

Trade Policy Review Body

TRADE POLICY REVIEW

Report by the Secretariat

JAPAN

This report, prepared for the tenth Trade Policy Review of Japan, has been drawn up by the WTO Secretariat on its own responsibility. The Secretariat has, as required by the Agreement establishing the Trade Policy Review Mechanism (Annex 3 of the Marrakesh Agreement Establishing the World Trade Organization), sought clarification from Japan on its trade policies and practices.

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SUMMARY

1. Since its previous Trade Policy Review in 2009, Japan has refrained from introducing new trade barriers, notwithstanding the onset of the global financial crisis; on the other hand, it has introduced few measures aimed at further liberalizing its trade and trade-related regime.

2. Mainly as a result of the crisis, the Japanese economy contracted during the period under review owing to the sharp fall (by 25% in 2009) in exports, which have traditionally been the main engine of Japan's economic growth. Against this background, Japan's current account surplus narrowed to 3.3% of GDP in 2009 (from 4.8% in 2007). However, a subsequent rebound in exports has boosted growth, with real GDP projected to grow by 2.8% in 2010.

3. To mitigate the adverse impact of the initial drop in exports on growth, the Government has instituted a series of stimulus packages (totalling 4.7% of GDP) since August 2008 in order to stimulate domestic demand. The stimulus packages have focused largely on increased spending. Consequently, the fiscal deficit rose to 10% of GDP in 2009 and public debt reached roughly 220% of GDP. The fiscal stimulus packages were complemented by accommodative monetary policy, with near-zero interest rates, adopted under the persistent deflationary environment in Japan. In addition, however, the yen appreciated against all major currencies. If sustained, this would tend to reduce the international competitiveness of Japan's exporters, thus jeopardizing export-led growth, unless their productivity can be substantially improved.

4. While looser macroeconomic policies have helped Japan's economy to recover from the global financial crisis, they do not address its long-standing structural problems (including the rapid aging of its population) that are reflected in sluggish growth during the past decade or so in both real GDP and total factor productivity (TFP), a key determinant of Japanese firms' international competitiveness. These problems can be addressed more effectively by far-reaching structural reforms, of which trade liberalization (and the resulting stimulus to competition) is an integral part. However, structural reforms have, if anything, slowed since 2009.

5. The authorities do recognize the need for structural reform, particularly to improve

productivity in the services sector (which is much lower than in manufacturing). In June 2010, it introduced a New Growth Strategy, focusing on seven priority areas (i.e. environment and energy, medical and health care, economic integration with other Asian countries, tourism and revitalization of regional economies, science and technology, human resources, and financial services). In addition, as regards tax reform, considering Japan's relatively low share of taxes in GDP, the authorities recognize the need to render the income tax system more neutral with respect to investment and other economic decisions by broadening the tax base and cutting relatively high corporate tax rates. Hence, the Government plans to reduce tax incentives and cut the statutory corporate tax rate from 40% to 35% from the next fiscal year. To the extent that the present high corporate tax rate discourages inward foreign direct investment (FDI), the lower rate could also stimulate such FDI, which is a much smaller percentage of GDP than in other large OECD economies. Since its previous Review, Japan has adopted measures to facilitate the approval of FDI.

6. While administrative organs are required to conduct ex-ante evaluation of regulations, and a procedure for ex-ante regulatory impact analysis has been introduced, cost-benefit analysis is not frequently used when formulating, revising, or abolishing policies and measures; such analysis is rarely used to evaluate existing measures, such as tariff and non-tariff protection of agriculture, or to evaluate the economic effects of preferential trade agreements (PTAs). The recent publication of quantitative analysis regarding the possible economic effects of Japan's participating in the Trans Pacific Partnership initiative is one of the few notable exceptions. Publication of such quantitative analysis by the Government can help it adopt trade and related policies and measures that are more cost-effective.

7. In the period under review, Japan has been a party to four disputes, one as a respondent and three as a complainant.

8. During the period under review, two bilateral trade agreements, or Economic Partnership Agreements (EPAs), entered into force (with Switzerland and with Viet Nam); several others are being negotiated. Japan considers that its regional and bilateral trade agreements complement the multilateral system, while it acknowledges that the level of complication increases as entry into force of such agreements

progresses. The PTAs that Japan has adopted also involve, *inter alia*, trade facilitation, investment, movement of natural persons and competition policy. However, the agreements with countries that are significant exporters of agricultural products tend to exclude many of these products. They also exclude certain industrial goods, such as leather products and footwear, which the authorities consider to be highly sensitive. These products are also largely excluded from the Generalized System of Preference (GSP) scheme, under which Japan grants preferential treatment to products from certain developing and least developed countries.

9. The tariff continues to be Japan's main border instrument. In fiscal year (FY) 2010, the simple average applied MFN tariff rate was 5.8%, down from 6.1% in FY2008, reflecting a decrease in the average *ad valorem* equivalents (AVEs) of non-*ad valorem* duties. Non-*ad valorem* duties, which account for 6.6% of Japan's tariff lines, tend to involve high AVEs, and are an important feature of Japan's tariff, particularly for agricultural products. Whereas the simple average tariff rate under the GSP is 4.6% (down from 4.9% in FY2008), that for LDCs is 0.5% (the same as in FY2008). Japan's simple average tariff rates under bilateral PTAs range from 2.9% to 3.4%.

10. Japan's non-tariff border measures include some import prohibitions and quantitative import restrictions (for example, import quotas on some fish). State trading involves leaf tobacco, opium, rice, wheat and barley, and milk products.

11. Japan makes little use of contingency measures. It has continued to apply two anti-dumping measures during the review period, but eliminated one countervailing measure; it has not imposed any safeguard measures since 2001.

12. Japan maintains certain export controls on national security and public safety grounds and to preserve natural resources in accordance with international agreements (such as CITES). Export finance, insurance, and guarantees are available. Duty drawback schemes are available on selected inputs for certain manufacturing, but they do not necessarily refund 100% of duties paid. The Government has recently begun promoting agricultural exports, mainly by providing information to consumers overseas.

13. About 46% of Japanese Industrial Standards (JIS) were aligned to international

standards in 2009 (unchanged since 2008). Although Japan maintains that its SPS measures are based on scientific assessment of risks, it has apparently not conducted cost-benefit analysis in this connection.

14. Various laws on intellectual property rights (IPRs) have been amended since Japan's previous Review with a view to, *inter alia*, strengthening the role of Customs in enforcement and expanding the scope of application of criminal penalties for infringement of trade secrets. Japan remains an active participant in multinational and regional discussions on agreements to promote international harmonization of regimes protecting IPRs.

15. The authorities intend to continue to strengthen competition policy. In this regard, the Anti-monopoly Act was amended in June 2009 to, *inter alia*, introduce a surcharge (fine) in respect of practices involving exclusionary types of private monopolization, and a 50% increase in the surcharge on businesses that have played a leading role in cartels and bid-rigging.

16. With regard to agriculture, whose labour productivity remains much lower than in the rest of the economy, the Government has continued to move away from price support toward income support. However the sector continues to receive substantial government support, which involves, *inter alia*, a relatively higher average applied MFN tariff rate compared with other sectors, tariff quotas, income support, and, in some sub-sectors, production controls.

17. Manufacturing, whose labour productivity is higher than in the rest of the economy, remains open and subject to competition. However, it would appear that during the period under review, government support to the sector increased through the Enterprise Turnaround Initiative Corporation (ETIC).

18. Certain services continue to be subject to, *inter alia*, licensing and restrictions on foreign investment; as in many other sectors, they are also faced with the generally high cost of doing business in Japan, which has been considered as one of the main deterrents to inward FDI in services and thus competition in the services sector. Furthermore, it appears that trade-related reforms initiated in the services sector have slowed, with the notable exception of liberalization of air traffic through the pursuit of "open sky" agreements,

which has increased competition in the sector. At the same time, however, partially as a result of intensified competition, the Government authorised the rescue of Japan Air Lines by the ETIC and the Development Bank of Japan. The privatization of Japan Post, a reform that was regarded as a "landmark" when it was initiated in 2007, has been under review since 2009 with a view, *inter alia*, to

maintaining the postal network. Despite some volatility in domestic capital markets affected by the global financial crisis, Japanese banks emerged, by and large, relatively unscathed. Nonetheless, the Government put in place a number of measures for both banks and securities firms to mitigate the impact of the crisis.

I. ECONOMIC ENVIRONMENT

(1) MAIN ECONOMIC DEVELOPMENTS

1. Following weak growth during the 1990s, which was termed as the "lost decade", real GDP in Japan grew at an average annual rate of approximately 1.8% between 2002 and 2007. This was the longest period of expansion in Japan's post-war history, albeit at a relatively slow rate. Growth was driven mainly by exports, which grew at an average annual rate of over 10% during the same period. However, in the aftermath of the global economic crisis, exports declined by approximately 25% in 2009. Against this background, real GDP contracted by 1.2% in 2008 and 5.2% in 2009 (Table I.1). A resurgence in export demand in late 2009 and 2010, especially for capital goods from Asia, bolstered economic growth, with real GDP estimated to grow by 2.8% in 2010.¹ However, the recovery is fragile and susceptible to shocks in the global economic environment.²

Table I.1
Selected macroeconomic indicators, 2005-09
(¥ trillion and %)

	2005	2006	2007	2008	2009
	(% change, unless otherwise indicated)				
National accounts					
Real GDP	1.9	2.0	2.4	-1.2	-5.2 ^a
Real domestic demand	1.7	1.2	1.3	-1.3	-3.8 ^a
Private consumption	1.3	1.5	1.6	-0.7	-1.0 ^a
Government consumption	1.6	0.4	1.5	0.3	1.7 ^a
Gross fixed investment	3.1	0.5	-1.2	-2.6	-14.4 ^a
Real exports of goods and services	7.0	9.7	8.4	1.6	-24.0 ^a
Real imports of goods and services	5.8	4.2	1.6	0.9	-17.0 ^a
Exports of goods and services (% of GDP) ^b	14.3	16.1	17.6	17.5	12.5 ^a
Imports of goods and services (% of GDP) ^b	12.9	14.9	15.9	17.4	12.2 ^a
Employment	0.4	0.4	0.5	-0.4	-1.6
Unemployment rate (annual average)	4.4	4.1	3.9	4.0	5.1
Household disposable income (% change)	0.9	1.1	-0.1	-0.2	..
Prices and interest rates					
Consumer prices (CPI) (% change)	-0.3	0.3	0.0	1.4	-1.4
GDP deflator (% change)	-1.2	-0.9	-0.7	-0.8	-1.0 ^a
Basic discount rate and basic loan rate (%)	0.1	0.4	0.75	0.3	0.3
Exchange rate (annual average, ¥ per US\$)	110.2	116.3	117.8	103.3	93.5
	(Per cent of GDP)				
Fiscal balance^c					
Revenue	29.4	30.7	31.0	31.5	29.5
Expenditure	34.2	34.7	33.4	35.6	39.8
Balance	-4.8	-4.0	-2.4	-4.1	-10.3
Primary balance	-4.0	-3.4	-1.8	-3.2	-9.1
Excluding social security	-3.5	-2.6	-0.8	-2.3	-7.8
Government debt, gross	191.6	191.3	187.7	194.7	217.7
Saving and investment					
National saving (gross)	26.8	26.9	27.3	25.0	..
Domestic investment (gross)	23.6	23.8	23.7	23.6	..

Table I.1 (cont'd)

¹ IMF online information. Viewed at: <http://www.imf.org/external/pubs/ft/weo/2010/02/weodata/index.aspx> [14.12.2010].

² For example, the Government's monthly economic report highlights these points. The Cabinet Office online information. Viewed at: <http://www5.cao.go.jp/keizai3/2010/1019getsurei/main.pdf> [25.10.2010].

	2005	2006	2007	2008	2009
	(¥ trillion, unless otherwise indicated)				
Current account balance					
Current account	18.3	19.8	24.8	16.4	13.3
Current account (% of GDP)	3.7	3.9	4.8	3.2	3.3
Goods balance	10.3	9.5	12.3	4.0	4.0
Services balance	-2.6	-2.1	-2.5	-2.1	-1.9
Income balance	11.4	13.7	16.3	15.8	12.3
Net transfer balance	-0.8	-1.2	-1.4	-1.4	-1.2
Capital and financial account balance	-14.0	-12.5	-22.5	-18.4	-12.6
Financial account	-13.5	-11.9	-22.1	-17.8	-12.2
Capital account	-0.5	-0.6	-0.5	-0.6	-0.5
Changes in reserve assets	-2.5	-3.7	-4.3	-3.2	-2.5
Statistical discrepancy	-1.8	-3.7	2.0	5.2	1.9

.. Not available.

a Third quarter, annual rate.

b Percentage of distribution in annual nominal GDP.

c International Monetary Fund, Country Report No. 10/211.

Source: Information provided by the Japanese authorities; and IMF (2010), *Country Report No. 10/211*, Japan: 2010 Article IV Consultation — Staff Report; Public Information Notice on the Executive Board Discussion. Viewed at: <http://www.imf.org/external/pubs/ft/scr/2010/cr10211.pdf>.

2. To be able to sustain growth in the medium to longer term, domestic demand will need to pick up and drive growth.³ To achieve this the Japanese economy will need to undergo structural reforms *inter alia* to improve productivity in the services sector (which is much lower than in manufacturing), reform the labour market, and reform taxation.

(2) MACROECONOMIC POLICIES

3. In response to the financial crisis, the Government has launched four stimulus packages since August 2008. These were instrumental in containing further deterioration of GDP. The packages have totalled approximately 4.7% of GDP; significantly higher than the average in other OECD countries that have implemented stimulus packages. Increased spending, amounting to 4.2% of GDP, constituted the bulk of the stimulus package. In comparison, tax measures were responsible for only 0.5% of GDP. Consequently, expenditure rose from 33.7% of GDP in 2007 to 39.8% in 2009, while total revenue declined from 31% of GDP to 29.5%. As a result, the fiscal deficit rose to over 10% of GDP in 2009. Other than the stimulus package (a temporary expenditure due to prevailing economic conditions), expenditure growth has been driven by pension and healthcare-related spending. Outlays under these heads are expected to continue to rise due to Japan's rapidly aging population.

4. The stimulus packages as a whole have focused on increasing domestic demand through, *inter alia*: financial sector measures (Chapter IV(4)(ii))⁴; the extension of the environmentally friendly vehicle subsidy scheme (Chapter III(3)(ii)); and supporting the labour market (section (3)). As part of the stimulus package, the Government announced a fixed payment of ¥12,000 for individuals aged between 19 and 64, and ¥20,000 for all others, as well as a temporary reduction in tolls.

5. With respect to monetary policy, the Bank of Japan (BOJ) maintained an accommodative stance during the period under review so as to stimulate domestic demand.⁵ The accommodative

³ According to the OECD, domestic demand grew at less than 1% during the expansion.

⁴ Transfers to public financial institutions amounted to 0.7% of GDP.

⁵ At the beginning of October 2010, the BOJ decided to implement "comprehensive monetary easing". BOJ online information. Viewed at: <http://www.boj.or.jp/en/type/release/adhoc10/k101005.pdf> [16.12.2010].

monetary policy was enabled by the deflationary environment in Japan, which persisted during the review period due to considerable slack in the economy. However, the pace of deflation declined. After declining to -2.5% in October 2009, general CPI was -0.6% in September 2010 as growth in the economy picked up.

6. The nominal exchange rate of the yen against the U.S. dollar appreciated between September 2008 and November 2010 (from ¥109 per U.S. dollar to ¥81), perhaps owing partly to the unwinding of the yen "carry trade." The appreciation in the exchange rate is likely to erode the international competitiveness of Japanese exports, unless it can be at least matched by productivity improvements in the export sectors..

(3) STRUCTURAL POLICIES

7. The fiscal stimulus package is not a viable avenue to sustain growth in the medium to longer term, especially when considered against the back drop of Japan's public debt, which is over 200% of GDP at present⁶, and the fiscal deficit. According to the OECD, to be able to sustain growth in the future, the Japanese economy will need to undergo far-reaching structural changes focused on improving productivity, especially in the services sector, through increased competition and further deregulation, as well as reducing the cost of doing business so that the sector attracts more investment (both foreign and domestic). Domestic demand will need to be stimulated. To do so the Government will need to address the duality in the labour market between regular and non-regular workers, which has resulted in depressed incomes.⁷ The Government also recognizes the need to increase revenue through comprehensive tax reforms. However, the pace of trade-related structural reforms, such as trade liberalization (particularly in agriculture and certain services), appears to have been slow during the period under review.

(i) Services sector

8. The services sector, which accounts for about 80% of Japan's GDP and 78% of its employment, is characterized by weak labour productivity growth (Table I.2). Between 2002 and 2005, annual labour productivity growth was 1.8% for services, compared with 7.5% in manufacturing. Productivity growth in the manufacturing sector has been high as international competition has driven increases in efficiency.

9. The services sector has been relatively sheltered from competition (both domestic and international).⁸ The key element to boosting productivity in services is raising competition, which would involve further deregulation especially in wholesale and retail and in healthcare services.⁹ Increased foreign competition would also benefit the economy. To achieve the latter, domestic regulations on setting up a business, especially with respect to time taken and costs incurred, could be improved and regulatory reform accelerated.¹⁰ It is also important to reduce barriers to trade in

⁶ Most of Japan's public debt is held domestically.

⁷ The share of non-regular workers in the work force was 33.4% in 2007, 34.1% in 2008, and 33.7% in 2009. These workers are paid significantly less than regular employees.

⁸ The import penetration rate for services and the share of foreign affiliates in total service turnover was among the lowest in the OECD.

⁹ With regard to the wholesale and retail sector, the opacity and unpredictability of the Large-scale Retail Store Location Law and the City Planning Law, act as barriers to entry. In the healthcare industry, hospitals and insurance companies are non-profit entities. Additionally, the Government controls all prices in the sector and also determines the number of medical students.

¹⁰ According to World Bank (2010), Japan ranked 91st out of 183 countries, with respect to the ease of setting up a business in 2010.

services either on a multilateral or unilateral basis.¹¹ FDI restrictions and product market regulations that discourage investment could also be eased. Other factors that may inhibit investment are the relatively high corporate tax in Japan and the severe restrictions on bringing in foreign workers.

Table I.2
Shares of GDP and employment by sector, 2006-09
(Yen and %)

	2006	2007	2008	2009
Share of GDP (%)				
Agriculture, forestry and fishing	1.5	1.4	1.5	..
Mining	0.1	0.1	0.1	..
Manufacturing	21.2	21.2	19.9	..
Services	80.6	80.4	80.5	..
Construction	6.3	6.10	6.1	..
Electricity, gas and water	2.3	2.0	1.8	..
Wholesale and retail trade	13.4	13.6	13.8	..
Finance and insurance	6.9	6.7	5.8	..
Real estate	11.9	11.9	12.2	..
Transport and communication	6.6	6.6	6.7	..
Business activities	9.0	9.2	9.4	..
Community and social activities	5.5	5.6	5.7	..
Personal activities	7.3	7.3	7.4	..
Government	9.3	9.3	9.5	..
Non-profit services for households	2.1	2.1	2.1	..
Import tax and other	-4.3	-4.1	-4.0	..
Statistical discrepancy	0.8	1.2	1.9	..
Total (¥ trillion)	507.4	515.5	505.1	..
Share of employment (%)				
Agriculture, forestry and fishing	5.0	5.1	5.0	..
Mining	0.1	0.1	0.1	..
Manufacturing	17.4	17.3	17.1	..
Services	77.5	77.5	77.8	..
Construction	8.6	8.4	8.2	..
Electricity, gas and water	0.7	0.7	0.7	..
Wholesale and retail trade	16.7	16.7	16.6	..
Finance and insurance	2.8	2.8	2.9	..
Real estate	1.5	1.5	1.5	..
Transport and communication	5.8	5.8	5.7	..
Government	5.3	5.2	5.2	..
Producers of private non-profit services to households	1.9	1.9	1.9	..
Other	34.4	34.6	35.2	..
Total (¥ million)	64.2	64.5	64.1	..

.. Not available.

Source: Cabinet Office online information. Viewed at: <http://www.esri.cao.go.jp/en/sna/h20-kaku/22annual-report-e.html>.

¹¹ Trade barriers to the delivery of services would include restrictive regulations.

10. Competition policy could also be upgraded: exceptions to the Anti-Monopoly Act (AMA) for service industries as well as special treatment for SMEs (which are a dominant force in the services sector), could be withdrawn or scaled back.

11. An important engine of growth globally has been information and communication technology (ICT) services. Japan has been an exception in this regard; reasons cited for Japan's lacklustre performance include the lack of financing available and the dearth of venture capitalists.

(ii) Labour market

12. With the aim of increasing domestic demand, reform of the labour market needs to be considered. The share of non-regular workers rose from 20% in 1990 to 34% in 2008. As these non-regular workers are paid substantially less than regular workers, their increase has resulted in downward pressure on wages and thus domestic consumption.¹² In addition, the rising share of non-regular workers has negative implications for potential growth. Regular workers, because of the long-term nature of their employment, receive firm-based training as firms perceive this to be a worthwhile investment. The training increases their efficiency and productivity. On the other hand, non-regular workers receive less firm-based training, which has negative productivity implications for the individuals and the economy as a whole.

13. The authorities realize the need to reform the labour market, and it is a focus area in the stimulus package. Specific measures include: increasing subsidies for employment adjustment; implementing measures that will support re-employment and develop vocational skills; creating new jobs; measures to protect dispatched workers, foreign workers, and temporary workers; measures to prevent withdrawal of job offers; creating jobs and providing employment support in priority business sectors; establishing a trampoline-type second safety net that provides poor and needy job applicants with an opportunity to rebound¹³; and strengthening the functions of the employment insurance system.

14. Another area of concern is Japan's shrinking labour force due to its aging population. In this regard, easing restrictions on immigration of foreign workers, especially in sectors facing acute shortages of workers, would help to alleviate the problem and may also increase productivity.

(iii) Tax reform

15. Japan's persistently low tax to GDP ratio has resulted in public debt being more than twice GDP. In addition, the statutory corporate tax rate¹⁴ in Japan is the highest in the OECD and the region, and less than 50% of personal income is taxed. To increase revenues, the Government would need to implement comprehensive tax reforms, which would include broadening the tax base and finding the right mix of direct and indirect taxes. According to the IMF and the OECD¹⁵, tax reform would involve gradually raising the consumption tax rate from the present 5%. Furthermore, with a view to increasing investment in the economy, the statutory corporate tax rate could be reduced and the tax base broadened with fewer exemptions and deductibles. More broadly based taxes with lower rates generally tend to improve economic efficiency and reduce the propensity of tax avoidance and

¹² Part-time workers, who make up 66% of the non-regular workforce, earn 40% of the earnings of fulltime workers.

¹³ This includes providing free vocational training and guaranteeing the individuals' livelihood during the training period; providing loans to the unemployed so that they are able to rebound; and providing a housing allowance to those who lost their homes due to being unemployed.

¹⁴ The combined rate of national and local corporate tax rates.

¹⁵ IMF (2010); and OECD (2009).

evasion. Collection could be improved and the local tax structure simplified; there are currently 23 different taxes.

(2) DEVELOPMENTS IN TRADE AND FOREIGN DIRECT INVESTMENT

16. Japan's current account surplus decreased from US\$210 billion in 2007 (4.8% of GDP) to US\$142 billion in 2009 (3.3% of GDP), reflecting a narrowing of the gap between gross national savings and gross domestic investment (Table I.3). This decline mainly reflects the sharp fall in the trade account. The trade surplus was more than halved between 2007 and 2009 due to the impact of the global economic crisis.

Table I.3
Balance of payments, 2006-10
(US\$ billion)

	2006	2007	2008	2009	2010
Current account balance	170.52	210.49	156.63	142.19	..
Goods balance	81.30	104.75	38.13	43.63	..
Exports	615.81	678.09	746.47	545.28	..
Imports	534.51	573.34	708.34	501.65	..
Services balance	-18.26	-21.25	-20.79	-20.38	..
Credit	117.30	129.12	148.76	128.34	..
Transportation	37.65	42.02	46.84	31.61	..
Travel	8.47	9.35	10.82	10.33	..
Other	71.18	77.75	91.10	86.40	..
Debit	135.56	150.37	169.54	148.72	..
Transportation	42.84	49.04	53.95	40.56	..
Travel	26.88	26.51	27.90	25.20	..
Other	65.84	74.82	87.69	82.96	..
Income balance	118.16	138.50	152.34	131.34	..
Credit	165.80	199.46	212.10	175.22	..
Compensation of employees	0.15	0.12	0.18	0.17	..
Investment income	165.65	199.34	211.92	175.05	..
Debit	47.65	60.96	59.76	43.88	..
Compensation of employees, debit	0.18	0.18	0.20	0.21	..
Investment income, debit	47.47	60.78	59.56	43.67	..
Current transfers	-10.68	-11.51	-13.04	-12.40	..
Credit	6.18	6.77	9.10	9.52	..
Debit	16.87	18.28	22.15	21.91	..
Capital and financial account	-139.08	-227.79	-208.97	-162.06	..
Capital account	-4.76	-4.03	-5.47	-4.99	..
Credit	0.75	0.69	0.63	1.11	..
Capital transfers	0.42	0.20	0.20	0.20	..
Non produced non financial assets, credit	0.33	0.49	0.43	0.91	..
Debit	-5.51	-4.72	-6.10	-6.10	..
Capital transfers	-4.43	-3.05	-4.01	-2.76	..
Non produced non financial assets, credit	-1.08	-1.68	-2.08	-3.33	..
Financial account	-134.32	-223.76	-203.50	-157.07	..
Direct investment	-56.95	-51.31	-106.27	-62.79	..
Direct investment abroad	-50.17	-73.49	-130.82	-74.62	..
Direct investment in Japan	-6.78	22.18	24.55	11.83	..
Portfolio investment	127.52	73.13	-292.60	-216.50	..
Assets	-71.04	-123.45	-189.64	-160.25	..
Liabilities	198.56	196.58	-102.96	-56.26	..

Table I.3 (cont'd)

	2006	2007	2008	2009	2010
Financial derivatives	2.46	2.80	24.79	10.55	..
Assets	143.48	188.50	271.95	333.85	..
Liabilities	-141.03	-185.71	-247.16	-323.30	..
Other investment	-175.36	-211.86	201.45	138.59	..
Assets	-86.24	-260.78	139.46	202.75	..
Liabilities	-89.12	48.92	61.99	-64.15	..
Reserve assets	-31.98	-36.52	-30.88	-26.92	..
Net errors and omissions	-31.44	17.30	52.34	19.87	..

.. Not available.

Source: IMF, Balance of Payments (CD-ROM).

17. In 2009, the share of exports of goods and services in GDP was 12.5% (17.5% in 2008), while the share of imports was 12.2% (17.4% in 2008).¹⁶ Since 2007, the shares of exports and imports in GDP have declined considerably, due to the global economic crisis. Japan continues to be the world's fourth largest exporter (counting the European Union as one) and importer of goods. The deficit in services trade has been declining since 2007, albeit at a slow pace, due to lower transport and travel payments brought about by the global financial crisis. The deficit was US\$20.4 billion in 2009 (or 1.9% of GDP). Trade in services as a proportion of GDP was 5.5% in 2009, considerably lower than in 2007 (6.4%).

(i) Composition of merchandise trade

18. Manufactures continue to dominate Japan's exports, accounting for 87.5% of total merchandise exports in 2009, compared with 89.7% in 2007 (Chart I.1). During 2007-09, machinery and transport equipment remained Japan's most important merchandise export, accounting for 58.2% of total exports of goods in 2009 (Table AI.1). The shares of most manufactures declined as the global economic crisis took hold. However, iron and steel, chemicals, power generating machines, and other transport equipment, such as ships and boats, showed an increase. Data show that exports have picked up considerably in the first half of 2010 as the global economy recovers.

19. The share of manufactures in total merchandise imports increased from 50.5% in 2007, to 51.7% in 2009.¹⁷ Machinery and transport equipment remained the most important component, accounting for 23% of total imports in 2009 (down from 24.2% in 2007). Imports of chemicals and clothing increased. The share of primary imports declined, to 46.2% in 2009 (from 47.7% in 2007), due largely to a fall in imports of fuel and other mined commodities, which could partly be attributed to lower international commodity prices (Table AI.2).

(ii) Direction of merchandise trade

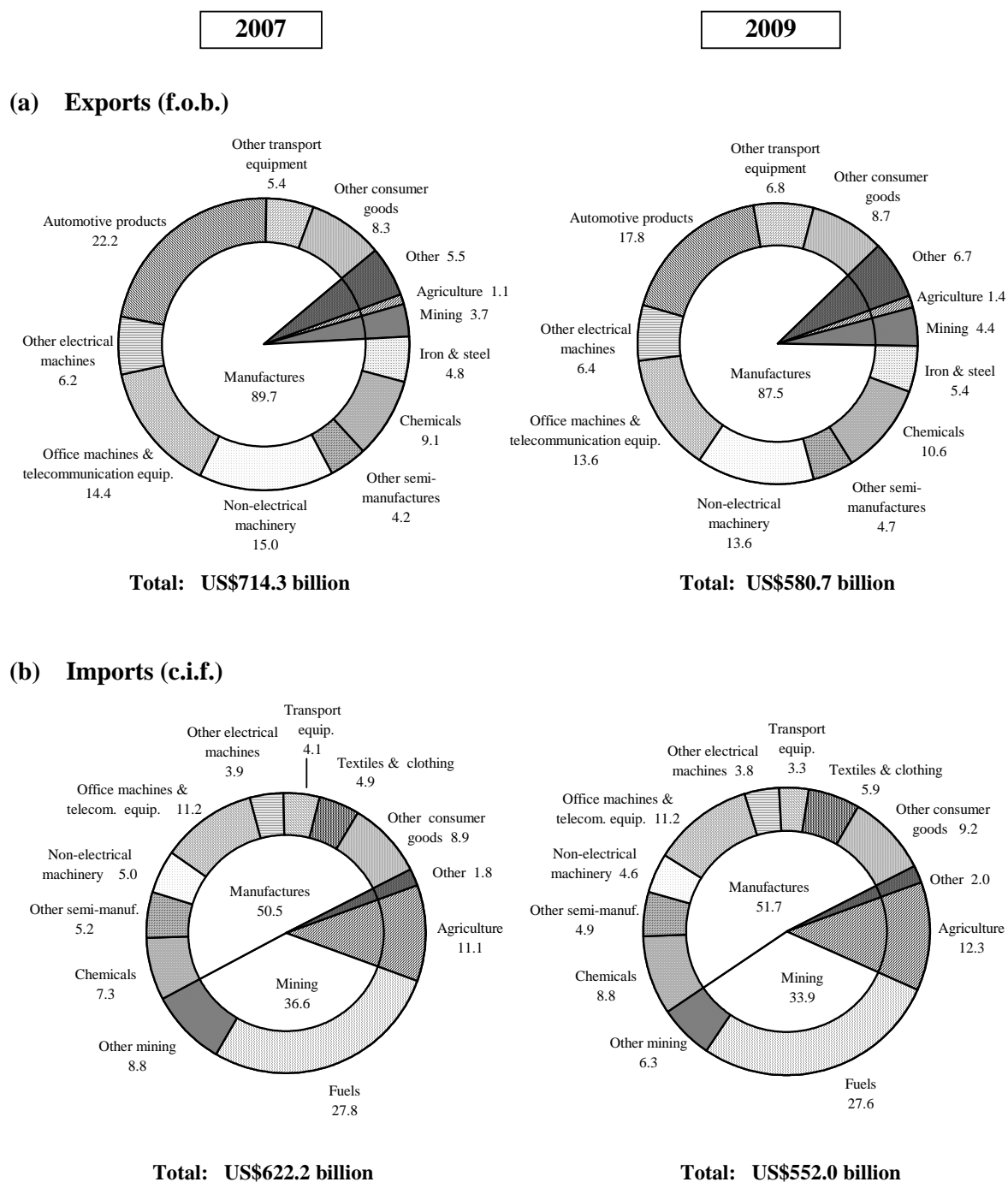
20. Between 2007 and 2009, China overtook the United States as Japan's largest export market, attracting 18.9% of total exports in 2009 (Chart I.2). Asia as a whole increased significantly as an export destination and helped to boost APEC's share slightly, to 74.8% (from 74.3%). In contrast, the shares of both the United States and EU(27) declined, owing mainly to the global economic crisis. China's share has increased at a steady rate since 2005 (Table AI.3).

¹⁶ Based on the most recent data available.

¹⁷ Imports of manufactures had declined to 44.7% of GDP in 2008 as the recession manifested itself in Japan and economic activity slowed down.

Chart I.1
Composition of merchandise trade, 2007 and 2009

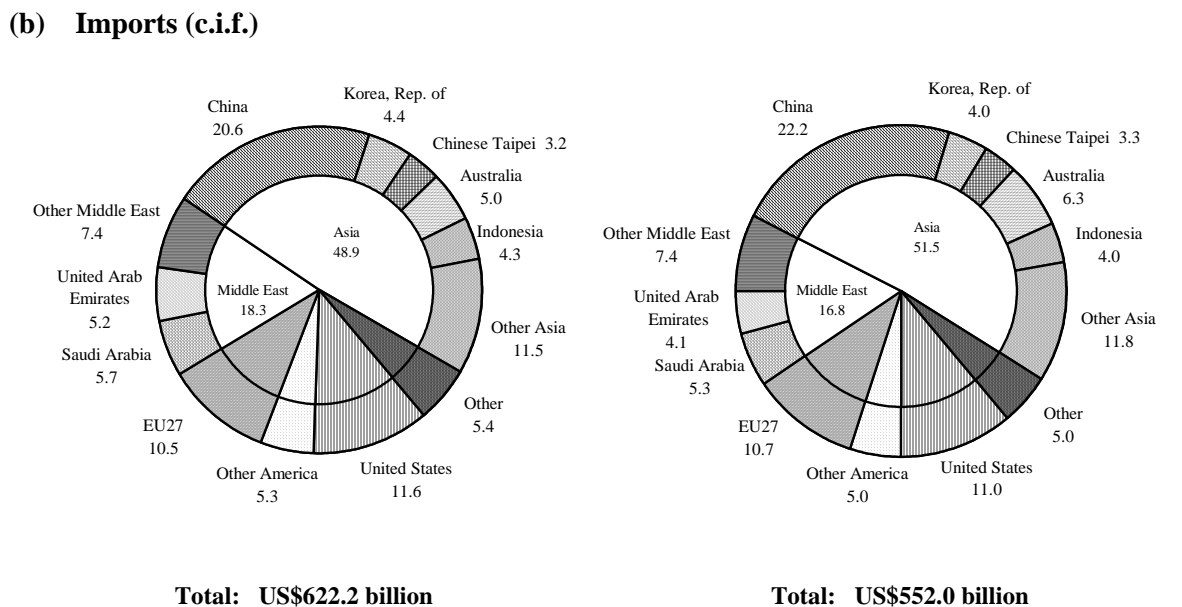
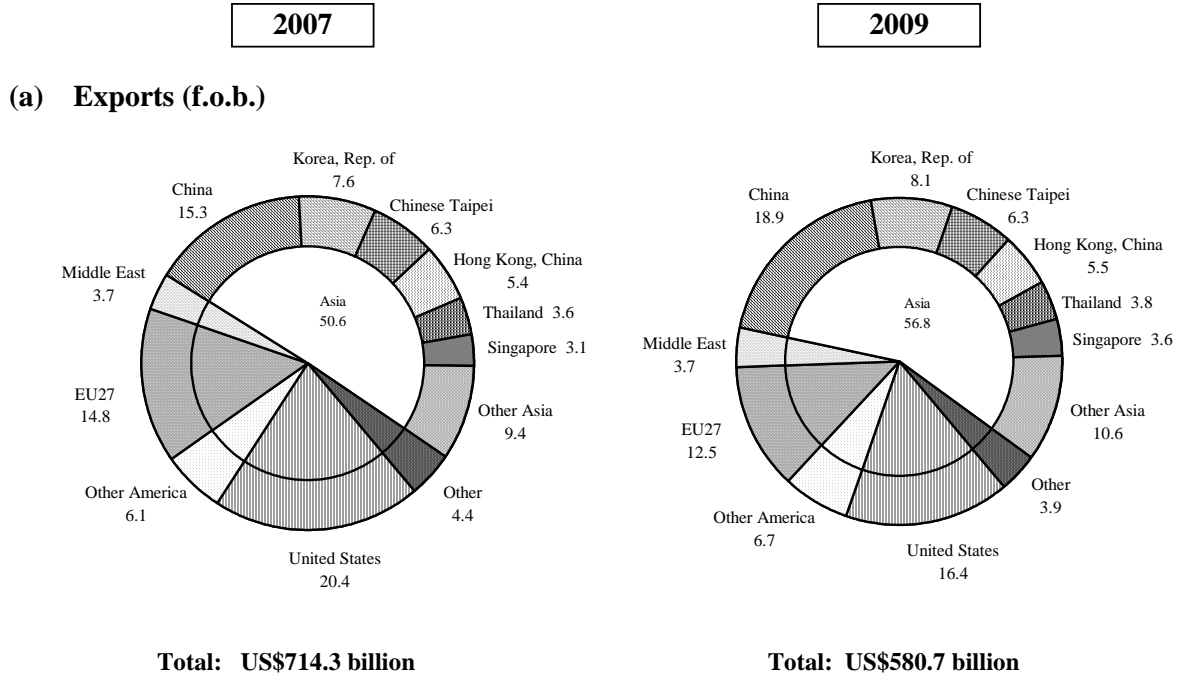
Per cent



Source : UNSD, Comtrade database (SITC Rev.3).

Chart I.2
Direction of merchandise trade, 2007 and 2009

Per cent



Source : UNSD, Comtrade database.

21. China's share in Japan's merchandise imports increased to 22.2% in 2009 (20.6% in 2007), consolidating China's position as Japan's largest trading partner. As with exports, the share of goods imported by Japan from Asia increased, although not as much as exports. The share of imports from the EU(27) also showed a slight increase. On the other hand, imports from the United States and the Middle-East declined (Table AI.4). The latter was seemingly due to lower international crude oil prices.¹⁸

(iii) Foreign direct investment

22. Japan's inward FDI remains substantially lower than outward FDI, and low compared with other developed economies.¹⁹ In 2009, FDI inflows declined substantially compared with the previous two years. In 2009, FDI inflows amounted to US\$12 billion, down from US\$24 billion in 2008 and US\$22 billion in 2007. Japan's outward FDI also declined considerably, to US\$75 billion in 2009, from US\$128 billion in 2008. The stock of inward FDI rose to 3.9% of GDP in 2009, from 3% of GDP in 2007, and the stock of outward FDI rose to 14.6% of GDP from 12.4% of GDP.

23. The EU is the largest investor in Japan. In 2009 it was responsible for over 75% of inward FDI into Japan, while the United States accounted for over 15%. The largest recipient of FDI was the finance and insurance sector followed by the electrical machinery industry.

24. The EU, Cayman Islands, the United States, Australia, and China were the major recipients of Japanese investment in 2009. The main industries/sectors invested in were finance and insurance, food, wholesale and retail trade, chemicals and pharmaceuticals, and mining.

¹⁸ The average price of the OPEC basket of oil was US\$95/barrel in 2008, which declined to US\$61/barrel in 2009.

¹⁹ According to UNCTAD (2010), FDI inflows into Japan in 2009 amounted to US\$12 billion, while those into the United States and the European Union were US\$130 billion and US\$362 billion, respectively. Inflows into China amounted to US\$95 billion.

II. TRADE POLICY REGIME: FRAMEWORK AND OBJECTIVES

(1) INTRODUCTION

1. Since Japan's previous Trade Policy Review in 2009, changes in the government ministries and agencies responsible for the formulation, implementation, and evaluation of its trade policies have included the establishment of the Consumer Affairs Agency (CAA) on 1 September 2009 and of the Government Revitalization Unit (GRU) on 18 September 2009.

2. Japan's overall trade policy objective, unchanged since 2009, is to ensure long-term prosperity and growth by promoting business activities in Japan and at an international level. In Japan's view, its regional and bilateral trade agreements complement the multilateral system, while it acknowledges that the level of complication increases as entry into force of the free-trade agreements (FTAs) progress.¹ FTAs (EPAs) that Japan has adopted also involve, *inter alia*, trade facilitation, investment, movement of natural persons, competition policy, and improvement of the business environment. During the period under review, two bilateral FTAs entered into force (with Switzerland and with Viet Nam); several others are being negotiated. The agreements with countries that are significant exporters of agricultural products tend to exclude many of these products. They also exclude certain industrial goods, such as leather products and footwear, which the authorities consider to be highly sensitive. Most of Japan's imports are subject to applied MFN tariffs; trade data suggest that preferential duties are applied to about 20% of Japan's imports, and the MFN rates to about 80%. The effects of FTAs on Japan's trade are not clear, partly because few relevant quantitative evaluations have been published by the authorities.

3. Japan has been a major participant in WTO activities. It has been a party to four disputes, one as a respondent and three as a complainant.

4. With a view to enhancing the Government's accountability to the public, Japan has continued to adopt measures to increase the transparency of its trade and trade-related policies, practices, and measures. Since March 2007, administrative organs have been required to conduct ex-ante evaluation of regulations, and a procedure for ex-ante regulatory impact analysis has been introduced. Nonetheless, cost-benefit analyses are not frequently used when introducing, revising, or abolishing measures; such analyses are rarely used to evaluate existing measures, such as the costs and benefits of tariff and non-tariff protection on agriculture, or to evaluate the economic effects of regional trade agreements.

5. Japan grants preferential treatment to products from certain developing and least developed countries under its Generalized System of Preference (GSP) scheme. The current GSP scheme, which is valid until March 2011, extends to 140 countries and 14 territories. The main beneficiaries are China, the Philippines, Viet Nam, Indonesia, and India. The scheme excludes many agricultural products and some industrial products.

6. Inward FDI in Japan remains substantially lower than outward FDI, and is relatively low compared with that in other large OECD economies. Since its previous Review, Japan has adopted measures to facilitate the approval of FDI; there has been no particular change to Japan's investment promotion measures.

¹ Japan prefers to call these preferential agreements economic partnership agreements (EPAs) rather than FTAs.

(2) TRADE POLICY OBJECTIVES

7. Japan's overall trade policy objective has remained largely unchanged since 2009; it is to ensure long-term prosperity and growth by promoting business activities in Japan and at an international level. Japan grants at least MFN treatment to all countries and economies except Andorra, Republic of Equatorial Guinea, Eritrea, Lebanon, North Korea, and Timor-Leste (the same as in 2009). Judging from trade data, it would appear that the MFN rate is applied to more than 80% of Japan's imports², although data are not collected on the total value of imports subject to preferential duties.

8. Japan considers that its regional and bilateral trade agreements complement the multilateral system³; at the same time, it acknowledges that the level of complication increases with the entry into force of the free-trade agreements (FTAs), since rules applied for specific goods are different among FTAs.⁴ This is in contrast with Japan's trade policy objectives before 2002, when its first FTA with Singapore entered into force: Japan had been sceptical of preferential trade agreements (PTAs) on grounds that they might lead to exclusive, discriminatory trading blocs, and that, if the WTO consistency of the regional agreements is not clearly assured, they might weaken credibility in the rules and procedures of a liberal, non-discriminatory, multilateral trading system under the WTO.⁵ Japan now has ten bilateral trade agreements and one regional (with ASEAN). Japan is currently negotiating bilateral FTAs (EPAs) with the Gulf Cooperation Council (Bahrain, Kuwait, Oman, Qatar, Saudi Arabia, and the United Arab Emirates), India, Australia, and Peru. Since June 2008, Japan has been holding working-level consultations to "consider and create a favourable environment for the resumption of negotiations" with the Republic of Korea. Japan also participates in the Asia-Pacific Economic Cooperation (APEC) forum and participates in other regional trade fora, such as the Asia-Europe meeting (ASEM), the ASEAN+3, and the East Asian Summit.

9. While Japan officially welcomes foreign direct investment (FDI) and seeks increased inward FDI into Japan has remained very low in recent years (Chapter I).

(3) TRADE POLICY FORMULATION AND EVALUATION

(i) Trade policy formulation and implementation

10. There has been no major change in Japan's trade-related legal framework since its previous Review (Table II.1). On 1 September 2009, the Consumer Affairs Agency (CAA) was established, based on relevant laws adopted in May 2009. The CAA is responsible for overseeing *inter alia*: the Travel Agency Act, and the JAS Law (on quality control) and the Food Sanitation Act (on labelling). Trade-related issues remain the responsibility of a number of ministries and agencies, in particular, Foreign Affairs (MOFA), and Economy, Trade, and Industry (METI), as stipulated by laws establishing relevant ministries and agencies. Other ministries and agencies with responsibility for sectoral issues involved in trade policy formulation and implementation include the Ministries of Agriculture, Forestry and Fisheries; Education, Culture, Sports, Science and Technology; Environment; Finance; Health, Labour and Welfare; Justice; Land, Infrastructure and Transport; and Internal Affairs and Communications; as well as the Cabinet Office. The overall coordination of

² Calculation by the WTO Secretariat based on the value of imports into Japan from its trading partners that have concluded bilateral/regional FTAs and the data on imports subject to Japan's GSP scheme.

