The Report
of
the Joint Study on the Possible Modality of Trilateral Investment Arrangements Among the Republic of China, Japan, and the Republic of Korea

日中韓投資取決めのあり得
べき形態に関する共同研究
（報告書仮訳）

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Contents

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Summary

In October 2003 in Bali, Indonesia, the leaders of the People's Republic of China, Japan, and the Republic of Korea, agreed to launch an informal joint study on the possible modality of trilateral investment arrangements composed of representatives from the government, business, and academia.

The Joint Study Group (JSG) discussed a wide range of issues on the economic effects of enhancement of investment, the improvement of business environment, and the implementation of possible trilateral investment rules, with a view to taking further steps to promote inward foreign direct investment (IFDI) for the development of each domestic economy.

The JSG has now completed its work and summarizes that:

1. The JSG reaffirmed the importance of IFDI for the development of each domestic economy and the need to take further steps to promote trilateral investment by improving the business environment and strengthening the relevant investment arrangements in regard to domestic and international rules.

2. The JSG acknowledged that the promotion of investment will enhance the dynamism of the tripartite economic relationship and contribute to the creation of a win-win-win situation, and that further investment promotion will create a basis for economic integration in North East Asia and form a good trade-investment cycle.

3. The JSG reconfirmed the necessity for further efforts to promote IFDI on the basis of the actual needs as well as the importance of addressing specific problems raised by investors as barriers against the promotion of IFDI.

4. The business environment should be further improved in order to enhance investment among the three countries. The JSG recommended that the three countries implement the measures as soon as possible on which consensus was reached at the JSG. The JSG agreed on the need to establish a mechanism among the governments of the three countries to follow up on the implementation of the suggestions and to produce additional measures for the improvement of the business environment with inputs from the business sector.

5. The JSG recommended that a legal framework concerning investment among the three countries should be explored in a timely manner. Japan stated that the legal framework should contain the same high standards as are seen in the recently-concluded investment arrangements, and also stated that the leaders seriously consider entering into negotiations on the trilateral investment arrangement at a mutually agreed early date with a view to concluding the negotiations in a reasonable period of time. Korea agreed on the need to consider entering into negotiations on the high-level trilateral investment arrangement and stated that trilateral joint efforts at the government level through the above-mentioned mechanism are needed to this end. Given the different level of the economic development of the three countries, China stated it is still premature to enter into such negotiations.

Part I. Foreign Direct Investment (FDI) among China, Japan, and Korea:
Recent trends and Economic effects

1. Recent FDI flows among China, Japan, and Korea (See Figures 1 through 3 attached)

001. Since the 1990s, there has been a rapid and intensive increase of FDI flows among China, Japan, and Korea dominantly led by inflows to China. According to the Ministry of Commerce of China, FDI from Japan and Korea to China peaked once in the mid 1990s, in terms of both numbers and value, and has been on the swift increase once again since 2000. In 2003, FDI recorded the highest level both from Japan and Korea, and especially Korea's FDI has overtaken Japan, not only in numbers but also in value. The same trend was identified from the outflow FDI figures from Japan and Korea.

1.1. FDI between China and Japan

002. According to Chinese figures, by the end of 2003, there were 28,401 Japanese-invested enterprises in China, with a cumulative contractual investment value of $57.5 billion and actual investment of $41.4 billion, accounting for 6.10% of the total number of investment, 6.10% and 8.25% of the total foreign investment respectively. However, according to Japanese figures, only 4,837 cases were reported between 1989-2003, accounting for 14.3% of total number of investment and 4.4% of the total value of investment with a value of $23.5 billion. Japan has already become the second largest investor to China, but in terms of the value of investment, there still remains much potential.

003. Compared with Japan and Korea, China is still a minor capital exporter, but the number of cases including M&As in Japan has increased to acquire modern production capacities, technology, brands, and marketing knowledge. According to Chinese figures, by the end of 2003, China had approved 250 non- financial enterprises in Japan with a total investment value of $ 90 million. Based on Japanese figures, FDI from China still remained mere 581 cases and ¥9.1 billion from F.Y. 1989 to 2003.

1.2. FDI between China and Korea (see Table 2 attached)

004. According to Chinese figures, by the end of 2003, 27,128 Korean-invested enterprises have been established in China, with a cumulative contractual investment value of $36.7 billion and actual investment of $19.7 billion, accounting for 5.83% of the total number of foreign-invested enterprises and 3.88% and 3.93% of the total amount of contractual and actual FDI in China respectively. Based on Korean figures, by the end

of 2003, 10,923 cases of Korean investments have been made in China, with a cumulative actual base investment value of $14 billion. Korea ranks as the 5th largest FDI source of China. Although Korea's FDI to China started at a later stage, following the establishment of diplomatic relations in 1992, the number of cases as well as the proportion of FDI to China in Korea's total FDI has far exceeded that of Japan, reaching even 60% in cases, and nearly 40% in value in 2003.

005. Chinese investment to Korea is also relatively minor. According to Chinese figures, the number of approved Chinese-invested enterprises in Korea reached 72 by the end of 2003, with a total investment value of approximately $300 million. In contrast, according to Korean figures, the number of Chinese-invested enterprises in Korea reached 3,624 by the end of 2003, with a total investment value of approximately $522 million. In Korea, take-over activities by Chinese firms have already been taking place in major manufacturing businesses, such as semiconductors and automobiles.

1.3. FDI between Japan and Korea

006. After the financial crisis in 1997, Korea has thoroughly and successfully made improvement on its FDI policy in order to host competitive global corporations. Despite the recent decline, Korea's IFDI (Inward Foreign Direct Investment) remains at a higher level compared with the pre-crisis one. On the other hand, Japan has also committed to promote IFDI as an important element of its economic reform, but the pace is modest, and the volume remains extremely small[1] considering its market size and its potential (See Figure 4 attached).

007. Japan's FDI to Korea has increased in recent years, but the contribution has been modest, compared with the EU or the U.S. (see Figure 5 attached), as Korea has successfully diversified its IFDI sources. As of 2003.3Q (accumulated since 1962), based on Korean figures, Japan is still the 3rd largest investor with $13.3 billion, following the U.S. ($27.5 billion) and the EU ($27.6 billion). As Korea is a relatively mature economy with a industrial structure closer to Japan, FDI from Japan to Korea has become highly segmented, strategic[2], and R&D-intensive, as is symbolized by the Sony-Samsung commitment of $1.4 billion in a joint venture, which is followed by other IT related

[1] Japan's IFDI includes loans in addition to acquisition of equities.

[2] In fact, after BIT, Japan's FDI in 2004 rapidly grew to $1.75 billion in nine months from $441 million in 2003. Many projects were in the form of M&A and alliance with the local partners, enjoying national treatment in the agreement fully.

projects.

008. On the other hand, Korea's FDI to Japan has remained at a negligible level, as its FDI has traditionally headed for the U.S. and China. According to Japanese figures, Japan has received 554 cases and $621 billion of investment from Korea between 1989-2003, the third largest of its IFDI from the East Asian economies, following Singapore and Chinese Taipei. Based on Korean figures, 736 cases of Korean investments have been made in Japan, with a cumulative actual investment value of $989 million. However, several cases of R&D activities by large firms as well as venture firms have begun to make a new trend of Korea's FDI to Japan in recent years. The new Korea-Japan Bilateral Investment Treaty (BIT) is expected to promote this trend and make more dynamic industrial adjustments, as well as pave the way for an Economic Partnership Agreement (EPA) or a Free Trade Agreement (FTA).

2. The Economic Effects of FDI among China, Japan, and Korea

2.1 FDI complementing Trade, Industrial accumulation, and Intra-industry trade

009. Investment activities among the three countries offer more complementary than substitutive effects to trade, and have played an important role in bringing about trade-creation effects among China, Japan and Korea. The growth of trilateral FDI has contributed to boosting intra-industry or intra-firm trade among the three countries. Along with FDI, there has been a boom in exports of equipment, spare parts and raw materials from Japan and Korea, while China has increased exports of processed goods to Japan and Korea, taking up an increasingly large share of the export markets of the two countries.

