021	Cotton single yarn (other than sewing thread), containing 85% or more by weight of cotton, not put up for retail sale, of uncombed fibres, measuring less than 232.56 dtex but not less than 192.31 dtex, consisting wholly of cotton, unbleached, not merceriz	
520513022	Cotton single yarn (other than sewing thread), containing 85% or more by weight of cotton, not put up for retail sale, of uncombed fibres, measuring less than 232.56 dtex but not less than 192.31 dtex, consisting wholly of cotton, excluding those unbleach	
520513029	Cotton single yarn (other than sewing thread), containing 85% or more by weight of cotton, not put up for retail sale, of uncombed fibres, measuring less than 232.56 dtex but not less than 192.31 dtex, mixed with other fibres	
520514021	Cotton single yarn (other than sewing thread), containing 85% or more by weight of cotton, not put up for retail sale, of uncombed fibres, measuring less than 192.31 dtex but not less than 125 dtex, consisting wholly of cotton, unbleached, not mercerized	
520514022	Cotton single yarn (other than sewing thread), containing 85% or more by weight of cotton, not put up for retail sale, of uncombed fibres, measuring less than 192.31 dtex but not less than 125 dtex, consisting wholly of cotton, excluding those unbleached,	

520514029	Cotton single yarn (other than sewing thread), containing 85% or more by weight of cotton, not put up for retail sale, of uncombed fibres, measuring less than 192.31 dtex but not less than 125 dtex, containing not more than 10% by weight of synthetic fibr	
520515021	Cotton single yarn (other than sewing thread), containing 85% or more by weight of cotton, not put up for retail sale, of uncombed fibres, measuring less than 125 dtex, consisting wholly of cotton, unbleached, not mercerized	
520515022	Cotton single yarn (other than sewing thread), containing 85% or more by weight of cotton, not put up for retail sale, of uncombed fibres, measuring less than 125 dtex, consisting wholly of cotton, excluding those unbleached, not mercerised	
520515029	Cotton single yarn (other than sewing thread), containing 85% or more by weight of cotton, not put up for retail sale, of uncombed fibres, measuring less than 125 dtex, containing not more than 10% by weight of synthetic fibres or acetate fibres, mixed wi	
520521021	Cotton single yarn (other than sewing thread), containing 85% or more by weight of cotton, not put up for retail sale, of combed fibres, measuring 714.29 dtex or more, consisting wholly of cotton, unbleached, not mercerized	
520521022	Cotton single yarn (other than sewing thread), containing 85% or more by weight of cotton, not put up for retail sale, of combed fibres, measuring 714.29 dtex or more, consisting wholly of cotton, excluding those unbleached, not mercerised	
520521029	Cotton single yarn (other than sewing thread), containing 85% or more by weight of cotton, not put up for retail sale, of combed fibres, measuring 714.29 dtex or more, containing not more than 10% by weight of synthetic fibres or acetate fibres, mixed wit	
520522021	Cotton single yarn (other than sewing thread), containing 85% or more by weight of cotton, not put up for retail sale, of combed fibres, measuring less than 714.29 dtex but not less than 232.56 dtex, consisting wholly of cotton, unbleached, not mercerized	
520522022	Cotton single yarn (other than sewing thread), containing 85% or more by weight of cotton, not put up for retail sale, of combed fibres, measuring less than 714.29 dtex but not less than 232.56 dtex, consisting wholly of cotton, excluding those unbleached	
520522029	Cotton single yarn (other than sewing thread), containing 85% or more by weight of cotton, not put up for retail sale, of combed fibres, measuring less than 714.29 dtex but not less than 232.56 dtex, containing not more than 10% by weight of synthetic fib	
520523021	Cotton single yarn (other than sewing thread), containing 85% or more by weight of cotton, not put up for retail sale, of combed fibres, measuring less than 232.56 dtex but not less than 192.31 dtex, consisting wholly of cotton, unbleached, not mercerized	

520523022	Cotton single yarn (other than sewing thread), containing 85% or more by weight of cotton, not put up for retail sale, of combed fibres, measuring less than 232.56 dtex but not less than 192.31 dtex, consisting wholly of cotton, excluding those unbleached	
520523029	Cotton single yarn (other than sewing thread), containing 85% or more by weight of cotton, not put up for retail sale, of combed fibres, measuring less than 232.56 dtex but not less than 192.31 dtex, containing not more than 10% by weight of synthetic fib	
520524021	Cotton single yarn (other than sewing thread), containing 85% or more by weight of cotton, not put up for retail sale, of combed fibres, measuring less than 192.31 dtex but not less than 125 dtex, consisting wholly of cotton, unbleached, not mercerized	
520524022	Cotton single yarn (other than sewing thread), containing 85% or more by weight of cotton, not put up for retail sale, of combed fibres, measuring less than 192.31 dtex but not less than 125 dtex, consisting wholly of cotton, excluding those unbleached, n	
520524029	Cotton single yarn (other than sewing thread), containing 85% or more by weight of cotton, not put up for retail sale, of combed fibres, measuring less than 192.31 dtex but not less than 125 dtex, containing not more than 10% by weight of synthetic fibres	
520526021	Cotton single yarn (other than sewing thread), containing 85% or more by weight of cotton, not put up for retail sale, of combed fibres, measuring less than 125 dtex but not less than 106.38 dtex, consisting wholly cotton, unbleached, not mercerized	
520526022	Cotton single yarn (other than sewing thread), containing 85% or more by weight of cotton, not put up for retail sale, of combed fibres, measuring less than 125 dtex but not less than 106.38 dtex, containing not more than 10% by weight of synthetic fibres	
520526029	Cotton single yarn (other than sewing thread), containing 85% or more by weight of cotton, not put up for retail sale, of combed fibres, measuring less than 125 dtex but not less than 106.38 dtex,, containing not more than 10% by weight of synthetic fibre	
520527021	Cotton single yarn (other than sewing thread), containing 85% or more by weight of cotton, not put up for retail sale, of combed fibres, measuring less than 106.38 dtex but not less than 83.33 dtex, consisting wholly cotton, unbleached, not mercerized	
520527022	Cotton single yarn (other than sewing thread), containing 85% or more by weight of cotton, not put up for retail sale, of combed fibres, measuring less than 106.38 dtex but not less than 83.33 dtex, containing not more than 10% by weight of synthetic fibr	
520527029	Cotton single yarn (other than sewing thread), containing 85% or more by weight of cotton, not put up for retail sale, of combed fibres, measuring less than 106.38 dtex but not less than 83.33 dtex, containing not more than 10% by weight of synthetic fibr	

520528021	Cotton single yarn (other than sewing thread), containing 85% or more by weight of cotton, not put up for retail sale, of combed fibres, measuring less than 83.33 dtex, consisting wholly cotton, unbleached, not mercerized	
520528022	Cotton single yarn (other than sewing thread), containing 85% or more by weight of cotton, not put up for retail sale, of combed fibres, measuring less than 83.33 dtex, containing not more than 10% by weight of synthetic fibres or acetate fibres, consisti	
520528029	Cotton single yarn (other than sewing thread), containing 85% or more by weight of cotton, not put up for retail sale, of combed fibres, measuring less than 83.33 dtex, containing not more than 10% by weight of synthetic fibres or acetate fibres, mixed wi	
520531021	Cotton multiple or cabled yarn (other than sewing thread), containing 85% or more by weight of cotton, not put up for retail sale, of uncombed fibres, measuring 714.29 dtex or more, consisting wholly cotton	
520531029	Cotton multiple or cabled yarn (other than sewing thread), containing 85% or more by weight of cotton, not put up for retail sale, of uncombed fibres, measuring 714.29 dtex or more, containing not more than 10% by weight of synthetic fibres or acetate fib	
520532021	Cotton multiple or cabled yarn (other than sewing thread), containing 85% or more by weight of cotton, not put up for retail sale, of uncombed fibres, measuring less than 714.29 dtex but not less than 232.56 dtex, consisting wholly cotton	
520532029	Cotton multiple or cabled yarn (other than sewing thread), containing 85% or more by weight of cotton, not put up for retail sale, of uncombed fibres, measuring less than 714.29 dtex but not less than 232.56 dtex, containing not more than 10% by weight of	
520533021	Cotton multiple or cabled yarn (other than sewing thread), containing 85% or more by weight of cotton, not put up for retail sale, of uncombed fibres, measuring less than 232.56 dtex but not less than 192.31 dtex, consisting wholly cotton	
520533029	Cotton multiple or cabled yarn (other than sewing thread), containing 85% or more by weight of cotton, not put up for retail sale, of uncombed fibres, measuring less than 232.56 dtex but not less than 192.31 dtex, containing not more than 10% by weight of	
520534021	Cotton multiple or cabled yarn (other than sewing thread), containing 85% or more by weight of cotton, not put up for retail sale, of uncombed fibres, measuring less than 192.31 dtex but not less than 125 dtex, consisting wholly cotton	
520534029	Cotton multiple or cabled yarn (other than sewing thread), containing 85% or more by weight of cotton, not put up for retail sale, of uncombed fibres, measuring less than 192.31 dtex but not less than 125 dtex, containing not more than 10% by weight of sy	
520535021	Cotton multiple or cabled yarn (other than sewing thread), containing 85% or more by weight of cotton, not put up for retail sale, of uncombed fibres, measuring less than 125 dtex, consisting wholly cotton	

520535029	Cotton multiple or cabled yarn (other than sewing thread), containing 85% or more by weight of cotton, not put up for retail sale, of uncombed fibres, measuring less than 125 dtex, containing not more than 10% by weight of synthetic fibres or acetate fibr	
520541021	Cotton multiple or cabled yarn (other than sewing thread), containing 85% or more by weight of cotton, not put up for retail sale, of combed fibres, measuring 714.29 dtex or more, consisting wholly cotton	
520541029	Cotton multiple or cabled yarn (other than sewing thread), containing 85% or more by weight of cotton, not put up for retail sale, of combed fibres, measuring 714.29 dtex or more, containing not more than 10% by weight of synthetic fibres or acetate fibre	
520542021	Cotton multiple or cabled yarn (other than sewing thread), containing 85% or more by weight of cotton, not put up for retail sale, of combed fibres, measuring less than 714.29 dtex but not less than 232.56 dtex, consisting wholly cotton	
520542029	Cotton multiple or cabled yarn (other than sewing thread), containing 85% or more by weight of cotton, not put up for retail sale, of combed fibres, measuring less than 714.29 dtex but not less than 232.56 dtex, containing not more than 10% by weight of s	
520543021	Cotton multiple or cabled yarn (other than sewing thread), containing 85% or more by weight of cotton, not put up for retail sale, of combed fibres, measuring less than 232.56 dtex but not less than 192.31 dtex, consisting wholly cotton	
520543029	Cotton multiple or cabled yarn (other than sewing thread), containing 85% or more by weight of cotton, not put up for retail sale, of combed fibres, measuring less than 232.56 dtex but not less than 192.31 dtex, containing not more than 10% by weight of s	
520544021	Cotton multiple or cabled yarn (other than sewing thread), containing 85% or more by weight of cotton, not put up for retail sale, of combed fibres, measuring less than 192.31 dtex but not less than 125 dtex, consisting wholly cotton	
520544029	Cotton multiple or cabled yarn (other than sewing thread), containing 85% or more by weight of cotton, not put up for retail sale, of combed fibres, measuring less than 192.31 dtex but not less than 125 dtex, containing not more than 10% by weight of synt	
520546021	Cotton multiple or cabled yarn (other than sewing thread), containing 85% or more by weight of cotton, not put up for retail sale, of combed fibres, measuring less than 125 dtex but not less than 106.38 dtex, consisting wholly cotton	
520546029	Cotton multiple or cabled yarn (other than sewing thread), containing 85% or more by weight of cotton, not put up for retail sale, of combed fibres, measuring less than 125 dtex but not less than 106.38 dtex,, containing not more than 10% by weight of syn	

520547021	Cotton multiple or cabled yarn (other than sewing thread), containing 85% or more by weight of cotton, not put up for retail sale, of combed fibres, measuring less than 106.38 dtex but not less than 83.33 dtex, consisting wholly cotton	
520547029	Cotton multiple or cabled yarn (other than sewing thread), containing 85% or more by weight of cotton, not put up for retail sale, of combed fibres, measuring less than 106.38 dtex but not less than 83.33 dtex, containing not more than 10% by weight of sy	
520548021	Cotton multiple or cabled yarn (other than sewing thread), containing 85% or more by weight of cotton, not put up for retail sale, of combed fibres, measuring less than 83.33 dtex, consisting wholly cotton	
520548029	Cotton multiple or cabled yarn (other than sewing thread), containing 85% or more by weight of cotton, not put up for retail sale, of combed fibres, measuring less than 83.33 dtex, containing not more than 10% by weight of synthetic fibres or acetate fibr	
520611020	Cotton single yarn (other than sewing thread), containing less than 85% by weight of cotton, not put up for retail sale, of uncombed fibres, measuring 714.29 dtex or more, containing not more than 10% by weight of synthetic fibres or acetate fibres, consi	
520612020	Cotton single yarn (other than sewing thread), containing less than 85% by weight of cotton, not put up for retail sale, of uncombed fibres, measuring less than 714.29 dtex but not less than 232.56 dtex, containing not more than 10% by weight of synthetic	
520613020	Cotton single yarn (other than sewing thread), containing less than 85% by weight of cotton, not put up for retail sale, of uncombed fibres, measuring less than 232.56 dtex but not less than 192.31 dtex, containing not more than 10% by weight of synthetic	
520614020	Cotton single yarn (other than sewing thread), containing less than 85% by weight of cotton, not put up for retail sale, of uncombed fibres, measuring less than 192.31 dtex but not less than 125 dtex, containing not more than 10% by weight of synthetic fi	
520615020	Cotton single yarn (other than sewing thread), containing less than 85% by weight of cotton, not put up for retail sale, of uncombed fibres, measuring less than 125 dtex, containing not more than 10% by weight of synthetic fibres or acetate fibres, consis	
520621020	Cotton single yarn (other than sewing thread), containing less than 85% by weight of cotton, not put up for retail sale, of combed fibres, measuring 714.29 dtex or more, containing not more than 10% by weight of synthetic fibres or acetate fibres, consist	
520622020	Cotton single yarn (other than sewing thread), containing less than 85% by weight of cotton, not put up for retail sale, of combed fibres, measuring less than 714.29 dtex but not less than 232.56 dtex containing more than 10% by weight of synthetic fibres	

520623020	Cotton single yarn (other than sewing thread), containing less than 85% by weight of cotton, not put up for retail sale, of combed fibres, measuring less than 232.56 dtex but not less than 192.31 dtex, containing not more than 10% by weight of synthetic f	
520624020	Cotton single yarn (other than sewing thread), containing less than 85% by weight of cotton, not put up for retail sale, of combed fibres, measuring less than 192.31 dtex but not less than 125 dtex, containing not more than 10% by weight of synthetic fibr	
520625020	Cotton single yarn (other than sewing thread), containing less than 85% by weight of cotton, not put up for retail sale, of combed fibres, measuring less than 125 dtex, containing not more than 10% by weight of synthetic fibres or acetate fibres, consisti	
520631020	Cotton multiple or cabled yarn (other than sewing thread), containing less than 85% by weight of cotton, not put up for retail sale, of uncombed fibres, measuring 714.29 dtex or more, containing not more than 10% by weight of synthetic fibres or acetate f	
520632020	Cotton multiple or cabled yarn (other than sewing thread), containing less than 85% by weight of cotton, not put up for retail sale, of uncombed fibres, measuring less than 714.29 dtex but not less than 232.56 dtex, containing not more than 10% by weight	
520633020	Cotton multiple or cabled yarn (other than sewing thread), containing less than 85% by weight of cotton, not put up for retail sale, of uncombed fibres, measuring less than 232.56 dtex but not less than 192.31 dtex, containing not more than 10% by weight	
520634020	Cotton multiple or cabled yarn (other than sewing thread), containing less than 85% by weight of cotton, not put up for retail sale, of uncombed fibres, measuring less than 192.31 dtex but not less than 121 dtex, containing not more than 10% by weight of	
520635020	Cotton multiple or cabled yarn (other than sewing thread), containing less than 85% or more by weight of cotton, not put up for retail sale, of uncombed fibres, measuring less than 125 dtex, containing not more than 10% by weight of synthetic fibres or ac	
520641020	Cotton multiple or cabled yarn (other than sewing thread), containing less than 85% by weight of cotton, not put up for retail sale, of combed fibres, measuring 714.29 dtex or more, containing not more than 10% by weight of synthetic fibres or acetate fib	
520642020	Cotton multiple or cabled yarn (other than sewing thread), containing less than 85% by weight of cotton, not put up for retail sale, of combed fibres, measuring less than 714.29 dtex but not less than 232.56 dtex, containing not more than 10% by weight of	
520643020	Cotton multiple or cabled yarn (other than sewing thread), containing less than 85% by weight of cotton, not put up for retail sale, of combed fibres, measuring less than 232.56 dtex but not less than 192.31 dtex, containing not more than 10% by weight of	

520644020	Cotton multiple or cabled yarn (other than sewing thread), containing less than 85% by weight of cotton, not put up for retail sale, of combed fibres, measuring less than 192.31 dtex but not less than 121 dtex, containing not more than 10% by weight of sy	
520645020	Cotton multiple or cabled yarn (other than sewing thread), containing 85% or more by weight of cotton, not put up for retail sale, of combed fibres, measuring less than 125 dtex, containing not more than 10% by weight of synthetic fibres or acetate fibres	
520710099	Cotton yarn, containing 85% or more by weight of cotton, of a weight exceeding 125 g	
520790099	Cotton yarn, containing less than 85% by weight of cotton, of a weight exceeding 125 g, n.e.s.	
520811010	Woven fabrics of cotton, containing 85% or more by weight of cotton, unbleached, plain, weighing not more than 100 g/m2, containing more than 10% by weight of synthetic fibres or acetate fibres	
520811091	Woven fabrics of cotton, containing 85% or more by weight of cotton, unbleached, plain, weighing not more than 100 g/m2, containing not more than 10% by weight of synthetic fibres or acetate fibres, shirting	
520811092	Woven fabrics of cotton, containing 85% or more by weight of cotton, unbleached, plain, weighing not more than 100 g/m2, containing not more than 10% by weight of synthetic fibres or acetate fibres, poplin	
520811093	Woven fabrics of cotton, containing 85% or more by weight of cotton, unbleached, plain, weighing not more than 100 g/m2, containing not more than 10% by weight of synthetic fibres or acetate fibres, voil and lawn	
520811099	Woven fabrics of cotton, containing 85% or more by weight of cotton, unbleached, plain, weighing not more than 100 g/m2, containing not more than 10% by weight of synthetic fibres or acetate fibres, excluding shirting, poplin, voil and lawn	
520812091	Woven fabrics of cotton, containing 85% or more by weight of cotton, unbleached, plain, weighing not more than 200 g/m2 but more than 100 g/m2, containing not more than 10% by weight of synthetic fibres or acetate fibres, sheeting	
520812092	Woven fabrics of cotton, containing 85% or more by weight of cotton, unbleached, plain, weighing not more than 200 g/m2 but more than 100 g/m2, containing not more than 10% by weight of synthetic fibres or acetate fibres, shirting	
520812093	Woven fabrics of cotton, containing 85% or more by weight of cotton, unbleached, plain, weighing not more than 200 g/m2 but more than 100 g/m2, containing not more than 10% by weight of synthetic fibres or acetate fibres, poplin	
520812099	Woven fabrics of cotton, containing 85% or more by weight of cotton, unbleached, plain, weighing not more than 200 g/m2 but more than 100 g/m2, containing not more than 10% by weight of synthetic fibres or acetate fibres, excluding sheeting, shirting and	