³ See "Foreign Policy Speech by Minister for Foreign Affairs Katsuya Okada to the 174th Session of the Diet". MOFA online information. Viewed at: <http://www.mofa.go.jp/announce/fm/okada/speech1001.html> [19.07.2010].

⁴ See, for example, WTO document WT/TPR/M/211/Add.1, 22 May 2009, p. 155.

⁵ WTO (2001).

trade policies, including ensuring policy coherence and consistency with the WTO Agreements, remains the final responsibility of the Cabinet.

Table II.1
Major trade-related laws and regulations, October 2010

	Most recent amendment
Foreign trade and exchange restrictions	
Foreign Exchange and Foreign Trade Act (1949 Law No. 228)	2009
Export and Import Transaction Act (1952 Law No. 299)	2008
Foreign Exchange Order (1980 Order No. 260)	2009
Export Trade Control Order (1949 Order No. 378)	2009
Import Trade Control Order (1949 Order No. 414)	2009
Customs- and tariff-related regulations	
Customs Law (1954 Law No. 61)	2010
Customs Tariff Law (1910 Law No. 54)	2009
Temporary Tariff Measures Law (1960 Law No. 36)	2010
Cabinet Order Relating to Countervailing Duties (1994 Order No. 415)	2009
Cabinet Order Relating to Anti-Dumping Duties (1994 Order No. 416)	2009
Cabinet Order Relating to Emergency Duties (1994 Order No. 417)	2009
Cabinet Order Relating to Retaliatory Duties (1994 Order No. 418)	2000
Cabinet Order on Tariff Quotas (1961 Order No. 153)	2010
Trade promotion	
Trade and Investment Insurance Act (1950 Law No. 67)	2008
Services and energy	
Construction Business Law (1949 Law No. 100)	2007
Banking Law (1981 Law No. 59)	2009
Insurance Business Law (1995 Law No. 105)	2010
Financial Instruments and Exchange Law (1948 Law No. 25)	2010
Telecommunications Business Law (1984 Law No. 86)	2007
Law Concerning the Measures by Large-Scale Retail Stores for Preservation of Living Environment (1998 Law No. 91)	
Employee's Pension Insurance Law (1954 Law No. 115)	2009
Civil Aeronautics Act (1952 Law No. 231)	2009
Marine Transportation Law (1949 Law No. 187)	2008
Act on Special Measures Concerning the Handling of Legal Services by Foreign Lawyers (1986 Law No. 66)	2003
Certified Public Accountants Act (1948 Law No. 103)	2007
Certified Tax Accountant Law (1951 Law No. 237)	2007
Law for Improvement of International Tourist Hotels (1949 Law No. 279)	2008
Travel Agency Law (1952 Law No. 239)	2009
Electricity Utilities Industry Act (1964 Law No. 170)	2006
Gas Utility Industry Law (1954 Law No. 51)	2006
Petroleum Stockpiling Act (1975 Law No. 96)	2007
Act on the Quality Control of Gasoline and Other Fuels (1976 Law No. 88)	2008
Standards and technical regulations	
Industrial Standardization Act (1949 Law No. 185)	2005
Law Concerning Standardization and Proper Labelling of Agricultural and Forestry Products (JAS Law) (1950 Law No. 175)	2009
Pharmaceutical Affairs Law (1960 Law No. 145)	2006
Food Sanitation Law (1947 Law No. 233)	2009
Quarantine Law (1951 Law No. 201)	2008
Plant Protection Law (1950 Law No. 151)	2005
Domestic Animal Infectious Diseases Control Law (1951 Law No. 166)	2005
Building Standard Law (1950 Law No. 201)	2007
Electrical Appliance and Material Safety Law (1961 Law No. 234)	2007
Consumer Product Safety Law (1973 Law No. 31)	2009

Table II.1 (cont'd)

	Most recent amendment
High Pressure Gas Safety Act (1951 Law No. 204)	2006
Road Vehicle Law (1951 Law No. 185)	2009
Act concerning the Rational Use of Energy (1979 Law No. 49)	2008
Fire Service Law (1948 Law No.186)	2009
Intellectual property rights	
Patent Act (1959 Law No. 121)	2008
Customs Law (1954 Law No. 61)	2010
Act Against Unjustifiable Premiums and Misleading Representations (1962 Law No. 134)	2005
Unfair Competition Prevention Act (1993 Law No. 47)	2009
Utility Model Act (1959 Law No. 123)	2007
Design Act (1959 Law No. 125)	2008
Trademark Act (1959 Law No. 127)	2008
Copyright Law (1970 Law No. 48)	2009
Civil Code (1896 Law No. 89)	2006
Penal Code (1907 Law No. 45)	2010
Agriculture	
Basic Law on Food, Agriculture and Rural Areas (1999 Law No. 106)	
Temporary Law for Compensation Price of Milk for Manufacturing Use (1965 Law No. 112)	2002
Others	
Administrative Procedure Law (1993 Law No. 88)	2006
Act Concerning Prohibition of Private Monopolization and Maintenance of Fair Trade (Anti-Monopoly Act) (1947 Law No. 54)	2009

Source: Information provided by the Japanese authorities.

11. The Government Revitalization Unit (GRU) was established on 18 September 2009 under the new Government, and has been responsible for regulatory reform.⁶ While the Three-Year Program for the Promotion of Regulatory Reform, announced by the Committee for the Promotion of Regulatory Reform (CPRR) on 22 June 2007 is still in effect, on 18 June 2010, the Cabinet authorized a regulatory reform programme issued by the GRU.⁷ Under this programme, the authorities are to review and improve about 60 regulations concerning, *inter alia*, environment and energy, medical and elderly care services, and agriculture. The GRU is to monitor the implementation of the programme.

12. Trade and trade-related policy issues may also be debated in various Committees, including standing committees in the Diet.⁸ The authorities state that each ministry and agency receives inputs from the private sector concerning matters related to trade policies through, *inter alia*, exchanging opinions with private entities and receiving petitions from them. In addition, the Cabinet Office invites comments and opinions concerning regulations (including matters related to trade policies) from the general public.

(ii) Transparency and policy evaluation

13. Promoting transparency is one of the Government's policy priorities. All laws and regulations are published in the *Government Gazette*. The Government makes available all laws, Cabinet orders, and ministerial ordinances on the Internet; however, various Cabinet decisions and "understandings" are not automatically and fully available online. The authorities maintain that most,

⁶ The GRU, as a part of its responsibilities, has taken over the role of the previous Council for the Promotion of Regulatory Reform (CPRR).

⁷ The GRU online information (in Japanese). Viewed at: http://www.cao.go.jp/sasshin/kisei-seido/publication/220618/item100618_03.pdf [20.07.2010].

⁸ These include standing committees on: Foreign Affairs, Economy, Trade and Industry; Financial Affairs; Forestry and Fisheries; and Fundamental National Policies. Each committee consists of 10 to 50 members.

if not all, of these decisions are published in various publications including the *Government Gazette*. Each ministry decides whether to put relevant cabinet decisions on its own website and/or to publish the decisions (including in the *Government Gazette*) when it considers it necessary. As a part of the Government's efforts to increase transparency, many laws and regulations "of great interest" have been translated into English.⁹ Information in English websites tend to be less frequently updated and contain less detailed information compared with the original Japanese versions.

14. Cost-benefit analyses of policies, particularly of existing policies, are seldom undertaken. The lack of such evaluations makes it difficult for consumers to assess the effectiveness of policies, and effectively undermines the Government's intention to promote transparency.¹⁰

15. Under the Government Policy Evaluations Act (GPEA) and the Basic Guidelines for Implementing Policy Evaluation, adopted by the Cabinet in December 2001, the Cabinet Office and ministries are required to evaluate their own policies before and after implementation and to publish the results of their evaluations. For selected cases, ministries and agencies are required to conduct ex-ante regulatory impact analyses, to be presented when soliciting "public comments" before the Cabinet makes a decision to introduce, abolish or change regulations. From 1 October 2007, draft laws or draft cabinet orders to enact, revise or abolish regulations must be evaluated by ex ante regulatory impact analyses (RIAs); the results of ex ante RIAs must be published, in accordance with a Implementation Guidelines for ex-ante Evaluation of Regulations, which provide: standard guidance on the type of analysis that should be conducted; what procedures are necessary; and other matters relevant to the ex-ante evaluation of regulations.¹¹ According to the Guidelines, ex-ante evaluations should report: the purpose, contents and necessity of regulations; analysis of their costs versus benefits; comparison with alternatives; views of experts, and other related matters; and time and/or condition for reviews. An evaluation report concerning a regulation is to be made public no later than the Cabinet's approval of the draft law to enact, revise or abolish the regulation.¹² Nonetheless, not all bills are subject to ex ante RIAs. For example, an ex ante RIA was not conducted on the draft bill for the reform of the Japan Post Office, which was submitted to the Diet on 30 April 2010. The authorities maintain that drafting of the bills for postal reform was the responsibility of the Cabinet Secretariat, which is not subject to the GPEA, and thus was not obliged to conduct ex-ante RIAs. On the rescue of Japan Airlines (Chapter IV), there was no relevant enactment, revision, or abolition of regulations by a law or a cabinet order, and therefore, according to the authorities, no ex ante evaluation was conducted. Existing regulations and measures that are not subject to amendment or abolition are not subject to these evaluations. Thus, the cost and benefits of protection from various tariffs and or other trade policy measures are not evaluated by the Government.

16. In addition to these self-evaluations, the GPEA obliges the Ministry of Internal Affairs and Communications (MIC) to undertake independent assessments of the policies implemented by other ministries, and the Ministry of Finance conducts its own policy evaluation of selected expenditure programmes. The authorities state that the results of the self-evaluations and the evaluations by the

⁹ See Ministry of Justice online information. Viewed at: <http://www.japaneselawtranslation.go.jp> [25.06.2010].

¹⁰ Japan ranked 19th among 48 countries in the 2009 Opacity index, which measures the degree to which countries lack clear, accurate, easily discernible, and widely accepted practices governing the relationships among governments, businesses, and investors. See Milken Institute (2009).

¹¹ The Ministry of Internal Affairs and Communication online information (in Japanese). Viewed at: http://www.soumu.go.jp/menu_news/s-news/2007/070824_1.html [29.06.2010].

¹² If the regulation to be evaluated is enacted, revised or abolished by a cabinet order, or ordinance equivalent or inferior to a cabinet order, an evaluation report is to be made public no later than the commencement of public hearing procedures.

MOF are taken into consideration in the annual budget formulation. In September 2009, the Government set up a new policy evaluation body within the GRU, aiming at cutting the expenditure of a number of government projects. The authorities indicate that the Government has eliminated projects worth ¥96.9 billion in the process of formulating the FY2010 budget, based on the recommendations of the GRU.

17. The authorities state that 207 of the 762 ex-post evaluations undertaken during FY2009 resulted in improvement and review of policies (including abolition). Some of these policy evaluations involve analysis of cost-effectiveness.¹³

18. Ministries and agencies must publish draft regulations, including draft cabinet orders or ministerial orders, and receive comments from the public; they must allow, in principle, at least 30 days to receive comments, from the date of publication of the draft.¹⁴ Ministries and agencies are required to consider the comments submitted by the public and publish the comments, as well as the results of their consideration, and the reason for the results. The Ministry of Internal Affairs and Communications (MIC) conducts and publishes a comprehensive annual survey on the implementation of the public comment procedure under the Administrative Procedure Act. A report published in December 2009 states that comments submitted have been reflected in 122 (25.2%) out of 485 cases. While the Office for the Postal Reform held a number of public hearings on the postal reform and conducted the public comment procedure before submitting the bills for postal reform to the Diet on 30 April 2010, the Government did not conduct an ex-ante evaluation.¹⁵

19. In addition to these programmes, the new "Improving Transparency of Special Taxation Measures Law" entered into force on 1 April 2010. The law obliges persons and companies that have been granted tax exemptions under the special tax measures to submit the annual amount of granted exemption to the Japanese authorities; it is not intended to review "cost and benefit".¹⁶

20. The GRU has also introduced screening (*jigyo-shiwake*) of government projects. The screening is conducted by meetings of selected representative from politicians, academics, and private sectors; it does not involve quantitative cost-benefit analysis. To date, 25% of 449 projects reviewed have been abolished or their funding by budget postponed indefinitely. Such projects related to human capital development for industrial sectors in developing countries, and research projects for agricultural investment in foreign countries.¹⁷

¹³ For policy evaluations by ministries and agencies (in Japanese), see MIC online information. Viewed at: http://www.soumu.go.jp/main_sosiki/hyouka/seisaku_n/seisaku_fusyou.html [25.06.2010].

¹⁴ If the authorities decide that comments are required within less than 30 days of publication, they must publish the reason for this decision. The authorities state that draft laws are not subject to the public comment requirements, as they are scrutinized in the Diet.

¹⁵ The bill was re-submitted to the 176th session of the Diet on 13 October 2010.

¹⁶ Ministry of Finance online information (in Japanese). Viewed at: <http://www.mof.go.jp/houan/174/houan.htm> [10.06.10].

¹⁷ The authorities indicate that the budget for human resource development programmes decreased by ¥1.2 billion in the FY2010 budget, and that for the research on agricultural investment decreased by ¥1.4 billion. The GRU online information (in Japanese). Viewed at: <http://www.cao.go.jp/sasshin/kaigi/honkaigi/d5/shidai.html> [25.06.2010].

(4) TRADE AGREEMENTS AND ARRANGEMENTS**(i) WTO****(a) Participation in the WTO**

21. Japan participates actively in the WTO; the authorities state that Japan remains committed to the DDA and will continue to make every effort toward reaching agreement in the negotiations. Japan has submitted comprehensive notifications under WTO Agreements (Table AII.1). Japan is an original Member of the WTO. It undertook commitments as a result of the post-Uruguay Round negotiations on telecommunications and financial services. Japan is a party to the Agreement on Government Procurement and the Agreement on Trade in Civil Aircraft, and a participant in the Information Technology Agreement.

22. In the WTO, Japan has recently sought to curtail unilateral export restrictions by its trading partners, especially those concerning chemical fertilizers and natural resources.¹⁸

(b) Disputes

23. Since 2009, Japan has been involved in one dispute as a respondent and three cases as a complainant (Table AII.2). In addition, Japan participated as a third party in six dispute cases.¹⁹

(ii) Regional trade agreements**(a) Bilateral/regional free-trade agreements adopted by Japan**

24. Whereas Japan had no preferential trade agreement before 2002, it now has ten bilateral FTAs (EPAs) in force (with Singapore, Mexico, Malaysia, Chile, Thailand, Indonesia, Brunei, the Philippines, Switzerland, and Viet Nam) and one regional FTA with the ASEAN (Table AII.3). These FTAs include the application of preferential rates of duty but also involve, *inter alia*, trade facilitation, investment, movement of natural persons, competition policy, and improvement of the business environment.

25. Although not a member of the ASEAN, Japan, along with China and the Republic of Korea, holds regular meetings with ASEAN under the ASEAN+3 framework of cooperation. High level meetings are held annually; the twelfth ASEAN+3 summit was held in October 2009. Japan also participates in the East Asian Summit framework of cooperation, which involves Australia, China, India, Japan, Korea, and New Zealand. The fourth East Asian Summit meeting was also held in October 2009.

26. Over the past two years, the Agreement on ASEAN-Japan Comprehensive Economic Partnership (AJCEP) entered into force between Japan and most ASEAN countries.²⁰ Certain

¹⁸ WTO documents G/MA/W/96, 22 September 2009. Japan also reserves its third-party rights in disputes involving China's measures related to the exportation of various raw materials (WTO documents WT/DS394/8, WT/DS395/8, and WT/DS398/7).

¹⁹ Cases in which requests for consultations were made and panels were established between January 2009 and June 2010. WTO documents DS391, DS394, DS395, DS397, DS398, and DS399.

²⁰ The agreement entered into force on: 1 December 2008 between Japan, Lao PDR, Myanmar, Singapore, and Viet Nam; 1 January 2009 between Japan and Brunei; 1 February 2009 between Japan and Malaysia; 1 June 2009 between Japan and Thailand; 1 December 2009 between Japan and Cambodia, and 1 July 2010 between Japan and the Philippines. As of September 2010, the agreement had not yet entered into force between Indonesia and other contracting parties.

agricultural and industrial products, such as alcoholic beverages, tobacco, and steel products are excluded from the agreement.

27. The AJCEP is legally independent from the individual FTAs concluded bilaterally between Japan and ASEAN member countries; it neither nullifies nor integrates these FTAs.²¹ The Japanese Customs applies a preferential tariff based on a bilateral FTA or the AJCEP, depending upon the certificate of origin of the item concerned, thus adding to the complexity of Japan's rules of origin.²² The authorities indicate that the AJCEP eliminates tariffs on about 93% of the total value of Japan's imports from ASEAN countries, based on 2006 data.

28. Two FTAs entered into force during the period under review (with Switzerland on 1 September 2009, and with Viet Nam on 1 October 2009). While the authorities indicate that the FTAs Japan has concluded to date eliminate tariffs on some 91% to 99.9% of the total value of bilateral trade, all the FTAs exclude similar products, including certain items of agriculture; fish and fish products; petroleum oils (other than crude oil); leather, leather products, and footwear; and laminated wood. In FY2010, the overall simple average applied preferential tariff under Japan's FTAs range from 2.9% to 3.4%, compared with Japan's average applied MFN tariff of 5.8% (Chapter III(2)(ii)). Under these FTAs, the percentage of total tariff lines that are either zero or lower than the corresponding applied MFN rates ranges between 86.3% and 90.3%, and the percentage of duty-free tariff lines in total lines ranges from 81.2% to 82.3%.

29. Under Japan's FTAs, preferential rules of origin involve criteria including the change in tariff classification at the HS 4-digit level (Chapter III(2)(iii)). Some tariff lines, including certain meat, fruit juice, leather, and leather products, are subject to tariff-rate quotas created especially under the FTA between Japan and Mexico (JUMSEPA) (Chapter III(2)(ii)). Safeguard measures (involving emergency tariff increases) may be imposed on items subject to tariff concessions in accordance with each agreement, as long as the resulting tariff rate does not exceed the lesser of: the applied MFN rate in effect at the time the measure is taken, or the applied MFN rate in effect on the day immediately preceding the date of entry into force of each agreement.

30. As the authorities have not, in most instances, conducted quantitative analysis on the effects of FTAs on Japan's trade before or after the entry into force of these agreements, their economic benefits are unclear.²³ According to the UN Comtrade database, in 2009, exports from Japan to its FTA partners generally fell, just as its total exports fell by 25.7%, due to the latest global recession; the decrease ranged from 9.9% (exports to Brunei) to 51.3% (exports to Chile). The only exception was Japan's exports to Switzerland, which increased by 44.9%. Japan's imports from the FTA partners in 2009 also decreased, along with its total imports, which fell by 27.1%; the decrease ranged from 2.3% (imports from Switzerland) to 33.0% (imports from Chile and Indonesia).

31. In the Committee on Regional Trade Agreements, some Members raised concerns about Japan's FTAs. These included disproportionate liberalization between agricultural and non-

²¹ Some chapters of the bilateral FTAs (e.g. chapters concerning intellectual property, competition, and government procurement) are not included in the AJCEP.

²² Thus, the rules of origin applied to imports into Japan depend on which agreement an exporter cites when exporting from one of Japan's FTA partners. The authorities maintain that this broadens the choice of preferential tariffs from which exporters can choose.

²³ In the context of *inter alia* Japan's possible participation in the Trans-Pacific Partnership (TPP) initiative, various governmental bodies have recently estimated the cost (and benefit) of its participation in FTAs (EPAs). METI online information (in Japanese). Viewed at: http://www.meti.go.jp/topic/downloadfiles/101027strategy02_00_00.pdf [30.11.2010].

agricultural products, and Japan's longer implementation periods compared with some developing country FTA partners (such as Brunei and the Philippines).

32. The FTAs Japan has concluded do not have chapters on environment or labour. The authorities consider that most FTAs address the issue of sustainable development and labour standards through the reaffirmation of the rights and obligations under other existing international agreements and the various economic cooperation activities described in chapters on cooperation. Some FTAs stipulate the inappropriateness of encouraging investment through a relaxation of environmental measures or by weakening or reducing protection afforded in domestic labour laws.²⁴

33. In its FTAs (EPAs), Japan has made services-related commitments that are not listed on its GATS schedules. For example, it has made commitments to further relax foreign equity participation in telecommunications and liberalize the distribution of salt, petroleum, and petroleum products. Japan considers that, besides additional commitments in specific services sectors, these EPAs enhanced transparency by the adoption of a negative-list approach. For example, the Japan-Switzerland EPA includes a negative-list approach for market access. With respect to investment, Japan has made commitments that are beyond the scope of its obligations under the TRIMS Agreement. For example, in the Japan-Singapore EPA, the prohibition of performance requirements applies to goods and to services, and prohibitions are included in "technology transfer requirements" and "research and development requirements".²⁵

34. Under Japan's FTAs, a party may request, in writing, consultations with the other party on the interpretation or application of the agreement. In the event that the request or the consultation does not produce any result, the complainant may call for the establishment of an arbitration tribunal. This is possible only if the complainant considers that any benefit accruing to it, directly or indirectly, under the agreement is being nullified or impaired as a result of the failure of the complained to carry out its obligations under the agreement. Each party may appoint one arbitrator who may be a national, and propose up to three candidates to serve as the third arbitrator, who becomes the chair of the arbitral tribunal. The third arbitrator must not be a national of either party, have his or her usual place of residence in either party, or be employed by either party. The judgement of the tribunal binds each party and there is no specific provision for an appellate court.²⁶

(b) Bilateral/regional free-trade agreements currently being negotiated (or studied)

35. The fourth "intermediate" negotiation for a free-trade agreement between Japan and the member states of the Gulf Cooperation Council (GCC: Bahrain, Kuwait, Oman, Qatar, Saudi Arabia, and the United Arab Emirates) was held in March 2009.²⁷

36. The first round of negotiations for a comprehensive FTA between Japan and the Republic of Korea was held in December 2003, and five further rounds were held in 2004; there have been no negotiations since the end of the sixth round, in November 2004. Since June 2008, four working-level consultations have been held between Japan and Korea to "consider and create a favourable environment" for the resumption of negotiations.

37. In December 2006, the leaders of Japan and India agreed to launch FTA negotiations; the 14th round of negotiations was held in September 2010, and agreement was reached between the two

²⁴ WTO document WT/TPR/M/211/Add.1, 22 May 2009.

²⁵ See Article 75 of the Japan-Singapore FTA for details.

²⁶ METI online information (in Japanese). Viewed at: <http://www.meti.go.jp/report/downloadfiles/g90527c3-8j.pdf> [06.08.2010].

²⁷ The first round of the negotiations was held in September 2006.

parties on major elements of a prospective FTA. On 12 December 2006, the leaders of Japan and Australia agreed to launch FTA negotiations; the 11th round of negotiations was held in April 2010. On 14 April 2009, the leaders of Japan and Peru decided to launch negotiations on a bilateral FTA. The sixth round of negotiations was held in August 2010.

38. As part of Japan's trilateral cooperation with China and the Republic of Korea, joint research on a possible FTA has been conducted since 2001 by private institutions of the three countries. Some of these studies contain quantitative analysis on the economic effects on the three parties of a possible FTA.²⁸ Pursuant to a joint statement during the trilateral Economic and Trade Ministers' Meeting in October 2009, a joint study committee composed of government officials, business and academic experts was established in May 2010; the second meeting of the committee was held in September 2010. The JSC is to issue its final report by 2012, as agreed by the leaders at their latest summit meeting in May 2010. In addition, within the trilateral framework, the three countries are to promote 13 concrete programmes for trilateral cooperation, including drafting the "action plan", setting up the "cyber secretariat", initiating the trilateral policy meeting on Africa, and promoting negotiation on a trilateral investment agreement.

39. The authorities indicate that Japan has a strong interest in the progress of the Trans-Pacific Partnership (TPP) initiative. It is seriously considering ways to be involved in it but has not yet decided whether to participate in the TPP.²⁹

(iii) Generalized System of Preferences and other preferential arrangements adopted unilaterally by Japan

40. Under the Generalized System of Preferences (GSP) scheme, Japan grants preferential tariff treatment unilaterally to certain developing countries.³⁰ The Government has the authority to unilaterally designate, withdraw, suspend, and limit the beneficiaries or products that receive preferential treatment under the GSP scheme. A beneficiary country is removed from the scheme (graduates) when it has been classified in the World Bank statistics as a high-income country during the three preceding years. In 2009, Japan considered that Saudi Arabia had graduated from the scheme and removed it from its GSP list. There has been no other change in the scheme since Japan's previous Review. The current GSP scheme is valid until 31 March 2011.

41. Ceilings on import value or volume for the granting of GSP preferential tariffs are determined in accordance with the Temporary Tariff Measures Law, as follows: the ceiling (in value or volume) for FY2001 was established as 103% of the imports (in value or volume) of a product in FY1999; and since 2002, the ceilings have been increased each year by 3% of the previous year's ceiling. Data on the actual use of ceiling are made available online.³¹

42. The simple average GSP tariff rate is 4.6%, slightly lower than the overall applied MFN average tariff of 5.8% in FY2010. Japan grants preferential tariff treatment under its GSP scheme to 140 developing countries and 14 territories for 341 agricultural and fishery products, and

²⁸ NIRA online information. Viewed at: http://www.nira.or.jp/outgoing/report/entry/n081213_284.html [20.10.2010].

²⁹ MOFA online information. Viewed at: <http://www.mofa.go.jp/policy/economy/fta/policy/20101106.html> [22.11.2010].

³⁰ For details of the GSP scheme see MOFA online information. Viewed at: <http://www.mofa.go.jp/policy/economy/gsp/explain.html#6> [21.08.2010].

³¹ Customs online information (in Japanese). Viewed at: <http://www.customs.go.jp/tokkei/index.htm> [21.08.2010].

2,641 industrial products at HS 9-digit level.³² The scheme excludes many agricultural products and some industrial products (e.g. rice and rice products, meat and meat products, fish and fish products, dairy products, pineapples, cereal products, textiles and clothing, leather and leather products, and footwear), many of which are export items in which developing countries have comparative advantage; MFN tariffs apply to these products imported from developing countries. The authorities have not made quantitative cost and benefit analysis on the effect of the exclusion, such as how the exclusion has protected relevant sectors or industries; nonetheless, they are of the view that Japan's tariff rate is appropriately set by taking into consideration the results of multilateral negotiations, international requirements, the need to protect domestic industries, and price gaps between domestic and overseas markets. Under the GSP, applied tariff rates for 75.2% of total tariff lines are either zero or lower than the corresponding applied MFN rates; duty-free tariff lines account for 61.2% of all lines. China remains the main beneficiary of GSP treatment (Table II.2). In FY2008, the main products imported under the GSP scheme were coke and semi-coke (HS2704.00), articles for the conveyance or packing of goods (HS3923.21), and bananas (HS0803.00); in FY2009, they were made-up textile articles (HS6307.90) and articles for the conveyance or packing of goods (HS3923.21).

Table II.2
Ten largest GSP beneficiaries, FY2008
 (¥ million)

Beneficiaries	Import value of preferential treatment	Share (%)
China	1,618,208	77.9
The Philippines	120,686	5.8
Viet Nam	51,858	2.5
Indonesia	49,184	2.4
India	49,158	2.4
Myanmar	26,952	1.3
Brazil	26,458	1.3
South Africa	25,627	1.2
Bangladesh	12,775	0.6
Thailand	10,666	0.5
World	2,077,592	100.0

Source: Information provided by the Japanese authorities.

43. Japan's duty-free and quota-free treatment for 49 LDCs has remained unchanged since its previous Review. The current coverage is about 98% defined at the HS nine-digit level; and the simple average applied rate for LDCs in FY2010 is 0.5%, the same as in FY2009. For 170 tariff lines (1.9% of the total)³³, the applied rates on imports from LDCs are the same as the applied MFN rates. Data provided by the authorities indicate that the value of imports from LDCs under the duty-free and quota-free treatment amounted to ¥65,566 million in FY2008 (up from ¥62,904 million in FY2006).

³² These figures take into account only tariff lines where the preferential rate is lower than the corresponding MFN applied rate.

³³ These cover, for example, fish and fish products, products of the milling industry, sugar, and articles of leather and footwear.

(iv) **Other bilateral/regional arrangements**

(a) Japan–U.S. bilateral relationship

44. In 2009, Japan and the United States continued their dialogue under the U.S.–Japan Regulatory Reform and Competition Policy Initiative, established within the framework of the Japan–U.S. Economic Partnership for Growth. Issues dealt with in the dialogue include information technology, telecommunications, medical devices and pharmaceuticals, distribution, customs procedures, consular affairs, and government procurement. The latest report describing the measures taken in response to each party's recommendations for regulatory reform was issued on 6 July 2009.³⁴ The report describes reform measures adopted by the two parties in key sectors and areas including government procurement, privatization, intellectual property, competition policy, medical devices and pharmaceuticals, telecommunications, and distribution.

(b) Japan–EU bilateral relationship

45. Since its previous Review, Japan has continued to pursue bilateral cooperation with the European Union through, *inter alia*, annual summit meetings and the Japan-EU Regulatory Reform Dialogue. In the latest bilateral summit meeting, in April 2010, Japan and the EU agreed to start a "joint examination" of issues of interest to the two parties; these include tariffs and non-tariff measures, services, investment in services and non-service sectors, government procurement, and intellectual property rights.³⁵ They also cooperate on customs issues, under the Agreement between the Government of Japan and the European Union on Cooperation and Mutual Administrative Assistance in Customs Matters, which entered into force on 1 February 2008.

(c) APEC (Asia-Pacific Economic Cooperation)

46. In 2009, 66.5% of Japan's merchandise imports were from APEC members, and 74.8% of its merchandise exports were to APEC.³⁶ In keeping with its policy of supporting multilateral trade and investment liberalization, Japan is a strong supporter of APEC's "open regionalism" goals. Like other members, Japan submits an annual Individual Action Plan (IAP), which provides a roadmap of its intended actions in various policy areas with a view to realizing APEC's liberalization goals.³⁷ At the Seventeenth APEC Economic Leaders' Meeting, held in Singapore in November 2009, APEC Members, *inter alia*, agreed to take all necessary economic and financial measures to resolve the current financial crisis; they also stated their support for a prompt, ambitious, and balanced conclusion to the DDA. In addition, they agreed to continue to explore ways of setting up a possible Free Trade Area of the Asia-Pacific (FTAAP). Furthermore, they agreed to review their efforts to achieve APEC's goals, known as Bogor Goals, under which industrialized economies among APEC members aim to achieve free and open trade and investment no later than 2010, and other members by 2020. At the Eighteenth APEC Economic Leaders' Meeting, held in Yokohama, Japan, in November 2010, APEC members reviewed the implementation of Bogor Goals by five

³⁴ Eighth report to the leaders on the U.S.-Japan Regulatory Reform and Competition Policy Initiative. Viewed at: <http://www.mofa.go.jp/region/n-america/us/economy/report0907.pdf> [23.06.2010].

³⁵ 19th Japan-EU Summit, Tokyo, 28 April 2010, Joint Press Statement. MOFA online information. Viewed at: <http://www.mofa.go.jp/region/europe/eu/summit/joint1004.html> [19.07.2010].

³⁶ UN Comtrade database.

³⁷ The latest available IAP for Japan was issued in 2009 (APEC online information. Viewed at: http://www.apec-iap.org/document/JPN_2009_IAP.htm [23.06.2010]).

industrialized economies and eight developing economies.³⁸ They concluded, *inter alia*, that "while more work remains to be done, these 13 economies have made significant progress toward achieving the Bogor Goals". APEC members also reaffirmed their commitment to bring the DDA to a prompt and successful conclusion. In addition, they agreed to take concrete steps toward realization of a FTAAP.³⁹

47. The Investment Facilitation Action Plan (IFAP) for 2008-10, endorsed at the 2008 ministerial meeting, is intended to identify a menu of specific actions that an economy can choose to implement.

48. In June 2008, Japan proposed to set up a one-stop online service providing information on patent search and patent examination, in response to the APEC Cooperation Initiative on Patent Acquisition Procedures, which were endorsed at the 2007 ministerial meeting. This proposal was endorsed by APEC members at the IPEG (Intellectual Property Rights Experts Group) meeting in March 2010. The initiative aimed to enhance patent examination cooperation, promote computerization of procedures, and improve patent examination capability.

(d) ASEM (Asia-Europe Meeting)

49. At the seventh ASEM Summit (ASEM7), held in Beijing in October 2008, the leaders stressed the importance of multilateral cooperation to tackle the ongoing financial crisis. They also reiterated "the importance of an open, fair, rule-based and stable multilateral trading system" under the WTO.⁴⁰

50. Under the ASEM's Trade Facilitation Action Plan (TFAP), adopted in 1998 to reduce non-tariff barriers and to promote trade opportunities between Asia and Europe, four priority areas (i.e. customs procedures, standards and conformity assessment, intellectual property rights, and e-commerce) were set for the period 2006-08. A revised TFAP, for 2010-2012, was adopted at the eighth ASEM Customs DG-Commissioner Meeting. In the context of the revised TFAP, Japan has participated in various meetings including the third meeting of the ASEM Working Group on Customs Matters, held in Budapest in April 2009.

(e) Other bilateral/regional arrangements

51. Japan participates in the Asia Pacific Metrology Programme and the Asia Pacific Legal Metrology Forum, as well as the Asia Pacific Laboratory Accreditation Cooperation (APLAC), which aims to facilitate cooperation in the harmonization of laboratory accreditation practices.

52. A protocol amending the bilateral tax treaty with the Philippines, and new bilateral tax treaties between Japan and Australia entered into force in 2008; and tax treaties between Japan and Brunei, and Japan and Kazakhstan entered into force in 2009. Japan signed new bilateral tax treaties with Kuwait and Bermuda in February 2010; the treaty with Bermuda entered into force in August 2010.⁴¹

³⁸ The five industrialized economies are: Australia; Canada; Japan; New Zealand; and the United States. The eight developing economies are: Chile; Hong Kong, China; Korea; Malaysia; Mexico; Peru; Singapore; and Chinese Taipei.

³⁹ MOFA online information. Viewed at: <http://www.mofa.go.jp/policy/economy/apec/2010japan/sm/index.html> [30.11.2010].

⁴⁰ MOFA online information. Viewed at: http://www.mofa.go.jp/policy/economy/asem/asem7/chair_state.pdf [06.08.2010].

⁴¹ As of September 2010, Japan has 48 tax treaties applied to 59 countries and regions (i.e. Armenia, Australia, Austria, Azerbaijan, Bangladesh, Belarus, Belgium, Bermuda, Brazil, Brunei, Bulgaria, Canada, China, Czech Republic, Denmark, Egypt, Fiji, Finland, France, Georgia, Germany, Hungary, India, Indonesia, Ireland, Israel, Italy, Republic of Korea, Kyrgyz Republic, Luxembourg, Malaysia, Mexico, Moldova, the

Japan signed protocols amending the current bilateral tax treaties with Belgium, Luxembourg, Malaysia, Singapore, and Switzerland in 2010. Tax-sparing provisions in the treaty with Pakistan were removed in the new treaty, which entered into force in November 2008.⁴² None of the tax treaties Japan has signed contains MFN provisions.

53. Since its previous Review, Japan has promoted cooperation agreements on competition in the form of competition chapters in its FTAs. Nine FTAs with chapters on competition have entered into force (with Singapore, Mexico, Malaysia, Chile, Thailand, Indonesia, the Philippines, Switzerland, and Viet Nam) (Chapter III(4)(vi)). Japan's FTA with Brunei does not contain chapters on competition. The economic cooperation chapter of Japan's FTA with ASEAN cites competition.

54. Japan currently has bilateral investment treaties with 15 trading partners (section (6)(i) below).

55. In 2002, Japan and China agreed to establish the Japan–China Economic Partnership Consultation scheme, with a view to identifying possible economic disputes at an early stage, preventing disputes between the two countries, and further strengthening complementary economic relations. In these consultations, the two countries exchanged opinions on issues including IPR, China's commitment under the WTO rules, agriculture and quarantine, and other trade-related issues, as well as Japan-China cooperation within the international economy. There have been seven such consultations at deputy director-general level, the most recent in October 2008.

(5) AID FOR TRADE

56. In 2008, Japan was the largest bilateral aid-for-trade donor, providing US\$8.7 billion (Table II.3). This was an increase of US\$3.9 billion over Japan's commitments in 2007 (US\$4.8 billion) and resulted in an increase in the share of aid for trade in Japan's sector-allocable official development assistance (ODA) from 49% in 2007 to 69% in 2008 (latest year for which data are available).⁴³

Table II.3
Japan's aid-for-trade commitments, 2002-08
(2008 constant US\$ million)

Sectors	2002	2003	2004	2005	2006	2007	2008
Transport & storage, total	2,273.78	866.1	2,087.32	2,963.11	2,284.1	1,501.09	4,510.5
Communications, total	59.37	260.06	234.42	106.37	127.36	142.72	37.95
Energy, total	1,513.59	2,394.92	1,738.13	1,095.23	1,371.66	1,665.37	1,553.97
Banking & financial services, total	47.07	14.49	13.79	16.17	15.05	10.44	71.58
Business & other services, total	..	19.24	24.72	18.1	21.91	144.4	341.83
Agriculture, total	546.35	320.83	332.05	613.38	360.35	663.51	648.06

Table II.3 (cont'd)

Netherlands, New Zealand, Norway, Pakistan, the Philippines, Poland, Republic of Kazakhstan, Romania, Russia, Singapore, Slovak Republic, South Africa, Spain, Sri Lanka, Sweden, Switzerland, Tajikistan, Thailand, Turkey, Turkmenistan, Ukraine, the United Kingdom, the United States, Uzbekistan, Viet Nam, and Zambia).

⁴² "Tax sparing" is a means by which the tax system of a capital-exporting country can be made to accommodate the tax incentives of developing countries. More specifically, in this case, Japan "spares" the tax it would normally impose on the untaxed (or low-taxed) income earned by Japanese investors in Pakistan by granting them foreign tax credits equal to the tax they would have paid in Pakistan (in the absence of the incentives). Japan's bilateral tax treaties with Sri Lanka, Zambia, Brazil, the Philippines, China, Thailand, Bangladesh, and Viet Nam have tax-sparing provisions.

⁴³ WTO document WT/COMTD/AFT/W/21, 13 July 2010.

Sectors	2002	2003	2004	2005	2006	2007	2008
Forestry, total	82.84	434.61	111.08	334.17	236.75	427.86	243.4
Fishing, total	83.39	78.75	99.19	97.33	64.85	99.37	151.28
Industry, total	5.03	122.62	228.46	172.45	138.65	160.34	613.86
Mineral resources & mining, total	..	29.26	23.76	20.26	18.35	17.8	497.05
Trade policies & regulations, total	..	53.31	110.76	46.95	55.81	50.64	60.67
Tourism, total	..	5.89	9.68	98.59	363.82	10.42	8.26
Total	4611.42	4,600.08	5,013.36	5,582.11	5,058.66	4,893.96	8,738.41

.. Not available.

Source: OECD Query Wizard for International Development Statistics.

57. The majority of the additional aid-for-trade flows were allocated to infrastructure in the transport and storage, communications, and energy supply and generation sectors. There was also an increase in support for industry and mineral resources/mining. In 2008, US\$6.1 billion (69.8% of the total aid for trade) was allocated to infrastructure, and US\$2.6 billion (29.5%) to building productive capacity.⁴⁴ In 2008, grants, technical cooperation, and concessional loans accounted for 6%, 5%, and 89%, respectively, of Japan's aid-for-trade assistance.

58. The major recipients of Japan's aid for trade are Asia, the Middle East, and Africa. In 2008, US\$5.5 billion (62.3% of the total) was allocated to Asia, US\$1.9 billion (22.0%) to Middle East, and US\$1.0 billion (11.7%) to Africa. Japan also had the largest levels of disbursements in 2008 with US\$5.3 billion, an increase of 21% over 2007.

59. At the Second Global Review on Aid for Trade in July 2009, Japan announced a renewal of its aid-for-trade strategy, the Development Initiative for Trade (DIT).⁴⁵ Under this initiative, Japan pledged to provide US\$12 billion through bilateral assistance for trade-related projects from 2009 to 2011, as well as technical assistance for 40,000 people in the field of trade-related activities. This US\$12 billion pledge superseded and increased Japan's funding by 20% compared with its commitment at the Hong Kong Ministerial Conference in 2005 to provide US\$10 billion over the period 2006-08. Among OECD countries, Japanese expenditure on aid for trade remains one of the highest, when measured as a share of its overall aid budget (69% in 2008).

60. In its response to the 2009 OECD/WTO self-assessment questionnaire for the Second Global Review, Japan profiled the Global One-Village One-Product (OVOP) Campaign. The OVOP emphasizes the importance of providing assistance to all three stages of the trade cycle: production, selling, and buying, in line with Japan's conceptualization of aid for trade as a "comprehensive package of extensive development assistance".⁴⁶ Japan also provides aid-for-trade support for addressing regional challenges, specifically enhancing the development efforts of low income and least developed countries and supporting regional integration in the Asia-Pacific. Japan collaborates with ASEAN through the JICA-ASEAN Regional Cooperation Meeting (JARCOM)⁴⁷, to support and

⁴⁴ Based on information provided by the authorities; aid given to infrastructure-related projects increased substantially because of the large loan projects in the transport and storage sector committed in 2008.

⁴⁵ MOFA online information. Viewed at: <http://www.mofa.go.jp/policy/economy/wto/min05/initiative.html> [21.08.2010].

⁴⁶ Responses to the self-assessment questionnaire. Viewed at: <http://www.oecd.org/dataoecd/46/3/39639093.pdf> [30.08.2010].

⁴⁷ JICA-ASEAN Regional Cooperation Meeting online information. Viewed at: <http://www.jarcom.net> [30.08.2010].

promote greater South-South cooperation amongst ASEAN members and to expedite regional integration through JICA technical cooperation activities.

61. Japan's aid-for-trade priorities for Africa focus on: providing assistance for developing policies to promote industrial development; product development with a focus on quality and competitiveness; empowerment of SMEs as a means to generate income and employment; and promoting the role of the private sector in growth. The Tokyo International Conference on African Development (TICAD) is the platform used by Japan and its African partners to support the bridging of the demand and supply of Japan's ODA and aid for trade to Africa. The Yokohama Action Plan under which Japan pledged to double its ODA to Africa by 2012 was agreed at the Fourth Tokyo International Conference on African Development (TICAD IV) in May 2008. The Second TICAD Ministerial Follow up Meeting to review progress in the implementation of the Plan was held in May 2010, and an additional focus agreed on efforts to enhance private-sector collaboration with Africa on market access for African exports to Japan, investment, and tourism. Between end-August and early September 2010, Japan dispatched a public and private sector joint mission to Angola, Namibia, and South Africa with a view to promoting trade and investment to Africa.

62. Japan's aid policy is coordinated mainly by the Ministry of Foreign Affairs, and its aid programme is implemented mainly by the Ministry of Foreign Affairs and the Japan International Corporation Agency (JICA). JICA has conducted various types of evaluation on its aid for trade and Aid projects at the pre-implementation, implementation, and post-implementation stages. The JICA Advisory Committee on Evaluation aims to improve evaluation techniques and its systems, as well as the quality of evaluation, placing a greater focus on outcomes, especially given the need for aid effectiveness in the light of the strain on public budgets, and for accountability. JICA also conducts joint-evaluations with recipient countries, and its 2009 Evaluation Report reflected evaluations undertaken in a number of countries across various regions.⁴⁸ Evaluations are conducted on technical assistance, grant support, and ODA loans. JICA Annual Evaluation Report 2008 indicates that 51 out of 83 projects evaluated in FY2008 were counted as aid for trade. Of the 51 projects, 41 were rated as "highly satisfactory" and "satisfactory". Evaluations focusing on aid for trade included an impact assessment of a transport infrastructure project in northern Viet Nam, and an empirical study on growth and poverty reduction in Indonesian farms.⁴⁹

63. Japan continues to support the Aid-for-Trade Initiative in Asia-Pacific through its co-chairmanship of the Regional Technical Group (RTG).⁵⁰ The RTG is a forum for discussion of aid for trade issues and proposals, and the formulation of a regional integrated approach to operationalizing aid for trade. The Third Meeting of the RTG was held in May 2009 and a publication on aid for trade in the Asia-Pacific region is under preparation.

