

**TRADE POLICY REVIEW**  
**Report by the Secretariat**  
**JAPAN**

This report, prepared for the eleventh 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.

Any technical questions arising from this report may be addressed to Mr. Masahiro Hayafuji (tel: 022 739 5873), Mr. Pierre Latrille (tel: 022 739 5266) and Mr. Usman Ali Khilji (tel: 022 739 6936).

Document WT/TPR/G/276 contains the policy statement submitted by Japan.

---

Note: This report is subject to restricted circulation and press embargo until the end of the first session of the meeting of the Trade Policy Review Body on Japan.



## CONTENTS

	<i>Page</i>
SUMMARY	vii
I. ECONOMIC ENVIRONMENT	1
(1) MAIN ECONOMIC DEVELOPMENTS	1
(2) MACROECONOMIC POLICIES	2
(3) STRUCTURAL POLICIES	4
(4) DEVELOPMENTS IN TRADE AND FOREIGN DIRECT INVESTMENT	4
(i) Composition of merchandise trade	6
(ii) Direction of merchandise trade	6
(iii) Foreign direct investment	8
II. TRADE POLICY REGIME: FRAMEWORK AND OBJECTIVES	10
(1) TRADE POLICY OBJECTIVES	10
(i) Trade policy formulation and implementation	10
(ii) Transparency and policy evaluation	13
(2) TRADE AGREEMENTS AND ARRANGEMENTS	14
(i) WTO	14
(ii) Regional trade agreements	14
(iii) Generalized System of Preferences and other preferential arrangements adopted unilaterally by Japan	15
(iv) Other bilateral/regional arrangements	16
(3) FOREIGN INVESTMENT REGIME	19
(i) Regulatory regime	19
(ii) Investment promotion measures	20
III. TRADE POLICIES AND PRACTICES BY MEASURE	22
(1) MEASURES DIRECTLY AFFECTING IMPORTS	22
(i) Customs clearance procedures and valuation	22
(ii) Tariffs	23
(iii) Rules of origin	30
(iv) Non-tariff border measures	30
(v) State trading	32
(vi) Contingency measures	32
(vii) Government procurement	33
(viii) Standards, technical regulations, and sanitary and phytosanitary measures	37
(ix) Import promotion measures	45
(2) MEASURES DIRECTLY AFFECTING EXPORTS	45
(i) Procedures	45
(ii) Export taxes, charges, and levies	46
(iii) Border adjustment in respect of internal taxes and import duties (relating to exports)	46
(iv) Export prohibitions, restrictions, and licensing	47
(v) Export cartels and voluntary export restraints	48
(vi) Export promotion schemes	48

	<i>Page</i>
(3) MEASURES AFFECTING PRODUCTION AND TRADE	48
(i) Taxation and tax-related assistance	48
(ii) Subsidies and other financial assistance	50
(iii) State-owned enterprises, corporatization, and privatization	51
(iv) Intellectual property rights	52
(v) Competition policy	69
IV. TRADE POLICIES BY SECTOR	73
(1) AGRICULTURE	73
(i) Structure	73
(ii) Border measures	74
(iii) Domestic measures	78
(2) FISHERIES	79
(i) Profile and recent developments	79
(3) MANUFACTURING	84
(4) ENERGY AND UTILITIES	85
(5) SERVICES	86
(i) Financial services	86
(ii) Telecommunications	95
(iii) Transport	98
(iv) Construction	105
(v) Distribution	107
(vi) Tourism	108
REFERENCES	111
APPENDIX TABLES	113

## CHARTS

I. ECONOMIC ENVIRONMENT	
I.1 Composition of merchandise trade, 2009 and 2011	7
I.2 Direction of merchandise trade, 2009 and 2011	9
III. TRADE POLICIES AND PRACTICES BY MEASURE	
III.1 Share of non- <i>ad valorem</i> duties, by HS section, FY2012	26
III.2 Simple average applied MFN tariff rates, by HS section, FY2010 and FY2012	27
III.3 Import control system, 2012	31
III.4 JIS development process	40
III.5 Structure of IPR administration and enforcement	53
III.6 Japanese patent applications (unexamined patent publications) by fields of electrical engineering, 2000-10	55
III.7 Japanese patent applications (unexamined patent publications), overall vs. electrical engineering, 2000-10	55
III.8 PCT applications received by the JPO, by fields of electrical engineering, 2000-11	56
III.9 PCT applications in electrical engineering, by leading countries, 2000-11	56
III.10 PCT applications in environmental technology by leading countries, 2000-11	58
III.11 Japanese national patent applications and PCT applications in environmental technology, 2000-11	59

	<i>Page</i>
III.12 Patent applications, granted patents, and PCT filings in the JPO, 2000-11	60
III.13 Applications for utility models and designs received by the JPO, 2000-11	62
III.14 Trademark applications received by the JPO, 2000-10	63
III.15 IP5 patent applications and patents granted, 2010	69

## TABLES

I.	ECONOMIC ENVIRONMENT	
I.1	Selected macroeconomic indicators, 2007-11	1
I.2	Balance of payments, 2007-11	5
II.	TRADE POLICY REGIME: FRAMEWORK AND OBJECTIVES	
II.1	Major trade-related laws and regulations, October 2012	11
II.2	Ten largest GSP beneficiaries, FY2011	16
III.	TRADE POLICIES AND PRACTICES BY MEASURE	
III.1	Structure of the MFN tariff, various years	24
III.2	Reduction in applied MFN tariffs, FY2010 and FY2012	25
III.3	Preferential tariff rates, FY2012	28
III.4	Procurement by product and by origin, 2009 and 2010	36
III.5	Main standards and technical regulations in Japan, 2011	38
III.6	National government tax revenue, FY2011 and FY2012	49
III.7	Amendments of main substantive IP legislations, November 2012	54
III.8	Amendments to provisions on examination procedures and licensing practices	60
III.9	Seizure of imports, 2009-11	65
III.10	Membership of WIPO conventions, 2012	67
III.11	Enforcement of competition policy, 2007-11	71
IV.	TRADE POLICIES BY SECTOR	
IV.1	Applied MFN tariff protection in agriculture, FY2012	75
IV.2	Special safeguards in agriculture, FY2010 to FY2012, November 2012	76
IV.3	Japan's fisheries production, 2001-10	81
IV.4	Trade in fisheries products, 2006-11	82
IV.5	Imports of fish and fish products, by principal source, 2010-11	82
IV.6	Japan's market and regulatory regime for financial services, 2012	86
IV.7	Japan's market and regulatory regime for banking	89
IV.8	Japan's market and regulatory regime for insurance, 2012	90
IV.9	Japan's market and regulatory regime for securities, 2012	92
IV.10	Japan's market and regulatory regime for pension funds and mutual funds, 2012	93
IV.11	Market structure and regulatory framework of Japan's telecommunications sector, 2012	95
IV.12	Maritime transport, main economic indicators, March 2012	99
IV.13	Trade related maritime transport policies	100
IV.14	Japan's market and regulatory regime for air transport subsectors, 2012	102
IV.15	Japan's air transport agreements, 2012	103
IV.16	Railway transport in Japan, 2012	104

	<i>Page</i>
IV.17 Regulatory framework for railway transport in Japan, 2012	104
IV.18 Construction market and regulatory regime in Japan, 2012	106
IV.19 Japan's market and regulatory framework for distribution services, 2012	107
IV.20 Japan's market and regulatory framework for tourism	109

## **APPENDIX TABLES**

### **I. ECONOMIC ENVIRONMENT**

AI.1 Merchandise exports by group of products, 2007-11	115
AI.2 Merchandise imports by group of products, 2007-11	117
AI.3 Merchandise exports by destination, 2007-11	119
AI.4 Merchandise imports by origin, 2007-11	120

### **II. TRADE AND INVESTMENT REGIME**

AII.1 Status of selected notifications to the WTO, 27 September 2012	121
AII.2 Disputes to which Japan has been a party, 2011 to September 2012	124
AII.3 Overview of Japan's Free-Trade Agreements, 2011	128

### **III. TRADE POLICIES AND PRACTICES BY MEASURE**

AIII.1 Japan's MFN tariff summary, FY2012	132
AIII.2 Exemptions from the Anti-monopoly Act, September 2012	134

### **IV. TRADE POLICIES BY SECTOR**

AIV.1 Tariff quota quantity and in-quota imports, FY2007-10	135
AIV.2 Japan's trade regimes for financial services, 2012	136
AIV.3 Japan's trade regimes for telecommunications services, 2012	140
AIV.4 Summarized trade regimes of maritime transport services	142
AIV.5 Summarized trade regimes of air transport services	149
AIV.6 Summarized trade regimes for rail transport	151
AIV.7 Summarized trade regimes for pipelines transport services	153
AIV.8 Japan's trade regimes for construction services, 2012	154
AIV.9 Japan's trade regimes for distribution services	158
AIV.10 Japan's trade regimes in tourism	167

---

---

**SUMMARY**

1. Since Japan's previous Trade Policy Review in 2011, there has been little change in its trade and related policies. Nonetheless, the simple average MFN applied tariff rate has increased, due partly to a rise in the average *ad valorem* equivalents of non-*ad valorem* duties. Also, Japan has adopted more international standards.
  2. The Japanese economy contracted in 2011. Its trade account recorded a deficit for the first time since 1980, and its current account surplus narrowed to 2% of GDP (from 2.9% in 2009).
  3. In response to the earthquake and tsunami, the national and local governments implemented supplementary budgets amounting to about 3.6% of GDP. Reconstruction is expected to be around 4% of GDP and continue till the end of March 2016. Consequently, the fiscal deficit was in excess of 10% and gross government debt rose to nearly 230% of GDP in 2011.
  4. The supplementary budgets were complemented by accommodative monetary policy, including a move towards "inflation targeting", adopted against the backdrop of a persistent deflationary environment in Japan. In addition, the yen continued to appreciate against all major currencies. If sustained, this will tend to further reduce the international competitiveness of Japan's exporters, unless their productivity can be substantially improved.
  5. These more expansionary macroeconomic policies have supported Japan's economy. A rebound in GDP growth is expected in 2012, mainly due to construction spending, consumer spending, and inventory building in the wake of supply chain disruptions. However, these policies do not address Japan's long-standing structural problems (including the rapid aging of its population), which have resulted in Japan's sluggish growth during the past decade or so. 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.
  6. The authorities recognize the need for structural reform and have made some changes. For example, in April 2012, the Government cut the statutory corporation tax rate to improve incentives to invest, including inward foreign direct investment (FDI), which is a much smaller percentage of GDP than in other large OECD economies.
  7. Japan grants at least MFN treatment to all countries and economies except Andorra, the Republic of Equatorial Guinea, Eritrea, Lebanon, North Korea, the Republic of South Sudan, and Timor-Leste.
  8. Since 2011, Japan has notified the entry into force of two economic partnership agreements (EPAs), with India and Peru; currently Japan has 12 bilateral agreements and one regional agreement in force. Japan considers that its regional and bilateral trade agreements complement the multilateral system, while acknowledging that the level of complication increases as entry into force of such agreements progresses. The EPAs 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 particularly sensitive.
  9. These products are also largely excluded from the Generalized System of Preferences (GSP) scheme, under which Japan grants preferential treatment to products from certain developing and least
-

developed countries. In 2011, Japan abolished all ceiling-based schemes in its GSP. There has been no change to Japan's duty-free and quota-free treatment for LDCs since its previous Review.

10. The tariff continues to be Japan's main border restriction. In fiscal year (FY) 2012, the simple average applied MFN tariff rate was 6.3%, up slightly from 5.8% in FY2010, reflecting a change in nomenclature (to the HS 2012 edition), and an increase 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. The simple average tariff rate is 5.3% under the GSP (up from 4.6% in FY2010), and 0.5% for LDCs (the same as in FY2010). Japan's simple average tariff rates under RTAs range from 2.3% to 3.9%.

11. Japan's non-tariff border measures include import prohibitions as well as quantitative import restrictions (for example, import quotas on some fish). State trading covers leaf tobacco, opium, rice, wheat and barley, and milk products (unchanged since 2011).

12. In October 2011, the Authorized Economic Operator (AEO) programme was amended so that import cargo declared by AEO customs brokers or produced by AEO manufacturers may be released before the customs duty declaration is filed.

13. Japan makes little use of contingency measures. It has continued to apply anti-dumping measures on electrolytic manganese dioxide originating from the Republic of South Africa, Australia, China, and Spain. In June 2012, Japan terminated anti-dumping duties imposed on certain polyester staple fibre from the Republic of Korea and Chinese Taipei. Japan has not applied either countervailing or safeguard measures since its previous Review.

14. Japan maintains export controls on grounds of national security and public safety 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.

15. About 54% of Japanese Industrial Standards (JIS) were aligned to international standards in 2011 (up from 46% in 2009). Although Japan maintains that its SPS measures are based on scientific assessment of risks, it has apparently not conducted cost-benefit analyses in this connection.

16. Various laws on intellectual property rights (IPRs) have been amended since Japan's previous Review with a view to, *inter alia*, improving the convenience and effectiveness of patent and design systems. Japan remains an active participant in multinational and regional discussions on agreements to promote international harmonization of regimes protecting IPRs.

17. The authorities intend to continue to strengthen competition policy. In this regard, a bill to amend the Anti-monopoly Act has been submitted to the Diet.

18. With regard to agriculture, the Government has continued to move away from price support toward income support. However, the changes have been relatively minor and the sector continues to receive substantial government support involving, *inter alia*, a relatively higher average applied MFN tariff rate compared with other sectors, tariff quotas, income support, and, in some subsectors, production controls.

19. Japan is a big net importer of fisheries products and the Government has historically provided a range of support to the fisheries sector, as set out in its annual budgets. In its 2011 subsidy

---



notification to the WTO, Japan notified subsidies for advanced equipment and modernization of management of fisheries and related sectors, and subsidies for comprehensive programmes, implemented by non-governmental organizations, aimed at the stable, safe, and efficient supply of food.

20. The Electricity Business Act and the Gas Business Law were amended in 2012 with a view to relaxing regulation on tariffs in order to, *inter alia*, incorporate a feed-in-tariff system for certain renewable energy. Against the background of the severe accidents at nuclear power plants in north-eastern Japan in March 2011, the Government is reviewing whether to adopt any regulatory reform in the energy and utilities sector.

21. The major regulatory change regarding financial services since Japan's last TPR is the revised Postal Service Privatization Act (passed by the Diet in April 2012). Under the revised Act, Japan Post Group will have to provide universal postal services and fair access all over Japan to savings and insurance services. Also, the sale by Japan Post Holdings of all of its shares in its two financial subsidiaries is to be conducted "as soon as possible", instead of "between 2007 and 2017" as stipulated prior to the revision. On insurance, the main recent changes relate to the relaxation of the regulation of insurance solicitation by banks.

22. In June 2011, Japan announced that the maritime antitrust exemption under the Maritime Transportation Act would be maintained, with its scope unchanged, and that Japan planned to review the maritime exemption in FY2015.

23. Japan's policy on international air transportation has moved significantly towards liberalization and open skies, through, *inter alia*, the relaxation of pricing clauses (towards free pricing) and capacity clauses (towards free determination) in its recently concluded bilateral arrangements, subject to qualification regarding reciprocity and congestion.

---



## I. ECONOMIC ENVIRONMENT

### (1) MAIN ECONOMIC DEVELOPMENTS

1. Exports have often been a main source of growth for Japan's economy. Between 2002 and 2007, real GDP grew at an average annual rate of approximately 1.8%, underpinned by exports, which grew at an average annual rate of over 9% during the same period. In the aftermath of the global economic crisis in 2008, exports collapsed, resulting in the Japanese economy contracting in 2008 and 2009. Recovery in 2010 was again export-led. The earthquake and tsunami in 2011 resulted in sharp declines in private consumption and stock building, and widespread supply chain disruptions affecting production across the country, particularly in export dominant sectors, such as automobiles and electronics. Production was also affected by the shutdown of nuclear power plants, while exports were impacted by the floods in Thailand. Against this background, exports declined and the economy contracted in 2011 (Table I.1).

**Table I.1**  
Selected macroeconomic indicators, 2007-11

	2007	2008	2009	2010	2011
(% change, unless otherwise indicated)					
<b>National accounts</b>					
Real GDP	2.2	-1.0	-5.5	4.5	-0.8
Domestic demand	1.1	-1.3	-4.0	2.8	0.1
Private consumption	0.9	-0.9	-0.7	2.6	0.1
Government consumption	1.1	-0.1	2.3	2.2	2.0
Gross fixed investment	0.3	-4.1	-10.6	0.1	0.8
Exports of goods and services	8.7	1.4	-24.2	24.3	-0.1
Imports of goods and services	2.3	0.3	-15.7	11.2	6.3
Exports of goods and services (% of GDP) <sup>a</sup>	17.8	17.7	12.7	15.2	15.2
Imports of goods and services (% of GDP) <sup>a</sup>	16.1	17.5	12.3	14.0	16.1
Employment	0.5	-0.4	-1.6	-0.4	-0.1 <sup>b</sup>
Unemployment rate (annual average)	3.9	4.0	5.1	5.1	4.5 <sup>b</sup>
<b>Household disposable income (% change)</b>	0.2	-0.9	-1.1	0.4	..
<b>Prices and interest rates</b>					
Consumer prices (CPI) (% change)	0.0	1.4	-1.4	-0.7	-0.3
GDP deflator (% change)	-0.9	-1.3	-0.5	-2.2	-2.1
Basic discount rate and basic loan rate (%)	0.8	0.3	0.3	0.3	0.3
<b>Exchange rate (annual average, ¥ per US\$)</b>	117.8	103.3	93.5	87.8	79.8
(% of GDP)					
<b>Fiscal balance</b>					
Revenue	31.2	31.6	29.6	29.6	30.6
Expenditure	33.3	35.7	40.0	39.0	40.7
Balance	-2.1	-4.1	-10.4	-9.4	-10.1
Primary balance	-2.1	-3.8	-9.9	-8.7	-9.2
Excluding social security	-1.1	-2.7	-8.1	-7.1	-7.3
Government debt, gross	183.0	191.8	210.2	215.2	229.8
<b>Saving and investment</b>					
National saving (gross)	27.5	25.9	22.1	22.9	..
Domestic investment (gross)	22.9	23.0	19.7	19.8	..

Table I.1 (cont'd)

	2007	2008	2009	2010	2011
<b>Current account balance</b>	4.9	3.3	2.9	3.7	2.0
Goods balance	2.4	0.8	0.9	1.7	-0.3
Exports	15.5	15.4	10.9	13.3	13.4
Imports	13.1	14.6	9.9	11.6	13.7
Services balance	-0.5	-0.4	-0.4	-0.3	-0.4
Income balance	3.2	3.2	2.7	2.6	3.0
Net transfer balance	-0.3	-0.3	-0.2	-0.2	-0.2
<b>Capital and financial account balance</b>	-4.4	-3.7	-3.0	-3.7	0.3
Capital account	-0.1	-0.1	-0.1	-0.1	0.0
Financial account	-4.3	-3.6	-2.9	-3.6	0.2
Direct investment	-1.2	-2.2	-1.2	-1.1	-2.0
<b>Reserve assets</b>	-0.8	-0.6	-0.5	-0.8	-3.0

.. Not available.

a Percentage distribution in annual nominal GDP.

b Devastated quake-hit prefectures (Iwate, Miyagi and Fukushima) are not included in the figures for 2011.

*Source:* Information provided by the Japanese authorities; Cabinet Office online information; and IMF (2012), *Country Report No. 12/208*.

2. The Japanese economy has rebounded since then and real GDP growth is expected to be 2.4% in 2012.<sup>1</sup> Recent growth has not been driven by exports, but has come on the back of reconstruction spending, consumer spending (helped by government subsidies for environmentally friendly automobiles), and inventory building in the wake of supply chain disruptions. However, the recovery is fragile, with the Japanese economy being susceptible to shocks in the global economic environment especially in key trading partners such as the EU and China.

3. To be able to sustain growth in the medium to longer term, domestic demand will need to continue to drive growth. Other challenges to longer term growth include very high public debt, the rapidly aging population, and deflation. To overcome these challenges, the Japanese economy will need to undergo structural reforms, *inter alia*, to improve productivity in the services sector, reform the labour market, and reform taxation.

## (2) MACROECONOMIC POLICIES

4. In response to the earthquake and tsunami, the national and local governments have adopted FY2011 supplementary budgets and FY2012 initial budget amounting to approximately ¥17 trillion (about 3.6% of GDP).<sup>2</sup> Reconstruction is expected to be around 4% of GDP. Initially, reconstruction was financed through contingency reserves, reprioritized spending, and a temporary reduction in the Government's contributions to the pension fund.<sup>3</sup> However, under the Basic Guidelines for Reconstruction in Response to the Great East Japan Earthquake, reconstruction is to be financed through a combination of reduced government expenditures, non-tax revenues, and temporary tax measures. Nonetheless, expenditures rose to 40.7% of GDP in 2011, while revenues rose much more modestly to 30.6% of GDP; consequently, the fiscal deficit in 2011 was in excess of 10% of GDP, while gross government debt reached nearly 230% of GDP. The fiscal deficit is expected to widen slightly in 2012 on account of continued reconstruction spending.<sup>4</sup> Furthermore, over the longer term,

<sup>1</sup> IMF (2012).

<sup>2</sup> Information provided by the authorities.

<sup>3</sup> IMF (2011).

<sup>4</sup> IMF (2012).

expenditures related to pension and health care are expected to continue to rise due to Japan's rapidly aging population.

5. Other than rebuilding the physical infrastructure, the focus of the Government's rebuilding strategy is on job creation. In this respect, the authorities have identified the creation of new innovative industries through the utilization of "reconstruction special zones" and private sector funds.<sup>5</sup> Industries targeted include: environmentally friendly industries, life sciences, science and technology, and information and communications sectors. The authorities are also focusing on small and medium enterprises (SMEs) as an engine of growth and revitalization. In this regard, the Government made sure that financing lines remained open after the disaster and is also considering making start-up capital more easily available. In order to realize the above, the Government has also consented to the Program for Promoting Japan as an Asian Business Center and Direct Investment into Japan (Chapter II). In the wake of the nuclear disaster, the Government is also in the process of reviewing its energy strategy and mix. This is also seen as an avenue for reconstruction and revitalization. In September 2012, the authorities issued the Innovative Strategy for Energy and the Environment. These policies form the basis of Japan's energy strategy, which is governed by three underlying principles: realization of a society not dependent on nuclear power; realization of a green energy revolution; and stable supply of energy.

6. 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. The accommodative monetary policy was enabled by the deflationary environment in Japan. With a view to further increasing monetary easing, the BOJ increased the size of the asset purchase programme, which totalled ¥91 trillion in October 2012.<sup>6</sup> Other measures, including "special rules" such as the establishment of ¥0.5 trillion line of credit to encourage asset-based lending by financial institutions, have been instituted by the BOJ, to "strengthen the foundations of economic growth". Measures taken by the BOJ in response to the earthquake and tsunami were unprecedented. The BOJ introduced a new ¥1 trillion loan programme to support lending activities of financial institutions in the affected regions. In the immediate aftermath of the disaster the BOJ also made available ¥21.8 trillion yen of short-term liquidity, much more than that injected after the Lehman crisis. The BOJ announced in February 2012 that it would continue with a zero interest rate policy and implement an asset purchase programme until it judges that an annual inflation rate of 1% is "in sight". These announcements have signaled that Japan is moving towards making use of "inflation targeting". In October 2012, the Government and the BOJ released a joint statement, which stated that they would work together and make their utmost efforts to overcome deflation. "All items" CPI reached 0.4% in April 2012, due mainly to higher fresh food and petroleum prices; "all items" CPI was -0.4% in July 2012, as fresh food and petroleum prices dropped.

7. The nominal exchange rate of the yen against the U.S. dollar continued to appreciate during the review period (2011-12) albeit more slowly than in the previous review period (2009-10).<sup>7</sup> Initially the appreciation was due to the unwinding of the yen "carry trade" and later due to safe haven flows. Furthermore, the authorities intervened to the tune of US\$120 billion in the foreign exchange market in October/November 2011 to counter volatility in exchange rates. It would appear that the

---

<sup>5</sup> As of 28 September 2012, plans for 22 special zones had been approved.

<sup>6</sup> Bank of Japan online information. Viewed at: [http://www.boj.or.jp/en/announcements/release\\_2012/k121030a.pdf](http://www.boj.or.jp/en/announcements/release_2012/k121030a.pdf).

<sup>7</sup> Between September 2008 and November 2010 the exchange rate rose from ¥109 per U.S. dollar to ¥81 per U.S. dollar; however, since then it has appreciated more slowly and was trading at ¥78 per U.S. dollar in September 2012.

appreciation in the exchange rate has eroded the international competitiveness of Japanese exports to some extent, as Japan recorded a trade deficit in 2011, the first time in three decades.

### **(3) STRUCTURAL POLICIES**

8. To be able to sustain growth in the future, the Japanese economy will need to undergo far-reaching structural reforms focused on improving productivity in the services sector; and addressing the duality in the labour market between regular and non-regular workers, which has resulted in depressed incomes and increasing revenues through comprehensive tax reforms.<sup>8</sup> The authorities have initiated certain reforms that address the above concerns.

9. The Government's fiscal strategy is to put the public-debt-to-GDP ratio on a declining trend. To achieve this, the authorities aim to halve the primary deficit to GDP ratio by FY2015 and realize a primary surplus by FY2020. In this regard, the Diet has approved a bill that would increase the consumption tax rate from the current 5% to 8% in April 2014 and to 10% in October 2015. However, according to IMF estimates, this, together with a planned cut in expenditure, would only reduce the primary deficit to 5% of GDP by 2020, while a fiscal adjustment of 10% of GDP over the next decade is necessary to put the public-debt-to-GDP ratio firmly on a downward path. Japan has one of the lowest tax-to-GDP ratios in the OECD, which provides for ample space to broaden the tax base. Options that could be considered by the Government include: reducing the exemption for pension income; eliminating the tax deduction for dependent spouses; and reducing benefits provided to wealthy retirees.<sup>9</sup> However, the authorities state that they are not currently considering these options. In a bid to reduce expenditure, options to raise the pension retirement age (e.g. to 67) or collect contributions from dependent spouses have been debated publically in Japan.<sup>10</sup>

10. The authorities are also considering options to increase the labour force, these include increasing female participation by providing better and more childcare facilities<sup>11</sup>; promoting the employment of the elderly by obliging employers to ensure stable employment until the age of 65, and through the recently introduced "points-based preferential treatment for highly skilled foreign professionals in immigration procedure". In addition, labour market mobility and fairness could be facilitated by the recently revised Labour Contract Act, which introduces a new rule that promotes changing fixed-term contracts to open-ended contracts. This should facilitate the employment of young workers and help narrow the gap between regular and non-regular workers.

11. In addition to the Program for Promoting Japan as an Asian Business Center and Direct Investment into Japan, the authorities have announced a cut in the corporation tax rate in April 2012, to improve incentives to invest (Chapter III(3)). However, strict and complicated domestic sector regulations and the limited availability of risk capital continue to be cited as serious impediments to investment.

### **(4) DEVELOPMENTS IN TRADE AND FOREIGN DIRECT INVESTMENT**

12. Japan's current account surplus decreased from US\$147 billion in 2009 (2.9% of GDP) to US\$119 billion in 2011 (2% of GDP), reflecting a narrowing of the gap between gross national savings and gross domestic investment (Table I.2). This decline mainly reflects the sharp fall in the

---

<sup>8</sup> For details see WTO document WT/TPR/S/243/Rev.1 May 2011.

<sup>9</sup> IMF (2012).

<sup>10</sup> IMF (2012).

<sup>11</sup> The authorities plan to increase childcare services, including by merging kindergarten and childcare systems.

trade account, where Japan recorded a deficit for the first time since 1980. The deficit was due to a disruption in exports because of the devastation caused to export industries situated in the area affected by the earthquake and tsunami, an appreciating yen, and floods in Thailand. In addition, imports rose on account of reconstruction spending and increased fuel imports due to the halt in nuclear power production.

13. In 2011, the share of exports of goods and services in GDP was 15.9% (15.8% in 2010), while the share of imports was 16.6% (14% in 2010).<sup>12</sup> These shares have increased since 2009, with imports rising faster (mainly due to higher fuel imports). 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 increased since 2009. This is due mainly to higher travel and transport payments, as more Japanese travelled abroad because of the stronger yen. The deficit was US\$22.3 billion in 2011 (0.4% of GDP). Trade in services as a proportion of GDP has remained slightly over 5% since 2009.

**Table I.2**  
**Balance of payments, 2007-11**  
(US\$ billion)

	2007	2008	2009	2010	2011
<b>Current account balance</b>	211.7	159.4	147.0	203.9	119.1
Goods balance	104.8	38.1	43.6	91.0	-20.6
Exports	678.1	746.5	545.3	730.1	787.0
Imports	573.3	708.3	501.7	639.1	807.6
Services balance	-21.3	-20.8	-20.4	-16.1	-22.3
Credit	129.1	148.8	128.3	141.5	145.4
Transportation	42.0	46.8	31.6	39.0	38.3
Travel	9.3	10.8	10.3	13.2	11.0
Other	77.8	91.1	86.4	89.3	96.0
Debit	150.4	169.5	148.7	157.6	167.7
Transportation	49.0	54.0	40.6	46.5	49.5
Travel	26.5	27.9	25.2	27.9	27.3
Other	74.8	87.7	83.0	83.1	90.9
Income balance	139.7	155.1	136.2	141.5	175.8
Credit	200.7	214.8	180.0	181.8	227.3
Compensation of employees	0.1	0.2	0.2	0.2	0.2
Investment income	200.5	214.7	179.9	181.7	227.1
Debit	61.0	59.8	43.9	40.4	51.5
Compensation of employees, debit	0.2	0.2	0.2	0.2	0.3
Investment income, debit	60.8	59.6	43.7	40.2	51.3
Current transfers	-11.5	-13.0	-12.4	-12.4	-13.8
Credit	6.8	9.1	9.5	10.1	13.1
Debit	18.3	22.1	21.9	22.5	26.9
<b>Capital and financial account</b>	-227.8	-209.1	-162.1	-179.3	-93.7
Capital account	-4.0	-5.5	-5.0	-5.0	0.5
Credit	0.7	0.6	1.1	0.9	7.6
Capital transfers	0.2	0.2	0.2	0.1	5.1
Non-produced non-financial assets, credit	0.5	0.4	0.9	0.8	2.5
Debit	-4.7	-6.1	-6.1	-5.8	-7.1
Capital transfers	-3.0	-4.0	-2.8	-3.9	-4.6
Non-produced non-financial assets, credit	-1.7	-2.1	-3.3	-2.0	-2.5

Table I.2 (cont'd)

<sup>12</sup> Based on the most recent data available.

	2007	2008	2009	2010	2011
Financial account	-223.8	-203.5	-157.1	-174.3	-94.2
Direct investment	-51.3	-106.3	-62.8	-58.6	-117.4
Direct investment abroad	-73.5	-130.8	-74.6	-57.2	-115.7
Direct investment in Japan	22.2	24.6	11.8	-1.4	-1.7
Portfolio investment	73.1	-292.6	-216.5	-151.0	161.1
Assets	-123.5	-189.6	-160.2	-262.6	-103.1
Liabilities	196.6	-103.0	-56.3	111.6	264.1
Financial derivatives	2.8	24.8	10.5	11.9	17.1
Assets	188.5	271.9	333.9	403.5	407.5
Liabilities	-185.7	-247.2	-323.3	-391.5	-390.4
Other investment	-211.9	201.5	138.6	67.2	21.8
Assets	-260.8	139.5	202.7	-130.1	-92.7
Liabilities	48.9	62.0	-64.2	197.3	114.4
Reserve assets	-36.5	-30.9	-26.9	-43.9	-176.6
Net errors and omissions	16.1	49.6	15.0	-24.6	-25.4

Source: Information provided by the Japanese authorities.

#### (i) Composition of merchandise trade

14. Manufactures continue to dominate Japan's exports, accounting for 88.1% of total merchandise exports in 2011, up from 87.5% in 2009 (Chart I.1). During 2009-11, machinery and transport equipment remained Japan's most important merchandise export, accounting for 58.3% of the total in 2011 (Table AI.1). Within manufactures, the shares of office machines and telecommunication equipment declined considerably, while the shares of other non-electrical machinery and automotive products increased. Going forward, export performance might be adversely affected as the slowdown in East Asia, Japan's largest export market, sets in; the authorities believe that the weak state of Japan's real exports is due to the global economic slowdown.

15. The share of primary products in total merchandise imports increased from 46.2% in 2009, to 51.4% in 2011. The increase was due to an increase in fuel imports, which were necessitated by the halt in nuclear power production in the aftermath of the earthquake and tsunami in March 2011. On the other hand, the share of manufactures declined, with machinery and transport equipment declining from 23% of total imports in 2009 to 20.8% in 2011 (Table AI.2).

#### (ii) Direction of merchandise trade

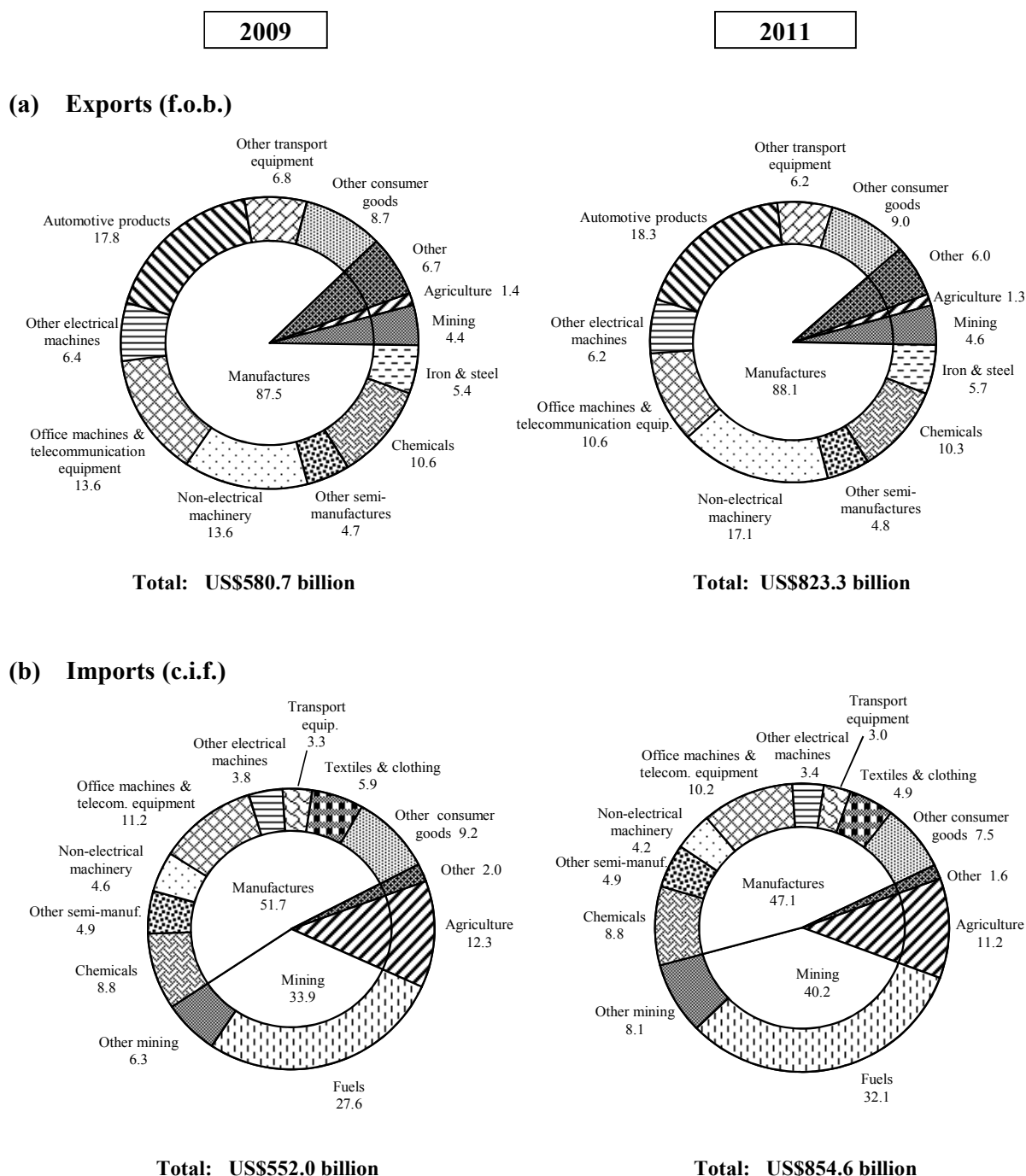
16. China remains Japan's largest export market, attracting 19.7% of total exports in 2011, up from 18.9% in 2009 (Chart I.2). The share of Asia as a whole as an export destination also continued to rise, which in turn helped to increase APEC's share to 76.1% (from 74.8%). In contrast, the shares of both the United States and EU (27) declined, owing mainly to the global economic crisis. China's share has increased steadily since 2007 (Table AI.3).

17. China's share in Japan's merchandise imports decreased to 21.5% in 2011 (22.5% in 2009), but it remains Japan's largest trading partner. The share of goods imported by Japan from Asia increased, although not as much as exports, while the share of imports from the Middle East showed a considerable increase, mainly due to increased fuel imports. On the other hand, the share of imports from the United States and EU (27) declined (Table AI.4).



**Chart I.1**  
**Composition of merchandise trade, 2009 and 2011**

Per cent



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

**(iii) Foreign direct investment**

18. Japan's inward FDI remains substantially lower than outward FDI, and low compared with other developed economies.<sup>13</sup> After recording inflows between 2007 and 2009, inward FDI showed outflows of US\$1.4 billion in 2010 and US\$1.8 billion in 2011. On the other hand, Japan's outward FDI more than doubled in 2011, to US\$116 billion, (from US\$57 billion in 2010), presumably due to an appreciating yen and low returns in the domestic economy. The stock of inward FDI has remained static at approximately 3.9% of GDP since 2009, while the stock of outward FDI rose to 16.0% of GDP in 2011, from 14.5% of GDP in 2009.

19. The EU remains the largest investor in Japan, accounting for over 42% of inward FDI in 2011, while the United States accounted for over 31%. The largest recipient of FDI was the finance and insurance sector followed by the electrical machinery industry and the wholesale and retail sector.

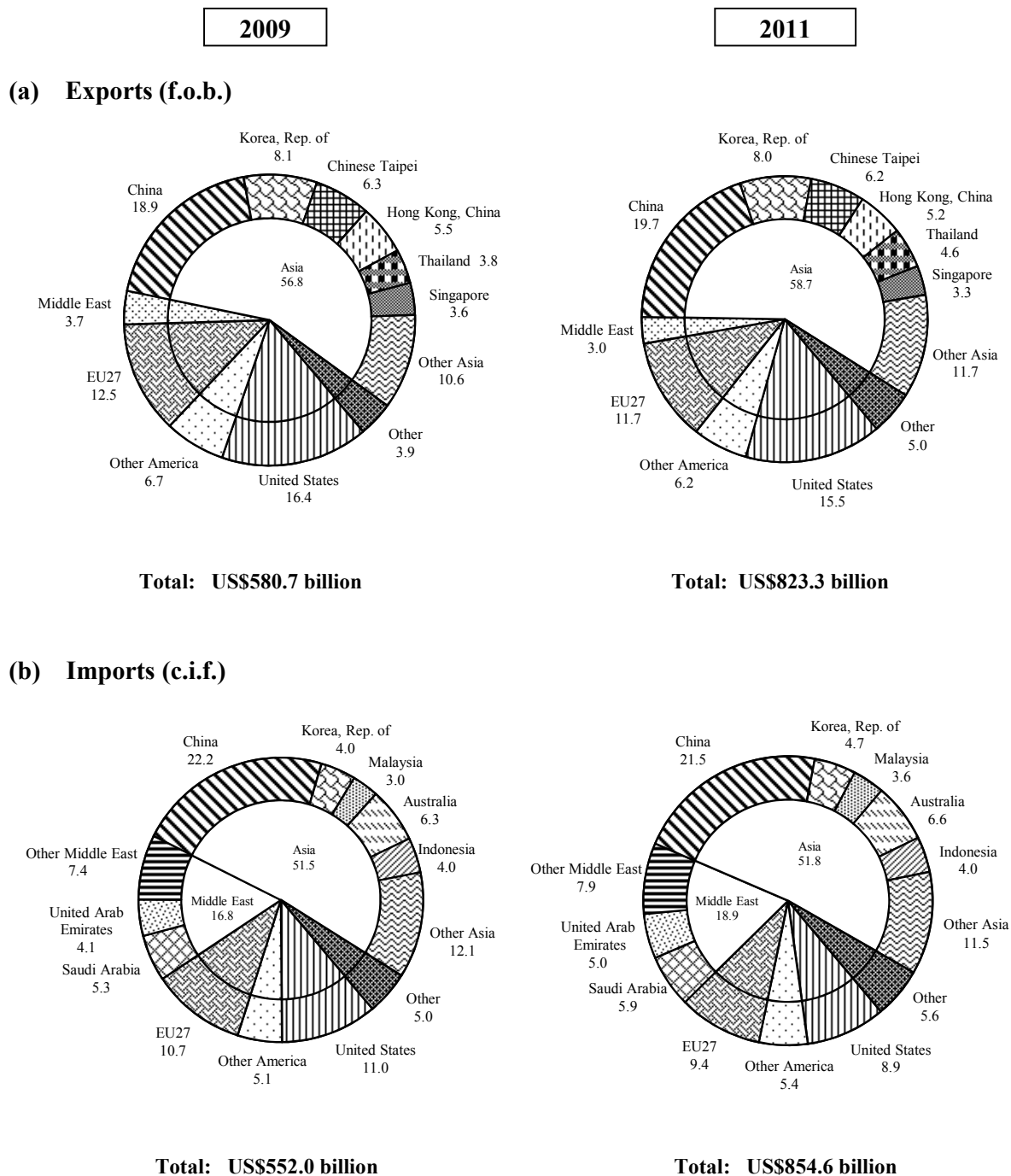
20. The United States, the EU, China, and the Cayman Islands were the major recipients of outward foreign direct investment by Japan in 2011. The main industries/sectors invested were finance and insurance, wholesale and retail trade, chemicals and pharmaceuticals, and transport equipment.

---

<sup>13</sup> UNCTAD (2012). FDI into Japan in 2011 recorded an outflow of approximately US\$1.8 billion, while the United States and the European Union recorded inflows of US\$227 billion and US\$421 billion, respectively. Inflows into China amounted to US\$124 billion.

**Chart I.2**  
**Direction of merchandise trade, 2009 and 2011**

Per cent



Source: UNSD, Comtrade database.

## **II. TRADE POLICY REGIME: FRAMEWORK AND OBJECTIVES**

### **(1) TRADE POLICY OBJECTIVES**

1. Japan's overall trade policy objective has not changed since its last Review; it is to ensure the long-term prosperity and growth of Japan through the promotion of economic activities in Japan and abroad. Japan grants at least MFN treatment to all countries and economies except Andorra, the Republic of Equatorial Guinea, Eritrea, Lebanon, North Korea, Republic of South Sudan, and Timor-Leste. From the available trade data, it would appear that the MFN rate is applied to more than 80% of Japan's imports.<sup>1</sup> However, data are not collected on the total value of imports subject to preferential duties.

2. Japan considers that its regional and bilateral trade agreements complement the multilateral system. The authorities state that Japan makes every effort to simplify the rules and procedures involved in adopting an economic partnership agreement (EPA); at the same time, they acknowledge 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.<sup>2</sup> In November 2010, Japan approved the Basic Policy on Comprehensive Economic Partnerships. Under the policy, the Government is determined to "open up the country" and "pioneer a new future". In this regard, Japan will take major steps to promote high-level economic partnerships with major trading partners. In tandem, Japan plans to institute fundamental domestic reforms so as to strengthen competitiveness. Furthermore, according to the Basic Policy on Comprehensive Economic Partnerships, all goods, including certain sensitive products, would be subject to negotiations; however, the sensitivity of trade in certain products would be taken into consideration.

3. Currently Japan has 12 bilateral trade agreements and one regional agreement (with ASEAN). Japan is currently negotiating bilateral FTAs (EPAs) with the Gulf Cooperation Council (Bahrain, Kingdom of Saudi Arabia, Kuwait, Oman, Qatar, and the United Arab Emirates), Australia, and Mongolia. 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 in other regional trade fora, such as the Asia-Europe meeting (ASEM), the ASEAN+3, and the East Asian Summit. Japan officially encourages foreign direct investment (FDI). However, in recent years, inward FDI into Japan has remained low (Chapter I).

#### **(i) Trade policy formulation and implementation**

4. Some laws and regulations governing Japan's trade-related framework have been amended during the period under review (Table II.1).

5. Trade-related issues are the responsibility of a number of ministries and agencies, mainly the Ministry of Foreign Affairs (MOFA) and the Ministry of Economy, Trade, and Industry (METI), as specified under the various laws establishing relevant ministries and agencies. Other ministries and agencies with responsibility for sectoral issues involved in trade policy formulation and implementation are 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.

---

<sup>1</sup> 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.

<sup>2</sup> See for example, WTO document WT/TPR/M/211/Add.1, 22 May 2009, p. 155.

Overall coordination of trade policies, including ensuring policy coherence and consistency with the WTO Agreements, remains the final responsibility of the Cabinet. Trade and trade-related policy issues may also be debated in various Committees, including standing committees in the Diet.<sup>3</sup> 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.

**Table II.1**  
**Major trade-related laws and regulations, October 2012**

	Most recent amendment
<b>Foreign trade and exchange restrictions</b>	
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)	2011
Export Trade Control Order (1949 Order No. 378)	2012
Import Trade Control Order (1949 Order No. 414)	2009
<b>Customs- and tariff-related regulations</b>	
Customs Law (1954 Law No. 61)	2012
Customs Tariff Law (1910 Law No. 54)	2012
Temporary Tariff Measures Law (1960 Law No. 36)	2012
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)	2011
<b>Trade promotion</b>	
Trade and Investment Insurance Act (1950 Law No. 67)	2008
<b>Services and energy</b>	
Construction Business Act (1949 Law No. 100)	2012
Banking Law (1981 Law No. 59)	2011
Insurance Business Law (1995 Law No. 105)	2011
Financial Instruments and Exchange Law (1948 Law No. 25)	2011
Telecommunications Business Law (1984 Law No. 86)	2011
Law Concerning the Measures by Large-Scale Retail Stores for Preservation of Living Environment (1998 Law No. 91)	2000
Employee's Pension Insurance Law (1954 Law No. 115)	2011
Civil Aeronautics Act (1952 Law No. 231)	2011
Marine Transportation Law (1949 Law No. 187)	2012
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)	2011
Certified Tax Accountant Law (1951 Law No. 237)	2007
Law for Improvement of International Tourist Hotels (1949 Law No. 279)	2011
Travel Agency Law (1952 Law No. 239)	2011
Electricity Utilities Industry Act (1964 Law No. 170)	2012

**Table II.1 (cont'd)**

<sup>3</sup> 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.

	Most recent amendment
Gas Utility Industry Law (1954 Law No. 51)	2012
Petroleum Stockpiling Act (1975 Law No. 96)	2012
Act on the Quality Control of Gasoline and Other Fuels (1976 Law No. 88)	2008
<b>Standards and technical regulations</b>	
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)	2011
Food Sanitation Law (1947 Law No. 233)	2009
Quarantine Law (1951 Law No. 201)	2008
Plant Protection Law (1950 Law No. 151)	2012
Act on Domestic Animal Infectious Diseases Control (1951 Law No. 166)	2012
Building Standard Law (1950 Law No. 201)	2011
Electrical Appliance and Material Safety Law (1961 Law No. 234)	2011
Consumer Product Safety Law (1973 Law No. 31)	2011
High Pressure Gas Safety Act (1951 Law No. 204)	2011
Road Vehicle Law (1951 Law No. 185)	2009
Act concerning the Rational Use of Energy (1979 Law No. 49)	2011
Fire Service Law (1948 Law No.186)	2009
<b>Intellectual property rights</b>	
Patent Act (1959 Law No. 121)	2011
Customs Law (1954 Law No. 61)	2012
Act Against Unjustifiable Premiums and Misleading Representations (1962 Law No. 134)	2009
Unfair Competition Prevention Act (1993 Law No. 47)	2011
Utility Model Act (1959 Law No. 123)	2011
Design Act (1959 Law No. 125)	2011
Trademark Act (1959 Law No. 127)	2011
Copyright Law (1970 Law No. 48)	2012
Civil Code (1896 Law No. 89)	2011
<b>Agriculture</b>	
Basic Law on Food, Agriculture and Rural Areas (1999 Law No. 106)	2009
Temporary Law for Compensation Price of Milk for Manufacturing Use (1965 Law No. 112)	2008
<b>Others</b>	
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.

6. Additionally, the Consumer Affairs Agency (CAA) and the Government Revitalization Unit (GRU) were established in 2009. The CAA has responsibility for overseeing, *inter alia*, the JAS Law (on quality control) and the Food Sanitation Act (on labelling), while the GRU is responsible for regulatory reform.<sup>4</sup> At the time of the last Review of Japan, the Cabinet had authorized a regulatory reform programme issued by the GRU, under which the authorities were to review and improve about 60 regulations on, *inter alia*, environment and energy, medical and elderly care services, and agriculture. The GRU was to monitor the implementation of the programme. A follow-up report regarding the implementation of the programme was published in June 2012.<sup>5</sup> Furthermore, the authorities have taken six cabinet decisions, which include 436 items concerned with regulations and system reform.

<sup>4</sup> The GRU has taken over the role of the Council for the Promotion of Regulatory Reform (CPRR).

<sup>5</sup> Cabinet Office online information (in Japanese). Viewed at: <http://www.cao.go.jp/sasshin/kisei-seido/meeting/2011/subcommittee/120629/agenda.html>.

---

**(ii) Transparency and policy evaluation**

7. Promoting transparency remains one of the Government's policy priorities. All laws and regulations are published in the *Government Gazette* and are made available on the internet. In coordination with the Administrative Project Review Section of the Cabinet Office, the Government makes available and clarifies the mission of each policy and undertakes policy evaluations. It has also promoted the release of information on policy evaluations to the public, including on special taxation measures. On the other hand, the lack of cost-benefit analyses of policies, particularly of existing policies, makes it difficult for consumers to assess their effectiveness and effectively undermines the Government's intention to promote transparency.<sup>6</sup>

8. Under the Government Policy Evaluations Act (GPEA) and the Basic Guidelines for Implementing Policy Evaluation, the Cabinet Office and ministries are required to evaluate their own policies before and after implementation and to publish the results of these evaluations. In certain 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. Since 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 which must be published.<sup>7</sup> However, not all bills are subject to ex-ante RIAs, for example an ex-ante RIA was not conducted on the draft bill on the reform of the Japan Post Office. Additionally, existing regulations and measures that are not subject to amendment or abolition are not subject ex-ante RIAs. Thus, the costs and benefits of protection from various tariffs and or other trade policy measures are not evaluated by the Government.

9. Under the provisions of the GPEA, the Ministry of Internal Affairs and Communications (MIC) is required to undertake independent assessments of the policies implemented by other ministries. In addition, the Ministry of Finance conducts its own policy evaluation of selected expenditure programmes, which according to the authorities are taken into consideration in the annual budget formulation. A new policy evaluation body was setup within the GRU in 2009, aimed at cutting the expenditure of a number of government projects. In 2010, the GRU introduced the Public Project Review scheme, aimed at increasing the transparency of the budget request process as well as reducing government expenditures. Over 5,000 projects were reviewed; the authorities state that reviews resulted in a reduction in initial budget appropriations of ¥1.3 trillion in 2010 and ¥450 billion in 2011.

10. The authorities state that ex-post evaluations of general policies are reflected in the budget requests and policies; as such 176 out of 405 general policies in FY2010, and 153 out of 388 in FY2011 involved improvements and revisions.

11. Ministries and agencies must publish draft regulations, including draft cabinet orders or ministerial orders, and allow 30 days for comments from the public.<sup>8</sup> Ministries and agencies are required to consider and publish the public comments as well as the results of their consideration, and

---

<sup>6</sup> Japan ranked 19<sup>th</sup> 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).

<sup>7</sup> For further details regarding regulatory impact analysis please see WTO document WT/TPR/S/243/Rev.1 May 2011.

<sup>8</sup> 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.

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 2010 states that comments submitted have been reflected in 136 (32.5%) out of 418 cases. Furthermore, the GRU introduced screening (*jigyo-shiwake*) of government projects. The screening is conducted by meetings of selected representatives from politicians, academics, and private sectors; it does not involve quantitative cost-benefit analysis. Since 2009, 449 projects have been reviewed and scrutinized. The authorities state that this has resulted in savings of ¥1.35 trillion, while revenues have risen by ¥2.4 trillion. Additionally, a more focused review was conducted in 2011, concerning projects in energy and social security, and proposals for reform were made.

## **(2) TRADE AGREEMENTS AND ARRANGEMENTS**

### **(i) WTO**

#### **(a) Participation in the WTO**

12. The authorities state that Japan remains committed to working actively towards a successful multilateral conclusion of the DDA and will continue to make every effort toward reaching agreement in the negotiations and explore different negotiating approaches, as agreed at the WTO Ministerial Conference held in December 2011. Japan has submitted comprehensive notifications under WTO Agreements (Table AII.1).