520813010	Woven fabrics of cotton, containing 85% or more by weight of cotton, unbleached, 3-thread or 4-thread twill, weighing not more than 200 g/m2 but more than 100 g/m2, containing more than 10% by weight of synthetic fibres or acetate fibres	
520813090	Woven fabrics of cotton, containing 85% or more by weight of cotton, unbleached, 3-thread or 4-thread twill, weighing not more than 200 g/m2 but more than 100 g/m2, containing not more than 10% by weight of synthetic fibres or acetate fibres	
520819010	Woven fabrics of cotton, containing 85% or more by weight of cotton, unbleached, n.e.s. weighing not more than 200 g/m2 but more than 100 g/m2, containing more than 10% by weight of synthetic fibres or acetate fibres	
520819091	Woven fabrics of cotton, containing 85% or more by weight of cotton, unbleached, n.e.s. weighing not more than 200 g/m2 but more than 100 g/m2, containing not more than 10% by weight of synthetic fibres or acetate fibres, satin	
520819099	Woven fabrics of cotton, containing 85% or more by weight of cotton, unbleached, n.e.s. weighing not more than 200 g/m2 but more than 100 g/m2, containing not more than 10% by weight of synthetic fibres or acetate fibres, other than satin	
520821091	Woven fabrics of cotton, containing 85% or more by weight of cotton, bleached, plain, weighing not more than 100 g/m2, containing not more than 10% by weight of synthetic fibres or acetate fibres, shirting	
520821092	Woven fabrics of cotton, containing 85% or more by weight of cotton, bleached, plain, weighing not more than 100 g/m2, containing not more than 10% by weight of synthetic fibres or acetate fibres, poplin	
520821099	Woven fabrics of cotton, containing 85% or more by weight of cotton, bleached, plain, weighing not more than 100 g/m2, containing not more than 10% by weight of synthetic fibres or acetate fibres, excluding shirting and poplin	
520822010	Woven fabrics of cotton, containing 85% or more by weight of cotton, bleached, plain, weighing not more than 200 g/m2 but more than 100 g/m2, containing more than 10% by weight of synthetic fibres or acetate fibres	
520822020	Woven fabrics of cotton, containing 85% or more by weight of cotton, bleached, plain, weighing not more than 200 g/m2 but more than 100 g/m2, containing not more than 10% by weight of synthetic fibres or acetate fibres, poplin	
520822091	Woven fabrics of cotton, containing 85% or more by weight of cotton, bleached, plain, weighing not more than 200 g/m2 but more than 100 g/m2, containing not more than 10% by weight of synthetic fibres or acetate fibres, shirting	
520822099	Woven fabrics of cotton, containing 85% or more by weight of cotton, bleached, plain, weighing not more than 200 g/m2 but more than 100 g/m2, containing not more than 10% by weight of synthetic fibres or acetate fibres, excluding shirting	

520823010	Woven fabrics of cotton, containing 85% or more by weight of cotton, bleached, 3-thread or 4-thread twill, weighing not more than 200 g/m2 but more than 100 g/m2, containing more than 10% by weight of synthetic fibres or acetate fibres	
520823090	Woven fabrics of cotton, containing 85% or more by weight of cotton, bleached, 3-thread or 4-thread twill, weighing not more than 200 g/m2 but more than 100 g/m2, containing not more than 10% by weight of synthetic fibres or acetate fibres	
520829010	Other woven fabrics of cotton, containing 85% or more by weight of cotton, bleached, weighing not more than 200 g/m2 but more than 100 g/m2, containing more than 10% by weight of synthetic fibres or acetate fibres	
520829090	Other woven fabrics of cotton, containing 85% or more by weight of cotton, bleached, weighing not more than 200 g/m2 but more than 100 g/m2, containing not more than 10% by weight of synthetic fibres or acetate fibres	
520831010	Woven fabrics of cotton, containing 85% or more by weight of cotton, dyed plain, weighing not more than 100 g/m2, containing more than 10% by weight of synthetic fibres or acetate fibres	
520831091	Woven fabrics of cotton, containing 85% or more by weight of cotton, dyed in fibres or yarns prior to weaving, plain, weighing not more than 100 g/m2, containing not more than 10% by weight of synthetic fibres or acetate fibres	
520831092	Woven fabrics of cotton, containing 85% or more by weight of cotton, dyed, plain, weighing not more than 100 g/m2, containing not more than 10% by weight of synthetic fibres or acetate fibres, poplin, excluding those dyed in fibres or yarn prior to weavin	
520831093	Woven fabrics of cotton, containing 85% or more by weight of cotton, dyed, plain, weighing not more than 100 g/m2, containing not more than 10% by weight of synthetic fibres or acetate fibres, voil and lawn, excluding those dyed in fibres or yarn prior to	
520831099	Woven fabrics of cotton, containing 85% or more by weight of cotton, dyed, plain, weighing not more than 100 g/m2, containing not more than 10% by weight of synthetic fibres or acetate fibres, excluding poplin, voile, lawn and those dyed in fibres or yarn	
520832010	Woven fabrics of cotton, containing 85% or more by weight of cotton, dyed, plain, weighing not more than 200 g/m2 but more than 100 g/m2, containing more than 10% by weight of synthetic fibres or acetate fibres	
520832091	Woven fabrics of cotton, containing 85% or more by weight of cotton, dyed, in fibres and yarns prior to weaving, plain, weighing not more than 200 g/m2 but more than 100 g/m2, containing not more than 10% by weight of synthetic fibres or acetate fibres	
520832092	Woven fabrics of cotton, containing 85% or more by weight of cotton, dyed, plain, weighing not more than 200 g/m2 but more than 100 g/m2, containing not more than 10% by weight of synthetic fibres or acetate fibres, poplin, excluding those dyed in fibres	

520832099	Woven fabrics of cotton, containing 85% or more by weight of cotton, dyed, plain, weighing not more than 200 g/m2 but more than 100 g/m2, containing not more than 10% by weight of synthetic fibres or acetate fibres, excluding those dyed in fibres or yarn	
520833010	Woven fabrics of cotton, containing 85% or more by weight of cotton, dyed, 3-thread or 4-thread twill, weighing not more than 200 g/m2 but more than 100 g/m2, containing more than 10% by weight of synthetic fibres or acetate fibres	
520833090	Woven fabrics of cotton, containing 85% or more by weight of cotton, dyed, 3-thread or 4-thread twill, weighing not more than 200 g/m2 but more than 100 g/m2, containing not more than 10% by weight of synthetic fibres or acetate fibres	
520839010	Other woven fabrics of cotton, containing 85% or more by weight of cotton, dyed, weighing not more than 200 g/m2 but more than 100 g/m2, containing more than 10% by weight of synthetic fibres or acetate fibres	
520839091	Other woven fabrics of cotton, containing 85% or more by weight of cotton, dyed, weighing not more than 200 g/m2 but more than 100 g/m2, containing not more than 10% by weight of synthetic fibres or acetate fibres, satin	
520839099	Other woven fabrics of cotton, containing 85% or more by weight of cotton, dyed, weighing not more than 200 g/m2 but more than 100 g/m2, containing not more than 10% by weight of synthetic fibres or acetate fibres, other than satin	
520841010	Woven fabrics of cotton, containing 85% or more by weight of cotton, of yarns of different colors, plain, weighing not more than 100 g/m2, containing more than 10% by weight of synthetic fibres acetate fibres	
520841091	Woven fabrics of cotton, containing 85% or more by weight of cotton, of yarns of different colors, plain, weighing not more than 100 g/m2, containing not more than 10% by weight of synthetic fibres or acetate fibres, gingham	
520841092	Woven fabrics of cotton, containing 85% or more by weight of cotton, of yarns of different colors, plain, weighing not more than 100 g/m2, containing not more than 10% by weight of synthetic fibres or acetate fibres, poplin	
520841099	Woven fabrics of cotton, containing 85% or more by weight of cotton, of yarns of different colors, plain, weighing not more than 100 g/m2, containing not more than 10% by weight of synthetic fibres or acetate fibres, excluding gingham and poplin	
520842010	Woven fabrics of cotton, containing 85% or more by weight of cotton, of yarns of different colors, plain, weighing not more than 200 g/m2 but more than 100 g/m2, containing more than 10% by weight of synthetic fibres or acetate fibres	
520842091	Woven fabrics of cotton, containing 85% or more by weight of cotton, of yarns of different colors, plain, weighing not more than 200 g/m2 but more than 100 g/m2, containing not more than 10% by weight of synthetic fibres or acetate fibres, gingham	

520842092	Woven fabrics of cotton, containing 85% or more by weight of cotton, of yarns of different colors, plain, weighing not more than 200 g/m2 but more than 100 g/m2, containing not more than 10% by weight of synthetic fibres or acetate fibres, poplin	
520842099	Woven fabrics of cotton, containing 85% or more by weight of cotton, of yarns of different colors, plain, weighing not more than 200 g/m2 but more than 100 g/m2, containing not more than 10% by weight of synthetic fibres or acetate fibres, excluding gingh	
520843010	Woven fabrics of cotton, containing 85% or more by weight of cotton, of yarns of different colors, 3-thread or 4-thread twill, weighing not more than 200 g/m2 but more than 100 g/m2, containing more than 10% by weight of synthetic fibres or acetate fibres	
520843090	Woven fabrics of cotton, containing 85% or more by weight of cotton, of yarns of different colors, 3-thread or 4-thread twill, weighing not more than 200 g/m2 but more than 100 g/m2, containing not more than 10% by weight of synthetic fibres or acetate fi	
520849010	Other woven fabrics of cotton, containing 85% or more by weight of cotton, of yarns of different colors, weighing not more than 200 g/m2 but more than 100 g/m2, containing more than 10% by weight of synthetic fibres or acetate fibres	
520849090	Other woven fabrics of cotton, containing 85% or more by weight of cotton, of yarns of different colors, weighing not more than 200 g/m2 but more than 100 g/m2, containing not more than 10% by weight of synthetic fibres or acetate fibres	
520851011	Woven fabrics of cotton, containing 85% or more by weight of cotton, of batics, plain, weighing not more than 100 g/m2, containing more than 10% by weight of synthetic fibres or acetate fibres	
520851019	Woven fabrics of cotton, containing 85% or more by weight of cotton, printed, plain, weighing not more than 100 g/m2, containing more than 10% by weight of synthetic fibres or acetate fibres	
520851091	Woven fabrics of cotton, containing 85% or more by weight of cotton, of batics, plain, weighing not more than 100 g/m2, containing not more than 10% by weight of synthetic fibres or acetate fibres	
520851092	Woven fabrics of cotton, containing 85% or more by weight of cotton, printed, plain, weighing not more than 100 g/m2, containing not more than 10% by weight of synthetic fibres or acetate fibres, shirting	
520851093	Woven fabrics of cotton, containing 85% or more by weight of cotton, printed, plain, weighing not more than 100 g/m2, containing not more than 10% by weight of synthetic fibres or acetate fibres, poplin	
520851094	Woven fabrics of cotton, containing 85% or more by weight of cotton, printed, plain, weighing not more than 100 g/m2, containing not more than 10% by weight of synthetic fibres or acetate fibres, voil and lawn	
520851099	Woven fabrics of cotton, containing 85% or more by weight of cotton, printed, plain, weighing not more than 100 g/m2, containing not more than 10% by weight of synthetic fibres or acetate fibres, excluding shirting, poplin, voil and lawn	

520852011	Woven fabrics of cotton, containing 85% or more by weight of cotton, of batics, plain, weighing not more than 200 g/m2 but more than 100 g/m2, containing more than 10% by weight of synthetic fibres or acetate fibres	
520852019	Woven fabrics of cotton, containing 85% or more by weight of cotton, printed, plain, weighing not more than 200 g/m2 but more than 100 g/m2, containing more than 10% by weight of synthetic fibres or acetate fibres	
520852091	Woven fabrics of cotton, containing 85% or more by weight of cotton, of batics, plain, weighing not more than 200 g/m2 but more than 100 g/m2, containing not more than 10% by weight of synthetic fibres or acetate fibres	
520852092	Woven fabrics of cotton, containing 85% or more by weight of cotton, printed, plain, weighing not more than 200 g/m2 but more than 100 g/m2, containing not more than 10% by weight of synthetic fibres or acetate fibres, sheeting	
520852093	Woven fabrics of cotton, containing 85% or more by weight of cotton, printed, plain, weighing not more than 200 g/m2 but more than 100 g/m2, containing not more than 10% by weight of synthetic fibres or acetate fibres, shirting	
520852094	Woven fabrics of cotton, containing 85% or more by weight of cotton, printed, plain, weighing not more than 200 g/m2 but more than 100 g/m2, containing not more than 10% by weight of synthetic fibres or acetate fibres, poplin	
520852099	Woven fabrics of cotton, containing 85% or more by weight of cotton, printed, plain, weighing not more than 200 g/m2 but more than 100 g/m2, containing not more than 10% by weight of synthetic fibres or acetate fibres, excluding sheeting, shirting and pop	
520853011	Woven fabrics of cotton, containing 85% or more by weight of cotton, of batics, 3-thread or 4-thread twill, weighing not more than 200 g/m2 but more than 100 g/m2, containing more than 10% by weight of synthetic fibres or acetate fibres	
520853019	Woven fabrics of cotton, containing 85% or more by weight of cotton, printed, plain, weighing not more than 200 g/m2 but more than 100 g/m2, containing more than 10% by weight of synthetic fibres or acetate fibres	
520853091	Woven fabrics of cotton, containing 85% or more by weight of cotton, of batics, 3-thread or 4-thread twill, weighing not more than 200 g/m2 but more than 100 g/m2, containing not more than 10% by weight of synthetic fibres or acetate fibres	
520853099	Woven fabrics of cotton, containing 85% or more by weight of cotton, printed, plain, weighing not more than 200 g/m2 but more than 100 g/m2, containing not more than 10% by weight of synthetic fibres or acetate fibres	
520859011	Other woven fabrics of cotton, containing 85% or more by weight of cotton, of batics, weighing not more than 200 g/m2 but more than 100 g/m2, containing more than 10% by weight of synthetic fibres or acetate fibres	

520859019	Other woven fabrics of cotton, containing 85% or more by weight of cotton, printed, weighing not more than 200 g/m2 but more than 100 g/m2, containing more than 10% by weight of synthetic fibres or acetate fibres	
520859091	Other woven fabrics of cotton, containing 85% or more by weight of cotton, of batics, weighing not more than 200 g/m2 but more than 100 g/m2, containing not more than 10% by weight of synthetic fibres or acetate fibres	
520859092	Other woven fabrics of cotton, containing 85% or more by weight of cotton, printed, weighing not more than 200 g/m2 but more than 100 g/m2, containing not more than 10% by weight of synthetic fibres or acetate fibres, satin	
520859099	Other woven fabrics of cotton, containing 85% or more by weight of cotton, printed, weighing not more than 200 g/m2 but more than 100 g/m2, containing not more than 10% by weight of synthetic fibres or acetate fibres, excluding satin	
520911010	Woven fabrics of cotton, containing 85% or more by weight of cotton, unbleached, plain, weighing more than 200 g/m2, containing more than 10% by weight of synthetic fibres or acetate fibres	
520911091	Woven fabrics of cotton, containing 85% or more by weight of cotton, unbleached, plain, weighing more than 200 g/m2, containing not more than 10% by weight of synthetic fibres or acetate fibres, sheeting	
520911099	Woven fabrics of cotton, containing 85% or more by weight of cotton, unbleached, plain, weighing more than 200 g/m2, containing not more than 10% by weight of synthetic fibres or acetate fibres, excluding sheeting	
520912010	Woven fabrics of cotton, containing 85% or more by weight of cotton, unbleached, 3-thread or 4-thread twill, weighing more than 200 g/m2, containing more than 10% by weight of synthetic fibres or acetate fibres	
520912090	Woven fabrics of cotton, containing 85% or more by weight of cotton, unbleached, 3-thread or 4-thread twill, weighing more than 200 g/m2, containing not more than 10% by weight of synthetic fibres or acetate fibres	
520919010	Other woven fabrics of cotton, containing 85% or more by weight of cotton, unbleached, weighing more than 200 g/m2, containing more than 10% by weight of synthetic fibres or acetate fibres	
520919090	Other woven fabrics of cotton, containing 85% or more by weight of cotton, unbleached, weighing more than 200 g/m2, containing not more than 10% by weight of synthetic fibres or acetate fibres	
520921010	Woven fabrics of cotton, containing 85% or more by weight of cotton, bleached, plain, weighing more than 200 g/m2, containing more than 10% by weight of synthetic fibres or acetate fibres	
520921090	Woven fabrics of cotton, containing 85% or more by weight of cotton, bleached, plain, weighing more than 200 g/m2, containing not more than 10% by weight of synthetic fibres or acetate fibres	