64. Private public partnerships (PPPs) are a central feature of Japan's aid and aid-for-trade programmes. In April 2008, Japan announced the "Public-Private Partnership for Boosting Growth in Developing Countries", which includes: examining and adopting projects of public-private collaboration proposed by the private sector; periodically implementing public-private discussions in recipient countries and Tokyo; and convening meetings of the "Expanded Country-based ODA Task Force", whose members include Japanese companies in recipient countries. Japan has PPP

⁴⁸ JICA Annual Evaluation Report 2009. Viewed at: <http://www.jica.go.jp/english/operations/evaluation/reports/2009> [12.10.2010].

⁴⁹ JICA online information. Viewed at: http://www.jica.or.id/english/operations/evaluation/oda_loan/post/2003/pdf/1-03_smry.pdf; and <http://jica-ri.jica.go.jp/research/growth-poverty/infrastructure-building-in-asia/index.html> [12.10.2010].

⁵⁰ Regional Technical Group online information. Viewed at: <http://www.aric.adb.org/aid-for-trade-asia/overview.php>.

arrangements with Africa through the Africa-Asia Business Forum (AABF) and the TICAD conferences, and with India and Viet Nam through the Japan-OECD-Vietnam PPP Forum. Japan recognizes the contribution that private corporations in donor countries can provide to private sectors in developing countries through foreign direct investment (FDI), technology transfers, and "bottom/base of the pyramid (BOP)" businesses.⁵¹ Discussions have been held between the Government, governmental agencies (including JICA and the Japan External Trade Organization (JETRO)), and the Japan Business Federation on exporting this model to developing countries. Japan has held opinion-exchange meetings with business communities, such as the Japan Business Federation, on a regular basis to absorb their awareness concerning ODA.

(6) FOREIGN INVESTMENT REGIME

65. Inward FDI in Japan remains substantially lower than outward FDI, and is relatively low compared with that in other large OECD economies (Chapter I(4)(iv)). The continued low level of FDI into Japan may be attributed to macroeconomic factors such as the exchange rate (when the yen is appreciating), high costs of business, and regulatory barriers.⁵² The Five Recommendations Toward the Drastic Expansion of Foreign Direct Investment in Japan, issued by the Expert Committee on FDI Promotion on 20 May 2008, consider that the Government should promote: enhancement of the system to facilitate M&A; comprehensive studies on FDI regulations; establishment of priority strategies by sector; reduction of business costs and improvement of transparency; and regional revitalization by FDI.⁵³ Against this background, Japan has continued to take measures to make itself an attractive investment destination for foreign firms. Nonetheless, inward FDI has been lower than the authorities expected; net FDI inflow in 2009 declined more than 50%, due mainly to the global recession. On the other hand, the Japanese authorities consider that the main reasons for the recent decline include the difficulty of hiring qualified employees; high business costs in Japan⁵⁴; and high customer expectations.⁵⁵ On the other hand, Japan's trading partners indicated in the past that the low level of inward FDI in Japan could be attributed, *inter alia*, to impediments to mergers and acquisitions; insufficient regulatory reform and financial transparency and flexibility; and lack of flexibility in the labour market. Japan ranks 18th in the World Bank's *Doing Business 2011* index⁵⁶, and 19th in the Heritage Foundation's 2010 index of economic freedom.⁵⁷

66. The Government's current Program for Acceleration of FDI into Japan was last revised in December 2008⁵⁸; Japan's FY2009 budget associated with the programme included ¥750 million allocated to projects to, *inter alia*, provide business opportunities in Japan. In addition, the Government adopted a New Growth Strategy in June 2010, under which the promotion of FDI was considered as one of the most important elements to secure growth.

⁵¹ BOP is a "sustainable business model targeting the poor which is sustained through the development of a value chain approach that incorporates those at the base of the market, including consumers and producers". In this context, the One Village, One product' approach is being pursued. TICAD online information. Viewed at: <http://www.ticad.net/documents/Follow-up-to-TICADIV.pdf> [30.08.2010].

⁵² WTO (2001), p. 14.

⁵³ Cabinet Office online information (in Japanese). Viewed at: <http://www.invest-japan.go.jp/committee.html> [30.11.2010].

⁵⁴ The recent appreciation of the yen has perhaps helped increase the net outflow of FDI in Japan.

⁵⁵ METI online information (in Japanese). Viewed at: <http://www.meti.go.jp/press/20090416001/20090416001.html> [20.07.2010].

⁵⁶ World Bank online information. Viewed at: <http://www.doingbusiness.org/economyrankings>. [25.08.2010]

⁵⁷ Heritage Foundation online information. Viewed at: <http://www.heritage.org/index/Ranking.aspx>. [25.08.2010].

⁵⁸ Cabinet Office online information (in Japanese). Viewed at: <http://www.invest-japan.go.jp/jp/fdip/files/program.pdf> [30.11.2011].

67. Tax incentives for investment apply equally to domestic or foreign enterprises operating in Japan. The Government is currently considering lowering its relatively high statutory corporate tax rate, which can be a deterrent to FDI, and broadening the tax base (Chapter III(3)(i)).

(i) Regulatory regime

68. Since its previous Review, Japan has adopted measures to facilitate FDI approval.

69. In addition to the GATS, under which Japan has made commitments regarding the supply of services through commercial presence, Japan is a party to the OECD Code of Liberalization of Capital Movements, and the OECD National Treatment Instrument, neither of which is legally binding.

70. Japan's regulatory regime on inward and outward FDI is governed mainly by the Foreign Exchange and Foreign Trade Act, together with relevant cabinet and ministerial ordinances, such as the Foreign Exchange Order and the Order of Inward Foreign Direct Investment.⁵⁹ Inward FDI generally requires *ex post facto* reporting to the Minister of Finance and the Minister in charge of the sector involved, by the 15th day of the month following the investment. The reporting period was extended on 23 June 2009.⁶⁰ The authorities' approval in response to investors' "prior notification" is required for inward FDI in industries recognized in the OECD Code of Liberalization of Capital Movements, such as agriculture, forestry and fisheries, crude oil, leather and leather products, and air and maritime transport. The authorities maintain that these requirements applied only to sectors where there is "significant adverse effect on the smooth management of the national economy", with a view to safeguarding the national economy. In addition, approval is required in some other sectors on the grounds of "public order, public safety, and national security", in accordance with Article 3 of the OECD Code (Table AII.4).⁶¹

71. The authorities state that only one request for approval has been denied.⁶² Besides the approval (prior notification) requirements under the Foreign Exchange and Foreign Trade Act, various other laws stipulate specific restrictions on inward FDI in certain sectors, including the acquisition of land, mining, oil industry, telecommunications, and transport. As developing mineral resources in Japan is deemed to serve the national interest, mining rights (including those for the oil industry) are granted only to Japanese citizens or juridical persons, in accordance with Article 17 of the Mining Act. In telecommunications, on the grounds of national security, foreign capital participation in NTT Corporation, which holds all the shares of NTT East Corporation is restricted to less than one third; under the Radio Act, foreign ownership in radio stations is limited, in principle, to less than one third of voting rights.⁶³ Ships not flying the Japanese flag are prohibited from entering Japanese ports that are not open to foreign commerce and from carrying cargoes or passengers between Japanese ports, unless otherwise specified in Japan's laws and regulations, or international agreements to which it is a party. Permission to conduct air transport business as a Japanese air carrier is not granted to a legal

⁵⁹ For an English translation for the Foreign Exchange and Foreign Trade Act, see The Cabinet Secretariat online information. Viewed at: http://www.cas.go.jp/jp/seisaku/hourei/data/FTA_2.pdf. [30.08.2010].

⁶⁰ Before the extension, investors had to report to the relevant authorities within 15 days of executing foreign investment in Japan.

⁶¹ These include aircraft, arms, explosives, nuclear power, electric utilities, gas utilities, water, heat generation, rail transport, passenger transport, telecommunications (accompanying certain network facilities), television and cable television, and broadcasting sectors. See details in a notice of the Ministry of Finance (in Japanese). Viewed at: <http://www.mof.go.jp/hourei/kokuji/KO-20070907-0001-15.pdf>. [19.08.2010].

⁶² This concerned a particular FDI proposal in electric utilities in 2008 (See WTO (2009), p. 30).

⁶³ Exceptions to this provision include radio stations established for the purpose of telecommunications services.

person of which more than one third of the members of the board of directors comprise natural persons or entities that do not have Japanese nationality or to a legal person of which more than one third of the voting rights are held by the foreign persons or entities. In addition, the ratio of shares that can be owned by foreign entities to total shares in certain companies are restricted: less than 20% for TV stations, less than one third for the Nippon Telegraph and Telephone Corporation, and less than one third for companies approved by the Government to conduct aviation and transportation services. Selected products that are deemed convertible to military equipment are included in the list of products subject to approval, as stipulated in the Appendix to the Export Trade Control Order, for reasons of national security.

72. Since April 2009, the examination period required for approval of a foreign investment has been reduced to about five business days from about two weeks. Since June 2009, in addition to the aforementioned extension of the reporting period, investment advisors have been allowed to make prior notifications without attaching clients' individual information, and investors are now allowed to file "prior notifications" within 6 months (previously within 3 months) before the date of the investment. The authorities consider that these changes have reduced the burden on foreign investors, as the examination period for more than 85% of approval has required no more than five business days since April 2009. Prior notifications increased from 138 in 2005 to 641 in 2008.

73. Cross-border mergers and acquisitions are subject to the Anti-Monopoly Act. Since 2009, no merger or acquisition has been rejected by the Japan Fair Trade Commission in accordance with the Act.

74. Japan signed bilateral investment treaties (BITs) with Uzbekistan and Peru in 2008; these entered into force in September 2009 and December 2009, respectively. Japan also has BITs with Bangladesh; Cambodia; China; Egypt; Hong Kong, China; the Republic of Korea; Lao PDR; Russia; Sri Lanka; Turkey; Mongolia; Pakistan; and Viet Nam.⁶⁴ Japan is currently negotiating BITs with: Angola; Colombia; Kazakhstan; Kuwait; Papua New Guinea; and Saudi Arabia.

75. At their latest trilateral summit held in May 2010, China, Japan, and Korea shared a view to make utmost efforts to reach a "substantive agreement" of the trilateral investment treaty "in a few months time for the earliest conclusion of the Agreement". The eleventh round of negotiations for a trilateral investment agreement among China, Japan, and the Republic of Korea was held in June-July 2010.⁶⁵

76. Japan's bilateral FTAs with Singapore, Mexico, Malaysia, Chile, Thailand, Indonesia, Brunei, ASEAN, the Philippines, and Switzerland include provisions on investment; articles on national treatment, MFN treatment, access to the courts of justice, and prohibition of performance requirements are generally included in the agreements.⁶⁶ The FTAs accord preferential treatment to investment from the FTA parties over other foreign investors. The provisions are similar to the provisions of Japan's BITs. These articles are applied to investors and investments as defined in the agreements, with exceptions specified in the annexes. Japan's FTA with Viet Nam does not contain provisions on investment.

⁶⁴ These BITs stipulate investment protection and liberalization by, for example: providing, in principle, national treatment and MFN treatment with respect to the "pre-establishment phase of investments"; obliging the contracting parties to abide by their contracts with investors; and prohibiting, in principle, performance requirements that might hinder investment.

⁶⁵ MOFA online information (in Japanese). Viewed at: <http://www.mofa.go.jp/mofaj/gaiko/investment/jck/index.html> [20.07.2010].

⁶⁶ JSEPA includes a national treatment provision (Article 73) but does not include an MFN provision; it includes a provision on access to the courts of justice (Article 92).

(ii) Investment promotion measures

77. Japan's investment promotion measures remain substantially the same as in 2009. However, it would appear that the Government is considering an introduction of a new preferential tax scheme for inward FDI.⁶⁷

78. Japan's current measures to remove obstacles to FDI appear to be associated largely with institutional reforms, such as those of regulations on cross-border mergers and acquisitions (including tax measures) as well as improvement in infrastructure related to logistics and R&D, and seminars and sales campaigns by ministers and local government leaders to invite FDI into Japan. The Expert Committee on FDI Promotion, established in 2008, gathers information to improve Japan's investment environment for foreign capital and examine the Government's policies on FDI promotion.⁶⁸ In May 2008, it published recommendations including the establishment of priority strategies by sector, notably medical devices.⁶⁹ In December 2008, the Expert Committee revised the Program for Acceleration of Foreign Direct Investment in Japan, which incorporated the recommendations.⁷⁰ The most recent meeting of the Expert Committee was held in December 2008.

79. The Government supports investment promotion activities by selected regional governments through its Project to Promote Foreign Direct Investment in Selected Areas; these activities include planning strategies to attract FDI, public relations, inviting potential investors, and helping the start-up process of selected companies. By FY2007, 17 regions had been selected for such support measures. In FY2008, the Government started a project consisting of: a programme to help inviting potential investors to regional exhibitions, with a view to creating further business opportunities in Japan (business matching programme)⁷¹; support for potential investors to conduct a feasibility study (regional invitation programme); and support for regional initiatives to promote their publicity abroad (area sales support programme).

⁶⁷ Financial Times online information. Viewed at: <http://www.ft.com/cms/s/0/3eaccebe-0942-11e0-ada6-00144feabdc0,s01=1.html#axzz18MyfUSzJ> [17.12.2010].

⁶⁸ The Committee comprises academics, Japanese and non-Japanese businesspersons, and others. It is an advisory body to the Minister of State for Economics and Fiscal Policy.

⁶⁹ The five recommendations include: the facilitation of M&As; conducting comprehensive studies on FDI regulations; the establishment of priority strategies by sector; reduction of business costs and improvement of transparency; and promoting efforts of local governments to attract foreign capital. See Office of Invest Japan online information. "Five Recommendations Toward the Drastic Expansion of Foreign Direct Investment in Japan". Viewed at: http://www.invest-japan.go.jp/fdip/files/en_recommendations_20080519.pdf [20.08.2010].

⁷⁰ See WTO document TPR/M/211/Add.1, 22 May 2009, p. 131, for the details of the Program.

⁷¹ Five exhibitions were selected in FY2010.

III. TRADE POLICIES AND PRACTICES BY MEASURE

(1) INTRODUCTION

1. Since its previous Trade Policy Review in 2009, Japan has refrained from introducing new trade barriers; on the other hand, it has introduced few measures aimed at further liberalizing its trade and related regimes. The Government introduced expansionary fiscal measures in FY2009 and in FY2010 in order to recover from the latest recession, but it is ambiguous whether these measures are temporary, and some state-owned bodies were established to inject funds into private companies, perhaps in the context of industrial policies. Although "buy Japanese" programmes are not prevalent, there are some programmes that aim to promote the consumption of domestic goods (timbers).

2. The tariff continues to be Japan's main border restriction. In fiscal year (FY) 2010, the simple average applied MFN tariff rate was 5.8%, down from 6.1% in FY2008, reflecting an average decrease of *ad valorem* equivalents of non-*ad valorem* duties. Non-*ad valorem* duties, which account for 6.6% of Japan's tariff lines, tend to involve high *ad valorem* equivalents, and are an important feature of Japan's tariff, particularly for agricultural products. Whereas the simple average tariff rate under the GSP is 4.6% (down from 4.9% in FY2008), that for LDCs is 0.5% (same as in FY2008). Japan's simple average tariff rates under bilateral FTAs range from 2.9% (Malaysia and Thailand) to 3.4% (Brunei).

3. Japan's non-tariff border measures include some import prohibitions and quantitative import restrictions (for example, import quotas on some fish). State trading involves leaf tobacco, opium, rice, wheat and barley, and milk products.

4. Japan makes little use of contingency measures. It has continued to apply two anti-dumping measures during the review period, but eliminated one countervailing measure; it has not imposed any safeguard measures since 2001, when it applied them on Welsh onions, Shiitake mushrooms, and tatami-omote.

5. No preferences are granted to domestic suppliers with regard to procurement covered by the Agreement on Government Procurement. Nonetheless, it would appear that government procurement is used as an instrument of economic policy, particularly in some sectors (e.g. timber) and for SMEs. The share of foreign suppliers in the total value of government procurement was 3.0% in 2009, down from 3.7% in 2008. The share of procurement of overseas goods and services, supplied by domestic or foreign suppliers, declined to 7.1% in 2008 (from 9.1% in 2007) in terms of value. In 2008, the share of open tendering in total procurement rose to 63.5% compared with 58.6% in 2007. It would appear that Japan will start giving preferences for the use of domestic wood in public procurement.

6. About 46% of Japanese Industrial Standards (JIS) were aligned to international standards in 2009 (unchanged since 2008). Although Japan maintains that its SPS measures are based on scientific grounds to assess risks, it has apparently not conducted cost-benefit analyses to justify such risk factors.

7. Japan maintains certain export controls on national security and public safety grounds and to preserve natural resources. Export finance, insurance, and guarantees are available. Duty drawback schemes are available on selected inputs for certain manufacturing; they do not necessarily refund 100% of duties paid. The Government has recently begun promoting agricultural exports, mainly by providing information to consumers overseas.

8. Although the amount of taxes collected in relation to GDP is relatively low in Japan, in compared with other OECD countries, Japan has relatively high statutory rates of corporate taxes.

Japan recognizes a need to broaden the income tax base and cut corporate tax rates, thereby rendering the income tax system more neutral. It has also introduced plans to reduce tax incentives.

9. Various laws on intellectual property rights (IPRs) have been amended since Japan's previous Review with a view to, *inter alia*, strengthening the role of Customs in enforcement, and expanding the scope of application of criminal penalties for infringement of trade secrets. Japan remains an active participant in multinational and regional discussions on agreements to promote international harmonization of regimes protecting IPRs.

10. It would appear that the pace of Japan's trade-related regulatory reforms has slowed, if not reversed, since 2009. In June 2010, it introduced a New Growth Strategy, focusing on seven priority areas. It remains to be seen whether the measures to be adopted in accordance with the strategy involve policies to "pick winners". It has continued to implement regulatory reforms in selected regions under the scheme of special zones for structural reform; some of these reforms have now been implemented nationwide.

11. The authorities intend to continue to strengthen competition policy. In this regard, the Anti-monopoly Act (AMA) was amended in June 2009 to, *inter alia*, introduce a surcharge (fine) in respect of practices involving exclusionary types of private monopolization, and a 50% increase in the surcharge on businesses that have played a leading role in cartels and bid-rigging.

12. To improve the transparency of listed companies, Japan increased the coverage of items subject to disclosure requirement; these include directors' remuneration, information on cross-share holding, and matters pertaining to the exercise of voting rights.

(2) MEASURES DIRECTLY AFFECTING IMPORTS

(i) Customs clearance procedures and valuation

13. The Japanese Customs, part of the Ministry of Finance, is in charge of administering and enforcing customs legislation. The formal venues for consultations with the private sector on customs matters include the commission on trade facilitation and customs administration.¹ Customs regulations are contained in the Customs Law and the Customs Tariff Law, and other related laws and regulations. The Customs publishes all its decisions, rulings, regulations, and regulatory proposals on customs matters online, except for those containing private information.²

14. There are no special registration requirements for importers upon importation; the use of a customs broker is optional. Those who wish to operate as customs brokers must obtain approval from the Director of Customs where they wish to operate.³ There is no nationality requirement to obtain licences.

15. Since the previous review of Japan, time required for customs clearance has been reduced for sea cargo, but increased for air cargo. The latest available data indicate that, in 2009, the average time between arrival of goods and the granting of import permission was 62.4 hours (63.8 hours in 2006)

¹ Ministry of Finance online information (in Japanese). Viewed at: http://www.mof.go.jp/singikai/boueki_enkatsu/top.htm [18.08.2010].

² Customs online information (in Japanese). Viewed at: <http://www.customs.go.jp/koukai/top.htm>. [18.08.2010].

³ Article 3, the Law of Customs Brokerage.

for sea cargo and 16.0 hours (14.4 hours in 2006) for air cargo (including time required under the "immediate import permission system upon arrival").⁴

16. In July 2009, Japan's Authorized Economic Operator (AEO) programme was extended to manufacturers.⁵ As a result, manufacturers, warehouse operators, customs brokers, and logistics operators are eligible to become AEOs. Under the AEO programme, importers with cargo security management and a good compliance record are permitted to file the import declaration and customs duty declaration separately, enabling them to have their goods released prior to filing the customs duty declaration. These importers are allowed to file import declarations before the cargo arrives; they also receive the benefit of bonded transportation without obtaining individual permission. Japan concluded mutual recognition arrangements on AEO programmes with New Zealand (May 2008)⁶, the United States (June 2009)⁷, the European Union⁸, and Canada⁹ (both in June 2010). Under the mutual recognition arrangements, Japan Customs takes into account the status of the members of the other AEO programme when conducting its own risk assessment.

17. All importers must file a declaration with Customs; for most goods, the declaration must be made after the goods have been taken into a *hozei* (bonded) area or other designated place. Items to be imported by certain importers approved by the Director-General of Customs can be declared before they are taken to the *hozei* area.¹⁰

18. Imports are valued according to their c.i.f. value (which is taken to be the transaction value of the imports).

19. Customs duty can be paid through a multi-payment network system¹¹, which connects teller institutions (government authorities) with financial institutions. No fee is charged by the Government for the use of this system¹²; the financial institutions involved may collect variable fees. Written advance rulings are issued at the written request of importers and other parties concerned; the authorities state that these rulings are published, in principle, on the Customs website. Advanced rulings are not legally binding. The Common Portal for the Next Generation Single Window was

⁴ Based on the 9th Time Release Survey by the Customs. Importers must file a preliminary declaration online through the Nippon Automated Cargo Clearance System (NACCS) in order to be eligible for the immediate import permission system upon arrival, under which import permission may be granted as soon as cargo entry is confirmed. Customs examines the documents and materials submitted before cargo entry, and provides the results of the examination.

⁵ See the Japan Customs online information(in Japanese). Viewed at: http://www.customs.go.jp/zeikan/seido/aeo/leaflet_21-07maker.pdf [05.07.2010].

⁶ MOF online information (in Japanese). Viewed at: <http://www.mof.go.jp/jouhou/kanzei/ka200514.htm> [17.08.2010]

⁷ MOF online information (in Japanese). Viewed at: <http://www.mof.go.jp/jouhou/kanzei/ka210626.htm> [17.08.2010].

⁸ MOF online information (in Japanese). Viewed at: <http://www.mof.go.jp/jouhou/kanzei/ka220624.htm> [17.08.2010].

⁹ MOF online information (in Japanese). Viewed at: <http://www.mof.go.jp/jouhou/kanzei/ka220625.htm> [17.08.2010].

¹⁰ Japan Customs online information (in Japanese). Viewed at: <http://www.customs.go.jp/zeikan/seido/index.htm#e> [14.7.2010]. There are five types of *hozei* area: designated *hozei* area, *hozei* warehouse, *hozei* manufacturing warehouse, *hozei* display area, and integrated *hozei* area.

¹¹ The system is managed by the Japan Multi-payment Network Management Organization (JAMMO); only financial institutions that participate in the organization may use the system. One foreign bank (locally established) has participated in this system to date. See JAMMO online information (in Japanese). Viewed at: <http://www.jammo.org/index.html> [10.6.2010].

¹² Customs clearance fees include an inspection fee if inspection is at a place other than a designated area (¥5,000/hour).

completed in February 2010; it has unified electronic application formalities among various agencies.¹³ Seven customs offices are open 24 hours per day.¹⁴

20. There have been no changes to the complaint and appeal process for Japan's customs procedures during the review period. Articles 89-93 of the Customs Law, Articles 14 and 45 of the Administrative Appeal Act, and Article 14 of the Administrative Cases Litigation Law specify procedures for administrative review of certain customs decisions.¹⁵ Complaints against Customs' decisions may be made to the Director-General of Customs within two months of the decision. Further appeals may be lodged with the Minister of Finance within one month of the decision by the Director-General of Customs. A law suit may be filed against the Minister's decision within six months of the decision.¹⁶ In 2009, there were 20 complaints (25 in 2008), and 3 appeals (2 in 2008); no law suits were filed in 2009 (1 in 2008).

(ii) Tariffs

(a) Bound tariff

21. Japan's tariff schedule comprised 8,826 lines at the HS nine-digit level in FY2010.¹⁷ Japan has bound 98.8% of lines (108 lines are unbound) (Table III.1); unbound lines relate mainly to fisheries (fish, crustaceans, seaweed), petroleum oils, and wood and articles thereof. *Ad valorem* rates account for 8,159 bound lines (92.4%); 212 lines (2.4%) carry specific rates, 57 lines (0.6%) compound rates, and 290 lines (3.3%) have alternate rates of duty. The average bound MFN tariff (5.9%) in FY2010 remained very close to the average applied MFN tariff (5.8%), suggesting a high degree of predictability in the tariff.¹⁸ Japan has not used this gap to raise tariffs since its previous Review. The average bound rate is considerably higher for agricultural products (WTO definition), at 16.0%, than for non-agricultural products, at 3.5%; without further commitments in tariff reduction, this average for agricultural products is expected to remain unchanged, as Japan completed the implementation of its Uruguay Round commitments in 2009.

¹³ Japan Customs online information (in Japanese). Viewed at: <http://www.customs.go.jp/tetsuzuki/s/w/index.htm> [22.07.2010].

¹⁴ Tokyo Customs Headquarters, Tokyo Air Cargo Sub-branch Customs, Narita Air Cargo Sub-branch Customs, Narita Nanbu Air Cargo Sub-branch Customs, Kansai Airport Branch Customs, Chubu Airport Branch Customs, and Naha Airport Branch Customs.

¹⁵ See Japan Customs online information. Viewed at: http://www.customs.go.jp/english/c-answer_e/sonota/9401_e.htm [14.12.2010].

¹⁶ District courts have jurisdiction over such law suits as first instance. The decisions by those courts may be appealed to High Courts and then the Supreme Court.

¹⁷ Excluding in-quota lines (in-quota lines subject to state trading are included in the calculations). The Japanese tariff schedule has three distinct sets of rates: statutory rates (which include both general and temporary rates); WTO bound rates; and preferential rates (under the GSP, the JSEPA, JUMSEPA, the JMEPA, JCEPA, JTEPA, JPEPA, JIEPA, JBEP, JVEPA, and JSFTEPA). In the case of statutory rates, the "temporary" rate, which is reviewed annually, is normally used instead of the higher general rate; the lower of the statutory and WTO bound rates are applied to WTO Members on an MFN basis, except when preferential rates are applied. Where the temporary, general, or preferential rate is above the WTO bound rate, the latter rate applies to WTO Members. Currently, 475 lines (including in-quota lines) or 308 lines (excluding only in-quota rates not subject to state trading) or 283 lines (excluding all in-quota rates) at the HS nine-digit level are subject to temporary rates; the effective period of these rates was extended until the end of FY 2010.

¹⁸ Whereas bound and applied MFN rates coincide for most lines, bound rates exceed applied MFN rates for, *inter alia*, live animals and animal products (HS Section 1), vegetables (Section 2), prepared foods, beverages, and tobacco (Section 4), chemicals and products (Section 6), plastics and rubber (Section 7), textiles and clothing (Section 11), and base metals (Section 15). Gaps between bound and applied rates range from 0.3 percentage points to 40 percentage points.

Table III.1
Structure of the MFN tariff, 2006-10
 (%)

	MFN applied			Final bound ^d
	FY2006 ^a	FY2008 ^b	FY2010 ^c	
1. Bound tariff lines (% of all tariff lines)	98.8	98.8	98.8	98.8
2. Simple average rate	6.5	6.1	5.8	5.9
Agricultural products (HS01-24)	17.1	15.7	14.7	15.1
Industrial products (HS25-97)	3.7	3.6	3.4	3.5
WTO agricultural products	18.8	17.1	15.7	16.0
WTO non-agricultural products	3.6	3.5	3.5	3.5
Textiles and clothing	6.6	6.7	6.6	6.6
ISIC 1 - Agriculture, hunting, fishing	6.9	5.0	4.4	4.3 ^e
ISIC 2 - Mining	0.1	0.1	0.1	0.1
ISIC 3 - Manufacturing	6.5	6.3	6.0	6.1
Manufacturing excluding food processing	3.8	3.7	3.5	3.6
First stage of processing	9.0	8.1	5.7	5.7
Semi-processed products	4.8	4.7	4.7	4.8
Fully processed products	7.0	6.6	6.7	6.8
3. Domestic tariff "peaks" (% of all tariff lines) ^f	6.3	6.6	6.6	6.7
4. International tariff "peaks" (% of all tariff lines) ^g	7.5	7.5	7.4	7.5
5. Overall standard deviation of tariff rates	25.2	19.9	16.0	16.1
6. Coefficient of variation of tariff rates	3.9	3.3	2.7	2.7
7. Tariff quotas (% of all tariff lines)	1.7	1.8	1.8	1.8
8. Duty free tariff lines (% of all tariff lines)	41.7	41.4	41.4	40.5
9. Non- <i>ad valorem</i> tariffs (% of all tariff lines)	6.7	6.7	6.6	6.4
10. Non- <i>ad valorem</i> tariffs with no AVEs (% of all tariff lines)	1.5	1.4	2.0	1.9
11. Nuisance applied rates (% of all tariff lines) ^h	1.1	1.3	1.3	1.2

a Using AVEs based on 2005 import data, as available, provided by the Japanese authorities. In case of unavailability, the *ad valorem* part is used for compound and alternate rates.

b Using AVEs based on 2007 import data, as available, provided by the Japanese authorities. In case of unavailability, the *ad valorem* part is used for compound and alternate rates.

c Using AVEs based on 2008 import data, as available, provided by the Japanese authorities. In case of unavailability, the *ad valorem* part is used for compound and alternate rates.

d Calculations are based only on bound tariff lines. The implementation of the UR was reached in 2004, except for one industrial product, which was implemented in 2009. Calculations are based on FY2010 tariff schedule, including AVEs.

e The simple average final bound rate is lower than the simple average MFN applied rate in FY2010 because calculations for the former do not include unbound tariff lines.

f Domestic tariff peaks are defined as those exceeding three times the overall simple average applied rate (indicator 3).

g International tariff peaks are defined as those exceeding 15%.

h Nuisance rates are those greater than zero, but less than or equal to 2%.

Note: All tariff calculations exclude in-quota lines. FY2006 tariff schedule is based on HS02 nomenclature, consisting of 8,914 tariff lines; FY2008 and FY2010 tariff schedules are based on HS07 nomenclature, consisting, respectively, of 8,841 and 8,826 tariff lines.

Source: WTO calculations, based on data provided by the Japanese authorities.

(b) Applied MFN tariff

Structure

22. The structure of Japan's MFN applied tariff has remained largely unchanged since 2008. Of the 8,826 tariff lines, 93.4% involve *ad valorem* rates, 2.3% are specific, 3.3% alternate, and 0.6% are

compound rates; 0.4% of tariff lines have other rates (differential duties and sliding duties).¹⁹ The non-*ad valorem* rates of duty (6.6% of all tariff lines) apply mainly to fats and oils, footwear, prepared foods, live animals and animal products, textiles and clothing, vegetables, and mineral products (Chart III.1); *ad valorem* equivalents were provided by the authorities for 408 lines, as a result of which, the tariff analysis is based on 98.9% of the 8,826 tariff lines.²⁰ Currently, 155 tariff lines (1.8%) are subject to tariff-rate quotas; for 38 of these lines the out-of-quota rates are *ad valorem*.

23. Japan unilaterally eliminated applied MFN tariffs on yarn spun from silk waste (not for retail sale) in FY2009; in FY2010, it reduced applied MFN tariffs on petroleum products and certain ethyl alcohol; for example, the applied MFN rate is 10% (16.9% in FY2008) for ethyl alcohol, and between ¥375 to ¥995 per kilolitre for petroleum products.²¹

24. Around 41.4% of Japan's tariff is at the zero rate; around 24.5% is subject to rates greater than zero but less or equal to 5%, and 21.2% to rates greater than 5% but less than or equal to 10%. Some 1.8% of all Japan's tariff lines are subject to tariff-rate quotas. All in-quota rates but only 24.5% of out-of-quota rates are *ad valorem*. There is also a significant difference between the average rates: in-quota rates average 18.3%, while out-of-quota rates average 77.4%. The authorities state that it has no concrete plans to reform its existing tariff quotas on leather and leather footwear for historic and social reasons.²² Since Japan's previous Review, there has been no change in the quota allocation method, which still tends to be intricate.²³

Tariff averages

25. In FY2010, Japan's overall simple average applied MFN tariff was 5.8%, down slightly from FY 2008 (6.1%), reflecting a decrease in the average of *ad valorem* equivalents (AVEs) of non-*ad valorem* duties. Agricultural products receive much higher tariff protection than non-agricultural products: the simple average for agriculture (WTO definition) is 15.7% compared with 3.5% for non-agricultural products. Simple average applied MFN tariffs for footwear and headgear, prepared foods, vegetables, live animals, hides and skins, arms and ammunition, and textiles and clothing are also relatively high (Chart III.2).

¹⁹ An alternate duty involves either an *ad valorem* or specific rate; usually the higher of the two is applied (except in the case of HS2204.21-2 and HS2204.29-1). A compound duty involves a combination of both *ad valorem* and specific rates. A differential duty involves a specific rate charged per kg of imports with the rate varying directly with the difference between the standard import price, set by the authorities, and actual import price. A sliding duty involves a specific tariff rate for imports valued up to a certain threshold; the rate declines as the value exceeds the threshold and becomes zero at a certain point.

²⁰ *Ad valorem* equivalents were provided by the authorities for 408 out of 584 non-*ad valorem* tariff lines. For 56 lines that carry alternate rates of duty, and 25 lines with compound rates, the *ad valorem* part of the line was used in the tariff analysis.

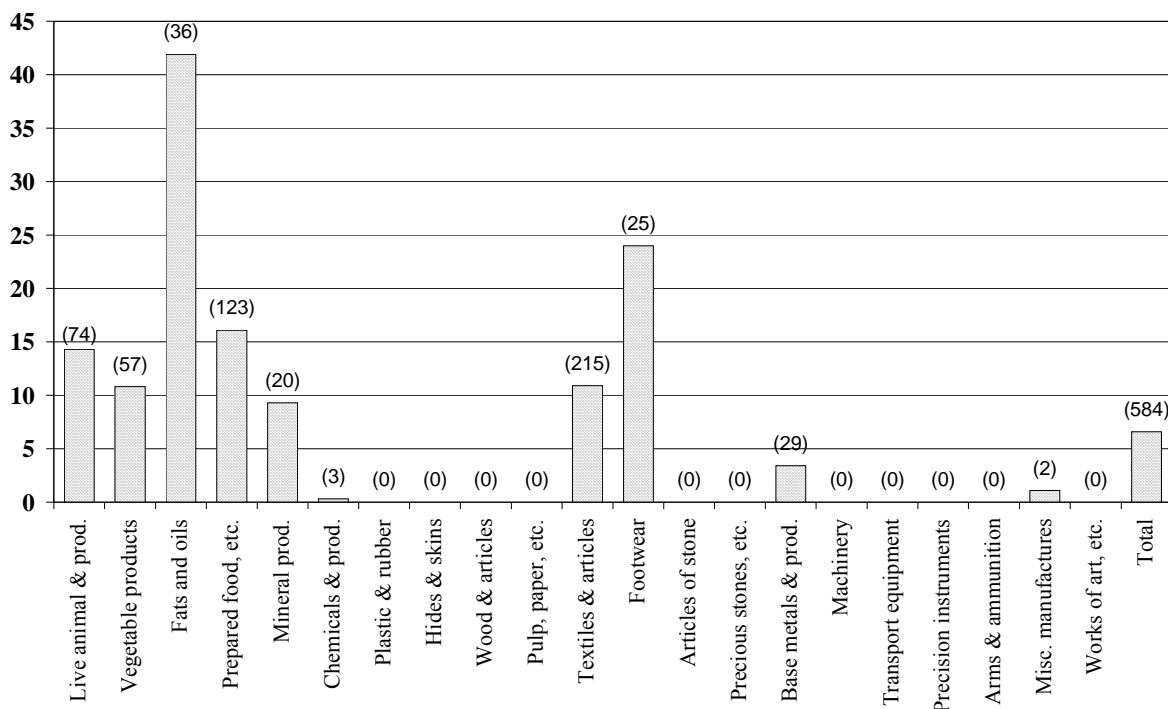
²¹ In FY2008, they ranged from ¥434 to ¥1,614 per kilolitre.

²² WTO document WT/TPR/M/211/Add.1, 22 May 2009.

²³ See WTO (2001), p. 42, for details of the quota allocation method.

Chart III.1
Share of non-*ad valorem* duties, by HS section, FY2010

Per cent



Note: Each bar depicts the percentage of tariff lines within each HS section that carry non-*ad valorem* duties; the figures in parentheses show the corresponding number of lines. In-quota rates are not included (lines subject to state trading are included).

Source: WTO Secretariat estimates, based on data provided by the Japanese authorities.

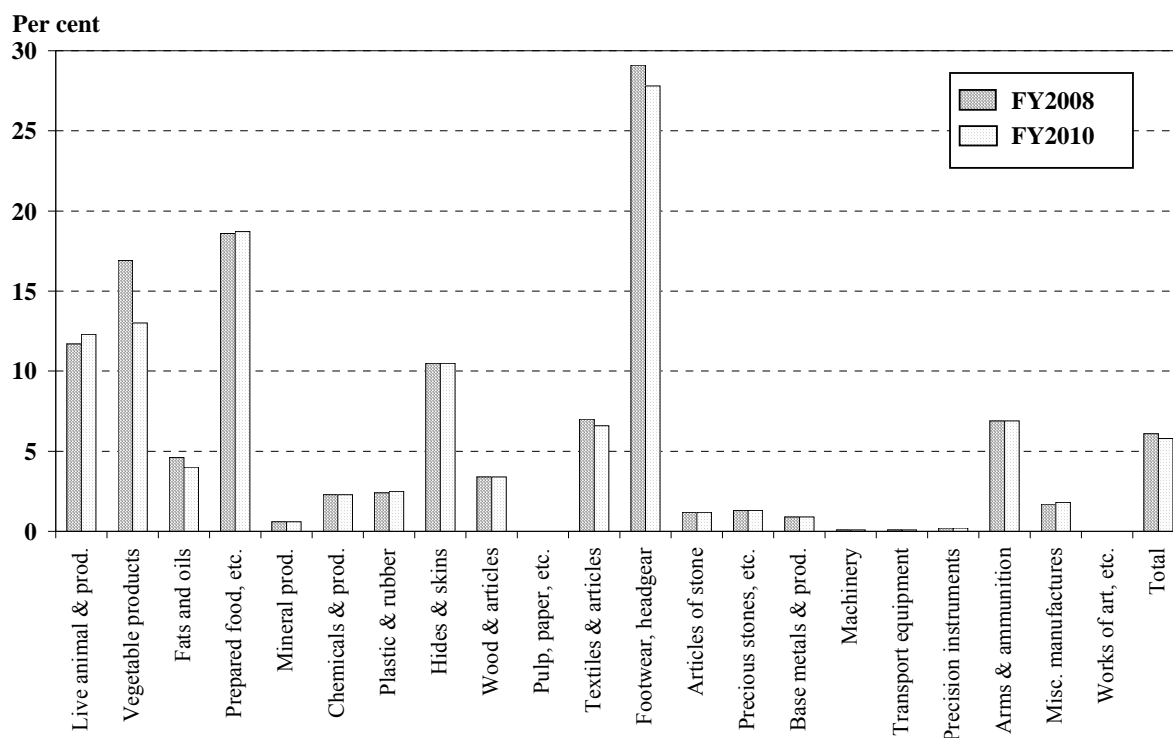
26. *Ad valorem* equivalents (AVEs) based on import data for 2008 were provided by the authorities for approximately 69.9% of the non-*ad valorem* rates.²⁴ The simple average rate for all the AVEs supplied is 32.0%, although the highest rate is 458%, for broad beans (out-of-quota rate); 92 of the 100 highest tariffs had non-*ad valorem* rates.²⁵ The simple average of *ad valorem* rates was 4.4% in FY2010. Thus, non-*ad valorem* rates tend to conceal tariff peaks; however, the authorities do not consider that applying a non-*ad valorem* tariff in itself is necessarily a burden on consumers, and it has certain advantages, such as administrative simplicity.

²⁴ According to the authorities, AVEs for the remaining non-*ad valorem* tariff lines were not available due to lack of imports of an unspecified number of these items, which suggests that the tariffs involved may be prohibitive, or because some products are not internationally traded or there is little demand for the particular products in Japan.

²⁵ In comparison, the simple average of the AVEs supplied by the authorities, based on imports in 2007, was 34.6%.

Chart III.2

Simple average applied MFN tariff rates, by HS section, FY2008 and 2010



Note: Excluding in-quota rates (lines subject to state trading are included). Including *ad valorem* equivalents (AVEs) provided by the Japanese authorities, as available. The *ad valorem* part of compound and alternate rates are used where AVEs are not available.

Source: WTO Secretariat calculations, based on data provided by the Japanese authorities.

27. Data on tariff escalation show no overall consistent pattern other than higher overall tariff protection for primary agricultural products than for semi-processed products. Tariff escalation from semi-processed to final goods is present in some sectors, notably textiles, petroleum refineries, and industrial chemicals. In other sectors, including food products and manufacturing, leather products, wood and paper products, and other chemicals, protection for fully processed goods is lower than for semi-processed products, while escalation from primary to semi-processed and final products is evident only for rubber and its products (Table AIII.1).

Tariff reductions and exemptions

28. Customs duty reductions and exemptions amounted to ¥179 billion in FY2009 (about 24.4% of tariffs actually collected).²⁶

(c) Preferential rates

29. Preferential tariff rates are offered under the GSP to 140 developing countries and 14 territories, including additional preferences for 49 least developed countries. In addition to the

²⁶ For details of existing duty reductions and exemptions. See Customs online information. Viewed at: http://www.customs.go.jp/english/c-answer_e/imtsukan/1602_e.htm [12.10.2010].

preferential access under FTAs for imports from Singapore, Mexico, Malaysia, Chile, Thailand, Indonesia, and Brunei, Japan has granted preferential access for imports from Switzerland under the Japan-Switzerland FTA since September 2009, and from Viet Nam under the Japan-Viet Nam FTA since October 2009 (Chapter II(4)).

30. Simple average tariff rates under all preferential arrangements (GSP, LDC, and FTAs) are lower than the simple average applied MFN rates, although there are wide variations from one product group to another. In particular, while the overall simple average preferential rates range from 0.5% to 4.6%, agriculture is subject to rates from 1.8% to 14.7% (Table III.2). Tariffs under these arrangements are also high for certain processed and industrial goods, such as leather, rubber, footwear and travel goods, and textiles and clothing imports (under GSP); items such as dairy products, some footwear, and textiles and clothing are not included in the GSP scheme for developing countries and are therefore subject to applied MFN rates of duty.

Table III.2
Preferential tariff rates, FY2010
(Per cent)

	<i>Ad valorem</i> rates ^a	Duty-free rates ^a	Overall simple average	WTO agriculture	Dairy products	WTO non-agriculture	Fish and fishery products	Leather, rubber footwear, & travel goods	Textiles & clothing
Applied MFN	93.4	41.4	5.8	15.7	59.8	3.5	5.7	14.5	6.6
GSP	94.0	61.2	4.6	14.7	59.8	2.3	5.4	13.1	4.9
LDC	99.5	98.2	0.5	1.8	0.0	0.2	1.6	2.4	0.1
JSEPA ^b	96.4	82.1	3.3	13.8	59.8	0.9	4.6	14.4	0.1
JUMSEPA ^c	95.5	81.2	3.3	14.1	59.8	0.8	2.3	12.1	0.3
JMEPA ^d	96.6	82.3	2.9	13.2	59.8	0.5	4.2	5.7	0.1
JCEPA ^e	96.4	81.4	3.0	13.6	59.8	0.6	4.9	6.1	0.1
JTEPA ^f	96.5	82.0	2.9	13.3	59.8	0.5	4.2	6.1	0.1
JIEPA ^g	96.3	81.8	3.1	13.9	59.8	0.6	4.9	6.6	0.1
JBEP A ^h	96.1	81.5	3.4	14.1	59.8	1.0	4.9	14.4	0.1
AJCEP ⁱ	96.4	81.6	3.1	14.0	59.8	0.6	4.8	7.3	0.1
JVEPA ^j	96.4	81.7	3.1	14.0	59.8	0.6	4.7	7.2	0.1
JPEPA ^k	96.3	81.7	3.0	13.5	59.8	0.6	4.0	6.7	0.1
JSFTEPA ^l	96.4	81.3	3.3	14.4	59.8	0.7	5.4	7.7	0.1

a Per cent of all tariff lines.

b Japan-Singapore Economic Agreement for a New Partnership.

c Agreement between Japan and the United Mexican States for the Strengthening of the Economic Partnership.

d Japan-Malaysia Economic Partnership Agreement.

e Japan-Chile Economic Partnership Agreement.

f Japan-Thailand Economic Partnership Agreement.

g Japan-Indonesia Economic Partnership Agreement.

h Japan-Brunei Economic Partnership Agreement.

i ASEAN-Japan Comprehensive Economic Partnership Agreement.

j Japan-Viet Nam Economic Partnership Agreement.

k Japan-Philippines Economic Partnership Agreement.

l Japan-Switzerland Economic Partnership Agreement.