010. Relations between FDI and trade are deeply related with massive industrial accumulation intensively emerged in certain region including huge supporting industry bases. This is particularly the case with IT hardware. IT industry has been developed, with both vertical and horizontal division of labor, among China, Japan, Korea, Chinese Taipei and Hong Kong, even extending links to Russia and India in software industry. While traditional manufacturing such as steel, petrochemical, and general machinery is based on vertical division of labor, IT hardware has an exceptionally horizontal division

[3] In fact, after BIT, Japan's FDI in 2004 rapidly grew to $1.75 billion in nine months from $441 million in 2003. Many projects were in the form of M&A and alliance with the local partners, enjoying national treatment in the agreement fully.

of labor, partly due to the new digital and module types of technology paradigm.

011. Driven by IFDI and local entrepreneurship, China has emerged as one of the world's largest supplier of IT hardware, making itself the biggest and fastest growing market. Japan and Korea have become the suppliers of high-value added, technology-intensive intermediate products for China, but are always challenged by rising competition from China's local entrepreneurs. The rising competition once sparked a debate in Japan over the so-called "hollowing-out effect" of FDI into China. Since 2003, however, Japan has been increasing domestic investment again, concentrating on very R&D intensive and skill-intensive processes. Meanwhile, responding to competition from both Japan and China, Korea has also been increasing R&D activities and industrial cooperation with China in future technological standards such as in telecommunications as well as in logistics with high-value added processing activities.

012. Active FDI among the three countries has optimized their own advantages in production factors, such as Japan and Korea's technology, capital and management, and China's labor force, land, market dynamism. In this aspect, the investment activities among the three countries complement each other's comparative advantages, resulting in dynamic industrial restructuring and sophistication in each country. Utilization of FDI from Japan and Korea enables China to acquire adequate capital and technologies to upgrade industrial structure and develop modern technological industries. FDI to China helps Japan and Korea to explore new markets and pursue higher overseas investment profits to support the restructuring of domestic economy.

2.2 FDI for Spillover Effects

013. The increasing FDI among the three countries has brought not only direct profit to enterprises, but also the spillover of technologies and managerial expertise to the hosting economies, thus ensuring the sustainable economic growth of the three countries. China sets a good example for utilizing IFDI as a major driving force for its economic development. IT hardware industries are typically successful case in spillover effects from IFDI. On the other hand, market growth in China has been dynamically linked by FDI and FDI-related trade with the domestic economies of Japan and Korea.

2.3 FDI for Reform and Credit

014. Another dynamic, or even strategic role of FDI is to ensure the credibility of reform

policies, by providing governments with incentives for good policies. To this effect, new types of BITs containing further investment liberalization become integral parts of FTAs, which shows a country's commitment to open and reform policies. So far, China has been successful in attracting FDI, yet there still is room to further improve its FDI policy to ensure that China maintain an attractive FDI environment. Further liberalization in line with WTO commitments is regarded as an effective measure for attracting FDI.

015. The need to attract FDI is no less important for Japan and Korea. As the development strategies of Japan and Korea used to put an excessive emphasis on indigenous industries in the past, the two countries were not necessarily enthusiastic or even negative about hosting FDI. However, the economic crisis experiences of the two countries, that is, Japan's "lost decade" in the 1990s and Korea's financial crisis in 1997, have given them the lesson that it is crucial to attract productive foreign businesses in order to stay competitive in the global economy. Cooperation among China, Japan and Korea, especially one in the form of an investment agreement is expected to create reciprocal benefits for all participants.

3. Findings and Links to Policy Issues

016. Despite the valuable experience and unique development mechanisms involved with the synergetic relationship between FDI and trade, China, Japan, and Korea still have ample room to tap their potential.

017. As industrial structures become closer to each other, more strategic FDI is required compared with traditional simple green-field FDI utilizing local factor endowments. In addition, the scale of investment becomes increasingly bigger, involving complicated networks of local subcontractors as well as cross-border financial supports. To attract a strategic and large-scale FDI, a better and more sophisticated environment becomes essential, as demonstrated through the experiences of other mature economies in Europe and North America, which have benefited from dynamic FDI effects.

018. In addition to the role of market-led growth in FDI attraction, a well-established environment, which includes improved transparency in rules, deregulations with prudential measures, reinforced protection of investor's rights and IPR, and effective dispute settlement mechanism, is also important in promoting FDI, so that business

risks of large-scale and complicated FDI can be reduced. For China, Japan, and Korea to further enhance their economic benefits from FDI, it is inevitable that they make efforts to improve their own investment environment. The important starting point will be to share the common experiences among China, Japan, and Korea. Further institutional reform at home and trilateral cooperation based on the common experiences would be beneficial not only to the three countries, but also to the whole East Asian region, by properly developing the huge potentials of the three countries.

PART II. Improvement of Business Environment

019. The JSG stressed that improvement of the business environment is essential for the promotion of investment among China, Japan and Korea. It recognized the necessity of improving the business environment in the following five areas:

a. Transparency of laws and regulations
b. Protection of intellectual property rights (IPRs)
c. Dispute settlement mechanism including at the level of local areas
d. Promotion of investment and relevant services
e. Coherence of national and local administration

020. The JSG had in-depth discussions, as contained in the annex. The government of China, Japan and Korea are encouraged to continue studying these issues with a view to implementing as many of them as appropriate. It also provided various suggestions in the aforesaid areas as follows.

021. On transparency, the recent improvements in the three countries were discussed. In order to improve transparency, Japan has introduced a no action letter system, a public comment system and the Administrative Procedure Law of 1993. The combination of these measures has substantially improved the transparency in Japan. Korea's Administrative Procedures Act of

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[4] There is a fairly large discrepancy in FDI figures between the investors and hosting partners, especially in terms of China. Chinese data shows that Japan's FDI by actual basis in 2003 for example, recorded as much as 3,254 cases in $5.1 billion, but Japan's data shows that it was only 332 cases and $3.1 billion in 2003. In the same manner, China received 4,290 cases and $4.5 billion in the same period from Korea while Korea's data shows that Korea invested 1,622 cases and $1.3 billion.
This is partly due to (1) the large role of Hong Kong as a financial allocation center as well as a center of multi-national enterprises (MNEs) headquarters controlling their business in China, (2) the fact that Japan's FDI has gone into a re-investing stage in recent years, (3) serious technical constraints in compiling FDI statistics among these countries, and (4) the difference of the definition of FDI among the three countries.

[5] Chinese figures (TBA), Japanese figures (TBA), Korean figures (TBA).
[6] Japan's IFDI includes loans in addition to acquisition of equities.
[7] Based upon the data from Ministry of Commerce of China (MOFCOM), the share of export by foreign-invested enterprises has increased from 4% of the total export in 1986 to 55.5% in 2003. According to METI, Japan's import from Chinese affiliates has doubled from ¥452 billion in 1997 to ¥1,065 billion in 2002, catching up ASEAN and NIEs (see attached Figure 6). In line with the increase of intra-company trade, China's export structure to Japan has been changed rapidly, making machinery as the largest item consisting 37.3% of export.

1996 and the Act on Disclosure of Information by Public Agencies of 1996, which mandate inviting public comments and providing details of regulation and criteria for authorization upon request, have also contributed to enhancing overall transparency in its government regulations. China has introduced the Administrative Licensing Law in 2003 to limit the scope of investment activities that require licenses. Ministries in China have requested comments from foreign companies before finalizing the rules and established focal points to respond to questions relating to its WTO accession.