#### **(b) Disputes**

13. Since 2010, Japan has been involved in five cases as a complainant (Table AII.2). In addition, Japan participated as a third party in ten dispute cases.<sup>9</sup>

### **(ii) Regional trade agreements**

14. Japan has an ambitious programme for expanding its already relatively large network of 13 RTAs. The authorities note that Japan's policy on RTAs is to pursue high-level economic partnerships strategically and from several perspectives, with a wide range of countries, such as major trading partners. According to the Basic Policy on Comprehensive Economic Partnerships, the Asia-Pacific region is of particular importance for Japan, politically, economically, and with regard to security. Japan will increase its efforts to promote and conclude ongoing bilateral EPA negotiations, such as with Australia; it will work towards the realization of the China-Japan-Korea FTA, and the Regional Comprehensive Economic Partnership (RCEP) among others. Further afield, it will expedite talks with the EU to enter into negotiations and will work actively to strengthen its economic partnerships with other Asian economies, newly emerging economies, and resource-rich countries.<sup>10</sup> Japan has entered into consultations with the countries currently negotiating the Trans-Pacific Partnership (TPP) Agreement, following an announcement by the Prime Minister in November 2011. Japan has made early announcements to the WTO of agreements under negotiation with Australia, the Gulf Co-operation Council, and Korea. According to the authorities Japan has also decided to launch EPA negotiations with Canada, Colombia, and Mongolia.

---

<sup>9</sup> Cases in which requests for consultations were made and panels were established between June 2010 and August 2012 (WTO documents DS413, DS414, DS420, DS422, DS425, DS426, DS427, DS430, DS431 and DS432).

<sup>10</sup> Ministry of Foreign Affairs and Trade, Basic Policy on Comprehensive Economic Partnerships, 6 November 2010. [<http://www.mofa.go.jp/policy/economy/fta/policy20101106.html>].



15. Since its last Trade Policy Review in 2011, Japan has notified the entry into force of two EPAs, with India and Peru, in addition to its 11 previous RTAs (Table AII.3).<sup>11</sup> Except for its agreement with ASEAN, all of its RTAs include goods, services, and investment, frequently with a separate chapter on the temporary movement of natural persons (mode 4), which provides improved temporary access to certain categories of natural persons. Japan has negotiated broad-based agreements with most of its partners, taking into consideration sensitivities in trade in certain products. In certain agreements for which the WTO Secretariat has prepared factual presentations (with Mexico, Chile, Malaysia, Brunei, Indonesia, the Philippines), Japan's tariff liberalization has in general been less than that of its trading partners by the end of the implementation of the agreement, with agricultural products tending to be excluded from liberalization or subject to restricted liberalization through tariff rate quotas. Under its RTAs that entered into force during the review period, with India, Japan will liberalize 88.9% of its tariffs (59.6% of agricultural products will be liberalized) corresponding to 97.5% of imports from India during 2008-10, over a period of 10 years; with Peru, Japan will liberalize 89.4% of its tariffs (61.6% of agricultural products will be liberalized), corresponding to 98.9% of its imports during 2009-11 after 16 years.

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

16. Japan affords preferential tariff treatment unilaterally to certain developing countries under the Generalized System of Preferences (GSP) scheme.<sup>12</sup> The Government has the authority to unilaterally designate, withdraw, suspend, and limit the beneficiaries or products that receive preferential treatment under the scheme. A beneficiary country is removed (graduates) when it has been classified in the World Bank statistics as a high-income country over the three preceding years. During the period under review, Kosovo entered the scheme, while Barbados, Oman, British Anguilla, British Virgin Islands, Canary Islands, Gibraltar, Ceuta and Melilla, Turks and Caicos Islands, Falklands Islands and Dependencies, and Trinidad and Tobago graduated from the scheme. The current GSP scheme is valid until 31 March 2021.

17. In 2011, Japan abolished all ceiling-based schemes.

18. The simple average GSP tariff rate is 5.3%, slightly lower than the overall applied MFN average tariff of 6.0% in FY2012. Japan grants preferential tariff treatment under its GSP scheme to 138 developing countries and 7 territories for 409 agricultural and fishery products, and 3,147 industrial products at HS 9-digit level.<sup>13</sup> Numerous agricultural products and some industrial products are excluded (e.g. rice and rice products, meat and meat products, fish, dairy products, pineapples, cereal products, textiles and clothing, leather and leather products, and footwear). Many of the excluded products are export items in which developing countries have a comparative advantage.

19. According to the authorities a quantitative cost and benefit analysis on the effect of excluding products from the GSP scheme, has been undertaken, as a result of which the ceiling based scheme was abolished in 2011. The authorities maintain that Japan's tariff rate is appropriately set by taking

<sup>11</sup> These are: Japan-ASEAN; Japan-Brunei Darussalam; Japan-Chile; Japan-Indonesia; Japan-Malaysia; Japan-Mexico; Japan-Philippines; Japan-Singapore; Japan-Switzerland; Japan-Thailand; and Japan-Vietnam.

<sup>12</sup> For details of the GSP scheme see MOFA online information. Viewed at: <http://www.mofa.go.jp/policy/economy/gsp/explain.html#6> [28.08.2012].

<sup>13</sup> These figures take into account only tariff lines where the preferential rate is lower than the corresponding MFN applied rate.

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, duty-free tariff lines account for 58.1% of all lines, down from 61.2% at the time of the last Review. China continues to be the main beneficiary of GSP treatment (Table II.2).

**Table II.2**  
**Ten largest GSP beneficiaries, FY2011**

Beneficiaries	Import value of preferential treatment (¥ million)	Share (%)
World	1,015,186	100.0
People's Republic of China	744,480	73.3
The Union of Myanmar	41,564	4.1
The People's Republic of Bangladesh	39,679	3.9
Republic of South Africa	35,056	3.5
Federative Republic of Brazil	27,474	2.7
Kingdom of Cambodia	21,416	2.1
India	19,404	1.9
Islamic Republic of Mauritania	14,162	1.4
Republic of Peru	6,919	0.7
Democratic Socialist Republic of Sri Lanka	6,393	0.6

*Source:* Information provided by the Japanese authorities.

20. There has been no change to Japan's duty-free and quota-free treatment for LDCs since its previous Review. Currently, there are 48 LDC special beneficiaries; the Maldives graduated during the review period. The current coverage is about 98%, defined at the HS nine-digit level; and the simple average applied rate for LDCs in FY2012 is 0.5%, the same as in FY2010. For 209 tariff lines (2.2% of the total)<sup>14</sup>, the applied rates on imports from LDCs are the same as the applied MFN rates in FY2012. Data provided by the authorities indicate that the value of imports from LDCs under the duty-free and quota-free treatment amounted to ¥85,851 million in FY2010 (up from ¥65,566 million in FY2008).

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

##### **(a) Japan–U.S. bilateral relationship**

21. The Japan-U.S. Economic Harmonization Initiative (EHI), launched in November 2010, aims to facilitate trade, address the business climate and individual issues, and advance coordination between Japan and the United States on regional issues of common interest. Discussions under the initiative included: exchanging information on the trade and economic-related policies of the two countries; promoting further Japan-U.S. cooperation in the economic field; collaborating on common regional and global challenges; and taking new steps to facilitate trade and address the business climate. A "Record of Discussion", published in January 2012, summarizes the results of discussions between February 2011 and January 2012.<sup>15</sup>

<sup>14</sup> These cover, for example, fish, products of the milling industry, sugar, and articles of leather and footwear.

<sup>15</sup> Japan-U.S. Economic Harmonization Initiative (EHI), "Record of Discussion". Viewed at: [http://www.mofa.go.jp/mofaj/press/release/24/1/pdfs/0127\\_01\\_3.pdf](http://www.mofa.go.jp/mofaj/press/release/24/1/pdfs/0127_01_3.pdf).

(b) Japan–EU bilateral relationship

22. During the period under review, annual Japan-EU Summits took place in April 2010 and May 2011. At the 2010 summit, the leaders reviewed and welcomed the progress made regarding "a few specific non-tariff issues" under paragraph 34 of the Joint Press Statement of the EU-Japan Summit of 2009. At the summit held in May 2011, the leaders agreed to start the negotiating process for a comprehensive Economic Partnership Agreement (EPA)/Free Trade Agreement (FTA), and started a "scoping exercise", which would define the scope and level of the EPA. The scoping exercise was completed in July 2012. According to the Japanese authorities, the European Commission submitted draft negotiation directives to the Council, and negotiations are expected to commence once the Commission receives a negotiating mandate. Additionally, the Japan-EU Business Round Table (BRT) issued recommendations for starting negotiations on a balanced and mutually beneficial bilateral agreement.

(c) APEC (Asia-Pacific Economic Cooperation)

23. In 2011, 65.2% of Japan's merchandise imports were from APEC members, and 76.1% of its merchandise exports were to APEC.<sup>16</sup> 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.<sup>17</sup> Since the Eighteenth APEC Economic Leaders' Meeting, held in Yokohama, Japan, in November 2010, Japan has contributed actively to the process of raising consensus among the APEC Leaders on: promoting effective, non-discriminatory, and market-driven innovation policy; increased participation in global production chains by small and medium-sized enterprises; promoting trade and investment in environmental goods and services<sup>18</sup>; reinforcing the implementation of good regulatory practices; enhancing supply-chain connectivity by establishing a baseline *de minimis* value of US\$100 on exports by the end of 2012; address barriers to trade faced by SMEs in the region; and facilitate trade in remanufactured goods. In the 2012 Ministerial Meeting in Vladivostok, Japan reiterated its commitment towards, *inter alia*: strengthening the multilateral trading system; advancing trade and investment liberalization; addressing next-generation trade and investment issues; liberalizing and facilitating trade in services; facilitating investment; promoting trade in environmental goods; ensuring food security and sustainable agriculture; and establishing reliable supply chains. Furthermore, Japan contributed actively to the development of the APEC List of Environmental Goods (54 items), which was endorsed in Vladivostok in 2012.

(d) ASEM (Asia-Europe Meeting)

24. At the eighth ASEM Summit held in Brussels in October 2010, the Leaders "reiterated their resolve to conclude the WTO Doha Development Agenda promptly with an ambitious, comprehensive and balanced outcome consistent with its mandate and based on progress already made, as this would represent a single most important contribution to the objective. Leaders further agreed that all forms of trade protectionism should be rejected and that existing tariff and non-tariff

<sup>16</sup> UN Comtrade database.

<sup>17</sup> The latest available IAP for Japan was issued in 2009. See APEC online information. Viewed at: [http://www.apec-iap.org/document/JPN\\_2009\\_IAP.htm](http://www.apec-iap.org/document/JPN_2009_IAP.htm).

<sup>18</sup> APEC Leaders agreed to develop an APEC list of environmental goods that contribute to their green growth and sustainable development objectives, on which they would reduce their applied tariff rates to 5% or less by 2015. The list and subsequent reduction in tariff would take into account APEC economies' economic circumstances, without prejudice to APEC economies' positions in the WTO.

barriers should be rolled back without delay. In order to promote economic growth and development, leaders also reaffirmed the need for a fair and rule-based multilateral trading system under the WTO."<sup>19</sup>

25. At the tenth ASEM Foreign Ministers Meeting in Hungary in June 2011, Ministers "underlined the importance of maintaining a functioning open, equitable, rules based international trading system. They acknowledged the instrumental role played by the WTO in mitigating protectionist pressures particularly at the time of the economic crisis. Its existing framework of rules and its consultative mechanisms have been critical in contributing to the beginnings of global economic recovery. Ministers stressed that in the current still fragile state of the world economy it is all the more important to refrain from introducing or raising barriers to trade and investment in order to keep markets open and sustain growth."<sup>20</sup>

26. Japan participated in the Informal ASEM Senior Officials' Meeting for Trade and Investment, the 9th ASEM Customs Directors General/Commissioners Meeting and the 6<sup>th</sup> Meeting of the ASEM Working Group on Customs Matters.

(e) Other bilateral/regional arrangements

27. 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.

28. The Joint Study Committee for an FTA between China, Japan, and Korea was launched in May 2010. The Committee completed its work at its 7<sup>th</sup> meeting, in December 2011. At the 5<sup>th</sup> Trilateral Summit Meeting in May 2012, consensus was reached to launch FTA negotiations within the year. Since then three working group meetings have been held as part of the preparatory work for the launch of the FTA negotiations.

29. With regard to the Trans-Pacific Partnership Agreement, the Japanese Prime Minister announced in November 2011 that Japan would enter into consultations towards participating in the TPP negotiations.

30. During the period under review, amendments were made to Japan's bilateral tax treaties with Singapore (amendment entered into force in July 2010), Malaysia (December 2010), Luxembourg (December 2011), Switzerland (December 2011) and Belgium (amendment signed in January 2010, but not yet in force). Japan also signed new bilateral tax treaties with Bermuda (entered into force in August 2010), Netherlands (December 2011), Hong Kong (August 2011), Saudi Arabia (September 2011), Bahamas (August 2011), Cayman Islands (November 2011), the Isle of Man (September 2011). New treaties have also been signed with Kuwait, Jersey, Guernsey, and Portugal but these have not yet entered into force. None of the tax treaties Japan has signed contains MFN provisions.

---

<sup>19</sup> Eighth Europe Asia Meeting, "Chair's Statement". Viewed at: [http://www.mofa.go.jp/policy/economy/asem/asem8/pdfs/chair\\_state.pdf](http://www.mofa.go.jp/policy/economy/asem/asem8/pdfs/chair_state.pdf).

<sup>20</sup> Tenth ASEM Foreign Ministers' Meeting, "Chair's Statement". Viewed at: [http://www.mofa.go.jp/policy/economy/asem/asem10/chair1106\\_withannex.pdf](http://www.mofa.go.jp/policy/economy/asem/asem10/chair1106_withannex.pdf).

31. Japan currently has bilateral investment treaties in force with 16 trading partners, and has signed new treaties with Papua New Guinea and Colombia, which have not entered into force yet (section 3(i)).<sup>21</sup>

### (3) FOREIGN INVESTMENT REGIME

32. Inward FDI in Japan continues to be much lower than outward FDI, and is also relatively low compared with that in other large OECD economies. The continued low level of FDI may be attributed to factors such as the appreciating exchange rate, high costs of doing business in Japan, and regulatory barriers.<sup>22</sup> The authorities consider that the main reasons include the difficulty involved in hiring qualified employees; high business costs in Japan<sup>23</sup>; and high customer expectations. On the other hand, Japan's trading partners indicated in the past that it may 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 20<sup>th</sup> out of 183 countries in the World Bank's *Doing Business 2012* index<sup>24</sup>; however, it ranks 120<sup>th</sup> with respect to paying taxes and 107<sup>th</sup> with regard to starting a business.

33. In December 2011, the Government approved the "Program for Promoting Japan as an Asian Business Center and Direct Investment into Japan". Location subsidies, tax incentives, and reduced patent fees for R&D sites would be offered under the programme. Although the total cost of Japan's investment promotion programme is not estimated, the authorities stated that ¥2 billion and ¥500 million were spent in FY2010 and FY2011, respectively, on subsidy programmes promoting Asian Site Location.

#### (i) Regulatory regime

34. There have been no changes to laws, regulations, and rules concerning inward FDI since 2010. FDI (both inward and outward) is governed by the Foreign Exchange and Foreign Trade Act; in addition, relevant cabinet and ministerial ordinances, such as the Foreign Exchange Order and the Order of Inward Foreign Direct Investment apply.<sup>25</sup> Inward FDI generally requires *ex post facto* reporting to the Minister of Finance and the Minister in charge of the sector involved, by the 15<sup>th</sup> day of the month following the investment. Prior notification needs to be officially approved for inward FDI in industries where the authorities feel there would be "significant adverse effect on the smooth management of the national economy." These include: agriculture, forestry and fisheries, crude oil, leather and leather products, and air and maritime transport. Approval is also required in some other sectors on the grounds of public order, public safety, and national security.<sup>26</sup> The authorities state that only one request for approval has been denied.<sup>27</sup> Besides the approval (prior notification) requirements under the Foreign Exchange and Foreign Trade Act, various other laws stipulate specific

<sup>21</sup> An Investment Agreement signed with India, as part of the EPA, entered into force in August 2011.

<sup>22</sup> WTO (2001).

<sup>23</sup> The recent appreciation of the yen may have helped increase the net outflow of FDI in Japan.

<sup>24</sup> World Bank online information. Viewed at: <http://doingbusiness.org/rankings>.

<sup>25</sup> For an English translation for the Foreign Exchange and Foreign Trade Act, see Cabinet Secretariat online information. Viewed at: [http://www.cas.go.jp/jp/seisaku/hourei/data/FTA\\_2.pdf](http://www.cas.go.jp/jp/seisaku/hourei/data/FTA_2.pdf).

<sup>26</sup> 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.

<sup>27</sup> This concerned a particular FDI proposal in electric utilities in 2008 (see WTO (2009), p. 30).

restrictions on inward FDI in certain sectors, including the acquisition of land, mining, oil industry, telecommunications, and transport.<sup>28</sup>

35. The examination period for approval of a foreign investment is about two weeks. As a result of reform adopted in April 2009, investment advisors are allowed to make prior notifications without attaching clients' individual information, and investors are allowed to file prior notifications within six months before the date of the investment. The authorities consider that these changes have reduced the burden on foreign investors, as the approval process for most investments takes less than five business days. The number of prior notifications decreased from 641 in 2008 to 248 in 2011.<sup>29</sup>

36. Cross-border mergers and acquisitions are subject to the Anti-Monopoly Act. During the review period, no merger or acquisition was rejected by the Japan Fair Trade Commission under the provisions of the Act.

37. Japan currently has bilateral investment treaties (BITs) with Bangladesh; Cambodia; China; Egypt; Hong Kong, China; the Republic of Korea; Lao PDR; Russia; Sri Lanka; Turkey; Mongolia; Pakistan; Viet Nam; Uzbekistan; and Peru.<sup>30</sup> In addition, Japan has signed BITs with Papua New Guinea; Kuwait; Iraq; and Colombia as well as a trilateral investment treaty with China and the Republic of Korea; these have not yet entered into force.

38. Japan's bilateral EPAs/FTAs with Singapore, Mexico, Malaysia, Chile, Thailand, Indonesia, Brunei, the Philippines, Switzerland, and India contain provisions on investment whereby preferential treatment is provided to investment from the EPA parties over other foreign investors. The provisions are similar to the provisions of Japan's BITs. These provisions are applied to investors and investments as defined in the agreements, with reservations specified in the texts and annexes. Japan's FTAs with Viet Nam and Peru do not contain provisions on investment, as separate BITs have been signed with these countries and have been incorporated into the EPAs.

## **(ii) Investment promotion measures**

39. As mentioned, in December 2011 Japan launched the "Program for Promoting Japan as an Asian Business Center and Direct Investment into Japan". The Programme's five central initiatives are:

- to boost profitability to promote investment, which would include measures such as the Asian Business Promotion Project;
- to utilize the special zone system to attract investment. Measures under this initiative would include the Special Zone for Reconstruction and the Comprehensive Special Zone System, where firms would be exempt from regulations and be provided fiscal and financial incentives;

---

<sup>28</sup> For details regarding the restrictions, see WTO document WT/TPR/S/243/Rev.1 May 2011

<sup>29</sup> There were 361 prior notifications in 2009 and 325 in 2010.

<sup>30</sup> 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.

- to improve the investment environment and create structure for investment support;
- to make the living environment more comfortable at investment sites; and
- the initiative to enrich the dissemination of information welcoming investment.

40. Under the programme, the authorities have set out targets to be achieved by 2020. These include: increasing the number of high value sites by 30 each year; doubling the number of employees of foreign enterprises to 2,000,000; and doubling the volume of direct investment into Japan.<sup>31</sup>

---

<sup>31</sup> Program for Promoting Japan as an Asian Business Center and Direct Investment into Japan. Viewed at: [http://www.invest-japan.go.jp/program/en\\_index.html](http://www.invest-japan.go.jp/program/en_index.html).

### III. TRADE POLICIES AND PRACTICES BY MEASURE

#### (1) MEASURES DIRECTLY AFFECTING IMPORTS

##### (i) Customs clearance procedures and valuation

1. During the period under review, there has been little change to customs clearance procedures and valuation.<sup>1</sup> Japan Customs, which is a part of the Ministry of Finance, continues to administer and enforce customs legislation.

2. There are no special registration requirements for importers and the use of a customs broker is optional. To operate as a customs broker an approval is required from the Director of Customs.<sup>2</sup> There is no nationality requirement to obtain licences.

3. According to the latest available data, the average time between arrival of goods and the granting of import permission was 60.7 hours for sea cargo and 13.4 hours for air cargo (including time required under the "immediate import permission system upon arrival"), down from 62.4 hours for sea cargo and 16 hours for air cargo at the time of the last review.<sup>3</sup>

4. Under the Authorized Economic Operator (AEO) programme, importers with cargo security management and a good compliance record may file an import declaration and customs duty declaration separately; this allows them to have goods released before filing the customs duty declaration. Import declarations may be filed in advance of cargo arrivals. In addition, importers are eligible for bonded transportation without obtaining individual permission. Currently, manufacturers, warehouse operators, customs brokers, and logistics operators are eligible to become AEOs. Japan has mutual recognition arrangements on AEO programmes with Canada, the European Union, the Republic of Korea, New Zealand, Singapore, and the United States, under which Japan Customs takes into account the status of the members of the other AEO programme when conducting its own risk assessment.

5. All importers must file a customs declaration; this may now be done before goods are brought into the *hozei* (bonded) area. Prior to October 2011, the declaration had to be filed after the goods had been taken into a *hozei* area or other designated place. Imports are valued according to their c.i.f value (taken to be the transaction value of the imported goods).

6. Importers may pay the assessed customs duty through the multi-payment network system. The network connects teller institutions (government authorities) with financial institutions. The Government does not charge for use of the system; however, the financial institutions involved may collect fees. At the request of importers and other concerned parties, written advance rulings are published on the customs website; these rulings are not binding.

---

<sup>1</sup> For further details regarding customs procedures and valuation, see WTO documents WT/TPR/S/243/Rev.1 May 2011 and WT/TPR/S/211/Rev.1 May 2009.

<sup>2</sup> Law of Customs Brokerage, Article 3.

<sup>3</sup> Based on the 10<sup>th</sup> Time Release Survey by 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.



7. Since February 2010, the electronic application formalities among various agencies have been unified through the completion of the common portal for next generation single window. Currently, eight customs offices are open round the clock (seven at the time of the last review).

8. Under the present legislation, 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.<sup>4</sup> In 2011, there were 31 complaints (51 in 2010), and 5 appeals (3 in 2010); additionally, two law suits were filed (none in 2010).

## (ii) Tariffs

### (a) Bound tariff

9. In FY2012, Japan's tariff schedule comprised 9,168 lines at the HS nine-digit level.<sup>5</sup> Japan has bound 98.3% of lines (159 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 8,432 bound lines (93.6%), of which 3,558 lines are duty-free. The difference between the average bound MFN tariff (6.4%) and the average applied MFN tariff (6.3%) in FY2012 was negligible, which reflects a high degree of predictability in the tariff.<sup>6</sup> Japan has not used this gap to raise tariffs since its previous Review. However, the average bound rate (WTO definition) is considerably higher for agricultural products (17.8%) than for non-agricultural products (3.7%). As Japan completed the implementation of its Uruguay Round commitments in 2009 and has no further commitments in tariff reduction, the average for agricultural products is expected to remain unchanged.

<sup>4</sup> District courts have first instance jurisdiction over such law suits. Their decisions may be appealed to High Courts and then the Supreme Court.

<sup>5</sup> 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 (include both general and temporary rates); WTO bound rates; and preferential rates (under the GSP, and EPAs with Singapore, Mexico, Malaysia, Chile, Thailand, Indonesia, Brunei, Viet Nam, Philippines, Switzerland, India, and Peru). 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, 473 lines (including in-quota lines) or 279 lines (excluding only in-quota rates not subject to state trading) or 219 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 FY2012.

<sup>6</sup> 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, various years**  
(%)

		MFN applied			Final bound <sup>d</sup>
		FY2008 <sup>a</sup>	FY2010 <sup>b</sup>	FY2012 <sup>c</sup>	
1.	Bound tariff lines (% of all tariff lines)	98.8	98.8	98.3	98.3
2.	Simple average rate	6.1	5.8	6.3	6.4
	Agricultural products (HS01-24)	15.7	14.7	15.3	15.7
	Industrial products (HS25-97)	3.6	3.4	3.6	3.7
	WTO agricultural products	17.1	15.7	17.5	17.8
	WTO non-agricultural products	3.5	3.5	3.7	3.7
	ISIC 1 - Agriculture, hunting, fishing	5.0	4.4	5.2	5.2
	ISIC 2 - Mining	0.1	0.1	0.1	0.1
	ISIC 3 - Manufacturing	6.3	6.0	6.5	6.6
	Manufacturing excluding food processing	3.7	3.5	3.6	3.7
	First stage of processing	8.1	5.7	8.0	8.1
	Semi-processed products	4.7	4.7	4.8	4.8
	Fully processed products	6.6	6.6	7.0	7.2
3.	Duty-free tariff lines (% of all tariff lines)	41.4	41.4	40.5	38.8
4.	Simple average rate of dutiable lines only	10.5	10.0	10.7	10.7
5.	Domestic tariff "peaks" (% of all tariff lines) <sup>e</sup>	6.6	6.6	6.6	6.4
6.	International tariff "peaks" (% of all tariff lines) <sup>f</sup>	7.5	7.4	7.6	7.6
7.	Overall standard deviation of tariff rates	19.9	16.0	20.5	20.7
8.	Coefficient of variation of tariff rates	3.3	2.7	3.2	3.2
9.	Tariff quotas (% of all tariff lines)	1.8	1.8	1.8	1.8
10.	Non- <i>ad valorem</i> tariffs (% of all tariff lines)	6.7	6.6	6.7	6.3
11.	Non- <i>ad valorem</i> tariffs with no AVEs (% of all tariff lines)	1.4	2.0	1.5	1.5
12.	Nuisance applied rates (% of all tariff lines) <sup>g</sup>	1.3	1.3	1.5	1.2
<b>Number of lines</b>		8,841	8,826	9,168	9,009
	<i>Ad valorem</i>	5,181	4,590	4,839	4,874
	Duty-free lines	3,660	3,652	3,714	3,558
	Non- <i>ad valorem</i>	588	584	615	577
	Specific	209	207	236	228
	Compound	56	56	57	58
	Alternate	291	289	290	291
	Other	32	32	32	0

- a 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.
- b 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.
- c Using AVEs based on 2010 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 only based on bound tariff lines. The implementation of the UR was reached in 2004, except on one industrial product, which was implemented in 2009. Calculations are based on FY2012 tariff schedule.
- e Domestic tariff peaks are defined as those exceeding three times the overall simple average applied rate.
- f International tariff peaks are defined as those exceeding 15%.
- g Nuisance rates are those greater than zero, but less than or equal to 2%.

Note: All tariff calculations exclude in-quota lines. FY2008 and FY2010 tariff schedules are based on HS07 nomenclature and the FY2012 tariff schedule is based on HS12.

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

## (b) Applied MFN tariff

*Structure*

10. The structure of Japan's MFN applied tariff has remained largely unchanged since its last Review. Of the 9,168 tariff lines, 93.3% involve *ad valorem* rates (40.5% are duty free). Specific rates are applied to 2.6% of the lines, while 3.2% and 0.6% of the tariff lines have specific and compound rates respectively. Other rates (differential duties and sliding duties) apply to 0.3% of tariff lines.<sup>7</sup> 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). The authorities provided *ad valorem* equivalents for 478 lines; consequently, the tariff analysis is based on 99.2% of the 9,168 tariff lines.<sup>8</sup> At present, 161 tariff lines (1.8%) are subject to tariff-rate quotas. The out-of-quota rates for 38 tariff lines are *ad valorem*.

11. In FY2012, Japan reduced applied MFN tariffs on certain products (Table III.2). Around 40.5% of Japan's tariff is zero rated; rates greater than zero but less or equal to 5% apply to 24.9% of tariff lines and 21.5% of the tariff lines between 5% and 10%. Tariff-rate quotas apply to 1.8% of tariff lines: all in-quota rates are *ad valorem*; while only 18% of the out-of-quota rates are *ad valorem*. Furthermore, the average rates differ considerably: in-quota rates average 18.1%, while out-of-quota rates average 91.5%. The quota allocation method and process remains somewhat intricate.<sup>9</sup>

**Table III.2**  
Reduction in applied MFN tariffs, FY2010 and FY2012

Product	HS 2012	Applied MFN tariff FY2012 (%)	Applied MFN tariff FY2010 (%)
Ginger, neither crushed nor ground	091011292	0	2.5
	121190931	0	2.5
Plants and part of plants	121190939	0	2.5
Fruit/nut paste	200799219	34	40
	200799229	21.3	25
Hydrofluoric acid	281111000	0	3.3
Barium nitrate	283429200	0	2.9
Made up nets	560819091	5	6.3
	560819099	5	6.3
	560890090	5	7.2
Embroidery	581010000	0	14.2
	581091000	0	14.2
	581092000	0	14.2
	581099020	0	14.2
	581099090	0	14.2
Brassieres	621210000	0	8.4

**Table III.2 (cont'd)**

<sup>7</sup> 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 *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.

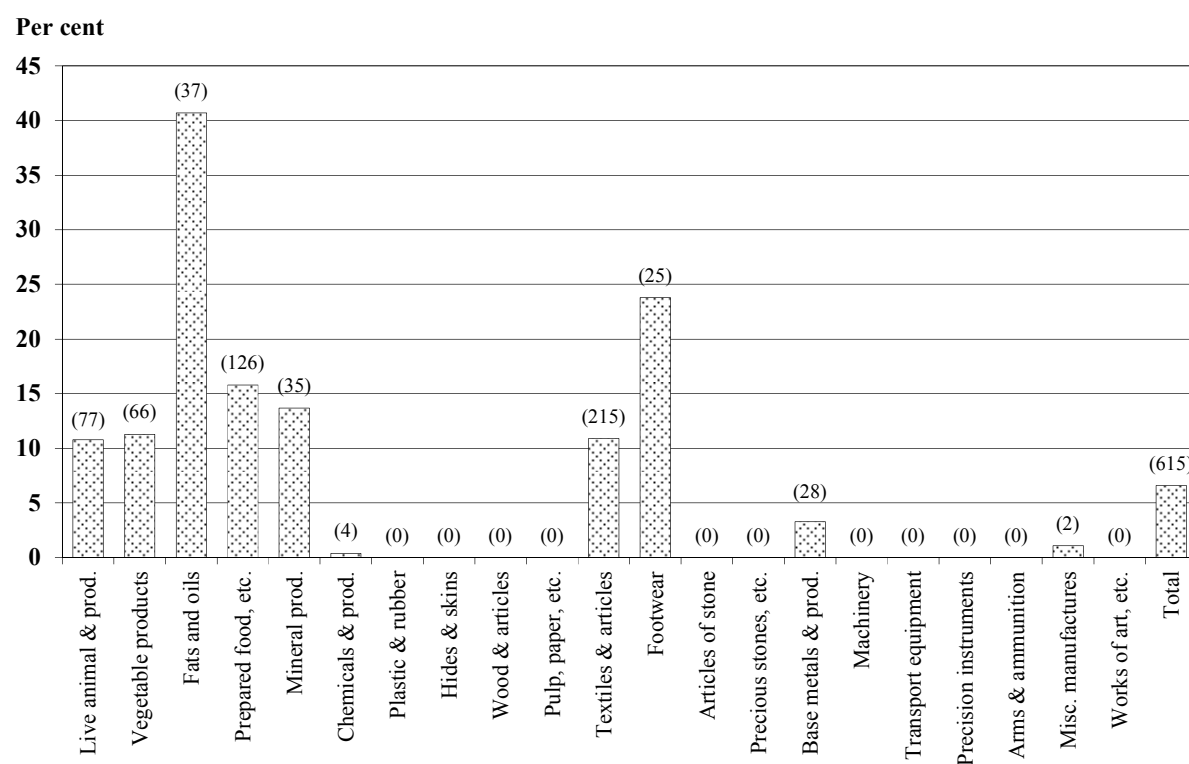
<sup>8</sup> *Ad valorem* equivalents were provided by the authorities for 478 out of 615 non-*ad valorem* tariff lines. For 35 lines that carry alternate rates of duty, and 27 lines with compound rates, the *ad valorem* part of the line was used in the tariff analysis (where no AVE was provided).

<sup>9</sup> See WTO (2001) for details of the quota allocation method.

Product	HS 2012	Applied MFN tariff FY2012 (%)	Applied MFN tariff FY2010 (%)
Girdles and panty girdles	621220000	0	8.3
Corselettes	621230000	0	8
Similar articles	621290000	0	8.4
Unwrought antimony, powders	811010000	0	8.8 ¥/kg
Insulated electric conductors	854420000	0	4.8
	854430090	0	4.8
	854442091	0	4.8
	854442099	0	4.8
	854449099	0	4.8
	854460090	0	4.8
Lighters	961310000	0	2.6
	961320090	0	4.3
	961380000	0	3.4
	961390000	0	3.9

Source: WTO Secretariat; and information provided by the Japanese authorities.

**Chart III.1**  
**Share of non-*ad valorem* duties, by HS section, FY2012**



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).

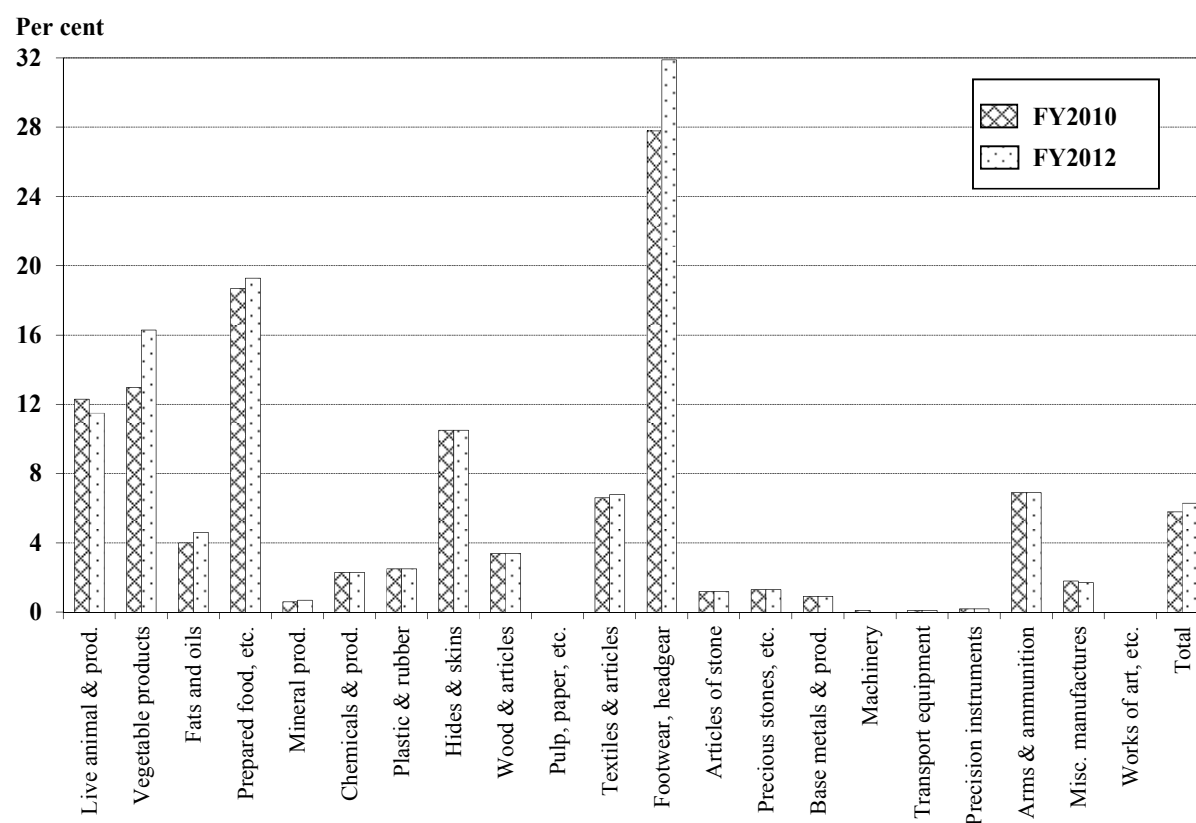
Source: WTO Secretariat estimates, based on data provided by the Japanese authorities.

### Tariff averages

12. In FY2012, Japan's overall simple average applied MFN tariff was 6.3%, up slightly from FY2010 (5.8%) (Table AIII.1). The change in the average applied MFN tariff is due to a change in nomenclature<sup>10</sup>, as well as higher average *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 17.5%, compared with 3.7% for non-agricultural products. Simple average applied MFN tariffs are also relatively high for footwear and headgear, prepared foods, vegetables, live animals, hides and skins, arms and ammunition, and textiles and clothing (Chart III.2).

**Chart III.2**

**Simple average applied MFN tariff rates, by HS section, FY2010 and FY2012**



**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.

<sup>10</sup> In January 2012 Japan implemented the HS 2012 edition.

13. The authorities provided *ad valorem* equivalents (AVEs) based on import data for 2010 for approximately 77.9% of the non-*ad valorem* rates.<sup>11</sup> The simple average rate for all the AVEs supplied is 37.7%<sup>12</sup>; however, the highest rate is 515.6%, for certain beans and cow peas. Of the 100 highest tariffs, 95 had non-*ad valorem* rates. In FY2012, the simple average of *ad valorem* rates was 4.4% revealing that non-*ad valorem* rates conceal tariff peaks; however, the authorities do not consider that applying a non-*ad valorem* tariff is necessarily, in itself, a burden on consumers, and that it has certain advantages, such as administrative simplicity.

#### *Tariff reductions and exemptions*

14. In FY2011, customs duty reductions and exemptions amounted to ¥187 billion (about 21.3% of tariffs actually collected).

#### (c) Preferential rates

15. Japan offers preferential tariff rates to 138 developing countries and 7 territories under the GSP; least developed countries (48 in 2012) receive additional preferences. Japan also grants preferential access under FTAs/EPAs for imports from Singapore, Mexico, Malaysia, Chile, Thailand, Indonesia, Brunei, ASEAN, Philippines, Switzerland, Viet Nam, India, and Peru. EPAs with the latter two countries entered into force in August 2011 and March 2012 respectively (Chapter II).

16. Simple average tariff rates under all preferential arrangements (GSP, LDC, and EPAs) are lower than the simple average applied MFN rates. However, the rates vary widely from one product group to another. The overall simple average preferential rates range from 0.5% to 5.3%, while agriculture is subject to rates from 1.7% to 16.4% (Table III.3). 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.3**  
**Preferential tariff rates, FY2012**  
(%)

	<i>Ad valorem</i> rates <sup>a</sup>	Duty- free rates <sup>a</sup>	Overall simple average	WTO agric- ulture	Dairy products	WTO non- agriculture	Fish and fishery products	Textiles	Clothing	Leather, rubber footwear, & travel goods
Applied MFN	93.3	40.5	6.3	17.5	65.2	3.7	6.2	5.6	9.2	15.9
GSP	93.6	58.1	5.3	16.4	65.2	2.6	5.9	4.0	8.8	15.0
LDC	99.6	97.9	0.5	1.7	0.0	0.2	1.7	0.1	0.0	1.7
<b>Economic partnership agreements:</b>										
Singapore	96.0	81.6	3.8	15.0	65.2	1.1	4.5	0.1	0.0	15.8
Mexico	95.5	82.1	3.7	15.6	65.2	0.8	2.6	0.2	0.0	12.8
Malaysia	96.2	82.2	3.2	14.5	65.2	0.5	4.2	0.0	0.0	4.9

**Table III.3 (cont'd)**

<sup>11</sup> 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, (this 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.

<sup>12</sup> In comparison, the simple average of the AVEs at the time of Japan's last Review was 32%, which was based on 2008 imports.

	<i>Ad valorem</i> rates <sup>a</sup>	Duty-free rates <sup>a</sup>	Overall simple average	WTO agric- ulture	Dairy products	WTO non- agriculture	Fish and fishery products	Textiles	Clothing	Leather, rubber footwear, & travel goods
Chile	96.2	80.7	3.4	15.0	65.2	0.6	4.9	0.1	0.0	5.4
Thailand	96.6	81.9	3.3	14.6	65.2	0.6	4.0	0.1	0.0	5.4
Indonesia	96.2	80.2	3.5	15.3	65.2	0.6	4.9	0.1	0.0	5.8
Brunei	95.9	79.6	3.9	15.5	65.2	1.1	4.8	0.1	0.0	15.8
ASEAN	96.2	79.7	3.5	15.3	65.2	0.7	4.8	0.1	0.0	6.5
Viet Nam	96.2	80.4	3.5	15.4	65.2	0.7	4.3	0.1	0.0	6.6
Philippines	96.1	80.2	3.3	14.6	65.1	0.6	3.4	0.1	0.0	6.0
Switzerland	96.2	79.6	3.6	15.5	65.2	0.8	5.8	0.1	0.0	6.9
India	96.0	78.7	3.8	16.0	65.2	0.9	5.7	0.1	0.0	8.6
Peru	96.2	79.9	3.6	15.8	65.2	0.7	4.5	0.1	0.0	7.3
<b>Memorandum<sup>b</sup></b>										
Brunei	96.2	79.9	3.5	15.2	65.2	0.7	4.5	0.1	0.0	6.5
Indonesia	96.2	80.5	3.4	15.0	65.2	0.6	4.5	0.1	0.0	5.8
Malaysia	96.2	82.3	3.2	14.5	65.2	0.5	4.0	0.0	0.0	4.9
Philippines	96.2	80.6	3.3	14.6	65.1	0.6	3.3	0.1	0.0	6.0
Singapore	96.3	82.0	3.4	14.9	65.2	0.6	4.3	0.1	0.0	6.5
Thailand	96.6	81.9	3.3	14.6	65.2	0.6	3.9	0.1	0.0	5.4
Viet Nam	96.2	80.5	3.4	15.1	65.2	0.6	4.1	0.1	0.0	6.3

a As a percentage of total tariff lines.

b Based on lowest rate applied from country's EPA and the ASEAN EPA.

Note: Calculations are based on total tariff lines. If no preferential rate is applied the corresponding MFN rate is used for the calculations.

Calculations exclude in-quota rates and include AVEs as available.

Product groups are based on Multilateral Trade Negotiations (MTN) categories.

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

17. Tariff-rate quotas apply to 142 tariff lines under the EPAs between Japan and Mexico, and the in-quota rates for these lines under the EPAs are lower than the corresponding applied MFN rates. These include certain meat, fruit juice, leather, and leather footwear; however, these agricultural products are not subject to tariff-rate quotas under applied MFN rates. Under the EPA with Malaysia, fresh bananas (two tariff lines) are subject to a tariff quota, where the in-quota rate is zero. The tariff quota on bananas is also applied under the EPAs with Mexico, Indonesia, and Thailand. Under the EPA with Chile, 33 lines covering mainly meat and meat preparations, are subject to tariff quotas. Under the EPA with Thailand, seven lines (two lines on fresh bananas, fresh pineapples, two lines on meat preparations of swine, cane molasses, and modified starch), are subject to tariff quotas. The EPAs with the Philippines, Switzerland, Viet Nam and Peru have 14, 9, 1, and 18 tariff lines respectively subject to tariff rate quotas, in most cases the products involved are meat and meat products.

18. China remains the largest beneficiary of preferential access to the Japanese market (Chapter II(2)(iii)); it accounts for over three quarters of all preferential imports under the GSP scheme.<sup>13</sup>

<sup>13</sup> Other major beneficiaries of Japan's GSP scheme include: Myanmar (4.1% of total imports under preferential treatment), Bangladesh (3.9%), and South Africa (3.5%).

**(iii) Rules of origin**

19. Japan provides preferential rules of origin under the Generalized System of Preferences and its various FTAs/EPAs). To benefit from preferential duties, certificates of origin need to be provided, issued by authorized institutions in the exporting country<sup>14</sup>, so as to prove that the product being imported is basically "wholly obtained" or "substantially transformed" (e.g. change of tariff classification at the HS 4-digit or 40% of value added) in the exporting country. For goods "not wholly obtained", specific criteria based on change of tariff classification rules, processing rules, and value-added rules are applied on a product-by-product. Rules of origin under EPAs and the GSP apply these specific criteria for various products.

20. Japan's MFN rules of origin to, *inter alia*, determine whether to apply MFN rates (as opposed to general rates) are detailed 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.<sup>15</sup> MFN tariff rates are applicable to imports from eligible countries, where the country of origin is defined as the country in which the goods concerned have been wholly obtained or have undergone substantial transformation (change of tariff classification at the HS 4-digit level).

**(iv) Non-tariff border measures**

21. Under Article 69-11 of the Customs Law, Japan prohibits imports of certain products. For reasons of national security, safeguarding consumer health and well-being, preserving domestic plant and animal life and the environment, 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), may be prohibited or subject to import licensing. Japan's Foreign Exchange and Foreign Trade Law governs import licensing procedures (Chart III.3). In addition, some commodities, including certain fish, are subject to import quotas.

**(a) Import prohibition and licensing**

22. Items requiring import approval include weapons and other items from the Libyan Arab Jamahiriya as per United Nations Security Council resolution.<sup>16</sup> At present, products that require import approval or are prohibited 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 to import are issued free of cost.

**(b) Import quotas**

23. Japan continues to use quantitative restrictions on imports (import quotas); according to the authorities the quotas adhere to the WTO Agreements. Products subject to import quotas (unchanged since 2010) include: certain fish products and controlled substances listed in the Montreal Protocol on Substances that Deplete the Ozone Layer.

---

<sup>14</sup> In EPAs with Switzerland, Peru, and Mexico, certificates may also be issued by approved exporters.

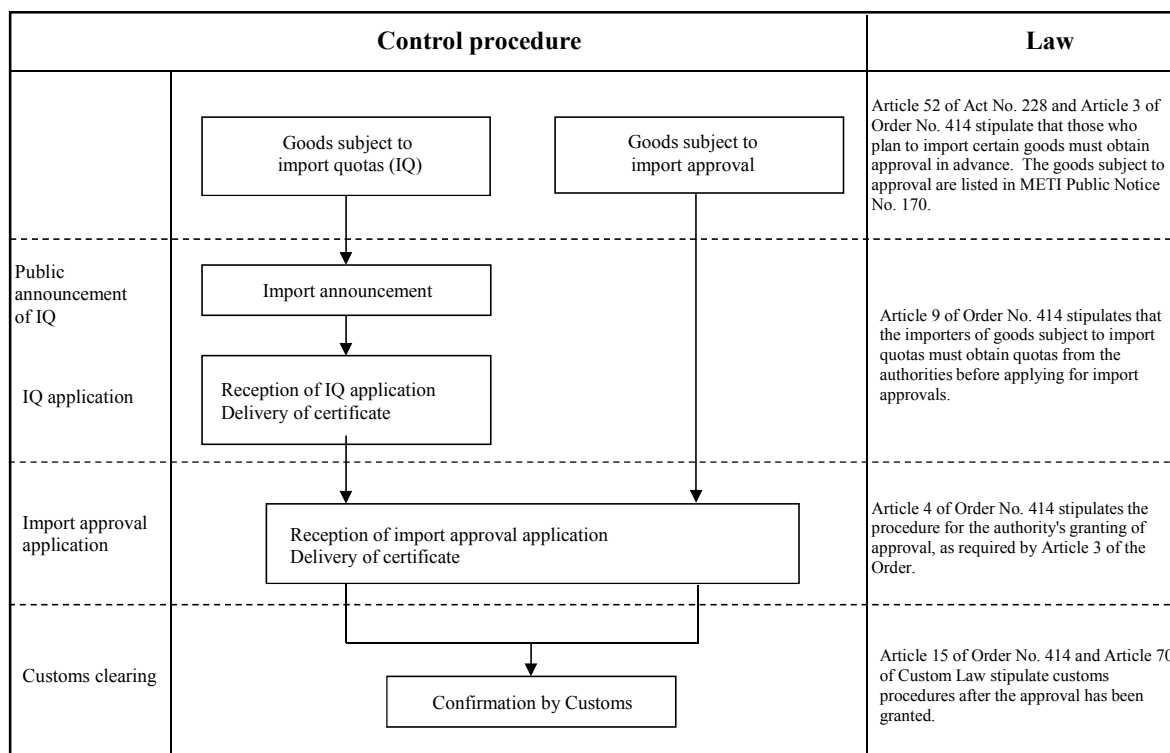
<sup>15</sup> The MFN rules of origin are also used to determine the country of origin for some trade remedy measures and import trade statistics.

<sup>16</sup> See WTO document G/LIC/N/3/JPN/10, 4 October 2011, for products subject to Japan's current import licensing regime.



**Chart III.3**  
**Import control system, 2012<sup>a</sup>**

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



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

**Source:** 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); and information provided by the Japanese authorities.

24. The METI is responsible for administering the import quota system. Eligible importers are issued with an import quota allocation certificate. The method for allocating quotas, which tends to be complex and intricate, is specified in METI notices.<sup>17</sup> Quota allocations are decided on an annual basis. Fish-related quotas are allocated based on 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. These quotas are issued by the METI with the consent of the Ministry of Agriculture, Forestry and Fisheries (MAFF). Applicants for quota allocations must meet various

<sup>17</sup> WTO document WT/TPR/S/107 9 October 2002; and METI online information (in Japanese). Viewed at: [http://www.meti.go.jp/policy/external\\_economy/trade\\_control/boekikanri/import/wariate/suisanbutsuhappyo.htm](http://www.meti.go.jp/policy/external_economy/trade_control/boekikanri/import/wariate/suisanbutsuhappyo.htm), [http://www.meti.go.jp/policy/external\\_economy/trade\\_control/boekikanri/download/import/2012/20120928\\_300\\_im.pdf](http://www.meti.go.jp/policy/external_economy/trade_control/boekikanri/download/import/2012/20120928_300_im.pdf), [http://www.meti.go.jp/policy/external\\_economy/trade\\_control/boekikanri/download/import/2012/20120928\\_301\\_im.pdf](http://www.meti.go.jp/policy/external_economy/trade_control/boekikanri/download/import/2012/20120928_301_im.pdf) [12.11.2012].

criteria.<sup>18</sup> Some quotas are allocated on a first-come first-served basis. When the amount applied for exceeds remaining unallocated quota, quotas are allocated by lottery.

25. Unused quota entitlements are non-transferable and cannot be carried over to the next period. Additionally, the Government does not reallocate any unused quotas. A certificate of import quota allocation, normally valid for four or six months, is issued by the METI to eligible importers.

(c) Import surveillance

26. Japan has in place a 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 from Customs. The system is used, *inter alia*, for goods where fraudulent declarations have been found in the past or are deemed more high risk. These include: vaccine of microbial origin for experimental use; uranium catalysts; specified foreign cultural property; tuna; marlin; whales; psychotropics; poppy and hemp seeds; certain substances listed in the Montreal Protocol; radioisotopes; diamonds; and various other chemicals and pharmaceutical products.<sup>19</sup>

(v) State trading

27. State-trading activities in Japan involve leaf tobacco, opium, rice, wheat and barley, and milk products.<sup>20</sup> The authorities maintain that the underlying reason for state-trading activities is to stabilize the supply and price of these commodities and protect consumer interests. However, the 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. For example: the Tobacco Business Law requires that Japan Tobacco Inc. (JT) purchase all leaf tobacco grown in Japan, based on an agreement between JT and the tobacco cultivators. Leaf tobacco not deemed suitable as raw material for manufactured tobacco, is excluded from the agreement.<sup>21</sup> In 2011, the average price of domestically produced leaf tobacco was ¥1,865 per kg, more than three times the average price of imported leaf tobacco (¥542 per kg).<sup>22</sup>

(vi) Contingency measures

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

29. 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. Japan made amendments to the Guidelines for Procedures Relating to Anti-Dumping Duty and Countervailing Duty in April 2011 with a view to ensuring conformity with the WTO Agreements. These amendments were notified to the Committee on Anti-dumping Practices and the Committee on

---

<sup>18</sup> 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.

<sup>19</sup> As of September 2011, there are no import regulations for antisera for any uses.

<sup>20</sup> WTO document G/STR/N/14/JPN, 6 July 2012.

<sup>21</sup> Articles 3.1 and 3.4, the Tobacco Business Law.

<sup>22</sup> WTO document G/STR/N/14/JPN, 6 July 2012.

Subsidies and Countervailing Measures in August 2011, and were reviewed in their meetings in October 2011.<sup>23</sup>

30. On 26 June 2012, Japan terminated two measures involving 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; the measure had been imposed since 26 July 2002. On 29 June 2012, Japan initiated anti-dumping investigation on imports of uncoated certain cut sheet paper from Indonesia. Currently, Japan maintains four anti-dumping measures. They 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%.<sup>24</sup>

31. Japan has not applied either countervailing or safeguard measures since its previous Review in 2011.

#### (vii) Government procurement

32. Data provided by the authorities indicate that Japan spends about 13% of its GDP on government procurement. The stated purpose of Japan's government procurement policy is to ensure the fairness and impartiality of public entities' contracts, equality of opportunity, and effective execution of the budget. Nonetheless, it would appear that government procurement is also used as an instrument of industrial policy for some sectors and to support SMEs.

33. Japan is a party to the WTO Agreement on Government Procurement (GPA).<sup>25</sup> During the period under review, Japan made notifications under the GPA on: national legislation<sup>26</sup>, statistics for the period 2009 and 2010<sup>27</sup>, and modifications to Appendix I.<sup>28</sup> All proposals for modifications to Appendix I notified since January 2009 have been certified.

34. 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*)<sup>29</sup>, and certain public corporations are listed. Japan's thresholds for GPA coverage expressed in Special Drawing Rights (SDRs) remained unchanged

<sup>23</sup> WTO document G/ADP/N/1/JPN/2/Suppl.7 (G/SCM/N/1/JPN/2/Suppl.7), 29 August 2011.

<sup>24</sup> WTO document G/ADP/N/230/JPN, 2 August 2012.

<sup>25</sup> The Japan External Trade Organization (JETRO) provides an electronic portal that covers all entities listed in Japan's Annexes to the GPA, in Japanese. JETRO online information. Viewed at: <http://www.jetro.go.jp/database/procurement>. [10.11.2012]

<sup>26</sup> WTO documents GPA/37/Add.8, 13 April 2011; and GPA/37/Add.9, 16 April 2012.