520922010	Woven fabrics of cotton, containing 85% or more by weight of cotton, bleached, 3-thread or 4-thread twill, weighing more than 200 g/m2, containing more than 10% by weight of synthetic fibres or acetate fibres	
520922090	Woven fabrics of cotton, containing 85% or more by weight of cotton, bleached, 3-thread or 4-thread twill, weighing more than 200 g/m2, containing not more than 10% by weight of synthetic fibres or acetate fibres	
520929010	Other woven fabrics of cotton, containing 85% or more by weight of cotton, bleached, weighing more than 200 g/m2, containing more than 10% by weight of synthetic fibres or acetate fibres	
520929090	Other woven fabrics of cotton, containing 85% or more by weight of cotton, bleached, weighing more than 200 g/m2, containing not more than 10% by weight of synthetic fibres or acetate fibres	
520931010	Woven fabrics of cotton, containing 85% or more by weight of cotton, dyed, plain, weighing more than 200 g/m2, containing more than 10% by weight of synthetic fibres or acetate fibres	
520931091	Woven fabrics of cotton, containing 85% or more by weight of cotton, dyed in fibres and yarns prior to weaving, plain, weighing more than 200 g/m2, containing not more than 10% by weight of synthetic fibres or acetate fibres	
520931099	Woven fabrics of cotton, containing 85% or more by weight of cotton, dyed, plain, weighing more than 200 g/m2, containing not more than 10% by weight of synthetic fibres or acetate fibres, excluding those dyed in fibres or yarn prior to weaving	
520932010	Woven fabrics of cotton, containing 85% or more by weight of cotton, dyed, 3-thread or 4-thread twill, weighing more than 200 g/m2, containing more than 10% by weight of synthetic fibres or acetate fibres	
520932090	Woven fabrics of cotton, containing 85% or more by weight of cotton, dyed, 3-thread or 4-thread twill, weighing more than 200 g/m2, containing not more than 10% by weight of synthetic fibres or acetate fibres	
520939010	Other woven fabrics of cotton, containing 85% or more by weight of cotton, dyed, weighing more than 200 g/m2, containing more than 10% by weight of synthetic fibres or acetate fibres	
520939090	Other woven fabrics of cotton, containing 85% or more by weight of cotton, dyed, weighing more than 200 g/m2, containing not more than 10% by weight of synthetic fibres or acetate fibres	
520941010	Woven fabrics of cotton, containing 85% or more by weight of cotton, of yarns of different colors, plain, weighing more than 200 g/m2, containing more than 10% by weight of synthetic fibres or acetate fibres	
520941090	Woven fabrics of cotton, containing 85% or more by weight of cotton, of yarns of different colors, plain, weighing more than 200 g/m2, containing not more than 10% by weight of synthetic fibres or acetate fibres	
520942010	Woven fabrics of cotton, containing 85% or more by weight of cotton, of yarns of different colors, denim, weighing more than 200 g/m2, containing more than 10% by weight of synthetic fibres or acetate fibres	

520942090	Woven fabrics of cotton, containing 85% or more by weight of cotton, of yarns of different colors, denim, weighing more than 200 g/m2, containing not more than 10% by weight of synthetic fibres or acetate fibres	
520943010	Woven fabrics of cotton, containing 85% or more by weight of cotton, of yarns of different colors, 3-thread or 4-thread twill, weighing more than 200 g/m2, containing more than 10% by weight of synthetic fibres or acetate fibres	
520943090	Woven fabrics of cotton, containing 85% or more by weight of cotton, of yarns of different colors, 3-thread or 4-thread twill, weighing more than 200 g/m2, containing not more than 10% by weight of synthetic fibres or acetate fibres	
520949010	Other woven fabrics of cotton, containing 85% or more by weight of cotton, of yarns of different colors, weighing more than 200 g/m2, containing more than 10% by weight of synthetic fibres or acetate fibres	
520949090	Other woven fabrics of cotton, containing 85% or more by weight of cotton, of yarns of different colors, weighing more than 200 g/m2, containing not more than 10% by weight of synthetic fibres or acetate fibres	
520951011	Woven fabrics of cotton, containing 85% or more by weight of cotton, of batics, plain, weighing more than 200 g/m2, containing more than 10% by weight of synthetic fibres or acetate fibres	
520951019	Woven fabrics of cotton, containing 85% or more by weight of cotton, printed, plain, weighing more than 200 g/m2, containing more than 10% by weight of synthetic fibres or acetate fibres	
520951091	Woven fabrics of cotton, containing 85% or more by weight of cotton, of batics, plain, weighing more than 200 g/m2, containing not more than 10% by weight of synthetic fibres or acetate fibres	
520951092	Woven fabrics of cotton, containing 85% or more by weight of cotton, printed, plain, weighing more than 200 g/m2, containing not more than 10% by weight of synthetic fibres or acetate fibres, sheeting	
520951099	Woven fabrics of cotton, containing 85% or more by weight of cotton, printed, plain, weighing more than 200 g/m2, containing not more than 10% by weight of synthetic fibres or acetate fibres, excluding sheeting	
520952011	Woven fabrics of cotton, containing 85% or more by weight of cotton, of batics, 3-thread or 4-thread twill, weighing more than 200 g/m2, containing more than 10% by weight of synthetic fibres or acetate fibres	
520952019	Woven fabrics of cotton, containing 85% or more by weight of cotton, printed, plain, weighing more than 200 g/m2, containing more than 10% by weight of synthetic fibres or acetate fibres	
520952091	Woven fabrics of cotton, containing 85% or more by weight of cotton, of batics, 3-thread or 4-thread twill, weighing more than 200 g/m2, containing not more than 10% by weight of synthetic fibres or acetate fibres	
520952099	Woven fabrics of cotton, containing 85% or more by weight of cotton, printed, weighing more than 200 g/m2, containing not more than 10% by weight of synthetic fibres or acetate fibres	

520959011	Other woven fabrics of cotton, containing 85% or more by weight of cotton, of batics, weighing more than 200 g/m2, containing more than 10% by weight of synthetic fibres or acetate fibres	
520959019	Other woven fabrics of cotton, containing 85% or more by weight of cotton, printed, weighing more than 200 g/m2, containing more than 10% by weight of synthetic fibres or acetate fibres	
520959091	Other woven fabrics of cotton, containing 85% or more by weight of cotton, of batics, weighing more than 200 g/m2, containing not more than 10% by weight of synthetic fibres or acetate fibres	
520959092	Other woven fabrics of cotton, containing 85% or more by weight of cotton, printed, weighing more than 200 g/m2, containing not more than 10% by weight of synthetic fibres or acetate fibres, satin	
520959099	Other woven fabrics of cotton, containing 85% or more by weight of cotton, printed, weighing more than 200 g/m2, containing not more than 10% by weight of synthetic fibres or acetate fibres, excluding satin	
521011030	Woven fabrics of cotton, containing less than 85% by weight of cotton, mixed with mainly or solely manmade fibres unbleached, plain, weighing not more than 200 g/m2, containing not more than 10% by weight of synthetic fibres or acetate fibres	
521012030	Woven fabrics of cotton, containing less than 85% by weight of cotton, mixed with mainly or solely manmade fibres unbleached, 3-thread or 4-thread twill, weighing not more than 200 g/m2, containing not more than 10% by weight of synthetic fibres or acetat	
521019030	Other woven fabrics of cotton, containing less than 85% by weight of cotton, mixed with mainly or solely manmade fibres unbleached, weighing not more than 200 g/m2, containing not more than 10% by weight of synthetic fibres or acetate fibres	
521021030	Woven fabrics of cotton, containing less than 85% by weight of cotton, mixed with mainly or solely manmade fibres bleached, plain, weighing not more than 200 g/m2, containing not more than 10% by weight of synthetic fibres or acetate fibres	
521022030	Woven fabrics of cotton, containing less than 85% by weight of cotton, mixed with mainly or solely manmade fibres bleached, 3-thread or 4-thread twill, weighing not more than 200 g/m2, containing not more than 10% by weight of synthetic fibres or acetate	
521029030	Other woven fabrics of cotton, containing less than 85% by weight of cotton, mixed with mainly or solely manmade fibres bleached, weighing not more than 200 g/m2, containing not more than 10% by weight of synthetic fibres or acetate fibres	
521031030	Woven fabrics of cotton, containing less than 85% by weight of cotton, mixed with mainly or solely manmade fibres dyed, plain, weighing not more than 200 g/m2, containing not more than 10% by weight of synthetic fibres or acetate fibres	

521032030	Woven fabrics of cotton, containing less than 85% by weight of cotton, mixed with mainly or solely manmade fibres dyed, 3-thread or 4-thread twill, weighing not more than 200 g/m2, containing not more than 10% by weight of synthetic fibres or acetate fibr	
521039030	Other woven fabrics of cotton, containing less than 85% by weight of cotton, mixed with mainly or solely manmade fibres dyed, weighing not more than 200 g/m2, containing not more than 10% by weight of synthetic fibres or acetate fibres	
521041030	Woven fabrics of cotton, containing less than 85% by weight of cotton, mixed with mainly or solely manmade fibres of yarns of different colours, plain, weighing not more than 200 g/m2, containing not more than 10% by weight of synthetic fibres or acetate	
521042030	Woven fabrics of cotton, containing less than 85% by weight of cotton, mixed with mainly or solely manmade fibres of yarns of different colours, 3-thread or 4-thread twill, weighing not more than 200 g/m2, containing not more than 10% by weight of synthet	
521049030	Other woven fabrics of cotton, containing less than 85% by weight of cotton, mixed with mainly or solely manmade fibres of yarns of different colours, weighing not more than 200 g/m2, containing not more than 10% by weight of synthetic fibres or acetate f	
521051031	Woven fabrics of cotton, containing less than 85% by weight of cotton, mixed with mainly or solely manmade fibres of batics, plain, weighing not more than 200 g/m2, containing not more than 10% by weight of synthetic fibres or acetate fibres	
521051039	Woven fabrics of cotton, containing less than 85% by weight of cotton, mixed with mainly or solely manmade fibres printed, plain, weighing not more than 200 g/m2, containing not more than 10% by weight of synthetic fibres or acetate fibres	
521052031	Woven fabrics of cotton, containing less than 85% by weight of cotton, mixed with mainly or solely manmade fibres of batics, 3-thread or 4-thread twill, weighing not more than 200 g/m2, containing not more than 10% by weight of synthetic fibres or acetate	
521052039	Woven fabrics of cotton, containing less than 85% by weight of cotton, mixed with mainly or solely manmade fibres printed, 3-thread or 4-thread twill, weighing not more than 200 g/m2, containing not more than 10% by weight of synthetic fibres or acetate f	
521059031	Other woven fabrics of cotton, containing less than 85% by weight of cotton, mixed with mainly or solely manmade fibres of batics, weighing not more than 200 g/m2, containing not more than 10% by weight of synthetic fibres or acetate fibres	
521059039	Other woven fabrics of cotton, containing less than 85% by weight of cotton, mixed with mainly or solely manmade fibres printed, weighing not more than 200 g/m2, containing not more than 10% by weight of synthetic fibres or acetate fibres	

521111030	Woven fabrics of cotton, containing less than 85% by weight of cotton, mixed with mainly or solely manmade fibres unbleached, plain, weighing more than 200 g/m2, containing not more than 10% by weight of synthetic fibres or acetate fibres	
521112030	Woven fabrics of cotton, containing less than 85% by weight of cotton, mixed with mainly or solely manmade fibres unbleached, 3-thread or 4-thread twill, weighing more than 200 g/m2, containing not more than 10% by weight of synthetic fibres or acetate fi	
521119030	Other woven fabrics of cotton, containing less than 85% by weight of cotton, mixed with mainly or solely manmade fibres unbleached, weighing more than 200 g/m2, containing not more than 10% by weight of synthetic fibres or acetate fibres	
521121030	Woven fabrics of cotton, containing less than 85% by weight of cotton, mixed with mainly or solely manmade fibres bleached, plain, weighing more than 200 g/m2, containing not more than 10% by weight of synthetic fibres or acetate fibres	
521122030	Woven fabrics of cotton, containing less than 85% by weight of cotton, mixed with mainly or solely manmade fibres bleached, 3-thread or 4-thread twill, weighing more than 200 g/m2, containing not more than 10% by weight of synthetic fibres or acetate fibr	
521129030	Other woven fabrics of cotton, containing less than 85% by weight of cotton, mixed with mainly or solely manmade fibres bleached, weighing more than 200 g/m2, containing not more than 10% by weight of synthetic fibres or acetate fibres	
521131030	Woven fabrics of cotton, containing less than 85% by weight of cotton, mixed with mainly or solely manmade fibres dyed, plain, weighing more than 200 g/m2, containing not more than 10% by weight of synthetic fibres or acetate fibres	
521132030	Woven fabrics of cotton, containing less than 85% by weight of cotton, mixed with mainly or solely manmade fibres dyed, 3-thread or 4-thread twill, weighing more than 200 g/m2, containing not more than 10% by weight of synthetic fibres or acetate fibres	
521139030	Other woven fabrics of cotton, containing less than 85% by weight of cotton, mixed with mainly or solely manmade fibres dyed, weighing more than 200 g/m2, containing not more than 10% by weight of synthetic fibres or acetate fibres	
521141030	Woven fabrics of cotton, containing less than 85% by weight of cotton, mixed with mainly or solely manmade fibres of yarns of different colours, plain, weighing more than 200 g/m2, containing not more than 10% by weight of synthetic fibres or acetate fibr	
521142030	Woven fabrics of cotton, containing less than 85% by weight of cotton, mixed with mainly or solely manmade fibres denim, weighing more than 200 g/m2, containing not more than 10% by weight of synthetic fibres or acetate fibres	

521143030	Woven fabrics of cotton, containing less than 85% by weight of cotton, mixed with mainly or solely manmade fibres of yarns of different colours, 3-thread or 4-thread twill, weighing more than 200 g/m2, containing not more than 10% by weight of synthetic f	
521149030	Other woven fabrics of cotton, containing less than 85% by weight of cotton, mixed with mainly or solely manmade fibres of yarns of different colours, weighing more than 200 g/m2, containing not more than 10% by weight of synthetic fibres or acetate fibre	
521151031	Woven fabrics of cotton, containing less than 85% by weight of cotton, mixed with mainly or solely manmade fibres of batics, plain, weighing more than 200 g/m2, containing not more than 10% by weight of synthetic fibres or acetate fibres	
521151039	Woven fabrics of cotton, containing less than 85% by weight of cotton, mixed with mainly or solely manmade fibres printed, plain, weighing more than 200 g/m2, containing not more than 10% by weight of synthetic fibres or acetate fibres	
521152031	Woven fabrics of cotton, containing less than 85% by weight of cotton, mixed with mainly or solely manmade fibres of batics, 3-thread or 4-thread twill, weighing more than 200 g/m2, containing not more than 10% by weight of synthetic fibres or acetate fib	
521152039	Woven fabrics of cotton, containing less than 85% by weight of cotton, mixed with mainly or solely manmade fibres printed, 3-thread or 4-thread twill, weighing more than 200 g/m2, containing not more than 10% by weight of synthetic fibres or acetate fibre	
521159031	Other woven fabrics of cotton, containing less than 85% by weight of cotton, mixed with mainly or solely manmade fibres of batics, weighing more than 200 g/m2, containing not more than 10% by weight of synthetic fibres or acetate fibres	
521159039	Other woven fabrics of cotton, containing less than 85% by weight of cotton, mixed with mainly or solely manmade fibres printed, weighing more than 200 g/m2, containing not more than 10% by weight of synthetic fibres or acetate fibres	
521211030	Woven fabrics of cotton, containing less than 85% by weight of cotton, unbleached, weighing not more than 200 g/m2, containing not more than 10% by weight of synthetic fibres or acetate fibres	
521212030	Woven fabrics of cotton, containing less than 85% by weight of cotton, bleached, weighing not more than 200 g/m2, containing not more than 10% by weight of synthetic fibres or acetate fibres	
521213030	Woven fabrics of cotton, containing less than 85% by weight of cotton, dyed, weighing not more than 200 g/m2, containing not more than 10% by weight of synthetic fibres or acetate fibres	
521214030	Woven fabrics of cotton, containing less than 85% by weight of cotton, of yarns of different colours, weighing not more than 200 g/m2, containing not more than 10% by weight of synthetic fibres or acetate fibres	

521215031	Woven fabrics of cotton, containing less than 85% by weight of cotton, of batics, weighing not more than 200 g/m2, containing not more than 10% by weight of synthetic fibres or acetate fibres	
521215039	Woven fabrics of cotton, containing less than 85% by weight of cotton, printed, weighing not more than 200 g/m2, containing not more than 10% by weight of synthetic fibres or acetate fibres	
521221030	Woven fabrics of cotton, containing less than 85% by weight of cotton, unbleached, weighing more than 200 g/m2, containing not more than 10% by weight of synthetic fibres or acetate fibres	
521222030	Woven fabrics of cotton, containing less than 85% by weight of cotton, bleached, weighing more than 200 g/m2, containing not more than 10% by weight of synthetic fibres or acetate fibres	
521223030	Woven fabrics of cotton, containing less than 85% by weight of cotton, dyed, weighing more than 200 g/m2, containing not more than 10% by weight of synthetic fibres or acetate fibres	
521224030	Woven fabrics of cotton, containing less than 85% by weight of cotton, of yarns of different colours, weighing more than 200 g/m2, containing not more than 10% by weight of synthetic fibres or acetate fibres	
521225031	Woven fabrics of cotton, containing less than 85% by weight of cotton, of batics, weighing more than 200 g/m2, containing not more than 10% by weight of synthetic fibres or acetate fibres	
521225039	Woven fabrics of cotton, containing less than 85% by weight of cotton, printed, weighing more than 200 g/m2, containing not more than 10% by weight of synthetic fibres or acetate fibres	
560490021	Textile yarn, and strip and the like of heading 54.04 or 54.05, of cotton, impregnated, coated, covered or sheathed with plastics	
581100023	Quilted textile products in the piece, composed of one or more layers of textile materials assembled with padding by stitching or otherwise, of cotton	
640320012	House footwear, with outer soles of leather, and uppers which consist of leather straps across the instep and around the big toe, excluding those for "the pooled quota"	Out
640320022	Footwear, with outer soles of leather, and uppers which consist of leather straps across the instep and around the big toe, excluding those for "the pooled quota"	Out
640330012	Footwear, made on a base or platform of wood, footwear with outer soles of rubber, leather or composition leather and uppers of leather, excluding slippers and other house footwear, excluding those for "the pooled quota"	Out
640330029	Footwear, made on a base or platform of wood, with outer soles of rubber, plastics, leather or composition leather and uppers of leather, excluding those for "the pooled quota"	Out
640340012	Other footwear, incorporating a protective metal toe-cap, with outer soles of rubber, leather or composition leather, excluding those for "the pooled quota"	Out