Note: Product classification in accordance with the WTO definition is adopted in this table. Calculations exclude in-quota rates and include AVEs as available.

Source: WTO calculations, based on data provided by the authorities.

31. Nearly 210 tariff lines, including certain meat, fruit juice, leather, and leather products, are subject to tariff-rate quotas created under the FTA between Japan and Mexico (JUMSEPA); these lines are not subject to tariff-rate quotas under applied MFN rates, and the in-quota rates for these lines under the JUMSEPA are lower than the corresponding applied MFN rates. Under the FTA with Malaysia (JMEPA), fresh bananas are subject to a tariff quota, where the in-quota rate is zero. The tariff quota on bananas is also applied under the JUMSEPA, JIEPA, and JTEPA. Furthermore, under the JCEPA, nearly 30 lines, including mainly meat and meat preparations, are subject to tariff quotas. Under the JTEPA, five lines involving fresh bananas, fresh pineapples, two lines on meat preparations of swine, and modified starch, are subject to tariff quotas.

32. China remains the largest beneficiary of preferential access to the Japanese market; it accounted for about 78% of all preferential imports under the GSP scheme in FY2008, up from 64% in FY2006 (Chapter II(4)(iv)).²⁷

(iii) Rules of origin

33. Japan has preferential rules of origin under various free-trade agreements (FTAs), in addition to those under the Generalized System of Preferences. Certificates of origin issued by authorized institutions in the exporting country are required for preferential duties under FTAs and the GSP, as a proof that the product concerned is "basically wholly obtained" or "substantially transformed" (i.e. change of tariff classification at the HS 4-digit or 40% of value added). Preferential rules include lists of exceptions for some goods; the exceptions involve specific criteria for some goods, such as processing rules and value added on a product-by-product basis. Rules of origin under FTAs and the GSP adopt this criterion for many products, as well as the processing operations criterion and the value-added criterion.

34. Japan's MFN rules of origin to, *inter alia*, determine whether to apply MFN rates (as opposed to general rates) are stipulated in Article 4-2 of the Cabinet Order for Enforcement of the Customs Law and Articles 1-5 and 1-6 of the Ordinance for Enforcement of the Customs Law.²⁸ To apply MFN tariff rates, the country of origin for imported goods is defined as the country in which the good concerned has been basically wholly obtained or has last undergone substantial transformation. The change of tariff classification at the HS 4-digit level is used as a reference point for such transformation.

(iv) Non-tariff border measures

35. Japan prohibits imports of some products in accordance with Article 69-11 of the Customs Law. Its Foreign Exchange and Foreign Trade Law governs import licensing procedures (Chart III.3). Imports of narcotics, certain weapons, and animals or plants listed in the appendices of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), among others, may be prohibited or subject to import licensing in order to ensure national security, safeguard consumer health and well-being, or to preserve domestic plant and animal life and the environment. Some commodities, including certain fish, are subject to import quotas.

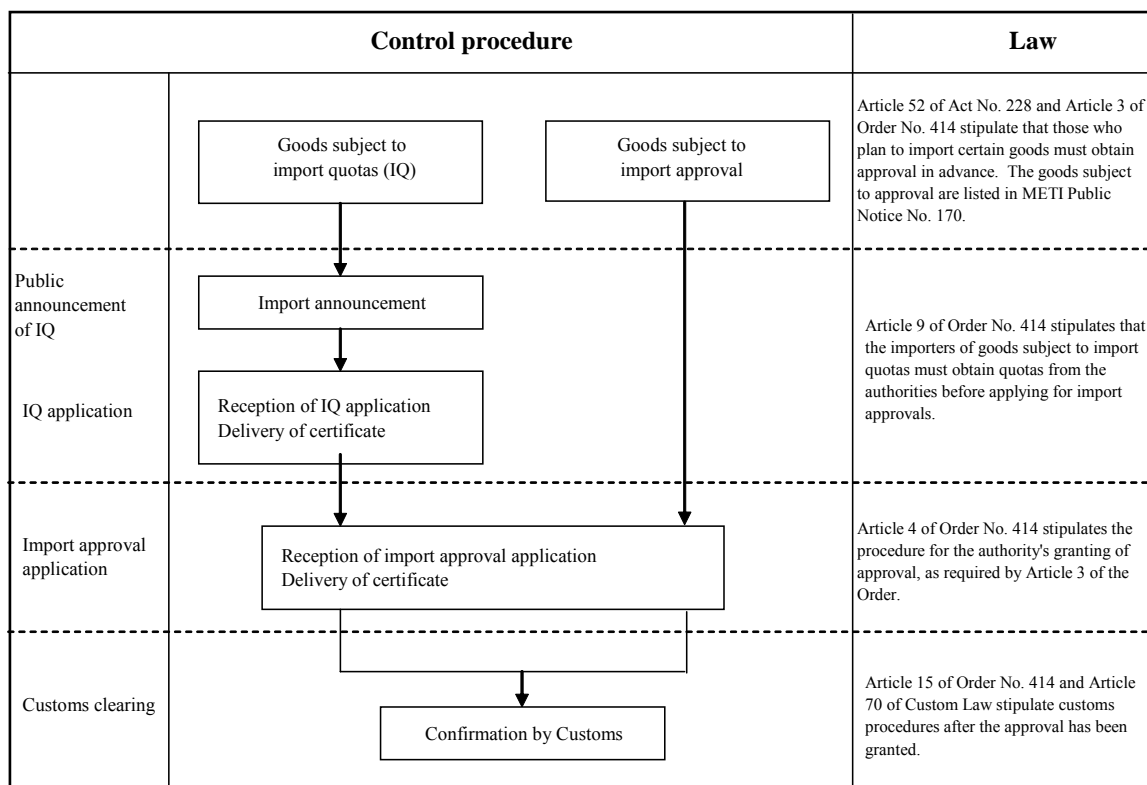
²⁷ Other major beneficiaries of Japan's GSP scheme include ASEAN countries, for example the Philippines (5.9% of total imports under preferential treatment), Viet Nam (2.5%), and Indonesia (2.4%). India also accounts for 2.4% of all preferential imports under the GSP scheme in FY2008.

²⁸ The MFN rules of origin are also used to determine the country of origin for trade remedy measures and import trade statistics.

Chart III.3

Import control system, 2010^a

Scheme of import control (Foreign Exchange and Foreign Trade Act)



a Mainly concerning the duties of the Ministry of Economy, Trade and Industry (METI).

Note: Act No. 228 of 1 December 1949 (Foreign Exchange and Foreign Trade Law); Cabinet Order No. 414 of 29 December 1949 (Import Trade Control Order); and Public Notice of the Ministry of International Trade and Industry No. 170 of 30 April 1966 (notice on items of goods subject to import quotas, places of origin or places of shipment of goods requiring permission for import, and other necessary matters concerning import of goods).

Source : Information provided by the Japanese authorities.

(a) Import prohibition and licensing

36. There has been no change in the list of items requiring import approval since the previous Trade Policy Review of Japan.²⁹ Products currently subject to import approval or prohibition include certain marine products, medicines and chemical products, propellant powders, nuclear goods, weapons, animals and plants, substances that deplete the ozone layer, specified hazardous wastes, waste chemical weapons goods, alcohol, rough diamonds, cultural property illegally removed from Iraq, all goods from North Korea, weapons and other items related to nuclear programmes or ballistic missile programmes from Iran, and weapons and other items from Eritrea. Licences are issued at no cost.

²⁹ See WTO document G/LIC/N/3/JPN/8, 7 October 2009 for products subject to Japan's current import licensing regime.

(b) Import quotas

37. Japan continues to use quantitative restrictions on imports (import quotas); the authorities maintain that the quotas are based on the WTO Agreements. There has been no change in products subject to import quotas. Quotas are currently imposed on certain fish products and controlled substances listed in the Montreal Protocol on Substances that Deplete the Ozone Layer.

38. The import quota system is administered by the METI, which issues eligible importers with a certificate of import quota allocation. The method allocating quotas, which tends to be intricate, is specified in METI notices.³⁰ The quota amount to be allocated is decided annually. Fish-related quotas are determined by the METI, with the consent of the Ministry of Agriculture, Forestry and Fisheries (MAFF), according to domestic supply and demand, e.g. the amount of imports, domestic production, consumption, and prices in the previous year, as well as projections for the coming year. Quotas are allocated to applicants who meet various criteria and, for some items, on a first-come first-served basis³¹; when the amount applied for exceeds remaining unallocated quota, the latter quotas are allocated by lottery.

39. Unused quota entitlements may not be carried over to the next period. They are not transferable and the Government does not reallocate unused quotas. A certificate of import quota allocation, normally with a validity of four or six months, is issued by the METI to eligible importers.

(c) Import surveillance

40. Since 2009, there has been no change in Japan's system of prior confirmation to collect data on certain imports. The system is intended to ensure that these imports are for specific uses, and to verify documentation and origin requirements. Prior confirmation is required from the Minister of Economy, Trade and Industry, or other relevant minister; some items require confirmation at Customs (customs confirmation). The system is used, *inter alia*, for goods where fraudulent declarations have been found in the past or are deemed more likely. These include: vaccine of microbial origin for experimental use; antisera; uranium catalysts; specified foreign cultural property; tuna; marlin; whales; Class III psychotropics; poppy and hemp seeds; certain substances listed in Annex E of the Montreal Protocol; radioisotopes; diamonds; and various other chemicals and pharmaceutical products.

(v) Contingency measures

41. Since its previous Review, Japan has made little use of contingency measures.

42. The Customs Tariff Law and the relevant Cabinet Orders and Guidelines define Japan's legal framework regarding the use of anti-dumping, countervailing, and safeguard measures. On

³⁰ See WTO (2001), and METI online information (in Japanese). Viewed at: http://www.meti.go.jp/policy/external_economy/trade_control/marine_products/index.html [18.08.2010].

³¹ In general, an applicant must be: an importer who has in the past obtained a certificate of import quota and actually imported the item; an importer who is delegated by a government-approved industrial association to obtain materials for food processing; or an importer who plans to import items subject to the import quota.

1 April 2009, Japan amended the relevant Cabinet Orders and Guidelines relating to anti-dumping, countervailing, and safeguard measures with a view to improving the procedures of investigation.³²

43. Currently, Japan maintains six anti-dumping measures. Two involve anti-dumping duties imposed on certain polyester staple fibre from the Republic of Korea and the Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu on 26 July 2002; the level of duties applied is between 6% and 13.5%. Four other measures concern anti-dumping duties levied on electrolytic manganese dioxide originating from the Republic of South Africa, Australia, China, and Spain; the measures were imposed on 1 September 2008 and the level of duties applied is between 14.0% and 46.5%.³³

44. Japan's countervailing duty rate applied since 27 January 2006 on dynamic random access memories (DRAMs) imported from the Republic of Korea was reduced from 27.2% to 9.1% on 1 September 2008, with a view to implementing the relevant DSB recommendations and ruling.³⁴ On 23 April 2009, the Japanese Investigating Authorities terminated the countervailing measure pursuant to a change in circumstances.

45. Japan has not imposed any safeguard measures since 2001, when measures were applied on Welsh onions, Shiitake mushrooms and tatami-omote imported mainly from China.³⁵

(vi) Government procurement

46. According to an OECD study, Japan spends about 16.8% of its GDP on government procurement.³⁶ The stated purpose of Japan's government procurement policy is to ensure the fairness and impartiality of the contracts by public entities, the equality of opportunity, and the effective execution of the budget. Nonetheless, it would appear that government procurement is also used as an instrument of industrial policy for some sectors, including wood and wood products (see below), and to support SMEs.

47. Japan is a party to the WTO Agreement on Government Procurement (GPA).³⁷ During the period under review, Japan made notifications under the GPA on: national legislation³⁸, statistics for the period 2007 and 2008³⁹, and modifications to Appendix I.⁴⁰ All the proposals for modifications to Appendix I notified since January 2009 have been certified.

³² For example, the decision on whether to initiate an investigation must be made within approximately 2 months of the date of submission of the document by the domestic industry. See WTO document G/ADP/N1/JPN/2/Suppl.6 (G/SCM/N/1/JPN/Suppl.6, G/SG/N/1/JPN/2/Suppl.2), 17 August 2009.

³³ WTO document G/ADP/N/188/JPN/Suppl.1, 3 September 2009.

³⁴ WTO documents WT/DS/336/1-23.

³⁵ WTO (2003), p. 35.

³⁶ OECD online information. Viewed at: <http://www.oecd.org/dataoecd/34/14/1845927.pdf> [11.11.2010].

³⁷ There is no single electronic portal that covers all entities listed in Japan's Annexes to the GPA. There is a single portal for the central government entities. Local governments covered by the GPA publish notices of intended procurements.

³⁸ WTO documents GPA/37/Add.6, 23 July 2009; and GPA/37/Add.7, 6 July 2010.

³⁹ WTO documents GPA/84/Add.4, 13 March 2009; GPA/88/Add.3, 13 March 2009; GPA/91/Add.2, 13 March 2009; GPA/94/Add.2, 9 April 2009; and GPA/102/Add.2, 29 January 2010.

⁴⁰ WTO documents GPA/MOD/JPN/34, 20 February 2009; GPA/MOD/JPN/36, 21 April 2009; GPA/MOD/JPN/37, 27 April 2009; GPA/MOD/JPN/38, 4 September 2009; GPA/MOD/JPN/39, 17 September 2009; GPA/MOD/JPN/40, 17 September 2009; GPA/MOD/JPN/42, 1 February 2010; GPA/MOD/JPN/43, 1 February 2010; GPA/MOD/JPN/46, 29 March 2010; GPA/MOD/JPN/46/Corr.1,

48. The Account Law and relevant ordinances specify the procurement procedures for central government entities, while the Local Autonomy Law and relevant ordinances stipulate the procedures for local governments. Japan's GPA coverage encompasses all central government entities, all 47 prefectures, 12 designated cities (*shitei toshi*), and certain public corporations.⁴¹ Japan's thresholds for GPA coverage expressed in Special Drawing Rights (SDRs) have remained unchanged since 2009.⁴² Thresholds for central government entities (Annex I) are equal to or slightly lower than some other developed Members; for sub-central government entities (Annex II) and all other entities (Annex III), its thresholds for products and some services are equal to some other developed Members, while those for some other services and construction are substantially higher.⁴³ Japan considers that its government procurement is conducted without restriction on suppliers' nationality or on the origin of products or services, based on the principle of non-discrimination, and that all relevant entities have thoroughly implemented the GPA; no price or other preferences are granted to domestic suppliers in tenders covered by the GPA. According to the authorities, no preference is granted to public procurement below the GPA threshold. With respect to "articles and services of central government", companies need to be registered to participate in tenders for government procurement. The criteria for registration are published in official gazettes and online.⁴⁴

49. In addition to its commitment under the GPA, Japan has chapters on government procurement in nine of its FTAs⁴⁵; the Japan – Malaysia FTA does not have such a chapter. For example, the Japan- Singapore FTA stipulated that the Japan's SDR threshold is lowered to 100,000 SDR from 130,000 SDR (Japan's threshold under the GPA).

50. A specific contractor may be selected under the "single tendering" contract method if, *inter alia*, the nature or objectives of the law does not allow competition, or competition is not possible or disadvantageous to the Government because of the urgent nature of the contract, or the contract value is small, in accordance with clause 4 or 5 of Article 29.3 of the Accounts Law. The authorities state that single tendering corresponds to "limited tendering" stipulated in the GPA.

51. The proportion of single tendering contracts to total central government contracts decreased from 46% in FY2005 to 18% in FY2008, in terms of the number of contracts, and from 46% to 22% in terms of the value of contracts.⁴⁶ Since its previous review, all of Japan's central government agencies have been reviewing and examining whether their use of single tendering contracts can be justified, with a view to making single tendering contracts "more appropriate" in terms of transparency and efficiency, and to "eliminate wasteful expenditures" in public procurement. On 16 December 2008, the Ministry of Internal Affairs and Communications made recommendation based on a review of government efforts to improve competitiveness and transparency in procurement procedures, which included the introduction of open tendering and the establishment of a third-party

30 March 2010; GPA/MOD/JPN/47, 13 April 2010; GPA/MOD/JPN/50, 31 May 2010; GPA/MOD/JPN/51, 15 June 2010; and GPA/MOD/JPN/52, 22 June 2010.

⁴¹ MIC online information (in Japanese). Viewed at: <http://www.soumu.go.jp/shitei/index.html> [21.06.2010]. The 19 cities have populations over 500,000 and are designated by a relevant Cabinet Order. As of October 2010, there are 19 designated cities; the 7 newer designated cities are not yet listed in Japan's Annex 2 to the GPA.

⁴² WTO documents GPA/W/299/Add.5, 8 February 2008, and GPA/W/309/Add.5, 11 February 2010.

⁴³ See, for example, WTO documents GPA/W/309/Add.5, 11 February 2010, GPA/W/309/Add.1, 17 December 2009, and GPA/W/309/Add.4, 5 February 2010.

⁴⁴ Japanese Government online information (in Japanese). Viewed at: <https://www.chotatujoho.go.jp/va/com/KOUJI.html> [12.10.2010].

⁴⁵ Japan's FTAs with Indonesia, the Philippines, Viet Nam, Switzerland, Singapore, Mexico, Chile, Brunei, and Thailand have chapters on government procurement.

⁴⁶ Cabinet Secretariat online information (in Japanese). Viewed at: http://www.cas.go.jp/jp/seisaku/tyoutatu/090724fu_gai.pdf [20.10.2010].

body (in each central-government entity) to monitor all the entity's procurement contracts. The review, which did not involve cost-benefit analyses, stated that the majority of selected procurement procedures of government projects had been improved.⁴⁷ The authorities state that local government procurement procedures are basically the same as those of the central government, except for Japan's voluntary measures.⁴⁸

52. The Government announced in 2010 that it would promote the use of domestic wood, with a target of covering more than half of domestic demand for wood with domestic supply.⁴⁹ On 19 May 2010, Japan also established a law promoting the use of wood in the construction of public buildings. As the implementing regulation of the law is to be issued by the Government no later than six months from the day of entry into force of the law, it remains to be seen how Japan intends to achieve the target. While government procurement is thus used as an instrument of economic policy in Japan, quantitative evaluations of the instrument are rarely published.

53. In accordance with the Basic Guideline for Public Procurement of Information Systems, adopted in March 2007, procurement under the basic guidelines may not exceed ¥500 million per contract; any planned procurement in excess of this threshold must be divided. Government organizations are also required to formulate procurement plans.

54. The total value of procurement above the threshold level of SDR 100,000 specified under Japan's unilateral 1994 Action Program on Government Procurement Procedures was about ¥1.36 trillion in 2008 (down by 2.8% from 2007).⁵⁰ In 2008, open tendering accounted for 63.5% of the total (compared with 58.6% in 2007). During the same period, the share of selective tendering in terms of value increased from 1.2% to 1.5%, and that of single tendering decreased from 40.2% to 35.0%. Procurement of overseas goods and services, supplied by either domestic or foreign suppliers decreased from 9.1% to 7.1% in terms of value. Procurement of foreign goods amounted to 9.1% of the total in 2008, compared with 14.5% in 2007 (Table III.3).⁵¹ Procurement from foreign suppliers increased from 1.8% in 2007 to 2.0% in 2008 in contract terms, but decreased from 3.7% to 3.0% in value terms during the same period. The shares of foreign suppliers in contracts resulting from open and single tenders, respectively, were 1.1% and 4.3% in 2009 (0.8% and 4.1% in 2008). As of 16 September 2010, 59,915 firms (of which 394 were either wholly or partially owned by foreigners) have central-government-wide unified qualification for participating in tendering contracts for manufacturing and sales of products.

⁴⁷ See MIC online information (in Japanese). Viewed at: http://www.soumu.go.jp/main_content/000075749.pdf [19.10.2010].

⁴⁸ Japan's voluntary measures include improved market access and the Action Program on Government Procurement. In addition, there are voluntary measures pertaining to individual sectors, such as super computers, non-R&D satellites, computer products and services, telecommunication, and medical technology. Except for these voluntary measures, certain designated local authorities (designated cities), as defined under a relevant cabinet order, must comply with the GPA, as mentioned above.

⁴⁹ This policy goal is written in the New Growth Strategy, which was decided by the Japanese government on 18 June 2010. The Cabinet online information (in Japanese). Viewed at: <http://www.kantei.go.jp/jp/sinseichousenryaku/sinseichou01.pdf> [18.06.2010].

⁵⁰ See WTO (2001) for details of the Action Program. Procurement for public works (including architectural planning and consultancy) is excluded from the programme.

⁵¹ Foreign suppliers are defined under the Action Program as a "corporation in which approximately more than 50% of shares are owned by foreign investors/capital". Total goods procurement rose from ¥753.0 billion in 2008 to ¥844.3 billion in 2009, and the largest increase was in office machines and data processing equipment. However, the number of contracts decreased from 8,748 to 8,481 over the same period. The number of services contracts increased from 4,154 in 2008 to 4,260 in 2009, while the value of such contracts decreased from ¥650.8 billion to ¥520.5 billion. The Cabinet Secretariat online information (in Japanese). Viewed at: <http://www.kantei.go.jp/jp/kanbou/21tyoutatu/index.html> [11.06.2010].

Table III.3
Procurement by product and by origin, 2007 and 2008
(¥100 million and %)

No.	Products	2007		2008	
		Total value	Foreign share	Total value	Foreign share
1	Products from agriculture, and from agricultural and food processing	3.3	0.0	4.4	9.7
2	Mineral products	320.5	69.2	476.8	30.1
3	Products of the chemical and allied industries	61.8	18.4	102.0	1.2
4	Medicinal and pharmaceutical products	312.8	25.9	251.2	39.7
5	Artificial resins; rubber, raw hides and skins; leather; and articles thereof	14.5	0.0	11.5	0.0
6	Wood and articles of wood; paper making material; paper and paperboard and articles thereof	194.5	0.2	131.6	0.2
7	Textiles and textile articles; thread for spinning and weaving; and articles thereof	38.8	0.6	43.3	4.0
8	Articles of stone, of cement and similar materials; ceramic products; glass and glassware; and articles thereof	6.7	13.9	2.4	0.0
9	Iron and steel and articles thereof	158.4	0.8	287.0	1.4
10	Non-ferrous metals and articles thereof	55.4	0.0	42.6	1.2
11	Power generating machinery and equipment	72.9	22.6	65.4	17.1
12	Machinery specialized for particular industries	63.2	6.8	76.4	2.8
13	General industrial machinery and equipment	73.2	0.7	62.4	2.5
14	Office machines and automatic data processing equipment	2,666.0	1.1	3,298.7	2.1
15	Telecommunications and sound recording and reproducing apparatus and equipment	670.6	1.5	681.1	4.7
16	Electrical machinery, apparatus and appliances, and electrical parts thereof	181.1	2.2	376.7	0.8
17	Road vehicles	358.0	1.3	213.6	1.9
18	Railway vehicles and associated equipment	53.3	70.1	64.3	17.6
19	Aircraft and associated equipment	76.3	97.4	59.9	83.9
20	Ships, boats and floating structures	304.1	76.7	72.7	0.0
21	Sanitary, plumbing, and heating equipment	5.4	0.0	19.7	0.0
22	Medical, dental, surgical and veterinary equipment	509.6	47.0	517.0	35.8
23	Furniture and parts thereof	85.1	0.5	58.4	0.0
24	Scientific and controlling instruments and apparatus	589.4	16.5	779.0	14.1
25	Photographic apparatus and equipment, optical goods, and clocks	59.3	16.8	53.6	3.6
26	Miscellaneous articles	595.5	2.0	691.3	5.5
	Total	7,529.8	14.5	8,443.0	9.1

Source: Government of Japan (2010), *Japan's Government Procurement: Policy and Achievements Annual Report*, Toward Government Procurement Open to the World. Viewed at: <http://www.kantei.go.jp/jp/kanbou/21tyoutatu/>

55. Open tendering is the norm in Japan's government procurement. However, for procurement contracts between the Government and a Cooperative Association or Federation of Cooperative Associations of small and medium enterprises (SMEs), the Government can use limited tendering procedures, in line with Cabinet Order Stipulating Special Procedures for Government Procurement of Products or Specified Services (Cabinet Order 300, 18 November 1980). Procurement from SMEs is "encouraged" under the Law on Ensuring the Receipt of Orders from the Government and Other Public Agencies by Small and Medium Enterprises (enacted in 1966); under the Law, the Government, local authorities and other public agencies must endeavour to expand procurement opportunities for SMEs, by way of *inter alia*, providing information on procurement plans. Nonetheless, no tendering is reserved exclusively for SMEs. According to the authorities, these laws and regulations apply equally to domestic and foreign SMEs.

56. Most cases of proven infringement of Japan's Anti-monopoly Act (AMA) continue to involve bid-rigging related to public works, and various cases of bid-rigging involving government officials have been made known to the public in recent years (section (4)(vi)). The Act for Promoting Proper Tendering and Contracting for Public Works, as amended in March 2007, defines major policy instruments for preventing bid-rigging and other improper actions. These include notification of improper actions to the JFTC. Furthermore, a law concerning the elimination and prevention of government employees' involvement in bid rigging, *inter alia*, authorizes the JFTC to formally demand heads of ministries and agencies to improve administrative measures adopted by the ministries and agencies with regard to bidding and contracts, to eliminate involvement of their officials in bid-rigging.⁵² The heads must also conduct an investigation if requested by the JFTC, take action to eliminate involvement of their officials in bid-rigging, if its existence becomes evident, and publicize the results of the investigation and actions taken in response to the investigation.

57. As regards Japan's bid-challenge procedures, complaints about procurement procedures by the Central Government and public corporations are processed by the Office for Government Procurement Challenge System (CHANS) and considered by the Government Procurement Review Board (GPRB), under the Council on Government Procurement Review, which is headed by the Vice-Minister of the Cabinet Office. The procuring entity is expected to follow the recommendations voluntarily. One complaint has been filed since 2008, concerning procurement for the design and development of an advanced information processing system for motor car registration and safety checks, to be procured by the Ministry of Land, Infrastructure, Transport, and Tourism (MLIT). The case was reviewed by the GPRB, which found that the MLIT did not follow the voluntary measures on government procurement and proposed a re-bidding procedure without altering the bidding conditions. Each local government covered by the GPA has its own review body and its own regulation on the structure and administration of its review body. The authorities state that members of the body are selected in line with Article 20.6 of the GPA.

(vii) State trading

58. Current state-trading activities in Japan involve leaf tobacco, opium, rice, wheat and barley, and milk products, the same as in 2009.⁵³ While the authorities maintain that the aims of Japan's state-trading activities are to "stabilize the supply and price of these commodities and protect consumer interests", prices of these commodities in Japan tend to be higher than the world prices. State-trading activities are generally underpinned by legislated import or export rights and, in some cases, by specific monopoly rights over domestic production and distribution.

59. The Tobacco Business Law requires the Japan Tobacco Inc. (JT) to purchase all leaf tobacco grown in Japan specifically for the purpose of selling it to JT, based on an agreement between JT and the tobacco cultivators, except for leaf tobacco not deemed suitable as raw material for manufactured tobacco.⁵⁴ This requirement is stipulated apparently as a quid pro quo to the JT's monopoly in the domestic production of cigarettes and other tobacco products.⁵⁵ Although anybody may import leaf tobacco in Japan, this monopoly effectively renders all the imports of leaf tobacco for the manufacture of tobacco in Japan dependent upon subsequent purchase by JT. In 2009, the average price of

⁵² JFTC online information. Viewed at: <http://www.jftc.go.jp/e-page/legislation/ama/aepibr.pdf> [23.11.2010].

⁵³ WTO document G/STR/N/13/JPN, 11 October 2010.

⁵⁴ Articles 3.1 and 3.4, the Tobacco Business Law.

⁵⁵ Article 8, the Tobacco Business Law.

domestically produced leaf tobacco was ¥1,910.52 per kg⁵⁶, while the average price of imported leaf tobacco was ¥546.09 per kg.⁵⁷

60. In the Law for Stabilization of Supply-Demand and Price of Staple Food, rice, wheat and barley are defined as staple food for the Japanese people and as important agricultural products. The objective of the law is to implement various policy measures, including state trading, in order to "stabilize supply-demand situations and prices of these products" with a view to contributing to the "stabilization of the lives of Japanese people and the national economy"; nonetheless, domestic prices of these commodities are well above world prices.

61. On dairy products, the Agriculture & Livestock Industries Corporation (ALIC) is authorized to take measures to "stabilize supply-demand situations and prices for milk products" with a view to "promoting sound development of dairy and related industries and to improve national diet" in accordance with the Manufacturing Milk Producer Compensation Temporary Law and the Agriculture and Livestock Industries Corporation Law. As a part of such measures, the ALIC, as a state trading enterprise, imports designated dairy products with a view to "ensuring proper and smooth operation of the system to stabilize supply-demand and prices of the designated milk products".

(viii) Standards, technical regulations, and sanitary and phytosanitary measures

(a) Standards and technical regulations

62. Technical regulations and conformity assessment procedures are adopted by the central government in accordance with various relevant laws and regulations, including the Pharmaceutical Affairs Law, the Industrial Standardization Law, and the Law Concerning Standardization and Proper Labelling of Agricultural and Forestry Products (JAS Law).⁵⁸ These laws are the legal basis for implementing the TBT Agreement in Japan. While regulatory impact assessments are conducted by each ministry on technical regulations, no cost-benefit analyses are conducted. The lead agencies for coordinating and developing international trade policy on standards activities and in discussions and negotiations with foreign countries are the Ministries of Foreign Affairs; Economy, Trade and Industry; Agriculture, Forestry and Fisheries; Health, Labour and Welfare; Internal Affairs and Communications; and Land, Infrastructure and Transport. Japan submitted a notification on the implementation and administration of the TBT Agreement in June 1996.⁵⁹ Its enquiry points under the Agreement are the Standards Information Service within the International Trade Division of the Ministry of Foreign Affairs (mainly handling enquiries on drugs, cosmetics, medical devices, foodstuffs, food additives, telecommunication facilities, motor vehicles, ships, aircraft, and railway equipment (excluding enquiries concerning certain JIS handled by JETRO); and the Standards Information Service within the Information Service Department of the Japan External Trade Organization (JETRO) (mainly handling enquiries on electric equipment, gas appliances,

⁵⁶ Average purchase price per kg recommended by the Leaf Tobacco Deliberative Council for agreements between the JT and tobacco growers.

⁵⁷ Average import price per kg of leaf tobacco (HS 240110, 240120, 240130, 240391) based on Japan's Trade Statistics.

⁵⁸ Other relevant laws and regulations include the Building Standard Law, the Pharmaceutical Affairs Law, the Food Sanitation Law, the Electrical Appliance and Material Safety Law, the Consumer Product Safety Law, the High Pressure Gas Safety Law, the Road Vehicle Law, the Safety Regulations for Road Vehicles, the Rational Use of Energy Law, and the Fire Service Law, the Law concerning the Safety Assurance and Quality Improvement of Feed, the Law concerning Examination and Regulation of Chemical Substances and Regulation of their Manufacture, the Industrial Safety and Health Law, the Telecommunications Business Law, the Radio Law, and the Fertilizer Control Law.

⁵⁹ WTO document G/TBT/2/Add.10, 11 June 1996.

measurement scales, foodstuffs, food additives, and JIS related to medical devices, motor vehicles, ships, aircraft, and railway equipment).⁶⁰ The Ministry of Foreign Affairs is Japan's notification authority under the Agreement.

63. As part of the process for the adoption of technical regulations and conformity assessment procedures, the agency responsible must publish proposed regulations and provide any interested persons an opportunity for comment.⁶¹ Since October 2007, based on the MIC's Implementation Guidelines for ex-ante Evaluation of Regulations, regulatory impact assessments have been made compulsory for the adoption of regulations through a law or a cabinet order (as well as for amendments or abolition).⁶² Regulatory impact analyses have not been conducted when adopting some regulations through ordinance inferior to a cabinet order.⁶³

64. Japan made 51 notifications of technical regulations to the WTO between January 2009 and July 2010.⁶⁴ The average period for comment specified in the notifications was around 56 days; the TBT Committee's recommended period is 60 days.⁶⁵

Voluntary standards

65. In 2009, voluntary standards comprised 10,179 Japanese Industrial Standards (JIS) and 214 Japan Agricultural Standards (JAS) (Table III.4). The authorities indicate that Japan has been aligning JIS to international standards if corresponding international standards exist, with a view to ensuring compliance with the TBT Agreement; about 48% of JIS are comparable to international standards, and 96% of these were aligned with international standards in 2009 (no change since 2008). Consequently, about 46% of all JIS were aligned with international standards in 2009. From April 2008 to February 2010, 597 JIS items were revised, 297 withdrawn, and 412 newly established.

66. The Japan Agricultural Standards Law stipulates that, in order to establish or revise JAS standards, international standards (such as Codex) must be "taken into account"; accordingly, relevant parts of international standards are referred to as a basis for establishing or revising JAS. The authorities state that, for example, organic JAS standards were established in accordance with the Codex "Guidelines for Production, Processing, Labelling and Marketing of Organically Produced Foods". Since 2008, two new JAS items have been established and two have been abolished, while 39 have been revised.

67. About 8,300 domestic and 600 foreign factories in 19 countries and economies are certified to affix JIS marks (JIS Mark scheme). The JIS Mark scheme is voluntary unless relevant regulations

⁶⁰ WTO document G/TBT/2/Add.10, 11 June 1996.

⁶¹ The procedure applies when technical regulations and conformity assessment procedures fall within certain categories specified in administrative orders under the Administrative Procedure Act. The agency responsible is required to provide at least 30 days for comments.

⁶² Regulations subject to compulsory RIAs are stipulated in Article 3 of Cabinet Order for Enforcement of the Government Policy Act (in Japanese). Viewed at: http://www.soumu.go.jp/main_content/000082217.pdf [19.10.2010]. See also Ministry of Internal Affairs and Communications online information, the "Annual Report on Policy Evaluation in FY2008 (Summary)", for the details of policy evaluation conducted in FY2008. Viewed at: http://www.soumu.go.jp/main_sosiki/hyouka/seisaku_n/pes/annual_rp2008.pdf [19.10.2010].

⁶³ WTO document G/TBT/W/287, 6 June 2008.

⁶⁴ These are WTO documents G/TBT/N/JPN/290-340.

⁶⁵ The Secretariat estimated this figure by averaging the periods between the date on which a notification was issued, and the "final date for comments" specified in that notification. The Secretariat considered notifications contained in WTO documents G/TBT/N/JPN/290-339, excluding documents with the symbols "Add" and/or "Corr", and G/TBT/N/JPN/332, which state that the final date for comments is "not applicable".

require JIS for domestic sales. The authorities state that domestic and foreign factories are treated in the same manner with regard to certification of the JIS marks, and the JIS Mark scheme is internationally harmonized, based on ISO/IEC Guide 65. Currently, 25 organizations are accredited as JIS mark certification bodies.⁶⁶

68. Compliance with the JAS is not required for imports into Japan. Under the JAS Law (the Law Concerning Standardization and Proper Labelling of Agriculture and Forestry Products), third-party organizations are entitled to certify operators (e.g. manufacturers) to affix JAS marks. The Minister of Agriculture, Forestry and Fisheries as well as Registered Certifying Bodies and Registered Overseas Certifying Bodies (RCBs and ROCBs) are responsible for monitoring and managing JAS marks. The Minister is authorized to order certifying bodies to comply with the registration criteria and improve services. The JAS Law incorporates ISO Guide 65 as registration criteria for certifying bodies. For example, during the accreditation of a certifying body, applicants' relationships with producers and compliance with ISO Guide 65 is evaluated. Foreign producers or manufacturers certified by RCBs and ROCBs may conduct their own grading and affix the JAS marks to their products. There are currently 27 ROCBs (18 for organic products and 9 for forestry products).⁶⁷ Under the JAS Law, foreign enterprises certifying operators that produce, process, and/or distribute agricultural or forestry products in conformity with the JAS may be accredited as ROCBs.

Table III.4
Main standards and technical regulations in Japan, 2009
(%)

	Number of standards/regulations	Corresponding to international standards ^a	Equivalent to international standards	Acceptance of overseas certification ^b	Acceptance of overseas test data ^b
A. Mandatory technical regulations					
Pharmaceutical Affairs Law	1,954	..	..	..	..
Food Sanitation Law	618	..	..	..	..
Electrical Appliance and Materials Safety Law	454	..	..	..	..
Consumer Product Safety Law	9	0	0	0	..
High Pressure Gas Safety Law	2	..	..	..	100
Building Standard Law ^c	..	..	..	..	..
Safety Regulations for Road Vehicles	237	29	4	11	33
Law concerning the Safety Assurance and Quality Improvement of Feed	..	..	..	..	..
Law concerning Examination and Regulation of Chemical Substances and Regulation of their Manufacture	7	..	..	..	100
Industrial Safety and Health Law	..	..	..	..	..

Table III.4 (cont'd)

⁶⁶ These include three foreign accredited certification bodies (two Korean and one Australian). JIS online information (in Japanese). Viewed at: <http://www.jisc.go.jp/app/pager> [14.06.2010].

⁶⁷ The newly accredited ROCBs (since 2008) for organic products are: Istituto Mediterraneo di Certificazione (Italy); Suolo e Salute S.r.l (Italy); Canadian Seed Institute (Canada); Pro-Cert Organic Systems Ltd. (Canada); OneCert Inc (the United States); NASAA Certified Organic, Pty, Ltd. (Australia); and The Organic Food Chain Pty, Ltd. (Australia).

	Number of standards/regulations	Corresponding to international standards ^a	Equivalent to international standards	Acceptance of overseas certification ^b	Acceptance of overseas test data ^b
Telecommunications Business Law ^d	..	..	..	..	..
Radio Law ^e	..	..	..	..	..
Fertilizer Control Law	..	..	..	..	..
B. Voluntary standards					
Japan Industrial Standards (JIS)	10,179	48	96	..	..
Japan Agricultural Standards (JAS)	214	32	74	..	..

.. Not available.

a Defined as "primary aspects sharing a common scope".

b Where applicable.

c Building Act Code.

d According to the authorities, the number of mandatory technical regulations is not available because the scope and definition of mandatory technical regulations are ambiguous; the technical conditions of terminal equipment in Japan generally comply with ITU-T/ITU-R Recommendations and Radio Regulations, and international harmonization is given consideration.

e According to the authorities, the number of mandatory technical regulations is not available because the scope and definition of mandatory technical regulations are ambiguous; the technical conditions of radio stations in Japan generally comply with ITU-R Recommendations and Radio Regulations, and international harmonization is given consideration. Regarding the system for the certification of radio equipment the Radio Law was amended to establish the system for accepting foreign test results and foreign certification (promulgated in 1998 and went into effect in 1999).

Source: Information provided by the Japanese authorities.

Mandatory technical regulations

69. In response to a series of accidents involving electric appliances and illegal sales of contaminated rice, Japan has been revising laws to introduce various technical requirements for product safety and distribution.⁶⁸ Regulations to implement these laws have been coordinated by the Consumer Affairs Agency and other government bodies since 1 September 2009. In addition, in order to evaluate the risks of all chemical substances, the Chemical Substances Control Law was amended in 2009 and partially entered into force on 1 April 2010.⁶⁹ On 1 April 2009, oil-fired boilers and oil-stoves were made subject to the technical regulations under the Consumer Product Safety Act.⁷⁰ On 27 August 2009, mandatory technical regulations for organic plants were revised; some substances were added to or deleted from the list of substances permitted for the production of organic plants.⁷¹ On 12 May 2010, pressure cookers and autoclaves (certain containers) for home use, and helmets were made subject to technical regulations under the Consumer Product Safety Act.⁷²

70. Data provided by the authorities indicate that there were 237 regulations on road vehicle safety standards in 2009, of which 29% corresponded to international standards (20% of 204 regulations in 2005). Japan is a party to the Agreement on Uniform Technical Prescriptions for Vehicles. It has applied 40 regulations under the agreement to its domestic regulations.

⁶⁸ For example, a law entered into force on 1 October 2010 obliging all business entities dealing with selected rice and rice products to keep transaction records and relay place of origin information of these goods; its aim is to prevent distribution of rice and rice products that do not meet safety standards and to ensuring proper labelling. See WTO document G/TBT/N/JPN/289/Add.1, 24 June 2009 for details.

⁶⁹ The law is to enter into force fully on 1 April 2011.

⁷⁰ METI online information (in Japanese). Viewed at: http://www.meti.go.jp/product_safety/producer/shouan/sekiyu_shitei.htm [08.07.2010].

⁷¹ WTO document G/TBT/N/JPN/298, 24 April 2009.

⁷² WTO document G/TBT/N/JPN/328, 5 February 2010.

Conformity assessment

71. Foreign manufacturers of electrical products and consumer products can undergo conformity assessment and certification conducted in foreign countries by foreign registered conformity assessment bodies, in accordance with relevant laws (e.g. the Electrical Appliance and Material Safety Law and the Consumer Product Safety Law). Foreign manufacturers of containers and designated equipment for high pressure gas are allowed to self-certify their products if they are registered with the Government, in accordance with the High Pressure Gas Safety Law. Japan accepts test data on chemical products developed in other countries based on OECD Test Guidelines and OECD GLP principles and the Decision of the OECD Council concerning the Mutual Acceptance of Data in the Assessment of Chemicals.⁷³

72. METI has designated 22 inspection bodies (down from 26 in 2009⁷⁴), 7 of which are foreign, for testing based on the major standards and certification systems under the METI's jurisdiction. These include: 7 designated inspection bodies under the Consumer Product Safety Law, 12 under the Electrical Appliance and Material Safety Law, 2 under the Law Concerning the Securing of Safety and Optimization of Transaction of Liquefied Petroleum Gas, and 2 under the Gas Utility Industry Law. In 2010, approximately 9% of all JIS were designated in Japanese laws and government/ministerial ordinances as mandatory technical regulations. Based on the Industrial Safety and Health Law, the "designated foreign bodies for inspection" system allows persons who intend to import boilers, pressure vessels or electrical equipment for use in an explosive atmosphere to have them inspected by foreign inspection bodies designated by the Minister of Health, Labour and Welfare for compliance with Japanese standards. The result of the inspection is submitted to competent Japanese authorities or inspection bodies for examination. The Third Party Certification System for medical devices was introduced in April 2005. Currently, 13 bodies are registered (6 are foreign). As for the JAS, there are 25 registered overseas certifying bodies as of in March 2010.

(b) Sanitary and phytosanitary measures

73. Since 2009, there have been several revisions to Japan's food specifications and standards, which are established under its Food Sanitation Law. Revisions include changes to maximum residue limits (MRLs) for pesticides and amendments on food additives. According to the authorities, Japan has systematically reviewed the MRLs for the target compounds or components based on risk evaluation from a purely scientific standpoint, but not involving cost-benefit analyses, taking into consideration the food intake of the Japanese population, and that some of the MRLs have been modified. When it introduced the positive list system in 2006, Japan established provisional MRLs for 758 agricultural compounds or components, based mainly on Codex standards and other countries' MRLs, without conducting risk assessment, with a view to reducing the time required for standard setting. For example, the maximum residue limits for azoxystrobin, flusilazole lufenuron propamocarb were raised, and those for metalaxyl and mefenoxam, trifloxystrobin, colistin, and cyflufenamid were lowered. New food additives, such as phenethylamine and butylamine have been allowed.⁷⁵ During the period under review, the MAFF established import requirements to allow the importation of fresh fruits from some of Japan's trading partners including Australia (grapefruit)⁷⁶,

⁷³ Based on the Chemical Substances Control Law.

⁷⁴ Two bodies have discontinued operation in accordance with the Consumer Product Safety Act, and two others have been removed from the list, in accordance with the Electrical Appliances and Materials Safety Act, due to non-conformity.

⁷⁵ WTO document G/SPS/N/JPN/254, 1 July 2010.

⁷⁶ Plant Protection Station online information (in Japanese). Viewed at: http://www.pps.go.jp/law_active/Notification/basis/6/46/history/1287.pdf [30.08.2010].

