



MOFA's Undertakings to Promote Intellectual Property Rights

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Part 1 Government's IP Policy

1-1 IP as a National Strategy

Advent of IT and knowledge-based society in the 21st century

- IP Basic Act (November 2002) :
- IP Strategy Headquarters (March 2003) :

Established in accordance with Chapter 4 of the IP Basic Act, comprised of the Prime Minister, Cabinet Members and other key figures from the private sector, and has published the IP strategic programs annually since 2003.

1-2 IP Basic Act

Purpose of the IP Basic Act

"... for the objective of realizing a dynamic economy and society that is based on the creation of added values through the creation of new intellectual property and effective exploitation of such intellectual property ... by stipulating the basic principles on the creation, protection and exploitation of intellectual property and the basic matters to achieve the principles..." (Article 1: purpose)

Innovative Points of the IP Basic Act

- Basic measures relating to the creation, protection and exploitation of IP (Chapter 2)
- Formulation of strategic programs on the creation, protection and exploitation of IP (IP Strategic Programs) (Chapter 3)
- Establishment of an IP Strategy Headquarters to implement measures concerning the creation, protection and exploitation of IP in a planned and focused manner (Chapter 4)



MOFA's Roles and Undertakings

- Strengthening our industries' global competitiveness and sustainable development (Article 4)
- Measures against infringements (Article 16)
- Construction of international regimes (Article 17) etc.



1-3 IP Strategy Headquarters and IP Strategic Programs

IP Strategy Headquarters (March 2003)

Established, **in accordance with Chapter 4 of the IP Basic Act**, to implement measures concerning the creation, protection and utilization of IP in a planned and focused manner.

- Formulation and implementation of the IP Strategic Programs
- Coordination of measures and policies among ministries
- Formulation of annual IP Strategic Programs

Annual IP Strategic Programs (since July 2003)

Established, **in accordance with Chapter 3 of the IP Basic Act**, to formulate “a promotion plan on the creation, protection and exploitation of IP” that outlines measures that the government should take in a planned and focused manner (revised annually since 2003)

- Enlargement of activities abroad and reinforcement of measures against counterfeits and pirated goods (FY 2004)
- Efforts for construction of global piracy system (FY 2005)
- International standardization activity (FY 2006)
- Reinforce of contents companies’ global competitiveness (FY 2007)
- Reinforce of global competitiveness in the field Japan especially focuses on(FY2008)
- Promoting a strategy to develop soft power industries(FY2009)
- Enhancement of the competitiveness by being recognized as international standard, the growth strategy with a core of reinforcement of “contents” and cross industrial sectional measure for strengthening intellectual property rights etc and,
- Keeping efforts for early realization of Anti-Counterfeiting Trade Agreement (ACTA)(FY2010)



Part 2 MOFA's Undertakings

2-1 Assisting Japanese Companies Overseas and Measures against Infringements in Overseas Markets

2-1-1 Establishment of IP Affairs Division

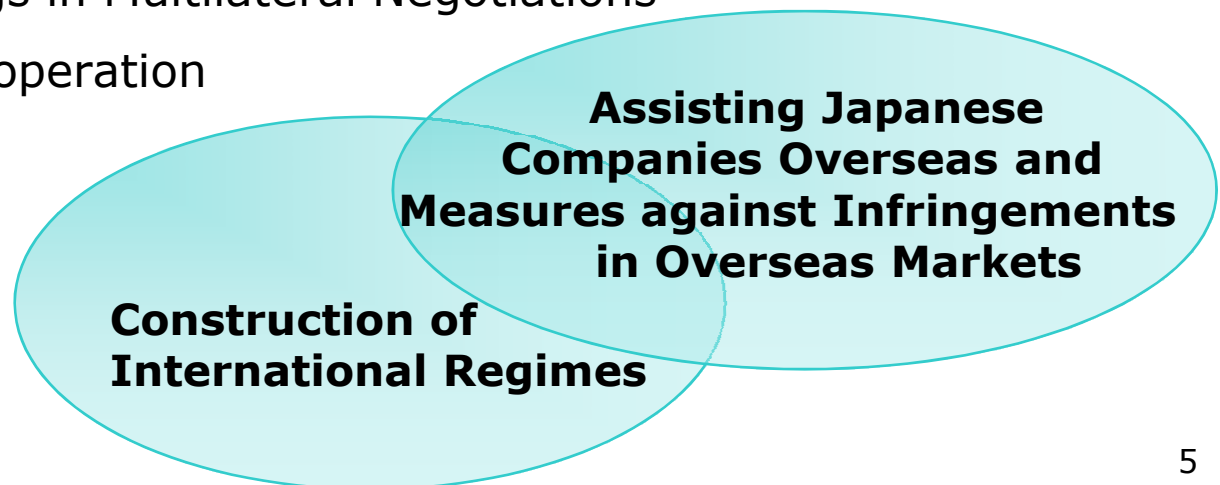
2-1-2 Improvement of Capacity of Overseas Diplomatic Establishments