640340022	Other footwear, incorporating a protective metal toe-cap, with outer soles of plastics and uppers of leather, excluding those for "the pooled quota"	Out
640351012	House footwear, covering the ankle, with outer soles of leather and uppers of leather, excluding those for "the pooled quota"	Out
640351029	Other footwear, covering the ankle, with outer soles of leather and uppers of leather, excluding those for "the pooled quota"	Out
640359019	House footwear, with outer soles of leather and uppers of leather, excluding those for "the pooled quota"	Out
640359104	Footwear, with outer soles of leather and uppers of leather, with an insole over 19cm, for men, excluding those for "the pooled quota"	Out
640359105	Footwear, with outer soles of leather and uppers of leather, with an insole over 19cm, for women, excluding those for "the pooled quota"	Out
640359109	Footwear, with outer soles of leather and uppers of leather, with an insole not over 19cm, excluding those for "the pooled quota"	Out
640391019	Other footwear, excluding house footwear, covering the ankle, with outer soles of rubber or composition leather and uppers of leather, excluding those for "the pooled quota"	Out
640391029	Other footwear, covering the ankle, with outer soles of plastics and uppers of leather, and house footwear with outer soles of rubber, plastics or composition leather and uppers of leather, excluding those for "the pooled quota"	Out
640399015	Other footwear, excluding those covering the ankle and slippers and other house footwear with outer soles of rubber or composition leather and uppers of leather, with an insole over 19cm, for men, excluding those for "the pooled quota"	Out
640399016	Other footwear, excluding those covering the ankle and slippers and other house footwear, with outer soles of rubber or composition leather and uppers of leather, with an insole over 19cm, for women, excluding those for "the pooled quota"	Out
640399019	Other footwear, excluding those covering the ankle and slippers and other house footwear, with outer soles of rubber or composition leather and uppers of leather, with an insole not over 19cm, excluding those for "the pooled quota"	Out
640399029	Other footwear, excluding footwear covering the ankle, with outer soles of plastics and uppers of leather and house footwear, excluding footwear covering the ankle, with outer soles of rubber, plastics or composition leather and uppers of leather, excludi	Out
640419119	Other footwear, excluding slippers, with outer sole of rubber or plastics and upper of textile materials, with leather in part and containing furskin, excluding those for "the pooled quota"	Out
640420119	Footwear, with outer soles of leather or composition leather and upper of textile materials, with upper of leather in part and containing furskin, excluding sports footwear, footwear for gymnastics, athletics or similar activities and slippers, excluding	Out

640420212	Canvas shoes, with outer sole of leather and upper of textile materials, with upper of leather in part, excluding with uppers containing furskin and sports footwear and footwear for gymnastics, athletics or similar activities, excluding those for "the poo	Out
640420222	Footwear, with outer sole of leather and upper of textile materials, with upper of leather in part, excluding those with uppers containing furskin and sports footwear, footwear for gymnastics, athletics, or similar activities and slippers, excluding those	Out
640510119	Footwear, with outer soles of leather and upper of composition leather, with upper of leather in part, excluding sports footwear, footwear for gymnastics, athletics, or similar activities and slippers, excluding those for "the pooled quota"	Out
640590112	Footwear, with outer soles of rubber, plastics, leather or composition leather and with uppers containing furskin, with uppers of leather in part, excluding those upper of leather, composition leather or textile materials, excluding sports footwear, footw	Out
640590122	Footwear, with outer soles of leather and with uppers of leather in part, excluding those of leather, composition leather or textile materials and sports footwear, footwear for gymnastics, athletics, or similar activities and slippers, excluding those for	Out
780191040	Unwrought lead (excluding refined lead), containing by weight antimony as the principal other element, n.e.s.	
780199100	Unwrought alloyed lead, excluding those containing by weight antimony as the principal other element	
960810090	Ball point pens, n.e.s.	
960860000	Refills for ball point pens, comprising the ball point and ink-reservoir	

Attachment 2

Tariff quotas

#	Item	Tariff rates (FY2004)		#	FY2004		
		In-quota	Out-of-quota		Quota level	In-quota imports	Utilization
1	Natural cheese intended for use as material for processed cheese	Free	29.8%	1	54,200 t	42,045 t	77.6%
	Maize intended for manufacturing use						
2	-corn starch	Free	50% or \12/kg	2	4,259,700 t	3,487,939 t	81.9%
3	-animal feed (whole shelled corn)	Free	50% or \12/kg	3	293,500 t	199,121 t	67.8%
4	-corn flakes, ethyl alcohol or distilled alcoholic beverages	Free	50% or \12/kg	4	50,500 t	43,782 t	86.7%
5	-other	3%	50% or \12/kg	5	191,300 t	127,863 t	66.8%
6	Malt	Free	\21.3/kg	6	582,400 t	556,484 t	95.6%
7	Molasses from sugar refining or extraction intended for manufacturing alcohol	Free	\15.3/kg	7	13,000 t	10,685 t	82.2%
8	Cocoa preparations intended for chocolate manufacture	Free	21.3%	8	19,000 t	12,973 t	68.3%
9	Tomato puree and paste intended for manufacturing tomato sauces	Free	16%	9	36,500 t	36,225 t	99.2%
10	Pineapples, prepared or preserved, in airtight containers	Free	\33/kg	10	50,700 t	49,328 t	97.3%

11	Bovine and equine leather (dyed)	13.3%, 16%	30%	11	1,466,000 ㎡	1,273,000 ㎡	86.8%
12	Bovine and equine leather (other)	12%	30%	12	214,000 ㎡	196,000 ㎡	91.6%
13	Sheep and goat leather	16%	30%	13	1,070,000 ㎡	279,000 ㎡	26.1%
14	Leather footwear	17.3~24%	30% or \2,400/pair, 30% or \4,300/pair	14	12,019,000 pair	11,256,000 pair	93.7%
15	Skimmed milk powder for school lunch	Free	\396/kg, \425/kg	15	7,264 t	2,767 t	38.1%
16	Skimmed milk powder for other purposes	Free~35%	\396/kg~ 29.8%+\425/kg	16	85,878 t	30,994 t	36.1%
17	Evaporated milk	25%, 30%	21.3%+\254/kg, 25.5%+\509/kg	17	1,585 t	1,329 t	83.8%
18	Whey and modified whey for feeding purposes	Free	29.8%+\425/kg, 29.8%+\687/kg	18	45,000 t	31,384 t	69.7%
19	Prepared whey for infant formula	10%	29.8%+\400/kg~ 29.8%+\1,023/kg	19	25,000 t	9,580 t	38.3%
20	Mineral concentrated whey	25%, 35%	29.8%+\425/kg, 29.8%+\687/kg	20	14,000 t	3,566 t	25.5%
21	Butter and butter oil	35%	29.8%+\985/kg, 29.8%+\1,159/kg	21	1,873 t	242 t	12.9%
22	Prepared edible fat	25%	29.8%+1,159/kg	22	18,977 t	18,549 t	97.7%
23	Other dairy products for general use	12%~35%	21.3%+\54/kg~ 29.8%+\1,159/kg	23	133,940 t	132,362 t	98.8%
24	Designated dairy products for general use	25%~35%	21.3%+\396/kg~ 29.8%+\1,159/kg	24	137,202 t	134,012 t	97.7%
25	Dried leguminous vegetables	10%	\354/kg	25	120,000 t	112,061 t	93.4%

26	Wheat, meslin, triticale and their processed products	Free~25%	\55/kg~\124/kg	26	5,740,000 t	5,631,523 t	98.1%
27	Barley and its processed products	Free~25%	\39/kg~\111/kg	27	1,369,000 t	1,433,068 t	104.7%
28	Rice and its worked and/or prepared products	Free~25%	\341/kg,\375/kg	28	682,200 t	678,885 t	99.5%
29	Starches, inulin and preparations of starches	Free~25%	\119/kg	29	157,000 t	158,674 t	101.1%
30	Ground-nuts	10%	\617/kg	30	75,000 t	40,246 t	53.7%
31	Tubers of Konnyaku	40%	\2,796/kg	31	267 t	86 t	32.2%
32	Silk-worm cocoons and raw silk	Free	\2,523/kg	32	798 t	43 t	5.4%

* Designated dairly products for general use

WORLD TRADE ORGANIZATION

G/AG/N/JPN/111
19 May 2005

(05-2028)

Committee on Agriculture
ATTACHMENT 3

Original:

NOTIFICATION

The following submission, dated 11 May 2005, is being circulated at the request of the Delegation of **Japan**. The notification concerns the use of special safeguard provisions **(Table MA:5)** during the **fiscal year 2004**.

Table MA:5

MARKET ACCESS: Japan

REPORTING PERIOD: Fiscal year 2004 (from 1 April 2004 to 31 March 2005)

Annual summary of special safeguard actions taken

Tariff item number	Description of product	Whether volume-based action taken during period	Whether price-based action taken during period
1	2	3	4
0401.20	Milk and cream, not concentrated nor containing added sugar or other sweetening matter: - Of a fat content, by weight, exceeding 1% but not exceeding 6%: sterilized, frozen or preserved	Date of application: from 1 November 2004 to 31 March 2005	None
0713.10.229	Peas (Pisum sativum)	None	Date of application: 29 November 2004
0713.39.227	Beans other than beans of the species Vigna mungo (L.) Hepper or Vigna radiata (L.) Wilczek, small red (Adzuki) beans and kidney beans	None	Date of application: 28 October 2004
1102.30.090	*Rice flour*	*None*	Date of application: 16 April 2004, 17 June 2004, 22 October 2004, 19 November 2004, 2 December 2004
1108.12	*Maize (corn) starch*	Date of application: from 1 December 2004 to 31 March 2005	None
1108.14.090	Manioc (cassava) starch	None	Date of application: 6 April 2004, 29 November 2004, 2 December 2004

1108.19.099	Other starches (excluding Sago starches)	None	Date of application: 17 June 2004
1108.20	Inulin	Date of application: from 1 October 2004 to 31 March 2005	None
1901.20.159	Food preparations, containing flour, groats, meal, pellets or starch of rice, wheat, triticale or barley, which total weight is more than 85% of the articles and mostly containing starch	None	Date of application: 17 November 2004, 19 November 2004, 2 December 2004, 28 December 2004
1901.90.179	Food preparations, containing groats, meal, pellets or starch of rice, wheat, triticale, barley, which total weight is more than 85% of the articles and mostly containing starch	None	Date of application: 16 November 2004, 19 November 2004, 13 December 2004, 17 December 2004, 12 January 2005, 18 February 2005, 10 March 2005, 17 March 2005
1901.20, 1901.90	Food preparations of flour, meal, or starch, containing one or more of those groats, meal, pellets of rice, wheat, triticale, barley or starch, which total weight is more than 85% of the articles and mostly containing starch	Date of application: from 1 March 2005 to 31 March 2005	None
1904.10.212	Prepared foods containing not less than 50% by weight of those obtained by merely swelling or roasting of rice, wheat, triticale or barley, of rice	None	Date of application: 8 December 2004
2106.90.129	Food preparations containing by weight not less than 30% natural milk constituents on the dry matter	None	Date of application: 4 February 2005, 9 February 2005, 16 March 2005, 28 March 2005

WORLD TRADE ORGANIZATION

G/AG/N/JPN/117
2 June 2006

(06-2652)

Committee on Agriculture
Attachment 4

Original:

NOTIFICATION

The following submission, dated 29 May 2006, is being circulated at the request of the Delegation of **Japan**. The notification concerns the use of special safeguard provisions **(Table MA:5)** during the **fiscal year 2005**.

Table MA:5

MARKET ACCESS: Japan

REPORTING PERIOD: Fiscal year 2005 (from 1 April 2005 to 31 March 2006)

Annual summary of special safeguard actions taken

Tariff item number	Description of product	Whether volume-based action taken during period	Whether price-based action taken during period
1	2	3	4
0401.20.190	Milk and cream, not concentrated nor containing added sugar or other sweetening matter; - of a fat content, by weight, exceeding 1% but not exceeding 6%, sterilized, frozen or preserved	Date of application: from 1 July 2005 to 31 March 2006	None
0402.21.119	Milk powder, not containing added sugar or other sweetening matter; - of a fat content, by weight, exceeding 5% but not exceeding 30%	None	Date of application: 22 April 2005
0403.10.190	Yogurt; - frozen, preserved or containing added sugar or other sweetening matter, flavouring, fruits or nuts (excluding frozen yogurt)	Date of application: from 1 February 2006 to 31 March 2006	None
1101.00.200	*Wheat or meslin flour*	*None*	Date of application: 6 March 2006

1102.30.090	*Rice flour*	*None*	Date of application: 5 October 2005
1108.20.090	Inulin	None	Date of application: 28 May 2005, 27 October 2005
1901.20.159, 1901.90.179	Food preparations of flour, meal or starch, containing one or more of those groats, meal, pellets of rice, wheat, triticale, barley or starch, which total weight is more than 85 percent of the articles and mostly containing starch	Date of application: from 1 February 2006 to 31 March 2006	None
1901.90.179	Food preparations, containing groats, meal, pellets or starch of rice, wheat, triticale, barley, which total weight is more than 85% of the articles and mostly containing starch	None	Date of application: 18 April 2005, 14 July 2005, 13 October 2005, 14 October 2005, 20 October 2005, 21 October 2005, 20 December 2005, 10 January 2006, 20 January 2006
2106.90.129	Food preparations containing by weight not less than 30% natural milk constituents on the dry matter	None	Date of application: 28 February 2006

Attachment 5

WTO Services Trade Negotiations
Outline of Japan's Initial Offer

April 2003

1. General Presentation

(1) Making Offers to Bind Liberalization Measures

- Japan takes the initiative in tabling its initial offer with a view to advancing the negotiation on trade in services, standing on the basic belief that liberalization of trade in services would benefit both the importing and exporting Members, by increasing the inflow of foreign direct investment and employment, facilitating transfer of technology, revitalizing market activities, multiplying consumers' choices and so forth.
- In particular, Japan proactively makes offer in those sectors where it has promoted liberalization and deregulation since the conclusion of Uruguay Round.

(2) Considerations for the Modes and Sectors of Interest to Developing Countries

- In its initial offer, Japan has improved its commitments in modes and sectors of interest to developing country Members such as Movement of Natural Persons, Business Services, and Tourism.

(3) Other Considerations related to Negotiations

- Japan's offer is conditional upon submission by its negotiating partners of sufficient offers – i.e. commitments of a comparable level to those of Japan for developed country Members and sufficient improvement of commitments in light of the respective levels of development for developing country Members.
- Japan also reserves the right to modify, extend, add to, reduce or withdraw its offer both in technical and substantial manner, in those sectors where discussions on classification, definition and other technical and substantial issues are still under way.
- In preparing its offer, Japan has seriously examined all the requests received from Members. It, however, refrains from making offer in those sectors and items which it is not convinced is within the scope of GATS, or on those items which are by their nature suitable for bilateral arrangements rather than for multilateral negotiations.
- Japan has not reduced in any part of its offer the level of commitments it has undertaken in the course of Uruguay Round and its extended negotiations. It has added or modified CPC numbers, footnotes, etc. where necessary, in order to further clarify its commitments.

(4) MFN Exemption

- As the Most Favored Nation (MFN) principle is expected to be applied to Maritime Transport Services when negotiations on the sector come to a successful conclusion, Japan herewith submits MFN exemptions in this sector. This, however, does not represent any changes in Japan's basic position of attaching particular importance to the MFN principle, and it will pursue MFN-based liberalization to the extent

possible, including on these items.

(5) Establishment of Additional Horizontal Disciplines

- In parallel with the request-offer procedure, Japan will actively participate in negotiations for establishing horizontal disciplines on domestic regulations, paying due consideration to legitimate policy objectives.

2. Outline of Japan's Initial Offer

(1) Horizontal Commitments (**Movement of Natural Persons**)

- Japan has already made commitments for 'Intra-corporate Transferee' and 'Temporary Visitor' as stipulated in *"the Immigration Control and Refugee Recognition Act"*. Additionally, it now offers to take commitments on the Statuses of Residence of 'Legal/Accounting Services,' 'Engineer' and 'Specialist in Humanities/International Services'.

(2) Individual sectors

- Regarding **Legal / Taxation Services**, in addition to supply of services by natural persons ('Bengoshi,' 'Benrishi' and 'Zeirishi'), Japan now offers to take commitments on supply of services by profession corporations ('Legal Profession Corporation,' 'Patent Business Corporation' and 'Certified Tax Accountant Corporation').
- Regarding **Placement and Supply Services of Personnel**, based on the revision of "*the Worker Dispatching Law*", Japan offers to remove the limitation on the number of licenses conferred to service suppliers, as well as to expand the scope of occupations for which these services may be supplied.
- Japan offers to take new commitments in some of the **Other Business Services** which it has not committed (Investigation Services, Telephone Answering Services, Mailing List Compilation and Mailing Services, etc.).
- On **Courier Services** where Japan has not made commitments in the Uruguay Round negotiations, it now offers to take commitments on Correspondence-delivery Services supplied by Special Correspondence Delivery Business, based on the recent implementation of *"the Law Concerning Correspondence Delivery Provided by Private-Sector Operators"*.
- Regarding **Telecommunications Services**, Japan has reserved limitation on the foreign capital participation as well as the nationality requirements on board members and auditors for NTT and KDD. Based on the regulatory reform in this sector, it now offers to remove reservation on KDD, and offers to relax the limitation on the foreign capital participation for NTT (from 20% to 33%).
- On **Distribution Services**, Japan newly offers to include salt in its standing commitments.
- On **Educational Services**, Japan offers to make commitments on 'Adult Educational Services' and 'Other Education Services' in general, where in the past it has only made commitments with respect to 'foreign language tuition services for adults'.
- Japan has rearranged its commitments on **Environmental Services** according to the new classification that is currently being proposed. It does not offer commitments

on Water for Human Use, as a consensus among Members on classification in this sector is yet to be seen.

- Already having committed to high level of liberalization on **Financial Services** in the 1997 financial services negotiations, Japan now offers to take commitments on liberalization measures based on the revision of laws thereafter (removal of compulsory reinsurance of automobile third party liability insurance reflecting the revision of "*the Automobile Liability Security Law*", etc.).
- Japan offers to take commitments on all of the uncommitted sub-sectors under **Tourism and Travel related Services**, including Children's Holiday Camp Services, and now offers full commitment on the whole sector.
- On **Maritime Transport Services**, on which Members have not necessarily made sufficient commitments due to the suspension in 1996 of the negotiations, Japan now offers to take commitments based on the Model Schedule (International Maritime Transport Services and Maritime Auxiliary Transport Services, etc.).

Japan
Conditional Revised Offer

June 17 2005

The Government of Japan today submitted its conditional revised offer to the WTO Secretariat. This offer is based on the request-offer negotiations undertaken on a bilateral basis as well as the on-going discussions that have been made on various occasions. This offer was also developed taking into full account the interests of developing countries. It also does not have any a priori exclusion regarding sectors and modes of supply.