Chinese Taipei (*Hylocerus undatus*)⁷⁷, Colombia (Tommy Atkins mango)⁷⁸, Peru (Kent mango)⁷⁹, South Africa (Barlinka grape), Turkey (grapefruit)⁸⁰ the United States (sweet cherries), and Viet Nam (*Hylocerus undatus*). On the other hand, one food additive (sodium starch phosphate), which was determined to be no longer marketed and to have been replaced by newly designated modified starch, was withdrawn from the list of permissible food additives. Japan considers that MRLs under its positive list system, introduced in May 2006, are based on Codex standards and, to a lesser degree, on standards established by countries/economies where MRLs are assumed to be established based on toxicity study data equivalent in quantity to those used in scientific evaluations by the Joint FAO/WHO Meeting on Pesticide Residues (JMPR) and the Joint FAO/WHO Experts Committees on Food Additives (JECFA).⁸¹

74. The establishment of SPS measures is governed by a number of laws and regulations, including: the Food Sanitation Law, the Quarantine Law, the Plant Protection Law, and the Domestic Animal Infectious Diseases Control Law. The authorities state that Japan carries out risk assessments and publishes their results when introducing, amending, or abolishing laws and regulations related to SPS measures.⁸² The Guidelines for Implementation of the Monitoring and Guidance under the Food Sanitation Law (Ministry of Health, Labour and Welfare Public Notice No.301, 2003) specifies inspection methods and approaches for domestic and imported agricultural products; under the Guideline, these products are inspected according to the same inspection methods and approaches. The Quarantine measures on plants and animals are implemented, respectively, by the Plant Protection Station and the Animal Quarantine Service, both attached to the Ministry of Agriculture, Forestry and Fisheries.⁸³

75. Since 2009, Japan has submitted to the WTO 39 notifications (up to 31 October 2010) on new or modified SPS measures.⁸⁴ The average period for comment specified in these notifications was 61 days.⁸⁵

⁷⁷ Plant Protection Station online information (in Japanese). Viewed at: http://www.pps.go.jp/law_active/Notification/basis/6/237/html/237.html [30.08.2010].

⁷⁸ Plant Protection Station online information (in Japanese). Viewed at: http://www.pps.go.jp/law_active/Notification/basis/6/226/history/1259.pdf [30.08.2010].

⁷⁹ Plant Protection Station online information (in Japanese). Viewed at: http://www.pps.go.jp/law_active/Notification/basis/6/231/history/1269.pdf [13.10.2010].

⁸⁰ Plant Protection Station online information (in Japanese). Viewed at: http://www.pps.go.jp/law_active/Notification/basis/6/240/history/1292.pdf [13.10.2010].

⁸¹ Australia, Canada, the European Union, New Zealand, and the United States.

⁸² For example, the Standard Procedure for Approval for Import of Designated Items into Japan to be Quarantined, and the Procedures for Lifting the Ban of Importation specify steps to conduct risk assessment for removing restrictions on designated items. The conclusion of risk assessment is published on the MAFF website.

⁸³ Plant Protection Station online information. Viewed at: <http://www.pps.go.jp/english/index.html> [30.08.2010]. Animal Quarantine Service online information. Viewed at: <http://www.maff.go.jp/aqs/english/index.html> [30.08.2010].

⁸⁴ WTO documents G/SPS/N/JPN/223-261.

⁸⁵ The Secretariat estimated this figure by averaging the periods between the date on which a notification was issued, and the "final date for comments" specified in that notification. The Secretariat considered notifications contained in WTO documents G/SPS/N/JPN/223-261, excluding documents G/SPS/N/JPN/230, 238, 239, 245, 248-250, 256, and 261, which state that the final date for comments is "not applicable". The SPS Agreement obliges Members to allow a reasonable period of time for submission, discussion, and consideration of comments, and it is recommended that Members normally allow a period of at least 60 calendar days for comments.

76. Japan's enquiry point and national notification authority under the SPS Agreement is the Standards Information Service within the International Trade Division of the MOFA's Economic Affairs Bureau.⁸⁶ The Act on Ensuring of Safety of Pet Animals Feed, which entered into force on 1 June 2009, set standards for pet foods and stipulated manufacturing and import regulations. There have been no major changes to Japan's quarantine arrangements since 2009. In the Committee on Sanitary and Phytosanitary Measures, Members have complained that, in many cases, Japanese SPS regulations are more stringent than internationally established guidelines and risk assessment procedures⁸⁷; these include maximum residue limits.

77. The authorities in charge of Japan's SPS measures include the Ministry of Agriculture, Forestry and Fisheries, and the Ministry of Health, Labour and Welfare, as well as the Food Safety Commission. The MAFF is responsible for ensuring safety of domestically produced food products, through the improvement of practices at various stages from production to consumption. Its responsibilities include animal health and plant protection. The responsibility of the MHLW is to protect public health. The FSC conducts risk assessment in response to requests made by "risk managers" (i.e. MAFF and MHLW), and sends the outcomes of the assessments back to the risk managers. Safety assessments on genetically modified (GM) foods are conducted by the Food Safety Commission in accordance with Codex guidelines.⁸⁸

78. Japan currently imposes import prohibitions on beef and poultry from various countries to prevent the spread of BSE and avian flu.⁸⁹ The authorities maintain that the process of lifting the import ban includes technical consultations, consideration of import requirements, and the implementation of risk assessment that takes due account of the OIE code⁹⁰, and involves consultation with relevant domestic industries, consumers, and requesting countries. Since December 2005, Japan has allowed beef imports from the United States and Canada under the condition that "specified risk material" (SRM) is removed from all the cattle, and all beef products exported to Japan are from cattle of 20 months of age or younger.⁹¹

Conformity assessment

79. In accordance with the Food Sanitation Law, imported food may be exempted from inspection upon importation into Japan if a cargo is inspected by an official inspection organization in the exporting country and bears the result of the inspection.⁹² These inspection bodies must be

⁸⁶ WTO document G/SPS/ENQ/25, 15 October 2009.

⁸⁷ Members have complained that Japan's SPS regulations are in certain cases in excess of OIE guidelines and Codex standards.

⁸⁸ See WTO (2009) for the details of the Food Safety Commission.

⁸⁹ At the end of June 2010, imports of beef were prohibited from Austria, Belgium, the Czech Republic, Denmark, Finland, Germany, Greece, France, Ireland, Israel, Italy, Liechtenstein, Luxembourg, the Netherlands, Poland, Portugal, Slovakia, Slovenia, Spain, Sweden, Switzerland, and the United Kingdom. Imports of poultry were prohibited from 56 countries/regions. For the current list of countries/regions from which imports of poultry are prohibited, see Animal Quarantine Service of Japan online information (in Japanese). Viewed at: <http://www.maff.go.jp/aqs/topix/im/hpai.html> [14.10.2010].

⁹⁰ WTO document WT/TPR/M/211/Add.1, 22 May 2009.

⁹¹ See MAFF online information. (in Japanese). Viewed at: <http://www.mhlw.go.jp/topics/2005/12/dl/tp1212-1b.pdf> [18.08.2010].

⁹² Items whose results are subject to change during transportation (bacteria, mycotoxin, etc.) are excluded.

registered with the Government of Japan, through the government of the exporting country.⁹³ As of June 2010, 3,778 such laboratories were registered with the Government.⁹⁴

(c) Bilateral, regional, and multinational arrangements on TBT and SPS measures

80. Since 2009, Japan has concluded two FTAs that include SPS and TBT chapters: the Japan-Switzerland FTA, which entered into force on 1 September 2009, and the Japan-Viet Nam FTA, which entered into force on 1 October 2009. Japan also has mutual recognition agreements (MRAs) on conformity assessment procedures with the European Union for electrical products, telecommunications terminal equipment and radio equipment, good laboratory practice for chemicals, and good manufacturing practice for medicinal products (since January 2002); with Singapore for electrical products, telecommunications terminal equipment, and radio equipment (since November 2002); and with the United States for telecommunications terminal equipment and radio equipment (since January 2008).

81. Japan states that it will negotiate mutual recognition agreements based on industries' requests with countries or regions where technical barriers to trade will be truly expected to be reduced, and on the premise that the compatibility of both sides' regulations and the equality of both sides' competence in accreditation and supervision are confirmed.⁹⁵

82. Japan is a member of the Codex Alimentarius Commission and the World Organization for Animal Health (OIE), and a contracting party to the International Plant Protection Convention (IPPC). Its contact points are: Director of Plant Quarantine Office, Plant Protection Division, Food Safety and Consumer Affairs Bureau, the MAFF (in relation to IPPC); Director of Animal Health Division, Food Safety and Consumer Affairs Bureau, the MAFF (in relation to OIE); and Director of Office for Resources, Policy Division, Science and Technology Policy Bureau, the Ministry of Education, Culture, Sports, Science and Technology (in relation to Codex). Japan participates in the International Conference on Harmonization toward the harmonization of pharmaceutical standards/regulations.

(d) Labelling and packaging requirements

83. The main changes to Japan's labelling requirements since 2008 include: elimination of the Quality Labelling Standards for Shortening, Refined lard, Kamaboko (steamed fish paste) with special package and Flavoured Kamaboko (on 31 August 2009), and the unification of the Quality Labelling Standard for raw-type instant noodles with that for instant noodles (on 9 May 2009). These labelling requirements are imposed on importers into Japan.

84. Food labelling in Japan is subject to the JAS Law and the Food Sanitation Law. A total of 54 technical regulations are in force based on the JAS Law. They include: cross-category quality labelling standards for processed foods, fresh foods, and genetically modified foods⁹⁶; individual

⁹³ Results of examinations based on the AOAC (Association of Analytical Communities) method, which are either endorsed or established by the exporting country, are accepted.

⁹⁴ For the list of these laboratories, see Ministry of Health, Labour and Welfare online information (in Japanese). Viewed at: <http://www.mhlw.go.jp/topics/yunyu/5/index.html> [16.06.2010].

⁹⁵ WTO document WT/TPR/M/211/Add.1, 22 May 2009.

⁹⁶ Cross-category quality labelling standards are provided for all processed foods and beverages (except alcohol and medical drugs). Fresh foods must be labelled with their name and place of origin. Processed foods must be labelled with the name, the list of ingredients, the net content, the date of minimum durability or use-by date, instructions for storage, the name and address of the manufacturer, and the country of origin (only for imported products).

quality labelling standards⁹⁷; and standards for organic plants and organic processed foods (made of plants). Any food containing additives must also be labelled with the names of all additives included. Imported processed food is excluded from the mandatory labelling of place of origin of the ingredients (see below). All organic plants and organic processed foods to be sold in Japan must comply with the JAS organic standards and carry the JAS organic mark.⁹⁸

85. Under the Food Sanitation Law, any allergenic substances contained in processed foods must be indicated on the labels. Currently, 26 items are designated for inclusion in the description of ingredients: eight are obligatory (eggs, milk, wheat, buckwheat, peanuts, prawns, crab, and shrimps) and 18 are recommended (abalone, squid, salmon roe, oranges, kiwifruit, beef, walnuts, mackerel, salmon, gelatine, soybeans, chicken, pork, matsutake-mushrooms, peaches, yams, apples, and bananas).

86. Mandatory labelling for genetically modified (GM) foods is regulated under the Food Sanitation Law and the JAS Law; the list comprises seven crops (soybeans, corn, rape seed, potatoes, cotton seed, alfalfa, and sugar beet) and 32 kinds of designated processed food mainly made of soybeans or corn, as well as the newly added sugar beets, high lysine corn, and processed foods containing it as a main ingredient. The Ministry of Health, Labour and Welfare does not permit imports of GM foods that do not meet its safety requirements.

(ix) Import promotion measures

87. Programmes to promote imports in Japan are mainly implemented by the Manufactured Imports and Investment Promotion Organization (MIPRO). They include free consultation regarding small-lot imports; providing reference materials, such as wholesale catalogues, import guides, and import handbooks; conducting seminars in Japan; and business missions to international trade shows.⁹⁹

(3) MEASURES DIRECTLY AFFECTING EXPORTS

(i) Procedures

88. Since Japan's last Review, in 2009, the only major change in its export procedures has been the expansion of the Authorised Economic Operator (AEO) programme, in operation for exporters since March 2006. The AEO covers warehouse operators, customs brokers, logistics operators, and manufacturers. An AEO authorized by the Director-General of Customs as a logistics operator with cargo security management and a good compliance record may benefit from bonded transportation without obtaining individual permission, and may transport goods consigned by exporters, from areas other than Customs areas (e.g. from the premises of exporters to the loading port).

89. The AEO was extended to cover manufacturers in July 2009, in accordance with the Customs Law, as amended. Under the amendment, goods manufactured by an AEO manufacturer with cargo security management and a good compliance record may be declared for export by an exporter other than the authorized manufacturer before being placed in a Customs area. The authorized manufacturer must consign the exports to an exporter with a good compliance record. The authorities

⁹⁷ Specific labelling requirements are provided as quality labelling standards for individual products depending on their characteristics.

⁹⁸ To label food as "organic", certification is needed from a registered certifying body or a registered overseas certifying body that the food meets certain JAS requirements. Only certified food is allowed to be distributed with a JAS organic mark.

⁹⁹ MIPRO online information. Viewed at: <http://www.mipro.or.jp/english> [16.06.2010].

consider that this amendment has made the AEO programme comprehensive, covering almost all trade-related businesses in a supply chain.

90. At the time of exportation, the following documents must, in principle, be submitted to the Customs: export declaration (Customs form C-5010), invoice, and certifications, permits, or approvals required by various laws and regulations.

91. For the purpose of implementing FTAs currently in force between Japan and some of its trading partners, the Ministry of Economy, Trade and Industry (METI) is the competent authority for issuing certificates of origin. The METI has designated the Japan Chamber of Commerce and Industry (JCCI) as an issuing body for certificates of origin.

(ii) Export taxes, charges, and levies

92. There are no export taxes or levies in operation in Japan.

(iii) Border adjustment in respect of internal taxes and import duties (relating to exports)

(a) Consumption tax

93. The consumption tax is zero-rated on exported goods, international aviation and transportation services, and selling or licensing patents to foreigners; domestic components and raw materials used in exported goods are eligible for refund of consumption tax.¹⁰⁰ For a refund of the consumption tax, a declaration must be made to the tax authorities with the proof of export.

(b) Import duties

94. Import duties (tariffs) levied on raw materials used in the production of certain exported goods may be exempted, reduced, or refunded, as determined by the Government.¹⁰¹

95. The authorities state that these schemes, whose basic structure remains unchanged since the 1950s, are intended to remove impediments to trade by reducing the tariff burden for imported materials to be used in the production of export goods; the products eligible for the schemes reflect the needs of the industries concerned.

Exemption and reduction of import duties

96. In accordance with paragraph 1 of Article 47 of the Cabinet Order for Enforcement of the Customs Tariff Law, the following items are fully exempted from tariffs: lead (for the production of alloys using lead and antimony); cotton seed oil (for fish products (canned or bottled)); soya bean oil cake, certain starches and molasses (for the production of monosodium glutamate); sugar (for refined sugar); certain starches (for caramels); molasses (for lysine); certain starches (for refined glucose); and inputs approved by Customs (for export goods approved by Customs).

97. In accordance with paragraph 2 of Article 47 of the Cabinet Order, reduced tariff rates apply to certain inputs at the time of importation. The reduced tariff rates are applied to wheat flour (for the production of monosodium glutamate); and certain starches (for the production of vitamin C, crystallized glucose, and eythorbate or sorbitol).

¹⁰⁰ JETRO online information (in Japanese). Viewed at: http://www.jetro.go.jp/world/japan/qa/export_10/04A-011045 [26.08.2010].

¹⁰¹ Article 19, the Customs Tariff Law.

98. In order to be eligible for this tariff exemption or reduction, manufacturers require approval from Customs as a "manufacturing factory" (as defined in Article 19 of the Customs Tariff Law), and manufactured goods need to be exported within two years of importation of relevant inputs.¹⁰² The manufacturers must submit an import declaration and other relevant documents for the imports to be used as inputs (as prescribed in the Cabinet Order for the enforcement of the Law), and obtain import permission for the relevant materials.

Refund of import duties

99. Import tariffs applied to sugar (for the production of canned fruits, confectioneries, syrup, etc.) are fully or partially refundable depending on its sucrose content.¹⁰³ In order to be eligible for such a refund, manufacturing factories require approval from Customs, and must keep a manufacturing record of the products for two years; the record must be submitted to Customs at the time of exportation of the product.

100. Re-exported imports that involve no change in nature and form, or deterioration and damage, or claims are eligible for refund of the import tariff.¹⁰⁴

(iv) Export prohibitions, restrictions, and licensing

101. Items subject to export controls, as set out in the Foreign Exchange and Foreign Trade Law and the Export Trade Control Order, include arms and certain dual-use items based on the UN Security Council Resolution 1540 and other relevant international commitments, such as international export control regimes, and some other items under the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES).¹⁰⁵ The authorities maintain that the main purpose of Japan's export controls is to preserve limited natural resources¹⁰⁶ and ensure national security; export controls are also applied to certain products under Japan's free-trade agreements.

102. Since 2009, the METI has amended the foreign exchange and export control order to include some products subject to export licence, under international export control regimes.¹⁰⁷ In addition, on 16 June 2009, the METI announced a ban on exports of all items to North Korea.¹⁰⁸ METI amended

¹⁰² Article 19, the Customs Tariff Law.

¹⁰³ Article 52, the Cabinet Order for Enforcement of the Customs Tariff Law.

¹⁰⁴ Articles 10, 19, 19-3 and 20 of the Customs Tariff Law (in Japanese). Viewed at: <http://law.e-gov.go.jp/htmldata/M43/M43HO054.html> [07.07.2010]

¹⁰⁵ For an unofficial English translation of the Export Control Order, see Cabinet Office online information. Viewed at: <http://www.cas.go.jp/jp/seisaku/hourei/data/ETCO.pdf> [20.08.2010]. Other export items requiring permission from the Minister of Economy, Trade and Industry (METI) include: certain seeds, endangered animals, and plants specified in international treaties; narcotics; designated art works; counterfeit currencies; and other products associated with criminal offences in Japan. For certain agricultural products, including wheat bran, rice bran, oat bran, clams, mussels and eels, the Minister of Economy, Trade and Industry also needs the consent of the Minister of Agriculture, Forestry and Fisheries prior to granting export approval. Export controls (prior approval) are maintained to ensure national security and public safety and to ensure adequate domestic supplies of certain agricultural and other primary products (Article 48, Foreign Exchange and Foreign Trade Law).

¹⁰⁶ The authorities state that export items that are regulated to preserve limited natural resources include those listed in Appendix I, II, III of the CITES.

¹⁰⁷ METI has amended the order twice on 1 Oct 2009 and on 1 April 2010. The 'international export control regimes' referred to are the Nuclear Suppliers Group, Australia Group, Missile Technology Control Regime, and Wassenaar Arrangement.

¹⁰⁸ METI online information. Viewed at: http://www.meti.go.jp/english/press/data/20090616_02.html [17.06.2010].

the foreign exchange and foreign trade law, effective 1 November 2009, to expand the coverage of export controls to exports of technology by non-residents in Japan.¹⁰⁹

(v) Export cartels

103. While export cartels are exempted from the general prohibition of cartels under Japan's Anti-monopoly Act, the authorities indicate that there are no known export cartels in Japan.¹¹⁰ The authorities do not consider that shipping cartels (e.g. liner conferences), which are exempt from the Anti-monopoly Act under the Marine Transportation Law, constitute export cartels (section (4)(vi)).

(vi) Export promotion schemes

(a) Export subsidies, finance, insurance, and guarantees

104. The authorities indicate that Japan has no subsidy or tax concession schemes to promote exports.

105. Japan provides medium- and long-term export credits. These are administered by the Japan Bank for International Cooperation (JBIC) (a government-affiliated financial institution), and Nippon Export and Investment Insurance (NEXI) (an independent administrative institution, insuring risks not covered by existing private insurance institutions). The authorities maintain that provision of these credits is based on the terms and conditions of the OECD Arrangement on Officially Supported Export Credits. Standard forms of export credit extended by JBIC include buyer credits and bank-to-bank loans. In FY2008, JBIC's export credits amounted to ¥27.6 billion and the total amount insured by NEXI stood at ¥9.7 trillion.

(b) Other export promotion schemes

106. Export promotion schemes handled by the Japan External Trade Organization (JETRO) include provision of information, market and company studies, and support for participation at international trade fairs. No changes have been introduced during the review period.

107. The Ministry of Agriculture, Forestry and Fisheries provides support to agricultural exporters through information-sharing on Japanese agricultural products and foodstuff. Support includes setting up Japanese pavilions at international exhibitions and promotion abroad of Japanese foods including agricultural products. The budget for export promotion was ¥1.2 billion for FY2010, down from ¥2.0 billion in FY2009.

(4) MEASURES AFFECTING PRODUCTION AND TRADE

(i) Taxation and tax-related assistance

108. Direct taxes, which include personal and corporate income taxes, are expected to account for about 53.5% of total tax revenue in FY2010 (about 59.6% in FY2009) according to annual budgets

¹⁰⁹ Non-residents in Japan include foreigners making a business trip to Japan. METI online information (in Japanese). Viewed at: <http://www.meti.go.jp/press/20090227002/20090227002.html> [17.06.2010].

¹¹⁰ The Export and Import Transaction Law stipulates that prior notification must be given, for approval, to the Minister of Economy, Trade and Industry before establishing an export cartel.

(Table III.5).¹¹¹ Indirect taxes, which include consumption tax (VAT) and excise taxes (applied, *inter alia*, to liquor, tobacco, gasoline, and automobiles), account for the remainder of total tax revenue in FY2010. The highest personal income tax rate, including local taxes, is 50%, and the highest corporate tax rate (including local taxes) is 40% (FY2009).¹¹² All income earned in Japan is taxable for both residents and non-residents and the corporate income tax rate is the same for foreign and domestic corporations. With regard to indirect taxes, consumption tax, which is levied at a rate of 5% on goods and services transactions, is the largest component, contributing nearly 24.4% of total tax revenue in FY2010.¹¹³

109. Japan's tax to GDP ratio is one of the lowest by international standards (18% in 2007)¹¹⁴; tax revenue in Japan has been decreasing and this has contributed to high public debt. Japan also has the highest (40%) statutory corporate tax rate within the OECD and the neighbouring Asian region. Furthermore, less than half of personal income is taxed, perhaps because of exemptions and tax avoidance or evasion, compared with an OECD average of over 80%. This data suggest a need to broaden the income tax base. This issue is recognized by the Government, as its FY2010 Tax Reform Programme intends to broaden the tax base.¹¹⁵ The Government is currently considering whether to lower its statutory corporate tax rate, which tends to be higher than in Japan's main trading partners¹¹⁶, in line with the New Growth Strategy, taking into account ways to secure revenues.

110. There is scope to improve transparency, especially with regard to taxes; for example, the local tax system comprises 30 different taxes¹¹⁷, and could be simplified and thus made more transparent. However, the authorities do not consider that Japan's local tax system is complicated or lacks transparency due to the number of different local taxes, partly because the local tax system is integrated into the Local Tax Law encompassing all taxes imposed by local authorities across the nation.¹¹⁸

Table III.5
National government tax revenue, FY2009 and FY2010
(¥ billion and per cent)

Tax item	FY2009 Budget		FY2010 Budget	
	Amount	Percentage	Amount	Percentage
Direct taxes	28,511	59.6	21,128	53.5
Personal income tax	15,572	32.6	12,614	32.0
Corporate income tax	10,544	22.1	5,953	15.1
Special corporate income tax ^{a, b}	873	1.8	1,290	3.3
Inheritance tax	1,522	3.2	1,271	3.2

Table III.5 (cont'd)

¹¹¹ On the basis of settlement account, direct taxes accounted for about 52.9% in FY2009, compared with 57.7% in FY2008. The authorities consider that the decrease of the share of direct taxes was due mainly to lower corporate tax revenue, reflecting global economic stagnation.

¹¹² For comparisons of corporate tax rates in selected countries, see MOF online information. Viewed at: <http://www.mof.go.jp/jouhou/syuzei/siryuu/084.htm>. [14.07.2010]

¹¹³ For the details of exempted transactions, see WTO (2009). The 5% consists of the national consumption tax (4%) and a local consumption tax (1%).

¹¹⁴ IMF (2010).

¹¹⁵ See Cabinet Office online information (in Japanese). Viewed at: <http://www.cao.go.jp/zei-cho/etc/pdf/211222taikou.pdf> [14.07.2010].

¹¹⁶ See, for example, METI online information (in Japanese). Viewed at: <http://www.meti.go.jp/press/20100607004/20100607004-1.pdf>, p.42. [11.11.2010]

¹¹⁷ Ministry of Internal Affairs and Communications online information (in Japanese). Viewed at: http://www.soumu.go.jp/main_sosiki/jichi_zeisei/czaisei/czaisei_seido/ichiran01.html [25.06.2010].

¹¹⁸ WTO document WT/TPR/M/211/Add.1, 22 May 2009.

Tax item	FY2009 Budget		FY2010 Budget	
	Amount	Percentage	Amount	Percentage
Indirect taxes	19,305	40.4	18,334	46.5
Customs duty	846	1.8	756	1.9
Consumption tax	10,130	21.2	9,638	24.4
Liquor tax	1,420	3.0	1,383	3.5
Tobacco tax	843	1.8	827	2.1
Gasoline tax	2,628	5.5	2,576	6.5
Liquefied petroleum gas tax	13	0.0	12	0.0
Aviation fuel tax	83	0.2	77	0.2
Petroleum and coal tax	510	1.1	480	1.2
Promotion of power resources development tax	351	0.7	330	0.8
Motor vehicle tax	646	1.4	447	1.1
Tonnage tax	10	0.0	8	0.0
Stamp tax	985	2.1	1,024	2.6
Local Gasoline tax ^{a, b}	281	0.6	276	0.7
Liquefied petroleum gas tax ^{a, b}	13	0.0	12	0.0
Aviation fuel tax ^{a, b}	15	0.0	14	0.0
Motor vehicle tax ^{a, b}	323	0.7	307	0.8
Special tonnage tax ^{a, b}	13	0.0	10	0.0
Special tobacco surtax ^b	195	0.4	158	0.4
Total	47,816	100.0	39,462	100.0

a Local transfer tax.

b Revenues are distributed to special accounts.

Note: Figures are based on Japan's official tax revenue prospects, announced in January 2009 (for FY2009) and January 2010 (for FY2010).

Source: Ministry of Finance online information (in Japanese). Viewed at: http://www.mof.go.jp/jouhou/syuzei/siryou/008_a21a.pdf, and http://www.mof.go.jp/jouhou/syuzei/siryou/008a_22a.pdf [20.10.2010].

Tax incentives

111. The system of tax incentives in Japan remains complex and opaque, and thus perhaps distorting; the Government recognizes this problem; the Tax Reform Programme states that "Japan's current tax system is unfair and non-transparent". The focus of the incentives is on achieving various policy objectives, including investment to address environmental concerns or promote R&D.¹¹⁹ The incentives are detailed in the Special Taxation Measures Law, which stipulated 241 special tax measures (in FY2009) involving, *inter alia*, accelerated depreciation, tax credits, and reduced tax rates. In order to improve the transparency of those measures, Japan adopted the Law to Improve Transparency of Special Tax Measures, which entered into force on 1 April 2010. The law includes the establishment of a mechanism that discloses how special taxation measures are applied, with a view to examining the effects of those measures. Japan decided to review all of its special tax measures by FY2013. The authorities estimate that forgone tax revenues will be ¥4,988 billion in FY2010 (¥5,121 in FY2009).¹²⁰ The authorities publish detailed tax expenditure accounts containing

¹¹⁹ Under the special tax measures aiming at promoting investment, reserve accounts prepared for the loss of share value of oil exploitation companies are tax deductible. Foreign limited partners' profits from domestic limited partners (LPS) are exempted from income tax.

¹²⁰ The Ministry of Finance reported that the changes in special tax measures in FY2010 would increase tax revenue by ¥74 billion. For FY2009 data, see Secretariat of the House of Councillors online information (in Japanese). Viewed at: http://www.sangiin.go.jp/japanese/annai/chousa/keizai_prism/backnumber/h21pdf/20097201.pdf [25.06.2010].

information on revenue forgone as a result of various tax measures; however, it would appear that they do not conduct rigorous cost-benefit analysis of these measures, to the detriment of transparency. In the absence of convincing evidence to the contrary, tax incentives are seldom cost-effective.

Recent reforms

112. Tax reforms undertaken in FY2009 were intended mainly to promote consumption and environment-friendly investment. The reforms included, *inter alia*, introduction of immediate depreciation with regard to investment in energy-saving and new-energy facilities, and reduction of the tax burden on the purchase of environment-friendly automobiles. The reform also included a measure to treat dividends received from overseas subsidiaries as non-taxable income.¹²¹

113. Tax reforms in FY2010 included the elimination of some special tax measures and the adoption of the Improving Transparency of Special Taxation Measures Law.¹²² In order to prevent domestic companies from avoiding tax through transactions with their foreign subsidiaries, the income of foreign subsidiaries located in countries where the corporate tax rate was less than 25% was previously regarded as domestic income and subject to domestic corporate tax; this threshold was reduced to 20% in FY2010. With the reduction, the income of Japanese subsidiaries in certain countries, for example China, South Korea, and Viet Nam, are exempted from Japanese corporate tax.¹²³

(ii) Subsidies and other financial assistance

114. Japan has notified various specific subsidy programmes to the WTO. In its latest notification, Japan indicated 68 subsidy schemes to assist agriculture, forestry, and fisheries, industry, finance, and transport sectors.¹²⁴ Changes since 2009, as noted in the notification, include elimination of the subsidy for the promotion of advanced research and development in salt manufacturing technology and the subsidy for promoting bio-fuel in March 2009.

115. With a view to stimulating the domestic economy, the Japanese government introduced subsidies for purchasing new environmentally friendly vehicles in April 2009. The scheme is in two parts. If a vehicle is older than 13 years and traded in for a new car listed by the authorities as an "environmentally friendly car", a subsidy of ¥125,000 would be provided for a light vehicle and ¥250,000 for a registered vehicle. The subsidy amount for heavy-duty vehicles, such as trucks and buses, ranges from ¥400,000 to ¥1,800,000 depending on the tonnage of the vehicle. The second avenue does not require scrapping an old vehicle; a subsidy is provided just for the purchase of a new vehicle that meets certain fuel efficiency and (in some cases) emission standards.¹²⁵ For passenger cars the subsidy is ¥50,000 for a light vehicle and ¥100,000 for a registered vehicle; for heavy-duty vehicles, the subsidy ranges from ¥200,000 to 900,000 depending on the tonnage of the vehicle. The scheme is available to qualifying vehicles irrespective of origin; data provided by the authorities indicate that approximately 43% of imported vehicles are eligible for the subsidy.

¹²¹ Ministry of Finance online information. Viewed at: <http://www.mof.go.jp/english/tax/tax2009/tax2009a.pdf> [25.06.2010].

¹²² Ministry of Finance online information. Viewed at: <http://www.mof.go.jp/english/tax/tax2010/tax2010a.pdf> [14.10.2010]. For example, the special tax measure offered for the next generation broadband network infrastructures was abolished in April 2010.

¹²³ Ministry of Finance online information. Viewed at: <http://www.mof.go.jp/english/tax/tax2010/tax2010a.pdf> [25.06.2010].

¹²⁴ WTO document G/SCM/N/186/JPN, 25 June 2009.

¹²⁵ In order to qualify for the subsidy, passenger vehicles must be 15% more fuel efficient than the standards prescribed for 2010 fuel efficiency.

116. Under the new Growth Strategy, adopted by the Cabinet on 18 June 2010, the Government has concentrated its resources into the development of "seven strategic areas" (environment and energy, medical and health care, economic integration with other Asian countries, tourism and revitalization of regional economies, science and technology, human resources, and financial services).¹²⁶ The strategy indicates that potential demand is largest in these seven areas.¹²⁷ Although the details of implementing measures are yet to be decided, the strategy suggests a policy to "pick winners", such as the preferential use of domestic wood.¹²⁸

(iii) State-owned enterprises, corporatization, and privatization

117. The State retains a stake in major companies in several sectors, through which it may directly affect production and trade; it also influences various semi-governmental bodies.¹²⁹ These companies include Nippon Telegraph and Telephone Corporation (NTT), Japan Tobacco Inc. (JT), Narita International Airport Corporation, and Kansai International Airport Co., Ltd. As of March 2010, the Government held: 33.8% of the stock of NTT; 50.0% of JT; 66.6% of Kansai International Airport Co., Ltd; 100% of Narita International Airport Corporation; 29.4% of INPEX Corporation; and 34.0% of Japan Petroleum Exploration Co. Ltd. All shares of Hokkaido Railway Company, Shikoku Railway Company, Kyushu Railway Company, and Japan Freight Railway Company are held by Japan Railway Construction, Transport and Technology Agency, a government-affiliated corporation.

118. On 27 July 2009, the Government established the Innovation Network Corporation of Japan (INCJ); ¥82 billion (89.1%) of its capital was financed by the Government.¹³⁰ The INCJ aims to promote innovation by investing in what is deemed as promising projects in areas of environment, energy, infrastructure, and others.¹³¹

119. There are also SOEs that aim to provide assistance to private firms. The Deposit Insurance Corporation of Japan (DICJ), a semi-governmental corporation partially financed by the Government, holds shares of certain commercial banks, such as Resona Bank, for prudential reasons.¹³² In addition, the DICJ has injected ¥20 billion of capital into the Enterprise Turnaround Initiative Corporation (ETIC), which was established on 14 October 2009 as a state-owned enterprise to "turnaround" private companies.¹³³

¹²⁶ Prime Minister's Office online information. Viewed at: http://www.kantei.go.jp/foreign/kan/topics/sinseichou01_e.pdf [14.10.2010].

¹²⁷ Cabinet Office online information. Viewed at: <http://www5.cao.go.jp/keizai2/2010/0618reference.pdf> [14.10.2010].

¹²⁸ National Policy Unit online information. Viewed at: http://www.npu.go.jp/policy/policy04/pdf/20100618_shinseityou_gaiyou_eigo.pdf [14.10.2010].

¹²⁹ A list of these entities was not made available in English to the Secretariat. The authorities find it difficult to prepare such a list because of the vast number of such entities.

¹³⁰ The liabilities of the INCJ are to be backed by the Government up to ¥800 billion. INCJ online information. Viewed at: <http://www.incj.co.jp/english/> [18.06.2010].

¹³¹ Until June 2010, the INCJ had invested in five companies, including an aqueduct company and a wind electricity company. See the INCJ online information. Viewed at: <http://www.incj.co.jp/english/news.html> [18.06.2010].

¹³² The DICJ had injected ¥12.7 trillion of capital into commercial banks until 31 March 2010. The DICJ online information (in Japanese). Viewed at: http://www.dic.go.jp/english/e_katsudou/e_katsudou3-6.html [18.06.2010].

¹³³ Half of the injection was financed by the Government. In addition, the ETIC's liability will be insured up to ¥3.0 trillion by the Government. The ETIC online information. Viewed at: <http://www.etic-j.co.jp/pdf/091016newsrelease-e.pdf> [18.06.2010].

120. Based on the Reorganization and Rationalization Plan for Special Public Institutions, adopted on 18 December 2001, 148 public corporations (out of 163 subject to reform) had been reformed by 1 October 2009.¹³⁴ Nine public corporations are still to be reformed (including the Kansai International Airport and NTT). On 1 October 2008, four administrative financial agencies (National Life Finance Corporation, Agriculture Forestry and Fisheries Finance Corporation, Japan Finance Corporation for Small and Medium Enterprise, and the international financial operations of the Japan Bank For International Corporation) were integrated into Japan Finance Corporation. The authorities maintain that the mandates of state-owned banks ("policy financial institutions") are to supplement activities of private financial institutions in funding support for SMEs and personal businesses, and financing for securing overseas resources. By contrast, the Development Bank of Japan and the Shoko Chukin Bank became stock corporations on 1 October 2008. The authorities state that there are no plans to adopt a new privatization programme for public corporations.

121. Under the Reorganization and Rationalization Plan for Incorporated Administrative Agencies adopted by the Government on 24 December 2007 to reorganize/rationalize 101 incorporated administrative agencies, the number of agencies was to be reduced to 85 by end-March 2011 by abolishing and merging agencies. The new administration that started in September 2009 froze this plan and began reviewing clerical work and projects, and the current system of the incorporated administrative agencies, including its management and operation, in accordance with the "Fundamental Review of Incorporated Administrative Agencies" adopted by the Cabinet on 25 December 2009.

(iv) Intellectual property rights

(a) Recent developments

122. The legal framework on intellectual property rights protection has remained unchanged since the previous Trade Policy Review of Japan¹³⁵, although there have been some amendments to laws (Table AIII.2). Backlogs of applications at the JPO amounted to 717,000 for patents and 42,000 for trademarks at the end of 2009, down from 888,000 and 70,000 at the end of 2007.

123. An amendment to the Patent Act, which entered into force fully on 1 April 2009, established a new licence registration system. A licence may be registered if the applicant has an agreement with the patent applicant on the use of the intellectual property. Once the patent is granted, the registered licensee may continue to use the intellectual property in accordance with the terms of the prior agreement. The amendment to the Patent Act also restricted the disclosure of information on licensees (users) of a pending patent to persons with a "legitimate interest", reduced the fees for registration and maintenance of patent rights and trade mark rights, and extended the period for filing an appeal against the examiner's decision from 30 days to three months.¹³⁶

124. Amendments to the Copyright Law entered into force on 1 January 2010, and to the Unfair Competition Prevention Act on 1 July 2009. The amendment to the Copyright Law, *inter alia*, allowed certain use of copyrighted works by Internet search service providers without the consent of

¹³⁴ The Japanese government online information(in Japanese). Viewed at: http://www.gyokaku.go.jp/siryu/tokusyuu/seiri_gouri.pdf [18.06.2010].

¹³⁵ Since 1995, patent applications filed in English have been accepted. In 2009, the Japan Patent Office received 4,454 patent applications in English, accounting for about 1.28 % of all patent applications.

¹³⁶ METI online information. Viewed at: http://www.meti.go.jp/english/newtopics/data/nBackIssue20080201_03.html [21.06.2010].

copyright holders, and the amendment to the Unfair Competition Prevention Act expanded the scope of application of criminal penalties for infringement of trade secrets.¹³⁷

125. The Intellectual Property Strategic Programme (IPSP) 2010 was adopted by the IP Headquarters on 21 May 2010.¹³⁸ It aims, for example, to promote the establishment of international standards that would enhance Japan's competitiveness, particularly in the areas of advanced medicine, water, next-generation automobiles, railways, energy management, media contents, and robotics. The IPSP also aims to strengthen the global IP strategy, including promoting initiatives for establishing a globally unified patent system, and strengthening efforts to tackle counterfeit and pirated goods; and promoting a strategy to develop the content industries, such as supporting the overseas distribution of Japanese content (e.g. animation).

126. Between April 2009 and March 2010 (FY2009), there were 367,000 "first actions" (completion of first examinations of patent applications)¹³⁹, up from 348,000 in FY2008, and the average waiting period for "first action" was about 29 months (same as in FY2008). The Government aims to shorten the average waiting period for "first action" to 11 months or less by 2013. The number of patent examiners increased to 1,703 in FY2010, from 1,692 in FY2009. In addition, the IPO outsourced prior art searches to eight registered search organizations with a view to "pursuing efficiency" of patent examination. In FY2009, 233,000 prior art document searches were outsourced (225,000 in FY2008). The total IP-related budget in FY2010 amounted to about ¥71.0 billion, substantially lower than the FY2009 figure (¥214.8 billion).

127. Under the Trademark Act, certain trade marks, including those recognized in the domestic market as indicating common names (e.g. names commonly designating products of biodiversity), raw materials, or quality of goods, are not eligible for trade mark registration.

128. Parallel imports are allowed in Japan in accordance with the principle of "international exhaustion".¹⁴⁰ Japan considers that parallel imports of goods manufactured under the foreign patent do not infringe a corresponding Japanese patent if there was no mutual agreement between the patent holder and transferees of patented goods that exclude Japan from the sales territory.

129. Under articles 83, 92, and 93 of the Patent Act, compulsory licences may be granted after at least three consecutive years if a patent is not worked, if it is thought to be necessary for the public welfare, or if the patent is needed to be worked for another patent and its owner is unwilling to allow use of it. As of August 2010, Japan has never granted any compulsory licences.

130. Geographical indications (GIs) are protected in Japan under the Trademark Act and the Unfair Competition Prevention Act. In addition, GIs relating to wines and spirits are protected under the Law Concerning Liquor Business Association and Measures for Securing Revenue from Liquor Tax, through its Labelling Standard Concerning Geographical Indications.¹⁴¹ Five GIs for Japanese liquors

¹³⁷ MEXT online information (in Japanese). Viewed at: http://www.mext.go.jp/b_menu/houan/an/171/1251917.htm [21.06.2010]. METI online information (in Japanese). Viewed at: <http://www.meti.go.jp/press/20090227001/20090227001.html> [21.06.2010].

¹³⁸ The Intellectual Property Strategy Headquarters online information. Viewed at: http://www.kantei.go.jp/jp/singi/titeki2/2010chizaisuisin_plan.pdf [14.10.2010].

¹³⁹ Actions by the JPO in response to a request for patent examination.

¹⁴⁰ Under international exhaustion, the right of the patent holder relating to the patented product is exhausted by putting the patented product on any market anywhere in the world.

¹⁴¹ For a description of the system under the Law and Labelling Standard, see WTO document WT/TPR/M211/Add.1, 22 May 2009, pp. 256-257.

have been designated in Japan.¹⁴² Furthermore, under FTAs signed by Japan, various GIs for foreign spirits are recognized as GIs referred to in paragraph 1 of Article 22 of the TRIPs Agreement.

131. Any party that opposes the patent of another party can request an invalidation trial at any time after the grant of a patent. The period for filing an appeal against an examiner's decision of refusal in the patent system was extended from within 30 days to within 3 months in April 2009, as stipulated in the amendments to the Patent Act in 2008.

132. About 1,000 applications have been received for "regionally-based collective trademarks", as provided under the Trademark Act, of which 459 have been registered.¹⁴³ Regionally-based collective trade marks may relate to products other than wines and spirits as well as services.

(b) International harmonization and cooperation

133. Japan participates in the WIPO Standing Committee on the Law of Patents (SCP), a forum to discuss issues, facilitate coordination, and provide guidance concerning the progressive international development of patent law.¹⁴⁴

134. Japan has been involved in the mutual cooperation of the Trilateral Offices (IP-related authorities of Japan, the United States, and the EU) with a view to addressing common problems in the area of patents. In addition, the JPO has been discussing issues of mutual interest with the USPTO, the EPO, the Korean Intellectual Property Office (KIPO), and China's State Intellectual Property Office (SIPO). These issues include the necessity for cooperation in order to respond to the increasing number of patent applications. At the first meeting held in October 2008, the five countries agreed on ten projects aimed at promoting work-sharing.¹⁴⁵ At the deputy-head level meeting held in September 2009, working groups were established to promote implementation of these projects. The JPO, the USPTO, and the EC Office for Harmonization in the Internal Market (Trade Marks and Designs) (OHIM) have been meeting regularly to discuss trade mark issues, including the Trilateral Identification Manual Project, to consider whether certain English identifications of goods and services proposed by each office is acceptable by all three offices, and cooperation with China.¹⁴⁶ Japan also participates in discussions in the WIPO Standing Committee on the Law of Trademarks, Industrial Designs and Geographical Indications, concerning, *inter alia*, the revision of the Trademark Law Treaty and the substantive harmonization of trade mark laws.

135. Regarding copyrights and related rights, the Agency for Cultural Affairs has held regular bilateral consultations with its counterparts in China and the Republic of Korea to exchange views on current issues, including enforcement. The fourth Japan-Korea Copyright Consultation Meeting was held in Tokyo in November 2009; the fifth Japan-China Copyright Consultation Meeting was held in October 2009 in Beijing and the sixth in March 2010 in Tokyo.

¹⁴² They are: IKI, KUMA, RYUKYU, SATSUMA (spirits) and HAKUSAN (sake).

¹⁴³ For a description of this category of trade marks, see, for example, WTO document WT/TPR/M/175/Add.1, 5 April 2007, p. 87.

¹⁴⁴ WIPO online information. Viewed at: <http://www.wipo.int/patent-law/en/scp.htm> [12.11.2010].

¹⁴⁵ The ten projects (so called "foundation projects") include the establishment of a common application format, common access to search and examination results, and a common document database. METI online information. Viewed at: http://www.meti.go.jp/english/press/data/nBackIssue20081028_01.html [21.06.2010].

¹⁴⁶ Strategic working group meetings were held in December 2008, while a meeting of deputies of patent offices was held in December 2009.

136. Japan is party to the Anti-Counterfeiting Trade Agreement (ACTA), negotiations among several countries with the intention of concluding a treaty to "combat counterfeiting and piracy".¹⁴⁷ A consolidated draft text was released in April 2009 following the eighth round of negotiations in New Zealand.