<sup>27</sup> WTO documents GPA/104/Add.4, 5 May 2011; and GPA/108/Add.4, 23 February 2012.

<sup>28</sup> WTO documents GPA/MOD/JPN/53, 25 June 2010; GPA/MOD/JPN/54, 16 July 2010; GPA/MOD/JPN/55, 7 September 2010; GPA/MOD/JPN/55/Corr.1, 19 November 2010; GPA/MOD/JPN/56, 17 September 2010; GPA/MOD/JPN/57, 4 October 2010; GPA/MOD/JPN/58, 19 November 2010; GPA/MOD/JPN/59, 22 November 2010; GPA/MOD/JPN/60, 30 November 2010; GPA/MOD/JPN/61, 8 December 2010; GPA/MOD/JPN/62, 8 March 2011; GPA/MOD/JPN/63, 1 August 2011; GPA/MOD/JPN/64, 6 September 2011; GPA/MOD/JPN/65, 9 December 2011; GPA/MOD/JPN/66, 14 February 2012; GPA/MOD/JPN/67, 9 March 2012; and GPA/MOD/JPN/68, 14 May 2012.

<sup>29</sup> As of March 2012, there are 19 designated cities; the 7 more recently designated cities are not yet listed in Japan's Annex 2 to the GPA currently in force. The 19 cities have populations over 500,000 and are designated by a relevant Cabinet Order.

during the review period. The authorities state that local government procurement procedures are basically the same as those of the central government, except for Japan's voluntary measures.<sup>30</sup>

35. In the recently concluded re-negotiation of the GPA, Japan added seven designated cities (*shitei toshi*)<sup>31</sup> to the entity coverage, and improved its services coverage (13 new services sectors).<sup>32</sup> Furthermore, Japan undertook coverage commitments with regard to the Public Finance Initiative (PFI), including with respect to BOT contracts, and reduced its thresholds for goods and services procured by central government entities to SDR 100,000. It also agreed to the deletion of country-specific derogations.<sup>33</sup>

36. 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 contracts under the GPA, companies participating in tenders need to satisfy certain criteria by the time a winning bidder is decided. The criteria are published in official gazettes.

37. In addition to its commitment under the GPA, Japan has chapters on government procurement in nine of its EPAs<sup>34</sup>; the Japan–Malaysia, Japan–Viet Nam, and Japan–Brunei EPAs do not have such a chapter. For example, under the Japan–Singapore and Japan–Chile EPAs, Japan's SDR threshold for goods and services procured by entities other than local governments, is lowered to 100,000 SDR, from Japan's current threshold of 130,000 SDR, under the GPA.

38. A specific contractor may be selected under the single tendering contract method if, *inter alia*, the nature or objectives of the procurement 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" in the GPA.

---

<sup>30</sup> 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.

<sup>31</sup> These are (i) Saitama-shi; (ii) Shizuoka-shi; (iii) Sakai-shi; (iv) Niigata-shi; (v) Hamamatsu-shi; (vi) Okayama-shi; and (vii) Sagami-hara-shi.

<sup>32</sup> These are: (i) repair and servicing of personal and household goods (CPC 633); (ii) services incidental to forestry and logging, including forest management (CPC 8814); (iii) some education services (CPC 921, 922, 923, and 924); (iv) motion picture services (except motion picture videogame production services (CPC 9611)). In addition, the following services with respect to central government entities: (i) Food serving services (CPC 642); (ii) Beverage serving services (CPC 643); (iii) Management consulting services (CPC 865); (iv) Services related to management consulting (except 86602 Arbitration and conciliation services) (CPC 866); (v) Packaging services (CPC 876); (vi) Leasing or rental services concerning agricultural machinery and equipment without operator (CPC 83106 to 83108); (vii) Leasing or rental services concerning furniture and other household appliances (CPC 83203); (viii) Leasing or rental services concerning pleasure and leisure equipment (CPC 83204); and (ix) Leasing or rental services concerning other personal or household goods (CPC 83209).

<sup>33</sup> These include an opening to Canada of Japan's coverage of sub-central and other government entities (Annexes 2 and 3).

<sup>34</sup> Japan's EPAs with Indonesia, the Philippines, Switzerland, Singapore, Mexico, Chile, Thailand, India, and Peru have chapters on government procurement.

39. In accordance with an announcement made in 2009, the Government promotes the use of wood with an objective of covering more than half of domestic demand for wood with domestic supply.<sup>35</sup> The Act for the Promotion of Use of Wood in Public Buildings, issued on 19 May 2010, stipulated promotion of the use of wood in the construction of public buildings; the authorities maintain that the law is operated without distinction between domestic and imported goods.

40. In accordance with the Basic Guideline for Public Procurement of Information Systems, adopted in March 2007, in the event that the amount of the contract affecting a design or development is estimated to be not less than ¥500 million, it must be divided. Government organizations are also required to formulate procurement plans.

41. 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 ¥1.56 trillion in 2010 (down by 15.7% from 2009).<sup>36</sup> In 2010, open tendering accounted for 69.9% of the total (72.9% in 2009). During the same period, the share of selective tendering in terms of value increased from 1.0% to 1.1%, and that of single tendering from 26.1% to 29.0%. Procurement of overseas goods and services, supplied by either domestic or foreign suppliers decreased from 9.0% to 8.2% in terms of value. Procurement of foreign goods amounted to 11.2% of the total in 2010, compared with 13.7% in 2009 (Table III.4).<sup>37</sup> Procurement from foreign suppliers decreased from 3.3% in 2009 to 2.7% in 2010 in contract terms, but increased from 2.7% to 3.5% in value terms during the same period. The shares of foreign suppliers in contracts resulting from open and single tenders, respectively, were 1.4% and 4.7% in 2010 (1.4% and 4.2% in 2009). As of 1 October 2012, 77,592 firms (of which 264 were either wholly or partially owned by foreigners) have central-government-wide unified qualification for participating in tendering contracts for, *inter alia*, manufacturing, sales of products, and offers of service.

42. 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 may 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. These laws and regulations apply equally to domestic and foreign SMEs.

---

<sup>35</sup> 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. Viewed at: [http://www.kantei.go.jp/foreign/kan/topics/sinseichou01\\_e.pdf](http://www.kantei.go.jp/foreign/kan/topics/sinseichou01_e.pdf) [12.11.2012].

<sup>36</sup> See WTO (2001) for details of the Action Program. Procurement for public works (including architectural planning and consultancy) is excluded from the programme.

<sup>37</sup> 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 declined from ¥1,081.3 billion in 2009 to ¥923.1 billion in 2010; the largest increase was in miscellaneous articles. The number of contracts decreased from 10,106 to 8,592 over the same period. The number of services contracts rose from 4,356 in 2009 to 4,657 in 2010, while the value of such contracts decreased from ¥772.9 billion to ¥639.8 billion.

**Table III.4**  
**Procurement by product and by origin, 2009 and 2010**  
(¥100 million and %)

No.	Products	2009		2010	
		Total value	Foreign share	Total value	Foreign share
1	Products from agriculture, and from agricultural and food processing	8.6	0.8	23.9	0.0
2	Mineral products	232.3	66.1	396.3	21.5
3	Products of the chemical and allied industries	42.7	8.6	40.1	5.0
4	Medicinal and pharmaceutical products	706.6	15.9	248.4	30.8
5	Artificial resins; rubber, raw hides and skins; leather; and articles thereof	27.2	0.0	20.0	2.7
6	Wood and articles of wood; paper making material; paper and paperboard and articles thereof	173.7	0.1	119.8	0.1
7	Textiles and textile articles; thread for spinning and weaving; and articles thereof	66.0	4.0	46.4	3.3
8	Articles of stone, of cement and similar materials; ceramic products; glass and glassware; and articles thereof	9.6	0.0	3.3	0.0
9	Iron and steel and articles thereof	164.8	1.8	197.5	0.1
10	Non-ferrous metals and articles thereof	35.5	0.0	29.9	13.1
11	Power generating machinery and equipment	77.1	15.7	42.6	15.9
12	Machinery specialized for particular industries	129.5	1.5	248.1	0.6
13	General industrial machinery and equipment	80.7	13.7	85.8	4.0
14	Office machines and automatic data processing equipment	3,049.3	2.4	2,952.0	4.2
15	Telecommunications and sound recording and reproducing apparatus and equipment	1,305.2	2.6	857.4	2.3
16	Electrical machinery, apparatus and appliances, and electrical parts thereof	269.0	6.9	229.3	10.8
17	Road vehicles	586.9	0.1	335.6	0.1
18	Railway vehicles and associated equipment	30.2	51.9	52.1	30.9
19	Aircraft and associated equipment	83.1	97.1	100.1	53.8
20	Ships, boats and floating structures	92.8	0.7	34.5	0.0
21	Sanitary, plumbing, and heating equipment	8.7	0.0	23.4	2.2
22	Medical, dental, surgical and veterinary equipment	1,045.4	45.2	654.6	42.5
23	Furniture and parts thereof	63.2	0.0	42.0	0.0
24	Scientific and controlling instruments and apparatus	1,587.5	26.4	1,165.3	25.5
25	Photographic apparatus and equipment, optical goods, and clocks	150.9	9.4	47.6	5.9
26	Miscellaneous articles	786.5	6.8	1,235.4	2.9
<b>Total</b>		<b>10,813.1</b>	<b>13.7</b>	<b>9,231.4</b>	<b>11.2</b>

Source: Government of Japan online information. Viewed at: <http://www.kantei.go.jp/jp/kanbou/22tyoutatu/> and <http://www.kantei.go.jp/jp/kanbou/23tyoutatu/>.

43. Most cases of proven infringement of Japan's Anti-monopoly Act (AMA) continue to involve bid-rigging related to public works. Three cases of bid-rigging involving government officials were made known to the public in the years 2010 and 2011. The Act for Promoting Proper Tendering and Contracting for Public Works defines major policy instruments for preventing bid-rigging and other improper actions.<sup>38</sup> 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). The procuring entity is obliged to follow the recommendations

<sup>38</sup> For details see WTO document WT/TPR/S/243/Rev.1 May 2011.

of the GPRB. Four complaints have been filed since 2010.<sup>39</sup> 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 XX:6 of the GPA.

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

**(a) Standards and technical regulations**

44. Technical regulations and conformity assessment procedures are governed by various 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).<sup>40</sup> Furthermore, these laws form the legal basis for implementing the TBT Agreement in Japan. Japan has identified the Standards Information Service within the International Trade Division of the Ministry of Foreign Affairs<sup>41</sup> and the Standards Information Service within the Business Service Department of the Japan External Trade Organization (JETRO)<sup>42</sup>, as the enquiry points under the TBT Agreement.<sup>43</sup> The Ministry of Foreign Affairs is Japan's notification authority under the Agreement.

45. While regulatory impact assessments are conducted by each ministry on technical regulations, no cost-benefit analyses were made available to the secretariat. However, according to the authorities the Implementation Guidelines for ex-ante Evaluation of Regulations state that it is desirable to quantify or express the costs and benefits in monetary terms to the extent possible. The Guidelines also state that cost-benefit analysis whereby costs and benefits are defined in monetary terms is a major technique of "Regulatory ex-ante Evaluation". 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.<sup>44</sup> 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). Regulatory impact analyses have not

---

<sup>39</sup> Of these four complaints, three were dismissed and one was upheld. For details, see Cabinet Office online information (in Japanese). Viewed at: <http://www5.cao.go.jp/access/japan/shori-j.html> [12.11.2012].

<sup>40</sup> Other relevant laws and regulations include the Building Standard 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.

<sup>41</sup> The Ministry of Foreign Affairs mainly handles enquiries on drugs, cosmetics, medical devices, foodstuffs, food additives, telecommunication facilities, motor vehicles, ships, aircraft, and railway equipment (excluding enquiries concerning certain JIS, which are handled by JETRO).

<sup>42</sup> JETRO mainly handles enquiries on electrical equipment, gas appliances, measurement scales, foodstuffs, food additives, and JIS related to medical devices, motor vehicles, ships, aircraft, and railway equipment.

<sup>43</sup> WTO document G/TBT/2/Add.10, 11 June 1996.

<sup>44</sup> 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.

been conducted when adopting some regulations through an ordinance, which is inferior to a cabinet order.<sup>45</sup>

46. Since July 2010, Japan has made 66 notifications of technical regulation to the WTO.<sup>46</sup>

#### *Voluntary standards*

47. In 2011, voluntary standards comprised 10,339 Japanese Industrial Standards (JIS) and 214 Japan Agricultural Standards (JAS) (Table III.5). To ensure compliance with the TBT Agreement, Japan has been aligning JIS to international standards if corresponding international standards exist. In 2011, approximately 56% of JIS were comparable to international standards (48% in 2009), 97% of these were aligned with international standards in 2011 (96% in 2009). As a result in 2011, about 54% of all JIS were aligned with international standards. Between April 2010 and February 2012, 755 JIS items were revised, 277 were withdrawn, and 347 were newly established.

48. The authorities note that it is impossible for ISO or IEC standards to match every product in every country. Where a product is not traded internationally, or when the nature of the product is dependent on culture, history or the climate of the country, independent standards need to be developed. In the case of Japan, the authorities noted that many products have no international equivalent, such as *tatami* (traditional floor covering), *futon* (Japanese mattress), Japanese rice cooker, Japanese electric fan, pocket warmers, and Japanese low table with heat source. These products need domestic standards.

49. The authorities also state that standards for building materials and processes are much higher in Japan because the country is located in an earthquake-prone area. If these standards were presented to the ISO, they would not be adopted, as other countries do not need such high standards. Therefore, in regard to the JIS, the METI considers it necessary to develop its own industrial standards, which may not necessarily be aligned with international standards (Chart III.4).

**Table III.5**  
**Main standards and technical regulations in Japan, 2011**  
(%)

	Number of standards/ regulations	Corresponding to international standards <sup>a</sup>	Equivalent to international standards	Acceptance of overseas certification <sup>b</sup>	Acceptance of overseas test data <sup>b</sup>
<b>A. Mandatory technical regulations</b>					
Pharmaceutical Affairs Law	2,043	..	..	..	..
Food Sanitation Law	647	..	..	..	..
Electrical Appliance and Materials Safety Law	454	..	..	..	..
Consumer Product Safety Law	10	..	..	..	..
High Pressure Gas Safety Law	2	..	..	..	100
Building Standard Law <sup>c</sup>	..	..	..	..	..
Safety Regulations for Road Vehicles	84	..	46	46	..
Law concerning the Safety Assurance and Quality Improvement of Feed	..	..	..	..	..

**Table III.5 (cont'd)**

<sup>45</sup> The Implementation Guidelines for ex-ante Evaluation of Regulations state that it is desirable to quantify or express in monetary value costs and benefits to the extent possible.

<sup>46</sup> WTO documents G/TBT/N/JPN/337-405.



	Number of standards/regulations	Corresponding to international standards <sup>a</sup>	Equivalent to international standards	Acceptance of overseas certification <sup>b</sup>	Acceptance of overseas test data <sup>b</sup>
Law concerning Examination and Regulation of Chemical Substances and Regulation of their Manufacture	4	..	..	..	100
Industrial Safety and Health Law	181				
Telecommunications Business Law <sup>d</sup>	..	..	..	..	..
Radio Law <sup>e</sup>	..	..	..	..	..
Fertilizer Control Law	..	..	..	..	..
<b>B. Voluntary standards</b>					
Japan Industrial Standards (JIS)	10,339	56	97	..	..
Japan Agricultural Standards (JAS)	214	34	75	..	..

.. 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, entered into effect in 1999).

Source: Information provided by the Japanese authorities.

50. Under the provisions of the Japan Agricultural Standards Law (JAS Law), international standards (such as Codex) must be "taken into account" before establishing or revising JAS. As a result the authorities do refer to relevant international standards when establishing or revising JAS. Furthermore, under the JAS Law, there are mandatory technical standards, such as quality labelling standards and JAS for organically produced products, as well as voluntary standards. During the period under review, quality labelling standards (mandatory standards) for 44 products were revised, while 19 voluntary standards have been revised since 2010. The JAS for organic plants and processed organic foods, which are mandatory standards, were revised in March 2012.

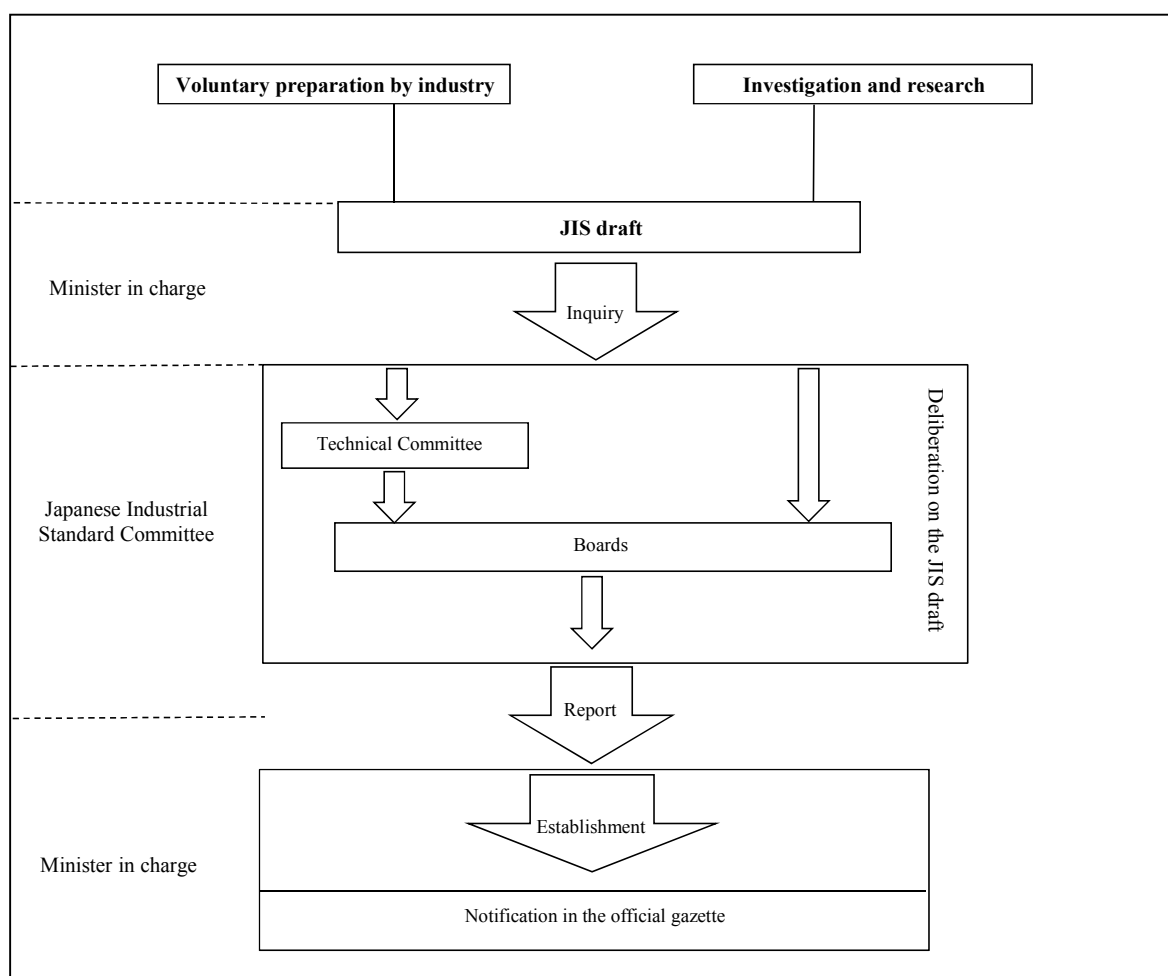
51. About 8,000 domestic and 700 foreign factories in 21 countries and economies are certified to affix JIS marks (JIS Mark scheme). The JIS Mark scheme is voluntary unless relevant regulations require JIS for domestic sales. The authorities state that domestic and foreign factories are treated in the same manner with regard to certification of the JIS marks, and the JIS Mark scheme is internationally harmonized, based on ISO/IEC 17065. Currently, 25 organizations are accredited as JIS mark certification bodies.

52. Compliance with the JAS is not necessary for imports into Japan. The JAS Law allows third-party organizations to certify operators (e.g. manufacturers) to affix JAS marks. The Minister of Agriculture, Forestry and Fisheries as well as Registered Certifying Bodies (RCBs) and Registered Overseas Certifying Bodies (ROCBs) are responsible for monitoring and managing JAS marks.<sup>47</sup> Foreign producers or manufacturers that are certified by RCBs and ROCBs may conduct their own grading and affix the JAS marks to their products. At present, there are 30 ROCBs (20 for organic

<sup>47</sup> For further details see WTO document WT/TPR/S/243/Rev.1 May 2011

products and 10 for forestry products). 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.

**Chart III.4**  
**JIS development process**



*Source:* Information provided by the Japanese authorities.

### *Mandatory technical regulations*

53. Technical requirements for the registration of pharmaceuticals were changed during the review period. The changes included the minimum requirements for biological products being added to and changed<sup>48</sup>; for reasons of public safety, poisonous and deleterious substances and substances that would affect the central nervous system were newly designated, and the criteria for the containers used to transport such substances was changed.<sup>49</sup>

<sup>48</sup> WTO documents G/TBT/N/JPN/354, 6 April 2011; G/TBT/N/JPN/358, 19 May 2011; G/TBT/N/JPN/369, 24 October 2011; G/TBT/N/JPN/381, 20 February 2012.

<sup>49</sup> WTO documents G/TBT/N/JPN/331, 27 May 2010; G/TBT/N/JPN/332, 27 May 2010; G/TBT/N/JPN/363, 12 August 2011; G/TBT/N/JPN/338, 21 July 2010; G/TBT/N/JPN/338/Rev.1, 27 July 2010; G/TBT/N/JPN/353, 25 March 2011; and G/TBT/N/JPN/364, 22 August 2011.

54. Changes to the Industrial Safety and Health Law, amended the manufacturing code for elevators in the workplace.<sup>50</sup> New items were added to the list of products subjected to the Consumer Product Safety Act and the Electrical Appliances and Material Safety Act.<sup>51</sup> New standards relating to product safety were also established.<sup>52</sup>

55. The authorities stated that Japan has amended its safety and environmental regulations for road vehicles to align them with regulations under the UN Agreement dealing with the Adoption of Uniform Technical Prescriptions for Wheeled Vehicles, Equipment and Parts which can be fitted and/or be used on Wheeled Vehicles (1958 Agreement). As a result, Japan has amended technical requirements for, *inter alia*, seatbelts and headlights since 2010.

#### *Conformity assessment*

56. Overseas manufacturers of electrical and consumer products may 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). Additionally, under the provisions of the High Pressure Gas Safety Law, some cylinders and designated equipment for high pressure gas made by foreign manufacturers are allowed to omit some inspections if the manufacturers are registered with the Government. 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.<sup>53</sup>

57. The METI has designated 23 inspection bodies (up from 22 in 2011), of which 8 are foreign. The designated inspection bodies include: 8 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 a single entity under the Gas Utility Industry Law.

58. As part of the a mutual recognition agreement between Japan and the United States: there are 5 registered approval bodies and 5 registered foreign conformity assessment bodies dealing with the Telecommunications Business Law; and there are 12 registered approval bodies and 11 registered foreign conformity assessment bodies under the Radio Law.

59. Additionally, under the Third Party Certification System for medical devices, 13 notified bodies have been registered, of which 6 are foreign affiliated companies. However, all the notified bodies are based in Japan. Under the Industrial Safety and Health Law, registered inspection bodies are classified into four types: registered bodies for inspection on production; registered bodies for inspection on machines in use; registered bodies for individual inspection before circulation; and registered bodies for conformity inspection by production types. Currently, there are 15 registered bodies. In addition to the registered bodies, designated foreign inspection bodies are allowed to produce documents on testing results on machines approved under the Industrial Safety and Health Law in order for them to be replaced with official on-site inspections. Currently, there are nine designated foreign inspection bodies.

<sup>50</sup> WTO document G/TBT/N/JPN/356, 3 May 2011.

<sup>51</sup> WTO documents G/TBT/N/JPN/333, 16 June 2010; G/TBT/N/JPN/334, 17 June 2010; and G/TBT/N/JPN/351, 7 January 2011.

<sup>52</sup> WTO document G/TBT/N/JPN/362, 12 August 2011.

<sup>53</sup> Based on the Chemical Substances Control Law.

(b) Sanitary and phytosanitary measures

60. The Ministry of Agriculture, Forestry and Fisheries, the Ministry of Health, Labour and Welfare, and the Food Safety Commission continue to be responsible for Japan's SPS measures. The laws governing the establishment of SPS measures include the Food Sanitation Law, the Quarantine Law, the Plant Protection Law, and the Act on Domestic Animal Infectious Diseases Control, while Japan's enquiry point and national notification authority under the SPS Agreement remains the Standards Information Service within the International Trade Division of the MOFA's Economic Affairs Bureau.<sup>54</sup> The procedure for establishing SPS measures also remained unchanged during the review period.<sup>55</sup>

61. During the period under review, Japan submitted 41 SPS notifications to the WTO.<sup>56</sup> Over 30 of the 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, taking into consideration the food intake of the Japanese population. However, no cost-benefit analyses have been conducted. Japan considers that MRLs under the positive list system, which was 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).<sup>57</sup> Additionally, the authorities state that Japan publishes the results of the risk assessments when introducing, amending, or abolishing laws and regulations related to SPS measures.

62. Other changes to SPS requirements included, *inter alia*: changes to Animal Health Requirements for processed animal protein imported into Japan, under which the imports of bone charcoal for water purification were allowed<sup>58</sup>; establishment of new standards for calf liver<sup>59</sup>; new import requirements for mangoes from Pakistan<sup>60</sup>; and the revision of the Ministerial Ordinance of Standards and Specifications for Safety of Pet Food.<sup>61</sup>

63. In order to prevent the invasion of animal diseases from abroad and minimize associated risks, the authorities revised the Act on Domestic Animal Infectious Diseases Control in April 2011.<sup>62</sup> Under the provisions of the revised Act, animal quarantine officers have the authority to inspect passengers and crew members of all nationalities arriving in Japan, and to disinfect their luggage and other personal effects at air and sea ports. With a view to controlling rabies, Japan introduced the same import conditions for pet animals (including dogs) from the United Kingdom, Ireland, Sweden and Norway, as for those from other EU Member States.<sup>63</sup>

<sup>54</sup> WTO document G/SPS/ENQ/26, 11 March 2011.

<sup>55</sup> For more details regarding SPS legislation and procedures please see WTO document WT/TPR/S/243/Rev.1 May 2011.

<sup>56</sup> WTO documents G/SPS/N/JPN/262-301.

<sup>57</sup> Australia, Canada, the European Union, New Zealand, and the United States.

<sup>58</sup> WTO document G/SPS/N/JPN/277, 9 June 2011.

<sup>59</sup> WTO document G/SPS/N/JPN/297, 3 May 2012.

<sup>60</sup> WTO document G/SPS/N/JPN/272, 23 February 2011.

<sup>61</sup> WTO document G/SPS/N/JPN/270, 7 February 2011.

<sup>62</sup> WTO documents G/SPS/N/JPN/271, 16 February 2011; and G/SPS/N/JPN/271/Corr.1, 21 February 2011.

<sup>63</sup> WTO documents G/SPS/N/JPN/286, 13 December 2012; and G/SPS/N/JPN/286/Add.1, 19 January 2012.

64. Regulations under the Plant Quarantine Act were revised during the period under review.<sup>64</sup> Changes included: the establishment of a quarantine pest list; amendments to the non-quarantine pest list not subject to phytosanitary measures; amendments to the current list of pest/plant/area combinations subject to inspection at growing sites in exporting countries; amendments to the current list of pest/plant/area combinations subject to import prohibition; and the establishment of a system to allow the import of prohibited items on the premise that exporting countries conduct conventional phytosanitary measures.

65. Japan currently imposes import prohibitions on beef and poultry from various countries to prevent the spread of BSE and avian flu.<sup>65</sup> 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 code<sup>66</sup>, 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. In December 2011, Japan decided to review its general countermeasures against BSE (both domestic and border measures). The Food Safety Commission (the risk assessment body in Japan), is conducting a risk assessment of beef from the United States, Canada, France, and the Netherlands. The Ministry of Health, Labour and Welfare (MHLW) is to review the countermeasure against BSE based on the result of the FSC's assessment. With regard to beef from other countries, Japan conducted on-site reviews in Ireland and Poland in June 2012.

#### *Conformity assessment*

66. Under the provisions of 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.<sup>67</sup> However, items such as bacteria and mycotoxins, whose characteristics may change during transportation, are not exempted. The inspection bodies must be registered with the Government of Japan, through the government of the exporting country.<sup>68</sup> As of February 2012, 3,895 such laboratories were registered.

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

67. During the period under review, Japan concluded two FTAs/EPAs that include SPS and TBT chapters: the Japan-India EPA, which entered into force in August 2011, and the Japan-Peru EPA, which entered into force in March 2012. 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

<sup>64</sup> WTO documents G/SPS/N/JPN/266, 4 November 2010; and G/SPS/N/JPN/292, 9 February 2012.

<sup>65</sup> 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.

<sup>66</sup> WTO document WT/TPR/M/211/Add.1, 22 May 2009.

<sup>67</sup> Items whose results are subject to change during transportation (bacteria, mycotoxin, etc.) are excluded.

<sup>68</sup> Results of examinations based on the AOAC (Association of Analytical Communities) method, which are either endorsed or established by the exporting country, are accepted.

November 2002); and with the United States for telecommunications terminal equipment and radio equipment (since January 2008).

68. Japan states that it will negotiate mutual recognition agreements based on industries' requests with countries or regions where technical barriers to trade are expected to be reduced, and where there is compatibility of both sides' regulations and equality of competence in accreditation and supervision.<sup>69</sup>

69. 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

70. Food labelling in Japan is governed by the JAS Law and the Food Sanitation Law. Under the provisions of the JAS law, 52 mandatory labelling standards for food are currently in force. These include: cross-category quality labelling standards for processed foods, fresh foods, and genetically modified foods<sup>70</sup>, and individual quality labelling standards.<sup>71</sup> Food that contains additives must also be labelled with the additives included. Imported processed food does not require labelling of place of origin of the ingredients, which is mandatory for domestically produced processed food. 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.<sup>72</sup>

71. The Food Sanitation Law requires that any allergenic substances contained in processed foods must be indicated on the labels. At present, it is mandatory to include eggs, milk, wheat, buckwheat, peanuts, crab, and shrimps in the description of ingredients; while it is recommended to include abalone, squid, salmon roe, oranges, kiwifruit, beef, walnuts, mackerel, salmon, gelatine, soybeans, chicken, pork, matsutake-mushrooms, peaches, yams, apples, and bananas.

72. Under both the Food Sanitation Law and the JAS Law, genetically modified (GM) foods must be labelled as such. Presently, the list of GM products that need to be labelled comprises 8 crops (soybeans, corn, rape seed, potatoes, cotton seed, alfalfa, papaya, and sugar beet) and 33 kinds of designated processed food, mainly made of soybeans or corn; it also includes the newly added papaya

---

<sup>69</sup> WTO document WT/TPR/M/211/Add.1, 22 May 2009.

<sup>70</sup> 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).

<sup>71</sup> Specific labelling requirements are provided as quality labelling standards for individual products depending on their characteristics.

<sup>72</sup> To label food as "organic", certification that the food meets certain JAS requirements is needed from a registered certifying body or a registered overseas certifying body. Only certified food is allowed to be distributed with a JAS organic mark.

and processed foods containing papaya 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.

73. During the period under review, changes to the food labelling system under the Food Sanitation Law included: the requirement that apples, apricots, cherries, Japanese plums, kiwifruits, loquats, nectarines, peaches, pears, pomegranates, and quinces be labelled with the names of post-harvest fungicide materials used<sup>73</sup>; papaya and processed foods containing papaya as a main ingredient are now subject to mandatory labelling as required for genetically modified foods<sup>74</sup>; and meat that can be eaten raw is required to carry the warning that "eating raw meat carries a risk of food poisoning".<sup>75</sup>

74. Changes to the food labelling system under the JAS Law included the addition of brown sugar and brown sugar products and Kombu-maki to the list of food items that are domestically processed and that require indication of the place of origin of their ingredients<sup>76</sup>; papaya and processed foods containing papaya as a main ingredient were added to the list of items subject to mandatory labelling under the Quality Labelling Standard for Genetically Modified Foods<sup>77</sup>; additionally, the quality labelling standards for "Tsuyu" (dipping soup) and soy bean paste were changed in FY2011.<sup>78</sup> The authorities stated that the labelling system of organic plants and organic processed foods under the JAS law was to be amended in spring 2012. The changes have been notified to the WTO.<sup>79</sup>

#### **(ix) Import promotion measures**

75. There have been no changes to import promotion measures provided by Japan since 2010. Programmes 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. These programmes are mainly implemented by the Manufactured Imports and Investment Promotion Organization (MIPRO).

### **(2) MEASURES DIRECTLY AFFECTING EXPORTS**

#### **(i) Procedures**

76. 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.

77. As a result of an amendment to the Customs Act in 2011, 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 without being placed in a customs area. The authorized manufacturer must consign the exports to an exporter with a good compliance record. The authorities consider that this amendment has made the AEO programme comprehensive, covering almost all trade-related businesses in a supply chain.

<sup>73</sup> WTO document G/SPS/N/JPN/264, 4 November 2010.

<sup>74</sup> WTO document G/SPS/N/JPN/276, 14 April 2011.

<sup>75</sup> WTO document G/SPS/N/JPN/282, 28 July 2011.

<sup>76</sup> WTO document G/TBT/N/JPN/349, 9 December 2010.

<sup>77</sup> WTO document G/TBT/N/JPN/355, 26 April 2011.

<sup>78</sup> WTO documents G/TBT/N/JPN/348 and 359, 9 December 2010 and 23 June 2011.

<sup>79</sup> For details of the changes see WTO documents G/TBT/N/JPN/372, 2 November 2011; and G/TBT/N/JPN/373, 2 November 2011.

78. For the purpose of implementing FTAs/EPAs 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**

79. 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**

80. 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.

**(b) Import duties**

81. 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.<sup>80</sup>

*Exemption and reduction of import duties*

82. Certain items used as raw materials for the production of certain exported goods 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), unchanged since 2011.

83. Reduced tariff rates apply to certain inputs (for the production of certain exported goods) at the time of importation: wheat flour (for the production of monosodium glutamate) and certain starches (for the production of vitamin C, crystallized glucose, and erythorbate or sorbitol).

84. In order to be eligible for this tariff exemption or reduction, manufacturers require approval from Customs as a "manufacturing factory", and manufactured goods need to be exported within two years of importation of relevant inputs. 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.

---

<sup>80</sup> Customs Tariff Law, Article 19; and Article 47 Cabinet Order for Enforcement of the Customs Tariff Law.



*Refund of import duties*

85. Import tariffs applied to sugar (for the production of canned fruits, confectioneries, syrup, etc.) are fully or partially refundable depending on the sucrose content.<sup>81</sup> 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.

86. Re-exported imports that involve no change in nature and form, or deterioration, damage, or claims are eligible for refund of the import tariff.<sup>82</sup>

**(iv) Export prohibitions, restrictions, and licensing**

87. 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).<sup>83</sup> The authorities maintain that the main purpose of Japan's export controls is to preserve limited natural resources<sup>84</sup> and ensure national security; export controls are also applied to certain products under Japan's free-trade agreements.

88. In 2011, Japan amended its Customs Law with a view to preventing exports of certain devices and programmes that help in circumventing technological restrictions prescribed under the Unfair Competition Prevention Act.<sup>85</sup>

89. During the period under review, Japan added or deleted some products on the list of items subject to export licence (granted by the Minister of Economy, Trade and Industry) based on relevant agreements of some international export control groups.<sup>86</sup>

---

<sup>81</sup> Article 52, the Cabinet Order for Enforcement of the Customs Tariff Law.

<sup>82</sup> Articles 10, 19-3 and 20 of the Customs Tariff Law.

<sup>83</sup> 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> [10.07.2012]. Other export items requiring permission from the Minister of Economy, Trade and Industry 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 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).

<sup>84</sup> 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.

<sup>85</sup> For details, see Article 2(1)(x) of the Unfair Competition Prevention Act, which was also amended in 2011.

<sup>86</sup> On 1 July 2011, boron alloys, laser acoustic detection equipment, and "compensation systems" for magnetic or underwater electric field sensors were added to the list, and boron carbide and optical fibre communication cables or related accessories were removed from the list. Japan is a signatory to various treaties on nuclear, biological, and chemical non-proliferation, and serves on the existing international export control regimes: the Nuclear Suppliers Group (NSG), the Australia Group (AG), the Missile Technology Control Regime (MTCR), and the Wassenaar Arrangement (WA).

90. On 1 April 2012, Japan eliminated the export approval requirement of the Minister of Economy, Trade and Industry on: fish flour and fish waste, feed mixtures for fish breeding, seminal roots and seedlings of mints, seeds of *larix leptolepis*, and logs of *betulaceae*.

91. Japan does not apply export quotas.

**(v) Export cartels and voluntary export restraints**

92. 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.<sup>87</sup>

93. Japan does not apply voluntary export restraints.

**(vi) Export promotion schemes**

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

94. The Japan Bank for International Cooperation (JBIC), and Nippon Export and Investment Insurance (NEXI) administer medium- and long-term export credits. According to the authorities provision of these credits is based on the terms and conditions of the OECD Arrangement on Officially Supported Export Credits. In FY2010, the JBIC's total export credit commitments were ¥151.2 billion, and the total amount insured by NEXI was ¥8.6 trillion.

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

(b) Other export promotion schemes

96. Export promotion schemes handled by the Japan External Trade Organization (JETRO) include provision of information and support for participation at international trade fairs and exhibitions. No changes were introduced during the review period.

97. The Ministry of Agriculture, Forestry and Fisheries provides support to agricultural exporters through, *inter alia*: information-sharing on Japanese agricultural products and foodstuff; carrying out market research in foreign countries; and holding seminars abroad and in Japan. The budget for export promotion amounted to ¥2.3 billion in FY2011 and ¥1.5 billion in FY2012.<sup>88</sup>

**(3) MEASURES AFFECTING PRODUCTION AND TRADE**

**(i) Taxation and tax-related assistance**

98. Direct taxes, which include individual income tax and corporation tax, are expected to account for about 57.2% of total tax revenue in FY2012 (about 56.1% in FY2011) according to annual budgets (Table III.6). 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. The highest individual income tax rate, including local taxes, is 50%, and the highest corporation tax rate (including local taxes) is 35.64% (FY2012). All income earned in Japan is

---

<sup>87</sup> Under the Export and Import Transaction Law, prior notification must be given to the Minister of Economy, Trade and Industry for approval, before establishing an export cartel.

<sup>88</sup> The figures included supplementary budget for reconstruction from the great East Japan earthquake.

taxable, for both residents and non-residents, and the corporation tax rate is the same for foreign and domestic corporations. Consumption tax, which is levied at a rate of 5% on goods and services transactions, is the largest component of indirect taxes, contributing 23.0% of total tax revenue in FY2012.<sup>89</sup>

**Table III.6**  
**National government tax revenue, FY2011 and FY2012**  
(¥ billion and %)

Tax item	FY2011 budget		FY2012 budget	
	Amount	Percentage	Amount	Percentage
<b>Direct taxes</b>	24,271	56.1	25,919	57.2
Individual income tax	13,490	31.2	13,491	29.8
Corporation tax	7,792	18.0	8,808	19.5
Special corporation tax <sup>a, b</sup>	1,566	3.6	1,659	3.7
Inheritance tax	1,423	3.3	1,430	3.2
Special Individual Income Tax for Reconstruction	n.a.	n.a.	50	0.1
Special Corporation Tax for Reconstruction	n.a.	n.a.	481	1.1
<b>Indirect taxes</b>	18,991	43.9	19,365	42.8
Customs duty	815	1.9	910	2.0
Consumption tax	10,199	23.6	10,423	23.0
Liquor tax	1,348	3.1	1,339	3.0
Tobacco tax	816	1.9	945	2.1
Gasoline tax	2,634	6.1	2,611	5.8
Liquefied petroleum gas tax	12	0.0	11	0.0
Aviation fuel tax	46	0.1	44	0.1
Petroleum and coal tax	512	1.2	546	1.2
Promotion of power resources development tax	346	0.8	329	0.7
Motor vehicle tax	428	1.0	417	0.9
Tonnage tax	9	0.0	10	0.0
Stamp tax	1,057	2.4	1,032	2.3
Local Gasoline tax <sup>a, b</sup>	282	0.7	279	0.6
Liquefied petroleum gas tax <sup>a, b</sup>	12	0.0	11	0.0
Aviation fuel tax <sup>a, b</sup>	13	0.0	13	0.0
Motor vehicle tax <sup>a, b</sup>	294	0.7	286	0.6
Special tonnage tax <sup>a, b</sup>	11	0.0	13	0.0
Special tobacco surtax <sup>b</sup>	157	0.4	146	0.3
<b>Total</b>	<b>43,262</b>	<b>100</b>	<b>45,283</b>	<b>100</b>

n.a. Not applicable.

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 2011 (for FY2011) and January 2012 (for FY2012).

Source: Information provided by the Japanese authorities.

99. Tax revenue in Japan has been decreasing, and this has contributed to high public debt. The Government has recognized the need to broaden the income tax base, and Japan's FY2012 tax reforms include measures to broaden the tax base.

<sup>89</sup> For the details of exempted transactions, see WTO (2009). The 5% consists of the national consumption tax (4%) and a local consumption tax (1%).

(a) Tax incentives

100. The focus of Japan's system of tax incentives is on achieving various policy objectives, including investment to address environmental concerns or promote R&D.<sup>90</sup> The incentives are detailed in the Special Taxation Measures Law, which set out 311 special tax measures (in FY2012) involving, *inter alia*, accelerated depreciation, tax credits, and reduced tax rates. Since its previous Review, Japan has reviewed 170 of the special tax measures, abolished 29, and modified 67. The authorities estimate that tax revenue forgone through these tax incentives is about ¥5 trillion.

(b) Recent reforms

101. Tax reforms undertaken in FY2011 included extension, until December 2013, of the application of the reduced tax rate on dividends and capital gains on listed stocks (from 20% (statutory rate) to 10%); reduction of the corporation tax rate by 5.05 percentage points, in April 2012; and reduction of the preferential corporate tax rate for SMEs from 18% to 15%, against the background of Japan's statutory corporate tax rate being the highest within the OECD and the neighbouring Asian region until recently.<sup>91</sup>

102. Tax reforms in FY2012 included the extension of special treatment of R&D tax credit until the end of FY2013, the adoption of immediate depreciation for solar panels and wind electricity equipment, the extension of "reserve for overseas investment loss" for two years, and the introduction of special tax measures to establish the Reconstruction Industry Cluster Zone in Fukushima Prefecture. Japan has also extended the "eco-car" tax cut for three years (until April 2015), and introduced the "carbon dioxide tax of global warming countermeasure", which adds certain taxes in relation to the amount of CO<sub>2</sub> emission (effective 1 October 2012).<sup>92</sup>

(ii) Subsidies and other financial assistance

103. Japan has notified various specific subsidy programmes to the WTO. In its latest notification, Japan indicated 67 subsidy schemes to assist civil aircraft, agriculture and fisheries, industry, and finance.<sup>93</sup> The notification lists, items eliminated since the notification in 2009, including assistance or subsidies related to: civil aircraft; fuel cell systems; oil spill response programme; biofuel; nuclear energy technology development; natural gas storage; research for the promotion of natural gas in regional areas; research and development of salt manufacturing technology; soybean; fruits; cocoons; wood industry upgrading fund; and the Japan Finance Corporation.

104. The notification included some newly introduced subsidies, for: promoting the introduction of certain boilers; loans to develop domestic oil and natural gas; projects concerning the stable supply of petroleum products as well as petroleum from oil-producing countries; developing advanced future fuel technology; advancement of reprocessing fuel; promoting gas centrifuge to

---

<sup>90</sup> Under the special tax measures aiming at promoting investment, reserve accounts prepared for the loss of share value of oil exploitation companies include deductible expenses at a constant rate. Foreign limited partners' profits from domestic limited partners (LPS) are exempted from income tax.

<sup>91</sup> See WTO (2011). As a result of the statutory corporate tax rate reduction, for example, the effective income tax rate on corporations is now 35.64% (40.69% previously). Ministry of Finance online information (in Japanese). Viewed at: [http://www.mof.go.jp/tax\\_policy/summary/corporation/084.htm](http://www.mof.go.jp/tax_policy/summary/corporation/084.htm).

<sup>92</sup> This added ¥760/kl to crude oil and petroleum products, ¥780/t to gaseous hydrocarbons, and ¥670/t to coal, starting 1 October 2012.

<sup>93</sup> WTO document G/SCM/N/220/JPN, 29 June 2011.

develop uranium enrichment technology; finance measures related to Sake manufacturers; and subsidy for Japan Finance Corporation.

105. With a view to stimulating the domestic economy, the Japanese government re-introduced subsidies for purchasing new environmentally friendly vehicles in December 2011; subsidies are provided for individuals that purchase any vehicle, domestically produced or imported, that meets certain criteria.

106. Based on the New Growth Strategy, which indicates that potential demand is largest in seven strategic areas, the Government has concentrated its resources into the development of these areas.<sup>94</sup> In July 2012, the Rebirth of Japan: A Comprehensive Strategy was adopted as a cabinet decision to succeed the New Growth Strategy. Four key policy areas (energy and environment; health; agriculture, forestry and fisheries; and SMEs) are to be prioritized over three years.<sup>95</sup>

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

107. The State retains a stake in major companies in financial services, telecommunications, some international airports, petroleum, tobacco, and railways. As of March 2012, the Government held: 32.6% of the stock of Nippon Telegraph and Telephone Corporation (NTT); 50.0% of Japan Tobacco Inc. (JT); 100% of New Kansai International Airport Co., Ltd; 100% of Narita International Airport Corporation; 18.96% of INPEX Corporation; and 34.0% of Japan Petroleum Exploration Co. Ltd (which holds 7.32% of INPEX's total shares). 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. The Innovation Network Corporation of Japan (INCJ), was established in July 2009 for a period of 15 years, was capitalized at ¥152 billion, of which the Government injected 91.02% (Chapter IV(3)).<sup>96</sup>

108. The Government is required to sell some of its JT stocks "as soon as possible", thereby reducing its ownership to about one third of the total shares.

109. Some SOEs are aimed at providing 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. The Enterprise Turnaround Initiative Corporation (ETIC), established in October 2009 as a state-owned enterprise to "turnaround" private companies, is financed 50% by the Government and 50% by financial institutions (through the DICJ).

110. The Government also influences various semi-governmental bodies.<sup>97</sup>

---

<sup>94</sup> The strategy was adopted by the Cabinet on 18 June 2010. The seven areas are 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.

<sup>95</sup> Numerical targets (concerning e.g. demand, employment, and overseas sales (for SMEs)) have been established for the four strategic areas.

<sup>96</sup> As of 23 April 2012, the INCJ had invested ¥400 billion in 23 projects. See the INCJ online information. Viewed at: <http://www.incj.co.jp/english/news.html> [25.07.2012]. The liabilities of the INCJ are to be backed by the Government up to ¥1,800 billion. INCJ online information. Viewed at: <http://www.incj.co.jp/english/> [25.07.2012].

<sup>97</sup> A comprehensive list of these entities was not made available to the Secretariat. The authorities find it difficult to prepare such a list because of the vast number of such entities.

111. Based on the Cabinet Decision on a 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.<sup>98</sup> Nine public corporations are still to be reformed (including the Kansai International Airport and NTT). It would appear that no further developments have taken place in this regard since Japan's previous Review.

112. The authorities maintain that the mandates of state-owned banks ("policy financial institutions"), such as Japan Finance Corporation, are to supplement activities of private financial institutions in funding support for SMEs and personal businesses, and financing for securing overseas resources. In accordance with the Development Bank of Japan Inc. Law, the Government plans to review the Bank's organization by the end of FY2014; the review is to involve, *inter alia*, shares held by the Government.

113. In accordance with the Fundamental Review of Incorporated Administrative Agencies adopted by the Cabinet on 25 December 2009, the Government implemented the Basic Policy for Review of Functions and Projects of Incorporated Administrative Agencies at the Cabinet Council on 7 December 2010 to scrutinize the efficiency and effectiveness of the functions and projects of all incorporated administrative agencies. Furthermore, on 20 January 2012, it approved the Basic Policy for Review of System and Organization of Incorporated Administrative Agencies at the Cabinet Council, to review the systems and organizations of incorporated administrative agencies for the period since 2011.

#### **(iv) Intellectual property rights**

##### **(a) Introduction**

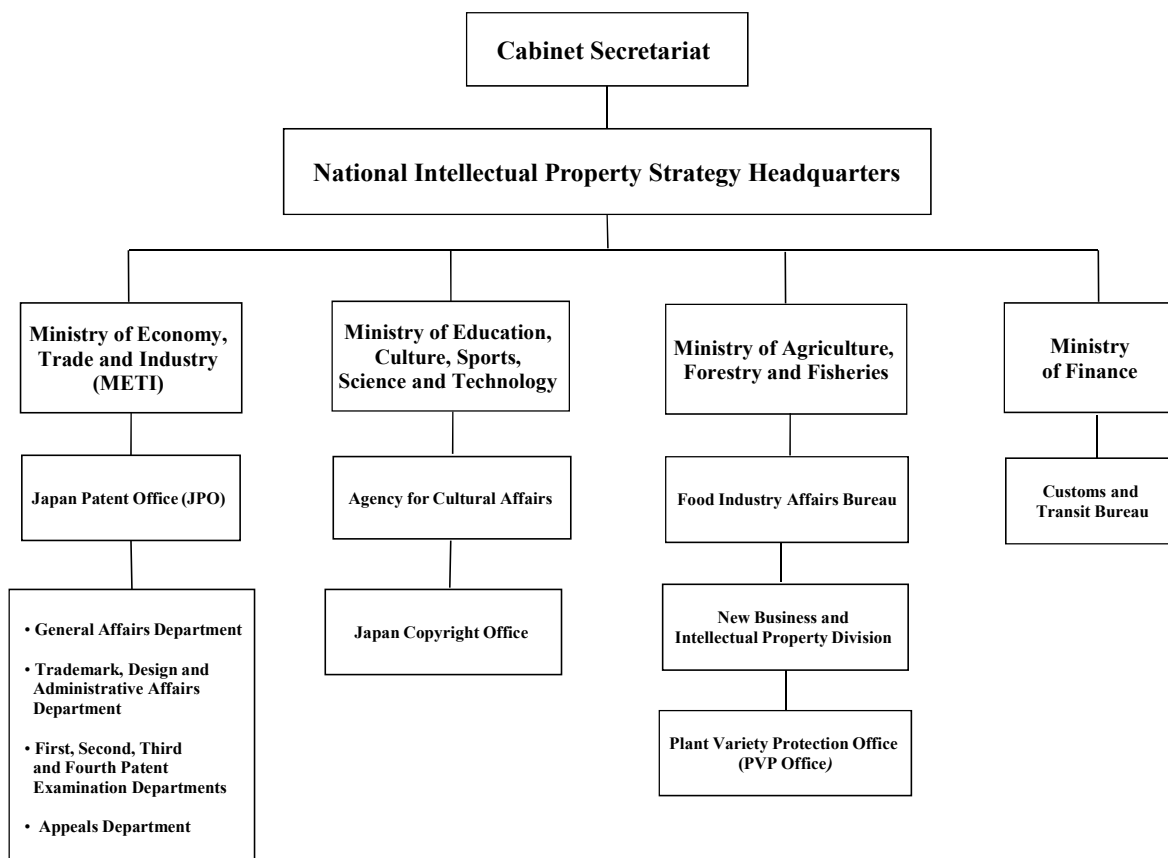
114. Japan has a modern IP system. A significant development was the adoption of the Basic Law on Intellectual Property (the Basic Law) in November 2002 as part of Japan's national strategy to improve its international competitiveness and revive its national economy. The general goal of the Basic Law was to realize a dynamic and competitive economy and society through creation of a new intellectual property framework. The Basic Law gave clear mandates to the State to take measures in eight areas: to promote R&D activities in the high value-added area; to promote transfer of technology from universities to business sectors; to improve IP acquisition procedures and legal proceedings to support businesses activities; to strengthen IP enforcement; to establish harmonized international IP systems; to provide effective and appropriate protection for innovation in new technological areas; to research and analyse domestic and international trends of IP protection; and to promote IP education and develop IP human resources.

115. The Basic Law also identified the roles of different institutes in implementing the mandates. The Intellectual Property Strategy Headquarters (the Headquarters) was established in the Cabinet Secretariat in March 2003 with the purpose of developing measures to fulfil the mandates and to coordinate the work of various governmental authorities responsible for administration and enforcement of IPRs (Chart III.5). The Headquarters comprises political and expert members. Political members include the Prime Minister, as Director-General of the Headquarters, all the Cabinet Ministers, and ten expert members. The ten expert members are generally drawn from industries, law firms, and academia.

---

<sup>98</sup> Japanese Government online information (in Japanese). Viewed at: [http://www.gyokaku.go.jp/siryu/tokusyu/seiri\\_gouri.pdf](http://www.gyokaku.go.jp/siryu/tokusyu/seiri_gouri.pdf) [25.07.2012].

**Chart III.5**  
**Structure of IPR administration and enforcement**



Source: WTO Secretariat.