2-2 International Dialogues and Construction of International Regimes

2-2-1 Undertakings in International Organizations

2-2-2 Undertakings in Multilateral Negotiations

2-2-3 Bilateral Cooperation





2-1 Assisting Japanese Companies Overseas and Measures against Infringements in Overseas Markets

2-1-1 Establishment of IP Affairs Division

- **Proposal by Special Committee for Reinforcement of Protection (a subordinate organization of IP Strategy Headquarters) on 13 May 2004**

"Positioning measures against counterfeits and pirated copies as a key diplomatic policy of Japan, the Government should strengthen its function by establishing an IP Affairs Division in the Economic Affairs Bureau of the Ministry of Foreign Affairs."

- **IP Strategic Program 2004**

"The Government should strengthen its function by establishing IP Affairs Division in the Economic Affairs Bureau of the Ministry of Foreign Affairs by the end of FY 2004."



"Chiteki-Zaisan-Ken-Shingai-Taisaku-Shitsu (IP Affairs Division)" was established in the First International Organization Division (currently the International Trade Division) of the Economic Affairs Bureau on 12 July 2004.

"Chiteki-Zaisan-Shitsu (IP Affairs Division)" was newly established by amending the Rule of Organization of the MOFA on 1 April 2008.

- Establishment of "the Conference among the Ministries to Cope with Counterfeiting and Piracy" chaired by Assistant Chief Cabinet Secretary (July 2004)
- Establishment of "the Government's Comprehensive Office for Consultation Services on Counterfeits and Pirated Copies" (August 2004)
- Formulation of Policy Package to Accelerate Measures against Counterfeiting and Piracy (December 2004)



2-1-2 Improvement of Capacity of Overseas Diplomatic Establishments

IP Officers

- Nomination of IP Officers in all overseas diplomatic establishments* (March 2005)
- *Overseas diplomatic establishments include embassies, consulates-general and permanent missions.
- By specifying contact persons, each overseas diplomatic establishment led by its head, collectively and promptly copes with the infringement of IPR, to support IP protection of Japanese companies.

Manual to Cope with IPR Infringement

- Distributed to all overseas diplomatic establishments
- The basic knowledge of IPR, reference sources and procedure to cope with the infringement of IPR are mentioned.

Meetings for IP Officers

- Held from 2006 to improve the ability of IP Officers, to strengthen the relationship among overseas diplomatic establishments, JETRO and private sectors, and to advance the measures to cope with the infringement.
- Held in New Delhi in February 2010 (for IP officers in Southwest Asia), in Beijing (for IP officers in China) and in Dubai (for IP officers in Middle-East and North Africa) in January 2011.



2-2 International Dialogues and Construction of International Regimes

2-2-1 Undertakings in International Organizations

WTO/TRIPS

- Meetings concerning TRIPS (Trade-Related Aspects of Intellectual Property Rights) Agreement (Annex 1C to WTO Agreement)
- Key Issues

- ✓ Geographical indications (GI)
 - Multilateral system of notification and registration of GI (part of the Doha Single Undertaking)
 - Japan, US etc. seek a non-binding registration system which utilizes database.
 - EU calls for a binding registration system.
 - Extension of products for enhanced level of protection of GI (outstanding implementation issue)
 - The countries in the Old Continent are positive, while those in the New World are negative. Japan is neutral.

- ✓ Benefit sharing arising out of invention utilizing genetic resources
 - Developing countries such as India and Brazil argue that the obligation should be established to disclose some information such as the country of origin of genetic resources under the TRIPS Agreement in patent application.
 - Developed countries such as US, Australia and Japan oppose amending the TRIPS Agreement, arguing that patent system change is not an effective way to ensure access to GR and benefit sharing. (EU and Norway are positive to amending the TRIPS agreement.)