137. All of Japan's bilateral FTAs to date (with ten countries) include provisions on intellectual property, such as simplifying procedures and enhancing the transparency of procedures; strengthening the protection of intellectual property rights; and strengthening enforcement. The authorities consider that Japan's obligations under these provisions are often beyond those of the TRIPS Agreement. For example, the Japan-Switzerland FTA has an intellectual property chapter with 23 articles including enhancement of efficiency of procedural matters; transparency; copyrights and related rights; trademarks; industrial designs; patents; new varieties of plants; unfair competition; enforcement-border measures; enforcement-civil remedies; and enforcement-criminal remedies.

(c) Enforcement

138. The Intellectual Property (IP) High Court, a special branch within the Tokyo High Court, deals with appeals against trial/appeal decisions made by the JPO on patent actions and suits. The IP High Court also deals with all other cases related to intellectual property brought to the Tokyo High Court. Data provided by the authorities indicate that 88 suits were filed in 2009 and 90 cases were decided; in addition, 443 decisions made by the JPO were appealed, while 442 appeals were disposed of the average time interval from commencement to disposition in 2009 was 8.8 months in JPO, 7.5 months in suits against decisions made by JPO, and 10.0 months in IP-related appeal cases in the IP High Court (as court of second instance).

139. Cases of IPR violations at the border decreased from 22,661 in 2007 to 21,893 in 2009 (Table III.6).¹⁴⁸ With regard to goods deemed to be infringing IPRs and thus suspended, Customs makes a determination whether the suspended goods are infringing goods or not. Under the Customs Law, the placement of goods that infringe IPRs into bonded areas for transshipment and customs transit is prohibited.

Table III.6
Suspension of imports likely to infringe intellectual property rights, 2007-09

Category	Main items	2007	2008	2009
Products concerned			(⁰⁰⁰ units)	
Tobacco and smoking implements	Tobacco, tobacco cases	4	99	260
Clothing	T-shirts, sweatshirts, jeans	81	81	112
Medicine	Medicine	97	95	85
Accessories	Necklaces, rings, charms	37	26	80
Bags	Handbags, purses	259	141	72
CDs, records	DVD	1	35	67
Clothing equipment	Zippers	102	133	65
Household utensils	Thermos bottles, mirrors	-	-	28
Shoes	Sports shoes	48	52	26
Hats	Hats, caps	23	16	23
Other	Straps, key cases, watches	387	269	226
Total		1,039	944	1,044

Table III.6 (cont'd)

¹⁴⁷ MOFA online information. Viewed at: http://www.mofa.go.jp/announce/announce/2010/4/0416_2.html [12.11.2010].

¹⁴⁸ Details of Japan's judicial measures regarding IPR enforcement are provided in WTO document IP/N/6/JPN/1, 18 February 1997 (the latest available notification).

Category	Main items	2007	2008	2009
Types of violation		(No. of cases)		
Patent rights		15	27	15
Utility model rights		0	0	0
Design rights		54	80	88
Trade mark rights		22,447	26,140	21,415
Copyright (related rights)		214	227	423
Plant breeders' rights		0	0	0
Unfair competition		0	4	19
Total		22,661	26,415	21,893

Source: Information provided by the Japanese authorities.

140. Infringement of IPRs, such as patents, utility models, designs, or trade marks may result in criminal penalties of either imprisonment or a fine. In 2009, 364 cases were filed under intellectual property rights law and 620 people were arrested (385 cases and 710 arrests in 2008).

(v) Regulatory reform

141. Since its previous Trade Policy Review, Japan has continued to pursue partial reforms of its regulatory system. Nonetheless, it would appear that few measures are related to trade and the pace of reforms has slowed, in not reversed. On 18 June 2010, the Government issued a new regulatory reform programme¹⁴⁹, whose main objectives are to review regulations concerning environment and energy, medical and elderly care services, and agriculture. The authorities state that the Government intends to promote growth in these sectors by, *inter alia*, reviewing and amending existing regulations and various systems that have become obstacles to new entry and innovation.¹⁵⁰

142. Under the current regulatory reform programme, recommendations for trade-related measures include reviewing safety regulation on buildings, using domestic wood in order to increase the consumption of domestic wood, easing the requirement for issuing visas to persons accompanying patients to Japan for medical treatment, reviewing the exemption from the AMA for agricultural cooperatives and international shipping activities, and improving procedures for exports, for example studying the feasibility of allowing business operators to file export reports before placing goods in a bonded area.

143. The Government Revitalization Unit (GRU), established on 18 September 2009, is the central body for promoting regulatory reform. The Subcommittee on Regulatory and Institutional Reform under the GRU has three working groups (WGs) to examine regulations: the Green-Innovation WG, Life-Innovation WG, and Agriculture, forestry and regional development WG.¹⁵¹

144. Under the Special Zone for Structural Reform Act, approved "special zones" are exempted from certain regulations according to the zone's specific circumstances. In order to obtain approval, draft plans must be submitted by municipal bodies. The zones have been granted exemptions from regulations governing education, urban renewal, distribution, agriculture, medical care, industry-academic cooperation, the environment, and other areas. Some proposals have been opposed by

¹⁴⁹ The Cabinet Office online information (in Japanese). Viewed at: http://www.cao.go.jp/sasshin/kisei-seido/publication/p_index.html [22.06.2010].

¹⁵⁰ The Cabinet Office online information. Viewed at: <http://www.cao.go.jp/gyouseisashin/contents/05/reform-of-regulations-and-systems.html> [15.10.2010].

¹⁵¹ The GRU online information (in Japanese). Viewed at: <http://www.cao.go.jp/sasshin/kisei-seido/index.html> [22.06.2010]. The previous Council for the Promotion of Regulatory Reform was abolished on 31 March 2010.

central government ministries responsible for the existing regulations. Between October 2002 and June 2010, out of 691 measures adopted in the special zones, 466 were accepted and implemented on a nationwide basis.

(vi) Competition policy

(a) Recent developments

145. Over the years, the growing importance of competition in the Japanese economy has led to an increase in the size of the Japan Fair Trade Commission (JFTC). The budget allocated to the JFTC in FY2010 amounted to about ¥9.0 billion (¥8.4 billion in FY2009). Japan maintains that the AMA accords independence to the JFTC, which is administratively attached to the Cabinet Office; the chairman and the commissioners perform their duties independently and cannot be removed against their will, during their term of office.

146. An amendment to the Anti-monopoly Act (AMA) was adopted by the Diet in June 2009, and entered into force in January 2010. The amendment expanded the coverage of fines (surcharges) to *inter alia* exclusionary types of private monopolization, abuse of superior bargaining position, discriminatory pricing, concerted refusal to trade, and resale price restriction. The amendment also introduced a 50% increase in surcharges on enterprises that have played a leading role in cartels and bid-rigging. Furthermore, the amendment extended the maximum period between the dates of termination of infringement and issuance of an administrative order from three to five years; it also modified regulations on business combinations, such as the introduction of an approval requirement (prior notification) for share acquisitions over certain thresholds.¹⁵² The amendment also required that where the total amount of a foreign company's group sales in Japan (including its "ultimate parent" company and subsidiaries) exceed ¥20 billion, it must submit to the JFTC a prior notification before acquiring another company whose sales in Japan (including those of its subsidiaries), exceed ¥5 billion; the previous threshold of sales in Japan for an acquired company was ¥1 billion. The JFTC considers that this change will align Japan's requirement for a foreign company's acquisition with international standards.

147. A bill to further amend the AMA was submitted to the Diet on March 2010 but has not yet been adopted. The bill seeks to abolish the JFTC's hearing procedure for administrative appeals before imposing surcharges on enterprises, and the current administrative appeal procedure itself. Instead, the bill intends to have courts receive all appeals.¹⁵³

(b) Exemptions from the AMA prohibition of cartels

148. Since the previous Trade Policy Review of Japan, no changes have been made to the Anti-monopoly Act exemptions; 21 practices under 15 laws are exempt under these provisions (Table III.7). In response to a request by the Japan Fair Trade Commission (JFTC), a committee under the Ministry of Land, Infrastructure, Transport and Tourism (MLIT) reviewed the AMA

¹⁵² Other than these changes, the amendment exempted notification of mergers and acquisitions within a corporate group (i.e. a number of enterprises that are operationally independent, but coordinated by a central body, such as conglomerates). The leniency programme was also amended to allow for joint application by two or more violators within the same company group, upon certain conditions being met, and the expansion of the number of leniency applicants from three to five. JFTC online information. Viewed at: <http://www.jftc.go.jp/e-page/pressreleases/2009/June/090603-1.pdf>, and <http://www.jftc.go.jp/e-page/pressreleases/2009/June/090603-2.pdf> [23.06.2010].

¹⁵³ JFTC online information. Viewed at: <http://www.jftc.go.jp/e-page/pressreleases/2010/March/0312a.pdf>, and <http://www.jftc.go.jp/e-page/pressreleases/2010/March/0312c.pdf> [23.06.2010].

exemption for international shipping activities in 2007; based on the result of the review, which highlighted the necessity for the exemption, the MLIT has retained the exemption.¹⁵⁴ In June 2010, the MLIT abolished some exemptions for international aviation from the AMA; as a consequence, the common fares set by the IATA tariff coordinating conference and the agreements on air transport services, such as code share and frequent flier programmes, have been subject to the AMA since 15 June 2010. On 18 June 2010, the Government mandated the JFTC to review the validity of the exemption of the Japan Agricultural Cooperatives from the AMA during FY2010.

Table III.7
Exemptions from the Anti-monopoly Act, June 2010

Relevant ministries and agencies	Legislation	System
1. Exemptions under the AMA (1 law, 3 systems)		
Japan Fair Trade Commission	Section 21	Acts under intellectual property rights
	Section 22	Acts of cooperatives
	Section 23	Resale price maintenance contracts
2. Exemptions under various individual laws (14 laws, 18 systems)		
Financial Services Agency	Insurance Business Law	Insurance cartels
	Law Concerning Non-Life Insurance Rating Organizations	Exemptions concerning compulsory automobile insurance and earthquake insurance
Ministry of Justice	Corporation Reorganization Law	Acquisition of shares of companies under reorganization
Ministry of Finance	Law Concerning Liquor Business Associations and Measures for Securing Revenue from Liquor Tax	Rationalization cartels
Ministry of Education, Culture, Sports, Science and Technology	Copyright Law	Cartels on fees for commercial usage of music records
Ministry of Health, Labour, Welfare	Law Concerning Coordination and Improvement of Hygienically Regulated Business	Cartels to prevent excessive competition
Ministry of Agriculture, Forestry and Fisheries of Japan	Agricultural Cooperative Association Law	Federation of agricultural cooperatives; Agricultural Association corporation
Ministry of Economy, Trade and Industry	Export-import Trading Law	Cartels on export
	Law on the Cooperative Association of Small and Medium Enterprises	Federation of small business associations
	Law on Cooperatives of Small and Medium-Sized Enterprises	Joint economic undertakings
Ministry of Land, Infrastructure, Transport and Tourism	Marine Transportation Law	Maritime transportation cartels (international); Maritime transportation cartels (coastal service)
	Road Transportation Law	Transportation cartels
	Civil Aeronautics Law	Aviation cartels (international); Aviation cartels (domestic)
	Coastal Shipping Association Law	Maritime transportation cartels (coastal service); Joint shipping businesses

Source: Information provided by the Japanese authorities.

¹⁵⁴ Although the committee intended to continue discussion on the impact of eliminating the exemption on Japan's economy, and the international harmonization of the legal framework for shipping, there has been no further discussion in the committee since December 2007. MLIT online information (in Japanese). Viewed at: <http://www.mlit.go.jp/singikai/koutusin/kaiji/kokusai/07/toshin.pdf> [17.06.2010], and JFTC online information (in Japanese). Viewed at: <http://www.jftc.go.jp/pressrelease/06.december/06120602.html> [17.06.2010].

(c) Holding companies, and mergers and acquisitions

149. Chapter 4 of the AMA prohibits mergers and acquisitions if they lead to a substantial restraint on competition.¹⁵⁵ All planned mergers and acquisitions that exceed specified thresholds must be notified to the JFTC no later than 30 days before the merger/acquisition takes place. The thresholds for mergers are: ¥20 billion for the total amount of domestic sales of a company group of an acquiring company (including its "ultimate parent company" and subsidiaries); and ¥5 billion for the total domestic sales of an acquired company and its subsidiaries. In addition, the 2009 amendment of the AMA modified the percentage thresholds of shares from three steps (10%, 25%, and 50% on the basis of voting rights held solely by an acquiring corporation) to two steps (20% and 50% of the basis for voting rights held by a 'corporate group' as a whole). The scope of exemptions from the notification requirement was also expanded. Mergers, and acquisitions of businesses among corporations within a 'corporate group' are exempted from notifications. Provisions on notifications for joint share transfers were introduced, along with a prior notification system for share acquisitions. In accordance with the 2009 amendment to the AMA, the JFTC revised the Guidelines to the Application of the AMA concerning Review of Business Combinations, in January 2010, to improve predictability and transparency, and to speed up its merger review for enterprises.¹⁵⁶

150. Excessive concentration of power, through a holding company, and through mergers and acquisitions other than from the creation of a holding company, is also restricted by the AMA. Holding companies not deemed to constitute an "excessive concentration of economic power" are permitted.¹⁵⁷ A company must submit a business report to the JFTC within three months of the end of each business year if the total assets of the company and its subsidiaries exceed specified thresholds: ¥600 billion for a holding company, ¥8 trillion for a financial company, and ¥2 trillion for other companies.¹⁵⁸ In FY2009, 93 business reports were submitted under Section 9 of the AMA (29 holding companies), compared with 92 (26 holding companies) in FY2008.

(d) International arrangements

151. Japan participates in OECD committees and working groups established to increase cooperation in competition policy. All of Japan's free-trade agreements provide for each party to take appropriate measures against anti-competitive activities in accordance with its laws and regulations, and to cooperate in controlling anti-competitive activities, e.g. by notifying the other party of enforcement activities, cooperation, coordination, requests for enforcement activities, and consideration of the other party's interests.¹⁵⁹ Japan has three other bilateral cooperation agreements on anti-competitive activities, with Canada, the European Union, and the United States.

¹⁵⁵ "Substantial restraint" on competition is when a market structure changes as a result of a merger and specific companies can control the market by influencing variables such as price, quality, and quantity.

¹⁵⁶ The JFTC online information. Viewed at: <http://www.jftc.go.jp/e-page/legislation/ama/RevisedMergerGuidelines.pdf> [23.06.2010].

¹⁵⁷ "Excessive concentration of economic power" is defined in the AMA (Article 9) as a situation where significant effects on the national economy and impediments to the promotion of free and fair competition are observed due to the overall scale of business of a company, its subsidiaries, and other companies in Japan controlled by the company by means of holding of stock; large influence of these companies on other enterprises due to transactions relating to finance; or the occupancy by these companies of influential positions over a significant number of fields of business.

¹⁵⁸ A newly established company that corresponds to any of these thresholds must submit a notification to the JFTC, for its approval, within 30 days of establishment.

¹⁵⁹ Chapter 10 of the FTA with Switzerland; Chapter 10 of the FTA with Viet Nam; Chapter 11 of the FTA with Indonesia; Chapter 12 of the FTA with Thailand; Chapter 14 of the FTA with Chile; Chapter 12 of the FTA with the Philippines; Chapter 10 of the FTA with Malaysia; Chapter 12 of the FTA with Mexico; and

(e) Enforcement

152. An investigation into possible violations of the AMA may be initiated as a result of: a report from the general public, detection by the JFTC itself, notification by the Small and Medium Enterprise Agency, or a report by leniency applicants. The AMA provides three types of measures to penalize and thereby deter violations of the Act: administrative measures, such as surcharges and orders to take "elimination measures" (cease and desist orders); criminal penalties¹⁶⁰, and private damages actions. With the entry into force of the 2009 amendment to the AMA in January 2010, the period of imprisonment for unreasonable restraint of trade increased from three years to five years.

153. In FY2008, the JFTC took legal measures against 49 entrepreneurs in 17 cases.¹⁶¹ In addition, it received 85 leniency applications (applications filed between January 2006 and March 2009 totalled 264). It took an average of 11 months for the JFTC to process cases where legal measures were taken. With regard to surcharge payment orders, 59 orders were issued and ¥27.0 billion were collected in FY2008 (Table III.8).¹⁶² In FY2008, there was one criminal accusation concerning a price-fixing cartel over galvanized steel sheets.¹⁶³ Under Section 8-4 of the AMA, the JFTC continues to monitor highly oligopolistic markets, and may order measures to restore competition in the event of a "monopolistic situation".¹⁶⁴ Currently, 27 industries are subject to monitoring.¹⁶⁵

Chapter 12 of the FTA with Singapore. MOFA and JFTC online information. Viewed at: <http://www.mofa.go.jp>, and <http://www.jftc.go.jp/e-page/internationalrelations/index.html> [20.10.2010].

¹⁶⁰ Criminal penalties currently include imprisonment of up to five years or a fine of up to ¥5 million for private monopolies and unreasonable restraint of trade, and imprisonment of up to two years or a fine of up to ¥3 million for international agreements constituting unreasonable restraint of trade and unfair trade practices, restrictions of the number of members of trade associations, and violations of final decisions by the JFTC. Criminal proceedings may be initiated only after an accusation is filed by the JFTC with the Public Prosecutor General. Appeals are available with the High Courts and eventually the Supreme Court.

¹⁶¹ These included 1 case of private monopolization, 2 cases of bid-rigging, 8 cases of price fixing cartels, 1 case of other types of cartel, and 5 cases of unfair trade practices.

¹⁶² JFTC online information, "Enforcement Status of the Antimonopoly Act in FY2008 (Summary)". Viewed at: <http://www.jftc.go.jp/e-page/pressreleases/2009/June/090603.pdf> [30.06.2010].

¹⁶³ The JFTC online information. Viewed at: <http://www.jftc.go.jp/e-page/pressreleases/2008/November/081111.pdf> [24.06.2010].

¹⁶⁴ Monopolistic situation in a particular industry (where the total output of the industry exceeds ¥100 billion) is defined as circumstances in which all of the following market structures and "undesirable market performances" exist: (1) where the share of a single entrepreneur exceeds 50% (or 75% for two entrepreneurs combined in a particular field of business); (2) where conditions make it extremely difficult for any other entrepreneurs to be newly engaged in the particular field of business; and (3) where, for a considerable period of time (i) the increase in the price has been remarkable or the decrease in the price has been slight in the light of the changes that occurred in, *inter alia*, the supply and demand, and (ii) profit or expenditure (e.g. on advertising and marketing) is far in excess of standard levels in the industry. "Undesirable market performance" includes such factors as barriers to entry, extraordinary price increases, and extremely high profit rates.

¹⁶⁵ The 27 industries are: chewing gum; beer; whisky; cigarettes; polypropylene; plastic bottles for beverages; gypsum board and its products; pig gold; vending machines for beverages; electric lighting fixtures for automobiles; central processing units; radiators; shock absorbers; air-conditioners for transportation machines; contact lenses; household TV game players; portable game players; cassettes for games; fixed telecommunications services; mobile telecommunications services; operating software; railway freight; scheduled domestic passenger flights; wholesale of books and journals; dust control; medical office work services; and administration of music copyright. The industries subject to monitoring are to be reviewed in 2010. JFTC online information (in Japanese). Viewed at: <http://www.jftc.go.jp/pressrelease/10june/100624.pdf> [24.06.2010].

Table III.8
Enforcement of competition policy, 2005-09

Details	Fiscal year				
	2005	2006	2007	2008	2009
(A) Cases in which legal measures were taken against acts prohibited by the Anti-monopoly Act					
Number of legal measures	19	13	24	17	26
Private monopolization	0	0	0	1	0
Cartels	17	9	20	11	22
Price cartels	4	3	6	8	5
Collusive tendering	13	6	14	2	17
Other types of cartel ^a	0	0	0	1	0
Unfair trading practices	2	4	3	5	4
Others	0	0	1	0	0
(B) Surcharge payment orders					
Payment orders					
Number of cases	20	13	20	11	24
Number of company operators	399	119	165	59	85
Surcharge amount (in ¥ billion)	18.87	9.26	11.29	27.03	36.07
Decisions to initiate hearings	8	3	2	2	0
(C) Recently processed investigation cases					
Cases investigated					
Carry-overs from the previous fiscal year	19	18	28	18	19
New cases begun during the current fiscal year	88	141	132	124	133
Total	107	159	160	142	152
Cases processed					
Legal measures					
Recommendations	17	..	..	..	..
Cease and desist orders	2	12	22	16	26
Decision to commence hearings ^b	(3)	..	..	..	..
Surcharge payment orders ^c	0	1	2	1	0
Sub-total	19	13	24	17	26
Others					
Warnings	7	9	10	4	9
Cautions	47	74	88	87	69
Discontinued cases ^d	16	35	20	15	26
Sub-total	70	118	118	106	104
Total	89	131	142	123	130
Carry-overs to the next fiscal year	18	28	18	19	22
Criminal accusations	2	2	1	1	0

.. Not available.

a Other types of cartel include restrictions on sales volume and restrictions on business clients.

b Decision to commence hearing procedures was made from recommendations.

c Cases in which surcharge payment orders were made without a recommendation or cease and desist order.

d These were discontinued due to lack of evidence of wrong-doing.

Source: Information provided by the Japanese authorities.

(f) Distribution measures

154. Since its previous Trade Policy Review, Japan has made no major changes to its regulations on distribution. The opening and expansion of large-scale retail stores is regulated by the Law Concerning Measures by Large Scale Retail Stores for the Preservation of the Living Environment; the City Planning Law and the Building Standard Law regulate zones where large-scale retail stores (exceeding 10,000 m²) may be established.¹⁶⁶ The implementing guidelines for the law encourage

¹⁶⁶ Large-scale retail stores are allowed in three categories of zones (neighbourhood commercial, commercial, and quasi-industrial).

operators to take into consideration factors concerning facilities and business operations, such as adequate parking spaces and cooperation with the local communities.

(vii) Corporate governance

155. A continued awareness that ineffective corporate governance may have contributed to the misallocation and excessive use of capital and labour in the corporate sector has prompted the Government to implement various policy measures since its previous review.

156. Under the Companies Act, the boards of large companies¹⁶⁷ (or the directors in the case of corporations without a board) must decide on a basic framework for their internal control systems and disclose a summary of this decision to their shareholders in their business reports. The authorities intend to review these measures continuously.

157. Article 821 of the Companies Act stipulates that a foreign company (i.e. a company established under foreign law and not under Japanese law) that "has its head office in Japan or whose main purpose is to conduct business in Japan" may not carry out transactions continuously in Japan.¹⁶⁸ The authorities maintain that this provision is stipulated to avoid situations where a company is established under foreign law for the purpose of circumventing the application of Japanese law; they do not consider that the Article prevents foreign companies that are duly conducting business outside Japan from establishing a branch in Japan.¹⁶⁹

158. Under the Financial Instruments and Exchange Act, the management of listed companies must implement assessments of internal controls over financial reporting, and these assessments must be audited by certified public accountants (Internal Control Report System). Furthermore, listed companies must submit annual reports certified by the management (Certification Report System).

159. The listing rules of stock exchanges in Japan require listed companies to publish reports (on the stock exchange's website) describing their corporate governance structure, including: the reasons for adopting an in-house auditor or committee-style governance structure; whether they have outside directors; and whether they adopt any measures to prevent takeovers. In addition, from 31 March 2010, listed companies are required to disclose information on remuneration for directors and statutory auditors, cross-shareholding, and the exercise of voting rights.¹⁷⁰ The authorities consider that this additional information improves the transparency of listed companies.

160. The authorities maintain that Japan's Generally Accepted Accounting Principles (GAAP) are, taken as a whole, equivalent to the International Accounting Standards (IAS), while acknowledging limited differences in certain areas. The authorities state that Japan's accounting standards are in the process of being integrated further into the global accounting standard. In this context, the Business Accounting Council, an advisory body to the Commissioner of the Japan. Financial Services Agency, published "Japan's Roadmap for application of IFRS" on 30 June 2009. The document states that: it is appropriate that a voluntary application of IFRS for the consolidated financial statements of certain listed companies whose financial or business activities are conducted internationally is allowed from the fiscal year ending in March 2010; a decision regarding mandatory application of IFRS for listed

¹⁶⁷ Corporations with ¥500 million or more of capital or ¥20 billion or more of liabilities on their most recently audited and approved balance sheets are considered to be large companies.

¹⁶⁸ Ministry of Justice (Japanese Law Translation) online information. Viewed at: <http://www.japaneselawtranslation.go.jp/law/detail/?printID=&id=149&re=02&vm=02> [21.08.2010].

¹⁶⁹ WTO document WT/TPR/M/211/Add.1, 22 May 2009.

¹⁷⁰ The Financial Service Agency online information. Viewed at: <http://www.fsa.go.jp/en/news/2010/20100326-1.html> [24.06.2010].

companies is expected to be made around 2012; and if the decision is made, the mandatory use of IFRS will start from 2015 or 2016. Subsequently, in December 2009, the FSA published, *inter alia*, a set of revised Cabinet Office Ordinances for voluntary application of IFRS in Japan. With these revisions, companies listed in Japan that meet certain requirements are to be given the option to prepare their financial statements, starting from the consolidated fiscal years ending on or after 31 March 2010, by applying certain IFRSs, in accordance with the revised Cabinet Office Ordinance and other relevant rules.

IV. TRADE POLICIES BY SECTOR

(1) INTRODUCTION

1. Since its previous Trade Policy Review, Japan's trade-related structural reform has largely stagnated, except for, *inter alia*, liberalization in air traffic through the pursuit of "open sky" agreements. The privatization of Japan Post, a reform that was regarded as a "landmark" when it was initiated in 2007, has been under review since 2009 with a view, *inter alia*, to introducing measures to maintaining the postal network at a certain level. It would also appear that state intervention in the economy has increased; for example the Government authorized the rescue of Japan Airlines by the Enterprise Turnaround Initiative Corporation of Japan (ETIC) and Development Bank of Japan. Furthermore, the ETIC, established in October 2009, has also provided support to other entities deemed to have revitalization potential.

2. Labour productivity in manufacturing is higher than in the rest of the economy, while in agriculture it is one-fourth of that in the rest of the economy. The differences in labour productivity can be explained by the relative openness of the respective sectors. Japan's manufacturing has been much more exposed to international competition than agriculture and certain services. However, agriculture in Japan is supported through border measures, such as relatively high tariffs compared with other sectors, and tariff quotas, as well as domestic measures, such as price support programmes. Gas prices in Japan remain high by international standards. Services sectors are subject to various domestic regulations, for example licensing and restrictions on foreign investment; they are also faced with the generally high cost of doing business in Japan, which has been considered as one of the main factors preventing growth in inward foreign direct investment in services.

(2) AGRICULTURE

(i) Structure

3. The Basic Law on Food, Agriculture and Rural Areas continues to provide the framework and policy direction for agriculture; implementation of the Law is through the revised Basic Plan for Food, Agriculture and Rural Areas, adopted in March 2010. Salient features of the current plan include: achieving a higher self-sufficiency ratio; encouraging consolidation of production, processing, and distribution of agricultural produce with a view to increasing value-added; improving food safety; participating in international standard-setting; and establishing income support regardless of the size of farms.¹

4. Under the Agricultural Management Reinforcement Law, "general corporations" (including stock companies and non-profit organizations) are permitted to lease farmland.² The number of private corporations involved in agriculture grew from 133 in March 2008 to 414 in September 2009. The authorities state that these corporations use farmland productively and help to prevent abandonment of farms.

¹ Ministry of Agriculture, Forestry and Fisheries (MAFF) online information (in Japanese). Viewed at: http://www.maff.go.jp/j/keikaku/k_aratana/index.html [21.11.2010].

² Before 1 September 2005, only "agricultural production legal persons" were allowed to lease farmland (with a few exceptions), and eligibility requirements had to be fulfilled: corporations had to be in the form of agricultural cooperatives, partnerships or stock companies engaged mainly in agricultural activities and with more than 50% of their sales from agriculture; three-quarters of the members had to be farmers; and the majority of directors had to be full-time farmers.

5. For many years, and in common with some other countries, Japan's agriculture policy has been driven by several factors not directly related to improving productivity, such as rural development, the environment, higher self-sufficiency, income support, and maintaining the rural landscape. Japan continues to be the world's largest net food-importing country, and food self-sufficiency of calorific intake is approximately 40%; based on the production-value methodology, food self-sufficiency is at 70%.³

6. Agriculture in Japan is characterized by small fragmented farms and a relatively aged labour force. In 2009, the average farm size was 1.91 hectares, a slight increase from 2008 (1.87 hectares). Nearly half of farm workers are over 65 years old. The main crops grown in Japan are rice, fruits, and vegetables. Most crops, except rice, are grown on commercial farms by full-time farmers. Rice accounts for approximately 25% of agriculture production and is mainly cultivated by part-time or weekend farmers.

7. The agriculture sector continues to receive substantial government support, which involves, *inter alia*, a relatively higher average MFN applied rate compared with other sectors, tariff quotas, income support, and, in some sub-sectors, production controls. According to the OECD, "total support estimates" for agriculture for 2006-08 were 1.1% of GDP, only slightly less than the sector's contribution to GDP, which was 1.2% in 2009.⁴ Support is provided mainly through market price support; in addition, relatively high tariffs and production restrictions are in place, which lead to higher prices.⁵

8. Consumer prices of agricultural products in Japan are considerably higher than the OECD average. According to the OECD, total transfers to agriculture producers arising from Government policies (the PSE, or producer support estimate) and transfers from consumers (the CSE or consumer support estimate) for 2008 were provisionally estimated at 48% and 41% of income from production. OECD averages were 21% and 10%, respectively.⁶ Furthermore, the producer nominal assistance coefficient (NAC) was 1.92 (i.e. gross farm receipts were 1.92 times the level they would have been if generated at world prices without support), and the consumer NAC was 1.69 (i.e. consumers are implicitly taxed, paying on average about 1.69 times as much as they would have paid without support) in 2008. Both the producer and consumer NACs were significantly higher than OECD averages. In addition, the producer nominal protection coefficient (NPC) was 1.81 in 2008, implying that the farm-gate price received by producers was on average 1.81 times higher than the price at the border. According to the latest available data, current total aggregate measurement of support in Japan was ¥517.2 billion in 2006.

³ The calorie-based self-sufficiency ratio is defined as the domestic supply of calories per person per day divided by the supply of calories per person per day. The value-based ratio is defined as the domestic output of food divided by the output of food supplied for domestic consumption.

⁴ Total support estimates are defined as the annual monetary value of all gross transfers from taxpayers and consumers arising from policy measures that support agriculture, net of the associated budgetary receipts, regardless of their objectives and impact on farm production and income or consumption of farm products. Total transfers are measured on a gross basis, while GDP is on a value-added basis.

⁵ OECD (2009).

⁶ OECD (2009). Figures for 2008 are provisional. PSEs are defined as the annual monetary value of gross transfers from consumers and taxpayers to agricultural producers, measured at the farm-gate level; PSEs include market price support and budgetary payments. CSEs are the annual monetary value of gross transfers to (from) consumers of agricultural commodities, measured at the farm-gate level. A producer NAC is the ratio between the value of gross farm receipts, including support, and gross farm receipts valued at border prices. As noted in WTO (2007), caution is necessary when interpreting PSEs, CSEs, and NACs, as changes in exchange rates or world prices may produce significant fluctuations, and border prices may be artificially reduced owing to the presence of export subsidies in international agriculture trade.

9. The experience of many countries is that measures to support prices, including border protection, tend to delay structural change, and hamper the prevalence of scale economies and mechanization. In the case of Japan, for example, rice has been one of the most highly protected crops and rice paddies are characterized by small land holdings involving part-time farmers. Therefore, the Government introduced a direct payment scheme in April 2007 for farmers with a certain scale. In 2010, the Government implemented a new single-year pilot direct-payment programme on rice. The programme provides participating farmers with income support to bridge the gap between the production cost and the "farm gate" price of rice, irrespective of the size of farm scale. In FY2011, the Government intends to formally introduce a new direct payment system, extended also to other crops, based on the results of the pilot programme. In addition to the direct income support, the Government continues to maintain the production adjustment programme (see below). Furthermore, in the Basic Policy on Comprehensive Economic Partnerships announced by the Ministerial Committee on Comprehensive Economic Partnerships on 6 November 2010, Japan is to "commence consultations with the TPP member countries", and, at the same time, "promote appropriate domestic reforms" in agriculture with a view to "opening the country".⁷

(ii) Border measures

10. The average applied MFN tariff for agriculture (WTO definition) is 15.7% (FY2010)⁸, compared with an overall average of 5.8% (Chapter III(2)(ii)). In addition to having relatively high tariffs on agriculture goods, the rate varies considerably from chapter to chapter and often from one product to another within the same HS chapter. Of the applied MFN tariffs on agricultural goods (WTO definition), 17.4% are non-*ad valorem*. Many sub-sectors within agriculture are protected by relatively higher MFN tariffs than the sectoral average; these include industrial and medicinal plants, dairy products, edible vegetables, sugars, and cereals and products thereof (Table IV.1). Additionally, several agricultural sub-sectors are also subject to tariff peaks (defined here as tariff rates exceeding three times the simple applied MFN average). As estimates of AVEs for some specific duties (which tend to involve relatively high tariffs)⁹ were not made available, the average tariffs for the associated sub-sector may be underestimated. In cases where AVEs were available, the simple average for non-*ad valorem* tariff rates for agriculture (WTO definition) was 57.8%, considerably higher than the simple average of purely *ad valorem* tariff rates of 9.8%.¹⁰ AVEs were not available for 115 tariff lines at the HS nine-digit level, which included milk and dairy products, live swine and meat of swine, rice and cereals, fruit juices, groundnuts and their oil, and prepared foods. For example, the rate payable on imports of broad beans is among the highest in Japan's customs tariff with an *ad valorem* equivalent of 458% (out-of-quota rate). Tariffs tend to be particularly high and variable for vegetables, cereals, and sugars and sugar confectionery (HS Chapters 7, 10 and 17).

⁷ MOFA online information. Viewed at: <http://www.mofa.go.jp/policy/economy/fta/policy20101106.html> [22.11.2010].

⁸ The average applied MFN tariff for agriculture (HS 1-24) in FY2010 is 14.7%.

⁹ The absence of estimates of AVEs because of no imports may suggest that tariffs for the products concerned are prohibitive. According to the authorities, the lack of estimates may be because world production and the international trade volume of certain products are very small, and that there is little demand for them in Japan.

¹⁰ The simple average of all (i.e. agricultural and non-agricultural products) non-*ad valorem* tariff rates for which AVEs were available was 32%, approximately seven times the simple average of purely *ad valorem* tariff rates, which was 4.4%. Non-*ad valorem* tariffs for which AVEs were not available concerned 176 tariff lines at the HS nine-digit level.

Table IV.1
Applied MFN tariff protection in agriculture, FY2010
 (%)

HS Chapter/Description	Simple average tariff	Maximum tariff	Tariff peaks ^a (% of lines)	Non- <i>ad valorem</i> tariff (% of lines)
01 Live animals	1.9	38.4	3.8	11.5
02 Meat and edible meat offal	10.5	50.0	14.2	19.5
03 Fish and crustaceans, molluscs and other aquatic invertebrates	5.3	15.0	0.0	0.0
04 Dairy produce; birds' eggs; natural honey; edible products of animal origin, not elsewhere specified or included	53.4	252.4	90.3	63.9
05 Products of animal origin, not elsewhere specified or included	0.3	3.5	0.0	0.0
06 Live trees and other plants; bulbs, roots and the like; cut flowers and ornamental foliage	0.4	3.0	0.0	0.0
07 Edible vegetables and certain roots and tubers	20.5	458.0	6.1	7.9
08 Edible fruit and nuts; peel of citrus fruit; melons	7.8	24.0	6.4	0.0
09 Coffee, tea, maté and spices	3.4	17.0	0.0	0.0
10 Cereals	18.7	263.0	14.6	31.7
11 Products of the milling industry; malt; starches; inulin; wheat gluten.	30.2	277.7	55.0	37.5
12 Oil seeds and oleaginous fruits; miscellaneous grains, seeds and fruit; industrial or medicinal plants; straw and fodder	8.2	373.1	4.2	5.6
13 Lac; gums, resins and other vegetable saps and extracts	3.0	17	0.0	4.8
14 Vegetable plaiting materials; vegetable products not elsewhere specified or included	3.1	8.5	0.0	0.0
15 Animal or vegetable fats and oils and their cleavage products; prepared edible fats; animal or vegetable waxes	4.0	29.8	2.3	41.9
16 Preparations of meat, of fish or of crustaceans, molluscs or other aquatic invertebrates	13.2	50.0	29.3	3.0
17 Sugars and sugar confectionery	39.1	208.7	70.8	58.3
18 Cocoa and cocoa preparations	22.6	124.0	63.0	7.4
19 Preparations of cereals, flour, starch or milk; pastry cooks' products	23.6	118.0	64.4	26.5
20 Preparations of vegetables, fruit, nuts or other parts of plants	16.8	46.8	38.6	6.7
21 Miscellaneous edible preparations	24.3	240.7	51.0	16.0
22 Beverages, spirits and vinegar	12.9	77.5	30.4	33.9
23 Residues and waste from the food industries; prepared animal fodder	0.9	12.8	0.0	9.5
24 Tobacco and manufactured tobacco substitutes	5.1	29.8	9.1	0.0
1-24 Agriculture	14.7	458.0	25.3	15.3

a Three times the simple average of overall applied MFN rates.

Note: The simple average applied MFN tariff rate in FY2010 is calculated by using 2008 AVEs, as available, provided by the Japanese authorities. When the AVEs are unavailable, the *ad valorem* part is used for compound and alternate rates.

Source: WTO calculations, based on data provided by the Japanese authorities.

11. Japan operates 18 tariff quotas, which it has notified to the WTO Committee on Agriculture, covering 175 tariff lines, mainly for dairy products and cereals (including rice).¹¹ The average fill ratio in 2008 was about 69% but varies from one quota to another, from a low of 13% for butter and butter oil to over 100% for dairy products for general use (Table AIV.1). There have been no changes to the administration of TRQs since the last Review of Japan (Chapter III(2)(iv)). The names of

¹¹ WTO document G/AG/N/JPN/153, 24 February 2010 and information provided by the authorities.

companies or persons that are allocated quotas are posted online by the MAFF releases on the Internet; no information pertaining to quota amounts allocated to firms or individuals was available. In-quota imports of rice, wheat and barley, and certain milk products are handled mainly by state-trading entities; certain amounts of these products may be imported by private entities.¹²

12. As part of Japan's tariff quota commitments, a certain amount of imported rice may be purchased and marketed directly under the simultaneous buy-and-sell (SBS) system. During FY2009, a total of 100,000 tonnes were imported under the SBS system. In addition, Japan provides rice as food aid. Japan donated 57,298 tonnes of rice in 2007 and 126,006 tonnes in 2008 as direct transfers (it also donated significant quantities through local and triangular purchase arrangements).¹³ In 2006 and 2007, Japan notified the Committee on Agriculture that it provided US\$51.65 million and US\$76.32 million, respectively, for the purchase of grains as food aid for LDCs and net-food-importing developing countries.¹⁴

13. Japan undertook a number of special safeguard (SSG) actions during fiscal years 2008 and 2009. Products affected included rice, barley, starches, inulin, milk, butter, yogurt, tubers of konnyaku, flour, and certain food preparations (Table IV.2). Both price-based and volume-based SSGs were imposed on various products (not concurrently); the remedies apply to out-of-quota imports only.

Table IV.2
Special safeguards in agriculture, FY2008 to 2010

Description	Type of action	Date or period of application
FY2008		
Milk powder containing added sugar or other sweetening matter, of a fat content, by weight, exceeding 5% but not exceeding 30%	Price-based	26 May 2008
Inulin	Price-based	21 August 2008, 16 October 2008
Tubers of konnyaku (<i>Amorphophalus</i>), whether or not cut, dried or powdered	Price-based	29 July 2008
Food preparations of flour, meal, or starch, containing groats, meal, pellets or starch of rice, wheat, triticale, barley, whose total weight is more than 85% of the articles, mostly containing starch	Price-based	7 April 2008, 15 April 2008, 21 October 2008, 8 December 2008, 10 February 2009, 13 February 2009
Butter and other fats and oils derived from milk; dairy spreads	Volume-based	1 November 2008 to 31 March 2009
Yogurt; frozen, preserved or containing added sugar or other sweetening matter, flavouring, fruits or nuts (excluding frozen yogurt)	Volume-based	1 January 2009 to 31 March 2009
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, mostly containing starch	Volume-based	1 February 2009 to 31 March 2009
Tubers of konnyaku (<i>Amorphophalus</i>), whether or not cut, dried or powdered	Volume-based	1 February 2009 to 31 March 2009
Rice (semi-milled or wholly milled rice, whether or not polished or glazed)	Price-based	11 March 2009
Food preparations containing by weight not less than 30% natural milk constituents on the dry matter – more than 30% by weight of milk fat	Price-based	19 March 2009, 24 March 2009

Table IV.2 (cont'd)

¹² Rice, wheat, and barley are imported by the Ministry of Agriculture, Forestry, and Fisheries; tobacco by Japan Tobacco; and milk products and raw silk by the Agriculture and Livestock Industries Corporation (WTO document G/STR/N/12/JPN, 18 March 2009).

¹³ World Food Programme, Food Aid Information System (INTERFAIS) online database: <http://www.wfp.org/fais/quantity-reporting> [August 2010].

¹⁴ WTO document G/AG/N/JPN/145, 27 March 2009.

Description	Type of action	Date or period of application
FY2009		
Yogurt; frozen, preserved or containing added sugar or other sweetening matter, flavouring, fruits or nuts (excluding frozen yogurt)	Price-based	6 April 2009
Tubers of konnyaku (<i>Amorphophalus</i>), whether or not cut, dried or powdered	Volume-based	1 September 2009 to 31 March 2010
Yogurt; frozen, preserved or containing added sugar or other sweetening matter, flavouring, fruits or nuts (excluding frozen yogurt)	Volume-based	1 June 2009 to 31 March 2010
Maize (corn) starch	Volume-based	1 December 2009 to 31 March 2010
Barley flour	Price-based	26 February 2010
Milk powder containing added sugar or other sweetening matter, of a fat content, by weight, exceeding 5% but not exceeding 30%	Price-based	12 November 2009
Other starches (excluding Sago starches)	Price-based	15 June 2009, 1 July 2009, 9 November 2009, 12 November 2009, 28 December 2009
Tubers of konnyaku (<i>Amorphophalus</i>), whether or not cut, dried or powdered	Price-based	5 June 2009
Food preparations of flour, meal, or starch, containing groats, meal, pellets or starch of rice, wheat, triticale, barley, whose total weight is more than 85% of the articles, mostly containing starch	Price-based	1 June 2009, 9 June 2009, 23 June 2009, 30 June 2009, 28 July 2009, 14 September 2009, 10 November 2009, 18 November 2009, 5 January 2010, 25 January 2010
Food preparations containing by weight not less than 30% natural milk constituents on the dry matter - more than 30% by weight of milk fat	Price-based	24 June 2009, 29 March 2010
FY2010		
Yogurt; frozen, preserved or containing added sugar or other sweetening matter, flavouring, fruits or nuts (excluding frozen yogurt)	Volume-based	1 July 2010 to 31 March 2011
Tubers of konnyaku (<i>Amorphophalus</i>), whether or not cut, dried or powdered	Volume-based	1 July 2010 to 31 March 2011
Maize (corn) starch	Volume-based	1 August 2010 to 31 March 2011
Milk and cream, not concentrated nor containing added sugar or other sweetening matter, Of a fat content, by weight, exceeding 6% (Sterilized, frozen or preserved); other cream of a fat content, by weight, of 13% or more (other than sterilized, frozen or preserved)	Volume-based	1 October 2010 to 31 March 2011

Source: WTO notifications, and information provided by the authorities.

14. Japan maintains a strict sanitary and phytosanitary (SPS) regime. Members have complained that in many cases Japanese SPS regulations are more stringent than internationally established guidelines and risk assessment procedures¹⁵; these include maximum residue limits (Chapter III(2)(viii)). No cost-benefit analysis of these measures or economic justification was made available. However, according to the authorities, these measures are based and justified on scientific grounds and the process includes technical consultations, consideration of import requirements, and the implementation of risk assessment that takes due account of the OIE code.

15. During the period under review, Japan did not resort to emergency tariff measures for import surges of beef and pork, which are allowed under the Temporary Customs Tariff Measures Law.¹⁶

¹⁵ Members have complained that Japan's SPS regulations are in certain cases in excess of OIE guidelines and Codex standards.

¹⁶ Emergency tariff measures were triggered on beef in FY2003 and on pork in FY2001 to FY2004. The Temporary Customs Tariff Measures Law provides for temporary exceptions to the Customs Tariff Law and the Customs Law, and adjustments to customs duty rates on certain goods. This involves exemptions from customs duties, special emergency customs duty, reduction of customs duties, and other preferential duties (for example, under Japan FTA/EPAs). For FY2010, 476 lines (including in-quota rates) at the HS nine-digit level are subject to temporary rates.