The Government of Japan expects that WTO Members will submit revised offers which achieve a higher level of liberalization and a higher degree of transparency and clarity, based on initial and revised requests presented by Japan and the discussions made so far in the Council for Trade in Services.

Japan has also offered new commitments in the Audiovisual services sector amid the on-going negotiations in UNESCO of the Cultural Diversity Convention. Japan is of the firm view that increased cultural exchange is the best way to promote cultural diversity, and hope that other WTO Members will reciprocate accordingly.

This paper will explain major points of improvement in this revised offer.

A. HORIZONTAL COMMITMENTS

Japan has enhanced both liberalization and comparability on the scheduled commitments regarding the entry and temporary stay.

1. Common Categories

Taking into account the communication from Bulgaria, Canada, the European Communities and Romania (TN/S/W/32) and the communication from Argentina, Bolivia, Brazil, Chile, Colombia, India, Mexico, Pakistan, Peru, Philippines, Thailand and Uruguay (TN/S/W/31), Japan improved comparability and clarity in the scheduled commitments on the entry and temporary stay of a natural person by using common categories such as "intra-corporate transferees," "independent professionals," "business visitors" and "contractual service suppliers" and common sub-categories such as "executives," "senior managers" and "specialists." The category d) in the revised offer covers the movement of a natural person based on a contract between a juridical person in Japan and a natural person, and does not cover contracts between juridical persons in Japan and the sending country.

2. Addition of new service suppliers in the category of Independent Professionals

In the category of Independent Professionals, Japan is offering commitments on the following four new service suppliers;

- **(i) A juridical scrivener qualified as "Shiho-Shoshi" under Japanese law**
- **(ii) An administrative scrivener qualified as "Gyosei-Shoshi" under Japanese law**
- **(iii) A certified social insurance and labour consultant qualified as "Shakai-Hoken-Romushi" under Japanese law**

(iv) A land and house surveyor qualified as "Tochi-Kaoku-Chosashi" under Japanese law

3. Greater certainty in the category of Contractual Service Suppliers (natural person)

In its initial offer, Japan offered a new category d) concerning specialists in natural sciences and humanities/international services. However, some WTO Members indicated that it is not clear as to which service sectors this category applies to. In response to these comments, Japan has clarified in a footnote several typical service sectors or sub-sectors that this category is intended to cover.

B. BUSINESS SERVICES

1. Legal services

Japan is offering new commitments in legal services, with necessary limitations, provided by a judicial scrivener qualified as "Shiho-Shoshi," an administrative scrivener qualified as "Gyosei-Shoshi," a certified social insurance and labour consultant qualified as "Shakai-Hoken-Romushi" and a land and house surveyor qualified as "Tochi-Kaoku-Chosashi." With such improvements, all categories in legal services that need a qualification have been offered as commitments.

In legal advisory services on law of jurisdiction where the service supplier is a qualified lawyer, Japan offered new additional commitments that registered foreign lawyers (Gaikokuho-Jimu-Bengoshi) are able to employ Japanese lawyers (Bengoshi). Japan has confirmed that there are no limitations on both market access and national treatment under mode 2.

Japan has adopted common terminologies in line with Joint Statement on Legal Services (TN/S/W/37).

2. Accounting, auditing and bookkeeping services

Japan's initial offer on accounting services was limited to those provided by an accountant qualified as "Koninkaikeishi." The revised offer has been expanded to include commitments on accounting services provided by a service supplier not qualified as "Koninkaikeishi."

3. Taxation services

Japan's initial offer on taxation services was limited to those provided by a tax accountant qualified as "Zeirishi." The revised offer has been expanded to include commitments on taxation services provided by a service supplier not qualified as "Zeirishi."

4. Architectural services

In the initial offer, Japan scheduled commitments on services provided by both a service supplier qualified as "Kenchikushi" and a service supplier not qualified as "Kenchikushi." The scope of each commitment encompassed four different service sub-sectors (architectural services, engineering services, integrated engineering services and urban planning and landscape architectural services), there was a room to improve clarity in the scope of commitment. In the revised offer, Japan improved the clarity by scheduling these four sub-sectors separately.

5. Engineering services and integrated engineering services

Japan is offering new commitments in engineering services related to petroleum, petroleum products, gas and minerals, all of which were excluded in the initial offer.

6. Rental and leasing services, without operators relating to ships

Japan is offering new commitments in the rental and leasing services without operators relating to ships, with some limited reservations.

7. Technical testing and analysis services

Japan is offering new commitments regarding technical testing and analysis services covered by the Measurement Law and technical testing and analysis services for manufactured goods which are not covered by the Measurement Law.

8. Placement services of personnel and Supply services of personnel

Regarding the supply services of personnel, Japan has withdrawn a reservation on "manufacturing work stipulated in the Ministry of Health, Labour and Welfare Ordinance."

Japan improved the commitments regarding market access under mode 1 in both the placement services of personnel and the supply services of personnel, from "unbound" to "commercial presence is required."
Some WTO members indicated that, in Japan's initial offer, it was unclear as to which activities were included in the placement services of personnel and the supply services of personnel respectively. In response to these comments, Japan has enhanced the clarity by providing examples of activities which are covered by these services in a footnote.

C. COMMUNICATION SERVICES

1. Postal and Courier services

In line with the Guidelines for scheduling commitments concerning postal and courier services, including express delivery (TN/S/W/30), Japan has adopted a common classification by which the activities scheduled are described under Postal and Courier Services.

Japan is offering improvement in market access and national treatment commitments under mode 1 in Special Correspondence Delivery Business.

2. Audiovisual services

Japan is offering improvements in market access and national treatment commitments under mode 1 in Motion picture projection services.

D. DISTRIBUTION SERVICES

Japan is offering new commitments with a limited reservation on distribution services related to petroleum and petroleum products and distribution services supplied at Public Wholesale Market, both of which were excluded in the initial offer.

E. TRANSPORTATION SERVICES

Japan is offering new commitments on maintenance and repair of vessels with some limited reservations in both Maritime Transport Auxiliary Services and Internal Waterways Transport Services.

Attachment 6

TN/RL/W/190
28 October 2005
(05-5015)
Negotiating Group on Rules Original: English
SUBMISSION ON REGIONAL TRADE AGREEMENTS
Paper by Japan
The following submission, dated 28 October 2005, is being circulated at the request of the Delegation of Japan.

_____

I. INTRODUCTION

In this submission, Japan has put forward the following proposals as our contribution to the efforts in this Group of Negotiations to clarify the WTO rules for RTAs. The proposals are based upon the following understandings:
(1) As regards RTAs' consistency with WTO rules, many members have been involved in RTA negotiations under the general perception that duty elimination needs to cover at least 90% of trade between the parties, that no exclusion of a major sector is allowed and that the transition period should not exceed ten years.
(2) This Group has developed discussions and has reached the recognition that a trade-based coverage benchmark, which Japan favors, has both advantages and disadvantages and that the disadvantages need to be supplemented by some other measures.
(3) In our examination of RTAs, a comprehensive approach needs to be taken evaluating not only the quantitative aspect but also the qualitative aspect.
Japan reserves our right to submit additional proposals depending on the subsequent progress to be made in the discussion, and is open to further discussion on any issue indicated in this paper.

II. BASIC PRINCIPLES ON QUANTITATIVE BENCHMARK

In interpreting the requirements of "Substantially All the Trade", the quantitative benchmark has crucial importance and in defining or applying new rules governing RTAs, there are several elements we should bear in mind as basic principles.
(1) The quantitative benchmark should be defined in such a way as to effectively avoid exclusion of products with a large trade flow. The benchmark should be as simple as possible. The specific figure as a threshold of the benchmark should be discussed at later stage when more convergence is achieved in many related issues. Japan would like to make a contribution at that stage of the discussion.
(2) The RTA's consistency with the benchmark should be examined based on the duty elimination agreed to be completed within the transition period.
(3) An adequate transition period should not exceed ten years, but it should be further discussed in what exceptional cases a longer period may be admitted, and whether a positive evaluation could be given for duty elimination beyond the transition period in the context of the qualitative benchmark.

III. COMPARISON OF COVERAGE TEST BETWEEN TRADE BASE AND TARIFF LINE BASE

1. Distinctive differences between the two tests

Between the two types of quantitative benchmarks on coverage, a tariff line-based test[1] does not reflect the trade volume of products, although it is irrespective of trade fluctuation, and consequently can score a high coverage rate even when it allows a higher exclusion of products with a large trade volume. This concern tends to be more conspicuous when trade among RTA parties concentrates only limited number of products.

On the other hand, a trade-based test does not cover products with no trade, although it reflects an actual pattern of trade, and as a result it is likely to allow a higher exclusion in products with no trade.

2. Which test is preferable and more ambitious?

In the case of products with a large trade volume, duty elimination would lower the price of imported products by the extent of the previous tariff level, and would usually expand the volume of those imports.

As for the products with no trade, reasons why there is no trade varies, from the restrictive effects of high tariffs, to the market conditions such as the lower price of domestic products, a lack of extra-supply in the exporting country and an absence of demand in the importing country. Therefore, duty elimination in products with no trade would not always lead to the expansion of imports. In terms of its effect on trade expansion, it is Japan's view that a trade-based test would be our preferred option.

In the discussion of this Group some Members contended that a tariff line-based test is more ambitious, but we wonder if it is true. Under a tariff line-based test, parties can raise the coverage rate to fulfil the benchmark by merely eliminating duty in products with no trade. Therefore, if only a tariff line-based test is applied, the duty elimination of products with a large trade volume would be less encouraged than in the case when a trade-based test is applied. Given the effects of these two tests, the tariff line-based test is not always more ambitious than the trade-based test.

[1] Members have proposed various types of tariff line-based tests. In general, those tests require elimination of duties on most products, for instance, at least 95 percent of tariff lines at six-digit level of
Harmonized System.

3. Which test should be adopted for the coverage benchmark?

Considering these elements, Japan, who puts priority on the trade expansion and less exclusion of products with a large trade volume, prefers a trade-based test as the primary methodology of the coverage benchmark. This position is reinforced by the fact that a trade-based test has been traditionally favored by many countries and has the advantage of being able to show a good reflection of the actual trade flow.

IV. SUPPLEMENTS TO THE TRADE-BASED TEST

In adopting the coverage benchmark on a trade basis, the following are the possible difficulties we need to address:

(1) The coverage rate is subject to the fluctuation of trade flow.
(2) The coverage rate may be mismatched with a possible trade pattern in the future.
(3) Duty elimination may be underestimated in products with no trade.

These difficulties will persist as far as the trade volume is used for a benchmark either for a coverage rate test or for some other supplementary test. Combining a trade-based

test with a tariff line-based test for a coverage rate may be among the options we can explore to lessen the negative effects of these difficulties, but a mere simple combination may not provide us with a satisfactory solution.
In this sense, Japan proposes, as the coverage benchmark, a trade-based test accompanied by some supplementary measures designed to address the exact difficulties. The following are some examples of supplementary measures we may take in order to address the three problems mentioned above.

1. Coverage rate is subject to the fluctuation of trade flow
Although we share the concern that trade fluctuation may make the coverage figure too volatile to accurately examine the nature of RTAs, if we use the same trade data for our reviewing of RTAs as that used by contracting parties during RTA negotiations, the coverage rate can be independent from trade fluctuations for reviewing purposes. In other words, in the reviewing process we should use, for coverage calculation, the latest trade data available upon the completion of the agreement (i.e. upon the RTA's signature or its entry into force depending on the situation). In that case, trade data may be the average of three or more years rather than that of single year in order to mitigate the fluctuation of every year.
As for the subsequent fluctuation of trade, we can update the coverage rate accordingly, and if we conduct a periodic reviewing thereafter, we could continue an appropriate examination of RTAs and would be mostly relieved of the difficulty resulting from year by year trade fluctuation.

2. Coverage rate may be mismatched with a possible trade pattern in the future
Upon the completion of RTAs, it is hard to foresee a future trade pattern and the supply demand situation, and a one time review on the coverage rate might possibly be outdated. However, the above-mentioned periodic reviewings would enable us to respond to the subsequent change in trade flow and again would provide us with a solution to this difficulty. A trade-based test can especially serve as a good sensor to emerging trade flow, which would lower the coverage rate by increasing the denominator, if the trade is created in excluded products that still maintain a duty.

3. Duty elimination may be underestimated in products with no trade
In the case where high tariff precludes the possibility of future trade creation, a trade-based test will give parties no incentives to improve the situation since that test underestimates the duty elimination in a product with no trade. Another approach rather than just a periodic reviewing should be considered to address this concern.
One possible solution is that we calculate the percentage number of products whose previously maintained WTO bound rate is eliminated with the RTA among the total number of products with no trade. This calculation will provide us with a more effective method to evaluate Member countries' efforts to eliminate duties than an ordinary coverage rate that counts products with zero duty by WTO bound base as well as those agreed in the RTA. This calculation can also induce parties to be prepared for any trade pattern in the future, responding to our concern mentioned in (2) above.
The tariff classification used for this calculation should be made at the HS 6 digit level, which is the internationally harmonized classification in order to avoid the discretionary reclassification of the tariff at 8 or 9 digit level, i.e. the HS 6 digit level plus a national subdivision, so as to increase the coverage.

V. ISSUES TO BE EXAMINED AS THE QUALITATIVE BENCHMARK

For a coverage benchmark to appropriately evaluate RTAs, it needs to take a comprehensive approach by taking account of the qualitative benchmark that will play a complementary role to the quantitative benchmark of the coverage rate. We should further discuss ways a qualitative assessment is used and linked, positively or negatively, with the coverage rate in our evaluation of "Substantially All the Trade". The following are some of the issues Japan considers as relevant for qualitative examination, and this Group should further discuss how these should be evaluated and factored respectively in the coverage benchmark.

1. Tariff elimination with a longer transition period

It is also important to give due regard to products whose duties will be eliminated not within a transitional period. These types of products may be treated differently from those just excluded from duty elimination without any commitment.

2. Assessment of tariff quotas

When a tariff quota is introduced in products whose high tariffs limit their market access opportunity, its effect upon trade expansion may be the same as that of duty elimination in certain cases. Due consideration should be given to trade promotion effects of tariff quotas.

3. The extent of tariff reduction

The extent of trade expansion under an RTA significantly varies depending on whether the previously applied rate was high, low, or zero. It is questionable if these products should be treated in the same way without distinction.

4. Impact of RTAs upon Development

RTA's positive impacts on development in various economic activities for the parties of the RTA who are developing countries should be qualitatively assessed in some manner. Due consideration should be given to these developmental aspects in the application of the benchmark of RTAs.

5. Influence of measures of trade remedy

Fair assessment should be given to the application of safeguard measures or the abusive use of anti-dumping measures that have similar effects with the withdrawal of concessions to eliminate tariff.

6. Exclusion of a major sector

Total exclusion of a major sector should not be allowed in a RTA even if it fulfils the quantitative test of coverage. Further examination is necessary on how this issue should be fairly handled.

QUESTIONS SUBMITTED BY ECONOMIES

Specific questions and comments

IAP Chapter 1: **Tariffs**

- 1. (Hong Kong) We commend Japan for voluntarily eliminating or reducing tariffs on 32 items from the industrial sector in April 2006 and for its plan to progressively reduce applied tariffs on industrial alcohol and petroleum products in several years. We also note that Japan will consider progressively reducing bound tariffs. We encourage Japan to set out concrete timelines in its IAP when available.

Reply from Japan

As for the reduction of applied tariffs on industrial alcohol and petroleum products, concrete timeline has been set up and will be presented on the next IAP.

IAP Chapter 2: **Non-Tariff Measures**

- 2. (Hong Kong) We note that Japan's NTMs are in accordance with WTO provisions and for fulfilling international obligations. Nevertheless, for the sake of trade facilitation, we encourage Japan to regularly review its NTMs with a view to reducing their applications as far as possible.

Reply from Japan

Japan recognizes the importance of reducing Non-Tariff Measures to enhance trade facilitation, as seen in the statement of the Minister of Economy, Trade and Industry, at the time of MRT in 2006, which emphasized the necessity of further discussions on trade facilitation. Japan intends to continue its efforts on this matter.

IAP Chapter 3: **Services**

Business Services (Legal) (a1):

- 3. (Hong Kong) "Licensing and Qualification Requirements of Service Providers": We would like to know whether there is any citizenship or residency requirement for the criteria for registration as foreign lawyers.

Reply from Japan

Citizenship (in this context, “citizenship” means nationality or status of permanent residency) is not required to be registered as foreign lawyers. However, a Foreign Lawyer Registered in Japan shall be required to stay in Japan for not less than 180 days per year.

- 4. (Canada) Foreign Entry. Can Japan please clarify if a foreigner is permitted to

apply for qualification as an "Attorney at Law" under Japanese Law? If yes, thus, is a Foreign Lawyer permitted to practice domestic (Japanese) law if deemed qualified?

Reply from Japan

Japanese nationality is not a requirement of qualification as an Attorney at Law(Japanese Lawyers).

To be qualified as an Attorney at Law(Japanese Lawyer), a person is required to pass the bar examination, complete the Supreme Court's Legal Research and Training Institute and register with the Japan Federation of Bar Associations.

- 5. (Hong Kong) "Foreign Entry": We would like to know whether (i) there is any citizenship or residency requirement for practising Japanese Law in Japan; (ii) there are any exemptions granted or recognition of overseas qualifications; and (iii) there are any mutual recognition arrangements for legal qualification for the purpose of practising Japanese Law.

Reply from Japan

(i) Neither citizenship (in this context, "citizenship" means nationality or status of permanent residency) nor residency is required. However, commercial presence is required.
(ii) Neither exemption nor recognition is granted with respect to domestic law. Recognition as a Foreign Lawyer registered in Japan does exist.
(iii) There are no mutual recognition arrangements for Attorney at Law(Japanese Lawyer).

Communication Services (Postal)(b1):

- 6. (US) Japan has made important progress in its reform of Japan Post, including its plan to begin privatization in 2007. Many foreign companies remain concerned that Japan Post – particularly with such a large share of Japan's package delivery, banking, and insurance markets – will continue to be accorded special government privileges and favors that will harm the competitive situation with companies engaged in like businesses. What steps is Japan taking to ensure that all of Japan Post's current advantages are fully eliminated and that the Japan Post successor entities are subject to the same regulatory, legal, and other obligations as those faced by private express carrier, banking, and insurance companies?

Reply from Japan

1. From the beginning of the privatization transition period (October 2007), the Postal Savings Bank and the Postal Insurance Company will be supervised by the Financial Services Agency under the Banking Law and Insurance Business Law, which regulate private banks and insurance companies. In addition, they will be subject to the same

tax obligations and accounting standards as other private sector stock companies, including those when engaging in public capital market transactions.