116. Since 2002, pursuant to the objectives and mandates set out in the Basic Law, the Headquarters has issued nine national IP strategic programmes on an annual basis. The programmes from 2003 to 2009 led to a dramatic reform of Japan's IP regime with a focus on improving substantive IP legislation (Table III.7), and IP infrastructure. The main infrastructure improvements were (1) Establishing of Intellectual Property High Court in April 2005, (2) Establishing of technology licence offices at universities, (3) Restructuring of education systems for IP professional training, and (4) an increasing number of patent examiners and patent attorneys.

117. In 2010, the Government started to adapt its IP strategies to respond to the changing international and national economic environment brought about by the rapid development of digital technology. Building on the 2010 programme, the National IP Strategic Programme 2011, launched in June 2011, is intended to set the IP policy direction for Japan's innovation and economic growth in next 10 to 20 years.

**Table III.7**  
**Amendments of main substantive IP legislations, November 2012**

Legislation	Date enacted	Amendments
Patent Act	13 April 1959	14 December 1994; 22 December 1999; 23 May 2003; 4 June 2004; 29 June 2005; 7 June 2006; 18 April 2008; and 8 June 2011
Utility Model Act	13 April 1959	14 December 1994; 12 June 1996; 22 December 1999; 23 May 2003; 4 June 2004; 29 June 2005; 7 June 2006; 18 April 2008; and 8 June 2011
Designs Act	13 April 1959	14 December 1994; 12 June 1996; 22 December 1999; 23 May 2003; 29 June 2005; 7 June 2006; 18 April 2008; and 8 June 2011
Trademark Act	13 April 1959	14 December 1994; 12 June 1996; 22 December 1999; 29 June 2005; 7 June 2006; 18 April 2008; and 8 June 2011
Copyright Act	6 May 1970	12 May 1995; 26 December 1996; 12 June 1998; 9 June 2004; 22 December 2006; 19 June 2009; and 3 December 2010
Law on the Circuit Layout of a Semiconductor Integrated Circuits	31 May 1985	12 November 1993; and 2 June 2006
Plant Variety Protection and Seed Act	29 May 1998	18 June 2003; 17 June 2005; and 18 May 2007

Source: WIPO Lex.

(b) National Intellectual Property Strategy Programme 2011

118. The National IP Strategic Programme 2011 aims to adapt Japan's IP system to the change brought about by the rapid development of digital technology. It identified IP strategic priorities in four areas: international standardization; cutting-edge digital network; the culture industry and innovation.

*International standardization*

119. Japan has been a leader in the electronics industry since the 1980s. Activity in electrical engineering technology (EE), especially in electrical machinery, apparatus, energy; audio-visual technology; computer technology; and semiconductors, is a central driver of its innovation and patenting activity. This is demonstrated by the number of EE patent applications and their proportion of overall patent applications, as well as the number of PCT applications received by JPO and their proportion of worldwide PCT applications.

120. National patent applications in the EE field have averaged about 125,600 since 2000, accounting for around 35% of overall patent applications (Chart III.6 and Chart III.7). More than 90% of these applications were from business sectors rather than universities.

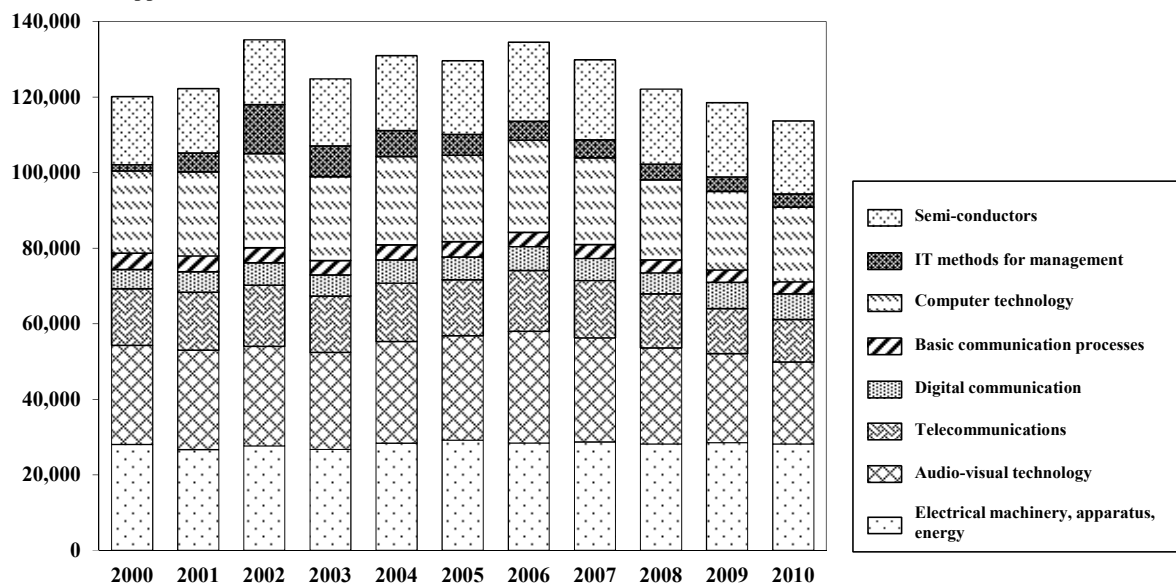
121. Since 2000, PCT applications received by the JPO in the EE field have increased steadily, (by 16.9%) (Chart III.8). Japan has been one of top three PCT receiving countries in the EE field since 2000 (Chart III.9). During 1978-2011, 12 Japanese IT companies were among the top 50 PCT applicants for all the PCT applications filed worldwide.



Chart III.6

Japanese patent applications (unexamined patent publications) by fields of electrical engineering, 2000-10

Number of applications

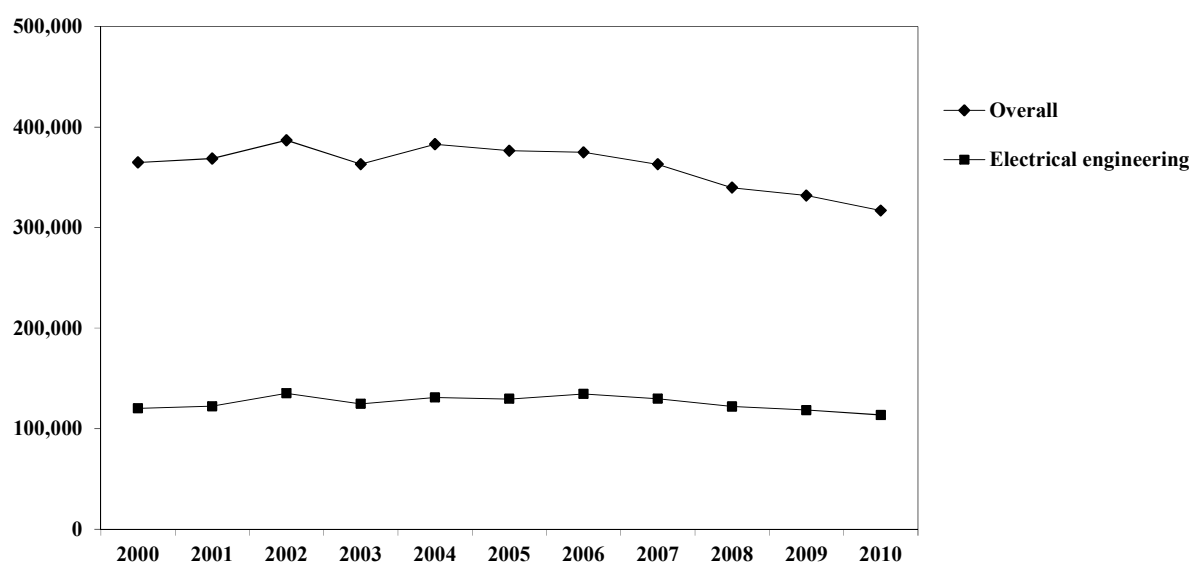


Source: WIPO Statistics database.

Chart III.7

Japanese patent applications (unexamined patent publications), overall vs. electrical engineering, 2000-10

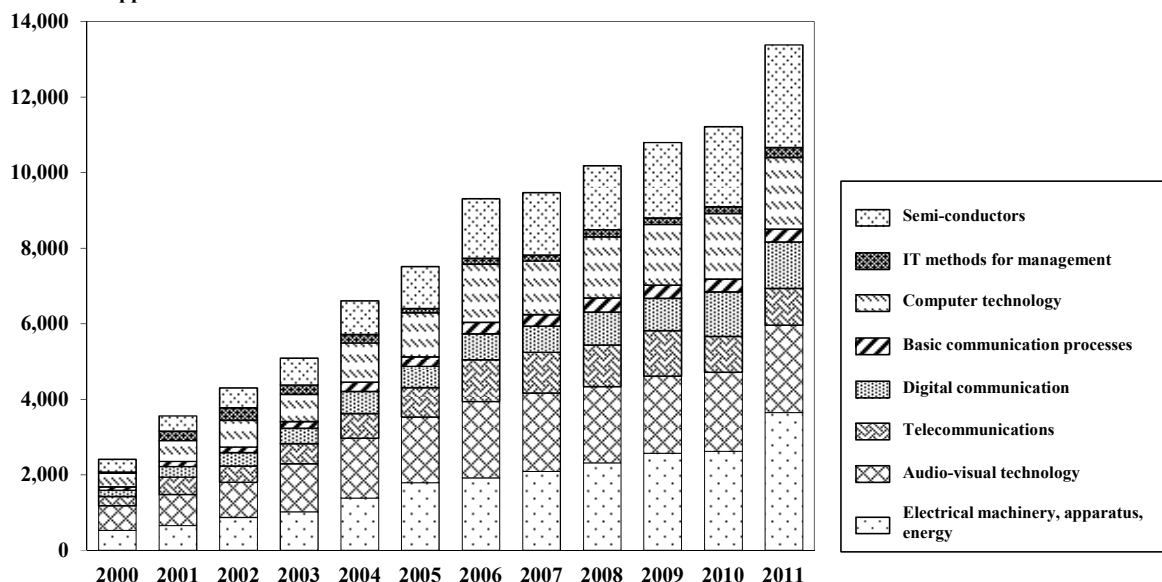
Number of applications



Source: WIPO Statistics database.

**Chart III.8**  
**PCT applications received by the JPO, by fields of electrical engineering, 2000-11**

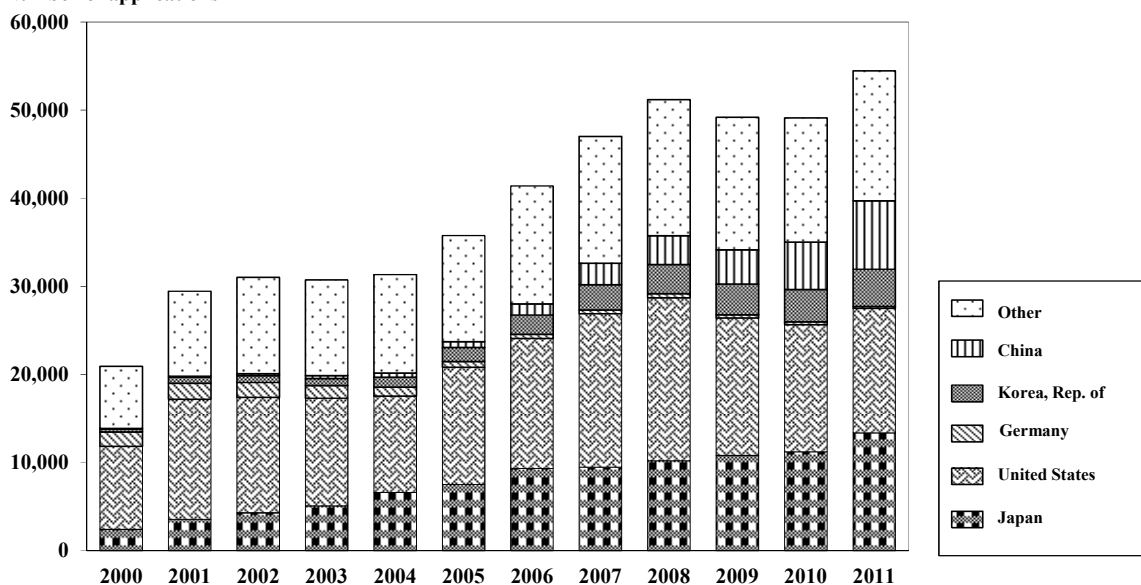
Number of applications



Source: WIPO Statistics database.

**Chart III.9**  
**PCT applications in electrical engineering, by leading countries, 2000-11**

Number of applications



Source: WIPO Statistics database.

122. Japan's technological advantages in the EE field did not necessarily bring competitive advantages for Japan's IT industries. While global trade (both exports and imports) of IT products have increased rapidly since 1996, Japan's share of the trade has declined steadily. Its share of exports dropped from 14.9% in 1996 to 6% in 2010, while its share of imports decreased from 7.4% to 4.5%.

123. According to the JPO, Japan's market share for digital cameras, DVD players, liquid crystal displays, automotive navigation systems, and solar cells has dropped rapidly since the 1990s. The decline in Japan's international competitiveness in the IT market was partially attributed to standardization in the information and communication technology (ICT) industry.

124. Against this background, the National IP Strategic Programme 2010 put forward a strategy on international standardization for the first time. Under the strategy, the Government intended to encourage both public and private sectors to intensify their efforts in international standard-setting processes, particularly in seven technological fields: advanced medical technologies, water, next generation vehicles, railway, energy management, digital contents, and robotics.

125. The National IP Strategic Programme 2010 reaffirmed the importance of an international standardization strategy in improving Japan's international competitiveness, and recommended making a linkage between Japan's technological advantages and international competitiveness through IP protection and international standardization. It set up clear target indicators as of 2020: (1) to formulate and implement standard roadmaps in specific standardization fields; (2) to encourage the Japanese, especially its young citizens, to serve as chairpersons and supervisors in international standards organizations (800 persons); (3) to increase the number of standard-setting processes where Japan works as secretariat (150 cases); and (4) to establish international standards in the areas where assessment methods and standards play important roles in realizing environmental protection, and safety and security.

#### *Cutting-edge digital network*

126. Japan launched its national Electronics-Japan (E-Japan) strategy in 2001 and a New Strategy in Information and Communications Technology in 2010. Both of these strategies attempted to establish an advanced and ubiquitous network society in Japan, which would help to stimulate Japan's economy growth and address social problems stemming from the aging society. As a corresponding strategy, the National IP Strategic Programme 2011 identified four priorities to develop Japan's network society from the perspective of intellectual property: to promote the digitalization of the National Diet Library collection to enable the public to view its contents on the internet; to improve digital infrastructure, especially eliminating legal barriers and uncertainties with cloud computing, and to improve the legal environment for internet platform operators; to strengthen IP enforcement, especially combatting internet piracy; and to research legal issues related to secondary creation, such as parody, in order to encourage digital creation.

#### *Innovation*

127. The patent system is a core IP mechanism for promoting innovation and economic growth in Japan. To adapt the patent system in the interest of innovation is always a policy priority for the Government of Japan. The innovation strategy attempted to further improve Japan's patent system and make it more attractive and user-friendly to both domestic and foreign users (section (c)).

#### *The Culture Industry*

128. In June 2010, the METI established the Creative Industry Promotion Office to promote Japanese cultural and creative industries under the slogan of "Cool Japan"; this office was restructured into the Creative Industry Division in July 2011. The Cool Japan project aimed to spread Japanese culture and exploit its commercial value worldwide. The project played an important role in spurring Japan's economy, especially after the great East Japan earthquake. Under the project, Japan

intends to rebuild its food, tourism, and traditional crafts brands to help recover from the damage caused by the earthquake.

### *Green technology plan*

129. In addition to the four strategic priorities identified in the National IP Strategic Programme 2011, the green technology plan is part of a long-standing IP-related national strategy. Japan is an industrial giant with very limited natural resources and a very high population density; this generates a strong need for environmental technology to ensure sustainable development of the economy. Promoting environmental technology is an essential part of Japan's IP, energy, and environment policy.

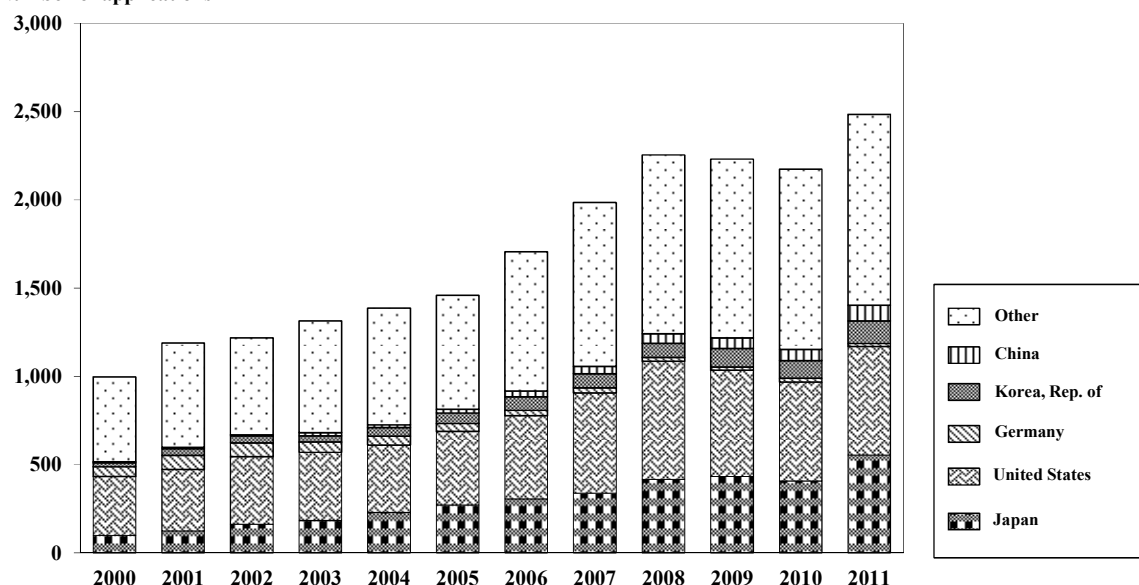
130. In order to encourage innovation and patenting activity in environmental technology, the JPO established a green-related accelerated patent examination pilot programme in 2009: the pendency of first official action was shortened from an average 22 months to about 2 months.

131. Japan's high environmental R&D expenditure and efficient patent system have made it a leader in environment technology. Since 2000, Japan's PCT applications for environmental technology have increased steadily, with average growth of 16.9%. Japan remains one of the top three countries in terms of PCT applications in environmental technology (Chart III.10).

**Chart III.10**

**PCT applications in environmental technology by leading countries, 2000-11**

Number of applications



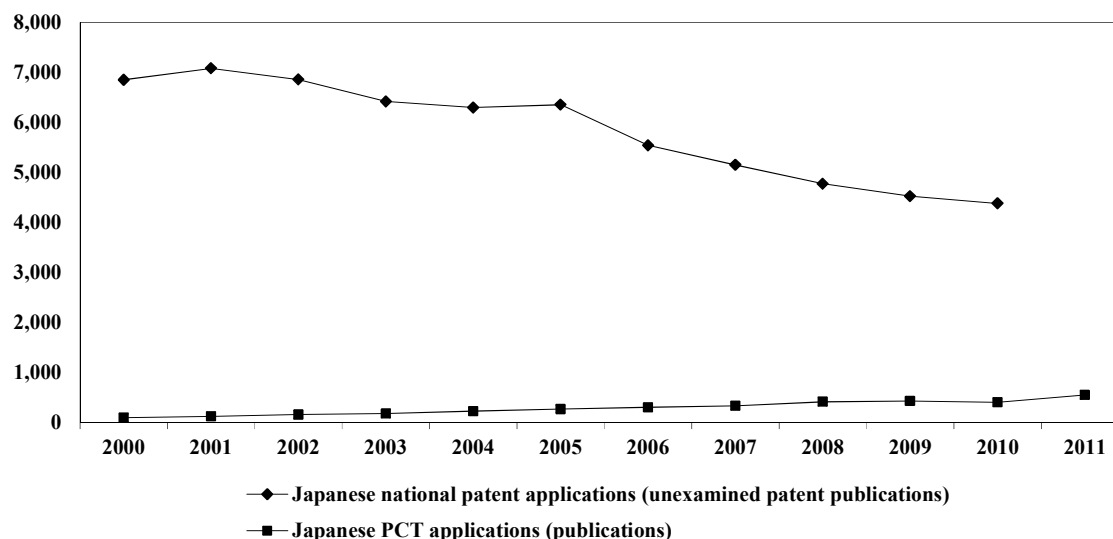
Source: WIPO Statistics database.

132. While the PCT applications increased steadily, Japan's national applications for environmental technology have experienced a decrease of 7.2% since 2005. This was in line with the decrease of overall national patent applications, which may be attributed partly to economic constraints and to the industry's adaptation to the patent strategy (Chart III.11).

Chart III.11

Japanese national patent applications and PCT applications in environmental technology, 2000-11

Number of applications



Source: WIPO Statistics databases.

133. The Japanese Intellectual Property Association (JIPA) introduced the Green Technology Package Programme (GTPP) in 2010, with the main purpose of establishing a global comprehensive environmental technology information database, which would facilitate the transfer of technology between prospective technology users and potential providers worldwide.

134. Based on the GTPP programme and in close collaboration with the JIPA, WIPO launched WIPO Green, in 2010, in an effort to respond to the UNFCCC's call for promoting and cooperating in the development, application, and diffusion of environmentally sound technology. WIPO Green was intended to provide a platform for both the user and provider of environmental technology to accelerate the adaptation, adoption and deployment of environmental technology, particularly in developing countries and emerging economies.

### (c) Industrial property rights

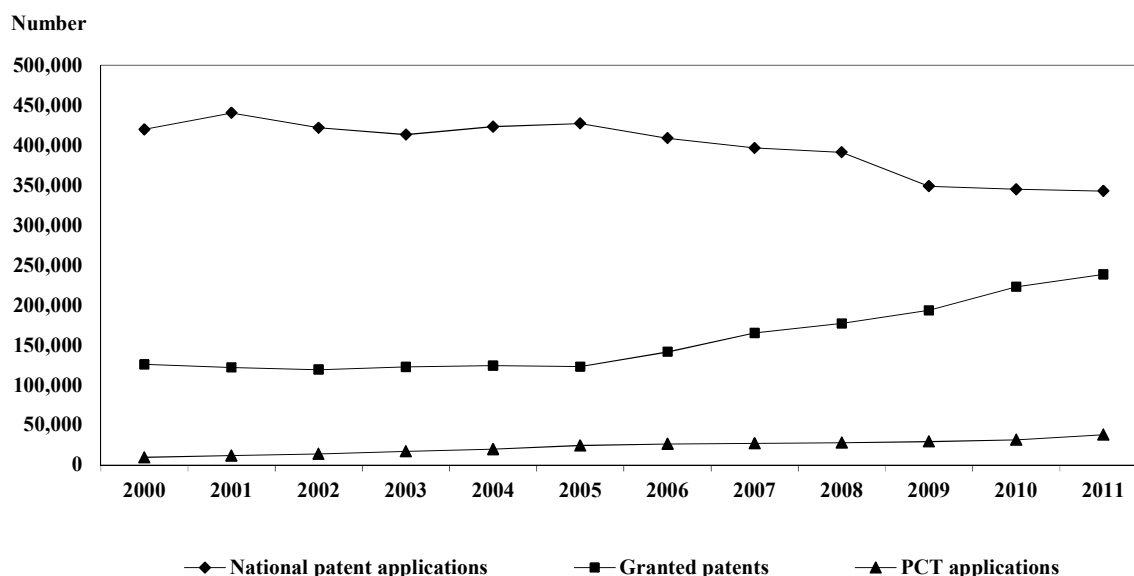
#### Patents

##### Trends of patent applications in Japan

135. The patent system is a core IP mechanism for promoting innovation and economic growth in Japan. Annual patent filings in the JPO have gradually decreased since 2006; this can be attributed to Japan's domestic and global economic recession. In contrast, the number of patents granted and PCT filings have increased steadily (Chart III.12). This may indicate that the impact of economic recession on Japan's patenting activity was limited and that the industry adapted its patenting strategy in response to the difficult economic conditions by filing patents for innovations that had higher value and more market potential.

Chart III.12

Patent applications, granted patents, and PCT filings in the JPO, 2000-11



Source: WIPO Statistics database.

136. During the review period, Japan made further efforts to modify the patent system. The efforts focused particularly on how to improve patent legislation and patent examination procedures in order to make the patent system more attractive and user-friendly to both domestic and foreign users.

#### Amendment of the Patent Act

137. A new amendment to the Patent Act was adopted in May 2011, and it entered into force on 1 April 2012.

138. The amendment made substantive changes to the provisions on examination procedures and licensing practices in order to improve the convenience and effectiveness of the patent system (Table III.8).

Table III.8  
Amendments to provisions on examination procedures and licensing practices

Amendment	Relevant law
Review of the perfection system for non-exclusive licences	Articles 34-5 and 99 of the Patent Act; Articles 4-2 and 19(3) of the Utility Model Act; and Articles 5-2 and 28(3) of the Design Act
Establishment of remedial measures against misappropriated applications	Article 74 of the Patent Act
Prohibition of filing a request for a correction trial with the JPO after filing a lawsuit against a trial decision with the IP High Court	Articles 126(2), 134-3, 156, 164-2, 181, and Appended Table of Article 195(2) of the Patent Act
Restriction on assertions in retrial of a court's judgment in patent infringement lawsuit	Articles 104-3 and 104-4 of the Patent Act; Article 30 of the Utility Model Act; Article 41 of the Design Act; and Articles 13-2(5), 38-2, 39, and 68(3) of the Trademark Act

Table III.8 (cont'd)

Amendment	Relevant law
Development of provisions on the scope of a JPO's trial decision that has become final and binding	Articles 126, 134-2, 167-2, 180, 181, and 182 of the Patent Act; Articles 41 and 47(2) of the Utility Model Act; and Articles 43-14, 55-3, 60-2, and 63(2) of the Trademark Act
Abolition of the erga omnes effect, on third parties, of a final and binding trial decision in a patent invalidation trial	Article 167 of the Patent Act; Article 41 of the Utility Model Act; Article 52 of the Design Act; and Article 56(1) of the Trademark Act
Review of the provision concerning exception to lack of novelty of an invention	Article 30(2) of the Patent Act; Article 11(1) of the Utility Model Act; and Article 4(2) of the Design Act
Improved remedy for a failure to comply with the time limit for submission of a translation and payment of patent fee	Articles 36-2, 112-2, and 184-4 of the Patent Act; Articles 33-2 and 48-4 of the Utility Model Act; Article 44-2 of the Design Act; Articles 21 and 65-3 of the Trademark Act; and Article 3 of the Supplementary Provisions of the Trademark Act

Source: Information provided by the Japanese authorities.

### JPO efforts to improving quality and quantity of patent examination

139. Japan continued its efforts to address long-standing backlogs of patent applications. Medium and long-term goals in the Intellectual Property Strategic Programme 2004, set out pendency of first action of less than 30 months in 2008 and 11 months in 2013.

140. The JPO made efforts to meet these goals, including increasing the number of patent examiners and expanding the outsourcing of prior art searches. The number of patent examiners was increased to 1,711 in 2011, making the JPO one of the world biggest patent offices.

141. The JPO also improved examination efficiency through a paperless patent examination. As a result, the average number of patent applications examined by per examiner increased from 220 in 2008 to 239 in 2010.

142. In order to cut the backlogs the JPO increased outsourcing of prior art searches to non-governmental search agencies from 178,000 in 2004 to 242,000 in 2011.

143. These efforts raised the number of first official actions from 307,665 in 2007 to 363,876 in 2011, the number of granted patents increased from 146,383 to 220,495. The backlog of patent applications decreased from 888,198 to 448,123 over the same period. The period of the first action pendency was shortened from 28.7 months in 2010 to 25.9 months in 2011. However, this is still a long way from the target of less than 11 months by 2013.

144. The JPO has also attempted to improve the quality of granted patents, and Japan recognized that international cooperation would be crucial in these efforts. International cooperation between the JPO and the U.S. Patent and Trademark Office (USPTO), European Patent Office (EPO), China State Intellectual Property Office (SIPO) and Korea Intellectual Property Office (KIPO) through the frameworks of IP5, IP3, and Patent Prosecution Highway, promote the sharing of the results of prior art searches, and help to improve the quality and quantity of patent examination to a great extent (section (f)).

### *Designs and utility models*

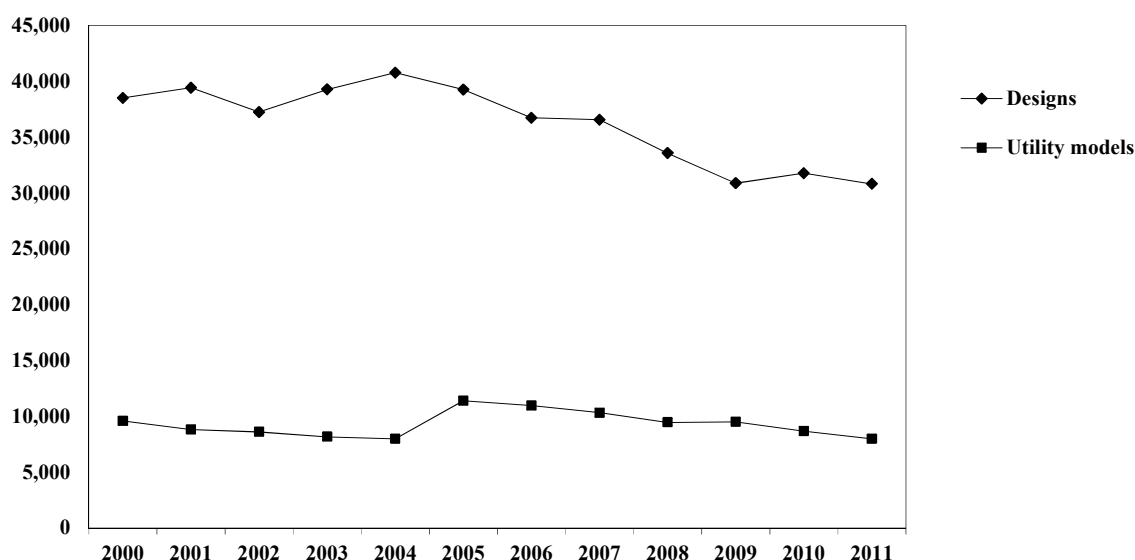
145. National patent applications for utility model and for designs have been declining since 2006, which may be attributed to the global economic downturn. However, there was a small rebound of

design applications in 2010, mainly driven by an increase in applications related to electrical and electronic equipment and apparatus (Chart III.13)

**Chart III.13**

**Applications for utility models and designs received by the JPO, 2000-11**

Number of applications



Source: WIPO Statistics database.

146. The JPO also deals with the examination and registration of design applications; most of the measures JPO took to improve the quality and quantity of patent examination also applied to the administration of designs. The Design Act was amended in line with the amendment of the Patent Act in 2011.

147. In addition, a special accelerated examination system for designs was introduced in April 2005 in order to combat design counterfeiting. Under this system, the first action pendency was shortened to one month, which effectively prevented potential unauthorized use by a third party.

### *Trademarks*

148. The number of trademark applications decreased in 2008 and 2009, with a slight rebound in 2010 (Chart III.14).

149. The JPO has made efforts to improve the efficiency of the trademark examination process. The first action pendency was reduced from 11 months in 2000 to 6.2 months in 2003; after a small rebound to 7.9 months in 2008, it decreased to 5.3 months in 2010.

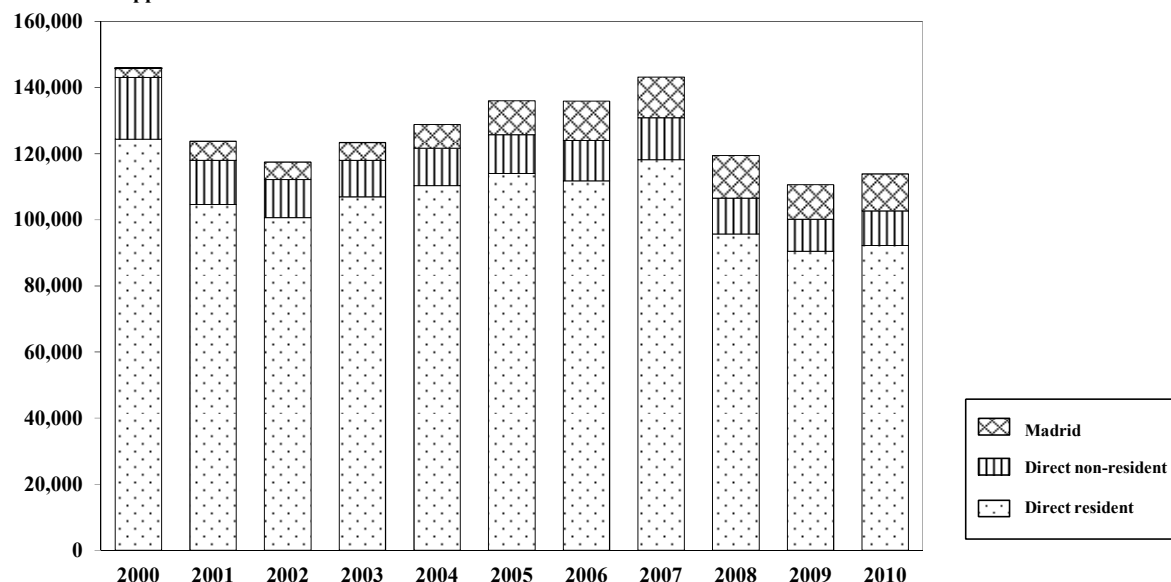
150. During the review period, the Trademarks Act was amended in line with the amendment of the Patent Act. In addition, several other amendments were made to the Trademarks Act to improve the efficiency of trademark examination procedures, including: (1) abolition of the provision on refusal of a trademark application within one year from the date of the extinction of another person's trademark right (Article 4(1)(xiii) of the Trademarks Act); and (2) abolition of designation of exhibitions under the Trademarks Act (Article 4(1)(ix) and Article 9(1) of the Trademarks Act).



Chart III.14

## Trademark applications received by the JPO, 2000-10

Number of applications



Source: WIPO Statistics database.

*Geographical indications (GIs)*

151. GIs are protected in Japan under the Trademarks Act and the Unfair Competition Prevention Act. Additional protection for GIs for wines and spirits, pursuant to Article 23 of the TRIPS Agreement, and for Japanese Sake, is administered by the National Tax Agency and available under the Law Concerning Liquor Business Association and Measures for Securing Revenue from Liquor Tax through its Labelling Standard Concerning Geographical Indications.

152. Japan has no GI registration system. The Commissioner of the National Tax Agency designates places where wines, spirits, and Japanese Sake are produced if the GI fulfils the fundamental principle, i.e. that the wines and spirits possess specific characteristics in quality or good reputation and place. So far, five GIs have been designated for Japanese liquors, including Iki, Kuma, Ryukyu, Satsuma, and Hakusan. The abuse of GIs is dealt with in court, based on the Unfair Competition Prevention Act, on a case-by-case basis.

## (d) Copyright

153. Copyright-based industries play an increasingly important role in Japan's national economy. According to the white papers issued by the Japanese Copyright Research and Information Centre (CRIC), Japanese copyright-based industries accounted for 3.4% in 2007.<sup>99</sup>

154. In 1986, Japan was one of the first few countries to grant the right to copyright owners to prohibit the transmission of copyrighted works on the internet without the owner's permission. The same right was later extended to performers and producers of phonograms, broadcasting organizations, and wire diffusion organizations.

<sup>99</sup> Japan Copyright Institute (2009).

155. In 2009, the Copyright Act was amended to extend limitations and exceptions on copyright in order to facilitate the use of copyrighted works over the internet.<sup>100</sup>

156. In February 2010, the Government established three committees (the Basic Issues Subcommittee, the Legislative Issues Subcommittee, and the International Subcommittee) to discuss various copyright issues emerging from the digital age. These committees attempted to identify legal uncertainties in the current copyright system, which limited innovation and application of new digital technologies, such as cloud computing and data mining. The Legislative Issues Subcommittee works mainly on how to accommodate some unlicensed copying through further extension of limitations and exceptions to copyright. In 2003, Japan issued three free-use marks with the purpose of promoting smooth distribution of copyrighted works in the internet age. These marks indicate that copyright owners allow the free use of their copyrighted works subject to certain conditions.

(e) Enforcement

*Overview of IP infringement facing Japanese companies*

157. Counterfeiting and piracy have spread rapidly in recent years, causing increasing trade losses and damage to Japanese companies, and undermining IP's role of providing economic incentive to innovation and economic growth. Since 1996, the JPO has conducted annual surveys to collect information on counterfeit and piracy, in order to facilitate the government's evidence-based policymaking.

158. According to the FY2010 and 2011 survey reports, the number of companies reporting infringement of their IPRs worldwide declined from 1,059 in 2009 to 944 in 2010. The authorities indicate that losses were caused mainly by infringement of trademarks (57%), designs (36.1%), patents and utility models (33.4%), and copyright work (15.3%); 53.6% of infringement was counterfeiting via internet.

159. China was noted as a main source of IPR infringing products. In 2010, the METI conducted a specific survey on Japanese companies' losses through IPR infringement in China. The survey showed that 62.9% of the respondent Japanese companies (100 out of 159 companies) had experienced IPR infringement in China; 87.4% of the claimed infringements were related to the internet, up from 51.8% in FY2009. Furthermore, there has been an increase in claims that Japanese trademarks were inappropriately registered in China (from 203 claims in FY2009 to 275 in FY2010).<sup>101</sup>

*Domestic efforts to combat counterfeiting and piracy*

160. The Intellectual Property High Court (IP High Court), established in April 2005 as a special branch within the Tokyo High Court, *inter alia*, hears suits against appeal/trial decisions made by the Japan Patent Office (JPO), as the court of first instance, and civil cases relating to intellectual property as the court of second instance.

161. The IP High Court consists of a Chief Judge, other judges, judicial research officials of IP cases, court clerks, and court secretaries. Technical advisors may also be involved in IP cases as part-time officials on a case-by-case basis. A panel of three judges or the Grand Panel of five judges

<sup>100</sup> See CRIC online information. Viewed at: [www.cric.or.jp/cric\\_e/multimedia/multimedia.html](http://www.cric.or.jp/cric_e/multimedia/multimedia.html); and Copyright Law of Japan. Viewed at: [www.cric.or.jp/cric\\_e/elj/cl2\\_1.html](http://www.cric.or.jp/cric_e/elj/cl2_1.html).

<sup>101</sup> METI (2011).

conducts proceedings and renders judgements. The Grand Panel is set up when a case contains important issues and it is deemed appropriate to provide unified opinions of the Court without delay. Judicial research officials conduct research, by the order of judges, on technical matters as required to conduct proceedings, and render judgements in cases relating to patents, utility models, and other intellectual property. By decision of the court, technical advisors may assist judges by providing technical explanations in cases where their expertise is necessary to clarify issues or facilitate progress of the proceedings. There are more than 200 technical advisors, with expertise in various scientific fields, including electronics, information communication, biotechnology, chemicals and machinery.

162. In 2010, 413 suits were initiated against appeal/trial decisions made by the JPO and 444 were terminated. In the same year, 104 intellectual property appeal cases were commenced and 101 were terminated.

163. The Intellectual Property Protection Office was established at the METI in 2004, with the purpose of providing consultation services to industries that faced IP infringement abroad. In 2010, the Office received 1,563 consultation and requests for information from the industries. The requests mainly concerned trademark infringement in China.<sup>102</sup> The Office investigated two claims under the IPR Overseas Infringement Investigation Program.

#### Border enforcement

164. Border enforcement plays an important role in preventing IPR infringing goods from entering Japan. In FY2010 and 2011, there were 23,233 and 23,280 cases of seizure/denial of entry at the border due to IPR infringement, up from 21,893 in 2009, while the number of items seized or denied entry decreased from 1,044,000 in 2009 to 728,000 in 2011. This was interpreted as a rapidly increasing tendency of IPR infringement: a postal shipment of IPR-infringing goods into Japan (Table III.9).

**Table III.9**  
Seizure of imports, 2009-11

Category	Main items	2009	2010	2011
<b>Products concerned</b>		('000 units)		
Shoes	Sports shoes	26	166	137
Accessories	Necklaces, rings, charms	80	84	85
Clothing	T-shirts, sweatshirts, jeans	112	45	77
Bags	Handbags, purses	72	46	54
Medicine	Medicine	85	40	53
Household utensils	Thermos bottles, mirrors	28	22	40
Hats	Hats, caps	23	37	29
Mobile phones and equipment	Mobile phones, and its coverage	15	11	28
Clothing equipment	Zippers	65	48	17
Computer accessories	Computers	14	18	14
Other	Accessories of bags, CDs, watches, key cases, electronic appliances, etc.	524	114	194
<b>Total</b>		<b>1,044</b>	<b>631</b>	<b>728</b>
<b>Types of violation</b>				
Patent rights		15	9	8
Utility model rights		0	0	0

Table III.9 (cont'd)

<sup>102</sup> The Intellectual Property Protection Office (2011).

Category	Main items	2009	2010	2011
Design rights		88	56	88
Trade mark rights		21,415	22,994	22,843
Copyright (related rights)		423	273	485
Plant breeders' rights		0	0	1
Unfair competition		19	1	3
<b>Total</b>		<b>21,893</b>	<b>23,233</b>	<b>23,280</b>

Source: Information provided by the Japanese authorities.

165. To counter this tendency, the customs authorities made efforts to apply all the border measures required by the TRIPS Agreement to *de minimis* imports<sup>103</sup>, monitored the shipment of IPR-infringing products through international post; utilized a Customs Intelligent Database System, which enhances the efficiency of the Customs' work; and provided customs officials with professional training, including an IPR-related training programme.

166. In addition, in September 2010, Japan hosted the APEC Customs-Business Dialogues (ACBD) and APEC Customs Directors-General/Commissioners Meeting. The participants reaffirmed their commitment to enhancement of border enforcement on IPRs, especially through improving cooperation between Customs and right holders, and among Customs administrations, for the progressive implementation of the APEC Model Guidelines to Reduce Trade in Counterfeit and Pirated Goods.

#### *Bilateral cooperation*

167. Since 2002, Japan has concluded 13 economic partnership agreements (EPA) with its trading partners, mainly in Asia (Chapter II(2)(ii)). Most of these EPAs have an IP section, the main purpose of which is to secure adequate, effective, non-discriminatory, and transparent IP protection and enforcement in trade.

168. China was a main source of IPR infringing products, and in June 2009, the METI and Ministry of Commerce of China (MOFCOM) reached the Memorandum of Understanding on Human Interactions and Co-operation on IPR Protection, and agreed to establish the Japan-China IPR Working Group. The Working Group held its second and third annual meetings in 2010 and 2011, to exchange information and enhance cooperation in combatting IP infringement in trade.

#### *Multilateral cooperation*

169. Japan highlights the importance of IP enforcement in various multilateral cooperations, such as WTO TRIPS Council, WIPO, APEC, OECD, and G-8.

170. At the G8 Summit in Gleneagles in 2005, Japan proposed establishment of a legal framework to prevent counterfeiting and piracy. The proposal was echoed by the United States and European Union in 2007. In June 2008, Japan, together with other ten like-minded countries started intensive negotiations on the Anti-Counterfeiting Trade Agreement (ACTA), with a view to establishing an international framework for combatting counterfeiting and piracy. The negotiations were basically concluded in October 2010, and the agreement has been open for signature by

<sup>103</sup> According to Article 60 of the TRIPS Agreement, WTO Members may exclude from the application of the enforcement provisions small quantities of goods of a non-commercial nature contained in travellers' personal luggage or sent in small consignments.

participating countries since 1 May 2011. On 1 October 2011, Japan hosted a signing ceremony in Tokyo and signed the agreement with other seven countries.

(f) International cooperation and harmonization

171. Globalization and the increasing importance of IPRs in the global economy generate a strong need for harmonization of IPR systems. Japan resolutely pursues its interest in international harmonization of IP systems, especially patent systems, in order to increase Japanese companies' international competitiveness in global markets. Efforts have been made through multilateral and bilateral cooperation with other countries.

*WIPO*

172. Since it joined WIPO in 1975, Japan has acceded to 15 international intellectual property treaties administered by the WIPO; it is currently a member of seven committees (Table III.10).

**Table III.10**  
**Membership of WIPO conventions, 2012**

Treaty/Agreement	Accession
Berne Convention for the Protection of Literary and Artistic Works Paris Act	15 July 1899, 24 April 1975
Budapest Treaty on the International Recognition of the Deposit of Microorganisms for the Purposes of Patent Procedure	19 August 1980;
Convention establishing the World Intellectual Property Organization (WIPO Convention)	20 April 1975
Convention for the Protection of Producers of Phonograms against Unauthorized Duplication of Their Phonograms (Phonograms Convention)	14 October 1978
International Convention for the Protection of New Varieties of Plants (UPOV Convention) and 1978 Act; 1991 Act	3 September 1982; 24 December 1998
Madrid Agreement for the Repression of False or Deceptive Indications of Source on Goods (8 July 1953), Lisbon Act (21 August 1965), Additional Act of Stockholm	24 April 1975
Nice Agreement Concerning the International Classification of Goods and Services for the Purposes of the Registration of Marks (20 February 1990), Geneva Act	20 February 1990
Paris Convention for the Protection of Industrial Property (15 July 1899), Stockholm Act, Articles 1 – 12 (1 October 1975), Stockholm Act, Articles 13 – 30	24 April 1975
Patent Cooperation Treaty (PCT)	
Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks (Madrid Protocol)	1 October 1978; 14 March 2000
Rome Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations	26 October 1989
Strasbourg Agreement Concerning the International Patent Classification	18 August 1977
Trademark Law Treaty	1 April 1997
WIPO Copyright Treaty (WCT)	6 March 2002
WIPO Performances and Phonograms Treaty (WPPT)	9 October 2002
<b>Membership of WIPO committees:</b>	
Advisory Committee on Enforcement (ACE)	
Committee on Development and Intellectual Property (CDIP)	
Committee on WIPO Standards (CWS)	
Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore (IGC)	
Standing Committee on Copyright and Related Rights (SCCR)	
Standing Committee on the Law of Patents (SCP); and	
Standing Committee on the Law of Trademarks, Industrial Designs and Geographical Indications (SCT)	

Source JPO Annual Report, 2011.

173. Japan plays an active role in international negotiations on the protection of genetic resources and associated traditional knowledge, which take place mainly in WIPO IGC, WTO TRIPS Council, and Conference of the Parties to the Convention on Biological Diversity (CBD COP). At the CBD's tenth COP meeting (COP 10) in October 2010, parties adopted the Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilization to the Convention on Biological Diversity (Nagoya Protocol). The Protocol addresses the fair and equitable sharing of the benefits arising from the utilization of genetic resources. The Nagoya Protocol is directly relevant to the work of the TRIPS Council in examining the relationship between the TRIPS Agreement and the CBD. Japan signed the Nagoya Protocol on 11 May 2011, and encouraged other WTO countries to implement the Protocol. In the WTO and WIPO, Japan also proposed to establish a comprehensive database system to address erroneous patents in the field of biotechnology.

*The patent prosecution highway (PPH) and PCT-PPH*

174. The PPH is aimed at harmonizing international patent systems, and accelerating procedures. The PPH was first introduced by Japan and established between the JPO and USPTO in 2006, in order to accelerate patent prosecution by sharing prior art search and examination result. Under the PPH framework, once a patent application is determined to be patentable by the office of first filing, the patent applicant may request the search and examination information to be shared with another patent office, therefore speeding up patent examination in the second office.

175. The PPH effectively reduces the duplication of patent examination and prior art searches, and therefore accelerates the patent examination procedures and reduce backlogs of patent applications to a great extent. In 2011, while the average of first action pendency was 25.9 months for national patent applications, the average first action pendency for PPH applications was 1.8 month. The PPH also enhances the quality of patent examination and the predictability of patents, as the office of the second filing has to consider the results of the first filing office.

176. Given the advantages of the PPH, the JPO has made efforts to expand the PPH network.<sup>104</sup>

177. In January 2010, a Patent Cooperation Treaty/Patent Prosecution Highway (PCT/PPH) pilot programme was established. The PPH-PCT applies the PPH prosecution procedure to PCT applications. Under PCT/PPH, once a PCT application is determined to be patentable in the written opinion of the International Searching Authority or the International Preliminary Examining Authority, the PCT applicant may request the accelerated examination procedure at the national phase.

*The Trilateral Offices and IP5*

178. The Trilateral Offices is a multilateral cooperation framework established in 1983 between the European Patent Office (EPO); the Japan Patent Office (JPO); and the United States Patent and Trademark Office (USPTO). Patent applications filed and patents granted by these three offices account for about half of overall patent applications and granted patents. The main objective of the Trilateral Offices is to improve the quality and quantity of patent examination by harmonizing their patent examination process, including data exchanges between three offices, common infrastructure and compatible database systems, and development of an international standard of patent examination process.

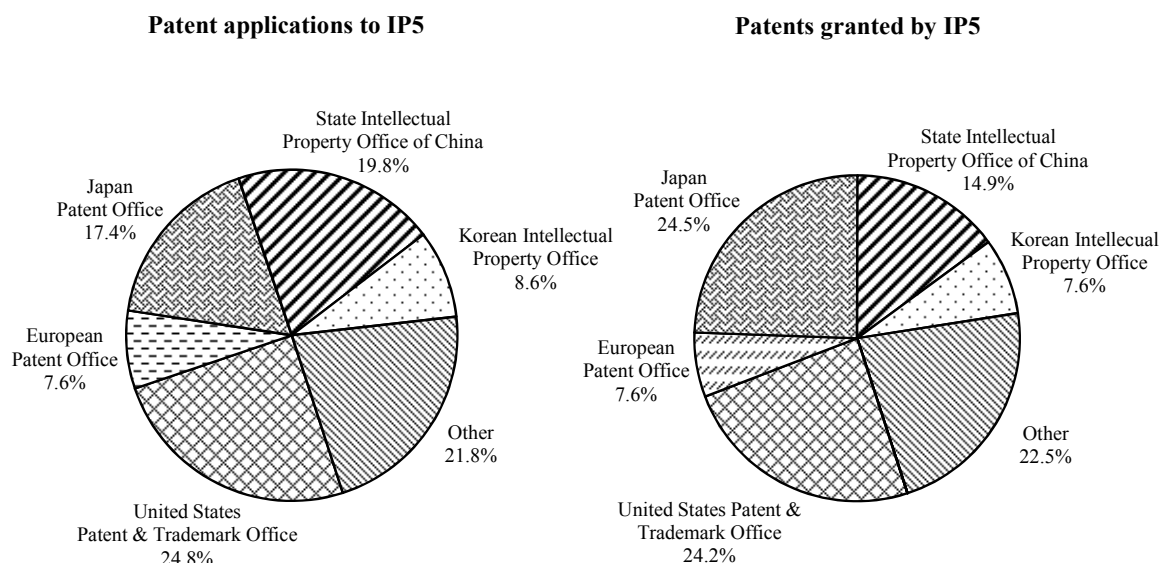
---

<sup>104</sup> In 2012, 23 countries and regions participated in the PPH framework with Japan: Austria, Canada, China, Chinese Taipei, Denmark, the EU, Finland, Germany, Hungary, Iceland, Israel, the Republic of Korea, Mexico, the Nordic Patent Office, Norway, the Philippines, Portugal, Russia, Singapore, Spain, Sweden, the United Kingdom, and the United States.

179. IP5 is a multilateral framework between the JPO, USPTO, EPO, SIPO and KIPO. These five offices process more than 75% of all patent applications filed and granted worldwide (Chart III.15). Therefore, IP5 has an essential role in international harmonization of patent examination and administration.

**Chart III.15**

**IP5 patent applications and patents granted, 2010**



*Source:* fiveIPOffices online information. Viewed at: <http://www.fiveipooffices.org>.

180. The work of the IP5 has been focused on ten foundation projects: common hybrid classification; common documentation; common search and examination support tools; common approach to sharing and documenting search strategies; common application format; mutual machine translation; common access to search and examination results; common training policy; common examination practice rules and quality management; and common statistical parameter system for examination. In April 2010, the IP5 assessed progress on these projects and agreed to accelerate the work.

**(v) Competition policy**

**(a) Recent developments**

181. The Anti-Monopoly Act (AMA) has remained unchanged since Japan's previous review. A bill to amend the AMA was submitted to the Diet on March 2010 but has not yet been adopted. The bill seeks to abolish the Japan Fair Trade Commission's hearing procedure for administrative appeals; instead, the bill intends to have the court receive all appeals.<sup>105</sup> The bill also seeks to further improve

<sup>105</sup> JFTC online information. Viewed at: <http://www.jftc.go.jp/en/pressreleases/archives/individual-000030.html> [21.08.2012].

hearing procedures within the JFTC prior to issuing final orders. The JFTC's budget amounted to about ¥9.0 billion in FY2012; it has 799 officials.

182. Japan maintains that the JFTC's independence is assured under the AMA. The JFTC is administratively attached to the Cabinet Office; its chairman and the commissioners perform their duties independently and cannot be removed (against their will) during their term of office.

(b) Exemptions from the AMA prohibition of cartels

183. Since the previous Trade Policy Review of Japan, no changes have been made to the Anti-monopoly Act exemptions (Table AIII.2).

(c) Holding companies, and mergers and acquisitions

184. Chapter 4 of the AMA prohibits mergers and acquisitions if they lead to a substantial restraint on competition.<sup>106</sup> On 1 July 2011, the JFTC abolished the "prior consultation system", under which companies consulted with the JFTC, prior to filing the statutory notification, on whether merger and acquisition plans raised concerns under Chapter 4 of the Antimonopoly Act. Under the new system, mergers and acquisitions that meet certain thresholds are reviewed under the statutory procedure after notification. Since 2011, there have been no changes to restrictions on the holding of stocks by large-scale companies in excess of their own capital or net assets.

185. 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.<sup>107</sup> In FY2011, 100 business reports were submitted under Section 9 of the AMA (33 holding companies), up from 92 (29 holding companies) in FY2010. There was no notification of establishment of new holding companies under Section 9 in FY2011 (2 in FY2010).