The measures involve unilateral increases of customs duties to the WTO bound level (50% in case of beef) from the level reduced by Japan beyond its commitments (38.5% on beef).

16. Japan notified to the WTO that no export subsidies were provided in the period 1 April 2009 to 31 March 2010.¹⁷

17. The Government has started to promote agricultural and food exports. It has targeted these to reach ¥1 trillion by 2017. This is to be achieved by selling niche products in specific markets with the emphasis on the perceived higher quality of Japanese produce such as rice and beef.

(iii) Domestic measures

18. The general trend in the Government's agriculture policy in recent years has been a move away from administered prices to direct income support for farmers. In 2007, the price support schemes for wheat, potatoes (for starch use), and sugar beets were converted into a direct payment scheme. This scheme was based on historical reference amounts, which were calculated according to the farmers' harvested area and normal yield in the region concerned.

19. Price support through administered prices continue to apply to beef and pork. The Agriculture and Livestock Industries Corporation aims to stabilize beef and pork prices by buying from the market when wholesale prices fall below the "lower stabilization price" and releasing stock onto the market when wholesale prices exceed the "upper stabilization price."¹⁸ In FY2009, the lower stabilization prices were ¥815/kg (US\$8.7/kg) for beef and ¥400/kg (US\$4.3/kg) for pork.¹⁹ In addition, the Government provides calf producers with subsidies on a per head basis if the calf price falls below the "guaranteed base price". In FY2009, the guaranteed base price was ¥310,000 (US\$3,336) per head, unchanged since the second quarter of FY2008.²⁰

20. For rice, the Government implements "supply-demand adjustment" measures, which *inter alia* set a volume cap for production.²¹ According to the authorities, the supply-demand adjustment is in place to keep domestic prices stable and raise the food self-sufficiency ratio. The rice diversion programme pays farmers to use rice paddies for purposes other than growing rice for food. Diversion payments vary according to the crop actually sown or how the land is used by the farmer. The payments are in addition to other subsidies received for crops other than rice. According to some estimates, in the absence of the production adjustment policy, the producer price of rice in Japan would be ¥9,500 per 60kg (US\$1,704/tonne) compared with the current price of about ¥14,000 per 60kg (US\$15,067/tonne).²² The authorities reaffirmed that the supply-demand adjustment continues to be conducted voluntarily by farmers and farmers' organizations and is based on the Government's annual demand estimate. The annual demand estimate in 2009 was 8.15 million tonnes

¹⁷ However, Japan continues to provide food aid to LDCs and net-food importing developing countries. WTO document G/AG/N/JPN/156, 28 May 2010.

¹⁸ The Government also provides calf producers with subsidies per head if the calf price falls below the "guaranteed base price". In 2007, the guaranteed base price was ¥304,000 per head; average actual prices of calves were higher than the guaranteed base price.

¹⁹ The stabilization prices were revised upwards in July 2008 from ¥790/kg to ¥815/kg for beef and from ¥380/kg to ¥400/kg for pork, and have remained unchanged since then.

²⁰ The guaranteed price for calves was raised twice in 2008, first to ¥305,000 per head and subsequently to ¥310,000 per head.

²¹ Based on the decision of the Principle and Outline of Rice Policy Reform in 2002 and the entry into force of the amendments to the Law for Stabilization of Supply-Demand and Price of Staple Food in 2004, domestic distribution of rice was liberalized, and Government purchase and selling prices for rice are determined by tender.

²² Yamashita (2008).

(8.19 million tonnes in 2008). The production control (set-aside) levels were 1.15 million hectares in 2008 and 2009; the total cost of the subsidy payment was ¥153.1 billion in 2008 and ¥146.8 billion in 2009.²³

21. In FY2010, a ceiling of 1.85 million tonnes (1.95 million tonnes in FY2009) was set for milk production to be used exclusively in the production of butter and skim milk powder. The Japan Dairy Council (a producer group) has been voluntarily restricting the overall production of raw milk since 1979, with a production cap of 7.5 million tonnes in 2010.

22. Subsidies for wheat, barley, and rice totalled ¥176 billion in FY2006 and ¥175 billion in FY2005 (the latest year for which data are available)²⁴; these continue to be the most heavily supported commodities. Separate amounts for these commodities were not made available to the Secretariat.

(3) MANUFACTURING

23. Unlike agriculture, there has been little government intervention in the manufacturing sector until recently. Manufacturing was responsible for nearly 20% of GDP and 18% of total employment in 2008, implying that labour productivity in the sector is 11% higher than in the rest of the economy. This is slightly lower than in 2006, as reported in the previous review. This may be linked to the slowdown in external demand due to the financial crisis. Within manufacturing, the largest sub-sectors were electrical machinery, transport equipment, and other machinery.

24. The sector continues to be open, with the simple average MFN tariff for industrial products (HS25-97) at 3.4% in FY2010, compared with 14.7% for agricultural products (HS01-24), and an overall simple average MFN rate of 5.8%. However, tariff rates for textiles and clothing and for leather products are significantly higher (Chapter III(2)(ii)).

25. In October 2009, the Enterprise Turnaround Initiative Corporation of Japan (ETIC) was established in accordance with the Enterprise Turnaround Initiative Corporation Act (Chapter III(4)(iii)). The ETIC is authorized to provide financial support to companies and businesses that are deemed to have revitalization potential and are highly indebted, including those in manufacturing. Thus far, the ETIC has provided support to seven companies (as of October 2010).

26. Sector-specific subsidies, such as those provided to companies involved in the manufacture of civil aircraft, have remained unchanged during the review period.²⁵ In 2007, ¥122 million were provided as a grant to the Japan Aircraft Development Corporation (JADC) for the development of next-generation aircraft. Furthermore, in 2007, ¥1,050 million were also provided in the form of a reimbursable grant to JADC and Japan Aero Engines Corporation for the development of civil aircraft.

27. There has been no change to the foreign direct investment regime with respect to the manufacturing sector. Foreign direct investment in certain manufacturing sub-sectors remains subject to approval (prior-notification); additionally, investment (domestic or foreign) in certain sectors requires permission or *ex post* reporting, as stipulated in various laws and relevant regulations (Chapter II(6)(i)). For example, investors, domestic or foreign, who intend to invest in aircraft

²³ The average subsidy payment was ¥133,000/hectare in 2008 and ¥128,000/hectare in 2009.

²⁴ WTO document G/SCM/N/186/JPN, 25 June 2009. The Government purchases rice for food security purposes (public stockholding). In addition, subsidies are provided for soybean, sugar, milk and dairy products, bovine meat and pig meat, eggs, vegetables, fruits, and cocoons.

²⁵ WTO document G/SCM/N/186/JPN, 25 June 2009.

manufacturing require approval by the Ministry of Economy, Trade and Industry, in accordance with the Law on Aircraft Manufacturing.

(4) ENERGY AND UTILITIES

28. Under the provisions of the Foreign Exchange and Foreign Trade Law, foreign entities wishing to invest in electric and gas utilities must notify their intention to the competent authorities, including the METI. According to the authorities, permission is denied only on grounds of national security²⁶; the authorities refused one such request in 2008 concerning electric utilities, on grounds of "national security, public order, and public safety", the first time permission for investment has been denied since 1945. It would appear that there has been little investment in energy and utilities.²⁷

29. During the period under review, the regulatory framework for the electricity and gas markets has remained largely unaltered. With regard to electricity, the authorities state that further retail sales liberalization in the absence of increased competition in the generation and wholesale markets would not benefit consumers; the cost of implementing such reforms would outweigh the benefits, implying that competition should increase.²⁸ The authorities were of the opinion that the issue of retail market liberalization should be revisited in 2013.

30. The authorities advocate the development of a competitive environment for the electricity generation and wholesale markets. Reforms envisioned in this regard include: strengthening the Japan Electric Power Exchange (JEPX), which is expected to promote wholesale competition and efficient and stable electricity supplies; increasing trading options at the JEPX, which would include forward transactions and transactions after closure of the day-ahead market; and improving market surveillance. In November 2009, the JEPX launched wholesale trading of "green electric power". The authorities intend to reduce charges associated with wheeling service (the movement of electricity from one system to another over transmission facilities of intervening systems), as present electricity generation companies supply electricity using the transmission and distribution networks of the regional general electricity utility companies, which are regional monopolies and impose high charges for use of their networks.

31. Liberalization of the retail gas market in Japan started in 1995; the market was further liberalized in 2007, and customers consuming a minimum of 100,000 m³ of gas were allowed to buy from all gas suppliers.²⁹ The impact of the liberalization can be gauged by the sharp increase in gas sales in a relatively short time span; data provided by the authorities show that, since 2008, gas sales by general gas utilities have increased 1.66-fold, and sales to large customers have risen 4.96-fold, following a decade of slow sales growth. Since 2006, there have been no new entrants to the market; however, the share of the 28 entrants since 1995 rose from 9.7% of gas supplied in 2006 to 12.2% in 2008. Despite the liberalization, gas prices for both residential and industrial use remain high; for

²⁶ The Minister of Finance and the minister in charge of the industry involved may order the suspension of a proposed investment if they consider it may "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 could also recommend that the parties concerned alter their investment plans.

²⁷ Ito and Fukao (2003) is one of latest studies that conducted an analysis of inward FDI by more detailed sectors, compared with the breakdown in balance-of-payments statistics.

²⁸ In 2006, the Government analysed the electricity market under three scenarios: where the retail sector is fully liberalized; where partial liberalization is continued and further competition policies are introduced in FY2010; and where the retail sector is fully liberalized and additional competition policies are applied from FY2010. The analysis showed that the greatest welfare was achieved under the second scenario.

²⁹ The previous threshold was 500,000 m³. For details see WTO Document WT/TPR/S/211, 14 January 2009.

residential use Japan had the highest tariff from among selected Members, and for industrial use, Japan had the second highest tariff within the selected group after the Republic of Korea.³⁰

32. Due to fuel price fluctuations in the international markets since 2007, the authorities decided to revise the Fuel Cost Adjustment System to reflect price changes more quickly. Under the revision, which took place in May 2009, the time-lag involved in passing on international price changes to domestic customers, as used in the cost adjustment system, was reduced from three to two months. The gas price is now also adjusted every month (prior to the revision, it was adjusted every three months).

(5) SERVICES

33. The services sector is the largest contributor to GDP and employment in Japan. Labour productivity growth in services tends to be lower than in manufacturing in most developed economies, but the difference between the two is particularly large in Japan. Labour productivity growth in services in 2007 was 1.61% compared with 5.55% in manufacturing.³¹ Furthermore, total factor productivity (TFP) growth in most services sectors also lags that in manufacturing. The services sector in Japan has been protected from foreign competition. This protection has been afforded in large part through restrictive internal regulations, such as licensing, restrictions on foreign investment, and generally the high cost of doing business in Japan.

34. In its schedule of specific commitments under the GATS, Japan has commitments in 121 sectors and has not taken any MFN exemptions.³² In June 2005, Japan submitted its revised conditional offer on services.³³

(i) Financial services

35. The financial services sector in Japan is largely open to foreign participation. During the period under review, trade-related regulations regarding financial services in Japan have remained largely unchanged.

36. The banking sector is regulated by the Financial Services Agency (FSA), which administers the Banking Law. Under the law, all banks need to be licensed to conduct business in Japan.³⁴ Foreign banks may provide banking services through branches and subsidiaries (incorporated in Japan). Under the Banking Law, deposit insurance does not apply to branches of foreign banks not incorporated in Japan. Nationally licensed subsidiaries of foreign banks are subject to the same prudential requirements as domestic banks.

37. To be able to participate in the securities business in Japan, firms need to be registered joint-stock companies, and the main office in Japan of a foreign securities firm must be registered. There

³⁰ Members selected here were Chinese Taipei, France, Japan, the Republic of Korea, Spain, the United Kingdom, and the United States.

³¹ 2009 International Comparison of Labour Productivity. Viewed at: http://www.jpc-net.jp/eng/research/2009_11.html.

³² WTO documents GATS/SC/46, 15 April 1994, and its supplements.

³³ WTO document TN/S/O/JPN/Rev.1, 24 June 2005.

³⁴ Banks licensed in Japan may establish agencies, with ministerial authorization. A "bank agent" dealing with agency and brokerage businesses, such as deposit, lending, and exchange transactions, also requires a licence. Bank agents are required to meet various obligations, such as segregated custody. The bank to which bank agents belong must give them business advice or take measures to secure sound and appropriate business. Bank agents must submit their business reports to the FSA. The Government makes their reports publicly available; it also conducts on-site inspections.

are no foreign ownership restrictions in the sector, and domestic and foreign firms are subject to the same registration process.

38. A ministerial licence is required to conduct insurance business in Japan; approval is required for new insurance products, for modifications to existing products, and for premium rates. Life and non-life insurance companies may enter each other's markets only through subsidiaries. Commercial presence is normally required in order to offer insurance services in Japan except, *inter alia*, for certain reinsurance, commercial aviation insurance, and international marine hull insurance.³⁵ The criteria for granting licences and the solvency margin requirements are the same for Japanese and foreign insurance providers.

Banking

39. The structure of the banking sector has remained largely unchanged during the review period (Table IV.3). The five largest banks accounted for over 45% of the deposit base and nearly 46% of loans in September 2009, slightly lower than in February 2008. State involvement continues in the sector through the Government's interests in, *inter alia*, Japan Post Bank, Resona Bank, and the Development Bank of Japan. Reforms regarding the privatization of Japan Post, a landmark reform initiated in 2007, have been under review since 2009, with a view, *inter alia*, to introducing measures to maintain a certain postal network level.

40. It would appear that Japanese banks have emerged relatively unscathed from the global economic crisis due to their limited exposure to foreign toxic assets, the regulatory framework in Japan³⁶, and the limited role of securitization in the sector. According to IMF estimates, the Japanese financial sector is expected to lose US\$149 billion (2% of their outstanding loans and securities), compared with US\$1.2 trillion in Europe (5% of outstanding loans and securities), and US\$2.7 trillion in the United States (10% of outstanding loans and securities), due to the crisis.³⁷ The banking sector in Japan was relatively insulated from the crisis for a number of reasons. The Japanese banking system had already undergone a crisis a decade earlier and banks had reduced non-performing loans (NPLs) that they were carrying on their balance sheets and had also recapitalized; thus, the book-value of "sub-prime" assets that banks were carrying on their balance sheets amounted to approximately 1% of their tier 1 capital.³⁸ Furthermore, administrative guidelines were issued by the FSA regarding loan-to-value ratio, as well as directives issued in 2006, which instructed banks to ensure proper risk control, pay particular attention to the corporate governance of management companies of Real Estate Investment Trusts (REITs) and activities of securities companies especially their underwriting of REITs and offerings of private real estate funds and their screening processes in originating commercial mortgage-backed securities. Other contributing factors to the soundness of the Japanese banking system include: the relatively undeveloped securitized product market; the limited use of the "originate to distribute" model; and the remuneration and corporate governance structure in Japan, which does not encourage risk-taking behaviour.³⁹

³⁵ For other insurance contracts, prior approval is required for foreign insurers without commercial presence in Japan.

³⁶ This included the move to Basel II, which reduced banks' appetite for risk (OECD, 2009).

³⁷ IMF (2009).

³⁸ "Sub-prime" loans are a category of consumer loans with the highest risk and include mortgages, auto loans, and credit card debt.

³⁹ In Japan, 44% of CEO compensation is linked to either corporate performance or stock options, compared with 71% and 87% in the euro area and the United States, respectively (OECD, 2009).

Table IV.3
Financial institutions, 2009

Banks	Number of banks (end-March 2009)	Total assets (¥ trillion) (end-March 2009)	Related laws
City banks	5	426.5	Banking Law
Trust banks	20	68.5	Banking Law Law on Concurrent Operation of Trust Business by Financial Institutions
Other banks	15	31.2	Banking Law
Regional banks I	65	238.7	Banking Law
Regional banks II	44	61.2	Banking Law
Foreign banks	62	36.2	Banking Law
2. Cooperative financial institutions	Number of organizations (end-March 2009)	Total assets (¥ trillion) (end-March 2009)	Related laws
Shinkin Central Bank	1	27	Credit Association Law
Shinkin banks (credit associations)	279	123	Credit Association Law
Shinkumi Federation Bank	1	3	Small and Medium Business etc. Cooperatives Law Law on Financial Business by Cooperatives
Credit cooperatives	162	17	Small and Medium Business etc. Cooperatives Law Law on Financial Business by Cooperatives
Mutual Federation of Labour Credit Association	1	4	Labour Credit Association Law
Labour Credit associations	13	16	Labour Credit Association Law
Shoko-Chukin Bank	1	10	Shoko-Chukin Bank Law
Norinchukin Bank	1	62	Norinchukin Bank Law
Prefectural Credit Federation of Agricultural Cooperatives	36	55	Agricultural Cooperatives Law
Agricultural Cooperatives	751	101	Agricultural Cooperatives Law
Prefectural Credit Federation of Fishery Cooperatives	31	2	Fishing Cooperatives Law
Fishery cooperatives (including fish processors cooperatives)	168	1	Fishing Cooperatives Law
3. Insurance companies	Number of companies (end-March 2009)	Total assets (¥ trillion) (end-March 2009)	Related laws
Life insurance: Domestic	42	299	Insurance Business Law
Foreign	4	12	Insurance Business Law
Non-life insurance: Domestic	30	30	Insurance Business Law
Foreign	21	0.4	Insurance Business Law
Small amount short-term insurance	66	0.03	Insurance Business Law
Mutual fire insurance cooperative associations	43	-	Small and Medium Business etc. Cooperatives Law

Table IV.3 (cont'd)

4. Non-banks and other	Number of registered companies (end-March 2009)	Number of reported companies (end-March 2009)	Related laws
Loan companies	6,178	.	Money-Lending Law
Housing loan companies	.		Money-Lending Law
Money market brokers		7	Money-Lending Law and Former Investment Law
Mortgage companies	4	..	Investment Advisory Service Law
Prepaid voucher issuers	1,198	531	Law on Regulation of Prepaid Certificates
Special purpose companies credit brokers	4	1,061	Business Asset Securitization Law
Real-estate syndications	104	5	Real Estate Designated Cooperative Projects Law

.. Not available.

Source: Information provided by the Japanese authorities.

41. However, banks in Japan were adversely affected by the fluctuations in capital markets, declining equity prices, and the contraction in the real economy, all caused, to some extent, by the global economic crisis. The contraction in the real economy resulted in increased credit risk as well as rising NPLs, despite near zero interest rates in Japan. The NPL ratio of major banks rose from 1.5% in September 2008 to 1.8% in September 2009. The fall in equity prices resulted in the erosion of bank capital.

42. To mitigate the impact of the crisis, the authorities took a number of measures to ensure the smooth flow of credit as well as shoring up banks' balance sheets. Measures taken by the Bank of Japan include: an increase in outright purchases of government bonds and facilitation of bank lending to the corporate sector⁴⁰; introduction of a "special funds supplying operation" in January 2009, which provided banks with unlimited funds at the policy rate and expanded the range of corporate financing instruments that could be used as collateral for such funds; resumption of the purchase of equities held by banks by the Bank of Japan in February 2009⁴¹; and the provision of subordinated loans to banks that were engaged in international operations.

43. Action taken by the FSA included allowing the Banks Shareholding Purchase Corporation to purchase equities held by banks, and raising the upper limit on such purchases to ¥20 trillion. This measure was expected to improve the capital position of the banking sector. The Act on Special Measures for Strengthening Financial Functions was reactivated and its conditions relaxed in December 2008. The Act provides a framework for the injection of public funds in depository institutions. Since the Act's revival, three institutions have received a total of ¥121 billion under its provisions. Capital adequacy requirements for banks were also relaxed until March 2012, so that large changes in the capital adequacy ratio do not hamper intermediation functions. In addition, the Financial Revival Programme, which started in 2002, has continued to provide support to the financial sector through grants for losses, injection of capital, and purchase of assets. Japan also adopted measures that are deemed to improve the transparency and reliability of credit ratings and improved accounting standards, such as new registration requirements for credit rating agencies, clarification of

⁴⁰ Prior to December 2008, outright purchases of government bonds were at ¥14.4 trillion annually; this increased to ¥21.6 trillion annually in March 2009.

⁴¹ Between February 2009 and April 2010, the Bank of Japan had bought equities worth ¥387.8 billion from banks.

use of valuation techniques, such as model-based techniques to calculate "fair value", when market based transactions are few.⁴²

Securities

44. While the global financial crisis had a relatively limited impact on the Japanese capital markets, there were some volatilities in share prices, with the equity price index falling by half in a few months.⁴³ Certain measures were already in place and the FSA initiated new measures to ensure the soundness of financial institutions affected by the decline in the equity market. Measures included firms being allowed to purchase their own equities; facilitating stock purchases by employee stock ownership plans; and strengthening regulations and enhancing disclosure requirements of short selling positions. Restrictions on short selling included prohibition on short selling at prices lower than the latest market price, naked short selling⁴⁴, and the requirement that short selling positions taken at or above a certain threshold must be reported and disclosed.⁴⁵

45. Another initiative was taken by the Japanese Securities Dealers Association (JSDA) in June 2009. The JSDA implemented new rules regarding the "origin and distribution" of securitized products. The measure was aimed at enhancing the traceability of such products and reducing the risk associated with them. The new rules require JSDA members to properly disclose the risks associated with the product, including those not reflected in the credit ratings of the underlying assets of the securitized product to investors.

46. In response to the financial crisis as well as to improve the stability and transparency of the financial system and to protect investors, the Act for the Amendment of the Financial Instruments and Exchange Act was promulgated in May 2010. Under the amendment, provisions have been made to improve the stability and transparency of over-the-counter (OTC) derivatives transactions settlements, including the obligation to use a central counterparty to clear OTC derivatives. Other measures taken include the improvement of group-wise regulation and supervision of securities companies and other measures to protect investors.

Insurance

47. Japan's insurance market comprises three subsectors: non-life, life, and the "third sector", which includes accident and health care insurance. There have been no significant changes in the industry during the period under review. The Financial Services Agency remains the regulatory authority, while the Insurance Business Law (IBL) is the main law governing the sector. The Ministry of Finance and the Financial Services Agency are responsible, *inter alia*, for the management of the Deposit Insurance Corporation, and other public insurance schemes for deposits and investment.

48. During the period under review, the sector appears to have become less concentrated. As of March 2009, the top four life-insurance companies accounted for 39.5% of total life-insurance

⁴² OECD (2009).

⁴³ The Nikkei 225 index fell from over 14,000 points in June 2008 to approximately 7,000 points in October 2008.

⁴⁴ Naked short selling is the practice of short-selling a financial instrument without first borrowing the security or ensuring that the security can be borrowed, as is conventionally done in a short sale.

⁴⁵ Holders of a short position that is in excess of 0.25% of outstanding issued stocks of an entity must report changes to their positions to securities firms and exchanges. The latter are required to publicly disclose such information.

company assets, compared with 60.6% in September 2007.⁴⁶ Over the same period, the share of the top seven non-life companies declined to 86.5% from 90.3%.

49. Recent changes undertaken include the revamping of regulations pertaining to the holding of concurrent posts at banks, securities firms, and insurance companies; allowing firms to undertake investment advisory business; allowing firms to engage in Islamic finance; and allowing firms to participate in emissions trading business. Additionally, an alternative dispute resolution system for insurance issues has been established, as well as a system for managing insurance firms' conflicts of interest. Insurance groups are also now permitted to conduct money broking business.

(ii) Telecommunications

50. Foreign investment in NTT is limited to 33%. There are no other statutory restrictions on foreign companies entering the telecommunications sector in Japan.

51. Under the Telecommunications Business Law, the category I and category II classification pertains to facilities (not carriers). Carriers that install category I designated telecommunications facilities are required to set tariffs only on their above-mentioned facilities. Not all tariffs on the category I designated telecommunications facilities are required to undergo public comment. Carriers that install Category II designated telecommunications facilities are required to disclose their interconnection tariff rates of Category II designated telecommunications facilities. The authorities maintain that, during the review period, interconnection rates have declined and are comparable with those in other OECD countries.

52. There have been no major changes to Japan's telecommunications regulations or legislation during the review period. The Ministry of Internal Affairs and Communications continues to be the regulatory authority responsible for the sector, while the regulatory framework is provided by the Telecommunications Business Law.

53. NTT, which is partly government owned, continues to be the single largest player in Japan's telecommunications sector.⁴⁷ In 2008, NTT group accounted for 91.2% of "in-prefecture" fixed-line call sales and 47.4% of "out-of-prefecture" call sales⁴⁸; it was responsible for 77.7% of in-city call volume and 54.4% of out-of city volume. In the mobile market, NTT Docomo had a 49.5% share of sales and 50.8% of communications traffic. The share of NTT group in sales has declined since 2006; this could partly be due to increased competition in the sector. There were 15,250 telecommunications carriers in Japan in April 2010, up from 14,495 in April 2008 and 13,774 in April 2006. Tariff rates for all three services (local, long-distance, and mobile) have declined over the past few years; tariffs in Japan are comparable to those in other OECD countries, but are much higher than those prevalent in the region.⁴⁹ Increased competition has also resulted in significantly higher total factor productivity (TFP) growth in the information and telecommunications

⁴⁶ The figures for 2007 include those of Japan Post Insurance Company, which was responsible for approximately 34% of all life-insurance company assets.

⁴⁷ According to Article 4 of the NTT Law, the Government must hold at least one third of the shares in the NTT Corporation. At present the Government holds 33.7%. The authorities maintain that the Government holds the share for public interest and safety reasons.

⁴⁸ The NTT group includes NTT East, NTT West and NTT Communications.

⁴⁹ Data provided by the authorities indicate that, as of March 2009, the local call rate (weekday noon) in Tokyo was ¥8.5/3 minutes compared with ¥8.8/3 minutes in New York, ¥26.3/3 minutes in London, and ¥17.5/3 minutes in Paris. In Seoul the rate was ¥2.8/3 minutes. Monthly mobile rates for voice (95 minutes), mail (385 mails) and data (16,000 packets) were ¥4,300 in Tokyo, ¥5,800 in New York, ¥1,700 in London, ¥5,500 in Paris and ¥2,100 in Seoul.

technology sector. Data provided by the authorities show that between 1995 and 2007, TFP growth in the telecoms sector was 2.05%, compared with 0.07% in the economy as a whole.

54. The Universal Service Fund System (USFS) has been operational since 2006; it subsidizes the costs of telecoms carriers that provide universal services with respect to both subscriber and public telephone services. Service providers that interconnect with NTT East and West and have annual revenues in excess of ¥1 billion are required to contribute to the fund. Reimbursement for local loop access continues to be based on the "benchmark method", whereby the difference between the real cost per line and the "benchmark" deducted from the national average cost is reimbursed.

(iii) Transport

Maritime transport

55. Japan is especially reliant on maritime transport particularly for traded goods, almost all of which are shipped by sea. The sector is regulated by the Ports and Harbour Bureau of the Ministry of Land, Infrastructure, Transport and Tourism (MLIT) and the Maritime Bureau. Legislation governing the sector includes the Ship Law, the Marine Transportation Law, and the Coastal Shipping Law. There have been no changes to these during the period under review. Foreign investment in the water transport industry is subject to the prior notification requirement.

56. Under cabotage restrictions, as in most countries, only Japanese flag carriers are permitted to carry cargo and passengers between Japanese ports. However, under treaties of friendship, commerce and navigation, Japan allows ships to access cabotage services on a reciprocal basis. Japan does not discriminate against foreign participation in international maritime services and accords national treatment.

57. Entry into the port transport sector requires permission from the MLIT, and port transport charges are subject to prior notification procedures; licensing requirements and the economic needs test have been abolished since 2006.⁵⁰ Under the Port and Harbour Act of 1950, port development, management and operation is entrusted to local public organizations.⁵¹ In October 2008, Japan integrated the Nippon Automated Cargo and Port Consolidated System (NACCS) for customs procedures with the Port-Electronic Data Interchange (Port-EDI) for port-related procedures. Furthermore, in October 2009, simplified port-related procedures were added to the integrated system.

58. Under the Super-Hub Port project, which aims to reduce port-related charges by 30% to the level of Busan and Kaohsiung ports, as well as lead times to less than 24 hours by FY2010, lead times are now approximately one day, and port charges were reduced by 20% between 2000 and 2008.

59. The Government continues to provide support to Japanese flag carriers under the international ship regime.⁵² It also continues to provide a tonnage tax, adopted in 2008, under which a company may calculate its corporate tax based on assumed profit per net tonne of vessels flying the Japanese flag. The presumably lower tonnage tax is applicable instead of the corporate tax and is an incentive for shipping companies. An internationally operating shipping company must submit a plan that ensures stable international maritime transport to the MLIT; this must be approved by the Minister before the tonnage tax can be applied. As of March 2010, 11 companies had been approved by the MLIT to apply the tonnage tax.

⁵⁰ WTO document S/C/N/571, 5 October 2010.

⁵¹ Ports of Singapore Authority has invested in Hibiki port.

⁵² For details, see WTO Document WT/TPR/S/211/Rev.1, 12 May 2009.

Air transport

60. The Japanese air transport sector is regulated by the Civil Aeronautics Law and the many bilateral air agreements that Japan has signed. Administration of airline entry into the market, pricing, route allocation, and safety regulations are the responsibility of the Civil Aviation Bureau of the MLIT. Cabotage restrictions apply, as in most countries, and the provision of domestic air services is limited to Japanese air carriers only. Foreign ownership continues to be restricted to one-third of voting rights in domestic airlines and under the Foreign Exchange and Foreign Trade Laws, prior notification is required for FDI in air transport and aircraft using businesses.

61. Japan has signed bilateral air service agreements with 58 trading partners; 2 (with Macao, China and Saudi Arabia) were signed during the review period.⁵³ Japan has continued to pursue an aviation liberalization policy. Of the 58 bilateral agreements, 10 are "open sky" agreements (with Canada; Hong Kong, China; Macao, China; the Republic of Korea; Malaysia; Singapore; Sri Lanka; Thailand; the United States; and Viet Nam. Under the open sky arrangements, restrictions are removed, on a reciprocal basis, on entry points, routes and frequency of flights. Other areas that open sky agreements address are prices/tariffs, airline capacities. Competition should increase as a result of open sky agreements.⁵⁴

62. Other changes that have taken place, include the introduction of scheduled international flights from the Tokyo International Airport (Haneda) in October 2010.

63. Landing and takeoff slot allocation at Narita, Kansai, and Haneda airports is done by the Japan Schedule Coordination Office (JSC). According to the authorities the JSC is completely independent and does not represent any interests. Slots are allocated according to IATA guidelines. At other airports, slot coordination is done by the local airport office of JCAB.

64. A significant development during the review period was the bankruptcy of Japan Airlines (JAL) and its subsequent rescue by the Government. JAL had reportedly been carrying legacy costs, which had resulted in the airline having to negotiate three rescue deals with banks and the Government since 2001. The global financial crisis in 2008 resulted in further significant losses for JAL. It had become obvious by the end of 2009 that unless radical reforms were instituted the airline would be bankrupt.

65. The Government decided to rescue JAL and directed the airline to submit a restructuring plan. However, a change in Government in August 2009 resulted in the restructuring plan being scrapped. Under a new plan, announced in November 2009, as a condition of government support, the Enterprise Turnaround Initiative Corporation of Japan (ETIC) would assume control of JAL. In January 2010, JAL made a formal application for support from ETIC and filed a petition for the commencement of reorganization proceedings under the Corporate Reorganization Law. It submitted a restructuring plan that aims to return the airline to profitability by 2012. Measures under the plan include cutting the workforce by 15,700; reducing pensions, wages, and lump-sum bonus payments;

⁵³ These are: Australia; Austria; Bahrain; Bangladesh; Belgium; Brazil; Brunei; Canada; China; Denmark; Egypt; Ethiopia; Fiji; Finland; France; Germany; Greece; Hong Kong, China; Hungary; India; Indonesia; Iraq; Israel; Italy; Jordan; Kuwait; Lebanon; Macao SAR; Malaysia; Mexico; Mongolia; Myanmar; Nepal; the Netherlands; New Zealand; Norway; Oman; Pakistan; Papua New Guinea; the Philippines; Poland; Qatar; the Republic of Korea; the Russian Federation; Saudi Arabia; Singapore; South Africa; Spain; Sri Lanka; Sweden; Switzerland; Thailand; Turkey; the United Arab Emirates; the United States; the United Kingdom; Uzbekistan; and Viet Nam.

⁵⁴ Preparing ASEAN for Open Sky. Viewed at: <http://www.aseansec.org/aadcp/repstf/docs/02-008-ExecutiveSummary.pdf>.

withdrawing from 31 loss-making routes; retiring less fuel-efficient aircraft such as the 747-400 and replacing them with newer, more fuel-efficient and smaller jets; and selling non-core subsidiaries, such as hotels and the credit card business.

66. Under the plan, ETIC will inject over ¥300 billion in equity, and ETIC and the Development Bank of Japan will provide lines of credit amounting to ¥600 billion. JAL stocks will be de-listed, and ETIC will assume control and ownership of the airline.⁵⁵ Furthermore, creditors will be required to write off loans made to the airline.

67. The deadline for submitting a restructuring plan was June 2010. JAL sought an extension and a new deadline was set for 31 August 2010.

(iv) Medical services

68. Japan's healthcare system is considered to be among the best in the world in terms of access and effectiveness; the Japanese population has the highest life expectancy in the OECD and among the lowest rates of infant mortality. However, Japan's healthcare system is heavily regulated and is facing a number of challenges.⁵⁶ All hospitals and clinics must be "not-for-profit" organizations directed by a medical doctor with Japanese medical qualifications. Within the nationwide health insurance system, the Government sets all prices for procedures, drugs, and devices, which apply to all physicians and hospitals adopting the system. The "not-for-profit" nature of hospital and clinics effectively prevents equity financing. Thus, to cover capital costs, which are not covered by the fee structure, hospitals have to rely on bank loans or issue bonds. Bank financing tends to be difficult as hospitals can only offer limited collateral, whereby hospital expansion, which may result in increased efficiency is also constrained. However, most hospitals run at a loss and their numbers declined by 6% between 1999-2009.⁵⁷

69. An aging population is exerting upward pressure on healthcare spending, which is rising at a much faster rate than output. Data provided by the authorities indicate that insurance premiums and public funds are responsible for 86% of health spending; thus the Government is trying to limit expenditure on healthcare, especially in light of fiscal difficulties. With the proportion of the population that is over 65 projected to increase to 27% by 2015 (from 21% in 2006), upward pressure on government spending on healthcare is expected to intensify. The authorities have therefore initiated reforms including a new healthcare system for those over 75⁵⁸; reducing the number of long-term care beds in hospital (this has recently been suspended); and an increase of 50% in the ceiling number of medical students. Furthermore, to encourage health insurers to pay for check-ups, the Government has decided to introduce a reward system that will adjust the contribution of the insurers to the health care of those over 75. Other measures taken to reduce health-related expenditures include reducing the gap between retail and wholesale drug prices, encouraging the

⁵⁵ ETIC is obliged to sell its shares of JAL within three years of the capital injection.

⁵⁶ OECD (2009).

⁵⁷ OECD (2009).

⁵⁸ As part of the new system, the Government implemented a new health insurance system in 2008 for those over age 75, who account for 9% of the population and 30% of health outlays. The co-payment rate would be kept at 10% and insurance premiums would continue to cover 10% of the total costs of the population aged over 75. The remainder will be covered by insurance premiums from people under 75 (40%) and government subsidies (50%). However, the Government is presently reviewing this system and envisages a new system to be in place by 2013.

separation of prescribing and dispensing drugs, reducing medical fees paid to doctors if they over-prescribe⁵⁹, and increasing the use of generic drugs.⁶⁰

70. The healthcare system also suffers from various imbalances, such as shortages of emergency care and paediatricians, as well as regional disparities. Non-compliance with respect to paying insurance premiums and the burden of co-payments are also among challenges the system faces.⁶¹

71. Japan's medical system, despite being among the most efficient in the world, could be made more efficient through further reforms. To this end, the authorities introduced an online payment system in 2006, and, in principle, by 2011, all hospitals and pharmacies will need to submit electronic receipts or receipts online to examination and payment organizations. The new system is expected to increase efficiency and the quality of healthcare; electronic processing of bills is expected to facilitate the review of all reimbursements to weed out fraud and abuse and reduce administrative costs. At the same time, the reform may include the removal of restrictions on the number of medical students, and on foreign workers permitted in the sector, and relax the rules that prevent equity finance to facilitate the restructuring of the hospital sector. This would enable the creation of more efficient hospitals as well as M&As of hospitals and clinics.⁶² In the Basic Policy on Comprehensive Economic Partnerships, announced by the Ministerial Committee on Comprehensive Economic Partnerships on 6 November 2010, Japan intends to "consider measures to address the issues relating to the movement of natural persons from abroad, such as nurses and certified care workers" with regard to EPAs.⁶³

⁵⁹ Reimbursement is reduced by 10% if more than seven drugs are prescribed.

⁶⁰ The Government has targeted an increase in the share of generic drugs to at least 30% of the market.

⁶¹ Nonetheless, the authorities consider that co-payment is not necessarily expensive because it only amounts to 10-30% of medical bill, and there is a cap on co-payment in the "high-cost medical care benefit system".

⁶² OECD (2009).

⁶³ MOFA online information. Viewed at: <http://www.mofa.go.jp/policy/economy/fta/policy20101106.html> [22.11.2010].

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APPENDIX TABLES

Table A1.1
Merchandise exports by group of products, 2005-09
 (US\$ million and %)

	2005	2006	2007	2008	2009
Total exports (US\$ million)	594,940.9	646,725.1	714,327.0	781,412.2	580,718.7
			(% of total)		
Total primary products	3.5	4.1	4.8	5.9	5.8
Agriculture	1.0	1.0	1.1	1.1	1.4
Food	0.5	0.5	0.5	0.5	0.7
Agricultural raw material	0.5	0.5	0.6	0.6	0.7
Mining	2.5	3.1	3.7	4.8	4.4
Ores and other minerals	0.6	0.7	0.7	0.7	0.9
Non-ferrous metals	1.1	1.5	1.7	1.7	1.8
Fuels	0.7	0.9	1.3	2.4	1.8
Manufactures	91.8	90.7	89.7	88.7	87.5
Iron and steel	4.6	4.6	4.8	5.6	5.4
Chemicals	8.8	8.9	9.1	8.8	10.6
5822 Other plastics, flat shapes, non-cellular and not reinforced, etc.	0.6	0.7	0.7	0.7	1.0
5112 Cyclic hydrocarbons	0.8	0.8	0.9	0.7	0.8
5989 Chemical products and preparations, n.e.s.	0.5	0.6	0.5	0.5	0.7
Other semi-manufactures	4.3	4.2	4.2	4.2	4.7
Machinery and transport equipment	64.1	63.7	63.3	62.0	58.2
Power generating machines	1.5	1.4	1.4	1.5	2.0
Other non-electrical machinery	13.4	13.3	13.5	13.7	11.5
7284 Machinery and appliances for particular industries, n.e.s.	2.4	2.3	2.8	2.7	2.1
7232 Mechanical shovels, etc., self-propelled	1.1	1.2	1.3	1.3	0.7
Agricultural machinery and tractors	0.4	0.3	0.3	0.3	0.3
Office machines & telecommunication equipment	16.5	15.4	14.4	13.2	13.6
7764 Electronic integrated circuits and microassemblies	4.5	4.3	4.2	3.7	4.2
7649 Parts and accessories for apparatus of division 76	2.2	2.3	2.1	1.9	1.7
7638 Sound/video recording/reproducing apparatus	2.0	1.7	1.7	1.7	1.6
7763 Diodes, transistors, etc.	1.3	1.3	1.2	1.2	1.2
7768 Piezo-electric crystals, mounted, and parts, n.e.s., of 776	0.7	0.8	0.8	0.8	0.8
Other electrical machines	6.5	6.5	6.2	6.0	6.4
7725 Switches, relays, fuses etc. for a voltage not exceeding 1000 V	1.0	1.0	0.9	0.9	1.0
Automotive products	20.7	21.5	22.2	21.9	17.8
7812 Motor vehicles for the transport of persons, n.e.s.	13.4	14.6	15.1	14.7	10.7
7843 Other motor vehicle parts of 722, 781 to 783	4.2	4.0	4.0	3.8	4.2
7821 Goods vehicles	1.3	1.3	1.4	1.5	1.1
7132 Internal combustion engines for vehicles of 78; 744.14, 744.15, 891.11	0.7	0.6	0.7	0.7	0.7
Other transport equipment	5.6	5.5	5.4	5.6	6.8
7932 Ships, boats, etc. (excl. pleasure craft, tugs, etc.)	1.9	2.1	2.1	2.5	3.7
7139 Parts, n.e.s., for piston engines of 713.2, 713.3, 713.8	1.1	0.9	0.9	0.9	1.0
Textiles	1.2	1.1	1.0	0.9	1.1
Clothing	0.1	0.1	0.1	0.1	0.1
Other consumer goods	8.7	8.1	7.3	7.0	7.5
8841 Optical fibres and optical fibre bundles [...]	0.9	0.8	0.8	0.7	0.8
Other	4.7	5.2	5.5	5.4	6.7
Gold	0.2	0.5	0.5	0.7	0.8

Source: UNSD, Comtrade database (SITC Rev.3).

Table A1.2
Merchandise imports by group of products, 2005-09
(US\$ million and %)

	2005	2006	2007	2008	2009
Total imports (US\$ million)	515,866.4	579,063.9	622,243.3	762,533.9	551,984.8
			(% of total)		
Total primary products	44.6	46.9	47.7	53.5	46.2
Agriculture	12.8	11.3	11.1	10.6	12.3
Food	10.4	9.0	8.9	8.7	10.5
0122 Meat of swine	0.8	0.6	0.6	0.5	0.7
0449 Other maize, unmilled	0.5	0.4	0.6	0.7	0.7
Agricultural raw material	2.4	2.3	2.2	1.9	1.8
Mining	31.8	35.6	36.6	43.0	33.9
Ores and other minerals	3.5	4.5	5.3	4.7	4.4
2831 Copper ores and concentrates	0.9	1.6	1.7	1.3	1.5
2815 Iron ores and concentrates, not agglomerated	1.0	1.1	1.2	1.5	1.4
Non-ferrous metals	2.5	3.1	3.5	3.1	1.9
6812 Platinum unwrought, unworked or semi-manufactured	0.5	0.8	0.9	0.9	0.6
Fuels	25.8	27.9	27.8	35.1	27.6
3330 Crude oils of petroleum and bituminous minerals	15.5	17.1	16.7	20.4	14.5
3431 Natural gas, liquefied	3.5	3.9	4.3	5.9	5.5
3212 Other coal, whether or pulverized, not agglomerated	2.6	2.3	2.3	3.7	3.9
3421 Propane, liquefied	0.9	1.0	1.0	1.1	0.8
Manufactures	53.6	51.4	50.5	44.7	51.7
Iron and steel	1.4	1.1	1.3	1.5	1.0
Chemicals	7.3	7.1	7.3	7.2	8.8
5429 Medicaments, n.e.s.	0.8	0.7	0.8	0.7	1.4
5157 Other heterocyclic compounds; nucleic acids	0.7	0.7	0.7	0.7	1.1
Other semi-manufactures	4.1	4.0	3.9	3.3	3.9
Machinery and transport equipment	25.7	24.5	24.2	20.8	23.0
Power generating machines	1.1	1.2	1.2	1.1	1.3
Other non-electrical machinery	3.6	3.6	3.9	3.4	3.3
Agricultural machinery and tractors	0.1	0.1	0.1	0.1	0.1
Office machines & telecommunication equipment	13.0	11.9	11.2	9.5	11.2
7764 Electronic integrated circuits and microassemblies	3.6	3.7	3.4	2.7	2.9
7649 Parts and accessories for apparatus of division 76	1.4	1.2	1.4	1.3	1.4
7522 Digital automatic data processing machines [..]	0.8	0.7	0.7	0.7	0.8
7599 Parts and accessories of 751.1, 751.2, 751.9 and 752	1.6	1.3	0.8	0.6	0.7
Other electrical machines	3.9	4.0	3.9	3.4	3.8
7731 Insulated wire, cable etc.; optical fibre cables	0.7	0.8	0.8	0.7	0.7
Automotive products	2.6	2.4	2.5	2.1	1.8
7812 Motor vehicles for the transport of persons, n.e.s.	1.6	1.3	1.2	0.9	0.8
7843 Other motor vehicle parts and accessories of 722, 781 to 783	0.7	0.8	0.9	0.8	0.7
Other transport equipment	1.5	1.5	1.6	1.4	1.5
Textiles	1.1	1.1	1.0	0.9	1.2
Clothing	4.4	4.1	3.9	3.4	4.6
8453 Jerseys, pullovers, cardigans, etc., knitted/crocheted	0.8	0.7	0.7	0.6	0.8
Other consumer goods	9.6	9.5	8.9	7.6	9.2
Other	1.8	1.7	1.8	1.8	2.0
Gold	0.3	0.2	0.2	0.2	0.1

Source: UNSD, Comtrade database (SITC Rev.3).