022. The JSG, while welcoming such improvements by the three countries, believes that further steps should be taken to enhance transparency. In particular, Japan and Korea stressed the importance of the enforcement of laws, regulations, and taxation. In this regard, the JSG agreed on the need to establish an information exchange system among the three countries with a view to providing prompt investment-related information including the details of regulations, criteria, and procedures. Measures to respond to specific questions concerning rules and regulations are also recommended. Linkage could also be set up among the investment-related websites of the three countries. It is also recommended that the following measures be introduced among China, Japan and Korea, if not yet taken:

a. Introduction of a public comment system in the area related to investment activities.

b. Making an unequivocal commitment that those laws and regulations pertaining to or affecting investment are published or made available to other members. Also, making an unequivocal commitment that people or companies shall not be disadvantaged for not following administrative guidance which is not specifically based on laws or regulations or for raising legitimate concerns including IPR infringements.

c. Adoption of a system which responds to questions concerning the status of applications to the governments after the period of time stipulated in the relevant laws and regulations has passed.

d. Provision of a clear explanation, preferably in written form, when declining requests for licenses or authorization.

023. To enhance transparency, Japan proposed the introduction of a no action letter system and Korea proposed the introduction of an authorized responding system, by the ministries responsible for areas that affect the activities of foreign companies, and by local governments in regions with significant foreign business presence. China stated that it would study a system

under which it would endeavor to respond to written requests in a written form regarding the clarification of the legality of business activities.

024. With regard to IPR, the importance of protecting IPRs in promoting investment was discussed and reaffirmed. While the JSG welcomed the significant improvement in the protection of IPRs that had been made by China, Japan and Korea in the recent years, it believes that further action needs to be taken. Japan suggested that review mechanisms should be established to address and provide recommendations to resolve specific issues concerning IPR protection raised by foreign companies. It was also suggested that the IPR authorities of the three countries should pay special attention to and strengthen cooperation on the issues related to IPR protection. The importance of establishing divisions specializing in IPR issues within courts was also noted.

025. In the context of dispute consultation, the JSG welcomed the establishment of Claim Centers by each country. Also, some examples of consultation among local governments and the foreign business communities were quoted. The group expressed its hope that such activities would be redoubled and conducted further by other local governments. The JSG believes that such a mechanism will help prevent disputes and promote investment.

026. The JSG noted the success of the “one stop service center” such as those in Korea and in Suzhou, China, where central government and local offices of the government ministries cooperate in coping with substantive matters with a view to promoting investment to the region. In this regard, the JSG suggested that other central or local governments of each country follow and build upon the effective model of the “one stop service center” demonstrated in Korea and in Suzhou, China.

027. Various investment promotion activities conducted by China, Japan and Korea such as investment fairs and marts were discussed by the group. The JSG recommended that the three countries cooperate further in such activities.

028. The JSG agreed that the promotion of coherence of national and local administration, including consistency in the implementation of rules and regulations at both a national and local government level, is vital for the enhancement of investment. In this regard, training officials at the local level, as well as prompt provision of details of regulations, criteria, and procedures to the public are recommended as effective measures to promote coherent national and local administration.

029. In addition to the five areas described above, availability of credit information was raised as an important factor for companies to provide finances and other credits. The group noted the system for sharing credit information which operates in Shanghai, and encouraged the introduction of similar measures in other regions of the three countries, if not yet introduced.

030. The JSG noted that cooperative measures should be taken by the three countries to simplify the business visa-issuing procedure in order to facilitate business mobility among the three countries.

031. The JSG also noted that the relatively high cost, incurred from the distribution and logistics systems that are different from or discriminatory against each other, was one of the obstacles to promoting intra-regional investment and expressed its hope that cooperative efforts be made in this area.

032. The JSG emphasized the immediate need to put into action as many suggestions as possible. The JSG proposed the three countries to continue exploring the implementation of the aforesaid suggestions. Japan and Korea expressed their hope to incorporate some of those suggestions into the possible investment rules.

033. The JSG also stressed the necessity of regular follow-ups on the implementation process of these suggestions elaborated in this report. The group expressed its strong wish that the suggestions be put into action in a timely manner. In this regard, the JSG agreed on the need to establish a mechanism among the governments of the three countries to follow up on the implementation of those suggestions on which consensus was reached, and to take additional measures for the improvement of the business environment with inputs from the business sector.

PART III. Enhancement of Investment Rules

034. The JSG discussed the scope and modality of a possible investment arrangement between China, Japan and Korea on the basis of various ideas proposed by the members and came to the conclusion that trilateral joint efforts should be strengthened at the governmental level, in order to find a mutually acceptable arrangement. In this regard, it was also stressed that the level of the arrangement should be high enough to further accelerate the dynamic investment activities in Northeast Asia and to serve as a basis for future economic integration arrangements in East Asia. The JSG stressed further that the investment arrangements should be as future oriented as possible.

035. The JSG discussed the comprehensive and detailed issues related to enhancement of investment rules, namely transparency, prohibition of performance requirements, dispute settlement, national treatment and the MFN clause, pre-establishment national treatment and protection of the intellectual property rights.

a) Transparency

The JSG emphasized transparency as an essential element of the arrangement. Japan and Korea stated that the principle of transparency as contained in the recently concluded investment arrangements including the Japan-Korea Investment Treaty should be incorporated and further strengthened as much as possible. China stated that the discipline of the transparency as contained in the relevant rules and provisions in WTO should serve as reference. The JSG paid attention to the no action letter system and the public comment system introduced by Japan, and believed that further discussion is necessary.

b) Prohibition of Performance Requirements

The JSG discussed how to deal with performance requirements in the arrangement and argued that investment-distorting regulations should be avoided as much as possible. Japan and Korea stated that the provision that prohibits performance requirements in the recently concluded investment arrangements including the Japan-Korea Investment Treaty, could be a basis for future deliberation. China stated that prohibition of performance requirements could be further researched in the future.

c) Dispute Settlement

The JSG noted that an enhanced dispute settlement mechanism should be an indispensable part of future investment arrangements. In this connection, Japan and Korea stated that the dispute settlement mechanism in the recently concluded investment arrangements including the Japan-Korea Investment Treaty could be good models for the possible investment arrangement. China noted that the dispute settlement mechanism established by the China-Japan, China-Korea and Japan-Korea bilateral investment treaties works effectively, and stated that the existing mechanism be strengthened and fully utilized in dealing with the dispute in respect of investment.

d) National Treatment and MFN Clause and others

It was suggested post-establishment national treatment, pre/post-establishment MFN, and principle on remittance related rules should be included in the possible investment arrangement.

e) Pre-establishment National Treatment

Japan and Korea stressed that pre-establishment national treatment is essential to the arrangement. Many recently concluded investment arrangements contain this principle and the possible arrangement of the three countries should have the same principle. It was also noted that the difference in economic development should be duly considered and accommodated in a practical manner, e.g. making use of exception clauses in the arrangement.

On the other hand, China considered it premature for pre-establishment national treatment to be included in the possible arrangement due to the difference in the development stages of the three countries.

f) Protection of the Intellectual Property Rights

The JSG emphasized that the protection of IPRs is an important element in protecting and promoting investment. In this regard, Japan and Korea stated that IPR protection needs to be covered in the arrangement. China stated that IPR protection should be left to the respective IPR authorities of the three countries and encouraged those authorities to strengthen dialogue and cooperation on IPR protection.

036. The JSG recommended that a legal framework concerning investment among the three countries should be explored in a timely manner. Japan stated that the legal framework should contain the same high standards as are seen in the recently-concluded investment arrangements, and also stated that the leaders seriously consider entering into negotiations on the trilateral investment arrangement at a mutually agreed early date with a view to concluding the negotiations in a reasonable period of time. Korea agreed on the need to consider entering into negotiations on the high-level trilateral investment arrangement and stated that trilateral joint efforts at the government level through the mechanism mentioned in 033 are needed to this end.

Given the different level of the economic development of the three countries, China stated it is still premature to enter into such negotiations.

Part IV. Conclusion

037. The JSG took note of the conclusion of the economic analysis concerning the IFDI among the three countries and confirmed that it is worthwhile to explore the ways and means for further encouragement of investment in this region as a joint undertaking of these countries.

038. The business environment should be further improved in order to enhance investment among the three countries. The JSG recommended that the three countries implement the measures as soon as possible on which consensus was reached at the JSG. The JSG agreed on the need to establish a mechanism among the governments of the three countries to follow up on the implementation of the suggestions and to produce additional measures for the improvement of the business environment with inputs from the business sector.