(d) International arrangements

186. Japan participates in OECD committees and working groups established to increase cooperation in competition policy; it also participates in the activities of the International Competition Network (ICN), APEC, and UNCTAD. Most of Japan's FTAs/EPAs 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.<sup>108</sup> Japan has three other bilateral cooperation agreements on anti-competitive activities, with Canada, the European Union, and the United States.

---

<sup>106</sup> "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.

<sup>107</sup> 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.

<sup>108</sup> EPAs with: Peru, Chapter 12; India, Chapter 11; Switzerland, Chapter 10; Viet Nam, Chapter 10; Indonesia, Chapter 11; Thailand, Chapter 12; Chile, Chapter 14; the Philippines, Chapter 12; Malaysia Chapter 10; Mexico, Chapter 12; and Singapore, Chapter 12. There is no chapter on competition in the EPAs with ASEAN or Brunei.



## (e) Enforcement

187. 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 penalties<sup>109</sup>; and private damages actions (Table III.11).

**Table III.11**  
**Enforcement of competition policy, 2007-11**

Details	Fiscal year				
	2007	2008	2009	2010	2011
<b>(A) Legal measures taken against acts prohibited by the Anti-monopoly Act</b>					
Number of legal measures	24	17	26	12	22
Private monopolization	0	1	0	0	0
Cartels	20	11	22	10	17
Price cartels	6	8	5	6	5
Collusive tendering	14	2	17	4	12
Other types of cartel <sup>a</sup>	0	1	0	0	0
Unfair trading practices	3	5	4	2	5
Others	1	0	0	0	0
<b>(B) Surcharge payment orders</b>					
Number of cases	20	10	21	15	20
Number of company operators	165	59	85	152	280
Surcharge amount (in ¥ billion)	11.29	27.03	36.07	72.08	44.25
Decisions to initiate hearings	2	2	0	2	3
<b>(C) Recently processed investigation cases</b>					
<b>Cases investigated</b>					
Carry-overs from the previous fiscal year	28	18	19	22	23
New cases begun during the current fiscal year	132	124	133	143	157
<b>Total</b>	<b>160</b>	<b>142</b>	<b>152</b>	<b>165</b>	<b>180</b>
<b>Cases processed</b>					
<b>Legal measures</b>					
Cease and desist orders	22	16	26	12	22
Surcharge payment orders <sup>b</sup>	2	1	0	0	0
Sub-total	24	17	26	12	22

**Table III.11 (cont'd)**

<sup>109</sup> Criminal penalties 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 in the high courts and eventually the Supreme Court.

Details	Fiscal year				
	2007	2008	2009	2010	2011
Others					
Warnings	10	4	9	3	2
Cautions	88	87	69	95	138
Discontinued cases <sup>c</sup>	20	15	26	32	9
Sub-total	118	106	104	130	149
<b>Total</b>	<b>142</b>	<b>123</b>	<b>130</b>	<b>142</b>	<b>171</b>
<b>Carry-overs to the next fiscal year</b>	18	19	22	23	9
<b>Criminal accusations</b>	1	1	0	0	0

a Including restrictions on sales volume and restrictions on business clients.

b Surcharge payment orders were made without a recommendation or cease and desist order.

c Discontinued due to lack of evidence of wrong-doing.

*Source:* Information provided by the Japanese authorities.

## IV. TRADE POLICIES BY SECTOR

### (1) AGRICULTURE

#### (i) Structure

1. The main crops grown in Japan are rice, fruits, and vegetables. Rice accounts for approximately 25% of agricultural production and is mainly cultivated by part-time or weekend farmers. Most other crops are grown on commercial farms by full-time farmers.

2. 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 Basic Plan for Food, Agriculture and Rural Areas, which aims to, *inter alia*: achieve a higher self-sufficiency ratio; encourage consolidation of production, processing, and distribution of agricultural produce with a view to increasing value-added; improve food safety; encourage further Japan's participation in international standard-setting; and establish income support regardless of the size of farms. In addition, on 25 October 2011, a Basic Policy and Action Plan to Revitalize Food, Agriculture, Forestry and Fisheries was adopted.

3. Under the Agricultural Land Law, "general corporations" (including stock companies and other forms of corporations, profit or non-profit) are permitted to lease farmland. According to data provided by the authorities, 838 general corporations were newly involved in agriculture between December 2009 and March 2012; the authorities state that there are no data detailing general corporations' share in agricultural production.

4. The agriculture sector continues to receive substantial government support, comprising, *inter alia*, a relatively higher average MFN applied rate compared with other sectors; tariff quotas; income support; and, in some subsectors, production controls. According to the OECD, "total support estimates" for agriculture for 2006-08 were comparable to 1.1% of GDP.<sup>1</sup> Support is provided mainly through market price support; in addition, relatively high tariffs and production restrictions are in place, which lead to higher prices.<sup>2</sup>

5. Consumer prices of agricultural products in Japan are considerably higher than the OECD average. Total transfers to agriculture producers for 2010, arising from Government policies (the PSE, or producer support estimate), and transfers from consumers (the CSE or consumer support estimate) were provisionally estimated by the OECD at 50% and 42% of income from production. OECD averages were 18% and 8%, respectively.<sup>3</sup> Furthermore, the producer nominal assistance coefficient (NAC) was 2.00 (i.e. gross farm receipts were 2.00 times the level they would have been if generated at world prices without support), and the consumer NAC was 1.71 (i.e. consumers are implicitly taxed,

---

<sup>1</sup> 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.

<sup>2</sup> OECD (2011).

<sup>3</sup> OECD (2011). Figures for 2010 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.

paying on average about 1.71 times as much as they would have paid without support) in 2010. Both the producer and consumer NACs were significantly higher than OECD averages.<sup>4</sup> In addition, the producer nominal protection coefficient (NPC) was 1.83 in 2010, implying that the farm-gate price received by producers was on average 1.83 times higher than the price at the border.

6. 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. In FY2011, the Government started to implement this programme formally for rice. The programme was also extended to other crops, such as wheat, barley, potatoes, buckwheat, rapeseed, sugar beet, and soybeans by reorganizing the existing payment schemes for these crops.

7. In addition to the direct income support, the Government continues to maintain the production adjustment programme (see below).

## **(ii) Border measures**

8. The average applied MFN tariff for agriculture (WTO definition) is 17.5% (FY2012)<sup>5</sup>, compared with an overall average of 6.3% (Chapter III(2)(ii)). 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), 17.3% are non-*ad valorem*. Agriculture subsectors that are protected by MFN tariffs relatively higher than the sectoral average include: dairy products, edible vegetables, sugars, and cereals and products thereof (Table IV.1). As estimates of AVEs for some specific duties (which tend to involve relatively high tariffs)<sup>6</sup> were not made available, the average tariffs for the associated subsector may be underestimated. Where AVEs were available, the simple average for non-*ad valorem* tariff rates for agriculture (WTO definition) was 70.0%, considerably higher than the simple average of purely *ad valorem* tariff rates of 9.6%.<sup>7</sup> Out of 314 tariff lines that have a non-*ad valorem* rate under "WTO Agriculture", AVEs were not available for 102 lines at the HS nine-digit level; these include 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 Bambara beans, cow peas, and Pegin beans is among the highest in Japan's customs tariff, with an *ad valorem* equivalent of 515.6% (out-of-quota rate). Tariffs tend to be particularly high and variable for vegetables, cereals, and sugars and sugar confectionery.

---

<sup>4</sup> Producer NAC and Consumer NAC for OECD averages were 1.22 and 1.08, respectively, in 2010.

<sup>5</sup> The average applied MFN tariff for agriculture (HS 1-24) in FY2012 is 15.3%.

<sup>6</sup> According to the authorities, the lack of estimates of AVEs may be due to low world production and international trade volume of certain products, and low demand for them in Japan. The absence of estimates because of no imports may suggest that tariffs for the products concerned are prohibitive.

<sup>7</sup> The simple average of all (i.e. agricultural and non-agricultural products) non-*ad valorem* tariff rates for which AVEs were available was 37.3%, approximately eight times the simple average of purely *ad valorem* tariff rates, which was 4.4%.

**Table IV.1**  
**Applied MFN tariff protection in agriculture, FY2012**  
 (%)

HS Chapter/Description		Simple average tariff	Maximum tariff	Tariff peaks <sup>a</sup> (% of lines)	Non- <i>ad valorem</i> tariff (% of lines)
01	Live animals	3.2	45.4	8.1	12.9
02	Meat and edible meat offal	10.8	67.8	15.7	18.2
03	Fish and crustaceans, molluscs and other aquatic invertebrates	5.9	15	0.0	0.0
04	Dairy produce; birds' eggs; natural honey; edible products of animal origin, not elsewhere specified or included	56.2	409.8	84.4	61.0
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	0.3	3.0	0.0	0.0
07	Edible vegetables and certain roots and tubers	33.7	515.6	7.8	9.4
08	Edible fruit and nuts; peel of citrus fruit; melons	7.8	24.0	6.7	0.0
09	Coffee, tea, maté and spices	3.6	17.0	0.0	0.0
10	Cereals	21.8	327.4	24.1	29.3
11	Products of the milling industry; malt; starches; inulin; wheat gluten.	31.1	279.7	52.5	37.5
12	Oil seeds and oleaginous fruits; miscellaneous grains, seeds and fruit; industrial or medicinal plants; straw and fodder	6.2	298.8	2.5	7.6
13	Lac; gums, resins and other vegetable saps and extracts	3.1	17.0	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	4.6	29.8	2.2	40.7
16	Preparations of meat, of fish or of crustaceans, molluscs or other aquatic invertebrates	12.7	50.0	25.0	2.5
17	Sugars and sugar confectionery	41.7	218.6	69.4	59.2
18	Cocoa and cocoa preparations	23.7	152.6	63.0	7.4
19	Preparations of cereals, flour, starch or milk; pastrycooks' products	26.4	246.9	63.6	26.5
20	Preparations of vegetables, fruit, nuts or other parts of plants	16.9	46.8	38.9	6.9
21	Miscellaneous edible preparations	25.5	321.1	50.0	16.0
22	Beverages, spirits and vinegar	14.0	75.9	31.0	34.5
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	7.2	29.8	16.7	0.0
1-24	Agriculture	15.3	515.6	25.3	14.0

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

Note: The simple average applied MFN tariff rate in FY2012 is calculated by using 2010 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.

9. Japan operates 18 tariff quotas covering 175 tariff lines, mainly for dairy products and cereals (including rice), unchanged since 2011.<sup>8</sup> The average fill ratio in 2010 was about 63.5% but varies from one quota to another, from a low of 10.6% for butter and butter oil to 99.3% for dairy products for general use (Table AIV.1). There have been no changes to the administration of TRQs since the

<sup>8</sup> WTO document G/AG/N/JPN/174, 24 February 2012.

last Review of Japan. The names of companies or persons that are allocated quotas are posted online by the MAFF; 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.<sup>9</sup>

10. 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 FY2011, a total of 100,000 tonnes were imported under the SBS system. In addition, Japan provides rice as food aid. Japan donated 167,823 tonnes of rice in 2009 and 135,955 tonnes in 2010 as direct transfers (it also donated significant quantities through local and triangular purchase arrangements).<sup>10</sup> Japan notified the Committee on Agriculture that it provided US\$108.47 million and US\$218.39 million, in 2008 and 2009, respectively, for the purchase of grains as food aid for LDCs and net-food-importing developing countries.<sup>11</sup>

11. Japan took a number of special safeguard (SSG) actions during fiscal years 2010, 2011, and 2012. Products affected included rice, starches, kidney beans, inulin, milk, 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, FY2010 to FY2012, November 2012

Description	Type of action	Date or period of application
<b>FY2010</b>		
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
Kidney beans, including white pea beans ( <i>Phaseolus vulgaris</i> )	Price-based	12 April, 2010
Rice (semi-milled or wholly milled rice, whether or not polished or glazed)	Price-based	9 August 2010
Rice flour	Price-based	5 August 2010, 25 February 2011

Table IV.2 (cont'd)

<sup>9</sup> Rice, wheat, and barley are imported by the Ministry of Agriculture, Forestry, and Fisheries; leaf tobacco by Japan Tobacco Inc.; and milk products by the Agriculture and Livestock Industries Corporation (WTO document G/STR/N/14/JPN, 6 July 2012).

<sup>10</sup> World Food Programme online information. Viewed at: <http://www.wfp.org/fais/reports/quantities-delivered-two-dimensional-report/run/year/2010;2009/code/RICE/cat/All/recipient/All/donor/Japan/mode/Direct+Transfer/basis/0/order/0> [9.11.2012].

<sup>11</sup> WTO documents G/AG/N/JPN/160 and 172, 1 December 2010 and 13 January 2012.

Description	Type of action	Date or period of application
Other starches (excluding sago starches)	Price-based	8 September 2010, 21 December 2010, 9 February 2011
Inulin	Price-based	8 April 2010, 14 December 2010
Food preparations of flour, meal, or starch, containing groats, meal, pellets or starch of rice, wheat, triticale, barley, which total weight is more than 85% of the articles; mostly containing starch (excluding containing wheat starch)	Price-based	21 April 2010, 4 June 2010, 12 July 2010, 1 December 2010, 28 December 2010, 14 February 2011
Food preparations containing by weight not less than 30% natural milk constituents on the dry matter; not more than 30% by weight of milk fat	Price-based	25 February 2011
<b>FY2011</b>		
Milk and cream, not concentrated nor containing added sugar or other sweetening matter, of a fat content, by weight, not exceeding 1%: sterilized, frozen or treated appropriate to preserve	Volume-based	1 December 2011 to 31 March 2012
Milk and cream, not concentrated nor containing added sugar or other sweetening matter, of a fat content, by weight, exceeding 1% but not exceeding 6%: sterilized, frozen or preserved	Volume-based	1 December 2011 to 31 March 2012
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 November 2011 to 31 March 2012
Milk powder, not containing added sugar or other sweetening matter; of a fat content, by weight, exceeding 5% but not exceeding 30%	Price-based	15 April 2011
Condensed milk	Volume-based	1 January 2012 to 31 March 2012
Yogurt; frozen, preserved or containing added sugar or other sweetening matter, flavouring, fruits, or nuts (excluding frozen yogurt)	Volume-based	1 July 2011 to 31 March 2012
Buttermilk, curdled milk and cream, kephir and other fermented or acidified milk and cream, sterilized, frozen, preserved, concentrated or containing added sugar or other sweetening matter, flavouring, fruits or nuts	Volume-based	1 August 2011 to 31 March 2012
Wheat or meslin flour	Price-based	4 April 2011 (two cases of application), 2 May 2011
Rice flour	Price-based	29 September 2011
Other starches (excluding Sago starches)	Price-based	13 February 2012
Inulin	Price-based	12 May 2011, 17 January 2012, 15 February 2012
Mostly containing wheat and triticale preparation	Price-based	7 October 2011
Food preparations of goods of heading 04.01 to 04.04, containing not less than 30% natural milk constituents, of the articles in dry weight, excluding whipped cream in pressurized containers; containing not more than 30% milk fat by weight	Price-based	28 November 2011
Food preparations of flour, meal, or starch, containing groats, meal, pellets or starch of rice, wheat, triticale, barley, which total weight is more than 85% of the articles; mostly containing starch (excluding wheat starch)	Price-based	19 April 2011, 9 June 2011, 10 November 2011, 5 January 2012

Table IV.2 (cont'd)

Description	Type of action	Date or period of application
<b>FY2012</b>		
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 June 2012 to 31 March 2013
Buttermilk, curdled milk and cream, kephir and other fermented or acidified milk and cream, sterilized, frozen, preserved, concentrated or containing added sugar or other sweetening matter, flavouring, fruits or nuts	Volume-based	1 October 2012 to 31 March 2013
Cereals, other than maize (corn), in grain form, pre-cooked or otherwise prepared, of wheat or triticale, n.e.s.	Price-based	16 October 2012
Cereals other than maize (corn, in grain form pre-cooked or otherwise prepared, of rice, containing more than 30% by weight of rice, n.e.s.	Price-based	16 October 2012

Source: WTO notifications.

12. Japan extended its provisions on emergency tariff measures for import surges of beef and pork in April 2011 and April 2012, respectively, for one year<sup>12</sup>; 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). These measures are stipulated under the Temporary Customs Tariff Measures Law.<sup>13</sup> During the period under review, Japan did not resort to emergency tariff measures for import surges of beef and pork.

13. Japan notified to the WTO that no export subsidies were provided in the period 1 April 2010 to 31 March 2012.<sup>14</sup>

14. The Government has programmes to promote exports of food and agricultural, forestry, and fishery products. It has targeted these to reach ¥1 trillion by 2020. The authorities state that this is to be achieved by: requesting importing countries to set risk management measures regarding the Fukushima Daiichi Nuclear Power Plant accident; implementing strategic marketing under the "Japan Brand"; and increasing the appeal of Japan's food culture to the rest of the world.

### (iii) Domestic measures

15. Since 2011, there has been no change in price support schemes. Price support through administered prices scheme continues to apply to beef and pork. Under the scheme, the Agriculture and Livestock Industries Corporation buys 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". There has been no change in these prices.<sup>15</sup> In addition, the Government provides calf producers with subsidies on a per head basis if the calf price falls below the "guaranteed

<sup>12</sup> Japan Tariff Association online information. Viewed at: <http://www.kanzei.or.jp/test/tariff02.htm>.

<sup>13</sup> 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 FY2012, 473 lines (including in-quota rates) at the HS nine-digit level are subject to temporary rates.

<sup>14</sup> WTO documents G/AG/N/JPN/164 and 176, 3 May 2011 and 1 May 2012. However, Japan continues to provide food aid to LDCs and net-food importing developing countries (WTO document G/AG/N/JPN/173, 18 January 2012).

<sup>15</sup> In FY2011, the lower stabilization prices were ¥815/kg for beef and ¥400/kg for pork.



base price". In FY2011, the guaranteed base price was ¥310,000 per head for Japanese Black calf, unchanged since the second quarter of FY2008.

16. The Government implements "supply-demand adjustment" measures for rice, which, *inter alia*, set a volume cap for production; domestic distribution of rice is liberalized, and Government purchase and selling prices for rice are determined by tender. 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. The supply-demand adjustment continues to be conducted voluntarily by farmers and farmers' organizations.

17. The Japan Dairy Council (a producer group) has been voluntarily restricting the overall production of raw milk since 1979, with a production cap of 7.4 million tonnes for FY2012.

18. Subsidies for rice totalled ¥32.4 billion in FY2008 (the latest year for which data were made available).<sup>16</sup> The Rice Farming Income Stabilization Programme, which offers direct payments for rice producers under a production-limiting programme, has been in place since 1998; the budget for the programme in 2009 was ¥21.8 billion.

19. Payments for wheat, barley, and soybeans were replaced by the new payment scheme based on historical entitlement, introduced in 2007. A subsidy programme for starch, introduced in 2007 provides payments to farmers and starch industries. Payments for fruit were made from funds that had already been raised; there was no disbursement of government support in FY2007, FY2008 or FY2009. The subsidy for cocoons was abolished in 2008.

## **(2) FISHERIES**

### **(i) Profile and recent developments**

20. The fisheries sector in Japan, although very small in comparison with the rest of the economy, plays an important economic and social role, as illustrated by Japan's high per capita fish consumption. In addition, globally, Japan consistently has been a major fish producer, especially from marine wild capture activities. With the world's sixth largest exclusive economic zone, at approximately 4 million square kilometres and more than ten times its land area (377,000 square kilometres), Japan's coastal and offshore fisheries (including in neighbouring countries' EEZs) predominate in its capture fisheries activities.<sup>17</sup> In 2009, for example, distant-water fishing yielded 11% of Japan's total capture production, with offshore fisheries accounting for 58% and coastal fisheries for 31%.<sup>18</sup>

21. The March 2011 tsunami has had a profound effect on Japan's fisheries sector, as the affected part of the coastline was one of Japan's most important fishing areas. The Government estimates the total value of the damage to the fishing sector at more than ¥12 trillion, involving more than 28,000

<sup>16</sup> WTO document G/SCM/N/220/JPN, 29 June 2011. The Government purchases rice for food-security purposes (public stockholding). In addition, subsidies are provided for sugar, starch, milk and dairy products, bovine meat and pig meat, eggs, and vegetables.

<sup>17</sup> FAO Japan fisheries country profile. Viewed at: [http://www.fao.org/fishery/countrysector/FI-CP\\_JP/en](http://www.fao.org/fishery/countrysector/FI-CP_JP/en) [July 2012].

<sup>18</sup> Japan Fisheries Agency (2012).

fishing vessels and 319 fishing ports<sup>19</sup>, as well as many aquaculture facilities and products. At the time of writing, the Government has budgeted for and has started to implement disaster recovery in the fisheries sector, involving the reconstruction and consolidation of fishing vessels, fishing ports, and other infrastructure, fishery processing, and distribution facilities, with an emphasis on coordination and cooperation at the regional level. These efforts are being implemented at the prefectural and municipal levels pursuant to the Government's Master Plan for Fishery Reconstruction.<sup>20</sup> It is not clear how much fishing capacity and how many and which fishing ports will be rebuilt, or how many of the fishers displaced by the disaster (the majority of whom are elderly) will return to fishing, and how many newcomers might be attracted to the sector. Nevertheless, extensive reconstruction efforts are under way, and fisheries production is estimated to have recovered to 60% of the pre-disaster output level.

22. Japan's per capita consumption of fish and fish products, at 56 kg per year, is the highest in the world<sup>21</sup>, and far above the world average of around 18 kg per year.<sup>22</sup> While on a declining trend as a component of the Japanese diet, fish accounts for roughly 40% of protein consumed in Japan.<sup>23</sup> Even before the tsunami, the gross value of fisheries output accounted for only around 0.3% of total GDP (agriculture accounts for around 2.0% of GDP).<sup>24</sup> Total direct employment in the fisheries sector in 2011 was approximately 160,000, or 0.3% of Japan's total workforce.<sup>25</sup> Fisheries employment is on a declining trend, in particular due to the aging workforce. In 2008, 60% of Japan's total fishery workers (who numbered 222,000) were 55 years or older.<sup>26</sup>

23. Japan is currently the fourth largest producers of fisheries products (including capture and aquaculture production of marine and freshwater fish, shellfish, and aquatic plants). Capture production dominates in Japan, accounting for 78% of total Japanese fisheries production in 2010, and marine capture accounts for virtually all of this. In 2010, Japan, with an estimated 4.1 million tonnes marine capture production was ranked fifth in the world (Table IV.3).<sup>27</sup>

24. In terms of aquaculture, the vast majority of Japan's production is of marine species (fish, shellfish and various types of seaweed), with inland aquaculture accounting for less than 4% of Japan's total aquaculture production, and less than 1% of Japan's total fisheries production, by quantity. In global terms, Japan is a relatively minor player in total aquaculture (accounting for 1.5% by quantity and 3.7% by value of the world total), but a much more significant player in terms of marine aquaculture, accounting for 3% of the world total by quantity and 10% by value<sup>28</sup>, reflecting

---

<sup>19</sup> Japan Fisheries Agency (2012).

<sup>20</sup> Japan Fisheries Agency (2012).

<sup>21</sup> Japan Fisheries Agency (2012).

<sup>22</sup> FAO (2011).

<sup>23</sup> Japan Fisheries Agency (2012).

<sup>24</sup> Calculated as the per cent shares of 2009 GDP (Ministry of Internal Affairs and Communications. Viewed at: <http://www.stat.go.jp/english/data/handbook/c03cont.htm>) accounted for by the respective production values of agriculture and fisheries (Ministry of Agriculture, Forestry and Fisheries, "Monthly Statistics of Agriculture, Forestry and Fisheries", 25 June 2012 update.

<sup>25</sup> Ministry of Agriculture, Forestry and Fisheries, Monthly Statistics of Agriculture, Forestry and Fisheries, 25 June 2012 update. Viewed at: [http://www.maff.go.jp/e/tokei/kikaku/monthly\\_e/index.html](http://www.maff.go.jp/e/tokei/kikaku/monthly_e/index.html) July 2012.

<sup>26</sup> 2008 Fisheries Census. Viewed at: <http://www.e-stat.go.jp/SG1/estat/ListE.do?bid=000001029050&cycode=0> [July 2012].

<sup>27</sup> FAO Fisheries and Aquaculture Department online database. Viewed at: <http://www.fao.org/fishery/statistics/en> [July 2012].

<sup>28</sup> FAO Fisheries and Aquaculture Department online database. Viewed at: <http://www.fao.org/fishery/statistics/en> [July 2012].

Japan's farming of high valued species (including laver (*nori*), yesso scallops, oysters, yellowtail (Japanese amberjack) and red sea bream).<sup>29</sup>

25. The volume of Japan's fisheries production, from all sources (capture plus aquaculture), was trending downward over the course of the 2000s, even before the tsunami. Overall production declined by 13% between 2000 and 2010, and similar percentage declines were registered for capture and aquaculture production volumes. However, the total value of aquaculture production increased by 11% during this period, due to increases in the value of both inland and marine aquaculture production (no value data are available for capture production).

**Table IV.3**  
**Japan's fisheries production, 2001-10**  
(Million tonnes and US\$ million)

	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	% of world total in 2010
<b>Total production (million tonnes)</b>	<b>6.1</b>	<b>5.9</b>	<b>6.1</b>	<b>5.7</b>	<b>5.7</b>	<b>5.7</b>	<b>5.7</b>	<b>5.6</b>	<b>5.4</b>	<b>5.3</b>	<b>3.1</b>
<b>Aquaculture</b>											
Million tonnes	1.31	1.39	1.30	1.26	1.25	1.22	1.28	1.19	1.24	1.15	1.5
US\$ million	4.20	3.92	4.01	4.19	4.16	4.05	4.00	4.30	4.85	4.67	3.7
Of which											
Inland waters											
Million tonnes	0.06	0.05	0.05	0.05	0.04	0.04	0.04	0.04	0.04	0.04	0.1
US\$ million	0.37	0.36	0.41	0.43	0.45	0.45	0.45	0.57	0.65	0.65	0.8
Marine											
Million tonnes	1.26	1.33	1.25	1.21	1.21	1.18	1.24	1.15	1.20	1.11	3.0
US\$ million	3.86	3.55	3.60	3.76	3.71	3.60	3.55	3.73	4.20	4.01	10.0
<b>Capture</b>											
Million tonnes	4.84	4.50	4.79	4.45	4.42	4.44	4.38	4.41	4.22	4.14	4.6

Source: FAO Fisheries and Aquaculture Department online database. Viewed at: <http://www.fao.org/fishery/statistics/en> [July 2012].

### Trade

26. Japan is a significant net importer of fisheries products, importing roughly 40% of what it consumes<sup>30</sup>, and exporting comparatively very little (Table IV.4). In 2011, Japan imported more than US\$20 billion worth of fisheries products<sup>31</sup>, and exported just under US\$2 billion worth, for an US\$18 billion trade deficit in fisheries products. Data for prior years show a similar trade imbalance in fisheries products. The main imports are fresh, chilled and frozen fish including fillets, and prepared or preserved fish, fish eggs and caviar.

27. Japan's main sources of imported fish and fish products in 2011 were China, Thailand, the United States, Chile, and Russia (Table IV.5). These five exporting countries accounted for approximately 60% of Japan's total imports of these products in 2011. The value of Japan's total imports of fish and fish products in 2011, in U.S. dollar terms, was 19% higher than in 2010.

<sup>29</sup> FAO Japan fisheries country profile. Viewed at: [http://www.fao.org/fishery/countrysector/FI-CP\\_JP/en](http://www.fao.org/fishery/countrysector/FI-CP_JP/en) [July 2012].

<sup>30</sup> Data provided by the authorities.

<sup>31</sup> The data on fisheries products reflect the sum of HS codes 03 (fish and crustaceans, molluscs and other aquatic invertebrates) and 16 (preparations of meat of fish or crustaceans, molluscs or other aquatic invertebrates). Trade data for seaweeds are not available separately.

**Table IV.4**  
**Trade in fisheries products, 2006-11**  
(US\$ million)

	2006	2007	2008	2009	2010	2011
<b>Total exports</b>	<b>1,393.6</b>	<b>1,649.7</b>	<b>1,629.2</b>	<b>1,576.2</b>	<b>1,938.7</b>	<b>1,857.0</b>
Of which:						
Live fish	72.2	77.9	79.1	68.3	69.4	72.3
Fresh or chilled, excl. fillets, other fish meat	139.9	151.9	122.9	106.5	109.6	90.5
Frozen, excl. fillets, other fish meat	480.9	548.8	518.1	477.4	611.8	467.9
Fillets, other fish meat, fresh or frozen	86.5	106.3	116.6	115.2	127.3	140.9
Dried, smoked, salted or in brine, meal, etc.	15.8	14.3	17.2	13.9	16.0	15.2
Prepared or preserved fish; fish eggs, caviar	98.7	116.4	127.2	126.0	138.5	129.8
Crustaceans, molluscs and other aquatic invertebrates	290.8	360.7	337.7	359.7	498.0	499.4
<b>Total imports</b>	<b>15,543.7</b>	<b>14,762.1</b>	<b>16,157.3</b>	<b>15,184.0</b>	<b>16,882.2</b>	<b>20,052.1</b>
Of which:						
Live fish	439.3	398.8	494.6	321.3	576.1	580.1
Fresh or chilled, excl. fillets, other fish meat	709.1	619.1	640.7	686.5	654.6	668.0
Frozen, excl. fillets, other fish meat	3,323.0	3,127.5	3,689.6	3,434.9	3,740.9	4,246.3
Fillets, other fish meat, fresh or frozen	2,117.5	2,079.2	2,634.6	2,227.7	2,434.7	3,078.2
Dried, smoked, salted or in brine, meal, etc.	233.3	243.7	257.3	258.7	250.1	265.9
Prepared or preserved fish; fish eggs, caviar	1,430.4	1,382.1	1,232.5	1,205.5	1,417.8	1,708.1
Crustaceans, molluscs and other aquatic invertebrates	540.2	497.2	469.4	474.6	548.2	703.1

Source: UN Comtrade database.

**Table IV.5**  
**Imports of fish and fish products, by principal source, 2010-11**  
(US\$ million)

	2010			2011		
	Total fish and fish products	Fish, crustaceans, molluscs, other aquatic invertebrates	Preparations of meat of fish or of crustaceans, molluscs or other aquatic invertebrates	Total fish and fish products	Fish, crustaceans, molluscs, other aquatic invertebrates	Preparations of meat of fish or of crustaceans, molluscs or other aquatic invertebrates
Total, all sources	16,882.2	11,623.8	5,258.4	20,052.1	13,527.7	6,524.4
China	3,626.1	1,108.5	2,517.6	4,420.2	1,279.0	3,141.2
Thailand	2,210.2	691.2	1,519.0	2,665.9	787.7	1,878.2
United States	1,603.7	1,200.4	403.3	1,833.7	1,336.5	497.2
Chile	1,121.7	1,095.4	26.3	1,553.0	1,513.7	39.3
Russia	1,172.4	1,167.1	5.3	1,425.7	1,421.5	4.2
All other	7,148.2	6,361.2	786.9	8,153.6	7,189.3	964.3

Source: UN Comtrade database.

*Fisheries policy*

28. The Fisheries Agency of the Ministry of Agriculture, Forestry and Fisheries (MAFF) administers Japan's fisheries policy; a considerable amount of the responsibility devolves to prefectural governments and local Fisheries Cooperative Associations.<sup>32</sup> The main laws regulating fisheries are the Basic Law on Fisheries Policy, the Fisheries Law, and the Law Regarding Conservation and Management of Marine Living Resources. The Basic Law on Fisheries Policy has two main objectives: to secure a stable supply of fishery products, and to ensure the sound development of the fishing industry by promoting the appropriate conservation and management of marine living resources. It establishes the direction for management measures in pursuance of these

<sup>32</sup> FAO Japan Aquaculture Country Profile. Viewed at: [http://www.fao.org/fishery/countrysector/naso\\_japan/en](http://www.fao.org/fishery/countrysector/naso_japan/en) July 2012.

objectives. The Fisheries Law establishes national and prefectural licensing systems, and a rights-based management system, principally for coastal fisheries. The Law Regarding Conservation of Marine Living Resources contains provisions on total allowable catch (TAC) and total allowable effort (TAE), along with a plan for managing resources within the EEZ.<sup>33</sup> Seven species (saury, Alaska pollack, sardine, jack mackerel, common and spotted mackerel, common squid, and snow crab) are subject to the TAC.<sup>34</sup> In addition, the fishing industry undertakes voluntary resource management efforts, including capacity and effort reductions (seasonal and size restrictions, etc.)<sup>35</sup>

29. The Government also promotes conservation and restoration of the Japanese marine environment (breeding and nursery areas) and of fisheries resources (including through the large-scale release of juveniles/seedlings).<sup>36</sup> Despite management and conservation efforts, 40% of Japan's fisheries resources (34 stocks) are at low levels, according to the 2010 stock assessment, and resource recovery plans have been developed for resources in urgent need of recovery (66 plans for 77 species).<sup>37</sup> Japan is acting against illegal, unregulated, and unreported (IUU) fishing in its EEZ, with both the Fisheries Agency and the Coast Guard involved in the monitoring and enforcement measures.<sup>38</sup>

30. Some of Japan's offshore fishing activity takes place under reciprocal fisheries access agreements with China, the Republic of Korea, and Russia. In addition, Japan engages in distant water fishing activities, including under access agreements with Australia, Canada, France, Kiribati, Marshall Islands, Morocco, Solomon Islands, Senegal, and Tuvalu. No quota is currently allocated to Japanese vessels under the Australian or Canadian agreements, and the French agreement relates to fishing access in the French territories in the Pacific. In addition, the Japanese private sector has agreements with a range of mainly African and Pacific countries, principally concerning tuna fisheries.

31. Japan is a member of the five regional fisheries management organizations (RFMOs) regulating international tuna fishing (Indian Ocean Tuna Commission – IOTC; Western and Central Pacific Fisheries Commission – WCPFC; Inter-American Tropical Tuna Commission – IATTC; International Commission for the Conservation of Atlantic Tuna – ICCAT; and Commission for the Conservation of Southern Bluefin Tuna – CCSBT).

#### *Government support for the fisheries sector*

32. In the wake of the March 2011 earthquake and tsunami, the Government formulated a large-scale disaster recovery programme, including extensive support for the relief and reconstruction of the affected fisheries activities and installations. The Third Supplementary Budget of FY2011 provides for ¥11,733.5 billion in disaster relief expenditures (not limited to fisheries). This total includes ¥836.6 billion for public works including fishery harbours; ¥29.4 billion for improvement of ports

<sup>33</sup> OECD online information, "Draft Country Note on Fisheries Management Systems – Japan". Viewed at: <http://www.oecd.org/dataoecd/10/46/34429748.pdf> [July 2012].

<sup>34</sup> FAO Japan Fisheries Country Profile. Viewed at: [http://www.fao.org/fishery/countrysector/FI-CP\\_JP/en](http://www.fao.org/fishery/countrysector/FI-CP_JP/en) [July 2012].

<sup>35</sup> Japan Fisheries Agency (2012).

<sup>36</sup> FAO Japan fisheries country profile. Viewed at: [http://www.fao.org/fishery/countrysector/FI-CP\\_JP/en](http://www.fao.org/fishery/countrysector/FI-CP_JP/en) [July 2012].

<sup>37</sup> Japan Fisheries Agency online information, "Fisheries of Japan – FY2010 (2010/2011) Fisheries Policy Outline for FY2011 (White Paper on Fisheries: Summary)". Viewed at: [http://www.jfa.maff.go.jp/j/kikaku/wpaper/pdf/2010\\_haku\\_en6.pdf](http://www.jfa.maff.go.jp/j/kikaku/wpaper/pdf/2010_haku_en6.pdf).

<sup>38</sup> Japan Fisheries Agency online information, "Fisheries of Japan – FY2010 (2010/2011) Fisheries Policy Outline for FY2011 (White Paper on Fisheries: Summary)". Viewed at: [http://www.jfa.maff.go.jp/j/kikaku/wpaper/pdf/2010\\_haku\\_en6.pdf](http://www.jfa.maff.go.jp/j/kikaku/wpaper/pdf/2010_haku_en6.pdf).

and airports; ¥18.6 billion for loans for rebuilding businesses in the agriculture, forestry, and fisheries sectors; ¥61.2 billion for flood control and improvement of coastal areas, ports, and airports; ¥22.3 billion for public works for development of rural areas, and infrastructure development for fisheries; and ¥157.6 billion for recovery and reconstruction of fisheries. In addition, the budget lists a range of programmes that do not specifically refer to fisheries.<sup>39</sup> Under the FY2011 supplementary budget and the FY2012 ordinary budget, a total of ¥8,183 billion was appropriated for the relief and recovery of the affected fisheries sectors and communities, including for the rebuilding of capture fisheries and aquaculture activities, rebuilding fish processing and distribution, and reconstructing facilities and infrastructure of coastal fishing communities.

33. Apart from disaster relief, the Government of Japan has historically provided a range of support to the fisheries sector. The Japan Fisheries Agency Budget for 2010 set out the following programmes: ¥20,255 million as government contributions to the fishers insurance programmes and emergency support funds; ¥12,002 million for improvement of domestic fishing grounds (e.g. measures to control harmful alga and jellyfish blooms, recovery of lost gear); ¥5,045 million for improvement of marine fisheries through modernization of infrastructures such as hatcheries and processing facilities; ¥4,246 million for surveys and stock assessment; ¥1,955 million for fuel and aquaculture feed support; ¥1,666 million for marketing and price support; ¥1,456 million for fisher recruitment programmes; ¥1,376 million for support of remote island economies; ¥1,311 million in unsecured and low-interest loans to fishers; ¥761 million for management of coastal reefs, including restocking and removal of invasive species; and ¥170 million for the collection of economic data.

34. In total, ¥97,551 million were allocated under the budget to fund various fisheries assistance and management programmes. An additional ¥82,227 million was budgeted for construction and maintenance of fisheries-related infrastructure. The 2010 budget is on par with the US\$1.9 billion reported by the OECD (2009) for 2006.<sup>40</sup>

35. In its 2011 subsidy notification to the WTO, Japan notified the Fisheries Modernization Fund Interest Subsidy (¥4.5 million in FY2009) for advanced equipment and modernization of management of fisheries and related sectors; and the Fund for the Measures to Supply Fishery Products Stably (¥3.0 billion in FY2009) for comprehensive programmes implemented by non-governmental organizations, for the promotion of sustainable management of fishery resources, promotion of stock enhancement and aquaculture, restructuring of fishing entities, conservation of coastal environments, recruitment of fishers, for promotion of distribution, processing, and consumption of fishery products, aimed at the stable, safe, and efficient supply of food.<sup>41</sup>

### **(3) MANUFACTURING**

36. Manufacturing contributed nearly 19.5% of GDP and 17% of total employment in 2010 (the most recent year for which data are available). Within manufacturing, the largest subsectors were electrical machinery, food products and beverages, and transport equipment.

---

<sup>39</sup> Ministry of Finance, Outline of the Third Supplementary Budget of FY2011. Viewed at: <http://www.mof.go.jp/english/budget/budget/fy2011/11sb03.pdf>.

<sup>40</sup> OECD (2010b).

<sup>41</sup> WTO document G/SCM/N/220/JPN, 29 June 2011.

37. The sector remains open, with a simple average MFN tariff for industrial products (HS25-97) of 3.6% in FY2012, compared with 15.3% for agricultural products (HS01-24), and an overall simple average MFN rate of 6.3%. However, tariff rates for textiles and clothing and for leather products and footwear are significantly higher.

38. The Enterprise Turnaround Initiative Corporation of Japan (ETIC), established in 2009 under the Enterprise Turnaround Initiative Corporation Act, 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. The Innovation Network Corporation of Japan (INCJ), also established in 2009, aims to provide financial, technological, and management support with a view to promoting the creation of "next-generation businesses", including manufacturing, by providing fund and managerial and technological expertise from the public and private sectors.

39. Sector-specific subsidies are provided to companies involved in the manufacture of civil aircraft.<sup>42</sup> In 2009, ¥95 million were provided as a grant to the Japan Aircraft Development Corporation (JADC) for the development of next-generation aircraft.

40. There has been no change to the foreign direct investment regime with respect to the manufacturing sector. FDI in certain manufacturing subsectors remains subject to approval (prior-notification); and 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 who intend to invest in aircraft manufacturing require approval by the Ministry of Economy, Trade and Industry, in accordance with the Law on Aircraft Manufacturing.

#### (4) ENERGY AND UTILITIES

41. In 2012, the Electricity Business Act and the Gas Business Law were amended with a view to relaxing regulation on tariffs in order to, *inter alia*, incorporate a feed-in-tariff (FIT) system for certain renewable energy; both amendments replaced the approval requirement with a notification requirement on certain tariffs.

42. Against the background of a severe accident at a nuclear power plant in the north-eastern Japan in March 2011, the Government is reviewing whether to adopt regulatory reform, such as the establishment of an independent national grid company and further liberalization of retail sales.

43. 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. The authorities state that permission is denied only on grounds of national security.<sup>43</sup> It would appear that there has been little investment in energy and utilities.<sup>44</sup>

---

<sup>42</sup> WTO document G/SCM/N/220/JPN, 29 June 2011.

<sup>43</sup> 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 may also recommend that the parties concerned alter their investment plans.

<sup>44</sup> WTO (2011).

(5) SERVICES

(i) Financial services

44. The financial services sector is extremely important in Japan due notably to the high level of savings by OECD standards. Banking companies' assets account for 184.8% of nominal GDP and 173.3% of real GDP, while insurance companies' assets represent 72.7% and 68.2%, respectively. The sector is relatively concentrated, with the top three banks holding 40.7% of the market share and the top five 52.6% (Table IV.6). The same goes for insurance, with the top three life-insurance companies holding 55.6% of the market the top three non-life insurance companies holding 65.6%. The top three securities companies hold 33.95% of the market. The sector is still undergoing consolidation with four significant merger operations (one for banks, two for insurance and one for securities since January 2011).

**Table IV.6**  
**Japan's market and regulatory regime for financial services, 2012**

<p><b>General overview</b></p> <p><b>Number of financial services providers</b> (end-December 2011), banks: 204, of which 107 regional banks; insurance companies: 95, of which 45 life insurance, and 50 non-life; securities companies: 320</p> <p><b>Significant players (cooperatives, mutual institutions, and the postal system):</b> JP Bank and JP Insurance in the Japan Post Group and mutual institutions (with mostly a regional and an SME focus)</p> <p><b>Total bank and insurance companies assets, end-March 2011:</b></p> <ul style="list-style-type: none"> <li>- as % of the whole financial sector: banking companies: 49.5%, insurance companies: 19.5%</li> <li>- as % of nominal GDP: banking companies: 184.8%; insurance companies: 72.7%</li> <li>- as % of real GDP: banking companies: 173.3%; insurance companies: 68.2%</li> </ul> <p><b>Major consolidations since January 2011:</b></p> <p><b>Banks:</b> April 2011: Sumitomo Mitsui Trust Holdings, Inc. – the result of a merger between Chuo Mitsui Trust Holdings, Inc. and the Sumitomo Trust and Banking Co., Ltd.)</p> <p><b>Securities:</b> February 2012: Aozora Securities Co., Ltd. – the result of a merger between Japan Wealth Management Securities and Aozora Securities</p> <p><b>Life insurance:</b> January 2012: Gibraltar Life Insurance Co., Ltd. – the result of a merger between the Gibraltar Life Insurance Co. Ltd., AIG Edison Life Insurance Co. Ltd., and Star Life Insurance Co. Ltd.)</p> <p><b>Non-life insurance:</b> May 2011: Aioi Nissay Dowa Insurance Co. Ltd – the result of a merger between Aioi Nissay Dowa Insurance Co. Ltd and Adrie Sompō.)</p> <p><b>Market share held by the top 3 and top 5 largest firms, end-March 2011:</b></p> <p><b>Banks</b> (based on data for all banks across the country): top 3: 40.7%; top 5: 52.6% (Bank of Tokyo-Mitsubishi UFJ Ltd – 18.2%; Sumitomo Mitsui Banking Corporation – 13.7%; Mizuho Bank Ltd – 8.7%; Mizuho Corporate Bank Ltd. – 8.7%; Risona Bank Ltd – 3.3%)</p> <p><b>Life insurance:</b> top 3: 55.6%; top 5: 71.6% (JP Insurance – 30.3%; Nippon Life Insurance Company – 15.6%; The Dai-ichi Life Insurance Company – 9.7%; Meiji Yasuda Insurance Company – 8.5%; Sumitomo Life Insurance Company – 7.4%)</p> <p><b>Non-life insurance:</b> top 3: 65.6%; top 5: 85.7% (Tokio Marine and Nichido Fire Insurance Co. Ltd – 29.6%; Mitsui Sumitomo Insurance Company Ltd – 9.7%; Sampo Japan Insurance Inc. – 16.3%; Aioi Nissay Dowa Insurance Co. Ltd – 11.6%; Nipponkoa Insurance Co. Ltd – 8.5%)</p> <p><b>Employees pensions funds</b> (by the financial statements for fiscal year 2009): top 3: 11.8%; top 5: 15.0%</p> <p><b>Mutual funds:</b> top 3: 46.5%; top 5: 60.3% (Nomura Asset Management Co. Ltd – 21.9%; Daiwa Asset Management Co. Ltd – 14.3%; Nikko Asset Management Co. Ltd – 10.2%; Mitsubishi UFJ Asset Management Co. Ltd – 7.0%; Kokusai Asset Management Co. Ltd – 6.8%)</p>
--

Table IV.6 (cont'd)



**Securities companies:** top 3: 33.9%; top 5: 51.5% (Mizuho Securities Co. Ltd – 11.7%; Mitsubishi UFJ Morgan Stanley Securities Co. Ltd – 11.2%; Daiwa Securities Capital Markets Co Ltd – 11.0%; Nomura Securities Co. Ltd – 10.0%; Nikko Cordial Securities Inc. – 7.5% – name changed to SMBC Nikko Securities Inc. in April 2011)

**Credit rating agencies** (end-January 2012 – based on number of rating analysts): top 3: 70.4%; top 5: 91.5% (Rating and Investment Information, Inc. – 27.2%; Moody's Japan K.K. – 23.8%; Japan Credit Rating Agency, Ltd. – 19.4%; Standard & Poor's Ratings Japan K.K. – 12.9%; Moody's SF Japan K.K. – 8.2%)

**Ownership by type of activity:**

**Banks** (excluding foreign bank branches and locally incorporated foreign banks): Fully state-owned: 5 (Japan Post, Development Bank of Japan, Japan Bank for International Co-operation, Japan Finance Corporation and Okinawa Development Finance Corporation; over 50% owned by a single foreign company: 1 (Aozora Bank, Ltd.)

**Life insurance:** fully state-owned: none; fully domestically owned, private: 17; foreign minority-owned: 4; majority foreign-owned: 15; mutual companies: 5; branches of foreign companies: 4

**Non-life insurance:** fully state-owned: none; fully domestically owned, private: 23, minority foreign-owned: 1; majority foreign-owned: 4; branches of foreign companies: 21; licensed specified juridical persons: 1;

**Mutual funds:** domestic shareholders: 54; foreign shareholders: 31 (based on business reports of each fund submitted in FY2011 and on the nationality of the largest shareholder)

**Securities companies:** Domestic shareholders: 229; foreign shareholders: 87 ( as of July 2010, based on the nationality of the largest shareholder)

**Credit rating agencies:** domestic shareholders: 5; foreign shareholders: 2 (end January 2012, based on the nationality of the largest shareholder)

**Specific taxes on financial transactions:** No financial transaction tax (FTT); incomes from financial transactions are subject to tax; – tax on individuals differs by type of income

*Source:* Information provided by the Japanese authorities.

45. Some post-2008 financial crisis measures are still in force. For example the prohibition of naked short selling, which was time bound (6 months), was renewed 11 times and is still in force. Similarly, the Financial Instrument Act, which regulates over-the-counter transactions, has been revised so that all transactions on derivatives are subject to FSA supervision. Operators of such transactions have been obliged to use the clearing system, so as to allow the FSA to trace their transactions. The regulation on hedge funds has also been reinforced.

46. Cooperatives and mutual institutions (*Kyosai*) are significant players in particular for the small and medium enterprises and regional markets segments. The only regulatory change regarding those institutions during the review period was the extension of the term of transitional measures on the amount of insurance that "Small Amount and Short-Term Insurance Providers" involved in *Kyosai* business may underwrite. Japan Post Insurance and Japan Post Bank are very significant financial services player. Their network extends all over the territory and there is a long-standing tradition by the Japanese population to deposit savings and to subscribe to life insurance with this public or semi-public institution. Japan Post Bank is the largest bank in the world, with approximately US\$2,000 billion of deposits, i.e. 22.3% of banking deposits in Japan. Japan Post Insurance is in the same position with approximately US\$1,000 billion (¥93 trillion, as of March 2012) of assets.

47. Hence, the major regulatory change regarding financial services since the last TPR of Japan in 2011 is the revised Postal Service Privatization Act, passed by the Diet in April 2012; the Act significantly changes the conditions of privatization of the Japan Post Group established by a 2005 law. The sale by the State of less than two thirds of its shares in Japan Post Holdings, included in the privatization process, and the sale by Japan Post Holdings of all of its shares in its two financial subsidiaries, foreseen by this law between 2007 and 2017, were frozen by a provisional law passed in 2009 (Act No. 100 of 2009). Mainly because of the need to finance the reconstruction after the great East Japan earthquake the revised Postal Service Privatization Act (Act No. 30 of 2012) was passed by a very large majority in both Houses of the Diet. This act amended the Act on Japan Post Holdings Co. Ltd., (Act No. 98 of 2005) for the Government of Japan to dispose the shares in Japan Post

Holdings as soon as possible, and repealed the Act for freezing the disposition of the shares of Japan Post Holdings, Japan Post Bank, and Japan Post Insurance (Act No. 100 of 2009).

48. The main provisions of the revised Postal Service Privatization Act are that: the number of subsidiaries of Japan Post Holding will be reduced from four to three by the integration of Japan Post Services and Japan Network; Japan Post Group will have to provide, in a unified manner through its post office network, universal services for postal services and fair access all over Japan to savings and insurance services<sup>45</sup>; Japan Post Holdings will aim to dispose of all the shares of JP Bank and JP Insurance as soon as possible, while taking into consideration the business conditions of both companies and the results of the implementation of the Act on the responsibility for ensuring basic postal services; the minimum threshold of shares that the Government must maintain at any time has not been revised and remains at one third; subject to the adoption of new regulations JP Bank and JP Insurance will be allowed to launch new products (e.g. medical insurance) under the same regulatory framework as their private-sector counterparts as soon as the Government has sold half of its shares, and cross-ownership among Japan Post Holdings subsidiaries will be allowed.

49. Comments were submitted by stakeholders, including foreign providers and institutions, on the Postal Service Privatization Act has been criticized by the private sector at home and abroad, and by foreign governments and institutions. Some stakeholders (e.g. USTR and the EU Chamber of Commerce in Japan)<sup>46</sup> alleged that the Act is a step backwards and expressed fears of an uneven playing field, as the maintenance of a State share may imply public interference (e.g. for the purchase of government bonds) and an implicit public guarantee of deposits and assets as well as the risk of cross-subsidization between the financial branches and the postal branch.

50. The Japanese authorities explained that the revised Postal Service Privatization Act had a provision to ensure equivalent conditions of competition between the Japan Post Group and operators offering similar services, and that the Government of Japan intended to continuously ensure consistency with the WTO Agreements and other international agreements. They underlined that the regulatory framework imposed on financial subsidiaries of Japan Post Holdings by the revised Act remains stricter than the one applying to the private sector. Specifically, one of the subsidiaries is subject to deposits and savings limitation of ¥10 million. In addition to regulation under the Banking Act and the insurance business law, imposed on all financial institutions, these subsidiaries are required to gain FSA and the MIC approval for new products until JP Holdings dispose of half of the shares of its financial services subsidiaries. Furthermore, the FSA and the MIC will hear the opinion of the Postal Services Privatization Committee in advance of the approval.

51. There are no state-owned bank or insurance companies apart from Japan Post, Development Bank of Japan, Japan Bank for International Co-operation, Japan Finance Corporation and Okinawa Development Finance Corporation. Foreign ownership remains marginal in banking services; only one bank has more than 50% foreign ownership (Aozora bank). For life-insurance, there are 15 majority foreign owned, 4 minority foreign owned, and 4 branches of foreign life insurance companies; in addition, there are 23 minority foreign owned and 1 majority foreign owned, and 4 branches of foreign non-life insurance companies.

---

<sup>45</sup> The law stipulates that postal services, simple savings, money transfers, debts and credit settlements and insurance services should be made available in post offices integrally, equally and universally throughout the country in a simple and user-friendly manner.

<sup>46</sup> USTR online information, "2011 National Trade Estimate Report on Foreign Trade Barriers". Viewed at: [http://www.ustr.gov/webfm\\_send/2712](http://www.ustr.gov/webfm_send/2712); EBC online information, "Going for Growth, the European Business Council Report of the Japanese Business Environment". Viewed at: <http://www.ebc-jp.com/whitepapers/2010english/viewbook.html>.

52. Three other subsectors appear largely internationalized: mutual funds, securities companies, and credit rating agencies (Table IV.7).

53. The percentage of non-performing loans in the total assets of the banking sector is 2.4%, similar to previous years. The net operating profit per employee has increased to ¥16.5 million and the net income per employee remains stable at ¥8.4 million.