During the transition period that the Japan Postal Services Holding Company dispose of stocks of the Postal Savings Bank and the Postal Insurance Company in a phased manner, some business restrictions will be imposed on the Postal Savings Bank and the Postal Insurance Company as special provisions to the Banking Law and the Insurance Business Law. The initial scope of their business will be same as that of the Japan Post. Future expansion of business scope is to go through a transparent and fair procedure whereby the Prime Minister (whose power is delegated to the Commissioner of the Financial Services Agency) and the Minister of Internal Affairs and Communications, upon hearing an opinion from the Postal Services Privatization Committee (a third-party organization comprised of intellectuals), will decide on such expansions, based on the due consideration on fair conditions of competition and business conditions of the Postal Savings Bank and the Postal Insurance Company.

2. It is considered that an equal footing will be secured between the Postal Service Company and the private sector by the following:

(a) tax liability such as corporation tax and the application of freight transportation laws and ordinances in the same manner as other companies in the same trade;
(b) requirement for approval of Minister of Internal Affairs and Communications in the event of new business being implemented;
(c) obligation to disclose the status of profit and loss classified into postal services business and other businesses, from the perspective of avoiding unfair cross-subsidisation; and
(d) during the transitional period, in the event of (b) being sought, the obligation to seek the opinion of the Postal Services Privatization Committee and to give consideration to ensure that the new businesses does not unfairly damage the interests of other companies engaged in the same type of businesses.

Communication Services (Telecommunications) (b3):

- 7. (Canada) Japan's requirements for approval for a telecommunications business include: "an adequate financial basis and a technical capability to properly perform a telecommunications business pertaining to its application; and, the plan of the telecommunications business pertaining to its application shall be reliable and rational". Please advise how Japan determines if a business plan is reliable? What factors does Japan take into consideration to determine if a business plan is rational?

Reply from Japan

Ministry of Internal Affairs and Communication judges a plan as "reliable and rational" after examining following two points based on the Article 8 of the Examination Standards Regarding the Telecommunications Business Law(MIC Instruction No.75) and finding the plan satisfying both points.

a) Where the fund raising plan for such a telecommunications business by the applicant is drafted in a rational manner
b) Where the repayment plan for such a telecommunications business by the applicant is drafted in a rational manner

[For your Reference]
Examination Standards Regarding the Telecommunications Business Law (MIC Instruction No. 75)
http://www.soumu.go.jp/joho_tsusin/eng/Resources/Manual/Entry-Manual/Chap10.html#3

(Examination Standards for Approval)
Article 8.
Approval shall be granted where it is deemed that an application for approval is in compliance with each of the following items:

i) Related to Article 119 item i) of the Law
a) Where the fund raising plan for such telecommunications business by the applicant is drafted in a rational manner
b) Where the repayment plan for such telecommunications business by the applicant is drafted in a rational manner

Telecommunications Business Law (Law No. 86 of December 25, 1984)

(Approval Standards)
Article 119.
The Minister shall not grant approval under Article117 paragraph (1), unless it is deemed that an application for approval of the same paragraph meets any of the following items:

ii) The plan of the telecommunications business pertaining to its application shall be reliable and rational.

Environment Services (f):

- 8. (Hong Kong)"Foreign Entry": We note that there is no commitment in mode 4 except as indicated in the Horizontal Commitment in market access and national treatment listed for supply of services in mode 4. We would like to have details in this regard.

Reply from Japan

The current entry requirements appearing on page 64 of the APEC-IAP regarding Foreign Entry described as “no commitment in mode 4 except as indicated in the Horizontal Commitment” is to be interpreted to mean that Japan has made commitments in mode 4 horizontally across sectors, which are manifested in the Horizontal Commitments section of the GATS Scheduled commitments. These commitments are hence applicable to all sectors including environmental services, and divided into four different categories, i.e., (a) Intra-corporate transferees, (b) Independent Professionals, (c) Business Visitors and (d) Contractual Service Suppliers (natural person).
Categories under which the natural persons providing environmental services would be permitted to enter Japan, if certain conditions are met, are (a), (c) and (d) above.

Under category (a), a natural person who falls under the definition of (i) executive, (ii) senior manager or (iii) specialist are permitted to provide services including environmental services in his capacity as an employee of a juridical person by a WTO Member other than Japan provided.

Under category (c), a natural person is permitted to stay in Japan for a period not exceeding 90 days for the purposes of participating in business contracts.

Under category (d), a natural person who is engaged in one of the identified categories of activities during its temporary stay in Japan for a period of one or three years, which may be extended, on the basis of a personal contract with a public or private organization in the territory of Japan, is permitted to enter into Japan. The activities pertinent to the provision of environmental services are those requiring technology and/or knowledge at an advanced level pertinent to physical sciences, engineering or other natural sciences under the status of residence of "Engineer".

- 9. (Canada) In the WTO context, Japan has made market access commitments/offers in the GATS under modes 2 and 3 for sewage services, refuse disposal services, sanitation and similar services, cleaning services of exhaust gases, noise abatement services, vibration abatement services, nature and landscape protection services, and other environmental protection services. Mode 4 remains unbound except as indicated in the horizontal section (commitments on contract service suppliers and independent professionals do not cover environmental services). In these same sub-sectors, Japan remains unbound for mode 1 due to lack of technical feasibility. In Canada's view, the cross-border supply of services is technically feasible for the entire range of environmental services. We feel that mode 1 commitments can be comprehensive, going beyond consultancy services, particularly for the following services which could be provided to private organizations and individuals: nature and landscape protection services, air pollution control services, noise abatement services and other environmental protection services. In the case of so-called environmental infrastructure services, Canada has identified clear examples of environmental services being supplied via Mode 1 (electronic monitoring of sewage levels/quality, garbage truck that crosses the border to supply refuse disposal services, etc).
  Is Japan considering making mode 1 commitments for the entire range of environmental services? Will Japan be making horizontal commitments on contract services suppliers and independent professionals that cover environmental services?

Reply from Japan

The Government of Japan has been considering the possibility of technical feasibility of environmental services supplied via mode 1, and thus far concluded that our approach on this issue remains the same. Japan is therefore not currently considering making mode 1 commitments for the entire range of environmental services, though this is not to prejudge possibilities of our future reconsideration.

Regarding horizontal commitments on contractual service suppliers (natural person), please refer to the answer to the question from Hong Kong above. Japan is not currently considering making commitments covering independent professionals providing environmental services.

Financial Services(g):

- 10. (Hong Kong)"Foreign Entry": We note that local subsidiaries should have capital of at least one billion yen while a branch of a foreign insurance company must deposit two hundred million yen with the nearest deposit office. We would like to know whether the same capital requirement for local subsidiaries is applicable to foreign insurer.

Reply from Japan

"Insurance company" of Japanese Insurance business law (those who obtained a license from the Prime Minister, according to the Insurance business law Article 3-1) is required to have minimum capital of 1 billion yen (Insurance business law Article 6, Enforcement Regulation of Insurance Business law Article 2-2).

This capital requirement also applies when a foreign insurance company enters into Japanese insurance market by establishing its subsidiary in Japan, as the subsidiary must be an "insurance company" under Japanese Insurance business law.

Recreational Cultural and Sporting Services (j):

- 11. (Hong Kong)We commend that Japan has no legal restrictions on the supply of entertainment or cultural services. We would like to know more about Japan's regulations on the sports industry.

Reply from Japan

As you can see in Japan's IAP, there are no laws and regulations which restrict the supply of sporting services.

Energy Services (l):

- 12. (Chinese Taipei) (Section: Reform of Industry/ Sector Specific Regulation 7, Column: Improvements Implemented Since Last IAP, Page 167)

  Japan's IAP indicates that Japan has implemented the regulation reforms on electricity industry system to enhance fairness and transparency in the network sector; moreover, Japan plans to implement the promotion of nationwide network utilization. Which critical measures does the Japanese Government adopt in order to achieve such targets? In addition, will there be any specific statutory regulation on improving and promoting the nationwide network utilization?

Reply from Japan

In Japan, to secure the fairness and transparency of the network function, implementation of the behavioral regulation, prohibition of the use of information for purposes other than the intended purpose in the wheeling service, prohibition of cross-subsidies (separation of accounts), and prohibition of discriminatory treatment are ensured as legal obligations.

And Electric Power System Council of Japan (ESCJ), consisting of incumbent utilities, new entrants, other network users, and academic experts in which the neutrality of governance is secured was established. This body shall formulate rules and monitor their implementation, relating to the system operation.

In order to promote nation-wide power system utilization, in the amended Electricity Utilities Industry Law and the ministerial ordinance, wheeling charge system by each service areas on the contract path from generator to customer, so-called pancake system, where power trade is charged each time it crosses franchise areas, was abolished, and the uniform transmission system utilization charges have been introduced in each utility's service area, which do not reflect the status of whether cross-area transactions took place or not.

- 13. (Chinese Taipei)(Section: Reform of Industry/ Sector Specific Regulation 7,Column: Current Regulatory Review Policies/ Arrangements, Page 168) Japan's IAP states that METI "will amend the ordinance [which ordinance is unclear] in a timely fashion in order to expand the scope of retail liberalization." Please explain the procedure of the liberalization in the Japanese retail gas sector. What would be the major concerns that amendment involves?

Reply from Japan

In Japan, partial liberalization of gas retail activities was first introduced in 1995. From then on, scope of retail liberalization was expanded in a stepwise fashion. Based on the status of the implementation of liberalization, next ordinance amendment includes the further expansion in the scope of retail liberalization and the revision of calculating method of transmission service fee.

Tourism and Travel Related Services (l):

- 14. (Canada) Under Operational Requirements, Licensing and Qualification Requirements of Service Providers, and Foreign Entry, Japan indicates that "No commitments exist in terms of national treatment and market access for Mode 4, except as indicated in the horizontal commitments of the Schedule of Specific Commitments." In each of these categories, Japan additionally notes that no restrictions exist in terms of either national treatment or market access, except as indicated in the horizontal commitments of the Schedule of Specific Commitments of the GATS. The former statement is accurate as Japan's GATS schedule reads, "Unbound except as indicated in Horizontal Commitments under both market access and national treatment columns in respect of Mode 4. Given this, the second statement is unclear. Could Japan please clarify?

Why does the sectoral report not make reference to the other sub-sectors and mode of supply where no commitments have been made (i.e., Mode 1 for hotel and restaurant services (excluding catering) and tourist guide services)?

Reply from Japan

No commitments exist in terms of national treatment (NT) and market access(MA) for mode4, except as indicated in the horizontal commitments of the Schedule of Specific Commitments. For Mode 1, 2 and 3, Japan additionally notes that no restrictions exist in terms of either NT or MA, while Mode 1 for hotel and restaurant services (excluding catering) and tourist guide services is unbound due to the lack of technical feasibility.

The sector report does not refer to Mode 1 for hotel and restaurant services (excluding catering) and tourist guide services, because they are not technically possible.

Professional Services (including accounting services):

- 15. (US) There is concern about the continuing presence of significant barriers to entry in a range of professional services. We acknowledge that Japan has taken significant steps to ease entry into legal and educational services; the Joint Law Firms system, implemented on 01 April 2005, was an important development. However, barriers to entry for professional services remain high in medical services, accounting and auditing. For example, foreign professionals are unable to offer accounting services, because current regulations demand that foreigners pass a special examination; unfortunately, this special test has not been administered since 1975. How is Japan addressing these barriers to entry in professional services? What restrictions are under consideration for removal or amelioration?

Reply from Japan

To engage in the medical services in Japan, they are required to obtain Japanese medical licenses. And in March this year, we removed the limitation on the practice of the foreign doctors who have Japanese medical licenses.

Meanwhile, under the accounting and audit system of Japan,

(a) Regardless of nationalities, those who have passed Japanese CPA examination are entitled to provide audit certification services in Japan. In addition, anyone is entitled to provide accounting related services (e.g. compilation services of financial statements, services to examine or plan financial affairs, or consultation services in the accounting area), except for audit certification services, even if he/she is not qualified as a Japanese CPA. In practice, many foreign citizens and entities have already provided those services.
(b) The system of CPA examinations was streamlined from those with five steps (under three-phase) to those with two steps (under a single-phase) since January 2006, which made it easer for foreign nationals to take the exam.

Accordingly, we do not recognize the entry barrier to accounting services of Japan to be particularly higher than those of other countries.

On the other hand, we currently believe it is difficult to permit those who are only licensed as foreign CPAs to provide audit certification services, since it is not easy to assure sufficient audit quality, where differences exists in the areas of accounting standards, company laws, and etc.

If all conditions (such as the integrated framework to assure equivalent audit quality world-wide or information sharing system to secure simultaneous communication among countries, especially at the time of suspending auditors' license at home country) are satisfied, which enables us to consider mutual recognition of CPA qualification, we will positively consider joining the international framework of mutual recognition.

IAP Chapter 4: **Investment**

- 16. (Chinese Taipei) We see that the chapter on Investment in Japan's IAP mentions that Japan's government is putting a great deal of effort into carrying out a plan to increase foreign investment in Japan, in accordance with instructions from Prime Minister Koizumi. It also states that Japan is considering the signing of bilateral investment agreements with various APEC member economies, under plurilateral and multilateral frameworks. We would therefore like to suggest that Japan consider signing such an agreement with us in order to encourage our business people to invest in Japan.

Reply from Japan

We regard Chinese Taipei as an advanced economy having a lot of flexibility of foreign direct investment. In the view point of facilitating inward direct investment, Chinese Taipei and Japan have many similarities. Due to it, both economies have exchanged their opinions and have built a good relationship to promote investment each other. We expect that we will continue positive business cooperation with Chinese Taipei.

- 17. (Hong Kong) We commend Japan for its continuous efforts in liberalizing its investment regime and increasing transparency of its regime to foreign investors. We note that prior authorization is required for limited sectors and Japan will continue the study on how to deal with the sectors that require notification. We would like to know which sectors remain to be subject to prior authorization/notification, the rationale for such requirement, and whether Japan has any plans to progressively liberalize these sectors or phase out the notification requirement in the medium term.

Reply from Japan

Prior notification system concerning direct inward investment (Foreign Exchange and Foreign Trade Law Article 27) applies to the following industry sectors;

3. 15 sectors concerning national security (The OECD Code on Liberalization of Capital Movements, Article 3)

d) sectors which could threaten the country's security such as aviation, armament, nuclear, space development and explosive production industries.
e) sectors which could disturb public order such as electricity, gas, heat supply, telecom, broadcasting, water, railroad and passenger transport industries.
f) sectors which could make it hard to maintain public safety such as biological and security industries.
4. 5 exceptional sectors (The OECD Code on Liberalization of Capital Movements, Article 2)
g) sectors which could adversely affect smooth operation of the national economy such as petroleum, leather and leather goods, agriculture, forestry and fisheries, air transport and maritime industries.

- 18. (Hong Kong) "Non-discrimination": We note that "**in principle**, Japan permits the investors to choose various forms of investment" and that "Japan does not discriminate against foreign investors in terms of the establishment of local branches, diversification of business and operations, **in general**" (**emphasis added**). We would like to know under what circumstances such restrictions will come into play.

Reply from Japan

When the Minister of Finance and the Minister in charge of the industry involved have concerning the "endanger national security, disturb the maintenance of public order, or hamper the protection of public safety", or "adversely and seriously affect the smooth management of the Japanese economy", they may give to the person who prior notified, recommendations to alter the particulars thereof or order to suspend the performance thereof after screening.

However, there are as yet no examples of such recommendations or orders having been made.

IAP Chapter 6: **Customs procedures**

- 19. (Chinese Taipei) With regard to Japan's approaches to Customs procedures in 2006, Japan Customs introduced simplified Customs temporary importation procedures under the Special Customs Clearance Carnet for non-ATA Convention Contracting Parties in August 2001, and no further actions have been planned currently. On the other hand, Japan Customs Administration has implemented advance ruling systems on tariff classification, Customs valuation, origin of goods and any other customs related matters. We would appreciate it very much if Japan could further explain the practical operations of the simplified Customs temporary importation procedures and provide us with information on the relevant regulations governing the advance ruling systems on Customs valuation and origin of goods.

Reply from Japan

In the case where the import/export declarations were filed using ATA carnet under the Customs Conventions in the ATA Carnet for the Temporary Admission of Goods, ATA Carnet would be considered to replace the import/export declarations specified

under the Customs-related laws and regulations; which could offer expedited and simple clearance procedures. The ATA Carnet is issued and guaranteed by the Japan Commercial Arbitration Association.

As for the temporary importation procedures using Special Customs Clearance Carnet for non-ATA Convention Contracting Parties, the procedures would be pursuant to that of ATA Carnet, provided that the issuing bodies of the Special Customs Clearance Carnet are deemed appropriate to guarantee the necessary contracts and authorized by the Customs administration.

The advance ruling system was introduced with the launching of the duty-declaration system in 1966 taking into account the technical difficulty in determining tariff classifications for new products, the diversity of products in order to secure reasonable and smooth payments, and the growing diversity and complexity of trade transactions, etc. When inquiries are made by tax payers or other relevant parties regarding Customs valuation and/or origin of goods concerning goods to be imported, Customs shall endeavour to make an appropriate response(Para. 3 of article 7 of Customs Law).

a. There are two ways to make advance rulings in Japan: oral rulings and documented rulings.
b. Filing of objections or opinions is accepted only within two months of issuance or mailing of the Advance Ruling Response Document.

- 20. (Hong Kong) "Paperless Trading": We note that NACCS (Nippon Automated Cargo Clearance System) has adopted the "single window" concept and is accessible via the internet. We would like to know the differences between NACCS and CuPES (Customs Procedure Entry System) and what benefits are realized through implementing the CuPES.

Reply from Japan

Difference between NACCS and CuPES

NACCS covers procedures regarding import/export clearance procedures of sea/air cargo. On the other hand, CuPES handles basically all documented Customs-related application/notification procedures which have not been covered by NACCS.

Benefits through implementing CuPES
(Customs)
1. Reduction of personnel expenses
2. Improvement of operating efficiency
3. Management of data

(Traders)
1. Makes it possible for traders to get information on the customs-related application/notification/tax-payment through the internet.
2. Reduction of expenditure such as personnel expenses, transportation cost, etc.

- 21. (Hong Kong) "Implementation of WCO Guidelines on Express Consignment Clearance": We note that "a Simplified Declaration Procedure for imports allows authorized importers who meet criteria specified by the Customs to follow

simplified cargo release procedures…." We would like to know more about the "authorization" system related to importers, such as the criteria set by Customs.