039. The JSG recommended that a legal framework concerning investment among the three countries should be explored in a timely manner.

ANNEX

Lists of Measures for Improving Business Environment Discussed by the JSG

1. Transparency in investment-related laws and regulations
a. To Enhance “Public Comment System” open for foreign-owned companies by national and local governments
b. To Introduce “No Action Letter system”
c. To disclose investment-related laws, details of regulations and other administrative guidelines, specific criteria for granting licenses and authorization, in a prompt manner, through website, periodical publications and other means
d. To introduce measures to respond to questions concerning the interpretation and details of rules and regulations
e. To provide written explanation when declining requests for licenses or authorization
f. To answer questions concerning the status of applications or the responses to allegations of IPR infringement
g. To make a clear commitment that companies or people shall not be penalized for not following administrative guidance or raising legitimate concerns including IPR infringement
h. To introduce a system to appeal and review administrative decisions

2. Effective protection of intellectual property rights
a. To establish a court system specializing in disputes over intellectual property rights
b. To enhance national laws and regulations in the field of copyrights, trademarks and patents to prevent violation of intellectual property rights including illegal online copies
c. To review administrative penalties (upgrading minimum level of nonpenal fines), criminal penalties (expanding scope) and level of compensation for damages
d. To establish cooperative network relating to violation of intellectual property rights in cross-border cases
e. To establish help-desk(s) to receive complaints from foreign investors
f. To raise awareness of businesses and consumers regarding Intellectual Property Rights
g. To establish boards to review specific issues concerning IPR

3. Consultation aiming at preventing dispute
a. To establish a Dispute Consultation mechanism in national and local governments
b. To establish a Dispute Consultation mechanism between local governments and foreign business communities

c. To establish local help-desks for claimants

4. Promoting coherence of national and local administration
a. To conduct capacity building programs for local government officials to raise their interpretation and enforcement skills of laws and regulations
b. To provide one-stop administrative consultation service at local governments
c. To provide, to the public, details of regulations and the specific criteria for granting licenses and authorization

5. Investment promotion measures
a. To simplify approval and license procedures for investment
b. To reinforce functions of one-stop-centers and establish their international linkages
c. To further enhance deregulation (distribution (retailing, wholesale), financial, insurance and travel services. M&A based investments. Opening of domestic stock market(s) for foreign capitals. Abolishing restrictions on foreign capital ratio, etc.)
d. To reduce the scope of activities that requires licenses or authorization

6. Others
a. To strengthen credit management measures (i.e. better management of credit information, financial reporting and market value, etc.) by opening the market to foreign Rating Agencies and Accounting Firms
b. To strengthen management measures on Outstanding Balances (Receivables) ---- Educating the market on commercial ethics, improving the legal system (i.e. implementing a more effective system on executing and/or enforcing court rulings)
c. To simplify visa application procedure
d. To make cooperative efforts to reduce distribution and logistics cost

*The above mentioned measures are indicative of the discussions, and are not necessarily agreed.

Table 1: Japan's FDI in China (1992-2003) **Million US$**

Year	Number of Projects			Contractual Investment			Actually Used Investment		
	Japan (1)	Total (2)	(1)/(2) %	Japan (3)	Total (4)	(3)/(4) %	Japan (5)	Total (6)	(5)/(6) %
1990	341	7273	4.69	457.00	6596.11	6.93	503.38	3487.11	14.44
1991	599	12978	4.62	812.20	11976.82	6.78	532.50	4366.34	12.2
1992	1805	48764	3.7	2172.53	58123.51	3.74	709.83	11007.51	6.45
1993	3488	83437	4.18	2960.47	111435.66	2.66	1324.10	27514.95	4.81
1994	3018	47549	6.35	4440.29	82679.77	5.37	2075.29	33766.50	6.15
1995	2946	37011	7.96	7592.36	91281.53	8.32	3108.46	37520.53	8.28
1996	1742	24556	7.09	5130.68	73276.42	7	3679.35	41725.52	8.82
1997	1402	21001	6.68	3401.24	51003.53	6.67	4326.47	45257.04	9.56
1998	1198	19799	6.05	2748.99	52102.05	5.28	3400.36	45462.75	7.48
1999	1167	16918	6.9	2591.28	41223.02	6.29	2973.08	40318.71	7.37
2000	1614	22347	7.22	3680.51	62379.52	5.9	2915.85	40714.81	7.16
2001	2019	26140	7.72	5419.73	69194.55	7.83	4348.42	46877.59	9.28
2002	2745	34171	8.03	5298.04	82768.33	6.4	4190.09	52742.86	7.94
2003	3254	41081	7.92	7955.35	115069.69	6.91	5054.19	53504.67	9.45

Source: Ministry of Commerce of China, *the Foreign Investment Statistics of China*.

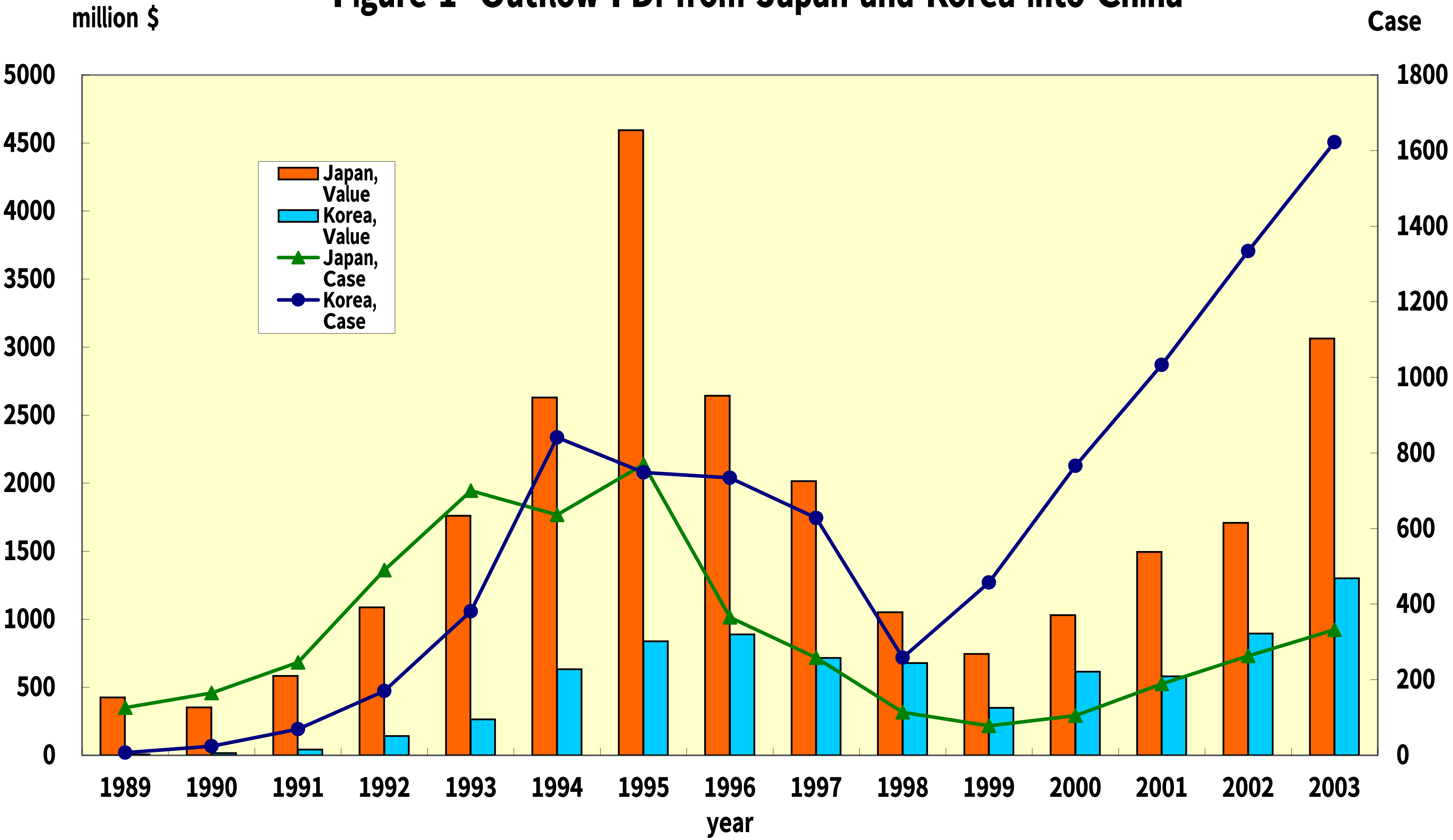
Table 2: Korea's FDI in China (1992-2003) **Million US$**