**Table IV.7**

**Japan's market and regulatory regime for banking**

<p><b>Economic indicators</b></p> <p>Non-performing loans as a percentage of total bank assets: 2.4% (end-March 2011)</p> <p>Net operating profits per employee: ¥16.5 million</p> <p>Net income per employee: ¥8.4 million</p> <p><b>Regulatory framework</b></p> <p><b>Supervisory authorities:</b></p> <p>Ministry/agency responsible for defining banking sector policy: the Financial Services Agency (FSA)</p> <p>Sector supervisor (monitoring bank liquidity, overseeing payment and settlement systems, etc): FSA and the Bank of Japan</p> <p>Responsibility for competition policy issues: the Japan Fair Trade Commission.</p> <p><b>Preferential and bilateral policies:</b></p> <p>Preferential arrangements affecting banking services: none</p> <p>Bilateral agreements and MOUs (notably concerning prudential regulation and supervision): 1</p> <p>Recognition of prudential measures of other countries through international agreements or unilaterally: none</p> <p><b>Licensing:</b></p> <p>General criteria: sufficient financial basis and proper expected income and expenditures in relation to the business (Banking Act, Article 4.2)</p> <p>Additional criteria for foreign banks: reciprocity test - the treatment must substantially be the same in the country where the foreign bank's major offices are located. Where a foreign bank intends to receive a business licence, and where establishment of the foreign bank requires permission from a foreign government agency or must go through any other procedures, the bank must present a written document to prove that the permission has been obtained.</p> <p>Licensing organ: the FSA</p> <p>Validity of a licence: a licence has no validity period</p> <p>Restrictions on banks selling or disposing of licences: for maintaining bank stocks, prior permission is required from the FSA to become a holder of voting rights over the "major shareholder threshold" (about 15-20%, depending on influence power) (Banking Act, Article 52(9))</p> <p>Minimum capital requirements to obtain a licence (domestic and foreign banks): ¥2 billion</p> <p>Recognition of home-country supervision: subject to an examination of whether treatment is substantially similar to Japan's Banking Act and of supervision by the home-country financial supervisory authorities. Requirement applied to all countries without exception (Banking Act, Article 4(3)).</p> <p>Other authorizations required:</p> <ul style="list-style-type: none"> <li>- approval from the Prime Minister for the acquisition of over 20% of the shares of a bank. This measure is non-discriminatory</li> <li>- the establishment of a secondary office is subject to a notification for Japanese banks and to an authorization from the Prime Minister for foreign banks. According to the authorities, this discrepancy between the two regimes is of a prudential nature</li> <li>- similarly, additional licences are not required for establishing a second or more branches although approvals are needed. The authorities consider this measure as is of a prudential nature.</li> </ul> <p><b>Prudential regulations</b></p> <p>Administrative allocation of financial resources: financial resources are not allocated administratively</p> <p>Determination of interest rates and fees: banks may determine interest rates and fees freely</p>
--

**Table IV.7 (cont'd)**

**Measures to ensure compliance with the Basel Committee's Core Principles for Effective Banking Supervision:**

The FSA states in supervisory guidelines: "the FSA tries to reflect principles and guidelines, with regard to bank supervision, which the Basel Committee, etc. develops on their supervision". The FSA has revised the Banking Act, supervisory guidelines, and inspection manuals, based on the Basel Committee's Core Principles (BCP). When the BCP itself is revised, the FSA will review the parts of the guidelines that relate to the revised parts of the BCP, as necessary. To ensure compliance with the BCP, the FSA implements inspections and supervision while taking into consideration the scale and complexity of financial institutions.

**Specific provisions against money laundering:**

Financial institutions are working on identification and trade notifications which are obligations under "the Act of Preventing Transfer of Illegal Profits". The FSA is encouraging efforts in financial institutions, through examination and supervision. Members of financial instruments exchanges must obey the following procedures: dealers of financial instruments (registration with the Prime Minister is required); permitted contractors for exchange transaction's (permission from the Prime Minister); and registered financial institutions (registration with the Prime Minister). See Japan Financial Intelligence Center Annual Report 2010 [http://www.npa.go.jp/sosikihanzai/jafic/jaficenglishpage/jafic\\_2010e.pdf](http://www.npa.go.jp/sosikihanzai/jafic/jaficenglishpage/jafic_2010e.pdf).

**Bank deposit insurance scheme**

The Government introduced the deposit insurance system to protect depositors in failed financial institutions and to contribute to the smooth settlement of funds. Non-interest-bearing deposits, such as current deposits are protected in full. The status of other deposits, such as time deposits and ordinary deposits: no more than ¥10 million and interest / person / financial institution; protection, in excess of that amount: depends on the asset status of the failing financial institution.

*Source:* Information provided by the Japanese authorities.

54. Insurance premiums in Japan are equivalent to 7.2% of GDP for life insurance and 1.8 % for non-life insurance.

55. The main recent regulatory changes relate to the relaxation of the regulation of insurance solicitation by banks of small and medium enterprises (so called "bank sales channel"). Following a review in 2011 it was decided to move from a regime of general prohibition of such sales to the authorization of some sales of low-value, low-risk, low-return products, savings-oriented rather than investment-oriented through qualitative threshold. The FSA constituted a working group to review the issue of the domestication of foreign insurance operations, i.e. of the regulatory conditions for the transformation of branches of foreign insurance companies into subsidiaries. As a result, the restriction forbidding the sale of insurance during the transformation of branches of foreign insurance companies into subsidiaries has been removed.

56. Table IV.8 details the main economic indicators and the general regulatory framework for insurance services in Japan.

**Table IV.8**  
**Japan's market and regulatory regime for insurance, 2012**

Penetration (premiums as share of GDP): Life insurance: 7.2%; non-life insurance: 1.8%

**Regulatory framework**

**Recent legislative changes:**

Measures to prevent negative effects of insurance solicitation by banks, etc., were revised in several steps, including the easing of regulations and setting up measures necessary to ensure effectiveness

**Supervisory authorities:**

Ministry/agency responsible for defining insurance sector policy, and for supervision of the sector: the FSA  
Responsibility for competition policy issues: the Japan Fair Trade Commission

**Preferential and bilateral policies:**

Preferential arrangements affecting banking services: none  
Bilateral agreements and MOUs: none

Table IV.8 (cont'd)

**Licensing:**

Criteria for assessing applications for insurance licence: sufficient financial and organizational base to conduct insurance underwriting; and whether the underwritten insurance products are appropriate

Incompatibility of life and/or non-life insurance licences: insurance companies may conduct only one of these businesses

Differential treatment for foreigners in the licensing process: no distinction under the Act

Prior approval of home-country supervisor: compatible home-country regulation and other criteria applied exclusively to foreigners: a foreign insurer requires a certificate from an organization whose jurisdiction includes the home country, proving that the insurer is lawfully conducting insurance business in its home country that is similar to the insurance business it intends to conduct in Japan

Limitation on number of providers: none

Licensing authority: the FSA, which is the single administrative organ for the consideration of licence applications

Maximum processing time for applications: there is no provision under the Act for a maximum but the standard "to be attempted" is within 120 days

Period of validity of a licence: without special conditions, a licence has no specified period of validity

Restrictions on selling or disposing of licences: allocated licences may not be sold; where insurance companies abandon their insurance business, their licences become void

Other authorization required: approval from the Prime Minister is required for the acquisition of over 20% of the shares of an insurance company. This measure is non-discriminatory

**Prudential regulations**

Specific obligations for banks providing securities services: such banks must create joint-stock companies for securities

Differences of treatment between state-owned firms, other domestically owned firms, foreign-owned branches, and foreign-owned subsidiaries: foreign-owned subsidiaries are required to hold in Japan the necessary assets in order to secure an insurance policy that provides for the company's potential collapse (Insurance Business Act, Article 197)

Also, foreign-owned subsidiaries are exempt from a consolidated solvency margin standard.

Recognition of home-country supervision of foreign insurance companies: To obtain a licence, a foreign insurance company must be "carrying on Insurance Business in a foreign state in accordance with the Acts and regulations of the foreign state": home-country supervision of the foreign insurance company is recognized (Insurance Business Act, Article 2(6), 185(1))

Minimum capital requirements to obtain a licence: ¥1 billion. Foreign insurance companies are required to deposit ¥100 million with the deposit office in Japan (Insurance Business Act, Article 6: 190)

Other prudential tests for licence applicants: ¥1 billion minimum capital requirement. In processing licence applications, consideration is given to ensuring equity capital in accordance with the contents and scale of the business anticipated, and a sufficient financial base to conduct the business of an insurance company soundly and efficiently, as well as to having good prospects for income and expenditures pertaining to the business (Insurance Business Act, Article 5(1)(i)). In addition, the solvency margin ratio of each insurance company must always be no less than 200%

Administrative allocation of insurance services: insurance services are allocated administratively

Approval required for life and non-life premiums and products: the contents of insurance products, premium rates, etc., are subject to review at the time of application for a licence. Also, approval is required from the FSA to revise the contents of insurance products, insurance premiums, etc., (Insurance Business Act, Article 5(1)(iii)(iv), 123(1), 187(5), (207)

*Source:* Information provided by the Japanese authorities.

57. The total market capitalization of securities services, companies listed on the first section of the Tokyo stock exchange represented 204.8% of nominal GDP December 2011 and 191.69% of real GDP, while the bond market capitalization represented 849.83% and 908.12%. Table IV.9 details the main economic indicators and the general regulatory framework of securities services in Japan.

58. There are no recent regulatory changes with regard to pension funds and mutual funds, but a working group has been constituted to review regulations for mutual funds. The FSA is the supervisory authority for both activities, assisted by the Minister for Health, Labour and Welfare for pension funds. For management and sales of investment trust, licensing takes the form of a registration procedure. Criteria taken into account are historical records of applicants, financial and organizational soundness, and minimum capital (¥50 million at least). Foreign companies intending to exercise these activities must be exercising the same activity in their home country under appropriate supervision and must have a branch or office in Japan. Licences have no fixed duration and are not transferable. There is no limitation on the number of providers. Table IV.10 details the main economic indicators and the general regulatory framework of mutual funds and pensions fund services in Japan.

Table IV.9  
Japan's market and regulatory regime for securities, 2012

<p><b>Securities services (including by banks)</b></p> <p><b>Economic indicators</b></p> <p><b>Total market capitalization of companies listed on the first section of the Tokyo Stock Exchange</b> (end of each quarter 2011):  <b>¥ million:</b> 296,474,251 (March); 290,426,163 (June); 261,671,225 (September); 251,395,748 (December)  <b>% of nominal GDP:</b> 257.01% (March); 253.16% (June); 226.32% (September); December 204.8% (December)  <b>% of real GDP:</b> 235.26% (March); 237.16% (June); 204.67% (September); 191.69% (December)</p> <p><b>Bond market capitalization (total outstanding amount of bond issues, end of each quarter 2011,</b> including Government Bonds, Fiscal Investment and Loan Program Bonds, Local Government Bonds, Government-backed Bonds, FILP Agency Bonds, etc. , Bank Debenture Bond, and Corporate Bonds)  <b>¥100 million:</b> 10,811,223 (March); 11,017,522 (June); 11,155,083 (September); 11,145,074 (December)  <b>% of nominal GDP:</b> 857.89% (March); 899.67% (June); 872.50% (September); 849.83% (December)  <b>% of real GDP:</b> 937.23% (March); 960.38% (June); 964.78% (September); 908.12% (December)</p> <p><b>Regulatory Framework</b></p> <p><b>Supervisory authority and licensing organ:</b> the FSA</p> <p>Additional criteria for foreign firms: for sales of investment trusts (Type I Financial Instruments Business), registration requires a corporation to be an entity that is carrying out business of the same sort in its home country in accordance with laws and regulations of the corresponding foreign country</p> <p><b>Period of validity of a licence:</b> none  <b>Transferability of licences:</b> not transferable  <b>Limitation of the number of providers:</b> none</p> <p><b>Restrictions on foreigners buying and selling on the stock market:</b> A member of the Financial Instruments Exchange Market is limited to either (1) a Financial Instruments Business Operator (request for registration by the Prime Minister), (2) Authorized Transaction-at-Exchange Operator (request for authorization by the Prime Minister), or (3) Registered Financial Institutions (request for registration by the Prime Minister).</p> <p><b>Other authorization required:</b> obligation to register branch offices for brokers. This measure is non-discriminatory.</p> <p><b>Operating conditions:</b></p> <p><b>Requirements to use international accounting and disclosure standards:</b> A company may prepare its consolidated financial statements in accordance with the International Financial Reporting Standards (IFRS) if:</p> <p>(a) all of the following requirements are met: (1) The shares to be issued are listed on the Financial Instruments Exchange, (2) The Annual Securities Report contains a description of the special approach taken to ensure the appropriateness of the consolidated financial statements, (3) Board members and employees who have sufficient knowledge about designated international accounting standards are assigned, and the system in which the consolidated financial statements can be prepared, based on the designated international accounting standard, is maintained.</p> <p>(b) One of the following requirements must also be met: The company, its parent company, and other affiliated companies as well as the parent company of the affiliated companies: (1) are disclosing documents regarding their corporate affairs and other related matters, based on international accounting standards, during a period stipulated by the Act and regulations, and based on the Act and regulations of the foreign country, (2) are disclosing documents regarding their corporate affairs and other related matters, based on international accounting standards, during a period stipulated by the rules, based on the rules of foreign financial instruments market, (3) own a subsidiary with more than ¥2 billion in capital in the foreign country.</p> <p>On 12 December 2008, in agreement with the European Union, the Japanese GAAPs (Generally Accepted Accounting Principles) were evaluated to be equivalent to International Financial Reporting Standards (IFRS) as adopted by the European Union (EU). (Since January 2009, Japanese companies that are listed on markets within the EU have been able to use the Japanese GAAPs when making disclosures in Europe.)</p>
---

Table IV.9 (cont'd)

**Provisions on shareholders' rights in companies listed on stock exchanges:**

The Financial Instruments and Exchange Act does not provide any special regulations on shareholders' rights for companies listed on the financial instruments exchange.

**Provisions on companies' disclosure obligations:**

- for companies listed on financial instruments exchange: disclosure of company information in accordance with securities listing regulations; to protecting shareholders' rights, rules are described in the "Corporate Code of Conduct"
- for general companies: (a) Disclosure of issuance: for securities to be recruited and/or sold in excess of ¥100 million, the issuer must submit a notification of securities to the Prime Minister before a public offering or public selling (Financial Instruments and Exchange Act, Article 4(1)); also, the issuer must document and deliver a prospectus to investors before (or at the same time as) delivering the securities (Article 15(2)); (b) Constant disclosure: an issuer of listed securities on the financial instruments exchange or of a public offering or sale of a security, is obligated to submit its security report after completion of each business year (within 3 months) to the Prime Minister (Financial Instruments and Exchange Act, Article 24(1)); a quarterly report must be submitted to the Prime Minister within 45 days of completion of every fiscal quarter (Article 24-7(1)); and when making a public offering or sale of a security in a foreign country, these issuers must submit the extraordinary report to the Prime Minister without delay (Article 24-5(4)).

*Source:* Information provided by the Japanese authorities.

**Table IV.10**

**Japan's market and regulatory regime for pension funds and mutual funds, 2012**

**Recent changes:** no major changes in market access policies, ownership rules, or other regulations since previous TPR.

**Supervisory authorities:**

FSA registration required to carry out management and sales for investment trust.

Responsibility for pension fund regulation and supervision: Minister for Health Labour and Welfare.

**Licensing criteria:** Registration with the FSA. Conditions to be considered are: historical records of violations, appropriateness, and sufficiency of human resources organization; a board of directors, corporate auditors or a committee must be established; and capital must be more than ¥50 million.

**Additional licensing conditions for foreign companies:**

The corporation must be handling the same sort of business in its home country in accordance with law and regulations of that country, and must have a branch or office in Japan.

**Period of validity of a licence:** none

**Transferability of licences:** licences are not transferable

**Limitation on the number of providers:** none

*Source:* Information provided by the Japanese authorities.

59. The sectoral coverage of financial services appear identical in Japan's GATS commitments and its EPAs commitments, following the coverage of the GATS understanding on financial services for positive listing agreements or introducing the same sectoral limitations through reservations for the negative listing agreement with Switzerland (Table AIV.2). The EPA with Mexico refers to GATS commitments in its financial services chapter.

60. Since GATS commitments and all but one FTAs have the same sectoral coverage as the GATS financial services understanding, the coverage of modes 1 and 2 for insurance services is limited to two subsectors: transport and transit insurance ("MAT") and reinsurance. For MAT the restrictions are identical in all the agreements: commercial presence is required, including for intermediation services. For reinsurance services there is a compulsory retrocession of 60% for compulsory automobile third-party liability insurance, and suppliers not licensed in Japan are prohibited from providing reinsurance service in the GATS commitments. The retrocession requirement disappears from the FTAs except with Singapore, where it is the subject of a complex phase-out. All FTAs echo the GATS prohibition of modes 1 and 2 provision of reinsurance services by suppliers not licensed in Japan.

61. Mode 3 is devoid of restrictions under both the GATS and the EPAs except for one limitation: insurance intermediation may only be supplied for insurance contracts allowed in Japan. Japan's GATS commitments for mode 4 extend to personnel covered by the financial understanding, to the extent they are not already covered by those horizontal commitments, which is the case for senior managerial staff possessing proprietary information essential to the establishment, control and operation of the service supplier, and specialists in the operation of the financial service supplier. The categories benefiting from this extension, subject to the availability of personnel in Japan, are: specialists in computer services, telecommunication services, and accounts of financial services suppliers and actuarial and legal specialists. In all positive-listing EPAs, mode 4 remains totally unbound, which implies by default the application of GATS mode 4 commitments. For negative listing agreements, the chapter on movement of natural persons applies for mode 4 in financial services. Therefore entry and temporary stays of personnel engaged in financial services including certified public accountants or tax accountants are committed under one of the following categories: intra-corporate transferees, investors, professional services, and contractual services suppliers. The commitments undertaken in the Japan-Philippines agreement are subject to a standstill obligation. The GATS commitments contain additional commitments on automobile insurance, commercial fire insurance, and medical insurance, which are echoed only in the Japan-Singapore FTA.

62. For banking services the sectoral coverage is the same as the GATS financial understanding either through a direct reference for GATS and positive listing agreements, or through equivalent reservations in the case of negative listing agreements. Therefore the coverage of mode 1 is limited to the provision and transfer of financial services information, financial data processing, and other auxiliary services. The other sectors remain devoid of commitments. For the sectors covered, commercial presence is required for discretionary investment services.

63. Under mode 2 and its equivalent in negative listing agreements, "purchase of financial services by public entities" is unrestricted and this extends to all banking sectors in all FTAs and the GATS. Mode 3 regimes are more complex. The GATS commitments contain two restrictions: for market access, commercial presence for investment trust management services must be juridical persons established in Japan; and for national treatment, the deposit insurance system does not cover deposits taken by branches of foreign banks. In addition, there are modal additional commitments (a rare feature) on the abolition of the distinction between new money and other assets for employee pension fund management. In the positive listing FTAs (with Brunei, India, Indonesia, Malaysia, the Philippines, Singapore, Thailand and Viet Nam) there are no other restrictions than the non-coverage by the deposit insurance system of deposits taken by foreign banks. In addition, the agreement with Singapore contains specifically negotiated additional commitments different from those contained in the GATS commitments (Table AIV.2). There is an identical reservation in the investment chapter of some positive-listing agreements (with India, Malaysia, the Philippines, and Singapore) and in the negative-listing agreement with Switzerland. For Brunei and Indonesia the reservation in the investment chapter is wider: covering all existing measures in banking services that do not conform to national treatment.

64. The agreement with Switzerland contains two reservations that have no equivalent in the GATS commitments or in other EPAs: (i) a reservation for future measures on banking and other financial services other than (a) securities related transaction with financial institutions and other entities in Japan, (b) sales of a beneficiary certificate of an investment trust and an investment security through securities firms in Japan, (c) provision and transfer of financial information and financial data processing and advisory and other auxiliary services excluding intermediation. These exclusions represent a commitment on cross-border trade of securities services, which has no equivalent in other



FTAs or in GATS; and (ii) a reservation on mode 2 for banking and other financial services other than those in the list of the financial annex of the agreement.<sup>47</sup>

65. With regard to mode 4, the trade regimes for banking services are identical to those described for insurance services. The commitments undertaken for modes 1, 2, and 3 for banking services in the Japan-Philippines agreement are subject to a standstill obligation.

## (ii) Telecommunications

66. Japan's legislation does not distinguish between basic telecommunication providers and value-added telecommunications providers, but since 2004, has distinguished between registered and notified carriers. This replaced the distinction between type I and type II carriers, i.e. facilities-based and non-facilities-based. The new distinction, triggered by technological developments, is between large- and small-scale facilities. Carriers whose activities go beyond the boundaries of a single prefecture are considered as registered operators. Registration formalities and procedures with the Ministry of Internal Affairs and Communication (MIC) are minimal; and the notification regime requires no investigation or authorization.

67. During the review period, 29 carriers subject to registration procedure have been created, while 22 merged with other companies and 3 closed, leaving a total of 330 companies as of 1 January 2012. For carriers subject to notification, the figures were 2,010 creations, 162 mergers and 1,113 closures, leaving a total of 15,482 carriers.

68. By law, the Government shall hold a share of 33.3% in NTT. This is the only case of public ownership in the sector. Foreign participation in NTT was 24.2% on 31 March 2012 according to the compulsory annual securities report for listed companies. Table IV.11 details the regulatory regime of telecommunications in Japan and its main economic indicators.

**Table IV.11**  
**Market structure and regulatory framework of Japan's telecommunications sector, 2012**

<p><b>Economic data</b></p> <p><b>Main actors:</b> Companies providing value-added telecom services: 330 carriers are registered with the Minister; and 15,482 carriers have submitted notifications (up to 1 January 2012). Market leaders for fixed telecom services: NTT East and NTT West (combined market share for fixed telecom service 79.2% (March 2012)) Market leaders for mobile services: NTT DOCOMO (45.3%), KDDI (including Okinawa Cellular, 26.4%), Soft Bank Mobile (21.8 %), (March 2012). Main Internet access providers (incl. ADSL, fibre-to-home providers, and cable-based access): non-NTT group ( 31.7%), NTT group (30.2%), vendor group (26.0%), (March 2012). Foreign ownership participation: Except for the Nippon Telegraph and Telephone Corporation, there are no restrictions in Japan's telecommunications carriers. Foreign ownership shares of listed telecom companies are not available. State ownership: Nippon Telegraph and Telephone Corporation - 33.3%</p> <p><b>Tariffs:</b> (evolution since Japan's last TPR (2011)) Local services: no changes on basic monthly charges or local call rate (subscriber lines) of NTT East and NTT West. International services: no changes on international calls of KDDI (3 minutes for ¥27), NTT Communications (3 minutes for ¥27), Softbank Telecom (3 minutes for ¥7.99). Mobile services: NTT DoCoMo, Type S Value has not changed: basic monthly service rate – ¥3,000; call rate – ¥108 per 3 minutes (excluding tax). Basic monthly service rate includes a communications allowance of ¥2,000 (excluding tax). Internet services: Ministry of Internal Affairs and Communications does not regulate the internet connection fee. No changes. Interconnection rates: (monthly charge per line) for optical fibre significantly lowered to:</p>
---

**Table IV.11 (cont'd)**

<sup>47</sup> This list is identical to the list of sectors of the GATS financial services annex.

-Dry copper local loop: NTT East: ¥1,298 NTT; West: 1,354 (2012)  
-Line sharing local loop: NTT East: ¥88, NTT West: ¥89  
-Single star optical fibre: NTT East : ¥3,403, NTT West: ¥4,357  
-Shared-access optical fibre: NTT East: ¥3,013, NTT West : ¥3,846 (2012)  
-Mobile phone interconnection rates: significantly lowered, e.g. NTT DoCoMo: ¥24.3/3 min. (in 2009), ¥12.24/3 min. (in 2011)

**Establishment of new companies, mergers or closures since Japan's TPR:**

Under Telecommunication Business Act Articles 17 and 18, 184 companies carried out procedures for successions and mergers (22 registered telecommunications carriers, 162 notified telecommunications carriers; 1,116 carried out procedures for closure (3 registered telecommunications carriers, 1,113 notified telecommunications carriers) (1 January 2012)

**Regulatory framework**

**Interconnection:**

Recent or planned changes: none

Complaints filed or resolutions effected for interconnection disputes among operators: one request for the Minister of Internal Affairs and Communications to start negotiations since 2010; and 4 mediations by the Telecommunications Dispute Settlement Commission since Japan's TPR in 2011 (Article 35, Article 154, Telecommunication Business Act; for the Telecommunications Dispute Settlement Commission (see: [http://www.soumu.go.jp/main\\_sosiki/hunso/english/activities/processing.html](http://www.soumu.go.jp/main_sosiki/hunso/english/activities/processing.html)).

**Competition policy:**

**Results of the "competition review in the telecom business field (2010)":**

Fixed telephone and dedicated service markets: a single operator has strong market power and the possibility of using its position to exercise market power; MIC estimated that regulations in the market are sufficient and WAN service has strong competitive pressures in the dedicated service market.

Toll bypass telephony, cellular phone (including PHS, broadband, FTTH, and ADSL market, a single operator is in a position to exercise its market power, or multiple carriers are in a position to exercise their market power in an alliance under an oligopoly; MIC estimates that the existence of regulations and competitive pressures from the other service are sufficient.

050- IP telephony and WAN service market: multiple operators are in a position to exercise their market power in an alliance under an oligopoly; MIC estimates that the market reduction in 050-IP telephony and the existence of regulations and competitive pressure in WAN service markets are sufficient.

Cable TV internet and ISP market: MIC estimates that no operator can use market power.

**Japan Fair Trade Commission regulations and actions:**

The JFTC establishes Guidelines Concerning the Interpretation of "Specific Business Field" as defined in the Provisions of "Monopolistic Situation" in the Antimonopoly Act": fixed telecom and mobile telecom have been shown in the annex since 2004, and broadband services since 2010. The JFTC monitors trends of production, sale, price, manufacturing costs, and technical innovations, and profit ratios

Ministry of Internal Affairs and Communications promotes competition in the telecom market.

Dominant suppliers: NTT East and NTT West (subscriber lines) NTT DoCoMo (mobile phones)

**Other regulatory aspects:**

Regulatory supervision: For carriers installing Category I designated telecommunications facilities – functional separation of the facility department and the sales department introduced to ensure appropriate supervision of subsidiaries and appropriate management of information obtained through the business activities of interconnection (Telecommunications Business Act, Article 31, the Ordinance for Enforcement of Telecommunications Business Act Article 22)

Facility sharing: no changes

Local loop unbundling: no changes

Number portability: system introduced by Article 4 of Rule of Interconnection, no changes since 2011

Spectrum management: Licence required from the Minister of Internal Affairs and Communications to operate a radio station. However, if a radio station meets a specific requirement it may be operated only by registration (without a licence).

Mobile interconnection: amendment to the Telecommunications Business Act in December, 2010: rules for interconnection accounting introduced for the telecom carriers with Category II designated telecommunications facilities in March 2011 (Telecommunications Act as amended, Article 34).

Mobile roaming rates (wholesale and retail): no changes

Accounting rates: no changes

Licensing: Operators of telecommunications businesses with large-scale telecommunications circuit facilities must be registered by the Minister of Internal Affairs and Communications; operators with small-scale telecommunications circuit facilities or without telecommunications circuit facilities must submit a notification to the Minister.

**Universal service**

**Beneficiaries:** Telecommunications carriers that provide universal telecom services and are designated by the Ministry of Internal Affairs and Communications (MIC) as carriers meeting the requirements (eligible telecommunications carriers: NTT East and NTT West)

Table IV.11 (cont'd)

**Contributors:** Telecommunications carriers that have connections to subscriber lines of NTT East and NTT West (limited to carriers with sales of ¥1 billion or more)

**Services covered:** (1) subscriber telephones (subscriber access lines) or optical IP telephone equivalent with subscriber telephones (included in universal services from April, 2011); (2) Category I public telephone service; (3) emergency calls (dial 110, 118, 119).

**Expenditure** (approved in 2011): total compensation for NTT East and NTT West – ¥11.1 billion

**Method of calculation:**

- for subscriber access lines: benchmark method for the top 4.9% of the high-cost regions; when the cost per line exceeds the national average cost + double standard deviations, part of the cost will be covered by the universal service fund
- category I public telephone service: cancel-out cost-revenue calculation method
- emergency calls: costs of emergency lines that correspond to the top 4.9% high cost lines out of all subscriber lines are compensated
- optical-IP telephones equivalent to subscriber telephone: excluded from compensation

**Management:** Telecommunications Carriers Association (universal telecommunications service support institution) is responsible for collecting contributions from carriers and providing the subsidies. The institution must obtain permission from the MIC regarding the annual subsidies and contributions

**Specific tax incentives regime for the telecommunication sector:** no changes

*Source:* Information provided by the Japanese authorities.

69. There was no change in the interconnection policy during the review period. Five cases have been dealt with under the interconnection dispute settlement mechanism since Japan's last TPR.

70. The Anti-Monopoly Act (AMA) applies to the telecommunications sector; and the JFTC "Guidelines Concerning the Interpretation of Specific Business Field as Defined in the Provisions of Monopolistic Situation in the Anti-Monopoly Act" list fixed and mobile telephone services in the respective annexes.

71. NTT East and NTT West are officially designated as the dominant suppliers for subscriber lines, and NTT DOCOMO for mobile telephony, with the obligations attached to that status.

72. NTT East and NTT West have been designated as eligible telecommunications carriers to ensure universal service. Universal service covers subscriber telephone services and, since April 2011, optical IP services equivalent to subscriber services, in addition to public telephone services and emergency calls. Contributors are providers interconnected with facilities installed by NTT East or NTT West to provide universal service. Providers whose annual sales are less than ¥1 billion are exempted. Calculation of the amount of compensation varies with the type of service. Funds are collected by the Telecommunications Carriers Association, which has been designated as the universal service support institution. In 2005, comments were submitted by stakeholders, including foreign carriers and institutions, on the scale of costs, cost calculation mechanism, and specification of high-cost areas. Some stakeholders (e.g. USTR and the EU Chamber of Commerce in Japan)<sup>48</sup> alleged that the mechanism had a cross-subsidy effect. The Japanese Government states that the calculation mechanism was based on deliberations of a council composed of persons with the relevant knowledge and experience in the areas concerned nominated by the MIC, with the purpose of fairness and balance, following the procedure established by the relevant ministerial ordinance. The amount of expenditure approved for this fund in 2011 was ¥11.1 billion. Table AIV.3 details the trade regime of telecommunications in Japan.

73. Japan's telecommunication services trade regimes are generally quite open. GATS and EPAs commitments cover all services listed in the W120 annex and in the model schedule on telecom, with the exception of the (outdated) telegraph services in the GATS commitments and in the EPAs with

<sup>48</sup> USTR online information, "2011 National Trade Estimate Report on Foreign Trade Barriers", p. 201. Viewed at: [http://www.ustr.gov/webfm\\_send/2712](http://www.ustr.gov/webfm_send/2712); EBC online information, "Going for Growth, the European Business Council Report of the Japanese Business Environment", p. 42. Viewed at: <http://www.ebc-jp.com/whitepapers/2010english/viewbook.html>.

India and Viet Nam, and of "other telecom services" in the GATS commitments and in the agreement with Singapore. The only reservations in the GATS and FTAs commitments are the limitation of foreign ownership in NTT (1/5 under the GATS, 1/3 under the FTAs, and via the standstill applying to some FTAs, in the applied regime), and the Japanese nationality requirement for NTT's board members and auditors. Two FTAs (with Brunei and Indonesia) contain a more generically drafted reservation to national treatment in their investment chapter on "existing measures on information and communications" covering the same NTT reservation as well as the Foreign Exchange and Foreign Trade Law reservation.

74. The GATS commitments incorporate the disciplines of the telecom reference paper via additional commitments. Six positive listing FTAs (with Brunei, Indonesia, Malaysia, Thailand, and Viet Nam) contain enhanced disciplines on safeguards, anti-competitive practices, and interconnection (line sharing and co-location). Two positive listing agreements (with India and Singapore) and all three negative listing agreements (with Chile, Mexico, and Switzerland) contain no reference to enhanced interconnection disciplines, but in the case of Switzerland these "GATS +" obligations appear through a specific telecom chapter containing those enhanced disciplines as rules.

75. In four positive listing agreements (with Indonesia, Malaysia, the Philippines, and Thailand) and all three negative listing agreements these commitments are subject to a standstill obligation. The applied regime thus reflects the best FTA regime subsector by subsector in these agreements.

### **(iii) Transport**

#### **(a) Maritime transport**

76. Japan relies heavily on maritime transport, which carried 88.1% of its imports, by value, in 2012 and 71% of its exports. Container traffic account for the largest part (39.9% of imports and 43.9% of exports).

77. While no detailed figures are available, the Japanese controlled fleet is essentially deployed to serve bilateral trade. The national flag fleet (724 vessels, totalling 18.94 million DWT, 1.58% of world fleet) is much smaller than the beneficially owned fleet (3,071 vessels, 178.29 million DWT, 12.94% of world fleet). Altogether the Japanese fleet ranks second in the world, after Greece. Private management of port terminals is allowed, and open to foreign investors (e.g. Port of Singapore authority in Hibiki harbour). In major ports, managing companies now handle between 60% and 70% of the containers. The economic needs test in force for harbour transportation (maritime cargo handling services, container station and depot services, including inland container depot services) has been abolished in 2006 and replaced by a licencing system based on technical and financial abilities. Table IV.12 describes in more detail these three aspects of maritime transport: maritime trade, maritime fleet, and harbour management.

78. Japan's international obligations regarding maritime transport vary by the trading partner. Japan's commitments under the GATs are relatively limited (access to/use of port services, pushing and towing services, maritime agency services, salvaging, watering and fuelling services) due to the unsatisfactory outcome of the 1995-96 maritime transport negotiations. However Japan has formulated a very extensive offer in terms of sectoral coverage and obligations, in the context of the DDA, based on the very liberal applied regime. Commitments undertaken in the context of FTAs vary widely; the more liberal commitments are in negative listing agreements (with Chile, Mexico, and Switzerland) and in recent positive listing agreements containing standstill clauses (with Indonesia, Malaysia, the Philippines and Thailand). Under treaties of friendship, commerce, and

navigation with Denmark, the U.K. and Norway, Japan allows ships to access cabotage services on a reciprocal basis, and the U.S. Federal Maritime Commission discontinued its proceedings (1997 docket 96-20) against Japanese harbour practices on 26 January 2011. Table AIV.4 provides an extensive and systematic description of these trade regimes.

**Table IV.12**  
**Maritime transport, main economic indicators, March 2012**

Fleet	Vessels		Tonnage (DWT)		Geographical deployment (%)	
	Number	% of world fleet	Million tonnes	% of world fleet	Bilateral trade	Cross trade
National flag	724	1.58%	18.94	1.37%	..	..
Of which foreign controlled	0	0%	0	0%	..	..
Beneficially owned fleet under foreign flags	3,071	6.72%	178.29	12.94 %	..	..
Merchandise trade	Volume (tonnes, except for containers: TEU)		Value (¥'000)		% of Japan's international trade (all mode of transport) FY2009	
	Imports	Exports	Imports c.i.f.	Exports f.o.b.	Imp.	Exp.
International maritime freight trade	847,092,342	244,692,452	53,653,610,428	47,964,883,819	88.1	71.0
Of which containers	7,398,869	7,345,734	24,337,738,563	29,644,513,991	39.9	43.9
Of which transhipped	218,940	211,418	..	..	..	..
Of which dry bulk	365,932,032	83,176,360	9,300,926,685	7,613,192,933	15.3	11.3
Of which liquid bulk	352,900,519	19,198,052	19,273,782,173	1,151,794,309	31.6	1.7
Domestic maritime freight trade	760,357,722	783,616,379	..	..	..	..
Of which conducted under a waiver regime	..	..	..	..	..	..
Privately managed terminals	Type of cargo	Managing company(ies)/ Nationality		Volume	Date & duration of the contract	
Tokyo (some)	Container	Tokyo Port Terminal Corporation / Japanese		4,294,475 TEU (Volume 2011)	01.04.2008	
Hakata (some)	Container	Hakata port terminal Co., Ltd / Japanese		655,330 TEU (Volume 2010)	01.04.2004 For 10 years	
Ibaraki Port Hitachinaka District (some)	Container	Ibaraki Port Authority Corporation / Japanese		3,717 TEU (Volume 2011)	06.2000	

.. Not available.

Source: Information provided by the Japanese authorities; UNCTAD, *Maritime Transport Review 2011*.

79. The most significant changes in trade-related policies in the maritime transport sector are: Japan announced in June 2011 that the maritime antitrust exemption under the Marine Transportation Act would be maintained, with its scope unchanged, and that Japan planned to review the maritime antitrust exemption in FY2015. The support policy was prolonged by the tonnage system and the renewal of the international ship regime, due to expire on 31 March 2012. The Authorized Economic Operator (AEO) program was amended in October 2011 so that the cargo declared by AEO customs brokers or produced by AEO manufacturers may receive export permits without placing cargo into customs areas. Japan does not intend to adopt a 100% scanning policy for containers. Table IV.13 describes these policies in more detail.

**Table IV.13**  
**Trade related maritime transport policies**

<p><b>Competition policy</b></p> <p>Scope of the anti-trust immunity: Marine Transportation Law, Article 28 item (4) Immunity "to conclude an arrangement or agreement or to conduct concerted act concerning the fares or charges and other transportation conditions, routes, allocation of ships as well as sharing of shipping between a ship operator and other ship operators on routes between ports in Japan and a territory other than Japan", i.e. conferences, agreements, discussion agreements, stabilization agreements and vessel sharing agreements and consortia in liner shipping and tramp pools in bulk shipping</p> <p>Filing requirements: Marine Transportation Law Article 29-(2) "Any ship operator shall, if he/she intends to engage in the act provided for in Article 28 item (4) or to alter the content thereof, notify beforehand Minister of Land, Infrastructure, Transport and Tourism to that effect".</p> <p>Marine Transportation Law Article 50 "Any person to whom any of the following items applies shall be liable to a fine of not more than one million yen, item (24) Anyone who has taken action under item 4 of Article 28, or has altered the content of such action, without submitting notification under the provisions of Article 29-(2), Paragraph 1, or who has made a false notification under the same provisions".</p> <p>Last review concluded: FY2010, by the MLIT in consultation with JFTC, no changes Next planned review: FY 2015</p> <p><b>Support policy</b></p> <p>Tonnage tax: regime introduced in 2008 until the end of FY2013 (i.e. March 2014); characteristics unchanged corporate tax scale: net profit per day less than 1,000 tonnes: ¥120/100 tonnes; over 1,000 up to 10,000 tonnes: ¥90/100 tonnes; over 10,000 up to 25,000 tonnes: ¥60/100 tonnes; over 25,000 tonnes ¥30/100 tonnes Foreign-invested companies must fulfil the same requirements in order to be eligible to the tonnage tax scheme as long as they are established under Japanese law, regardless of their shareholders Other support measures applicable the ordinary Japanese register: - Additional depreciation of 18% can be applied to Japanese-flagged vessels; may opt for either declining-balance method or the straight-line method - "roll over relief" i.e. deferred taxation of capital gains in case of sale of old vessels replaced by new vessels; system extended in 2010 until the end of FY2013 - Coastal Shipping Tentative Measures Program: scrapping incentives FY2011: 3 cargo vessels: ¥0.2 billion repayment; and 2 special cargo ships ¥0.1 billion repayment.</p> <p>International ship regime (ISR): Ship registration tax under the ISR regime and the Japanese ordinary register (for a 85,000 GT bulker) (1) ISR vessels – ¥29.8 million (2) non-ISR vessels – ¥34.1 million In order to receive tax relief, an ISR vessel must meet at least one of the following requirements: (1) the vessel must board non-Japanese seafarers with a certificate issued by the Minister of Land, Infrastructure, Transport and Tourism; (2) the vessel must be more than 2,000GT; (3) the vessel must navigate in the ocean-going sea areas; (4) the vessel must be LNG or RO-RO type Companies may apply for the ISR scheme as long as they are established under Japanese law, regardless of their shareholders</p> <p><b>Security policy</b></p> <p>National regime: Since 1 October 2011, AEO (Authorized Economic Operator) Customs Brokers and AEO Manufacturers can receive export permits without placing cargoes into customs areas. The captain of a foreign trading vessel is obliged to file a cargo manifest with the Customs before the vessel enters an open port in Japan. The Customs can require detailed information about the cargo manifest from the consignee.</p> <p>Bilateral agreements: Mutual recognitions agreement on AEO with the EU, 4 June 2010; with New Zealand, 14 May 2008; with the United States, 26 June 2009; with Canada, 25 June 2010; with the Republic of Korea, 20 May 2011; with Singapore, 25 June 2011.</p>
--

*Source:* Information provided by the Japanese authorities; and Customs online information. Viewed at: <http://www.customs.go.jp/english/aeo/pamphlet.pdf>; and viewed at: [http://www.customs.go.jp/english/procedures/advance\\_2\\_e/summary.htm](http://www.customs.go.jp/english/procedures/advance_2_e/summary.htm) Japanese

---

(b) Air transport

80. Japan is a major air transport market both domestically and internationally. Japan has no specific regulation concerning computer reservation services or selling and marketing of air transport, which are under generic competition and company laws. The trade regime of these sectors is completely liberalized in terms of GATS commitments, FTA commitments, and the applied regime. No detailed statistical data are available.

81. Establishment in the third sector covered by the GATS, aircraft repair and maintenance, is subject to a non-discriminatory economic needs test, which has been scheduled in both the GATS and the EPA commitments. Otherwise there are no restrictions except for prior notification of foreign investment. No statistical data are available except for the number of repair stations certified by the U.S. Federal Aviation Administration (10) and the European Agency for Safety in Aviation (6). Table AIV.5 details the various trade regimes of the three air auxiliary services covered by the GATS air transport annex.

82. Airports are all publicly owned and publicly managed, but a recently published document defining the medium-long term strategy for aviation mentions the possibility of establishing a concession regime and even privatization.<sup>49</sup> A restructuring of the landing fees schedule is also envisaged, in order to give preference to small and medium-size aircraft, promote the development of low-cost carriers, and advance the open sky policy.

83. Japan has no specific policy for all-cargo services (e.g. laxer ownership criteria, and on the granting of fifth and seventh freedom rights) although elimination of the restrictions on change of gauge is envisaged in order to boost freight cargo traffic to and from Japan. The charter policy is relatively liberal; authorization is granted without limitations, except in cases of reciprocity problems. Table IV.14 details the general regulatory framework and main economic characteristics of these aviation subsectors.

84. Japan's policy on international air transport has moved significantly towards liberalization and open skies, which now are stated policy goals, subject to qualification regarding reciprocity and congestion. While the dispersion of the air liberalization indexes (ALI) of all bilateral air services agreements in force in 2005 was between 0 and 18 (maximum potential score of 50 for a fully liberalized agreement), and the 2005 average weighted by traffic was 14.8, all of Japan's recent agreements, except for one have an ALI superior to 26.5, with a maximum score of 32 for the recently amended arrangement with the United Kingdom. Since the Growth Strategy of MLIT was introduced in May 2010, Japan has concluded arrangements with 15 countries or economies (the United States; the Republic of Korea; Singapore; Malaysia; Hong Kong, China; Viet Nam; Macau, China; Indonesia; Canada; Australia; Brunei; Chinese Taipei; the United Kingdom; New Zealand; and Sri Lanka). Table IV.15 describes in more detail the content of these agreements following the WTO QUASAR methodology.

---

<sup>49</sup> MLIT online information, "The Growth Strategy of MLIT", 17 May 2010, pp. 3-35. Viewed at: <http://www.mlit.go.jp/common/000136525.pdf>.

**Table IV.14**  
**Japan's market and regulatory regime for air transport subsectors, 2012**

<p><b>Computer reservation services</b></p> <p>General regulatory framework: no specific market regulations, hence no monopoly granted or compulsory use of a specific system. The sector is subject to the generic legislation, the Antimonopoly act (see <a href="http://www.jftc.go.jp/dk/lawdk.html">http://www.jftc.go.jp/dk/lawdk.html</a>). No recent regulatory changes</p> <p>Economic characteristics: all global players (Sabre, Galileo, WorldSpan, Amadeus) present on the market, two national providers: Axess (JAL) and Infini (Abacus-ANA). No detailed statistical data available.</p> <p><b>Selling and marketing of air transport services</b></p> <p>General regulatory framework: no specific regulations on the sale by foreign airlines of their tickets, no recent regulatory changes</p> <p><b>Aircraft repair and maintenance</b></p> <p>General regulatory framework: the Aircraft Manufacturing Industry Act does not impose any requirements on repair or maintenance of domestic planes; establishment is conditional on a non-discriminatory economic needs test. No recent regulatory changes.</p> <p>Economic characteristics: 10 FAA-certified and 6 EASA-certified repair stations. No detailed statistical data available.</p> <p><b>Ground handling services</b></p> <p>General regulatory framework: self-handling and mutual handling are allowed (Aeronautics Law Article 102,104, 113-2, 15 July 1952; Civil Aeronautics Regulations Japan Article 211, 212,214, 222, 14 August 1952); third-party handling allowed with no quantitative threshold or limitation to nominatively designated airports. Differentiated situation with some bilateral partners (e.g. with Russia and with Uzbekistan). No recent regulatory changes.</p> <p>Economic characteristics: foreign third-party handlers are present in Japan, e.g. at Narita Airport, Kansai Airport, Centrair Airport. No detailed statistics data available.</p> <p><b>Airport management services</b></p> <p>General regulatory framework: All airports are for public use; there are some airports managed by private corporations in Japan.</p> <p>Economic characteristics: 98 airports</p> <p><b>Air freight forwarding</b></p> <p>General regulatory framework: Air freight forwarding in Japan reserved for Japanese nationals; international air freight forwarding subject to approval based on reciprocity test</p> <p><b>Non-transport activities/aerial work</b></p> <p>General regulatory framework: reserved to national operators within Japan, prior notification procedure for foreign investment, foreign investment limited to 1/3 of the shares.</p> <p><b>Commercial aviation</b></p> <p>General regulatory framework:</p> <p>National establishment rules: the Civil Aeronautics Act limits foreign capital to less than 1/3 of national air carriers.</p> <p>Bilateral agreements: see Table IV.15</p> <p>All cargo: no specific market-access policy, new security regime, the "shipper/regulated agent regime" introduced in October 2005</p> <p>Charter: foreign operators of passenger charter flights require permission from the Minister of Land, Infrastructure, Transport and Tourism. MLIT generally permits passenger charter flights by foreign airlines, except in case of reciprocity problems.</p> <p>Domestic traffic: reserved to national carriers. New entrants are not restricted. Air carriers may decide freely on routes, capacities, and prices after notifying the MLIT, except for routes and capacities to/from congested airports like Haneda, Narita, Itami, and Kansai</p> <p>Slot allocation: according to IATA rules, planned expansion of number of (mostly international) slots at Haneda (+57,000 by FY2013 at the earliest; current total 390,000) and Narita (+50,000 by FY2014 at the earliest; current total 250,000)</p> <p>Economic characteristics</p> <p>3 main national airlines, ANA (222 aircraft, operating revenues ¥1,411.5 billion for FY2011, owned by: Nagoya Railroad (2,85%), Japan Trustee Services Bank (2.51%), Master Trust bank of Japan (1.9%), and the general public (over 85%); JAL (209 aircraft, operating revenues ¥1,204.8 billion for FY2011; recently restructured and relisted; and Nippon Cargo Airlines (8 aircraft, turnover ¥87.2 billion in FY2010, owned 100% by Nippon Yusen Kaisha). JAL has recently undergone a restructuring process and has been re-listed. In total ¥350 billion of public funds in the form of equity, loans, and guarantees were injected during the restructuring process.</p> <p>4 low-cost carriers: Skymark (founded 1996, 27 aircraft); Peach Aviation (2011, ANA-first Eastern Investment group); Air Asia Japan (2011, ANA 67%, Air Asia 33%); and Jetstar Japan (JAL, Qantas, Mitsubishi, 33% each)</p>
---

*Source:* Information provided by the Japanese authorities.

85. From a technical point of view, this liberalization has taken the form of the relaxation of pricing clauses (evolving towards free pricing), and capacity clauses (evolving towards free determination), and the addition of modern cooperation/code share clauses. The lack of available slots at Haneda and Narita has hampered these efforts but there are plans to increase available slots following the completion of a new runway in 2010 at Haneda and substantial investments in airport facilities at Narita.



**Table IV.15**  
**Japan's air transport agreements, 2012**

Partner (date)	5th	7th	Cab.	Coop.	Desig.	With- holding	Pricing	Cap.	Stat.	ALI STD	
										2012	2005
United States (25.10.2010)	Yes	No	No	Yes	M	SOE	DD/ZP	FD (except for HND)	No	29	18
Korea Rep. (22.12.2010)	Yes	No	No	Yes	M	SOE	CoO/ZP	FD (except for HND)	Yes	26.5	14
Singapore (19.1.2011)	Yes	No	No	Yes	M	SOE	CoO/ZP	FD (except for HND)	Yes	26.5	14
Malaysia (24.2.2011)	Yes	No	No	Yes	M	SOE	CoO/ZP	FD (except for HND)	Yes	26.5	14
Hong Kong, China (19.5.2011)	Yes	No	No	Yes	M	SOE	CoO/ZP	FD (except for HND)	Yes	26.5	18
Viet Nam (9.6.2011)	Yes	No	No	Yes	M	SOE	CoO/ZP	FD (except for HND)	Yes	26.5	10
Macau, China (14.7.2011)	Yes	No	No	Yes	M	SOE	CoO/ZP	FD (except for HND)	Yes	26.5	
Indonesia (11.8.2011)	Yes	No	No	Yes	M	SOE	CoO/ZP	FD (except for HND)	Yes	26.5	10
Canada (14.9.2011)	Yes	No	No	Yes	M	SOE	DD/ZP	FD (except for HND)	Yes	28	14
Australia (29.9.2011)	Yes	No	No	Yes	M	SOE	CoO/ZP	FD (except for HND)	Yes	26.5	13
Brunei (28.10.2011)	Yes	No	No	Yes	M	SOE	CoO/ZP	FD (except for HND)	Yes	26.5	10
Chinese Taipei (10.11.2011)	Yes	No	No	Yes	M	SOE	CoO/ZP	FD (except for HND)	No	27.5	
U.K. (20.1.2012)	Yes	No	No	Yes	M	COI	DD/ZP	FD (except for HND)	Yes	32	14
New Zealand (16.2.2012)	Yes	No	No	Yes	M	SOE	CoO/ZP	FD (except for HND)	Yes	26.5	14
Sri Lanka (23.3.2012)	Yes	No	No	Yes	M	SOE	CoO/ZP	FD (except for HND)	Yes	26.5	10

Note: "5<sup>th</sup>" = fifth freedom rights; "7<sup>th</sup>" = seventh freedom rights; "ALI" = Air Liberalization Index; "CoO" = country of origin; "Coop" = cooperation clauses; "DD" = dual disapproval; "FD" = free determination; Haneda Airport; "PD" = pre-determination; "SOE" = substantial ownership and effective control; and "Stat" = statistics.

Source: Information provided by the Japanese authorities; ALI computed by the WTO Secretariat.

86. Other elements of this new liberal policy are the relaxation of charter rules (forwarder charter and split charter are more easily approved) and fares regulations (upper limit authorization system for international fares), mutual recognition agreements regarding foreign licences, and relaxation of technical regulations covering the employment of foreign flight crew and flight crew licences.

### (c) Rail transport

87. Due to its geographical configuration and its strong degree of urbanization, Japan has a dense railway network. There is no clear regulatory or commercial separation between inter-urban and urban railway transportation, which are under separate regimes in most other countries. Table IV.16 describes the main economic and technical characteristics of the Japanese railway system.

88. Whereas most railway companies in Japan are private or privatized and operate urban, suburban, and inter-urban routes, some urban transport and networks are publicly owned and managed.

**Table IV.16**  
**Railway transport in Japan, 2012**

Interurban network	Total length	Electrified	Double tracked	Gauge (mm)	Traffic
Total railway network (all companies)	19,987.0 km	12,242 km (Fiscal Year 2010)	8,153 km (Fiscal Year 2010)	1,067 or 1,435	Passengers: 8,840,512,000 (passenger-km: 250,414,403,000)
Freight companies	8,342.8 km	Unknown	Unknown	1,067	Tons: 31,059,000 ton-km 20,349,095,000

Source: Ministry for Land, Infrastructure, Transport, and Tourism.

89. Most infrastructure including in urban zones is privately owned. There is no vertical separation but a multiplicity of rail transport providers owning the network on which they operate. Foreign investment is allowed but subject to prior notification. Table IV.17 details further the regulatory framework for railway transport.

90. The rail transport trade regimes are quite open. GATS commitments cover only maintenance and repair of rail transport equipment and rental services of railway transport equipment with operators, without any restrictions. FTA commitments also cover freight and passenger transport, pushing and towing services, and support services for rail transport services; the only restriction is the prior notification regime for investment. Since these commitments are subject to a standstill obligation for Indonesia, Malaysia, and the Philippines the applied regime appears identical to the one bound in the FTA. Table AIV.6 detail these trade agreements by subsectors.

**Table IV.17**  
**Regulatory framework for railway transport in Japan, 2012**

Investment regime	Prior notification regime for inward foreign direct investment: a foreign investor must notify in advance the Minister of Finance and the minister with jurisdiction over the business to: (1) obtain more than 10% of the stock of public-listed companies, or (2) obtain the stock of non-public-listed companies.  When "national security is impaired, the maintenance of public order is disturbed, or the protection of public safety is hindered", the notifier may be ordered to change the content pertaining to the inward direct investment, or to discontinue the investment (Foreign Exchange and Foreign Trade Act).
Right to operate	Railway transport operators must submit an application to the Minister of Land, Infrastructure, Transport and Tourism, takes an examination, and obtain a licence in a non-discriminatory manner.
Infrastructures ownership	Railway transport network owners must submit an application to the Minister of Land, Infrastructure, Transport and Tourism, takes an examination and obtain a licence in a non-discriminatory manner.
Liberalization of freight transport	No specific regulations, except Foreign Exchange and Foreign Trade Act.
Liberalization of passenger transport	No specific regulations, except Foreign Exchange and Foreign Trade Act.