2-2-1 Undertakings in International Organizations

World Intellectual Property Organization (WIPO)

- A Specialized Agency of the United Nations on IPR (currently 184 members)
- Holding meetings on the protection of patents, trademarks, copyrights etc.
- Holding meetings on genetic resources, traditional knowledge and folklore

Treaties under negotiations

- Substantive Patent Law Treaty
- Treaty on the Protection of Audiovisual Performances
- Treaty on the Protection of Broadcasting Organizations

International Union for the Protection of New Varieties of Plants (UPOV)

- Mainly technical discussions about the protection of plant varieties (currently 68 members)



2-2-2 Undertakings in Multilateral Fora

G8 Summit

- **Gleneagles Summit (2005)**
Statement on actions to reduce IPR piracy and counterfeiting
Prime Minister Koizumi raised the necessity of “a legal framework”
- **Saint Petersburg Summit (2006)**
Statement on concrete measures to reduce trade in pirated and counterfeit goods
A continued study on “a legal framework” by experts
- **Heiligendamm Summit (2007)**
Statement on concrete measures to promote and protect innovations
A further continued study on “a legal framework” by experts
- **Hokkaido Toyako Summit (2008)**
Leaders Declaration referring to an effective protection and promotion of IPR, and the promotion of an effective IP system
- **L’Aquila Summit (2009)**
Leaders stressed the importance of inclusive and ambitious international corporation to tackle counterfeiting and piracy, such as effort to agree Anti-Counterfeiting Trade Agreement(ACTA) as soon as possible.

(note) There was no reference to intellectual property in Muskoka Summit(2010)



2-2-2 Undertakings in Multilateral Fora

APEC

- APEC Anti-Counterfeiting and Piracy Initiative (June 2005): Proposed by US, Korea and Japan and agreed at the Meeting of APEC Ministers Responsible for Trade in June 2005
- APEC Model Guidelines (2005, 2006 and 2007): APEC Anti-Counterfeiting and Piracy Initiative demanded to make Model Guidelines. 6 Model Guidelines had been accepted by 2007.

OECD

- Study on the Economic Impact of Counterfeiting and Piracy

The result of the first phase study was published that the damage of counterfeit and piracy was estimated USD 200 billions in 2005 and USD 250 billions in 2007(only international trade exclude digital trade), and the study of investigation on digital piracy(Second phase study) was completed.



2-2-2 Undertakings in Multilateral Fora

Anti-Counterfeiting Trade Agreement (ACTA)

- **Purpose**

To combat global counterfeiting and piracy by establishing a high-level international legal framework based on strong legal standards on enforcement of IPR, strengthening the enforcement practices, and international cooperation

- **Backgrounds**

- ✓ Japan raised the necessity of a legal framework to combat counterfeiting and piracy at the G8 Gleneagles Summit 2005.
- ✓ Japan has actively been leading the discussions on the contents to be actualized in close cooperation with other countries that are highly concerned about protecting IPR.
- ✓ Japan, US, EU etc. released that they have started the intensive negotiation to realize ACTA framework to the press on 23 October 2007. Thereafter the countries concerned continued unofficial meetings to discuss concrete contents of the ACTA. Negotiations based on the draft of the ACTA has been held since 2008, and totaling 11 meetings were held. The Participants basically agreed on the draft text at the final round of negotiations held in Tokyo from 23 September to 2 October 2010. The text in English was released to public in December 2010 after settling all remaining issues and the necessary legal review. (The participants in the meetings: Japan, US, EU, Canada, Switzerland, South Korea, Mexico, Singapore, Australia, New Zealand, Morocco.)

- **Key Components**

- ✓ International cooperation:
Capacity building and technical assistance to developing countries, cooperation among enforcement agencies including exchange of information, etc.
- ✓ Enforcement practice:
Establishment of public/private advisory groups, fostering of specialized IP expertise within law enforcement structures, etc.
- ✓ Legal framework (border measures, criminal enforcement, civil enforcement, etc.):
Suspension for importation and exportation of suspected infringing goods, penalty for counterfeit labels, reduction of burdens of right holders to store and destroy infringing goods at the customs, damages adequate to compensate to right holders, measures against Internet piracy, etc.



2-2-3 Bilateral Cooperation (with US)

Framework of Cooperation between Japan and US

- Japan-US Summit Meeting in June 2006 declared the reinforcement of cooperation between Japan and the US on the protection and regulation of IPR. After Subcabinet Economic Dialogue in December 2006, officers of the both countries agreed to cooperate in the elements below in order to strengthen the reinforcement of IPR protection and enforcement globally.
- ✓ Strengthening IPR enforcement:
 - Realization of framework of ACTA
 - Promotion of measures against counterfeiting and piracy in the Asia-Pacific region
- ✓ Streamlining and harmonizing the international patent system
- ✓ Information exchange on the copyright system corresponding to digital networking
- ✓ Cooperation on trademark issues, exploitation of Regulatory Reform and Competition Policy Initiative, etc
- Japan-US Summit Meeting in April 2007 reaffirmed the reinforcement of bilateral and global cooperation in protection and promotion of IPR.