Year	Number of Projects			Contractual Investment			Actually Used Investment		
	Korea (1)	Total (2)	(1)/(2) %	Korea (3)	Total (4)	(3)/(4) %	Korea (5)	Total (6)	(5)/(6) %
1992	650	48764	1.33	417.01	58123.51	0.72	119.48	11007.51	1.09
1993	1748	83437	2.09	1556.69	111435.66	1.40	373.81	27514.95	1.36
1994	1849	47549	3.89	1806.26	82679.77	2.18	722.83	33766.50	2.14
1995	1975	37011	5.34	2998.39	91281.53	3.28	1042.89	37520.53	2.78
1996	1895	24556	7.72	4236.46	73276.42	5.78	1357.52	41725.52	3.25
1997	1753	21001	8.35	2180.98	51003.53	4.28	2142.38	45257.04	4.73
1998	1309	19799	6.61	1640.85	52102.05	3.15	1803.20	45462.75	3.97
1999	1547	16918	9.14	1483.85	41223.02	3.60	1274.73	40318.71	3.16
2000	2565	22347	11.48	2385.82	62379.52	3.82	1489.61	40714.81	3.66
2001	2909	26140	11.13	3487.40	69194.55	5.04	2151.78	46877.59	4.59
2002	4008	34171	11.73	5282.22	82768.33	6.38	2720.73	52742.86	5.16
2003	4920	41081	11.98	9177.16	115069.69	7.98	4488.54	53504.67	8.39

Source: Ministry of Commerce of China, *the Foreign Investment Statistics of China*.

[i] There is a fairly large discrepancy in FDI figures between the investors and hosting partners, especially in Chinese figures. For example, Chinese data shows that Japan's FDI in 2003 recorded as many as 3,254 cases worth $5.1 billion, but Japanese data shows that there were only 332 cases worth $3.1 billion. In the same manner, Chinese data recorded 4,290 cases amounting to $4.5 billion in the same period from Korea, while Korean data shows that Korea invested in 1,622 cases accounting for $1.3 billion.
This is partly due to (1) the difference of the definition of FDI among the three countries, (2) serious technical constraints in compiling FDI statistics among these countries, (3) the fact that Japan's FDI has gone into a re-investing stage in recent years, and (4) the large role played by Hong Kong as a financial allocation center as well as a center for multi-national enterprises (MNEs) headquarters controlling their businesses in China.

Figure 1 Outflow FDI from Japan and Korea into China



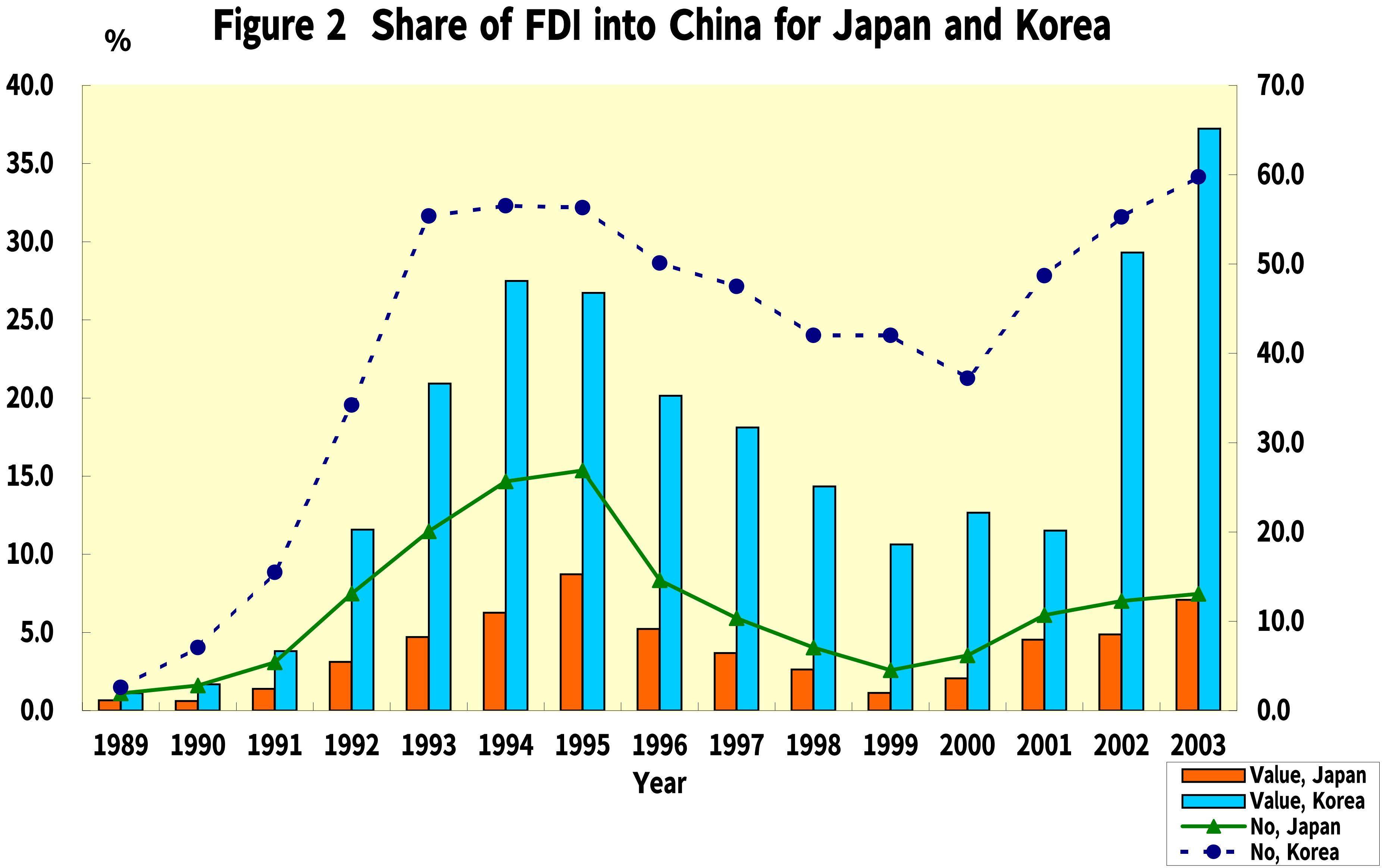


Figure 2 Share of FDI into China for Japan and Korea
%
40.0
35.0
30.0
25.0
20.0
15.0
10.0
5.0
0.0
70.0
60.0
50.0
40.0
30.0
20.0
10.0
0.0
1989
1990
1991
1992
1993
1994
1995
1996
1997
1998
1999
2000
2001
2002
2003
Year
Value, Japan
Value, Korea
No, Japan
No, Korea