Note: The meaning of "Railway Transport" in this context includes railway, underground railway, tramway, monorail, guide-rail system railway, etc. (Article 3, paragraph (3) of the Order on Inward Direct Investment).

Source: Information provided by the Japanese authorities.

---

(d) Pipeline transport

91. Pipeline transport remains very marginal in Japan. There is no oil pipeline linking Japan to the continent. All crude oil is imported by tankers and transformed by refineries located at the main ports; it is redistributed by sea, trucks, and trains. There is no crude oil pipeline inside Japan; there is a 47 km pipeline, owned by Narita airport, transporting kerosene from the port of Shiba to the airport.

92. Similarly, for gas, there is no link, with the continent; all gas imports are carried by LNG ships and then re-gasified in stations located in ports. This feeds directly the local gas distribution network without going through a main pipeline network. All major regions benefit from such facilities, so there are few pipeline grids linking the regions.

93. However, the great earthquake and its consequences triggered new reflections on the need to interconnect regions so as to ensure a stable supply of gas. The new energy policy will contain provisions designed to foster the development of a pipeline grid.

94. The trade regimes for pipelines services are quite open. The GATS commitments are limited to pipeline transport for goods other than fuel (ethylene, coal slurry, other chemicals) with no restrictions. EPAs cover the totality of pipeline transport and create two regimes, one for gas and one for oil. For gas, under positive listing agreements mode 1 is unbound and mode 3 is subject to a possibility of limiting the number of licences granted and to a prior notification regime for foreign investment. Through its generic energy reservations, Japan reserves the right to adopt or maintain any measure relating to the supply of services in pipeline transportation services of natural gas, on a fee or contract basis, for negative listing agreements with Mexico, Chile, and Switzerland. For oil there are no restrictions in the positive listing EPAs, except under the agreement with Singapore where permission is needed, and with India and Viet Nam where there are no EPA commitments. Japan has no commitments for pipeline transportation of petroleum on a fee or contract basis in its negative listing agreements with Mexico, Chile, Switzerland, and Chile. For transportation of oil and goods other than fuels, commitments are subject to a standstill obligation in the positive listing agreements with Indonesia, Malaysia, and the Philippines. The applied regime corresponds to the best FTA regime. Table AIV.7 details these trade regimes subsector by subsector.

**(iv) Construction**

95. Construction services is an important sector in Japan's economy, but its share in GDP, public spending, and employment has been declining steadily due to the maturity of the economy and infrastructures, and to the prolonged effects of the post-bubble overall economic downturn. Reconstruction activities generated by the devastation of the great 2011 earthquake may temporarily halt this evolution.

96. Large Japanese construction companies are active outside Japan, but there are no detailed statistical data available on their activities. While the sector is essentially domestic in nature, where technical norms and regulations have an important role, a relatively large number of foreign affiliates are licenced in Japan (117). Table IV.18 describes the main economic indicators of the sector as well as its relatively complex, non-discriminatory licensing and qualification regime.

**Table IV.18**  
**Construction market and regulatory regime in Japan, 2012**

<p><b>Main economic data</b> Share in GDP(%): 7% (2009), 5.5% (2010) Employment (number and share in total employment): 5,371,000, 8.4% (2009); 5,201,000, 8.1% (2010) Spending on public construction projects: ¥16.7 trillion (FY2008), ¥17.9 trillion (FY2009) Japanese construction firms internationally active: 48 members of the Overseas Construction Association of Japan, Inc. (OCAJI). Many companies are not members of OCAJI and their number could not be determined. Licenced foreign affiliates (more than 50% foreign owned): 119</p> <p><b>Regulatory framework</b> Licencing, authorization or registration requirements and procedures (including pre-qualifications standards and qualification rating systems): (i) construction companies require: a Construction Business Licence except for those intending to undertake contracts for "simple construction work". - Licence requirements include: appointment of: a Person Responsible for Management and Operation", "a full-time engineer attached to each office" and "financial foundations". (ii) Approval from the MLIT Minister or the prefectural governor in accordance with the location of the business office, and a license for "Ordinary Construction Business" or "Specific Construction Business" according to the value of work to be subcontracted. -a License is issued based on the category of construction work; there are 28 kinds of work (2 general construction and 26 specialty construction work). -the term of validity of a License is five years. License holders must renew their licence every five years -the licence is not an economic needs tests and the licensing process is non-discriminatory</p> <p><b>Professional qualification requirements and procedure:</b> Appointment of a full-time director with five years or more experience as a "person responsible for management and operations" and of a full-time engineer at each office who has passed examinations for technical certificates. A constructor must appoint an engineer who manages the technical aspects of the work at the construction site. The engineer must have certain qualifications or experience with regard to the category of construction work. A relevant foreign diploma is admitted, provided the Japanese authorities can check its equivalence.</p> <p><b>Restrictions on the cross-border use of equipment and material:</b> none</p> <p><b>Mode 4 restrictions on foreign companies established in Japan wishing to offer their services while providing their own workers:</b> The applied regime corresponds to the GATS horizontal commitments i.e. "unbound except for measures concerning the entry and temporary stay of a natural person who falls under one of the following categories: intra-corporate transferees, independent professionals, business visitors, or contractual service suppliers".</p> <p><b>Competition policy</b> The "Guidelines Concerning the Activities of Firms and Trade Associations with Regard to Public Bids" issued on 5 July 1994 by the Japan Fair Trade Commission (the JFTC) and its subsequent revisions, describe various violations cases and clarify what kind of activities by firms and trade associations may raise problems under the AMA. Since the AMA applies to the construction sector as well as other many sectors, the JFTC enforces strict regulations on bid-rigging cases in the sector.</p> <p><b>"Green" public procurement rules</b> The Law Concerning the Promotion of Contracts Considering Reduction of Emissions of Greenhouse Gases and Others by the State and Others Entities, obliges the national government and other entities to promote environmentally friendly contracts and to publish and to notify the results of such contracts to the Minister of the Environment. Five contract types are subject to this law, 2 of which relate to construction services.</p> <p><b>Recently adopted measures to foster competition including by foreign companies</b> Regarding construction work procured by the Government, two central government entities initiated measures to lower the threshold of open and competitive bidding from FY2009 to FY2010. As a result the percentage of open and competitive bidding out of the overall bidding tendered by local government, increased by 63.3% in FY2009 to 68.9% in FY2010.</p>
---

*Source:* Information provided by the Japanese authorities; ESRI, Cabinet Office online information. Viewed at: <http://www.esri.cao.go.jp/en/sna/menu.html>; Estimate of Construction Investment; Ministry of Land, Infrastructure, Transport and Tourism (MLIT); viewed at: <http://www.mlit.go.jp/toukeijouhou/chojou/stat-e.htm>; Construction Business Act, Article 3, 7 and 15, and Construction Business Act, Article 7, 15 and 26; and MLIT online information. Viewed at: [http://www.mlit.go.jp/report/press/sogo\\_13\\_hh\\_000098.html](http://www.mlit.go.jp/report/press/sogo_13_hh_000098.html).

97. The trade regimes for construction services are quite open (Table AIV.8). The GATS commitments encompass all construction subsectors except "other construction services" i.e. pre-erection work at construction site, special trade construction work (e.g. foundation work, concrete work, roofing, masonry), renting of construction equipment, and construction work related to mining, with no restrictions under modes 2 and 3. FTA commitments cover other construction services and,

in certain instances, construction services related to mining but in the latter case with a nationality or establishment requirement. Since the commitments of two of these agreements (with Malaysia and Indonesia) are subject to a standstill obligation the applied regime corresponds to the best FTAs regimes.

#### (v) Distribution

98. Distribution is a very important service sector in Japan both in terms of share in GDP (13.4% of which 5.9% for wholesale and 7.5 % for retail) and in terms of employment (17.3%, of which 5.8% for wholesale and 11.5 % for retail). The sector has the modern characteristics of a mature market, such as clear domination of chain stores (supermarkets or convenience stores) over individually owned shops (585,732 outlets in total of which 93.3% belonging to chain stores), a high density of grocery stores per million inhabitants (2,292), with a high share of these sales for supermarkets (57.6%). There is a high share of e-commerce for business to business trade (23%), but this is still relatively marginal for business to consumer (2.55%), although both segments show growth of over 100% year on year (Table IV.19).

99. Several major foreign distributors are present in Japan (e.g. Wal-Mart, Metro, H and M). There are no economic needs tests for the establishment of supermarkets, but there is zoning legislation at both national and local levels. Foreign distributors have, in certain instances, complained that the implementation of those local regulations was not always consistent and transparent towards foreign distributors, an allegation denied by the Japanese authorities. There is no specific regime for franchising and no discrimination towards foreign franchisors and franchisees. There have been no major regulatory changes since 2008. The generic competition legislation, i.e. the Anti-Monopoly Act (AMA) applies to the sector, but guidelines related to the sector have been devised by the Japan Fair Trade commission.

**Table IV.19**  
**Japan's market and regulatory framework for distribution services, 2012**

<p><b>Economic data</b></p> <p><b>Main economic indicators</b></p> <p>Turnover: Wholesale: 413.5 trillion yen, Retail: ¥134.7 trillion, E-commerce: B to B (including EDI): ¥256 trillion (up 125% from the previous year, E-commerce ratio 23.7%), B to B (excluding EDI): ¥169 trillion (up 129% from the previous year, E-commerce ratio 15.6%), B to C: ¥7.8 trillion (up 116% from the previous year, E-commerce ratio 2.5%)</p> <p>Number of employees: wholesale: 3,150,000, retail: 6,260,000</p> <p>Share in total GDP: wholesale: 5.9%, retail: 7.5%</p> <p>Concentration in the supermarket sector. Top 3: 13.9% , top 5: 18.9%</p> <p>Traditional versus modern retail sector: 552,127 traditional retail shops (individual proprietors excluding convenience stores) with market share about 6.7%; 585,732 modern retail shops (companies and convenience stores) market share about 93.3%</p> <p>Density of grocery outlets: about 2,292 grocery store outlets per million inhabitants; share of supermarkets in grocery retailers sales about 57.6%</p> <p>Franchising: no specific regimes and no discrimination against foreign franchisors and franchisees</p> <p><b>Main foreign distributors present on the Japanese market:</b> Wal-Mart (USA through its subsidiary Seiyu, 367 outlets). Metro (Germany, 9 outlets), H&amp;M (Sweden, 15 outlets), Costco (USA, 13 outlets), IKEA (Sweden, 7 outlets).</p> <p><b>Regulatory framework</b></p> <p><b>Main legislation:</b> Foreign Exchange and Foreign Trade Act (<a href="http://www.japaneselawtranslation.go.jp/law/detail_main?vm=&amp;id=21">http://www.japaneselawtranslation.go.jp/law/detail_main?vm=&amp;id=21</a>), Liquor Tax Law, Wholesale Market Law, Livestock Dealer Law. No significant legislative reforms since 2008</p> <p><b>Legislation on the establishment of large-scale stores:</b> 2000 Act on the Measures by Large-Scale Retail Stores for Preservation of the Living Environment". No economic needs test (article 13) designed in order to protect the living environment surrounding large-scale stores by defining the procedures to establish and operate them. In addition, since 2007 local governments judge a location of large-scale commercial facilities from a city planning standpoint.</p>
--

Table IV.19 (cont'd)

**Legislation on exclusive rights or on limitations of number of suppliers:**

The Liquor Tax Law establishes a licence system for liquor distributors; a licence applicant must meet the supply-demand adjustment clauses under Articles 9 and 10. An applicant may be subject to the limitation on the number of distributors, depending on the liquor type and the geographic area where it applies

The Wholesale Market Law introduces a licence system wholesale trade service suppliers; there are some conditions for the application of licences (Articles 15, 17 and 33). The number of licences for suppliers at Central Wholesale Markets may be limited (Article 17).

**Competition legislation**

The "Guidelines Concerning Distribution Systems and Business Practices under the Antimonopoly Act" issued by the JFTC in 1991 specifically describe the types of conduct which may impede free and fair competition and violate the Anti-monopoly Act. The JFTC "Guidelines Concerning Abuse of Superior Bargaining Position under the Antimonopoly Act" of 2010 include examples of "abuse of superior bargaining position" in the retail sector.

**Zoning/urbanism legislation**

Since 2007, local governments make judgements regarding a location of large-scale commercial facilities from a city planning standpoint

**Authorization procedure and thresholds applicable to the opening of new supermarkets**

A licence is not required for the store opening itself; however, Japan's laws specify separately the cases where a licence is required in order to sell food or pharmaceuticals

*Source:* Information provided by the Japanese authorities.

100. The trade regime for distribution services is basically open and devoid of restrictions, except for a series of products or types of distribution for which licences may be limited and investment subject to notification depending on the agreement concerned (GATS and various FTAs). The GATS commitments are unbound whatever the subsector of distribution for petroleum, petroleum products, rice, tobacco salt, alcoholic beverages, and products supplied at public wholesale markets. For pharmaceutical and firearms, which are often excepted from GATS distribution commitments are not part of these exceptions.

101. With regard to EPAs, the number of licences for alcoholic beverage may be limited in any distribution subsector, except under the agreements with Mexico and Chile, where no such reservation has been listed.<sup>50</sup> Livestock trading is subject to a licensing and residency requirement in three negative listing agreements (Chile, Mexico, and Switzerland) and via the generic reservation on public wholesale markets in all positive listing agreements. Petroleum and petroleum products are subject to a prior notification requirement for investment only in positive listing agreements. There is no such reservation in negative listing agreements. Licences for products sold in public wholesale markets are subject to a limitation in the positive listing agreements. There are no reservations for rice, salt, and tobacco in the FTAs as there is under the GATS, except to the extent where they are sold at public wholesale markets. Since these commitments are subject to a standstill obligation for four positive listing agreements (with Indonesia, Malaysia, the Philippines, and Thailand) and in three negative listing agreements (with Chile, Mexico, and Switzerland) the applied regime corresponds to the best FTA treatment granted product by product. Table AIV.9 details these various trade regimes.

**(vi) Tourism**

102. Outbound tourism worldwide, Japan ranks 10th by the number of tourists (2009 data) and seventh by expenditure (2010 data). However, for inbound tourism, a relatively expensive destination, it ranks only 30<sup>th</sup> in terms of the number of tourists and 19th in terms of expenditure (2010 data in

<sup>50</sup> According to the authorities, Japan's EPAs with Mexico and Chile do not provide market access obligations, and therefore such reservations (limitations on the number of service suppliers) have not been listed. In this case, Japan's GATS commitments on market access exclude services related to alcoholic beverages, and those commitments apply to Mexico and Chile as WTO Members.

both instances). Domestic tourism is highly developed. The interest by national public authorities in promoting tourism in Japan is relatively recent, as the founding legislation, the Tourism Nation Promotion Basic Law dates from 2007 and the creation of the Japan Tourism Agency from 2008 (Table IV.20). Demand for tourism has fallen as a result of the great East Japan earthquake and the nuclear power plant disaster of 2011. The Government consequently disbursed ¥2,600 million and launched a promotional campaign for domestic tours, information dissemination through tour companies, and media invitations in order to recover the numbers of visitors from abroad. The stated aims of the tourism policy are the promotion of both domestic and inbound tourism, the enhancement of Japan's competitiveness as an international tourism destination, and the promotion of vacation-taking.

103. The generic legislation on competition, the Anti monopoly Act, applies to the sector; no sector-specific guidelines have been designed. Two cases have resulted in sanctions in the last eight years.

104. No statistical data are available on foreign presence in Japan's hotel sector, but foreign presence, tends to be in international hotels and in large cities.

105. No data on foreign presence are available on restaurants, an essentially domestic activity where foreign presence tends to be marginal and limited to large cities. The sector is highly developed in Japan, even compared with similar mature economies.

106. Foreign ownership of registered travel agencies and tour operators is not known, as disclosure of the nationality of ownership is not a condition for registration. Travel agencies are obliged to hold certain assets, and to hire employees with national qualifications on travel consumer affairs. These requirements are non-discriminatory. There are 3 classes of travel agencies: class 1 with assets of ¥30 million or more, class 2 with assets of ¥7 million or more, and class 3 with assets of ¥3 million or more.

**Table IV.20**  
**Japan's market and regulatory framework for tourism**

<p><b>Economic data</b></p> <p>Inbound tourists: – 2010: 8,611,000; world ranking:30<sup>th</sup>; evolution: + 26.8%; – 2011: 6,219,000, evolution:-27.8%</p> <p>Inbound tourism expenditure: – 2010: ¥1,158,600 million, world ranking: 19<sup>th</sup>, evolution: + 20.2%; – 2011: ¥864,700 million, evolution: – 25.4%</p> <p>Outbound tourists: – 2010: 16,637,000, world ranking: 10<sup>th</sup>(2009), evolution: +7.7%; – 2011: 16,994,000, evolution:+2.1%</p> <p>Outbound tourism expenditure: – 2010: ¥2,446,100 million, world ranking:7<sup>th</sup>, evolution: + 4.0%; – 2011: ¥2,201,600 million, evolution: – 10.0%</p> <p><b>Regulatory framework</b></p> <p>Level of regulation: essentially at national level. Tourism Nation Promotion Basic Law January 2007, and the Tourism Nation Promotion Basic Plan, decided at Cabinet level in June 2007. The Japan Tourism Agency founded on 1 October 2008.</p> <p>Special subsidies and incentives (post-earthquake): to revive tourism after the earthquake, an emergency plan to attract foreign visitors, and a broader-based plan for cooperation in tourism revival measures have been decided. Foreign companies are eligible (and candidates) for these financial incentives</p> <p>Competition policy: the Antimonopoly Act (AMA) applies to the tourism industry, including travel agencies and tour operators; two cases have been investigated in 2004 (abuse of bargaining power by hotels companies forcing their suppliers to buy coupons) and 2009 (cartel on the prices of charter buses, hotels, etc.)</p> <p><b>Hotels</b></p> <p><b>Economic data</b></p> <p>Total number of hotels: 81,006, of which international style hotels: 9,629; inns ("ryokans"): 46,906; lodging house (e.g. youth hostel etc): 23,719; boarding house (i.e. accommodation for one month or longer) 752</p> <p>Foreign owned hotels: -</p> <p>Number of nights: -</p>
---

Table IV.20 (cont'd)

**Regulatory framework**

Basic legislation: Inns and Hotels Act, Article 3 (<http://www.mhlw.go.jp/bunya/kenkou/seikatsu-eisei04/03.html>)

**Restaurants**

**Economic data**

Number of restaurants: 760,560 (FY2010)

**Regulatory framework**

Basic legislation: Food Sanitation Act, Article 52 (<http://www.japaneselawtranslation.go.jp/law/detail/?id=12&vm=04&re=01>)

**Travel agencies and tour operators**

**Economic data**

Number of travel agencies and tour operators: 10,240 (April 2011), travel agencies registered under the Travel Agency Act; JTA has no information on the number of tour operators who arrange local trips; the tour operators are not required to register)

**Regulatory framework**

Basic legislation: Travel Agency Act (<http://www.mlit.go.jp/kankochu/en/shisaku/sangyou/ryokogyoho.html>)

**Tourist guides services**

**Economic data**

Number of licensed tourist guides: 15,371 people (1 April, 2011); a person with licences for more than two languages is recorded once for each language

**Regulatory framework**

Basic legislation: the Licensed Guide Act

*Source:* Information provided by the Japanese authorities.

107. Under the Licensed Guide Interpreters Act licensed guides must pass an examination in Japanese and a foreign language. Foreigners are eligible to take the examination.

108. The trade regimes of the tourism sector vary among subsectors. For hotels and restaurants, there are no restrictions for modes 2 and 3 in the GATS commitments and in the FTA commitments mode 1, which is technically unfeasible for hotels, has no restrictions in GATS commitments and FTA commitments. Since these commitments are subject to a standstill obligation for 3 positive listing agreements (Indonesia, Malaysia, and the Philippines) and 3 negative listing agreements (Chile, Mexico, and Switzerland), the applied regime also has no restrictions. The same goes for travel agencies and tour operators services.

109. The trade regimes are equally liberal for travel guides, with no restrictions under modes 2 and 3, and mode 1 deemed to be technically unfeasible both for GATS and FTAs commitments. Table AIV.10 details those trade regimes subsector by subsector.



## REFERENCES

- FAO (2011), 2009 *FAO Yearbook - Fisheries and Aquaculture Statistics*, Rome. Viewed at: <http://www.fao.org/docrep/015/ba0058t/ba0058t.pdf>.
- IMF (2011), Article IV Consultation, Country Report No. 11/181. Viewed at: <http://www.imf.org/external/pubs/ft/scr/2011/cr11181.pdf>.
- IMF (2012), Article IV Consultation, Country Report No. 12/208. Viewed at: <http://www.imf.org/external/pubs/ft/scr/2012/cr12208.pdf>.
- Japan Copyright Institute (2009), *Copyright White Paper*, Tokyo.
- Japan Fisheries Agency (2012), *Japan's Fisheries at a Glance*, Ministry of Agriculture, Forestry and Fisheries, Tokyo, March.
- JPO (2011a), *Formulation and Implementation of National IP Strategy in Japan – Intellectual Property Strategic Program 2011*, Tokyo.
- JPO (2011b), *Annual Report 2011*, Tokyo.
- METI (2011), *FY2010 Field Survey of Intellectual Property Right Infringement in China*, Tokyo.
- Milken Institute (2009), *2009 Opacity Index: Measuring Global Risks*, April, Santa Monica.
- OECD (2010a), *OECD Environmental Performance Reviews – Japan*, Paris.
- OECD (2010b), *Review of Fisheries in OECD countries 2009, Policies and Summary Statistics*, Paris.
- OECD (2011), *Agricultural Policies Monitoring and Evaluation 2011: OECD Countries and Emerging Economies*. Viewed at: <http://www.oecd.org/tad/agriculturalpoliciesandsupport/japan-agricultural-policy-monitoring-and-evaluation-2011.htm#more>.
- The Intellectual Property Protection Office (2011), *Annual Report 2011*, (METI) Tokyo.
- UNCTAD (2012), *World Investment Report 2012*. Viewed at: <http://www.unctad.org/files/UNCTAD-WIR2012-Annexes-Tables-en.pdf>.
- WTO (2001), *Trade Policy Review: Japan*, Geneva.
- WTO (2009), *Trade Policy Review: Japan*, Geneva.
- WTO (2011), *Trade Policy Review: Japan*, Geneva.



## **APPENDIX TABLES**



**Table AI.1**  
**Merchandise exports by group of products, 2007-11**  
 (US\$ million and %)

	2007	2008	2009	2010	2011
<b>Total exports (US\$ million)</b>	<b>714,327.0</b>	<b>781,412.2</b>	<b>580,718.7</b>	<b>769,839.4</b>	<b>823,292.5</b>
	<b>(% of total)</b>				
Total primary products	4.8	5.9	5.8	5.6	5.9
Agriculture	1.1	1.1	1.4	1.3	1.3
Food	0.5	0.5	0.7	0.6	0.6
Agricultural raw material	0.6	0.6	0.7	0.7	0.8
Mining	3.7	4.8	4.4	4.3	4.6
Ores and other minerals	0.7	0.7	0.9	0.7	0.7
Non-ferrous metals	1.7	1.7	1.8	1.9	1.9
Fuels	1.3	2.4	1.8	1.7	2.0
Manufactures	89.7	88.7	87.5	88.4	88.1
Iron and steel	4.8	5.6	5.4	5.5	5.7
Chemicals	9.1	8.8	10.6	10.2	10.3
5822 Other plastics, flat shapes, non-cellular and not reinforced, etc.	0.7	0.7	1.0	1.1	1.0
5112 Cyclic hydrocarbons	0.9	0.7	0.8	0.7	0.9
5989 Chemical products and preparations, n.e.s.	0.5	0.5	0.7	0.7	0.7
Other semi-manufactures	4.2	4.2	4.7	4.7	4.8
Machinery and transport equipment	63.3	62.0	58.2	59.5	58.3
Power generating machines	1.4	1.5	2.0	1.7	1.7
Other non-electrical machinery	13.5	13.7	11.5	13.8	15.4
7284 Machinery and appliances for particular industries, n.e.s.	2.8	2.7	2.1	3.3	3.4
7232 Mechanical shovels, etc., self-propelled	1.3	1.3	0.7	1.1	1.2
7285 Parts, n.e.s. of machines/appliances of 723.48, 727.21, 728.41 to 728.49	0.6	0.6	0.6	0.8	0.8
Agricultural machinery and tractors	0.3	0.3	0.3	0.3	0.3
Office machines & telecommunication equipment	14.4	13.2	13.6	12.0	10.6
7764 Electronic integrated circuits and micro-assemblies	4.2	3.7	4.2	4.1	3.6
7763 Diodes, transistors, etc.	1.2	1.2	1.2	1.3	1.2
7638 Sound/video recording/reproducing apparatus; video recording/reproducing apparatus	1.7	1.7	1.6	1.3	1.1
7649 Parts and accessories for apparatus of division 76	2.1	1.9	1.7	1.2	1.0
Other electrical machines	6.2	6.0	6.4	6.3	6.2
7725 Switches, relays, fuses etc. for a voltage not exceeding 1,000 V	0.9	0.9	1.0	1.0	1.0
Automotive products	22.2	21.9	17.8	19.4	18.3
7812 Motor vehicles for the transport of persons, n.e.s.	15.1	14.7	10.7	11.7	10.6
7843 Other motor vehicle parts and accessories of 722, 781 to 783	4.0	3.8	4.2	4.6	4.6
7821 Goods vehicles	1.4	1.5	1.1	1.3	1.4
Other transport equipment	5.4	5.6	6.8	6.2	6.2
7932 Ships, boats, etc. (excl. pleasure craft, tugs, etc.)	2.1	2.5	3.7	3.3	3.1
7139 Parts, n.e.s., for piston engines of 713.2, 713.3, 713.8	0.9	0.9	1.0	1.0	1.1
Textiles	1.0	0.9	1.1	0.9	1.0
Clothing	0.1	0.1	0.1	0.1	0.1

Table AI.1 (cont'd)

	2007	2008	2009	2010	2011
Other consumer goods	7.3	7.0	7.5	7.5	7.9
8719 Liquid crystal devices, n.e.s.; lasers (excl. laser diodes)	0.4	0.5	0.7	0.9	1.0
8841 Optical fibres and optical fibre bundles; optical fibre cables other than those of heading 773.1; sheets and plates of polarising material; lenses, prisms, mirrors and other optical elements, unmounted, other than such elements of glass	0.8	0.7	0.8	0.7	0.7
Other	5.5	5.4	6.7	6.0	6.0
9710 Gold, non-monetary (excl. gold ores and concentrates)	0.5	0.7	0.8	0.8	1.2

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

Table AI.2

Merchandise imports by group of products, 2007-11  
(US\$ million and %)

	2007	2008	2009	2010	2011
<b>Total imports (US\$ million)</b>	<b>622,243.3</b>	<b>762,533.9</b>	<b>551,984.8</b>	<b>692,620.6</b>	<b>854,626.4</b>
	<b>(% of total)</b>				
Total primary products	47.7	53.5	46.2	48.0	51.4
Agriculture	11.1	10.6	12.3	11.2	11.2
Food	8.9	8.7	10.5	9.2	9.2
1222 Cigarettes containing tobacco	0.5	0.4	0.6	0.5	0.7
Agricultural raw material	2.2	1.9	1.8	1.9	2.0
Mining	36.6	43.0	33.9	36.8	40.2
Ores and other minerals	5.3	4.7	4.4	5.5	5.4
2815 Iron ores and concentrates, not agglomerated	1.2	1.5	1.4	2.0	2.3
2831 Copper ores and concentrates	1.7	1.3	1.5	1.7	1.4
Non-ferrous metals	3.5	3.1	1.9	2.6	2.6
6841 Aluminium and aluminium alloys, unwrought	1.3	1.1	0.6	0.9	0.8
6812 Platinum unwrought, unworked or semi-manufactured	0.9	0.9	0.6	0.7	0.7
Fuels	27.8	35.1	27.6	28.7	32.1
3330 Crude oils of petroleum and bituminous minerals	16.7	20.4	14.5	15.3	16.6
3431 Natural gas, liquefied	4.3	5.9	5.5	5.7	7.0
3212 Other coal, whether or pulverized, not agglomerated	2.3	3.7	3.9	3.3	3.5
3421 Propane, liquefied	1.0	1.1	0.8	1.0	1.0
Manufactures	50.5	44.7	51.7	50.1	47.1
Iron and steel	1.3	1.5	1.0	1.3	1.4
Chemicals	7.3	7.2	8.8	8.8	8.8
5429 Medicaments, n.e.s.	0.8	0.7	1.4	1.3	1.3
5157 Other heterocyclic compounds; nucleic acids	0.7	0.7	1.1	0.8	0.7
Other semi-manufactures	3.9	3.3	3.9	3.6	3.5
Machinery and transport equipment	24.2	20.8	23.0	23.3	20.8
Power generating machines	1.2	1.1	1.3	1.0	0.9
Other non-electrical machinery	3.9	3.4	3.3	3.3	3.3
Agricultural machinery and tractors	0.1	0.1	0.1	0.1	0.1
Office machines & telecommunication equipment	11.2	9.5	11.2	11.9	10.2
7764 Electronic integrated circuits and micro-assemblies	3.4	2.7	2.9	2.9	2.1
7643 Radio or television transmission apparatus	0.3	0.3	0.6	0.7	1.1
7522 Data processing machines, with at least processing, input and output units	0.7	0.7	0.8	0.9	1.0
7649 Parts and accessories for apparatus of division 76	1.4	1.3	1.4	1.3	1.0
7611 Colour television receivers	0.2	0.2	0.4	0.9	0.7
Other electrical machines	3.9	3.4	3.8	3.8	3.4
7731 Insulated wire, cable etc.; optical fibre cables	0.8	0.7	0.7	0.8	0.7
Automotive products	2.5	2.1	1.8	2.0	2.0
7812 Motor vehicles for the transport of persons, n.e.s.	1.2	0.9	0.8	0.9	1.0
7843 Other motor vehicle parts and accessories of 722, 781 to 783	0.9	0.8	0.7	0.8	0.7

Table AI.2 (cont'd)

	2007	2008	2009	2010	2011
Other transport equipment	1.6	1.4	1.5	1.2	1.0
Textiles	1.0	0.9	1.2	1.0	1.1
Clothing	3.9	3.4	4.6	3.9	3.9
Other consumer goods	8.9	7.6	9.2	8.3	7.5
Other	1.8	1.8	2.0	1.9	1.6
Gold	0.2	0.2	0.1	0.2	0.1

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



**Table A1.3**  
**Merchandise exports by destination, 2007-11**  
 (US\$ million and %)

	2007	2008	2009	2010	2011
<b>Total exports (US\$ million)</b>	<b>714,327.0</b>	<b>781,412.2</b>	<b>580,718.7</b>	<b>769,839.4</b>	<b>823,292.5</b>
	<b>(% of total)</b>				
America	26.5	24.2	23.2	22.3	21.7
United States	20.4	17.8	16.4	15.6	15.5
Other America	6.1	6.4	6.7	6.7	6.2
Panama	1.2	1.4	2.2	2.0	1.8
Mexico	1.4	1.3	1.2	1.2	1.2
Canada	1.5	1.4	1.3	1.2	1.1
Europe	15.8	15.3	14.0	12.8	13.3
EU(27)	14.8	14.1	12.5	11.3	11.7
Germany	3.2	3.1	2.9	2.7	2.9
Netherlands	2.6	2.7	2.3	2.1	2.2
United Kingdom	2.3	2.1	2.0	1.8	2.0
France	1.2	1.2	1.1	0.9	1.0
EFTA	0.6	0.7	1.3	1.2	1.3
Switzerland	0.4	0.6	1.1	1.0	1.1
Other Europe	0.4	0.4	0.3	0.3	0.4
Commonwealth of Independent States (CIS)	1.8	2.5	0.7	1.2	1.7
Russian Federation	1.5	2.1	0.6	1.0	1.4
Africa	1.6	1.7	1.6	1.6	1.6
Middle East	3.7	4.3	3.7	3.3	3.0
Asia	50.6	52.0	56.8	58.8	58.7
China	15.3	16.0	18.9	19.4	19.7
Six East Asian Traders	28.1	27.9	29.5	30.4	29.6
Korea, Rep. of	7.6	7.6	8.1	8.1	8.0
Chinese Taipei	6.3	5.9	6.3	6.8	6.2
Hong Kong, China	5.4	5.2	5.5	5.5	5.2
Thailand	3.6	3.8	3.8	4.4	4.6
Singapore	3.1	3.4	3.6	3.3	3.3
Malaysia	2.1	2.1	2.2	2.3	2.3
Other Asia	7.3	8.1	8.4	8.9	9.4
Australia	2.0	2.2	2.1	2.1	2.2
Indonesia	1.3	1.6	1.6	2.1	2.2
Philippines	1.3	1.3	1.4	1.4	1.4
India	0.9	1.0	1.1	1.2	1.3
Viet Nam	0.8	1.0	1.1	1.1	1.2
<i>Memorandum:</i>					
APEC	74.3	73.4	74.8	76.4	76.1
ASEAN	12.2	13.2	13.8	14.7	15.0

Source: UNSD, Comtrade database.

**Table A1.4**  
**Merchandise imports by origin, 2007-11**  
(US\$ million and %)

	2007	2008	2009	2010	2011
<b>Total imports (US\$ million)</b>	<b>622,243.3</b>	<b>762,533.9</b>	<b>551,984.8</b>	<b>692,620.6</b>	<b>854,626.4</b>
			(% of total)		
America	16.9	15.5	16.0	15.4	14.3
United States	11.6	10.4	11.0	10.0	8.9
Other America	5.3	5.1	5.1	5.4	5.4
Canada	1.6	1.7	1.7	1.6	1.5
Brazil	1.0	1.2	1.2	1.4	1.5
Chile	1.3	1.0	1.0	1.1	1.2
Europe	11.7	10.4	12.3	10.9	10.7
EU(27)	10.5	9.2	10.7	9.6	9.4
Germany	3.1	2.7	3.0	2.8	2.7
France	1.6	1.4	1.7	1.5	1.4
Italy	1.2	1.0	1.2	1.0	1.0
EFTA	1.1	1.1	1.5	1.3	1.2
Other Europe	0.1	0.1	0.1	0.1	0.1
Commonwealth of Independent States (CIS)	1.9	2.0	1.7	2.5	2.3
Russian Federation	1.7	1.8	1.6	2.3	2.2
Africa	2.4	2.8	1.6	1.7	2.0
Middle East	18.3	22.0	16.8	17.1	18.9
Saudi Arabia	5.7	6.7	5.3	5.2	5.9
United Arab Emirates	5.2	6.2	4.1	4.2	5.0
Qatar	2.7	3.5	2.9	3.1	3.5
Kuwait	1.6	2.0	1.6	1.5	1.5
Iran Islamic Rep.	2.0	2.4	1.7	1.6	1.5
Asia	48.9	47.4	51.5	52.4	51.8
China	20.6	18.8	22.2	22.1	21.5
Six East Asian Traders	14.7	13.7	14.5	15.2	15.0
Korea, Rep. of	4.4	3.9	4.0	4.1	4.7
Malaysia	2.8	3.0	3.0	3.3	3.6
Thailand	2.9	2.7	2.9	3.0	2.9
Chinese Taipei	3.2	2.9	3.3	3.3	2.7
Other Asia	13.6	14.9	14.8	15.1	15.3
Australia	5.0	6.2	6.3	6.5	6.6
Indonesia	4.3	4.3	4.0	4.1	4.0
Viet Nam	1.0	1.2	1.3	1.2	1.4
Philippines	1.4	1.1	1.2	1.1	1.0
<i>Memorandum:</i>					
APEC	65.0	62.0	66.5	67.0	65.2
ASEAN	14.0	14.0	14.1	14.5	14.6

Source: UNSD, Comtrade database.

**Table AII.1**  
**Status of selected notifications to the WTO, 27 September 2012**

WTO Agreement	Description of requirement	Document symbol and date of most recent notification
<b>Anti-dumping</b>		
Article 16.4	Anti-dumping actions taken	G/ADP/N/230/, 02/08/2012
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/N/1/JPN/2/Suppl.7 (G/SCM/N/1/JPN/2/Suppl.7), 29/08/2011
<b>Agriculture</b>		
Article 18.2	Domestic support (DS:1)	G/AG/N/JPN/167, 18/08/2011
Article 18.2	Domestic support (DS:2)	G/AG/N/JPN/168, 18/08/2011
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/174, 24/02/2012
Article 5.7	Volume-based special safeguard (MA:3)	G/AG/N/JPN/177, 05/06/2012
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/175, 25/04/2012
Articles 10 and 18.2	Export subsidies (outlays and quantities) (ES:1)	G/AG/N/JPN/176, 01/05/2012
Article 10	Volume of food aid in the context of export subsidy commitments (ES:3)	G/AG/N/JPN/173, 18/01/2012
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/172, 13/01/2012
Annex 5	Tariff quotas	No notification
<b>GATT 1994 (Article VII: Customs Valuation)</b>		
	Checklist of issues	G/VAL/N/2/JPN/1, 05/05/2000
<b>GATT 1994 (Article XVII:4(a) Understanding on the Interpretation of Article XVII)</b>		
	Notification of products traded by state enterprises	G/STR/N/13/JPN, 11/10/2010
	State trading activities	G/STR/N/14/JPN, 06/07/2012
<b>Government Procurement</b>		
Article XIX:5	Statistics on government procurement	GPA/108/Add.4, 23/02/2012
Article XXIV: 5(b)	Notification of national implementing legislation	GPA/W/314/Add.5, 06/02/2012
	Laws and regulations (and changes)	GPA/111, 09/12/2011
Article XXIV:6	Modifications to Appendix I	GPA/MOD/JPN/52, 22/06/2010; GPA/W/309/Add.5, 11/02/2010
Article XXIV:6(a)	Modifications to Annex 3 of Appendix I	GPA/MOD/JPN/67, 09/03/2012
	Modifications to Annex 1 of Appendix I	GPA/MOD/JPN/66, 14/02/2012
<b>Import Licensing Procedures</b>		
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/10, 04/10/2011

Table AII.1 (cont'd)

WTO Agreement	Description of requirement	Document symbol and date of most recent notification
<b>Subsidies and Countervailing Measures</b>		
Article 32.6	Laws and regulations	G/ADP/N/1/JPN/2/Suppl.7, (G/SCM/N/1/JPN/2/Suppl.7) 29/08/2011
Article 25.11	Countervailing duty actions taken	G/SCM/N/235/Add.1, 24/04/2012
Article 25.1	Subsidies programmes	G/SCM/N/220/JPN, 29/06/2011
Article 25.12	Notification of domestic procedures and authorities competent to initiate and conduct investigations	No notification
<b>Safeguards</b>		
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
<b>Sanitary and Phytosanitary Measures</b>		
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
Article 7, Annex B	Notification of sanitary / phytosanitary regulations	G/SPS/N/JPN/301, 13/07/2012
<b>Technical Barriers to Trade</b>		
Article 2.9	Technical regulations	G/TBT/N/JPN/403, 16/07/2012
Article 2.9 and 5.6	Technical regulations and conformity assessment procedures	G/TBT/N/JPN/380, 16/02/2012
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/383, 28/03/2012
<b>TRIMs</b>		
Article 5.1	Investment measures	No notification
<b>TRIPS</b>		
Article 63.2	Laws and regulations	IP/N/1/JPN/11, 03/05/2012; IP/N/1/JPN/U/1, 29/02/2012 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/7/Rev.3, 17/02/2010
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

Table AII.1 (cont'd)

WTO Agreement	Description of requirement	Document symbol and date of most recent notification
<b>General Agreement on Trade in Services (GATS)</b>		
Article III:3	Changes to laws and regulations affecting services	No notification
Article VII:4	Monopolies and exclusive providers of services	No notification
Article V:7 (a)	Economic integration agreements	WT/REG309/N/1 S/C/N/617, 24/02/2012
<b>Regional Trade Agreements</b>		
	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 WT/REG277/N/2, 27/07/2011 WT/REG300/N/1, 15/09/2011 WT/REG309/N/1, 24/02/2012
	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, 2011 to September 2012**

Principal complainant/defendant, and issue under dispute	Consultations/Panel	Appeals
Japan/United States (WT/DS322)	Consultations requested: 24 November 2004 Panel requested: 4 February 2005	Notification of appeal by Japan: 11 October 2006 Report of the Appellate Body: 9 January 2007
United States Measures Relating to Zeroing and Sunset Reviews	Panel established: 28 February 2005 Panel report circulated: 20 September 2006. Compliance panel composed: 23 May 2008 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.  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.	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  Arbitration under DSU Article 21.3(c) requested by Japan: 29 March 2007  Arbitrator appointed: 27 April 2007  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).  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.  Objection by the United States to the level of suspension and request for arbitration under Article 22.6 of the DSU: 18 January 2008.  The DSB agreed that the matter had been referred to arbitration as required under Article 22.6 of the DSU on 21 January 2008.  On 10 March 2008, the United States and Japan informed the DSB of confirmed procedures under Articles 21 and 22 of the DSU.  Request by Japan for the establishment of a panel under Article 21.5: 7 April 2008  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.  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.  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.  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.

Table AII.2 (cont'd)

Principal complainant/defendant, and issue under dispute	Consultations/Panel	Appeals
		<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>On 15 December 2010, Japan and the United States jointly requested the Arbitrator to suspend its work in the context of informal discussions with respect to implementation. On 12 September 2011, 7 November 2011, 30 November 2011, 12 January 2012, 1 February 2012, Japan and the United States jointed requested the Arbitrator to continue the suspension of its work. On the basis of these requests, the Arbitrator decided to suspend its work. As requested by the parties, the suspension will be automatically terminated and the work of the Arbitrator will resume on 21 August 2012, unless Japan submits a written communication to the contrary to the Arbitrator by 20 August 2012.</p> <p>On 6 February 2012, the United States and Japan informed the DSB of a Memorandum of Understanding regarding this dispute.</p> <p>On 3 August 2012, Japan withdrew its request for authorization from the DSB to suspend the application of concessions or other obligations under the covered agreements pursuant to Article 22.2 of the DSU. The withdrawal followed the completion by the United States of the steps undertaken pursuant to the Memorandum of Understanding notified to the DSB in February 2012.</p> <p>On 14 August 2012, the Chairman of the Arbitrator informed the DSB that the Arbitrator had received a joint communication dated 3 August 2012 from Japan and the United States in which they stated that as Japan had withdrawn its request under Article 22.2 of the DSU, the United States accordingly no longer made objections under Article 22.6 of the DSU. Therefore, the United States and Japan requested the Arbitrator to notify the DSB that it was not necessary for the Arbitrator to issue an award in this dispute. Pursuant to this joint communication, the Arbitrator considered that it was not necessary for it to issue a decision on the matter referred to it. The Arbitrator therefore considered that it had completed its work.</p>

Table AII.2 (cont'd)

Principal complainant/defendant, and issue under dispute	Consultations/Panel	Appeals
Japan/European Communities (WT/DS376)	<p>Consultations requested: 28 May 2008</p> <p>Panel requested: 18 August 2008</p> <p>Panel establishment deferred: 29 August 2008</p> <p>Panel established: 23 September 2008</p> <p>Panel composition requested: 12 January 2009</p> <p>Panel composed: 22 January 2009</p> <p>Final report requested: 29 April 2010</p> <p>Panel report circulated: 16 August 2010</p> <p>At its meeting on 21 September 2010, the DSB adopted the panel reports.</p> <p>At the DSB meeting on 25 October 2010, the European Union informed the DSB that it intended to implement the recommendations and rulings of the DSB and that it would need a reasonable period of time to do so. On 20 December 2010, Japan and the European Union informed the DSB that they had agreed that the reasonable period of time for the European Union to implement the recommendations and rulings of the DSB shall be nine months and nine days from the date of the adoption of the recommendations and rulings of the DSB. Accordingly, the reasonable period of time expired on 30 June 2011.</p> <p>On 6 July 2011, the European Union and Japan notified the DSB of Agreed Procedures under Articles 21 and 22 of the DSU. At the DSB meeting on 20 July 2011, the European Union said that, in June 2011, it had adopted measures necessary to comply with the DSB's recommendations and rulings. The adopted measures ensured the full and timely implementation of the DSB's recommendations and rulings. Japan said that it was not yet in a position to agree to the European Union's claim of full compliance and had a number of concerns about the measures the European Union had adopted. To facilitate the resolution of the dispute and reduce the scope of any procedural disputes, Japan and the European Union had concluded a sequencing agreement.</p>	
Japan/Canada (WT/DS412)	<p>Consultation requested: 13 September 2010</p> <p>Panel requested: 1 June 2011</p> <p>Panel establishment deferred: 17 June 2011</p> <p>Panel established: 20 July 2011</p>	
Certain measures affecting the renewable energy generation sector		

Table AII.2 (cont'd)



Principal complainant/defendant, and issue under dispute	Consultations/Panel	Appeals
Japan/China (WT/DS433)	Consultation requested: 13 March 2012 Panel requested: 27 June 2012 Panel establishment deferred: 10 July 2012 Panel established: 23 July 2012	
Measures Related to the Exportation of Rare Earths, Tungsten and Molybdenum		
Japan/Argentina (WT/DS445)	Consultation requested: 21 August 2012	
Measures Affecting the Importation of Goods		

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, 2011**

<b>JAPAN-ASEAN</b>	
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 for 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; and 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 merchandise trade (2011) of which preferential of which duty-free	Imports from ASEAN: 14.6%; Exports from ASEAN: 15%
Japan commercial services trade (2011)	Imports from ASEAN:- Exports from ASEAN: -
Related WTO documents	WT/REG/277/N/1 and WT/REG/277/N/2
Relevant websites	<a href="http://www.mofa.go.jp/">http://www.mofa.go.jp/</a> and <a href="http://www.aseansec.org/">http://www.aseansec.org/</a>
<b>JAPAN-Brunei Darussalam</b>	
Parties	Japan, Brunei
Date of signature/entry into force	18 June 2007 / 31 July 2008
Transition for 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 merchandise trade (2011) of which preferential of which duty-free	Imports from Brunei: 0.6%; Exports from Brunei: 0.0%
Related WTO documents	WT/REG/244/N/1, WT/REG/244/1 to 3, WT/244/M/1 and S/C//N/466
Relevant websites	<a href="http://www.mofa.go.jp/">http://www.mofa.go.jp/</a> and <a href="http://www.mofat.gov.bn/">http://www.mofat.gov.bn/</a>
<b>JAPAN-Chile</b>	
Parties	Japan, Chile
Date of signature/entry into force	27 March 2007 / 3 September 2007
Transition for 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 merchandise trade (2011) of which preferential of which duty-free	Imports from Chile: 1.2%; Exports from Chile: 0.3%
Japan commercial services trade (2010)	Imports from Chile: - Exports from Chile: -
Related WTO documents	WT/REG/234/N/1, WT/REG/234/1, WT/REG/234/27Rev1, WT/REG/234/3, WT/REG/234/M/1, S/C/N/398
Relevant websites	<a href="http://www.mofa.go.jp/">http://www.mofa.go.jp/</a> and <a href="http://www.direcon.gob.cl/">http://www.direcon.gob.cl/</a>

**Table AII.3 (cont'd)**

<b>JAPAN-India</b>	
Parties	Japan, India
Date of signature/entry into force	16 February 2011 / 1 August 2011
Transition for full implementation	2026
Main products excluded from liberalization	Certain tariff lines in meat and meat products, fish and fish products, dairy products, cereals (rice), and product thereof, sugar, pineapples, bananas, leather and products thereof, and footwear.
Japan merchandise trade (2011) of which preferential of which duty-free	Imports from India: 0.8%; Exports to India: 1.3%
Japan commercial services trade (2010)	Imports from India 0.5%; Exports to India: 1.5%
Related WTO documents	WT/REG/300/N/1 and S/C/N/601
Relevant websites	<a href="http://www.mofa.go.jp/">http://www.mofa.go.jp/</a> and <a href="http://www.commerce.nic.in/">http://www.commerce.nic.in/</a>
<b>JAPAN-Indonesia</b>	
Parties	Japan, Indonesia
Date of signature/entry into force	20 August 2007 / 1 July 2008
Transition for 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 merchandise trade (2011) of which preferential of which duty-free	Imports from Indonesia: 4.0%; Exports to Indonesia: 2.2%
Japan commercial services trade (2010)	Imports from Indonesia: 1.2%; Exports to Indonesia: 1.7%
Related WTO documents	WT/REG/241/N/1, WT/REG/241/1, WT/REG/241/2, WT/REG/241/3, WT/REG/241/M/1 and S/C/N/462
Relevant websites	<a href="http://www.mofa.go.jp/">http://www.mofa.go.jp/</a> and <a href="http://ditjenkpi.depdag.go.id/">http://ditjenkpi.depdag.go.id/</a>
<b>JAPAN-Malaysia</b>	
Parties	Japan, Malaysia
Date of signature/entry into force	13 December 2005 / 13 July 2006
Transition for 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 merchandise trade (2011) of which preferential of which duty-free	Imports from Malaysia: 3.6%; Exports to Malaysia: 2.3%
Japan commercial services trade (2010)	Imports from Malaysia: 0.8%; Exports to Malaysia: 0.8%
Related WTO documents	WT/REG/216/N/1, WT/REG/216/2, WT/REG/216/2/Corr.1, WT/REG/216/3, WT/REG/216/3/Add.1, WT/REG/216/M/1 and S/C/N/371
Relevant websites	<a href="http://www.mofa.go.jp/">http://www.mofa.go.jp/</a> and <a href="http://www.miti.gov.my/cms/index.jsp">http://www.miti.gov.my/cms/index.jsp</a>

Table AII.3 (cont'd)

<b>JAPAN-Mexico</b>	
Parties	Japan, Mexico
Date of signature/entry into force	17 September 2004 / 1 April 2005
Transition for 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 merchandise trade (2011) of which preferential of which duty-free	Imports from Mexico: 0.5%; Exports to Mexico: 1.2%
Japan commercial services trade (2010)	Imports from Mexico: 0.2%; Exports to Mexico: 0.5%
Related WTO documents	WT/REG/198/N/1, WT/REG/198/1, WT/REG/198/4, WT/REG/198/5, WT/REG/198/6, WT/REG/198/M/1, WT/REG/198/M/1/Add.1 and S/C/N398
Relevant websites	<a href="http://www.mofa.go.jp/">http://www.mofa.go.jp/</a> and <a href="http://www.economia.gob.mx/">http://www.economia.gob.mx/</a>
<b>JAPAN-Peru</b>	
Parties	Japan, Peru
Date of signature/entry into force	31 May 2011 / 1 March 2012
Transition for full implementation	2027
Main products excluded from liberalization	Certain tariff lines in meat and meat products, fish and fish products, dairy products, rice, wheat, plywood, leather and products thereof, and footwear
Japan merchandise trade (2011) of which preferential of which duty-free	Imports from Peru: 0.3%; Exports from Peru: 0.1%
Japan commercial services trade (2010)	Imports from Peru: -; Exports to Peru: -
Related WTO documents	WT/REG/309/N/1 and S/C/N/617
Relevant websites	<a href="http://www.mofa.go.jp/">http://www.mofa.go.jp/</a> and <a href="http://www.mincetur.gob.pe/newweb/">http://www.mincetur.gob.pe/newweb/</a>
<b>JAPAN-Philippines</b>	
Parties	Japan, the Philippines
Date of signature/entry into force	9 September 2006 / 11 December 2008
Transition for 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 merchandise trade (2011) of which preferential of which duty-free	Imports from the Philippines: 1.0%; Exports to the Philippines: 1.4%
Japan commercial services trade (2010)	Imports from the Philippines: 1.1%; Exports to the Philippines: 0.8%
Related WTO documents	WT/REG/257/N/1, WT/REG/257/1, WT/REG/257/2/Rev.1, WT/REG/257/M/1 and S/C/N/470
Relevant websites	<a href="http://www.mofa.go.jp/">http://www.mofa.go.jp/</a>
<b>JAPAN-Singapore</b>	
Parties	Japan, Singapore
Date of signature/entry into force	13 January 2002 / 30 November 2002
Transition for 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

Table AII.3 (cont'd)

<b>JAPAN-Singapore (cont'd)</b>	
Japan merchandise trade (2011) of which preferential of which duty-free	Imports from Singapore: 1.0%; Exports from Singapore: 3.3%
Japan commercial services trade (2010)	Imports from Singapore: 5.2%; Exports to Singapore: 9.1%
Related WTO documents	WT/REG/140/N/1, WT/REG/140/N/1/Add.1, WT/REG/140/N1/Add.2, WT/REG/140/1, WT/REG/140/3 to 7, WT/REG/140/M/1, WT/REG/140/M/1/Corr.1, WT/REG/140/M/2, WT/REG/140/M/3, S/C/N/206, S/C/N/206/Add.2/Corr.1
Relevant websites	<a href="http://www.mofa.go.jp/">http://www.mofa.go.jp/</a> and <a href="http://www.iesingapore.gov.sg/wps/portal">http://www.iesingapore.gov.sg/wps/portal</a>
<b>JAPAN-Switzerland</b>	
Parties	Japan, Switzerland
Date of signature/entry into force	19 February 2009 / 1 September 2009
Transition for 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 merchandise trade (2011) of which preferential of which duty-free	Imports from Switzerland: 0.9%; Exports to Switzerland: 1.1%
Japan commercial services trade (2010)	Imports from Switzerland: 1.8%; Exports to Switzerland: 1.6%
Related WTO documents	WT/REG/273/N/1, WT/REG/273/1/Rev.1, WT/REG/273/2/Rev.1; WT/REG/273/3, WT/REG/273/M/1 and S/C/N/512
Relevant websites	<a href="http://www.mofa.go.jp/">http://www.mofa.go.jp/</a> and <a href="http://www.seco.admin.ch/">http://www.seco.admin.ch/</a>
<b>JAPAN-Thailand</b>	
Parties	Japan, Thailand
Date of signature/entry into force	3 April 2007 / 1 November 2007
Transition for 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 merchandise trade (2011) of which preferential of which duty-free	Imports from Thailand: 2.9%; Exports to Thailand: 4.6%
Japan commercial services trade (2010)	Imports from Thailand: 1.9%; Exports to Thailand: 2.1%
Related WTO documents	WT/REG/235/N/1, WT/REG/235/1, WT/REG/235/1/Rev.1, WT/REG/235/2, WT/REG/235/M/1 and S/C/N/419
Relevant websites	<a href="http://www.mofa.go.jp/">http://www.mofa.go.jp/</a> and <a href="http://www.mfa.go.th/main/">http://www.mfa.go.th/main/</a>
<b>JAPAN-Viet Nam</b>	
Parties	Japan, Viet Nam
Date of signature/entry into force	25 December 2008 / 1 October 2009
Transition for 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 merchandise trade (2011) of which preferential of which duty-free	Imports from Viet Nam: 1.4%; Exports to Viet Nam: 1.2%
Japan commercial services trade (2010)	Imports from Viet Nam: 0.5% Exports to Viet Nam: 0.6%
Related WTO documents	WT/REG/275/N/1, WT/REG/275/1/Rev.1, WT/REG/275/1/Rev.1/Corr.1, WT/REG/275/2, WT/REG/275/2/Add.1, WT/REG/275/M/1 and S/C/N/513
Relevant websites	<a href="http://www.mofa.go.jp/">http://www.mofa.go.jp/</a>

Source: WTO Secretariat; and Information provided by the Japanese authorities.