Next Steps

Among the elements above, Japan and US are now working on framework of ACTA, patent area, etc. The cooperation will be reinforced and promoted by continuing the discussion in Subcabinet Economic Dialogue for example.



2-2-3 Bilateral Cooperation (with EU)

Japan-EU Dialogue on IPR

Based on the agreement of Japan-EU Summit Meeting in 2003, the meeting is held annually in Tokyo and Brussels one after the other. The opinions were exchanged in the fields of patent, copyright, trademark, measures against counterfeiting and piracy, geographical indication, and customs cooperation. The 7th meeting was held in Tokyo in March 2010.

Framework of Cooperation between Japan and EU

○ **Japan-EU Joint Initiative for the Enforcement of IPR in Asia**

In the 13th Japan-EU Summit in 2004, Japan and EU agreed to cooperate in preventing counterfeit and pirated goods. In October 2004, joint seminar was held by Japan, EU and China in Beijing.

○ **Japan-EU Action Plan on IPR Protection and Enforcement**

Launched by the 16th Japan-EU Summit in 2007 as joint statement's annex. Japan and EU strengthened their existing Joint Initiative by expanding the both geographical and thematic scope of cooperation. The action plan is to be reviewed annually in the Japan-EU IPR Dialogue and the Summit Meeting.



2-2-3 Bilateral Cooperation (with China)

Japan-China High-Level Economic Dialogue

- When Premier Wen Jiabao of China made an official visit to Japan, Japan-China High-Level Economic Dialogue was founded as a framework of cross-fields dialogue at minister level. The first meeting was held in December 2007.
- In June 2009, the second meeting was held. With regard to IP issues, Both Parties appreciated to make up Memorandum between METI and Ministry of Commerce to found IP working group for reinforcing communication and cooperation with each other relating to IPR and to continue exchange IP mission. IPR protection issues were also raised at the third meeting in August 2010.

Japan-China Economic Partnership Consultation

- The foundation was agreed by Japan-China Summit Meeting in February 2002 and the first meeting was held in October 2002.
- In this official economic consultation, Japan requested the reinforce of IPR enforcement including the requests by the Public/Private Joint Delegation, as one of the most important agenda.
- In July 2010, the 8th consultation was held in Beijing. Main agenda were improvement of appropriate protection of Japanese geographical name and famous trademark, and contents piracy.

Public/Private Joint IPR Delegation to China

- International Intellectual Property Protection Forum (IIPPF), a Japanese cross-industry organization, and Japanese government has been cooperated, and exchanged the opinions with Chinese government agencies concerned, on the cooperation to reinforcement of IPR enforcement in the way of cooperation and request. Japan also requested the improvement of system and enforcement in China.
- Since 2002, delegation has been sent to China for 7 times. What have been achieved to date includes: the amendment of the standard of patent, reduction of right holder's burden on the border, revision of ordinance for protection of information network communication right etc., and improvement in enforcement such as disclosing court's decisions. We gave technical cooperation with patent judges, seminars to local regulators, and list of infringements and infringers. Official level delegation was sent in August 2010.



2-2-3 Bilateral Cooperation (with ROK)

Japan-ROK High-Level Economic Consultation

The 9th consultation was held in December 2010. During 5th – 8th Consultation, special sessions at the working level on IPR work set up.

Cooperation between Custom offices

Based on Japan-ROK Mutual Assistance Agreement in Customs Matters (signed in 2004), custom offices exchanged the information for border measures against IPR infringements.

Japan-ROK Patent Office Commissioners Meeting

At this annual meeting they agreed in substantive cooperation aiming for work sharing, such as promoting the use of Patent Prosecution Highway and expanding the network. The 22nd meeting was held in December 2010.

Japan-ROK Copyright Consultation

This meeting is held annually. In October 2010, the 5th meeting was held between Japanese Agency for Cultural Affairs and Korean Ministry of Culture, Sports and Tourism, who exchanged the information about copyright protection system and measures against infringement.

IPR Regulation External Organization Consultations

In August and December 2006 and November 2007, Japan took part in the consultations hosted by the Korean Ministry of Justice. Japan explained the current situation of the IPR infringement and worked on Korean government with Seoul Japan Club, a Japanese companies organization and public/private sectors of US and EU.