Figure 3.   Inflow FDI into China from Japan and Korea

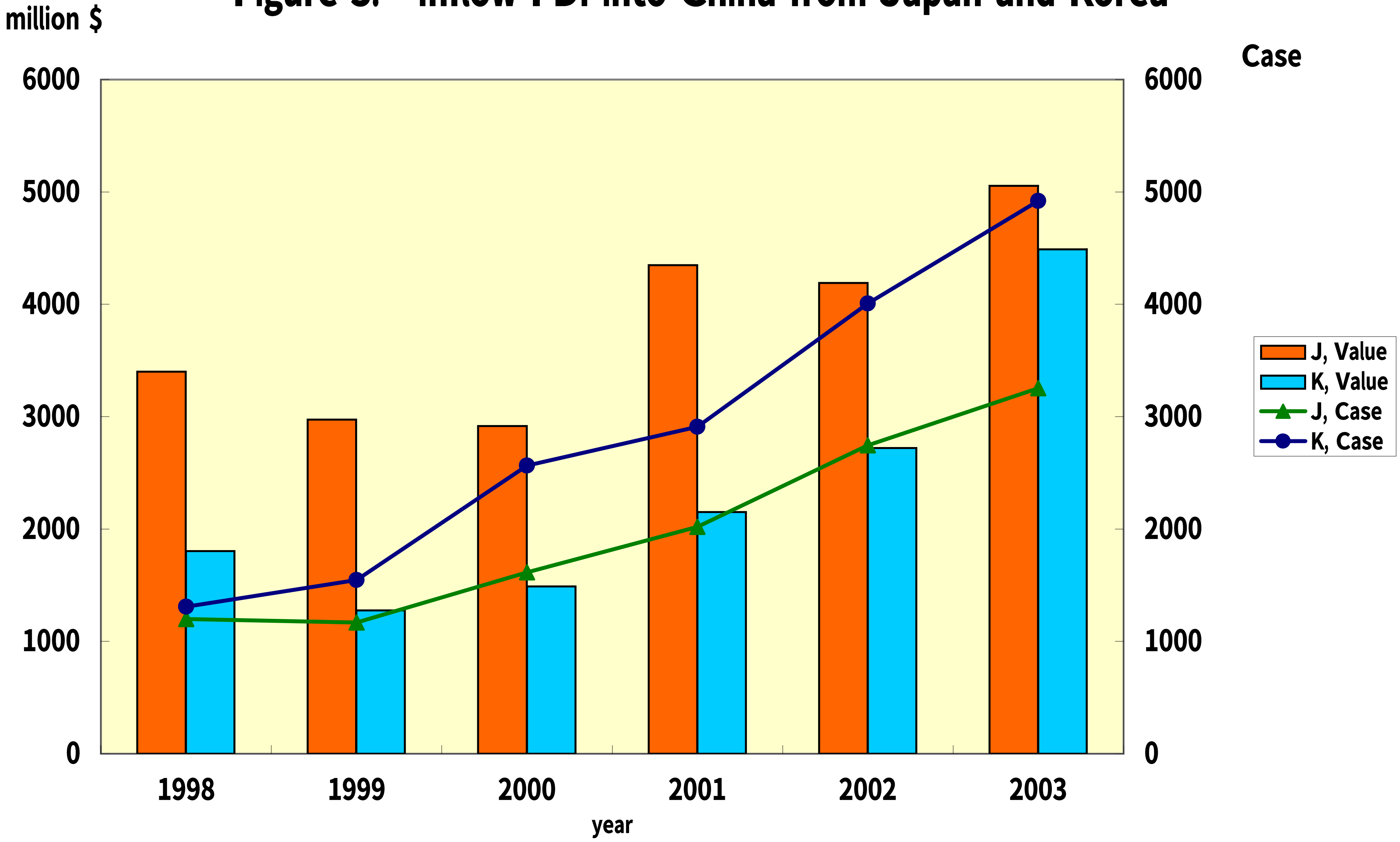


Figure 4. FDI inflow into Japan and Korea

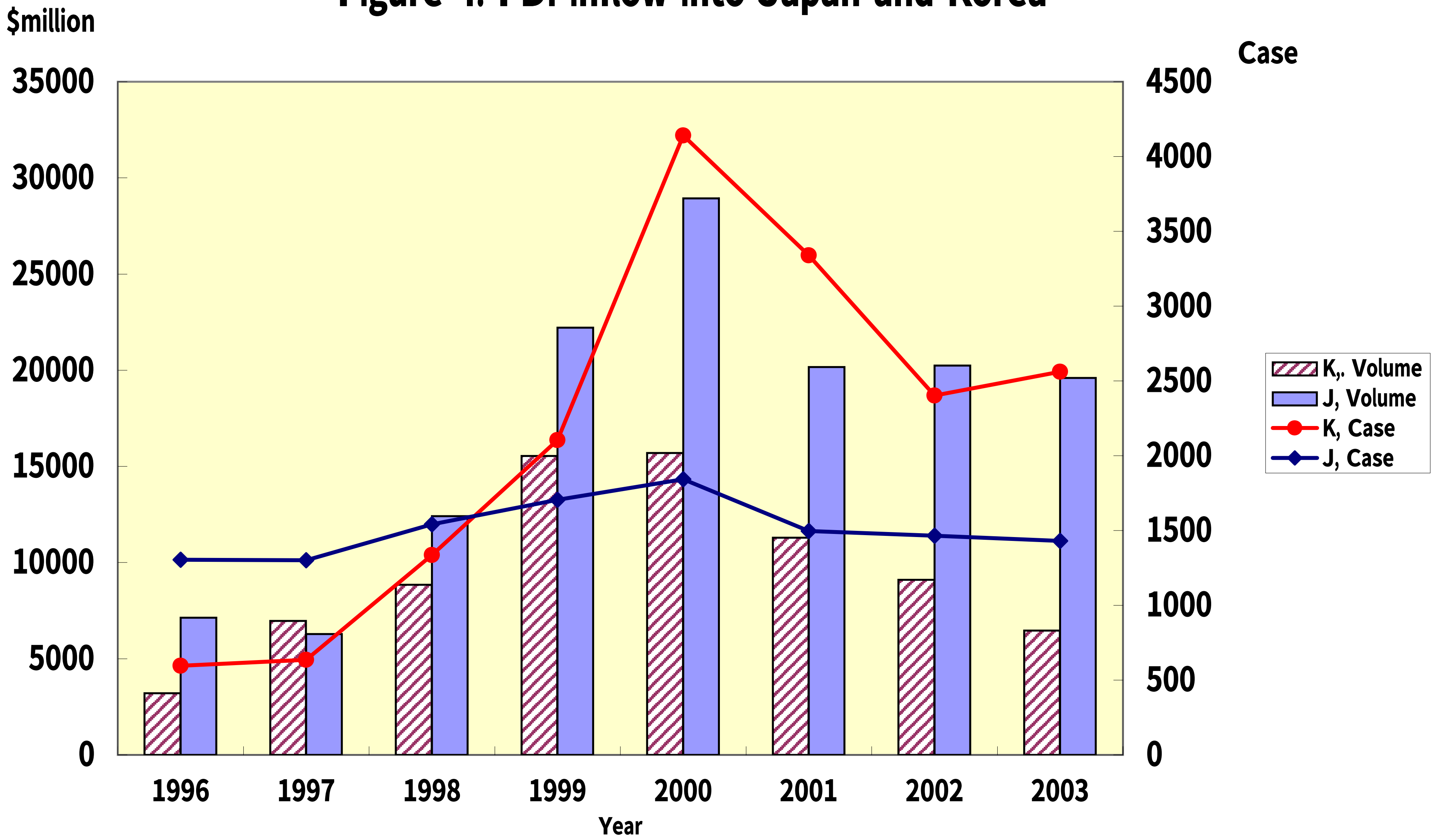
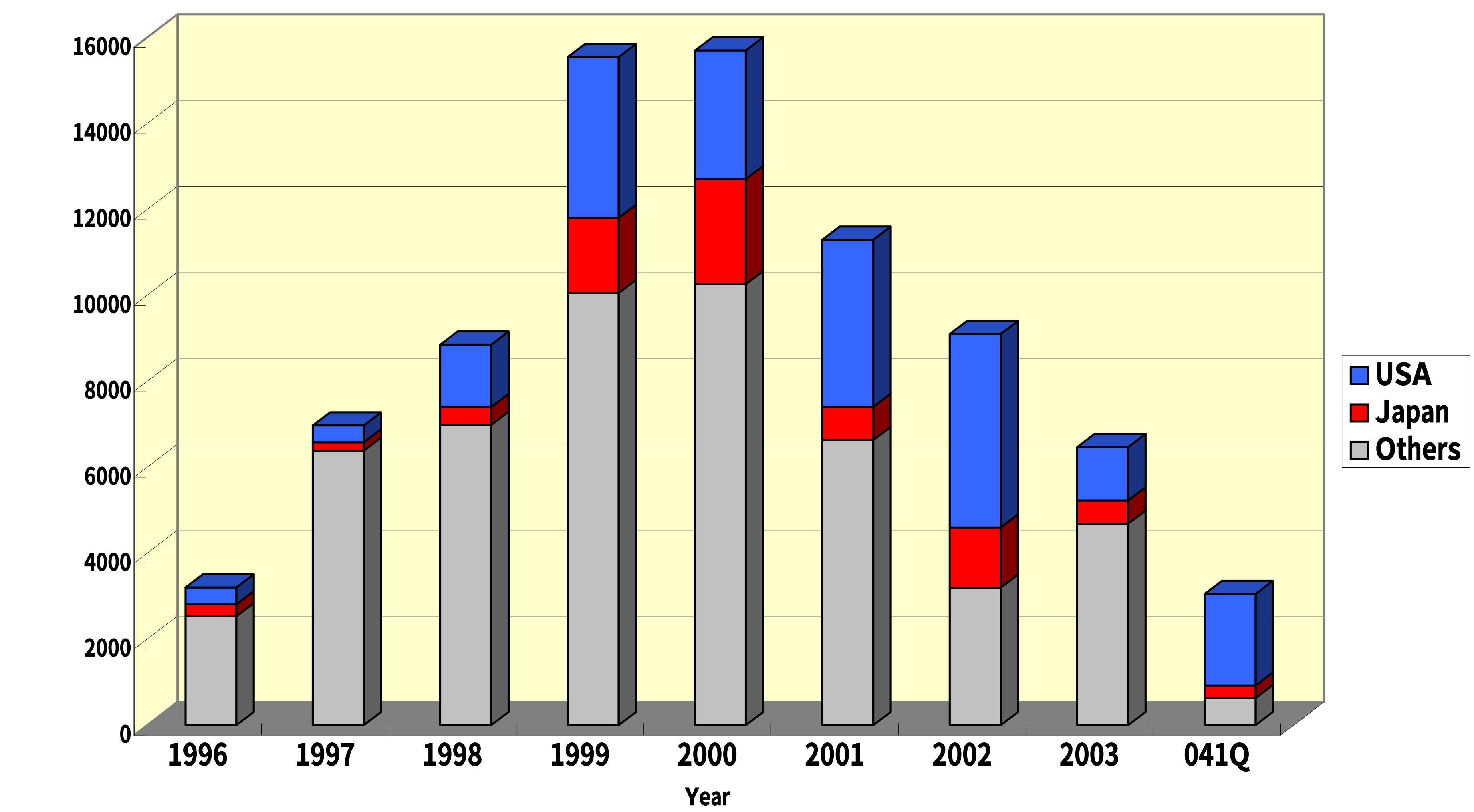