Reply from Japan

The importer who wishes to use the Simplified Customs Declaration System is required to receive an approval of any Director General and a designation of goods.

1. Approval of a Director General
   (a) An importer who wishes to receive approval shall have received designation as "continuously-imported goods" for the goods for which the importer is to carry out a simplified declaration.
   (b) An importer who wishes to receive approval:
      (i) Shall not have been convicted of violating the provisions of the Customs Law or other national tax laws nor shall have received a notification disposition in accordance with the provisions of the Customs Law or the National Tax Violations Control Law within the past three years.
      (ii) Shall not have gotten hit by heavy additional tax regarding customs duties or the excise taxes related to imported goods within the past three years.
      (iii) Shall not have been delinquent in paying customs duties or the excise taxes related to imported goods within the past three years.
      (iv) Shall not be a party whose approval for simplified declaration has been cancelled for the reason that a declaration for customs duty payment was not filed by the deadline, an order for additional security was not complied with, account books and records were not maintained or false information was entered in account books and records within the past one year.
   (c) Regarding goods imported during the past one year for which the importer wishes to receive designation, the importer shall provide and maintain account books recording the description, etc., of goods for which simplified declaration is to be carried out, as well as maintain documents prepared, received, etc., that are related to the transaction of goods for which simplified declaration is to be carried out (e.g.: invoices, contracts). Furthermore, the importer shall not enter false information in these account books or documents.
      The account books above shall be kept by the importer for seven years from the date of approval, and the documents for five years.

2. Designation of goods
   (a) The goods applied for designation have been imported six times or more for a year preceding the date of submission of the Application for Designation of Goods, for each designation category of the goods (4, 6, or 9 digits numbers on the Import Statistical Schedule).
   (b) Any amended or corrected returns have not been submitted within a year preceding the date of submission of the Application for Designation of Goods, in relation to the tax return for the goods for which the importer wishes to receive designation.

IAP Chapter 7: **Intellectual Property Rights**

- 22. (Chinese Taipei) In 2005, three Model Guidelines were approved at the ministerial level. In accordance with "The Model Guidelines to Reduce Trade in Counterfeit and Pirated Goods", the domestic law of each member economy must include effective border-control enforcement procedures designed to empower right holders and Customs and other competent authorities to restrict the import, export and trans-shipment of counterfeit and pirated goods. Please explain how these procedures are regulated in your domestic law, specifically in handling the trans-shipment of infringing goods.

Reply from Japan

A Person who imports counterfeit or pirated goods and exports counterfeit goods shall be liable to imprisonment with labour or a fine in accordance with the revised Customs Law.

In addition, a provision to prohibit exportation of counterfeit goods will be added as an act of infringement to all the four industrial property laws of the Patent Law, Utility Model Law, Design Law, and Trademark Law (excluding Copyright Law),. (These amendments will come into effect on January 1, 2007.)

The possession of infringing goods for the purpose of transferring or exporting them will be deemed as an infringement activity.(Patent Law, Utility Model Law, and Design Law)

This measure has already been taken in the current Trademark Law. In the Copyright Law, the importation for distribution, the distribution or the possession for distribution of infringing goods by a person who is aware of such infringement, shall be deemed as an infringement activity.

As to the issue of export of pirated goods, we will take appropriate measures against them in accordance with the study results of the Copyright Council.

- 23. (US) There are five major areas of IPR where action is needed to improve protections in a digital age. These areas are: 1) patent-related problems; 2) expanding protections for copyrighted works, particularly work disseminated over the Internet; 3) effective protection for well-known trademarks; 4) protection for geographical indications; and 5) effective protection for trade secrets. What actions are being undertaken by Japan to strengthen enforcement of these IPR areas? What enforcement mechanisms are under consideration to address the growing threat of online piracy?

Reply from Japan

1) With regard to lawsuits relating to intellectual property rights (IPR), Japan has been implementing various appropriate measures to handle such lawsuits more expeditiously, including the establishment of the Intellectual Property High Court in 2005 and the increase in number of judges dealing with IPR cases.

In terms of the patent system, Japan has implemented all the measures which were agreed upon under the Japan-U.S. Framework for a New Economic Partnership in 1994.

2) Concerning the protection for copyrighted works disseminated over the Internet, it is stipulated that authors have the right of interactive transmission in Article 23 and performers, producers of phonograms, broadcasting organizations and cablecasting organizations have the right of making transmittable in Article 92bis, 96bis, 99bis, 100quarter of the Copyright Law of Japan in accordance with WCT and WPPT. The law also provides the articles concerning technological protection measures (Article 120bis) and right management information (Article 113) in order to strengthen the protection of works etc. in the online environment.

Moreover, strengthened penalties are planned in accordance with the result of the study in the Copyright Council.

We believe that such improvements in legislations make it possible to address the growing threat of online piracy appropriately.

3) Japan has been observing all the obligations relating to the protection of well-known marks under the Paris Convention for the Protection of Intellectual Property and the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement).

In addition, a provision of the 1996-revised Trademark Law (Section 4(1)(xix)) provides that a trademark shall not be registered if it is another person's trademark which is well known abroad and if it is used for unfair intentions (intention to gain an unfair profit or intention to cause damage to another person). Thereby, the protection of well-known marks has been strengthened.

Japan has built a database of the trademarks registered as the defensive mark and trademarks identified as well-known mark in trials and lawsuits. The database is public on the website and exploited in examinations and trials.

4) With regard to GIs, the Unfair Competition Prevention Law prevents any indication which may cause misrecognition of place of origin. Also, the Trademark Law refuses or invalidates a trademark registration which includes such geographical indications. In addition, with regard to additional protection for GIs for wines and spirits stipulated in the Article 23 of the TRIPS agreement, it has been enforced by administrative action based on the Law Concerning Liquor Business Associations and Measures for Securing Revenue from Liquor Tax. Moreover, regarding the competition between Trademark and GIs, the Trademark Law refuses or invalidates a trademark registration which includes such competitive indications.

The Government of Japan has disclosed all the lists of protected GIs to which JPO examiners refer in trademark examination.

With regard to a trademark consisting of the combination of a regional name and a product name, the Government of Japan has introduced a new system in the amendment of the Trademark Law, in which such trademark could be registered as a

regionally-based collective marks in an early stage in order to protect region brand more adequately and to support enhancing competitiveness and revitalizing regional economy. The Government of Japan regards this system not as the protection/registration of GIs but as a system under the Trademark Law.

Because alcohol beverage industry is administrated by National Tax Agency in the Government of Japan, the commissioner of National Tax Agency may designate the place of origin of GIs regarding alcoholic beverages exclusively.

5) In 1990, Japan introduced trade secret protection rules by revising the Unfair Competition Prevention Law to be in accordance with TRIPs.
In response to the growing calls for the reinforcement of trade secret protection the law was revised again in 2005 to punish the following:.

(a) a person who uses or discloses outside Japan a trade secret that had been kept within Japan, and a person who violates a confidentiality order outside Japan that had been made by a Japanese court in civil actions related to trade secrets.
(b) A person who had been an officer or an employee, had offered or received a request to use or disclose a trade secret while in office, and uses or discloses it after leaving the job, even without acquiring or copying a medium containing a trade secret.
(c) A judicial person whose employee without an authorized access to a trade secret commits an offense of violating it (by imposing a fine not more than 150 million yen).

The revision of the law in 2005 also imposed heavier penalty for violation (from "imprisonment with labor for not more than three years or a fine of not more than three million yen" to "imprisonment with labor for not more than five years, a fine of not more than five million yen, or both").

The penalty was further toughened by yet another amendment in 2006, to "imprisonment with labor for not more than ten years, a fine not more than ten million yen, or both" for a person who violates a trade secret, and to "a fine not more than 300 million yen" for a judicial person. The amended law is slated to take effect on Jan. 1st, 2007.

IAP Chapter 8: **Competition Policy**

- 24. (Canada) (p.146) Under Co-operation arrangements with other Member Economies, Japan did not mention that the Competition Bureau of Canada and the Japanese Fair Trade Commission signed a co-operation agreement on September 7, 2005. Here is the link: http://www.competitionbureau.gc.ca/internet/index.cfm?itemID=1943&lg=e

Reply from Japan

The "AGREEMENT BETWEEN THE GOVERNMENT OF JAPAN AND THE GOVERNMENT OF CANADA CONCERNING COOPERATION ON ANTICOMPETITIVE ACTIVITIES" signed by the Government of Japan and the Government of Canada on 6 September 2005 has already described in the part of "Improvements Implemented Since Last IAP" on p.131.

IAP Chapter 9: **Government Procurement**

- 25. (Hong Kong) We appreciate that Japan's approach to GP is to conduct such procurement without any restrictions on suppliers' nationalities or origins of products and services, based on principle of non-discrimination and open tendering procedures. We encourage Japan to keep up with its efforts in upholding such important principles in GP.

Reply from Japan

The principle of non-discrimination and open tendering procedures in pursuance to the WTO Agreements on Government Procurement is the basic policy of Japan's GP regime and Japan will retain this principle in the future.

IAP Chapter 10: **Deregulation/Regulatory Review**

- 26. (US)Foreign firms have raised concerns with a range of health care issues in Japan, including: slow regulatory approvals for many drug and device products, and the need to ensure that reimbursement policies under Japan's national healthcare system foster development of innovative pharmaceutical and medical devices by adequately rewarding innovation. Can Japan provide information about plans to address these concerns?

Reply from Japan

The Pharmaceutical Affairs Act in Japan ordains that the pharmaceuticals and the medical devices should be approved after their quality, safety and efficacy are proven. As the pharmaceuticals and the medical devices have direct impact on the patients' lives and health, the product review requires certain amount of time.

Japan's Ministry of Health, Labour and Welfare (MHLW) have been taking following measures, inter alia, to speed up the development of drugs and medical devices and their review, while assuring the safety of the products:
1) Introduction of a Clinical study consultation by Pharmaceuticals and Medical Devices Agency, or PMDA.
2) Acceptance of foreign clinical data through adopting internationally harmonized guidelines.
3) Improvement in the review system of PMDA, including the increase in the number of reviewers.

These efforts have resulted in the shorter reviewing time by the drug regulatory authorities, 12.0 months (median) for new pharmaceuticals and 7.7 months (median) for new medical devices, respectively, in fiscal year 2005.

The reviewing times are already comparable to those of the American FDA, for example - MHLW plans to further improve its reviewing system through taking various measures including those cited above.

- 27. (US) We understand roughly 75 percent of proposals to invest under the

Special Zones for Structural Reform program are rejected by the Specialized Zones Office. What if any role does the foreign investor have in whether a project will be approved? Is there a means to appeal a decision not to approve such a project?

Reply from Japan

Unlike special zones in other countries which are designed to attract investment by giving incentives to companies, the special zone for structural reform in Japan is designed to stimulate local economy by applying special regulatory measures suitable for the characteristics of the region.

The Special Zone Office does not invite investment proposal but invites proposal for regulatory reform. Therefore, this question seems to have nothing to do with Special Zone for Structural Reform program.

IAP Chapter 12: **Dispute Meditation**

- 28. (Hong Kong) "Transparency": We note that Japan "will give consideration to information-providing services, making use, for example, of the Internet, so as to make all laws, regulations, and administrative guidelines pertaining to trade publicly available in a more prompt, transparent and readily accessible manner". We would like to know whether a timeframe is available and the information to be made available will be in English in additional to Japanese.

Reply from Japan

Japan is translating the law concerning the trade into English now, and is trying to create good environment accessible to foreigners to enhance the transparency.

IAP Chapter 13: **Mobility of Business People**

- 29. (Australia) We note the measures taken by Japan to streamline policies and procedures in respect of short-term travel and business temporary residency.

Reply from Japan

We appreciate Australia's comment. We would like to exert further efforts towards simplified and expedite procedures.

- 30. (Australia) We request further information on the recent relaxation (1 January 2005) in requirements for issuance of short stay business visitor visas and encourages Japan to publish clear and comprehensive information on visa requirements on widely available media, including the internet.

Reply from Japan

Japan has relaxed the requirements for issuance of multiple-entry visas for temporary visitors from Asia-Pacific countries including APEC economies since January 1, 2005. For the purpose of short-term stay (not exceeding 90 days) on business

(excluding activities to exercise a profession or other occupation for remunerative purposes) the followings are qualified to apply multiple-entry visas (Accompanying spouse and children who are applying together can also request multiple entry visa, if necessary.);

Persons in the position of (a) manager or above or (b) employee working for more than one year, in a company that fulfills the following conditions
(1) Government and public enterprises
(2) Companies listed on the stock exchange
(3) Japanese companies that are members of the Japan Chamber of Commerce in the cities where Japanese Embassies or Consulate-Generals are located and have their head offices or corresponding addresses in Japan.
(4) Joint corporations that are co-invested with Japanese companies that are listed on the stock exchange in Japan, and subsidiary companies or representative offices of those Japanese companies.
(5) Companies that have continual transactions with Japanese companies that are listed on the stock exchange in Japan.
Japan has already published above mentioned information on the web sites and at the visa-counters of respective Japanese Embassies and Consulate-Generals in local languages and will continue to make positive effort to promote multiple-entry visas.

- 31. (Australia) We appreciate the efforts undertaken by Japan to achieve the 14 day service standard in respect of foreign pre clearance requests under the APEC Business Travel Card scheme.

Reply from Japan

It is a great satisfaction that our constant challenge was evaluated properly. We assure you of our continued efforts in this area.

- 32. (Australia) We request information on Japan's progress in implementing agreed Business Mobility Group (BMG) standards in respect of:

    - travel document examination
    - travel document security (including issuance of Machine Readable Travel Documents with biometric information)
    - professional service
    - transparency.

Reply from Japan

In order to reinforce the measures against forged or altered documents used in the immigration procedures, the Document Examination Office was established at Narita Airport in 1999, at Kansai Airport in 2000, and at Chubu Airport in 2005.

These offices examine passports and other documents used in the immigration procedures of airports and seaports in Japan, provide training on document examination for immigration inspectors and immigration control officers, analyze statistics and prepare and distribute document intelligence alerts.

In addition, in FY 2005, the Ministry of Justice created the new post of Immigration Intelligence Analyst in General Affairs Division, Immigration Bureau. This Intelligence Analyst is responsible for collecting, sorting out and analyzing immigration control information as well as preparing and distributing document intelligence alerts.

These measures to strengthen the document examination system have improved the ability of the immigration offices to examine forged or altered documents and have promoted collection and accumulation of information concerning such documents.

In FY 2001, high-performance forged or altered document examination devices were installed at the major airports and seaports in Japan. These new devices can enlarge the size of letters at a magnification of more than ten times as large as that of previous devices, and they have high-performance equipment such as a lighting system that shows a perceivable system reaction toward forged or altered documents. These devices, which have been installed not only at major airports and seaports but also at local airports ,have dramatically increased the precision of document examination and have helped achieve more stringent immigration control.

In FY 2003, lighter, more compact document examination devices were installed at airports and seaports all over Japan in order to promptly examine documents at the immigration booths.

In FY 2005, Japan installed VSC5000 at the major airports.

In order to reinforce the system of examining forged or altered documents, it is of utmost importance to not only install high-performance devices but also to improve the document examination ability of each personnel member of the immigration Bureau.
With the aim of improving such ability, the Immigration Bureau has improved training on general knowledge and skills of document examination for all personnel of the Immigration Bureau as well as training on advanced knowledge and skills of document examination for personnel in charge of document examination.

Regarding travel document security, Japan has started issuing the e-Passport with biometrics identification technology since 20 March 2006. We recognize that the security of the Japanese passport has been enhanced by the strengthened anti-counterfeiting measures introduced simultaneously with the e-Passport.

As for professional service, for the purpose of handling immigration control duties that have become increasingly more complicated and difficult in recent years, it is necessary to improve the ability and skills of immigration control officials. To this end, efforts have been made to enhance and strengthen the training system (e.g. Training to acquire organizational management knowledge and skills, Training to acquire special knowledge and skills, Training programs for the development of junior staff, and so on.)

About the item “transparency”, Japan has already replied. So please see “Japan’s Approach to Business Mobility in 2006.”

- 33. (Australia) We encourage Japan to participate in future TILF-funded events including the capacity building workshop on biometric technology in MRTDs (18-20 July 2006, Hong Kong, China) and the capacity building workshop on the Regional Movement Alert List (RMAL) system (8-10 August, Pattaya, Thailand) which will complete the BMG's TILF program for 2006.

Reply from Japan

The biometrics technology in MRTDs is one of the effective solutions to verify the trusted traveler. The capacity building workshop provides a good opportunity to share the experiences and views among APEC economies. We hope that our experiences acquired through the recent introduction of e-Passport will be informative to other economies.

As for the capacity building workshop on the RMAL system, in this meaningful workshop, we were able to comprehend RMAL system at large and we understand the usefulness of the RMAL system in order to prevent and detect alteration or illicit use of passport.

However, we must carefully examine the cost and outcomes to be expected from participating in the RMAL in advance.

IAP Chapter: **Transparency**

- 34. (US)Advisory councils and other government-commissioned study groups in Japan are often accorded a significant role in Japanese policy development. Foreign parties, however, remain concerned by inconsistent transparency standards applied to such groups, including securing membership in such groups as well as opportunities for input. What steps will Japan take to ensure stronger transparency standards relating to the creation and operation of these groups, including reliable opportunities for input by interested parties?

Reply from Japan

1. Advisory groups are administered by Ministries and Agencies in accordance with their respective establishment laws and regulations, the Cabinet Decision of April 1999 regarding "Basic Plan for the Rationalization of Councils, etc." and other guidelines and regulations, according to which these groups, for example, endeavor to provide opportunities to hear the opinions of interested parties.
2. The Government of Japan will continue to promote these measures regarding transparency of advisory groups.