Table A1.3
Merchandise exports by destination, 2005-09
 (US\$ million and %)

	2005	2006	2007	2008	2009
Total exports (US\$ million)	594,940.9	646,725.1	714,327.0	781,412.2	580,718.7
	(% of total)				
America	28.2	28.8	26.5	24.2	23.2
United States	22.9	22.8	20.4	17.8	16.4
Other America	5.4	6.0	6.1	6.4	6.7
Canada	1.5	1.5	1.5	1.4	1.3
Panama	1.2	1.3	1.2	1.4	2.2
Mexico	1.2	1.4	1.4	1.3	1.2
Europe	15.7	15.6	15.8	15.3	14.0
EU(27)	14.8	14.6	14.8	14.1	12.5
Germany	3.1	3.2	3.2	3.1	2.9
Netherlands	2.2	2.3	2.6	2.7	2.3
United Kingdom	2.5	2.4	2.3	2.1	2.0
France	1.3	1.2	1.2	1.2	1.1
EFTA	0.6	0.6	0.6	0.7	1.3
Switzerland	0.4	0.4	0.4	0.6	1.1
Other Europe	0.4	0.4	0.4	0.4	0.3
Commonwealth of Independent States (CIS)	0.9	1.3	1.8	2.5	0.7
Africa	1.4	1.4	1.6	1.7	1.6
United Arab Emirates	0.8	0.9	1.1	1.4	1.1
Asia	51.0	49.9	50.6	52.0	56.8
China	13.5	14.3	15.3	16.0	18.9
Six East Asian Traders	30.2	28.8	28.1	27.9	29.5
Korea, Rep. of	7.8	7.8	7.6	7.6	8.1
Chinese Taipei	7.3	6.8	6.3	5.9	6.3
Hong Kong, China	6.0	5.6	5.4	5.2	5.5
Thailand	3.8	3.5	3.6	3.8	3.8
Singapore	3.1	3.0	3.1	3.4	3.6
Malaysia	2.1	2.0	2.1	2.1	2.2
Other Asia	7.4	6.8	7.3	8.1	8.4
Australia	2.1	1.9	2.0	2.2	2.1
Indonesia	1.5	1.1	1.3	1.6	1.6
Philippines	1.5	1.4	1.3	1.3	1.4
Viet Nam	0.6	0.6	0.8	1.0	1.1
India	0.6	0.7	0.9	1.0	1.1
Other	0.0	0.0	0.0	0.0	0.0
<i>Memorandum:</i>					
APEC	76.3	75.7	74.3	73.4	74.8
ASEAN	12.7	11.8	12.2	13.2	13.8

Source: UNSD, Comtrade database.

Table A1.4
Merchandise imports by origin, 2005-09
(US\$ million and %)

	2005	2006	2007	2008	2009
Total imports (US\$ million)	515,866.4	579,063.9	622,243.3	762,533.9	551,984.8
	(% of total)				
America	17.3	16.9	16.9	15.5	16.0
United States	12.7	12.0	11.6	10.4	11.0
Other America	4.6	4.9	5.3	5.1	5.0
Canada	1.7	1.7	1.6	1.7	1.7
Brazil	0.9	0.9	1.0	1.2	1.2
Europe	12.7	11.6	11.7	10.5	12.3
EU(27)	11.4	10.4	10.5	9.2	10.7
Germany	3.5	3.2	3.1	2.7	3.0
France	1.7	1.6	1.6	1.4	1.7
Italy	1.3	1.2	1.2	1.0	1.2
EFTA	1.2	1.1	1.1	1.1	1.5
Switzerland	1.0	0.9	0.8	0.8	1.1
Other Europe	0.1	0.1	0.1	0.1	0.1
Commonwealth of Independent States (CIS)	1.3	1.3	1.9	2.0	1.7
Russian Federation	1.2	1.1	1.7	1.8	1.6
Africa	1.9	2.3	2.4	2.8	1.6
Middle East	17.0	18.8	18.3	22.0	16.8
Saudi Arabia	5.6	6.4	5.7	6.7	5.3
United Arab Emirates	4.9	5.5	5.2	6.2	4.1
Qatar	2.1	2.6	2.7	3.5	2.9
Iran Islamic Rep.	2.0	1.9	2.0	2.4	1.7
Kuwait	1.5	1.6	1.6	2.0	1.6
Asia	49.8	49.1	48.9	47.4	51.5
China	21.0	20.5	20.6	18.8	22.2
Six East Asian Traders	15.7	15.4	14.7	13.7	14.5
Korea, Rep. of	4.7	4.7	4.4	3.9	4.0
Chinese Taipei	3.5	3.5	3.2	2.9	3.3
Malaysia	2.8	2.7	2.8	3.0	3.0
Thailand	3.0	2.9	2.9	2.7	2.9
Other Asia	13.1	13.2	13.6	14.9	14.8
Australia	4.8	4.8	5.0	6.2	6.3
Indonesia	4.0	4.2	4.3	4.3	4.0
Viet Nam	0.9	0.9	1.0	1.2	1.3
Philippines	1.5	1.4	1.4	1.1	1.2
Other	0.0	0.0	0.0	0.0	0.0
Memorandum:					
APEC	66.1	64.8	65.0	62.0	66.5
ASEAN	14.1	13.8	14.0	14.0	14.1

Source: UNSD, Comtrade database

Table AII.1
Status of selected notifications to the WTO, August 2010

WTO Agreement	Description of requirement	Document symbol and date of most recent notification
Anti-dumping		
Article 16.4	Anti-dumping actions taken	G/ADP/N/195/JPN, 08/03/2010
Article 16.5	Domestic procedures and authorities competent to initiate and conduct investigation	G/ADP/N/14/Add.29 (G/SCM/N/18/Add.29), 22/04/2010
Article 18.5	Laws and regulations (and changes)	G/ADP/Q1/JPN/15 (G/SCM/Q1/JPN/15), 22/04/2010
Agriculture		
Article 18.2	Domestic support (DS:1)	G/AG/N/JPN/137, 01/07/2008
Article 18.2	Domestic support (DS:2)	No notification
Article 18.2	Information on tariff quotas administration (MA:1)	G/AG/N/JPN/143, 26/02/2009
Article 18.2	Volume of imports under tariff quotas (MA:2)	G/AG/N/JPN/153, 24/02/2010
Article 5.7	Volume-based special safeguard (MA:3)	G/AG/N/JPN/158, 06/08/2010
Article 5.7	Price-based special safeguard (MA:4)	G/AG/N/JPN/154, 19/03/2010
Article 5.7 and 18.2	Special safeguard (MA:5)	G/AG/N/JPN/155, 06/05/2010
Articles 10 and 18.2	Export subsidies (outlays and quantities) (ES:1)	G/AG/N/JPN/156, 28/05/2010
Article 10	Volume of food aid in the context of export subsidy commitments (ES:3)	G/AG/N/JPN/126, 05/03/2007
Article 16.2	Measures concerning the possible negative effects of the reform programme on least developed and net food importing developing countries (NF: 1)	G/AG/N/JPN/145, 27/03/2009
Annex 5	Tariff quotas	No notification
GATT 1994 (Article VII: Customs Valuation)		
	Checklist of issues	G/VAL/N/2/JPN/1, 05/05/2000
GATT 1994 (Article XVII:4(a) Understanding on the Interpretation of Article XVII)		
	Notification of products traded by state enterprises	G/STR/N/12/JPN, 18/03/2009
Government Procurement		
Article XIX:5	Statistics on government procurement	GPA/94/Add.2, 09/04/2009
Article XXIV: 5(b)	Notification of national implementing legislation	GPA/37/Add.7, 06/07/2010
Article XXIV:6	Modifications to Appendix I	GPA/MOD/JPN/52, 22/06/2010; GPA/W/309/Add.5, 11/02/2010
Import Licensing Procedures		
Articles 1.4(a) and 8.2(b)	Laws and regulations relevant to import licensing	No notification
Article 5.3	Notification of licensing procedures and changes	No notification
Article 7.3	Questionnaire; rules and information concerning procedures for the submission of applications	G/LIC/N/3/JPN/8, 07/10/2009
Subsidies and Countervailing Measures		
Article 32.6	Laws and regulations	G/ADP/Q1/JPN/15, (G/SCM/Q1/JPN/15) 22 April 2010
Article. 25.11	Countervailing duty actions taken	G/SCM/N/207, 17/03/2010
Article 25.1	Subsidies programmes	G/SCM/N/186/JPN, 25/06/2009
Article 25.12	Notification of domestic procedures and authorities competent to initiate and conduct investigations	No notification
Safeguards		
Article 12.6	Laws and regulations	G/SG/Q1/JPN/8, 22/04/2010
Article 12.5	Notification of termination of safeguard investigation	No notification

Table AII.1 (cont'd)

WTO Agreement	Description of requirement	Document symbol and date of most recent notification
Sanitary and Phytosanitary Measures		
Article 6, Annex B	Notification of emergency measures	G/SPS/N/JPN/189, 26/07/2007
Article 5, Annex B	Notification of changes in sanitary and phytosanitary measures	G/SPS/N/JPN/257, 09/08/2010
Technical Barriers to Trade		
Article 15.2	Laws and regulations (and changes)	No notification
Article 10.6	Information about technical regulations, standards, and conformity assessment procedures	G/TBT/N/JPN/339, 06/08/2010
TRIMs		
Article 5.1	Investment measures	No notification
TRIPS		
Article 63.2	Laws and regulations	IP/N/1/JPN/9, 19/09/2008; IP/N/1/JPN/D/4, 28/03/2008; IP/N/1/JPN/T/4, 31/03/2008; IP/N/1/JPN/P/8, 23/04/2008; IP/N/1/JPN/C/5, 18/03/2008; IP/N/1/JPN/E/1, 29/01/1997; IP/N/1/JPN/G/1, 19/03/2008; IP/N/1/JPN/L/1, 11/07/1996; IP/N/1/JPN/O/4, 19/09/2008
Article 69	Contact points	IP/N/3/Rev.11, 04/02/2010
Article 4(d)	Notification of international agreements related to the protection of intellectual property that entered into force prior to the entry into force of the WTO Agreement	No notification
General Agreement on Trade in Services (GATS)		
Article III:3	Changes to laws and regulations affecting services	No notification
Article VII:4	Monopolies and exclusive providers of services	No notification
Regional Trade Agreements		
	Notification of regional trade agreement	WT/REG257/N/1(S/C/N/470), 12/12/2008; WT/REG273/N/1(S/C/N/512), 03/09/2009; WT/REG275/N/1(S/C/N/513), 02/10/2009; WT/REG277/N/1, 14/12/2009
	Notification of changes affecting the implementation of a regional trade agreement	WT/REG/140/N/1/Add.2 (S/C/N/206/Add.2), 23/01/2008

Source: WTO documents.

Table AII.2
Disputes to which Japan has been a party, 2009 to August 2010

Principal complainant/defendant, and issue under dispute	Consultations/Panel	Appeals
<p>Japan/United States (WT/DS322)</p> <p>United States Measures Relating to Zeroing and Sunset Reviews</p>	<p>Consultations requested: 24 November 2004</p> <p>Panel requested: 4 February 2005</p> <p>Panel established: 28 February 2005</p> <p>Panel report circulated: 20 September 2006.</p> <p>Compliance panel composed: 23 May 2008</p> <p>On 1 August 2008, the Chairman of the compliance panel informed the DSB that it would not be possible to complete its work in 90 days in light of scheduling conflicts. The compliance panel expected to complete its work in April 2009.</p> <p>Compliance panel report circulated: 24 April 2009. It concluded that, to the extent that the United States had failed to comply with the recommendations and rulings of the DSB in the original dispute, the recommendations and rulings remained operative, and recommended that the DSB request the United States to bring Reviews 4, 5, 6 and 9, and the liquidation actions into conformity with the AD Agreement and the GATT 1994.</p>	<p>Notification of appeal by Japan: 11 October 2006</p> <p>Report of the Appellate Body: 9 January 2007</p> <p>At its meeting on 23 January 2007, the DSB adopted the Appellate Body report and the Panel report, as modified by the Appellate Body report</p> <p>Arbitration under DSU Article 21.3(c) requested by Japan: 29 March 2007</p> <p>Arbitrator appointed: 27 April 2007</p> <p>On 4 May 2007, the United States and Japan informed the DSB that they had mutually agreed on the reasonable period of time for the United States to implement the DSB recommendations and rulings (11 months, expiring on 24 December 2007).</p> <p>Request by Japan to the DSB to authorize it to suspend concessions (on the grounds that the United States had failed to implement the DSB recommendations and rulings) pursuant to Article 22.2 of the DSU: 10 January 2008.</p> <p>Objection by the United States to the level of suspension and request for arbitration under Article 22.6 of the DSU: 18 January 2008.</p> <p>The DSB agreed that the matter had been referred to arbitration as required under Article 22.6 of the DSU on 21 January 2008.</p> <p>On 10 March 2008, the United States and Japan informed the DSB of confirmed procedures under Articles 21 and 22 of the DSU.</p> <p>Request by Japan for the establishment of a panel under Article 21.5: 7 April 2008</p> <p>At its meeting on 18 April 2008, the DSB agreed to refer to the original panel, if possible, the question of whether the United States had complied with the DSB recommendations and rulings.</p> <p>On 6 June 2008, the United States and Japan requested the Arbitrator to suspend its work. Accordingly, the arbitration proceedings were suspended from 9 June 2008 until either party requests their resumption.</p> <p>On 20 May 2009, the United States notified the DSB of its decision to appeal to the Appellate Body certain issues of law covered in the report of the compliance panel and certain legal interpretations developed by the compliance panel.</p> <p>On 14 July 2009, the Chairman of the Appellate Body notified the DSB that due to the time required for completion and translation of the report, the Appellate Body would not be able to circulate its report within 60 days. It was estimated that the report would be circulated no later than 18 August 2009.</p>

Table AII.2 (cont'd)

Principal complainant/defendant, and issue under dispute	Consultations/Panel	Appeals
Korea/Japan (WT/DS336) Countervailing Duties on Dynamic Random Access Memories from Korea	<p>Consultations requested: 14 March 2006 Panel requested: 18 May 2006 Panel established: 19 June 2006 Panel report circulated: 28 November 2007 Compliance panel requested by Korea: 9 September 2008 Compliance panel composed: 8 October 2008 On 19 December 2008, the Chairman of the panel informed the DSB that it would not be possible for the panel to complete its work in 90 days in light of scheduling conflicts. The panel expected to complete its work in June 2009. Suspension requested by Korea: 4 March 2009 Work suspended: 4 March 2009 Panel lapsed: 5 March 2010</p>	<p>On 18 August 2009, the Appellate Body circulated its report. It recommended that the DSB request the United States to bring into conformity with its obligations under the Anti-Dumping Agreement and the GATT 1994 the measures found to be inconsistent with those Agreements.</p> <p>On 31 August 2009, the DSB adopted the Appellate Body report and the compliance panel report, as upheld by the Appellate Body report.</p> <p>On 23 April 2010, Japan requested the Arbitrator to resume the arbitration proceedings. One of the members of the Arbitrator indicated that he was no longer available.</p> <p>On 25 May 2010, Japan requested the Director-General to appoint a replacement arbitrator. The constitution of the arbitrator was notified to the DSB on 3 June 2010.</p> <p>Notification of appeal by Japan: 30 August 2007 Report of the Appellate Body: 28 November 2007 On 17 December 2007, the DSB adopted the Appellate Body Report and the panel report, as modified by the Appellate Body report Arbitration under DSU Article 21.3(c) requested by Korea: 25 February 2008 Arbitrator appointed: 5 March 2008 Arbitration award circulated to Members: 5 May 2008 The reasonable period of time determined by the arbitrator was eight months and two weeks from 17 December 2007 On 9 September 2008, Japan and Korea notified the DSB of confirmed procedures under Articles 21 and 22 of the DSU. On 23 September 2008, the DSB agreed to refer to the original panel</p>
Japan/European Communities (WT/DS376) Tariff Treatment of Certain Information Technology Products	<p>Consultations requested: 28 May 2008 Panel requested: 18 August 2008 Panel establishment deferred: 29 August 2008 Panel established: 23 September 2008 Panel composition requested: 12 January 2009 Panel composed: 22 January 2009 Final report requested: 29 April 2010 Panel report circulated: 16 August 2010.</p>	
Japan/Canada (WT/DS412) Certain measures affecting the renewable energy generation sector	<p>Consultation requested: 13 September 2010</p>	

Note: The table excludes disputes in which Japan participated as a third party.

Source: WTO documents.

Table AII.3
Overview of Japan's Free-Trade Agreements, October 2010

Japan – ASEAN	
Parties	Japan, ASEAN countries
Date of signature/entry into force	Signed by: Singapore on 26.03.2008; Japan on 28.03.2008; Indonesia on 31.03.2008; Viet Nam on 01.04.2008; the Philippines on 02.04.2008; Brunei on 03.04.2008; Lao PDR on 04.04.2008; Cambodia on 07.04.2008; Myanmar on 10.04.2008; Thailand on 11.04.2008; and Malaysia on 14.04.2008. Entered into force between Japan and: Lao PDR, Myanmar, Singapore and Viet Nam on 01.12.2008; Brunei on 01.01.2009; Malaysia on 01.02.2009; Thailand on 01.06.2009; Cambodia on 01.12.2009; and the Philippines on 01.07.2010.
Transition to full implementation	Completed in 2008 for Singapore; to be completed in 2018 for Brunei, Indonesia, Malaysia, the Philippines, and Thailand; in 2023 for Japan; in 2024 for Viet Nam; in 2026 for Cambodia, Lao PDR, and Myanmar
Main products excluded from liberalization	Certain tariff lines in meat and its products, fish and fish products, dairy products, cereals (rice) and products thereof, products of the milling industry, animal/vegetable fats and oils, sugar and its confectionary, leather and its products, plywood, and footwear
Japan's merchandise trade (2009)	Imports from ASEAN: 14.1% of total; exports to ASEAN: 13.8% of total
of which preferential ^a	..
of which duty-free ^b	..
Japan's commercial services trade (2009)	Imports from ASEAN: 10.2% of total; exports to ASEAN: 13.5% of total
Related WTO documents	WT/REG277/N/1
Relevant websites	http://www.mofa.go.jp/policy/economy/fta/asean/agreement.html
Japan – Singapore	
Parties	Japan, Singapore
Date of signature/entry into force	13 January 2002 / 30 November 2002
Transition to full implementation	Completed in 2002 for Singapore; in 2010 for Japan
Main products excluded from liberalization	Certain tariff lines in meat and its products, fish and fish products, dairy products, cereals (rice) and products thereof, products of the milling industry, animal/vegetable fats and oils, sugar and sugar confectionary, leather and leather products, plywood, and footwear
Japan's merchandise trade (2009)	Imports from Singapore: 1.1% of total; exports to Singapore: 3.6% of total
of which preferential ^a	..
of which duty-free ^b	..
Japan's commercial services trade (2009)	Imports from Singapore: 4.8% of total; exports to Singapore: 8.2% of total
Related WTO documents	WT/REG140/N/1, S/C/N/206
Relevant websites	http://www.mofa.go.jp/region/asia-paci/singapore/jsepa.html
Japan – Mexico	
Parties	Japan, Mexico
Date of signature/entry into force	17 September 2004 / 1 April 2005
Transition to full implementation	2015
Main products excluded from liberalization	Certain tariff lines in meat and meat products, fish and fish products, dairy products, apples, rice, wheat, plywood, leather and products thereof, and footwear
Japan's merchandise trade (2009)	Imports from Mexico: 0.5% of total; exports to Mexico: 1.2% of total
of which preferential ^a	..
of which duty-free ^b	..
Japan's commercial services trade (2009)	Imports from Mexico: 0.3% of total; exports to Mexico: 0.4% of total
Related WTO documents	WT/REG198/4, WT/REG198/M/1, WT/REG198/N/1, S/C/N/328
Relevant websites	http://www.mofa.go.jp/policy/economy/fta/mexico.html

Table AII.3 (cont'd)

Japan – Malaysia	
Parties	Japan, Malaysia
Date of signature/entry into force	13 December 2005 / 13 July 2006
Transition to full implementation	To be completed in 2016 for Malaysia; in 2021 for Japan
Main products excluded from liberalization	Certain tariff lines in meat and meat products, fish and fish products, dairy products, pineapples, rice, wheat, plywood, leather and products thereof, and footwear
Japan's merchandise trade (2009)	Imports from Malaysia: 3.0% of total; exports to Malaysia: 2.2% of total
of which preferential ^a	..
of which duty-free ^b	..
Japan's commercial services trade (2009)	Imports from Malaysia: 0.7% of total; exports to Malaysia: 0.4% of total
Related WTO documents	WT/REG216/2, WT/REG216/3, WT/REG216/M/1, WT/REG216/N/1, S/C/N/371
Relevant websites	http://www.mofa.go.jp/policy/economy/fta/malaysia.html
Japan – Chile	
Parties	Japan, Chile
Date of signature/entry into force	27 March 2007 / 3 September 2007
Transition to full implementation	2022
Main products excluded from liberalization	Certain tariff lines in meat and meat products, fish and fish products, dairy products, pineapples, rice, products of the milling industry, plywood, leather and products thereof, and footwear
Japan's merchandise trade (2009)	Imports from Chile: 1.0% of total; exports to Chile: 0.2% of total
of which preferential ^a	..
of which duty-free ^b	..
Japan's commercial services trade (2009)	..
Related WTO documents	WT/REG234/1, WT/REG234/3, WT/REG234/M/1, WT/REG234/N/1, S/C/N/398
Relevant websites	http://www.mofa.go.jp/policy/economy/fta/chile.html
Japan – Thailand	
Parties	Japan, Thailand
Date of signature/entry into force	3 April 2007 / 1 November 2007
Transition to full implementation	To be completed in 2017 for Thailand; in 2022 for Japan
Main products excluded from liberalization	Certain tariff lines in meat and meat products, fish and fish products, dairy products, rice, products of the milling industry, plywood, leather and products thereof, and footwear
Japan's merchandise trade (2009)	Imports from Thailand: 2.9% of total; exports to Thailand: 3.8% of total
of which preferential ^a	..
of which duty-free ^b	..
Japan's commercial services trade (2009)	Imports from Thailand: 1.9% of total; exports to Thailand: 2.0% of total
Related WTO documents	WT/REG235/N/1; S/C/N/419
Relevant websites	http://www.mofa.go.jp/policy/economy/fta/thailand.html
Japan – Indonesia	
Parties	Japan, Indonesia
Date of signature/entry into force	20 August 2007 / 1 July 2008
Transition to full implementation	2023
Main products excluded from liberalization	Certain tariff lines in meat and meat products, fish and fish products, dairy products, rice, pineapples, products of the milling industry, plywood, leather and products thereof, and footwear
Japan's merchandise trade (2009)	Imports from Indonesia: 4.0% of total; exports to Indonesia: 1.6% of total
of which preferential ^a	..
of which duty-free ^b	..
Japan's commercial services trade (2009)	Imports from Indonesia: 1.1% of total; exports to Indonesia: 1.4% of total
Related WTO documents	WT/REG241/1, WT/REG241/3, WT/REG241/M/1, WT/REG241/N/1, S/C/N/462
Relevant websites	http://www.mofa.go.jp/policy/economy/fta/indonesia.html

Table AII.3 (cont'd)

Japan – Brunei	
Parties	Japan, Brunei
Date of signature/entry into force	18 June 2007 / 31 July 2008
Transition to full implementation	To be completed in 2018 for Brunei; in 2023 for Japan
Main products excluded from liberalization	Certain tariff lines in meat and meat products, fish and fish products, dairy products, rice, pineapples, products of the milling industry, firework, plywood, leather and products thereof, and footwear
Japan's merchandise trade (2009) ^c	Imports from Brunei: 0.6% of total; exports to Brunei: 0.0% of total
of which preferential ^a	..
of which duty-free ^b	..
Japan's commercial services trade (2009)	..
Related WTO documents	WT/REG244/1, WT/REG244/3, WT/REG244/M/1, WT/REG244/N/1, S/C/N/460
Relevant websites	http://www.mofa.go.jp/policy/economy/fta/brunei.html
Japan – the Philippines	
Parties	Japan, the Philippines
Date of signature/entry into force	9 September 2006 / 11 December 2008
Transition to full implementation	To be completed in 2018 for the Philippines; in 2023 for Japan
Main products excluded from liberalization	Certain tariff lines in meat and meat products, fish and fish products, dairy products, products of the milling industry, plywood, leather and products thereof, and footwear
Japan's merchandise trade (2009)	Imports from the Philippines: 1.2% of total; exports to the Philippines: 1.4% of total
of which preferential ^a	..
of which duty-free ^b	..
Japan's commercial services trade (2009)	Imports from the Philippines: 1.0% of total; exports to the Philippines: 0.8% of total
Related WTO documents	WT/REG257/1, WT/REG257/2/Rev.1, WT/REG257/M/1, WT/REG257/N/1, S/C/N/470
Relevant websites	http://www.mofa.go.jp/policy/economy/fta/philippines.html
Japan – Switzerland	
Parties	Japan, Switzerland
Date of signature/entry into force	19 February 2009 / 1 September 2009
Transition to full implementation	Completed in 2009 for Switzerland; to be completed in 2024 for Japan
Main products excluded from liberalization	Certain tariff lines in meat of swine, dairy products, potatoes, sweet corn, cereals, margarine, sugar, plywood, leather and products thereof, and footwear
Japan's merchandise trade (2009)	Imports from Switzerland: 1.1% of total; exports to Switzerland: 1.1% of total
of which preferential ^a	..
of which duty-free ^b	..
Japan's commercial services trade (2009)	Imports from Switzerland: 1.8% of total; exports to Switzerland: 1.4% of total
Related WTO documents	WT/REG273/1, WT/REG273/N/1, S/C/N/512
Relevant websites	http://www.mofa.go.jp/policy/economy/fta/switzerland.html
Japan – Viet Nam	
Parties	Japan, Viet Nam
Date of signature/entry into force	25 December 2008 / 1 October 2009
Transition to full implementation	To be completed in 2024 for Japan; in 2025 for Viet Nam
Main products excluded from liberalization	Certain tariff lines in meat and meat products, fish and fish products, dairy products, rice, wheat and products thereof, barley, plywood, leather and products thereof, and footwear
Japan's merchandise trade (2009)	Imports from Viet Nam: 1.3% of total; exports to Viet Nam: 1.1% of total
of which preferential ^a	..
of which duty-free ^b	..
Japan's commercial services trade (2009)	Imports from Viet Nam: 0.5% of total; exports to Viet Nam: 0.6% of total
Related WTO documents	WT/REG275/1, WT/REG275/N/1, S/C/N/513
Relevant websites	http://www.mofa.go.jp/policy/economy/fta/vietnam.html

.. Not available.

a Share of total partner imports that enter under FTA provisions.

b Share of total partner imports that enter duty-free (preferential or MFN duties).

Source: WTO Secretariat.

Table AII.4
Industries requiring prior notification for inward FDI, 2010

(i) Manufacturers of
(a) Weapons or products designed exclusively for activities (including transportation, communication, supply, search and rescue) to support use of any weapons or for defence against armed attacks
(b) Airplanes
(c) Satellites (including flying objects launched outside the orbit around the earth and artificial objects placed in celestial objects). Devices or propellants designed exclusively for rockets, their launch, tracking and control, or use, or materials for such devices and propellants
(d) Nuclear reactors, nuclear turbines, power generators for nuclear plants, nuclear source materials or nuclear fuel materials
(e) Accessories for products listed in (a) to (d); components of products listed in (a) to (d) and their accessories; materials exclusively designed to be used for manufacturing them or devices, tools, equipment to measure, examine or test them
(ii) Mechanical repair services pertaining to products listed in (a) to (e) of item (i)
(iii) Software services related to programs exclusively designed for the use of products listed in (a) or (b) of item (i)
(iv) Software services related to programs exclusively designed for satellites, rockets or their launch, tracking, control or use
(v) Manufacturers listed in 2 to 4 of the Appended Table 1 of the Export Trade Control Order (Cabinet Order No. 378 of 1949)
(vi) Manufacturers listed in paragraph 5, (3), (5) to (8), (14), (16), and (18), paragraph 6, (1) to (4), (6) or (7), paragraph 7 (1), (6), (7), (9) and from (16) to (19), paragraph 8-middle column, paragraph 9 (1), (3) and from (6) to (11), paragraph 10, from (1) to (4), (6), (7), (9) and (11), paragraph 12, (1), (2), (5) and (6), paragraph 13, (5) and paragraph 15-middle column, of the Appended Table 1 of the Export Trade Control Order
Agriculture
Field husbandry
Stockbreeding
Agricultural services (excluding gardening services)
Gardening services
Forestry
Forestry
Lumbering
Cultivation of forestry products (excluding mushrooms)
Forestry services
Miscellaneous forestry
Fisheries
Sea level fisheries
Inland water fisheries
Sea culture
Inland water culture
Mining
Miscellaneous metal mining ^a
Crude petroleum production
Natural gas production
Manufacturing
Textile apparel and accessories, n.e.c. ^b
Biological preparations
Gelatine and adhesives ^c
Petroleum refineries
Lubricating oils and greases (not made in petroleum refineries)
Paving materials ^d
Miscellaneous petroleum and coal products ^d
Rubber footwear and its findings
Plastic footwear and its findings
Leather tanning and finishing
Leather products, except gloves and mittens
Cut stock and findings for boots and shoes
Leather footwear
Leather gloves and mittens
Baggage
Small leather cases
Handbags
Fur skins
Miscellaneous leather products

Manufacturing (cont'd)Shipbuilding and repair^eHull blocks^eSmall watercraft building and repair^eMarine engines^eSporting and athletic goods^b**Electricity, gas, heat supply and water**

Establishments engaged in administrative or ancillary economic activities (production, transmission and distribution of electricity)

Power stations

Power substations

Establishments engaged in administrative or ancillary economic activities (production, transmission and distribution of gas)

Gasworks

Gas distribution

Heat supply

Water supply and waterworks

Information and communicationsFixed telecommunications^fMobile telecommunications^f

Public broadcasting (excluding cable broadcasting)

Commercial broadcasting (excluding cable broadcasting)

Cable broadcasting

Services incidental to Internet^f**Transport**

Railway services

Public bus operators

Coastwise transport

Inland water transport

Vessel and ship rental and leasing

Air transport

Industry using aircraft (excluding air transport)

Ordinary warehousing^gRefrigerated warehousing^g

Transport facilities services

Wholesale and retail trade

Petrol stations

Fuel stores, except petrol service stations^h**Finance and insurance**

Central bank

Agriculture, forestry and fisheries finance corporation

Combined services

Agricultural, forestry and fisheries cooperatives not categorized elsewhere

Services (except those classified otherwise)

Security services

Miscellaneous business service, n.e.c.ⁱ

a Limited to nuclear source material.

b Limited to leather and leather products.

c Limited to manufacturing of glue and gelatine.

d Limited to manufacturing of petroleum products.

e Limited to the industries related to arms and nuclear power.

f Limited to telecoms business that should be registered pursuant to Article 9 of the Telecommunications Business Law.

g Limited to industry related to oil stockpiling.

h Limited to petroleum-based products.

i Limited to industries related to charging and storage of liquefied petroleum gas (LPG).

Note: Industrial classifications in this table are based on the Standard Industrial Classification for Japan, in accordance with Notification No. 139 of the Ministry of Internal Affairs and Communications, 7 March 2002.

Source: Information provided by the Japanese authorities.

Table AIII.1
Applied tariff escalation and tariff ranges, FY2008 and FY2010
(%)

ISIC	Product and processing	FY2008				FY2010			
		Number of lines	Average	Range	S.D. ^a	Number of lines	Average	Range	S.D. ^a
	Total	8,841	6.1	0-578.6	19.9	8,824	6.0	0-458.0	17.2
	- 1st stage of processing	1,090	8.1	0-578.6	44	1,088	7.0	0-458.0	33.3
	- semi-processed	3,280	4.7	0-219	9.1	3,277	4.7	0-208.7	8.6
	- fully processed	4,471	6.6	0-318.6	15.8	4,459	6.7	0-277.7	16.1
1	Agriculture								
	- raw materials	574	5.0	0-505.2	23.2	575	4.6	0-373.1	17.8
2	Mining and quarrying								
	- raw materials	113	0.1	0-4.1	0.4	113	0.1	0-4.1	0.4
311	Food products								
	- 1st stage of processing	198	20.4	0-578.6	80.9	198	17.2	0-458.0	62.1
	- semi-processed	139	21.3	0-219	32.6	140	20.8	0-208.7	28.8
	- fully processed	828	17.5	0-225.4	20.2	827	17.9	0-252.4	21.7
312	Food manufacturing								
	- 1st stage of processing	29	26.0	0-543.3	99.8	29	7.5	0-21.3	7.9
	- semi-processed	26	40.3	1.6-114.2	27.6	26	40.3	1.4-114.2	27.6
	- fully processed	121	23.9	0-318.6	46.4	121	22.7	0-277.7	40.1
313	Beverages								
	- fully processed	57	13.9	0-74.6	17.7	59	13.1	0-77.5	17.1
314	Tobacco manufactures								
	- fully processed	8	7.0	0-29.8	10.6	8	7.0	0-29.8	10.6
321	Textiles								
	- 1st stage of processing	45	21.0	0-188.2	59.8	42	25.8	0-215.7	70.7
	- semi-processed	1,135	5.8	0-12.5	2.0	1,130	5.8	0-12.5	2.1
	- fully processed	545	7.3	0-14.2	3.0	540	7.3	0-14.2	3.0
322	Clothing								
	- fully processed	265	9.7	3.4-20	2.8	265	9.7	3.4-20	2.8
323	Leather products								
	- 1st stage of processing	1	3.0	3-3	0.0	1	3.0	3-3	0.0
	- semi-processed	97	13.5	0-30	12.3	97	13.5	0-30	12.3
	- fully processed	30	10.1	2.7-20	5.4	30	10.1	2.7-20	5.4
324	Footwear								
	- fully processed	54	48.5	3.4-254	57.2	54	52.1	3.4-253.7	62.6
331	Wood products								
	- 1st stage of processing	4	0.0	0-0	0.0	4	0.0	0-0	0.0
	- semi-processed	154	4.3	0-10	3.0	154	4.3	0-10	3.0
	- fully processed	63	3.7	0-25	3.6	63	3.7	0-25	3.6
332	Furniture except metal								
	- fully processed	43	0.9	0-3.8	1.6	43	0.9	0-3.8	1.6
341	Paper products								
	- 1st stage of processing	24	0.0	0-0	0.0	24	0.0	0-0	0.0
	- semi-processed	89	0.3	0-2.6	0.8	89	0.3	0-2.6	0.8
	- fully processed	31	0.1	0-2.6	0.5	31	0.1	0-2.6	0.5
342	Printing								
	- fully processed	28	0.0	0-0	0.0	28	0.0	0-0	0.0

Table AIII.1 (cont'd)

ISIC	Product and processing	FY2008				FY2010			
		Number of lines	Average	Range	S.D. ^a	Number of lines	Average	Range	S.D. ^a
351	Industrial chemicals								
	- 1st stage of processing	52	2.9	0-6.6	3.0	52	2.9	0-6.6	3.0
	- semi-processed	837	2.8	0-17	1.7	838	2.8	0-17	1.7
	- fully processed	25	3.6	2.5-5	0.6	25	3.6	2.5-5	0.6
352	Other chemicals								
	- 1st stage of processing	5	0.8	0-4.2	1.9	5	0.9	0-4.7	1.9
	- semi-processed	86	2.5	0-21.3	2.6	86	2.5	0-21.3	2.6
	- fully processed	236	1.3	0-21.6	2.9	233	1.3	0-23.3	2.9
353	Petroleum refineries								
	- 1st stage of processing	5	1.6	0-4.1	2.2	5	1.6	0-4.1	2.2
	- semi-processed	6	1.1	0-3.9	1.7	6	1.1	0-3.9	1.7
	- fully processed	55	1.9	0-7.9	1.7	55	1.9	0-7.9	1.7
354	Petroleum and coal products								
	- 1st stage of processing	6	1.2	0-3.9	1.8	6	1.2	0-3.9	1.8
	- semi-processed	6	0.0	0-0	0.0	6	0.0	0-0	0.0
	- fully processed	4	1.9	0-4.4	2.2	4	1.9	0-4.4	2.2
355	Rubber products								
	- 1st stage of processing	2	0.0	0-0	0.0	2	0.0	0-0	0.0
	- semi-processed	31	0.9	0-6.5	1.7	31	0.9	0-6.5	1.7
	- fully processed	72	1.9	0-27	5	72	1.9	0-27	5
356	Plastic products								
	- semi-processed	2	3.6	3.1-4	0.6	2	3.6	3.1-4	0.6
	- fully processed	27	3.9	0-4.8	0.9	27	3.9	0-4.8	0.9
361	Pottery and china								
	- fully processed	19	0.6	0-2.3	1.0	19	0.6	0-2.3	1.0
362	Glass and products								
	- semi-processed	22	1.3	0-4.2	1.9	22	1.3	0-4.2	1.9
	- fully processed	51	1.4	0-8	2.1	51	1.4	0-8	2.1
369	Non-metallic mineral products								
	- 1st stage of processing	5	0.5	0-2.5	1.1	5	0.5	0-2.5	1.1
	- semi-processed	15	2.1	0-3.3	1.1	15	2.1	0-3.3	1.1
	- fully processed	74	1.1	0-3.5	1.3	74	1.1	0-3.5	1.3
371	Iron and steel basic industries								
	- 1st stage of processing	2	0.0	0-0	0.0	2	0.0	0-0	0.0
	- semi-processed	389	0.2	0-6.3	0.8	390	0.2	0-6.3	0.8
372	Non-ferrous metal								
	- 1st stage of processing	9	0.0	0-0	0.0	9	0.0	0-0	0.0
	- semi-processed	239	1.7	0-7.5	2.0	239	1.7	0-7.5	2.0
381	Metal products								
	- semi-processed	4	1.5	0-3	1.7	4	1.5	0-3	1.7
	- fully processed	239	1.1	0-8.4	1.6	239	1.1	0-8.4	1.6
382	Non-electrical machinery								
	- fully processed	592	0.2	0-8.4	1.2	591	0.2	0-8.4	1.2
383	Electrical machinery								
	- fully processed	346	0.2	0-5.3	0.9	344	0.2	0-5.3	0.9
384	Transport equipment								
	- fully processed	164	0.1	0-8.4	0.7	164	0.1	0-8.4	0.7

Table AIII.1 (cont'd)

ISIC	Product and processing	FY2008				FY2010			
		Number of lines	Average	Range	S.D. ^a	Number of lines	Average	Range	S.D. ^a
385	Professional and scientific equipment								
	- fully processed	257	0.3	0-16	1.6	256	0.3	0-16	1.6
390	Other manufactured products								
	- 1st stage of processing	16	0.2	0-3	0.8	16	0.2	0-3	0.8
	- semi-processed	3	0.0	0-0	0.0	3	0.0	0-0	0.0
	- fully processed	237	2.6	0-30	4.4	236	2.6	0-30	4.4

a S.D. = Standard deviation.

Note: Excluding in-quota rates. Including AVEs provided by the authorities for non-*ad valorem* rates, as available. In case of unavailability, the *ad valorem* part is used for compound and alternate rates.

Source: WTO Secretariat calculations, based on data provided by the Japanese authorities.

Table AIII.2
Legislation on intellectual property rights, October 2010

Specific IP rights	Relevant legislation	Agencies responsible for administration of the law
Copyright and related rights	Copyright Law	Agency for Cultural Affairs (MEXT)
	Act on the Prevention of Unauthorized Recording of Movies in Theatres	Agency for Cultural Affairs (MEXT), METI
Trade marks	Trademark Law	Japan Patent Office, METI
Patents	Patent Law – Utility Model Law	Japan Patent Office, METI
Breeders' right	Plant Variety Protection and Seed Act	Ministry of Agriculture, Forestry & Fisheries
	Patent Law	Japan Patent Office, METI
Designs	Design Law	Japan Patent Office, METI
Geographical indications	Trademark Law	Japan Patent Office, METI
	Unfair Competition Prevention Act	METI
	Law concerning Liquor Business Associations and Measures for Securing Revenue from Liquor Tax (wines and spirits)	National Tax Agency
Layout designs of integrated circuits	Law concerning the Circuit Layout of Semiconductor Integrated Circuits	METI
Protection of undisclosed information	Unfair Competition Prevention Act	METI
Control of anti-competitive practices	Anti-Monopoly Act	Fair Trade Commission
	Unfair Competition Prevention Act	METI
Civil and administrative enforcement remedies	Code of Civil Procedure – Civil Execution Act	Ministry of Justice
	Civil Provisional Remedies Act	
	Patent Law – Utility Model Law	Japan Patent Office, METI
	Design Law	Japan Patent Office, METI
	Trademark Law	Japan Patent Office, METI
	Unfair Competition Prevention Act	METI
	Copyright Law	Agency for Cultural Affairs(MEXT)
	Plant Variety Protection and Seed Act	Ministry of Agriculture, Forestry & Fisheries
	Law concerning the Circuit Layout of Semiconductor Integrated Circuits	METI
	Anti-Monopoly Act	Fair Trade Commission
Border measures	Customs Law	Ministry of Finance
	Export & Import Trading Law	METI

Source: Information provided by the Japanese authorities.

Table AIV.1
Tariff quota quantity and in-quota imports, FY2005-08
(Tonnes)

Description	Tariff quota and in-quota imports	FY2005	FY2006	FY2007	FY2008
Skimmed milk powder for school lunch	Tariff quota quantity	7,264	7,264	7,264	7,264
	In-quota imports	2,653	2,696	2,227	2,028
Skimmed milk powder for other purposes	Tariff quota quantity	85,878	85,878	85,878	85,878
	In-quota imports	30,759	25,197	31,078	24,913
Evaporated milk	Tariff quota quantity	1,585	1,585	1,585	1,585
	In-quota imports	1,505	1,498	1,499	1,482
Whey and modified whey for feeding purposes	Tariff quota quantity	45,000	45,000	45,000	45,000
	In-quota imports	32,749	33,788	37,000	31,217
Prepared whey for infant formula	Tariff quota quantity	25,000	25,000	25,000	25,000
	In-quota imports	8,975	8,645	9,245	8,222
Butter and butter oil	Tariff quota quantity	1,873	1,873	1,873	1,873
	In-quota imports	173	250	235	241
Mineral concentrated whey	Tariff quota quantity	14,000	14,000	14,000	14,000
	In-quota imports	3,589	4,347	4,035	2,872
Prepared edible fat	Tariff quota quantity	18,977	18,977	18,977	18,977
	In-quota imports	18,317	18,816	16,299	15,309
Other dairy products for general use (whole milk equivalent)	Tariff quota quantity	133,940	133,940	133,940	133,940
	In-quota imports	128,303	130,703	129,601	131,958
Designated dairy products for general use (whole milk equivalent)	Tariff quota quantity	137,202	137,202	137,202	137,202
	In-quota imports	132,312	136,156	135,862	196,599
Dried leguminous vegetables	Tariff quota quantity	120,000	120,000	120,000	120,000
	In-quota imports	69,981	96,627	90,069	82,494
Wheat, meslin, triticale and their processed products (wheat basis)	Tariff quota quantity	5,740,000	5,740,000	5,740,000	5,740,000
	In-quota imports	5,287,710	5,479,033	5,282,598	5,288,584
Barley and its processed products (barley basis)	Tariff quota quantity	1,369,000	1,369,000	1,369,000	1,369,000
	In-quota imports	1,449,276	1,523,030	1,273,645	1,231,549
Rice and its worked and/or prepared products (milled rice basis)	Tariff quota quantity	682,200	682,200	682,200	682,200
	In-quota imports	679,511	679,252	614,678	676,698
Starches, inulin and preparations of starches	Tariff quota quantity	157,000	157,000	157,000	157,000
	In-quota imports	136,264	165,126	134,280	137,618
Ground nuts	Tariff quota quantity	75,000	75,000	75,000	75,000
	In-quota imports	40,266	43,497	33,441	31,230
Tubers of konnyaku (dried slice basis)	Tariff quota quantity	267	267	267	267
	In-quota imports	51	60	85	148
Silk-worm cocoons and raw silk (raw silk basis)	Tariff quota quantity	798	798	798	798
	In-quota imports	7	6	3	739

.. Not available.

Source: WTO notifications.