Figure 5. FDI into Korea by Japan and U.S.



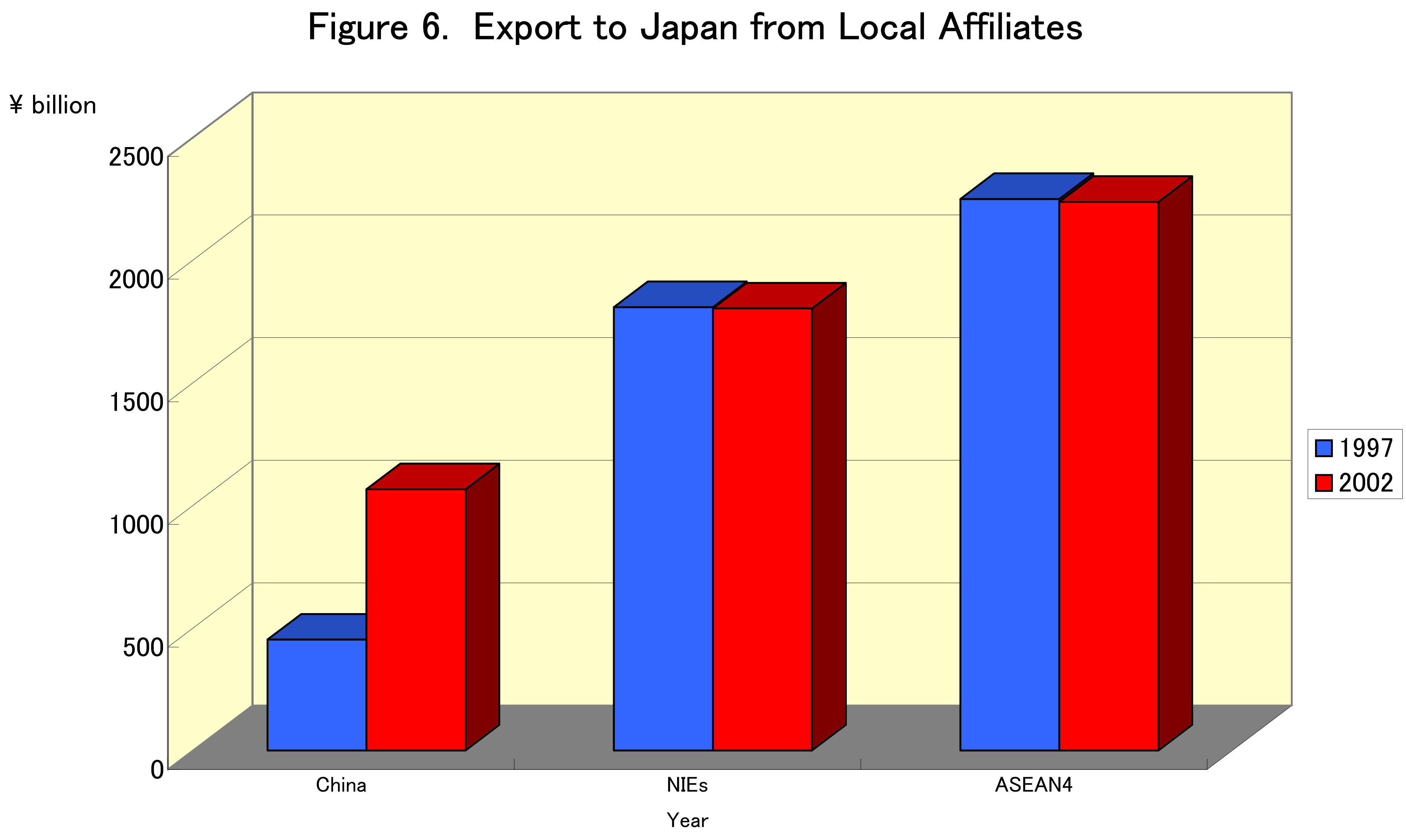


Figure 6. Export to Japan from Local Affiliates
¥ billion
2500
2000
1500
1000
500
0
China
NIEs
ASEAN4
Year
1997
2002

Figure 7-1 Allocation by Japanese Affilates in China (1997)