ANNEX 2: REVIEW TEAM MEMBERS

Moderator

Mr. Michael Michalak, APEC Senior Official, United States of America

Independent Experts

Professor Chia Siow Yue, Singapore Institute for International Affairs
Associate Professor Robert Scollay, Director, APEC Study Centre, University of Auckland, New Zealand

APEC Secretariat Program Director

Mr Eduardo M.R. Menez

ANNEX 3: LIST OF AGENCIES AND INDIVIDUALS PARTICIPATING IN IN-COUNTRY VISIT

	Name	Title, Division
Ministry of Foreign Affairs		
1	Ms. Mitsuko Shino	Director, APEC Division
2	Mr. Tsuyoshi Yoneyama	Official, APEC Division
3	Mr. Hiroki Haruta	Official, APEC Division
4	Mr. Masaru Ohima	Deputy Director, Economic Partnership Division
5	Mr. Kohei Saito	Deputy Director, Economic Partnership Division
6	Mr. Setsuo Kosaka	Senior Coordinator, Economic Policy Division
7	Mr. Itta Fujimoto	Official, Economic Policy Division
8	Mr. Hidenari Inamoto	Official, Economic Policy Division
9	Mr. Koichi Maruyama	Deputy Director, Foreign Nationals' Affairs Division
10	Mr. Hiroshi Kudo	Official, Services Trade Division
Cabinet Office		
11	Ms. Tomoko Hayashi	Director for International Economic Affairs
12	Mr. Nobuyuki Muto	Director for International Economic Affairs
13	Mr. Hiroyuki Mantani	Counsellor, Council for the Promotion of Regulatory Reform
14	Mr. Yuji Ueda	Deputy Director, Council for the Promotion of Regulatory Reform
15	Mr. Yoshinori Oki	Deputy Director, Council for the Promotion of Regulatory Reform
16	Mr. Satoshi Miura	Deputy Director, Office for the Promotion of Special Zones for Structural Reform
17	Mr. Kentaro Mizuuchi	Assistant Director, International Affairs Division
18		
Agency for Cultural Affairs		
19	Mr. Kentaro Tanaka	Deputy Director, International Affairs Division
20	Ms. Mutsuko Kayano	Section Chief, International Affairs Division
Fair Trade Commission		
21	Mr. Keiichi Iwase	Deputy Director, International Affairs Division
22	Mr. Yoshihisa Takahashi	Official, International Affairs Division
23		
Ministry of Finance		
24	Naoki Ida	Deputy Director, Customs and Tariff Bureau
25	Ryota Nakajima	Section Chief, Customs and Tariff Bureau
26	Atsushi Tanaka	Official, Customs and Tariff Bureau
27	Noboru Kurita	Official, Customs and Tariff Bureau
28	Ayanori Chiyomatsu	Official, Customs and Tariff Bureau
29	Takuya Koguchi	Official, Customs and Tariff Bureau
30	Tamio Tsuneta	Section Chief, Direct Investment Section, International Bureau
31		

Financial Services Agency

32	Nozomi Iwama	Deputy Director, Office of International Affairs
33	Hideaki Ishii	Deputy Director, Office of International Affairs
34		

Ministry of Land, Infrastructure and Transport

35	Takuya Ooba	Chief Official, International Office for Infrastructure and Economic Affairs
36	Takeshi Komori	Deputy Director, International Office for Infrastructure and Economic Affairs
37	Atsuo Okasaki	Director for International Codes and Standard
38	Nagayuki Suzuki	Deputy Director, International Shipping Division
39	Takahiro Fujiwara	Deputy Director, International Policy Office
40	Hiroshi Yamaguchi	Deputy Director, Railway Division
41	Masayuki Kojina	Chief Official, Engineering Planning Division
42	Shinobu Otsuka	Official, Civil Aviation Bureau
43	Motonari Adachi	Director, International Division
44	Akira Inoue	Official, International Division
45	Yousuke Konba	Special Assistant, International Air Transport Division
46		

Ministry of Internal Affairs and Communications

47	Takafumi Hosokawa	Deputy Director, International Bureau
48	Yoshihiro Katagiri	Deputy Director, Tariff Division
49	Koki Yoshida	Section Chief, Multilateral Economic Office of Telecom Bureau
50	Masayuki Suga	Official, electro-magnetic environment division
51	Fumitake Takahashi	International Economic Affairs Division
52		

Ministry of Justice

53	Junichi Hiroshi	Immigration Policy Coordinator
54	Toyotaka Tsukahara	Specialist, Entry and Status Division
55	Hidetsugu Kubo	Chief, Second International Affairs
56	Koshi Yamasaki	Attorney
57		
58		

Ministry of Health, Labour and Welfare

59	Mr. Tomohiro Kamiya	Section Chief, Foreign Affairs Division
60	Mr. Rei Fukui	Section Chief, Foreign Affairs Division
61	Mr. Yoshihiko Sano	Assistant Director, Foreign Affairs Division
62		

Ministry of Education, Culture, Sports, Science and Technology

63	Mr. Jugo Imaizumi	Deputy Director, Elementary and Secondary Education Planning Division
64	Mr. Ken Kato	Deputy Director, University Promotion Division
65	Mr. Atsushi Ogawa	Unit Chief for Professional Engineer, Knowledge Infrastructure Policy Division
66	Mr. Miguel Quintana	International Affairs Associate, International Affairs Division
67	Mr. Yukitsugu Ono	Deputy Director, International Affairs Division
68	Ms. Yoko Tange	International Affairs Division
69		

Ministry of Agriculture, Forestry and Fisheries

70	Mr. Masayuki Mizuno	Director for International Trade Policy Negotiations
71	Mr. Norio Kiyono	Assistant Director, International Economic Affairs Division
72	Ms. Eriko Sawase	Official, International Economic Affairs Division

73	Mr. Sadaji Miura	Deputy Director, International Economic Affairs Division
74	Ms. Mayuko Furui	Official, International Economic Affairs Division
75	Mr. Toru Sudo	Section Chief, International Economic Affairs Division
76	Ms. Takako Yano	Official, Food Labeling and Standard Division
77		

Ministry of Economy, Trade and Industry

78	Mr. Kunihiko Shinoda	Director, Office for the Promotion of Asia Pacific Economic Cooperation, Trade Policy Bureau
79	Mr. Tomotaka Inoue	Deputy Director, Office for the Promotion of Asia Pacific Economic Cooperation, Trade Policy Bureau
80	Ms. Tomoko Isogai	Assistant Director, Office for the Promotion of Asia Pacific Economic Cooperation, Trade Policy Bureau
81	Mr. Tomohiro Gogo	Deputy Director, Trade and Investment Facilitation Division, Trade and Economic Cooperation Bureau
82	Mr. Kenichi Kobayashi	Assistant Director, Trade and Investment Facilitation Division, Trade and Economic Cooperation Bureau
83	Mr. Yuzo Wada	Official, Trade and Investment Facilitation Division, Trade and Economic Cooperation Bureau
84	Mr. Kazumi Nishikawa	Deputy Director, Multilateral Trade System Department, Trade Policy Bureau
85	Mr. Takashi Kawabata	Assistant Director, Policy Planning Division, Electricity and Gas Industry Department, Agency for Natural Resources and Energy
86	Mr. Yuki Hayashi	Deputy Director, International Affairs of Technical Regulations, Standards and Conformity Assessment Policy, Industrial Science and Technology Policy and Environment Bureau
87	Ms. Akiko Kawai	Assistant Director, International Affairs of Technical Regulations, Standards and Conformity Assessment Policy, Industrial Science and Technology Policy and Environment Bureau
88	Mr. Takuya Sugiyama	Assistant Director, International Affairs Division, Jana Patent Office
89	Mr. Hiroki Naito	Assistant Director, International Affairs Division, Jana Patent Office
90	Mr. Hideyasu Tamura	Deputy Director, Economic Partnership Division

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Asia-Pacific
Economic Cooperation

2007/SOM1/007anx3

IAP Peer Review Presentation by Japan

Purpose: Consideration
Submitted by: APEC Secretariat

APEC
AUSTRALIA 2007

First Senior Officials' Meeting
Canberra, Australia
18 January 2007

IAP Peer Review 2007

-JAPAN-

January 16, 2007
Canberra

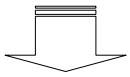
APEC

"-Most Important Forum to
Bring Stability, Safety and Prosperity to
the Asia-Pacific Region-"

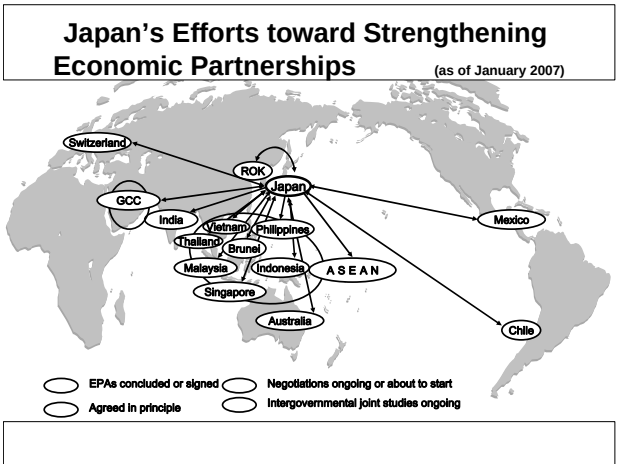
◆Japan's efforts include

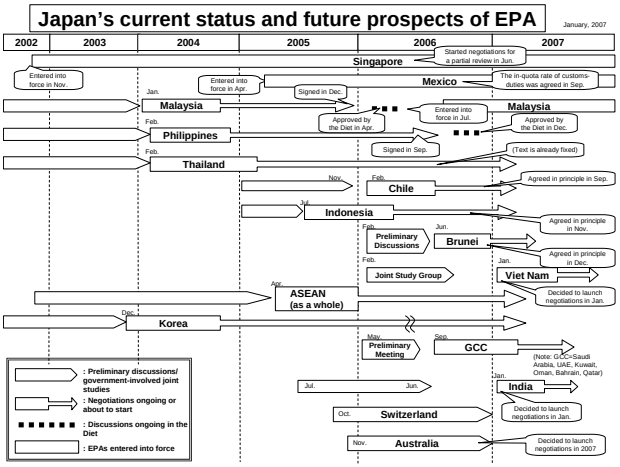
- Reduction and elimination of tariff
- Reduction of restrictions on market
- Protection of IPR
- Improvement of Business Mobility
- Enhancement of transparency ..etc

◆Active involvement in APEC Activities



◆Last Spurt to the Bogor Goals!





Economic Policy and Reform Agenda of the Abe Administration

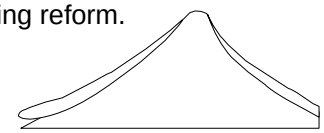
Cabinet Office
Government of Japan

"No gain without reform"

- The Koizumi Administration started structural reform under economic stagnation.
  - nonperforming loan disposal, fiscal consolidation, low birthrate and aging, and globalization etc.
- The Council on Economic and Fiscal Policy as a main engine has played a major role for the reform.
- The Japanese economy has overcome the long-lasting economic stagnation .
  - Real GDP rate : - 0.8% (FY 2001) => 2.4% (FY 2005)
  - Unemployment rate: 5.5% (Apr, 2003) => 4.0% (Nov, 2006)

“No Bright Future of Japan without Growth”

The Abe administration accelerates and deepens ongoing reform.



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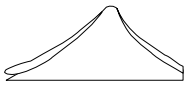
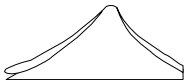
- Current Macroeconomic Situation and Prospects
- Structural Reform of the Abe Administration
- Japan’s Reform Vehicle



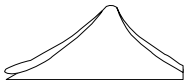
1. Current Macroeconomic Situation and Prospects

- Economic recovery has been underway since February 2002.
  - Elimination of excessive capacity, employment, and debt
- Currently, the economy is recovering and is expected to continue.



2-1. Structural Reform of the Abe Administration

- To create a new economic regime or the “new growth economy” that will lead Japanese economy toward a new stage of medium- to long-term higher growth
- The Council on Economic and Fiscal Policy continues to be the main engine for the reform



2-2. Structural Reform of the Abe Administration

- Reform to enhance Japan's growth potential
  - Emphasizing the role of INNOVATION and OPEN attitude to overseas
    - Innovation: Boosting productivity through innovation
    - Open: Building open economic system to incorporate the dynamism of Asia
  - Vitalize local economy and encourage renewed challenges
    - e.g. Comprehensive support for job searching
- Fiscal Consolidation
  - Implementing the "Integrated Reform of Expenditure and Revenue"
    - To achieve a surplus in the primary balance of the central and local governments combined by FY2011
    - To improve the primary balance further toward the mid-2010s, thereby preventing an explosion in the debts to GDP ratio and reducing it stably

3-1. Japan's Reform Vehicle

- Council on Economic and Fiscal Policy (CEFP) –

- Established in 2001;
- To facilitate full exercise of the Prime Minister's leadership;
- To sufficiently reflect the opinions of private-sector experts and other members in economic and fiscal policy formation

Current Members of the CEFP

3-2. Japan's Reform Vehicle

- Attributes of CEFP –

- Held almost three times every month
- With the Prime Minister's chairmanship
- With high transparency
  - Press conferences by the Minister of State for Economic and Fiscal Policy is held just after the meeting.
  - Minutes of the meetings are made available on the website in three days.
- Has promoted major reforms, including;
  - non-performing loan disposal
  - overcoming deflation
  - fiscal consolidation
  - privatization of Japan's postal system etc.

3-3. Japan's Reform Vehicle

- Structural Reform Agenda in CEFP –

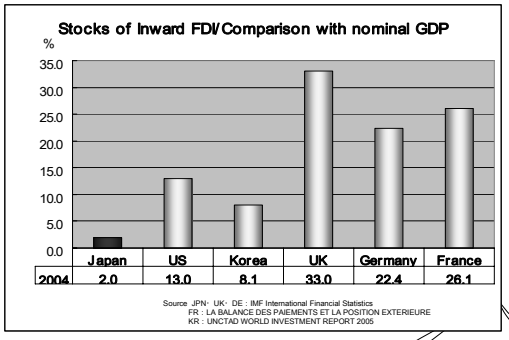
- The Council intensively deliberates on the key reform areas toward the new growth stage.

1. Addressing globalization
2. Labor market
3. Improving productivity
4. Tax system
5. Decentralization
6. Social security system, and
7. Public sector

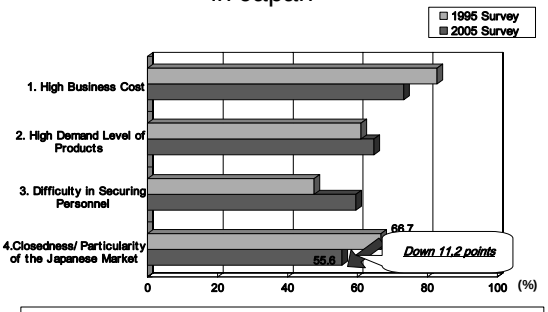
Investment & IPR issues

Ministry of Economy, Trade and Industry of Japan

1-1. Current Status of International Market



1-2. The survey of Foreign-affiliated Firms about Obstacles/Barriers to make business in Japan

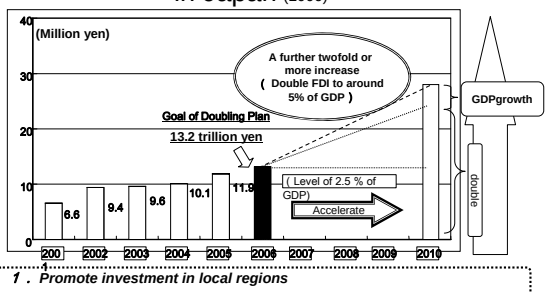


Source: JETRO 'The survey of Foreign-affiliated Firms about Obstacles/Barriers to make business in Japan'

1-3. Program for the Promotion of FDI in Japan (2003) INVEST JAPAN

1. Disseminating information on investment opportunities in Japan
2. Improving the business environment
3. Reviewing administrative procedures
4. Creating favorable employment and living environments
5. Improving local and national governmental structures and systems

1-4. Program for the Acceleration of FDI in Japan (2006)



1．Promote investment in local regions

2．Urgently improve comprehensive investment environment

3．Promote greater understanding by through public relates activities

2-1. Amendments of IP related laws

Objectives

■ Strengthening the protection of IPRs

The protection of IPRs should be strengthened and the process for acquisition of IPRs should be facilitated in order to strengthen the global competitiveness of domestic industries by creating new designs, establishing brands (trademarks) and encouraging innovative inventions (patents) while simultaneously taking into account international harmonization.

■Strengthening countermeasures against counterfeits

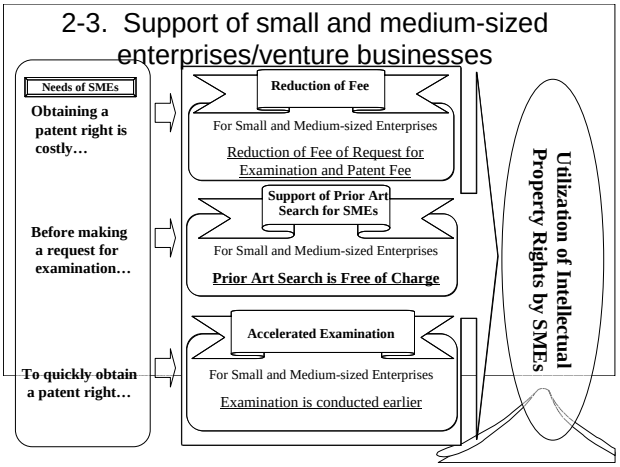
In response to the international spread of IP-related counterfeits, countermeasures should be strengthened to prevent the distribution, export and import of counterfeit goods.

2-2. Amendments of IP related laws

- Strengthening the Protection of IPRs -

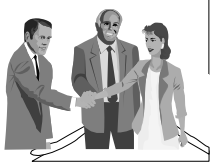
1.The export of infringing goods will be regarded as an infringement activity. (4 IP-related Laws)
2. The possession of infringing goods for the purpose of transferring or exporting them will be deemed as an infringement activity. (Design Law, Patent Law and Utility Model Law)
3. The criminal penalty will be strengthened
- for example, the penalty against acts to infringe a patent right, a design right, a trademark right and a trade secret will be increased to a maximum 10-year imprisonment and a maximum JPYen10 million fine (US$ 83,000).

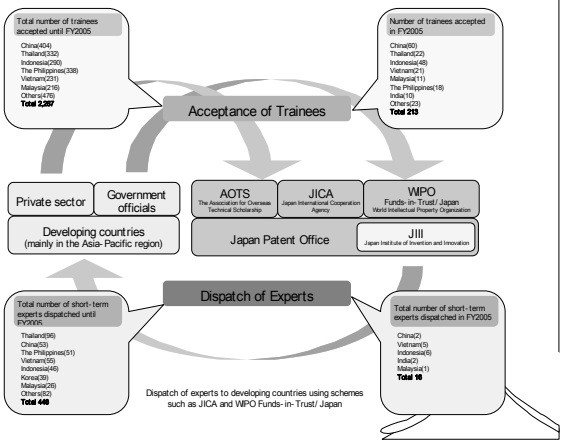
2-3. Support of small and medium-sized enterprises/venture businesses



2-4. International Cooperation

- **Cooperation in human resources development**
- **Cooperation in informatization**
- **Cooperation in searches/examinations**





Thank you.