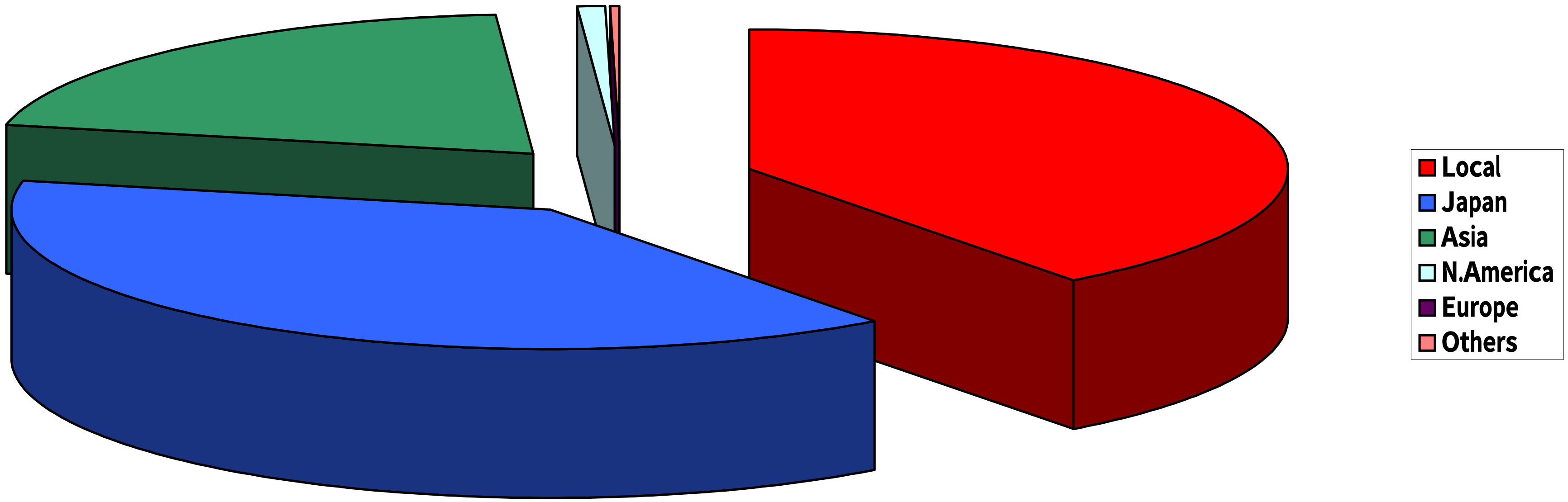


Figure 7-2. Allocation by Japanese Affiliates in China (2002)

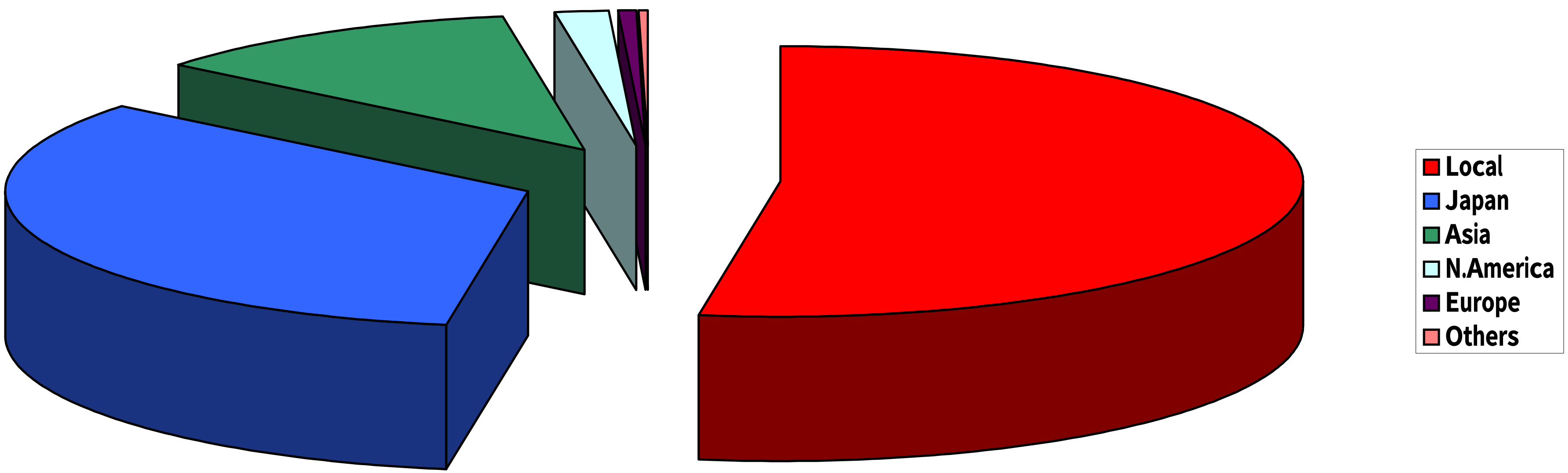


Figure 8. Trade Structure among CJK

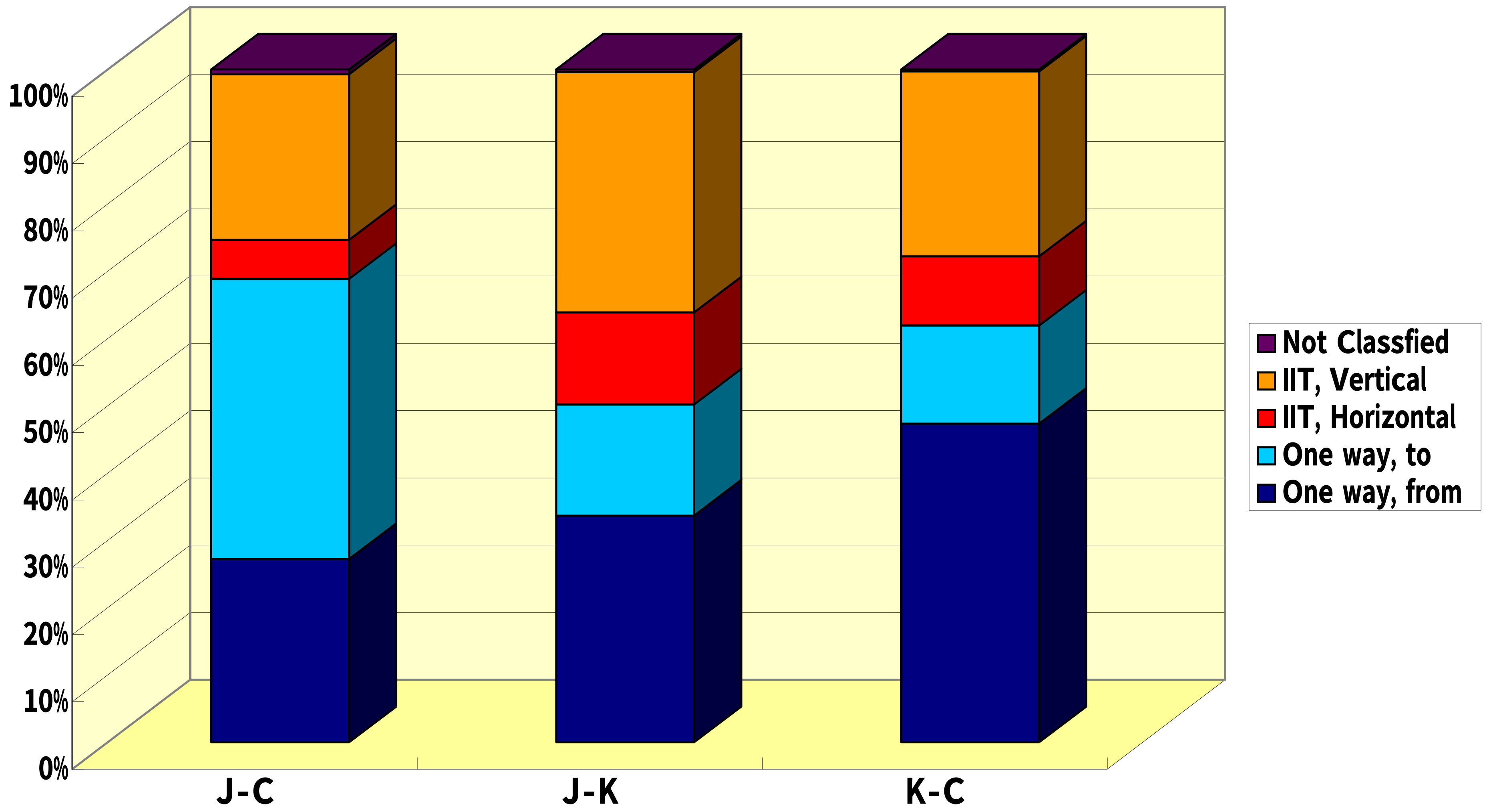


Figure 9.   Horizontal Intra-Industry Trade among CJK