Table AIII.1  
Japan's MFN tariff summary, FY2012

	Number of lines	Average (%)	Range (%)	Standard deviation	Duty free (%)
<b>Total</b>	<b>9,168</b>	<b>6.3</b>	<b>0-515.6</b>	<b>20.5</b>	<b>40.5</b>
<b>By WTO category</b>					
WTO agricultural products	1,811	17.5	0-515.6	41.6	26.0
Animals and products thereof	234	10.4	0-67.8	13.8	37.6
Dairy products	64	65.2	21.3-409.8	70.1	0.0
Fruit, vegetables, and plants	495	16.4	0-515.6	56.3	15.2
Coffee and tea	62	19.1	0-152.6	19.7	11.3
Cereals and preparations	348	26.5	0-327.4	41.0	9.8
Oils seeds, fats, oil and their products	133	3.3	0-29.8	4.4	42.9
Sugars and confectionary	49	41.7	0-218.6	42.3	6.1
Beverages, spirits and tobacco	145	18.0	0-75.9	13.9	21.4
Cotton	5	0.0	0-0	0.0	100.0
Other agricultural products, n.e.s.	276	6.2	0-298.8	26.7	61.6
WTO non-agricultural products	7,357	3.7	0-295.2	8.4	44.1
Fish and fishery products	500	6.2	0-15	3.7	4.6
Minerals and metals	1,263	0.9	0-10	1.6	72.5
Chemicals and photographic supplies	1,178	2.5	0-6.5	1.8	31.2
Wood, pulp, paper and furniture	449	1.8	0-10	2.8	66.1
Textiles	1,480	5.6	0-25	2.5	4.5
Clothing	516	9.2	0-13.4	2.0	0.8
Leather, rubber, footwear and travel goods	318	15.9	0-295.2	34.9	39.3
Non-electric machinery	603	0.0	0-0	0.0	100.0
Electric machinery	314	0.1	0-4.8	0.6	97.8
Transport equipment	134	0.0	0-0	0.0	100.0
Non-agricultural products, n.e.s.	512	1.3	0-8.4	2.3	72.5
Petroleum	90	1.5	0-7.9	1.7	32.2
<b>By ISIC sector (excluding electricity - 1 line)</b>					
ISIC 1 - Agriculture, hunting and fishing	674	5.2	0-298.8	15.9	45.8
ISIC 2 - Mining	113	0.1	0-4.1	0.5	96.5
ISIC 3 - Manufacturing	8,381	6.5	0-515.6	21.0	39.3
Manufacturing excluding food processing	6,783	3.6	0-295.2	9.5	45.8
<b>By stage of processing</b>					
First stage of processing	1,171	8.0	0-515.6	41.3	51.3
Semi-processed products	3,404	4.8	0-218.6	9.1	27.1
Fully processed products	4,593	7.0	0-409.8	18.5	47.7
<b>By HS section</b>					
01 Live animals and products	713	11.5	0-409.8	27.4	18.0
02 Vegetable products	586	16.3	0-515.6	58.9	31.4
03 Fats and oils	91	4.6	0-29.8	4.7	26.4
04 Prepared food, beverages and tobacco	796	19.3	0-321.1	24.8	10.1
05 Mineral products	255	0.7	0-7.9	1.4	68.2
06 Chemicals and products thereof	1,078	2.3	0-36.9	2.4	37.1
07 Plastics, rubber, and articles thereof	296	2.5	0-6.5	1.9	34.8
08 Raw hides and skins, leather, and products thereof	193	10.5	0-30	10.8	33.7

Table AIII.1 (cont'd)

	Number of lines	Average (%)	Range (%)	Standard deviation	Duty free (%)
09 Wood and articles of wood	264	3.4	0-10	3.0	36.0
10 Pulp of wood, paper and paperboard	165	0.0	0-0	0.0	100.0
11 Textiles and clothing	1,980	6.8	0-146.1	7.5	4.3
12 Footwear, headgear, etc.	105	31.9	0-295.2	55.4	5.7
13 Articles of stone, plaster, cement	163	1.2	0-8	1.7	60.7
14 Precious stones and metals, pearls, articles thereof	79	1.3	0-10	2.3	72.2
15 Base metals and articles thereof	847	0.9	0-7.5	1.6	72.0
16 Machinery, electrical equipment, etc.	921	0.0	0-4.8	0.3	99.2
17 Transport equipment	145	0.1	0-8.4	0.7	99.3
18 Precision equipment	272	0.2	0-16	1.5	96.7
19 Arms and ammunition	22	6.9	5.4-8.4	1.5	0.0
20 Miscellaneous manufactured articles	190	1.7	0-7.1	2.1	57.9
21 Works of art, etc.	7	0.0	0-0	0.0	100.0

Note: Calculations are based on national tariff line level (8-digit); excluding in-quota tariff lines and using AVEs based on 2011 import data, as available, provided by the Japanese authorities. In case of unavailability, the *ad valorem* part is used for alternate and compound rates.

Source: WTO Secretariat calculations, based on data received from the Japanese authorities.

**Table AIII.2**  
**Exemptions from the Anti-monopoly Act, September 2012**

Relevant ministries and agencies	Legislation	System
<b>1. Exemptions under the AMA (1 law, 3 systems)</b>		
Japan Fair Trade Commission	Section 21	Acts under intellectual property rights
	Section 22	Acts of cooperatives
	Section 23	Resale price maintenance contracts
<b>2. Exemptions under various individual laws (14 laws, 18 systems)</b>		
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
	Act on the Organization of Small and Medium-sized Enterprise Association	Joint economic undertakings
	Small and Medium-Sized Enterprise Cooperatives Act	Federation of small business associations
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.



**Table AIV.1**  
**Tariff quota quantity and in-quota imports, FY2007-10**  
 (Tonnes)

Description	Tariff quota and in-quota imports	FY2007	FY2008	FY2009	FY2010
Skimmed milk powder for school lunch	Tariff quota quantity	7,264	7,264	7,264	7,264
	In-quota imports	2,227	2,028	2,109	1,879
Skimmed milk powder for other purposes	Tariff quota quantity	85,878	85,878	85,878	85,878
	In-quota imports	31,078	24,913	24,674	23,040
Evaporated milk	Tariff quota quantity	1,585	1,585	1,585	1,585
	In-quota imports	1,499	1,482	1,500	1,500
Whey and modified whey for feeding purposes	Tariff quota quantity	45,000	45,000	45,000	45,000
	In-quota imports	31,217	37,000	30,985	31,620
Prepared whey for infant formula	Tariff quota quantity	25,000	25,000	25,000	25,000
	In-quota imports	9,245	8,222	8,624	8,966
Butter and butter oil	Tariff quota quantity	1,873	1,873	1,873	1,873
	In-quota imports	235	241	249	199
Mineral concentrated whey	Tariff quota quantity	14,000	14,000	14,000	14,000
	In-quota imports	2,872	4,035	2,992	2,574
Prepared edible fat	Tariff quota quantity	18,977	18,977	18,977	18,977
	In-quota imports	16,299	15,309	13,676	13,333
Other dairy products for general use (whole milk equivalent)	Tariff quota quantity	133,940	133,940	133,940	133,940
	In-quota imports	129,601	131,958	133,067	125,715
Designated dairy products for general use (whole milk equivalent)	Tariff quota quantity	137,202	137,202	137,202	137,202
	In-quota imports	135,862	131,958	131,674	136,252
Dried leguminous vegetables	Tariff quota quantity	120,000	120,000	120,000	120,000
	In-quota imports	90,069	82,494	71,663	73,999
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	5,282,598	5,288,584	5,233,500	5,385,057
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	1,273,645	1,231,549	1,451,600	1,334,837
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	614,678	676,698	674,934	674,920
Starches, inulin and preparations of starches	Tariff quota quantity	157,000	157,000	157,000	157,000
	In-quota imports	134,280	137,618	139,781	129,237
Ground nuts	Tariff quota quantity	75,000	75,000	75,000	75,000
	In-quota imports	31,230	33,441	25,905	29,925
Tubers of konnyaku (dried slice basis)	Tariff quota quantity	267	267	267	267
	In-quota imports	85	148	134	77
Silk-worm cocoons and raw silk (raw silk basis)	Tariff quota quantity	798	798	798	798
	In-quota imports	3	739	626	753

Source: WTO notifications.

Table AIV.2  
Japan's trade regimes for financial services, 2012

Subsectors	GATS commitments	RTA commitments	Other preferential treatment	Applied regime
(A) Insurance and insurance-related services	(1), (2) Unbound for all insurance services except for MAT and reinsurance where commercial presence is in principle required for insurance contracts on the following items and any liability arising therefrom (a) goods being transported within Japan, (b) ships of Japanese registration which are not used for international maritime transport; commercial presence also required for insurance intermediation services 60% of amounts of reinsurance on compulsory automobile third-party liability insurance is subject to compulsory coverage by the government	<p><b>Positive listing agreements:</b>  <b>BRN, IND, IDN, MAL, SGP, THL, VNM, PHL:</b>  (1), (2) unbound for all insurance services except for MAT and reinsurance where commercial presence is in principle required for insurance contracts on the following items and any liability arising therefrom (a) goods being transported within Japan, (b) ships of Japanese registration which are not used for international maritime transport; commercial presence also required for insurance intermediation services</p> <p><b>SGP:</b> 60% of the amounts of reinsurance on compulsory automobile third-party liability insurance is subject to compulsory coverage by the government. This restriction will not apply after April 2002 although reinsurance for such insurance contracted by the end of March 2002 remains effective;  (3) none, except that insurance intermediation services may be supplied only for insurance contracts allowed to be supplied in Japan;  (4) unbound</p> <p><b>PHL:</b> commitments subject to standstill for modes 1, 2 and 3</p> <p><b>SGP:</b> incorporation by cross-reference of the GATS additional commitments</p> <p><b>Negative listing agreements:</b>  <b>MEX:</b>  The chapter on financial service provides that the commitments of GATS apply.</p> <p><b>CHL<sup>a</sup>:</b>  Cross-border and purchase: (a) above for positive listing agreements for modes (1), (2)  Investment: none, except that insurance intermediation services may be supplied only for insurance contracts allowed to be supplied in Japan</p> <p><b>CH:</b> Reservation for existing measures on requirement of commercial presence for insurance contracts on goods transported within Japan and ships of Japanese registration which are not used for international maritime transport (MA, CB).  Reservation for future measures for insurance and insurance related services whether supplied by a financial services supplier of Switzerland established in Switzerland as a principal, through an intermediary or as an intermediary other than MAT reinsurance and services auxiliary to insurance, such as consultancy, actuarial, risk assessment and claim settlement services (MA, NT, CB)</p>	-	<p>For modes 1 and 2 for insurance services other than MAT and reinsurance services.</p> <p>Unknown</p> <p>(1) (2) for MAT and reinsurance: none, except commercial presence is in principle required for insurance contracts on the following items and any liability arising therefrom (a) goods being transported within Japan, (b) ships of Japanese registration which are not used for international maritime transport;</p>

Table AIV.2 (cont'd)

Subsectors	GATS commitments	RTA commitments	Other preferential treatment	Applied regime
	<p>Insurance services are not allowed to be supplied through an intermediary in Japan;</p> <p>(3) none except 60% of amounts of reinsurance on the compulsory automobile third-party liability insurance is subject to compulsory coverage by the government insurance intermediation services are not allowed to be supplied for insurance contracts made by an insurance service supplier who is not licensed in Japan</p> <p>(4) categories provided for the financial services understanding<sup>b</sup> in addition to those contained in the horizontal commitments if not already covered by those</p> <p>+ additional commitments on automobile insurance, commercial fire insurance, personal accident insurance and medical insurance<sup>c</sup></p>			<p>commercial presence also required for insurance intermediation services</p> <p>(3) none, except that insurance intermediation services may be supplied only for insurance contracts allowed to be supplied in Japan</p> <p>(4) as provided by GATS commitments since these are made on a status quo basis</p>

Table AIV.2 (cont'd)

Subsectors	GATS commitments	RTA commitments	Other preferential treatment	Applied regime
(B) Banking and other financial services	<p>(1) unbound for all banking services except for provision and transfer of financial information and financial data processing and advisory and other auxiliary services excluding intermediation where commercial presence is required for discretionary investment management services deposit insurance system does not cover deposits taken by branches of foreign banks (NT) +modal (3) additional commitment on the abolition of the distinction of new money and other assets for employees' pension fund management)</p> <p>(4) categories provided for the financial services understanding<sup>b</sup> in addition to those contained in the horizontal commitments if not already covered by those</p>	<p><b>Positive listing agreements:</b>  <b>BRN, IND, IDN, MAL, PHL, SGP, THL, VNM:</b>  (1) unbound for all banking services except for provision and transfer of financial information and financial data processing and advisory and other auxiliary services excluding intermediation commercial presence required for discretionary investment management services;  (2) none; (3) none, except that the deposit insurance system does not cover deposits taken by branches of foreign banks (NT); (4) unbound</p> <p><b>SGP:</b> additional commitments bilaterally negotiated</p> <p><b>PHL:</b> commitments subject to standstill for modes 1, 2 and 3</p> <p><b>BRN, IDN:</b> Reservation in the investment chapter for existing measures in banking services (NT)</p> <p><b>IND, MAL, PHL, SGP:</b> Reservation in the investment chapter for existing measures by which the deposit system does not cover deposits taken by branches of foreign banks (NT)</p> <p><b>Negative listing agreements:</b>  <b>MEX:</b> The chapter on financial services provides that the commitments of GATS apply</p> <p><b>CHL:</b> cross border: as above for mode (1) for positive listing agreements  Purchase: none  Investment: as above for mode (3) for positive listing agreements</p> <p><b>CH:</b> Reservation for existing measures on non-coverage by the deposit insurance system of branches of foreign banks (NT; CB, I)  Reservation for future measures on banking and other financial services other than (a) securities-related transactions with financial institutions and other entities in Japan; (b) sales of a beneficiary certificate of an investment trust and an investment security through securities firms in Japan; (c) provision and transfer of financial information and financial data processing and advisory and other auxiliary services excluding intermediation</p>		<p>For modes 1 and 2 for banking services other than provision and transfer of financial information and financial data processing and advisory and other auxiliary services excluding intermediation</p> <p>provision and transfer of financial information and financial data processing and advisory and other auxiliary services excluding intermediation: (1) none, except commercial presence required for discretionary investment management services</p> <p>(2) none  (3) none, except the deposit insurance system does not cover deposits taken by branches of foreign banks</p>

Table AIV.2 (cont'd)

Subsectors	GATS commitments	RTA commitments	Other preferential treatment	Applied regime
	+ additional commitments on pension fund management, investment trust management services, and discretionary investment management	Reservation on mode 2 for banking and other financial services else than those contained in the list of the financial annex of the agreement <sup>d</sup> (MA, NT; CB).	-	(4) GATS (4) as provided by GATS commitments since these commitments are made on status quo basis.

- a While a negative listing agreement in general, the Chile-Japan agreement adopts a positive listing approach for financial services commitments. However, it keeps for that purpose the NAFTA type of distinction between an investment chapter covering *mutatis mutandis* mode 3 and a cross-border chapter covering *mutatis mutandis* modes 1, 2 and 4. An additional element of complexity comes from a specific scheduling annex (annex 12) for commitments on the purchase of financial services, a question which is traditionally dealt in other contexts (e.g. the GATS financial services understanding) as a mode 2 question.
- b The financial services understanding lists the following categories: senior managerial possessing proprietary information essential to the establishment, control, and operation of the financial services supplier and specialists in the operation of the financial services supplier and subject to the availability of personnel in the host country, specialist in computer services, telecommunication services, and accounts of the financial services supplier and actuarial and legal specialists.
- c S/DCSW/JPN pp. 55-58.
- d The complete text of these additional commitments reads: "1. investment trust management services and discretionary investment management services may be supplied by one entity if that entity satisfies the relevant prudential provisions of Japanese laws and the prudential standards set out by appropriate authorities; 2 investment advisory companies are able to participate in the management of fund assets of the Government Pension Investment Fund, the National Government Employees Mutual Aid Association, the Local Governments Employees Mutual Aid Association and the Promotion and Mutual Aid Corporation for Private Schools in Japan; 3 Appropriate authorities will fully utilise the exiting mechanisms available to them to respond expeditiously to accommodate innovations in securities products while ensuring the most appropriate supervision of markets from prudential viewpoints".

Note: CPC means the United Nations Provisional Central products Classification. Restrictions to national treatment are indicated only to the extent that they differ from or add specific restrictions to market access restrictions. Mode 4 commitments are indicated only if they differ from the standard entry "unbound except as indicated in the horizontal commitments". Entries may have been summarized but their substance has been preserved. "Unbound\*" means unbound due to lack of technical feasibility. A Classification heading followed by an asterisk (e.g. CPC51310\*) means "part of" the heading, unless otherwise explicitly stated. The nomenclature used for the first column of the table is that of WTO document MTN.GNS/W/120. For negative listing agreements, the abbreviations in brackets indicate the chapter to which the reservations apply (CB for cross-border and I for investment) and the obligations to which the reservations are lodged MA for market access, NT for national treatment, LP or Loc.Pres for local presence, SMD for composition of senior management and board of directors, PR or Perf. Req. for performance requirements.

Source: WTO Secretariat.

Table AIV.3  
Japan's trade regimes for telecommunications services, 2012

Subsectors	GATS commitments	FTAs commitments	Other preferential treatment	Applied regime
Basic telecommunications services	(1), (2) none; (3) foreign capital participation direct and/or indirect in NTT and KDD must be less than one fifth (MA), board members and auditors in NTT and KDD must have Japanese nationality (NT)	<b>BRN, IND, IDN, MAL, PHL, SGP, THL, VNM:</b> (1), (2) none; (3) foreign capital participation direct and/or indirect in NTT must be less than one third (MA), board members and auditors in NTT and the regional companies must have Japanese nationality (NT)	-	(1), (2) none; (3) foreign capital participation direct and/or indirect in NTT must be less than one third (MA), board members and auditors in NTT and the regional companies are required to have Japanese nationality (NT)+
(a) Voice telephone services	Subscription to the disciplines of the reference paper via additional commitments	<b>BRN, IDN, MAL, PHL, THL:</b> subscription to the disciplines of the reference paper via additional commitments with new and enhanced disciplines regarding safeguards, anti-competitive practices and interconnection;		Subscription to reference paper types of disciplines with new and enhanced disciplines regarding safeguards, anti-competitive practices and interconnection
(b) Packet-switched data transmission services				
(c) Circuit-switched data transmission services				
(d) Telex services				
(f) Facsimile services	No commitments			
(g) Private leased circuit services				
(o) Other	No commitments			
Basic telecommunications services				
(e) Telegraph services		<b>IND, MAL, PHL, THL:</b> commitments above subject to standstill;  <b>IND, SGP:</b> no additional commitments	-	
		<b>IND, VNM:</b> no commitments;  <b>BRN, IDN, MAL, PHL, SGP, THL:</b> (1) unbound; (2) none; (3), (4) unbound		limitation of foreign participation to one third of the shares in NTT and nationality requirement for directors or auditors in NTT, NTT East and NTT West
Value-added services	(1), (2), (3) none	<b>SGP:</b> for value-added services by type II providers only: (1), (2), (3) none;		
(h) Electronic mail services				
(i) Voice mail services				
(j) Online information services and database retrieval services		<b>BRN, IND, IDN, MAL, PHL, THL, VNM:</b> for all value-added services (1), (2) none; (3) none except that foreign capital		

Table AIV.3 (cont'd)

Subsectors	GATS commitments	FTAs commitments	Other preferential treatment	Applied regime
(k) Electronic data interchange services (l) Enhanced facsimile services (m) Code and protocol conversion services (n) Online information and/or data processing services		participation, direct or indirect in NTT must be less than one third (MA) and that board members and auditors in NTT and the regional companies must have Japanese nationality  <b>IDN, MAL, PHL, THL:</b> commitments above subject to standstill;	-	(1), (2) none; (3) none, except that foreign capital participation, direct or indirect in NTT must be less than one third (MA) and that board members and auditors in NTT and the regional companies must have Japanese nationality
Value-added services (o) Other	No commitments	<b>SGP:</b> no commitments;  <b>BRN, IND, IDN, MAL, PHL, THL, VNM:</b> (1), (2) none; (3) none, except that foreign capital participation, direct or indirect in NTT must be less than one third (MA), and that board members and auditors in NTT and the regional companies must have Japanese nationality;  <b>IDN, MAL, PHL, THL:</b> commitments above subject to standstill	-	(1), (2) none; (3) none, except that foreign capital participation, direct or indirect in NTT must be less than one third (MA) and that board members and auditors in NTT and the regional companies must have Japanese nationality

Note: CPC means the United Nations Provisional Central products Classification. Restrictions to national treatment are indicated only to the extent that they differ from or add specific restrictions to market access restrictions. Mode 4 commitments are indicated only if they differ from the standard entry "unbound except as indicated in the horizontal commitments". Entries may have been summarized but their substance has been preserved. "Unbound\*" means unbound due to lack of technical feasibility. A Classification heading followed by an asterisk (e.g. CPC51310\*) means "part of" the heading, unless otherwise explicitly stated. The nomenclature used for the first column of the table is that of WTO document MTN.GNS/W/120. For negative listing agreements, the abbreviations in brackets indicate the chapter to which the reservations apply (CB for cross-border and I for investment) and the obligations to which the reservations are lodged MA for market access, NT for national treatment, LP or Loc.Pres for local presence, SMBD for composition of senior management and board of directors, PR or Perf. Req. for performance requirements.

Source: WTO Secretariat.

Table AIV.4  
Summarized trade regimes of maritime transport services

Subsectors <sup>a</sup>	GATS	FTAs	Other preferential regimes	Applied regime
11.A.a and 11.A.b  [International] Passenger and freight transport CPC 7211 and 7212	Cabotage excluded  International maritime transport: no commitments  No MFN exemptions	<p><b>Positive listing agreements:</b> <b>JPN-BRN, JPN-IN, JPN-IDN, JPN-MAL, JPN-PHL, JPN-TH, JPN-VN (except otherwise indicated):</b> Cabotage excluded</p> <p><b>JPN-SGP, JPN-MAL, JPN-PHL, JPN-BRN, JPN-IDN, JPN-IN:</b> reservation to the national treatment obligations of the investment chapter of the agreement for existing measures on prior notification in "water transport" (except no investment chapter for <b>JPN-VN</b>)</p> <p><b>JPN-SNG, JPN-BRN, JPN-IDN, JPN-TH, JPN-IN, JPN-MAL, JPN-PHL:</b> reservation to the national treatment and MFN obligations of the investment chapter of the agreement for existing measures on cabotage and ports not opened to foreign trade</p> <p>(1) none, provided that restriction or prohibition of entry in Japanese ports and loading or unloading of cargoes in Japanese ports for a designated period may be imposed as a countermeasure on operators of vessels who belong to a country in which interests of Japanese operators continue to be substantially damaged;</p> <p>(2) none;</p> <p><b>JPN-SGP:</b> (1) none, except that ships not flying the flag of Japan are not allowed to call at ports of Japan that are not open to foreign commerce;</p> <p>(3) (a) to fly the Japanese flag the vessel must be owned by a Japanese national or a juridical person established under Japanese law with all representatives and no less than 2/3 of the executives administering the affairs of the juridical person having Japanese nationality (unbound for <b>JPN-IN</b> and <b>JPN-SGP</b>)</p> <p>(3) (b) other forms of commercial presence: none</p> <p><b>JPN-SPG, JPN-MAL, JPN-PHL, JPN-BRN, JPN-IDN, JPN-TH, JPN-IN:</b> reservation to the national treatment and PR, SMBD obligation of the investment chapter of the agreement for existing measures on matters related the nationality of a ship (except no investment chapter for <b>JPN-VN</b>); (4) (a) ships' crew: none, except that foreign nationals employed by Japanese juridical persons, except for the seafarers referred to in the relevant official notification<sup>b</sup> may not work on the vessels flying the Japanese flag</p>	<p>Based on bilateral agreements, Japan may grant the United Kingdom, Norway, and Denmark flag vessels to engage in the carriage between ports in Japan upon individual application, if the cargo is recognized as the part of the international maritime transport and is transhipped between vessels flying flags from the same country</p>	<p>- cabotage reserved to the national flag - the Foreign Exchange and Foreign Trade Law imposes a prior notification requirement on investors in the "water transport industry in Japan", i.e. in cabotage transport and coastwise ship leasing industry</p> <p>International transport: no restrictions on foreign companies other than those in Japan's revised offer (TN/S/O/JPN/Rev.1)</p> <p>(1) none, provided that restriction or prohibition of entry in Japanese ports and loading or unloading of cargoes in Japanese ports for a designated period may be imposed as a countermeasure on operators of vessels who belong to a country in which interests of Japanese operators continue to be substantially damaged</p> <p>- No cargo sharing provision with bilateral partners (2) none; (3)(a) to fly the Japanese flag the vessel must be owned by a Japanese national or a juridical person</p>

Table AIV.4 (cont'd)



Subsectors <sup>a</sup>	GATS	FTAs	Other preferential regimes	Applied regime
		<p><b>JPN-IN:</b> unbound, <b>JPN-SGP</b> as in horizontal commitments</p> <p>(4) (b) none</p> <p><b>JPN-IN:</b> unbound</p> <p><b>JPN-SGP:</b> as in horizontal commitments</p> <p>all positive commitments subject to a standstill (SS) obligation for <b>JPN-IDN, JPN-MAL, JPN-PHL, JPN-TH</b></p> <p><b>Negative listing agreements:</b></p> <p><b>JPN-CH, JPN-MEX, JPN-CHL:</b> no reservations except existing measures on matters relating to the nationality of a ship (I: NT, SMBD (for <b>JPN-CH, NT</b> only)), and of seafarers (CB: NT) on possible restriction or prohibition from entering Japanese ports or from loading and unloading of cargoes in Japan in cases where Japanese ocean-going ship operators are prejudiced by the partner (CB: NT, MFN) on prior notification for investment in the cabotage industry (I, CB) on ships not flying the Japanese flag are prohibited from entering Japanese ports closed to foreign trade and on reserved cabotage (I, CB: NT, MFN)</p>		<p>established under Japanese law with all representatives and no less than 2/3 of the executives administering the affairs of the juridical person having the Japanese nationality</p> <p>No exclusive rights subsidies or government cargo attached to the flag</p> <p>(3)(b) other form of commercial presence: none;</p> <p>(4)(a) crew: unbound, in the offer but legally reserved to Japanese nationals</p> <p>(4)(b) key personnel on shore: as indicated in the GATS horizontal commitments</p>
11.A.c  Rental of vessels with crew  CPC 7213	No commitments	<p><b>Positive listing agreements:</b></p> <p><b>JPN-BRN, JPN-IN, JPN-IDN, JPN-MAL, JPN-PHL, JPN-TH:</b> (1), (2), (3), (4) none (only vessels flying the flag of foreign countries)</p> <p><b>JPN-SGP, JPN-MAL, JPN-PHL, JPN-BRN, JPN-IDN, JPN-IN:</b> reservation to the national treatment and MFN obligations of the investment chapter of the agreement for existing measures on prior notification in "water transport"</p> <p><b>JPN-IDN, JPN-MAL, JPN-PHL, JPN-TH:</b> all positive commitments subject to a standstill (SS) obligation</p> <p><b>JPN-SGP, JPN-VN:</b> no commitments</p> <p><b>Negative listing agreements:</b></p> <p><b>JPN-CH, JPN-MEX, JPN-CHL:</b> no reservation except for existing measure on prior notification for coastwise shipping leasing (I, CB)</p>	-	<p>Subject to prior notification requirement for foreign investors willing to engage in coastwise ship leasing. Foreign companies are allowed to engage in ship leasing by vessels flying the flag of foreign countries.</p> <p>Foreign companies are allowed to engage in ship leasing by vessels flying the flag of foreign countries.</p>

Table AIV.4 (cont'd)

Subsectors <sup>a</sup>	GATS	FTAs	Other preferential regimes	Applied regime
11.A.d Maintenance and repair of vessels CPC 8868**	No commitments	<b>Positive listing agreements:</b> <b>JPN-BRN, JPN-IN, JPN-IDN, JPN-MAL, JPN-PHL, JPN-TH, JPN-VN:</b> (1) unbound*; (2) none; (3) none, except that establishing or extending docks or berths that can be used to manufacture or repair vessels beyond a fixed scale are subject to an economic needs test; <b>JPN-IN:</b> (3) unbound <b>JPN-IDN, JPN-MAL, JPN-PHL:</b> all positive commitments subject to a standstill (SS) obligation <b>JPN-SGP:</b> no commitments <b>Negative listing agreements:</b> <b>JPN-CH, JPN-MEX, JPN-CHL:</b> no reservation	-	Non-discriminatory economic needs test based on supply/demand balance and technical and financial abilities for the establishment of docks or berth to manufacture or repair steel vessels over 500 GRT or of more than 50 metres (Article 2 of the 1950 shipbuilding law N° 129)
11.A.e Pushing and towing services CPC 7214	(1) unbound*; (2), (3) none	<b>Positive listing agreements:</b> <b>JPN-BRN, JPN-IN, JPN-IDN, JPN-MAL, JPN-PHL, JPN-SGP, JPN-TH, JPN-VN:</b> (1) unbound *; (2), (3), (4) none <b>JPN-SGP:</b> (4) as horizontal commitments <b>JPN-IDN, JPN-MAL, JPN-PHL:</b> all positive commitments subject to a standstill (SS) obligation <b>Negative listing agr:</b> <b>JPN-CH, JPN-MEX, JPN-CHL:</b> no reservation	-	No restrictions on foreign companies other than those contained in Japan's revised offer (TN/S/O/JPN/Rev.1) i.e.: (1) unbound*; (2), (3) none
11.A.f Supporting services for maritime transport CPC 745**	No commitments	<b>Positive listing agreements:</b> <b>JPN-BRN, JPN-IN, JPN-IDN, JPN-MAL, JPN-PHL, JPN-SGP, JPN-TH, JPN-VN:</b> for salvaging and refloating services, watering services, fuelling services, garbage collecting services (1), (2), (3), (4) none <b>JPN-IDN, JPN-MAL, JPN-PHL, JPN-TH:</b> all positive commitments subject to a standstill (SS) obligation <b>Negative listing agreements:</b> <b>JPN-CH, JPN-MEX, JPN-CHL:</b> no reservation except existing measure on nationality and local presence of pilot (CB: NT, LP)	-	No restrictions on foreign companies other than those contained in Japan's revised offer (TN/S/O/JPN/Rev.1) i.e. for salvaging and refloating services, watering services, fuelling services, garbage collecting services (CPC 7454, 7459): (1), (2), (3) none - nationality requirement and local presence obligation for pilotage services Port and waterways operations: none Navigation aids service: provided by national authority.

Table AIV.4 (cont'd)

Subsectors <sup>a</sup>	GATS	FTAs	Other preferential regimes	Applied regime
Maritime cargo handling	No commitments	<p><b>Positive listing agreements:</b></p> <p><b>JPN-BRN, JPN-IN, JPN-IDN, JPN-MAL, JPN-PHL, JPN-TH, JPN-VN:</b></p> <p>(1) unbound*; (2) none; (3), (4) none, except that the number of licences conferred to services suppliers may be limited in ports designated by the government (public utility concession or licensing procedures may apply in case of occupation of the public domain)</p> <p><b>JPN-IN:</b> no limitation of licences and no public domain/concession reservation and (4) unbound</p> <p><b>JPN-MAL, JPN-PHL:</b> all positive commitments subject to a standstill (SS) obligation</p> <p><b>JPN-SGP:</b> no commitments</p> <p><b>Negative listing agreements:</b></p> <p><b>JPN-CH, JPN-MEX, JPN-CHL:</b> no reservation</p>	-	Abolition of the economic needs test- by the revision of the Port Transport Business Act of 15 May 2006, permission requirement replaced by a non-discriminatory licensing system based on: having facilities and workers for each type of business and each port, and having an appropriate plan, a management structure, and a sound financial basis
[Maritime] storage and warehousing	(1) unbound*; (2), (3) none	<p><b>Positive listing agreements:</b></p> <p><b>JPN-BRN, JPN-IN, JPN-IDN, JPN-MAL, JPN-PHL, JPN-SGP, JPN-TH, JPN-VN:</b></p> <p>General:</p> <p>(1) unbound*; (2), (3), (4) none</p> <p>For petroleum products (3) national treatment prior notification is required in accordance with the Foreign Exchange and Foreign Trade Law</p> <p><b>JPN-IN:</b> no commitments</p> <p><b>JPN-IDN, JPN-MAL, JPN-PHL:</b> all positive commitments subject to a standstill (SS) obligation</p> <p><b>Negative listing agreements:</b></p> <p><b>JPN-CH, JPN-MEX, JPN-CHL:</b> no reservation</p>	-	<p>No restrictions on foreign companies other than those contained in Japan's revised offer (TN/S/O/JPN/Rev.1) i.e.</p> <p>Other than for petroleum products (1) unbound*; (2), (3) none</p> <p>For petroleum products prior notification is required in accordance with the Foreign Exchange and Foreign Trade law</p>
[Maritime] customs clearance services	(1), (2) unbound*; (3) none	<p><b>Positive listing agreements:</b></p> <p><b>JPN-SGP:</b> (1), (2) Unbound *; (3) none; (4) unbound except as indicated in horizontal commitments</p>		No restrictions on foreign companies other than those contained in Japan's revised offer (TN/S/O/JPN/Rev.1) i.e.

Table AIV.4 (cont'd)

Subsectors <sup>a</sup>	GATS	FTAs	Other preferential regimes	Applied regime
		<p><b>JPN-BRN, JPN-IDN, JPN-MAL, JPN-PHL, JPN-TH, JPN-VN:</b> (1), (2), (4) commercial presence required; (3) none</p> <p><b>JPN-IDN, JPN-PHL, JPN-TH, JPN-MAL:</b> all positive commitments subject to a standstill (SS) obligation</p> <p><b>JPN-IN:</b> (1),(2) unbound*; (3) none; (4) commercial presence required</p> <p><b>(2) Negative listing agreements:</b></p> <p><b>JPN-CH, JPN-MEX, JPN-CHL:</b> no reservation except existing measures on place of business and permission for customs brokerage (CB: LP)</p>	-	(1), (2) unbound*; (3) none
Container stations and depots (including inland containers depots)	No commitments	<p><b>Positive listing agreements:</b></p> <p><b>JPN-BRN, JPN-IN, JPN-IDN, JPN-MAL, JPN-PHL, JPN-TH, JPN-VN:</b> (1) unbound*; (2) none; (3), (4) none, except that the number of licences conferred to services suppliers may be limited in ports designated by the government (public utility concession or licensing procedures may apply in case of occupation of the public domain)</p> <p><b>JPN-IN:</b> no limitation of licences and no public domain/concession reservation, and (4) unbound</p> <p><b>JPN-MAL, JPN-PHL:</b> all positive commitments subject to a standstill (SS) obligation</p> <p><b>JPN-SGP:</b> no commitments</p> <p><b>Negative listing agreements:</b></p> <p><b>JPN-CH, JPN-MEX, JPN-CHL:</b> no reservation</p>	-	Abolition of the economic needs test by the revision of the Port Transport Business Act of 15 May 2006; permission requirement replaced by a non-discriminatory licensing system based on: having facilities and workers for each type of business and each port, and having an appropriate plan, a management structure, and a sound financial basis
Maritime agency services	(1), (2), (3) none	<p><b>Positive listing agreements:</b></p> <p><b>JPN-BRN, JPN-IN, JPN-IDN, JPN-MAL, JPN-PHL, JPN-SGP JPN-TH, JPN-VN:</b> (1), (2), (3), (4) none</p> <p><b>JPN-IDN, JPN-MAL, JPN-PHL JPN-TH:</b> all positive commitments subject to a standstill (SS) obligation</p> <p><b>JPN-IN:</b> (4) unbound</p> <p><b>JPN-SGP:</b> (4) as horizontal commitment</p> <p><b>Negative listing agreements:</b></p> <p><b>JPN-CH, JPN-MEX, JPN-CHL:</b> no reservation</p>	-	No restrictions on foreign companies other than those contained in Japan's revised offer (TN/S/O/JPN/Rev.1)  i.e. (1), (2), (3) none; (4) as in the horizontal commitments

Table AIV.4 (cont'd)

Subsectors <sup>a</sup>	GATS	FTAs	Other preferential regimes	Applied regime
[Maritime] freight forwarding services	No commitments	<p><b>Positive listing agreements:</b></p> <p><b>JPN-BRN, JPN-IDN, JPN-MAL, JPN-PHL, JPN-SGP, JPN-TH, JPN-VN:</b></p> <p>(1), (4) none, except that commercial presence is required (including for freight forwarding services related to multimodal transport services) and an operation permit or governmental registration will be granted on a reciprocal basis;</p> <p>(2) none;</p> <p>(3) an operation permit or governmental registration will be granted on a reciprocal basis; (3) none for <b>JPN-SGP</b></p> <p><b>JPN-IDN, JPN-MAL, JPN-PHL, JPN-TH:</b> all positive commitments subject to a standstill (SS) obligation</p> <p>Reservation to the national treatment and MFN (and for <b>JPN-IN, JPN-IDN</b> performance requirement) obligations of the investment chapter of the agreement for existing measures</p> <p><b>JPN-IN:</b> (4) unbound</p> <p><b>Negative listing agreements:</b></p> <p><b>JPN-CH, JPN-MEX, JPN-CHL:</b> no reservation except for existing measure on permission subject to reciprocity and local presence requirement (CB: NT, MFN, SMBD, LP)</p>	-	<p>No restrictions on foreign companies other than those contained in Japan's revised offer (TN/S/O/JPN/Rev.1) i.e.</p> <p>(1), (3) none except that office registration is required and an operation permit or governmental registration will be granted on a reciprocal basis</p>
Access to use port services on reasonable and non-discriminatory terms and conditions	On pilotage, services, pushing and towing services, provisioning fuelling and watering services, garbage collecting and refuse disposal services, port captain services, navigation aids services, shore-based operational services essential to ship operations,	<p><b>Positive listing agreements:</b></p> <p><b>JPN-BRN, JPN-IN, JPN-IDN, JPN-MAL, JPN-PHL, JPN-SGP, JPN-TH, JPN-VN:</b></p> <p>on pilotage services, pushing and towing services, provisioning fuelling and watering services, garbage collecting and refuse disposal services, port captain services, navigation aids services, shore-based operational services essential to ship operations, including communications, water and electrical supplies, emergency repair services and anchorage berths and berthing services</p> <p><b>Negative listing agreements:</b></p> <p><b>JPN-CH, JPN-MEX, JPN-CHL:</b> no reservation</p>	1997 Exchange of letters with the U.S. regarding the prior consultation system <sup>c</sup> and discontinuation of the 1997 Federal Maritime Commission docket 96-20 proceedings against Japan on 26 January 2011 <sup>d</sup>	

Table AIV.4 (cont'd)

Subsectors <sup>a</sup>	GATS	FTAs	Other preferential regimes	Applied regime
	including communications, water and electrical supplies, emergency repair services, and anchorage berths and berthing services			
Access to/use of multimodal transport services	No commitments	<b>Positive listing agreements:</b> <b>JPN-BRN, JPN-IN, JPN-IDN, JPN-MAL, JPN-PHL, JPN-TH, JPN-VN:</b> ability to rent or lease trucks, railways carriages, or barges and related equipment for the purpose of inland forwarding of cargoes or to have access to, and use of, these forms of multimodal activities on reasonable and non-discriminatory terms and conditions for the purpose of carrying out multimodal transport. <b>Negative listing agreements:</b> <b>JPN-CH, JPN-MEX, JPN-CHL:</b> no reservation	-	None

a Composite CPC/maritime model schedule classification.

b These exceptions are very limited and concern seafarers aboard fishing vessels, not covered here, and non-maritime personnel aboard cruise ships (entertainers, sommeliers, event planners, cooks and interpreters) (MLIT Notifications No. 115, 30 March 1990 and No. 327, 21 September 1990).

c For the complete texts see: <http://www.marad.dot.gov/documents/ExchangeLettersJapan.pdf> and <http://www.marad.dot.gov/documents/MemoConsultationJapan.pdf>.

d See <http://www.fmc.gov/assets/1/Documents/4C2C9161C6C74518B5D2082E66CDB7C9.htm>.

Note: CPC means the United Nations Provisional Central products Classification. Restrictions to national treatment are indicated only to the extent that they differ from or add specific restrictions to market access restrictions. Mode 4 commitments are indicated only if they differ from the standard entry "unbound except as indicated in the horizontal commitments". Entries may have been summarized but their substance has been preserved. "Unbound\*" means unbound due to lack of technical feasibility. A Classification heading followed by an asterisk (e.g. CPC51310\*) means "part of" the heading, unless otherwise explicitly stated. The nomenclature used for the first column of the table is that of WTO document MTN.GNS/W/120. For negative listing agreements, the abbreviations in brackets indicate the chapter to which the reservations apply (CB for the cross-border and I for investment) and the obligations to which the reservations are lodged MA for market access, NT for national treatment, LP or Loc.Pres for local presence, SMBD for composition of senior management and board of directors, PR or Perf. Req. for performance requirements.

Source: WTO Secretariat.

**Table AIV.5**  
**Summarized trade regimes of air transport services**

Subsectors	GATS	FTAs	Other preferential treatment	Applied regime
A. Subsectors explicitly listed by the GATS air transport annex				
a. Aircraft repair and maintenance	(1) unbound*; (2) none; (3) the number of licences conferred to services suppliers may be limited(MA) none except as provided in the horizontal commitments (NT)	<b>JPN-BRN,JPN-IN,JPN-IDN, JPN-MAL, JPN-PHL, JPN-SGP, JPN-TH, JPN-VN:</b> (1) unbound*; (2) none; (3) the number of licences conferred to services suppliers may be limited; (4) none (subject to a standstill obligation for <b>JPN-IDN, JPN-MAL, JPN-PHL JPN-BRN</b> )	-	Non-discriminatory economic needs test
b. Computer reservation services	(1) (2) none; (3) none (MA), none except as indicated in the horizontal commitments (NT)	<b>JPN-BRN,JPN-IN, JPN-IDN, JPN-MAL, JPN-PHL, JPN-SGP, JPN-TH, JPN-VN:</b> (1), (2), (3), (4) none (subject to a standstill obligation for <b>JPN-IDN, JPN-MAL, JPN-PHL, JPN-TH</b> )	-	Applied regime based on the best treatment granted by FTAs
c. Selling and marketing of air transport services	(1) (2) none; (3) none (MA), none, except as indicated in the horizontal commitments (NT)	<b>JPN-BRN, JPN-IN,JPN-IDN, JPN-MAL, JPN-PHL, JPN-SGP, JPN-TH, JPN-VN:</b> (1), (2), (3), (4) none (subject to a standstill obligation for <b>JPN-IDN, JPN-MAL, JPN-PHL, JPN-TH</b> )	-	Applied regime based on the best treatment granted by FTAs
B. Other aviation subsectors general		<b>JPN-BRN, JPN-IN, JPN-IDN, JPN-MAL, JPN-PHL, JPN-MEX, JPN-CHL, JPN-CH:</b> reservation for existing measures in the investment chapter for “air transport” (NT and MFN) and for registration of aircraft in the national register (NT)		Reservations listed in FTAs reflect the applied regime
d. Airport operation services	-	<b>JPN-MEX, JPN-CHL, JPN-CH:</b> no sector-specific reservations in negative listing agreements	-	The sector is entirely in public national hands in terms of ownership and management
e. Ground handling services	-	<b>JPN-MEX, JPN-CHL, JPN-CH:</b> no sector specific reservations in negative listing agreements	Some bilateral air services agreement contain preferential clauses regarding ground handling	Self-handling, mutual handling, allowed (Civil Aeronautics Act Article 102,104, 113-2, 15 July 1952,

**Table AIV.5 (cont'd)**

Subsectors	GATS	FTAs	Other preferential treatment	Applied regime
f. Specialty air services/aerial work	-	<b>JPN-BRN, JPN-IN, JPN-IDN, JPN-MAL, JPN-PHL, JPN-MEX, JPN-CH, JPN-CHL:</b> reservation in the investment chapter for existing measure on prior notification for investment in aerial work, on ownership of Japanese aerial work operators and on cabotage (NT, PR) <b>JPN-MEX, JPN-CH, JPN-CHL:</b> this reservation applies to the cross-border chapter	-	Ordinance for Enforcement of the Civil Aeronautics Act Article 211, 212, 214, 222, 14 August 1952), third-party handling allowed with no quantitative threshold or limitation to nominatively designated airports Reservations listed in FTAs reflect the applied regime
g. air freight forwarding	-	<b>JPN-BRN, JPN-IN, JPN-IDN, JPN-MAL, JPN-PHL, JPN-MEX, JPN-CHL, JPN-CH:</b> reservation in the investment chapter for existing measure on freight forwarding	-	Reservations listed in FTAs reflect the applied regime
h. passenger and freight transportation services	-	<b>JPN-BRN, JPN-IN, JPN-IDN, JPN-MAL, JPN-PHL, JPN-MEX, JPN-CH, JPN-CHL:</b> reservation in the investment chapter for existing measure on ownership of Japanese air carrier, on permission for foreign carriers to conduct international air transport business, and to use foreign aircraft for air transportation of passengers or cargoes to and from Japan for remuneration and on cabotage (NT, MFN, PR, SMD)	Bilateral air services agreements	Reservations listed in FTAs reflect the applied regime

Note: CPC means the United Nations Provisional Central products Classification. Restrictions to national treatment are indicated only to the extent that they differ from or add specific restrictions to market access restrictions. Mode 4 commitments are indicated only if they differ from the standard entry "unbound except as indicated in the horizontal commitments". Entries may have been summarized but their substance has been preserved. "Unbound\*" means unbound due to lack of technical feasibility. A Classification heading followed by an asterisk (e.g. CPC51310\*) means "part of" the heading, unless otherwise explicitly stated. The nomenclature used for the first column of the table is that of WTO document MTN.GNS/W/120. For negative listing agreements, the abbreviations in brackets indicate the chapter to which the reservations apply (CB for cross-border and I for investment) and the obligations to which the reservations are lodged MA for market access, NT for national treatment, LP or Loc.Pres for local presence, SMD for composition of senior management and board of directors, PR or Perf. Req. for performance requirements.

Source: WTO Secretariat.



Table AIV.6  
Summarized trade regimes for rail transport

Subsectors	GATS commitments	RTAS commitments	Other preferential treatment	Applied regime
11.E.a) Passenger transportation	No commitments	<p><b>SGP:</b> (1) unbound; (2) none; (3) (4) unbound</p> <p><b>BRN, IDN, MAL, PHL, THL:</b> (1) unbound*; (2) none; (3) none, except prior notification (NT); (4) none</p> <p><b>IDN, MAL, PHL:</b> commitments subject to standstill</p> <p><b>IND, VNM:</b> no commitments</p> <p><b>IND, MAL, PHL, SGP, BRN, IDN, CHL, MEX, CH:</b> (also for the cross-border chapter for CH only): reservation in the investment chapter on national treatment for existing measures on prior notification of foreign investment</p>	–	(1) unbound*; (2) none; (3) none except prior notification (NT)
11.E.b) Freight transportation	No commitments	<p><b>SGP:</b> (1) unbound; (2) none; (3), (4) unbound</p> <p><b>BRN, IDN, MAL, PHL, THL:</b> (1) unbound*; (2) none; (3) none, except prior notification (NT); (4) none</p> <p><b>IDN, MAL, PHL:</b> commitments subject to standstill</p> <p><b>IND, VNM:</b> no commitments</p> <p><b>IND, MAL, PHL, SGP, BRN, IDN, CHL, MEX, CH:</b> (also for the cross-border chapter for CH only): reservation in the investment chapter on national treatment for existing measures on prior notification of foreign investment</p>	–	(1) unbound*; (2) none; (3) none except prior notification (NT)
11.E.c) Pushing and towing services	No commitments	<p><b>SGP:</b> (1) unbound; (2) none; (3) (4) unbound</p> <p><b>BRN, IDN, MAL, PHL, THL:</b> (1) unbound*; (2), (3), (4) none</p> <p><b>IDN, MAL, PHL:</b> commitments subject to standstill</p> <p><b>IND, VNM:</b> no commitments</p>	–	(1) unbound*; (2), (3) none

Table AIV.6 (cont'd)

Subsectors	GATS commitments	RTAS commitments	Other preferential treatment	Applied regime
11.E.d) Maintenance and repair of rail transport equipment	(1) unbound *; (2), (3) none	<b>BRN, IND, IDN, MAL, PHL, SGP, THL, VNM:</b> (1) unbound*; (2), (3), (4) none; <b>SGP:</b> (4) unbound as in horizontal commitments  <b>IDN, MAL, PHL:</b> commitments subject to standstill	-	(1) unbound*; (2), (3) none
11.E.e) Supporting services for rail transport	No commitments	<b>SGP:</b> (1) unbound; (2) none; (3), (4) unbound  <b>BRN, IDN, MAL, PHL, THL:</b> (1), (2) none; (3) none, except prior notification (NT); (4) none  <b>IDN, MAL, PHL, THL:</b> commitments subject to standstill  <b>IND, VNM:</b> no commitments  <b>IND, MAL, PHL, SGP, BRN, IDN, CHL, MEX, CH:</b> (also for the cross-border chapter for CH only): reservation in the investment chapter on national treatment for existing measures on prior notification of foreign investment	-	(1), (2) none; (3) none, except prior notification (NT)
Rental services of railway transport equipment with operator	(1), (2), (3) none	<b>BRN, IND, IDN, MAL, PHL, THL, VNM:</b> (1), (2), (3), (4) none  <b>SGP:</b> (4) unbound as in horizontal commitments  <b>IDN, MAL, PHL, THL:</b> commitments subject to standstill	-	(1), (2), (3) none

Note: CPC means the United Nations Provisional Central products Classification. Restrictions to national treatment are indicated only to the extent that they differ from or add specific restrictions to market access restrictions. Mode 4 commitments are indicated only if they differ from the standard entry "unbound except as indicated in the horizontal commitments". Entries may have been summarized but their substance has been preserved. "Unbound\*" means unbound due to lack of technical feasibility. A Classification heading followed by an asterisk (e.g. CPC51310\*) means "part of" the heading, unless otherwise explicitly stated. The nomenclature used for the first column of the table is that of WTO document MTN.GNS/W/120. For negative listing agreements, the abbreviations in brackets indicate the chapter to which the reservations apply (CB for cross-border and I for investment) and the obligations to which the reservations are lodged MA for market access, NT for national treatment, LP or Loc.Pres for local presence, SMBD for composition of senior management and board of directors, PR or Perf. Req. for performance requirements.

Source: WTO Secretariat.

**Table AIV.7**  
**Summarized trade regimes for pipelines transport services**

Subsectors	GATS commitments	RTAS commitments	Other preferential treatment	Applied regime
11.G.a) pipeline transportation of fuels	No commitments	<b>BRN, IDN, MAL, PHL, SGP, THL:</b> For gas: (1) unbound; (2) none; (3) none, except that the number of licences conferred to services suppliers may be limited (MA) and prior notification requirement (NT); (4) unbound  For petroleum: (1), (2), (3), (4) none <b>SGP:</b> none but permission based on the petroleum pipeline industry law is necessary  <b>IDN, MAL, PHL:</b> commitment on petroleum subject to a standstill obligation  <b>IND, VNM:</b> no commitments	-	As in the best EPAs
11.G.b) pipeline transportation of other goods	(1), (2), (3) none	<b>BRN, IND, MAL, PHL, SGP, THL, VNM:</b> (1), (2), (3) none  <b>IDN, MAL, PHL, THL:</b> commitment subject to a standstill obligation	-	(1), (2), (3) none

Note: CPC means the United Nations Provisional Central products Classification. Restrictions to national treatment are indicated only to the extent that they differ from or add specific restrictions to market access restrictions. Mode 4 commitments are indicated only if they differ from the standard entry "unbound except as indicated in the horizontal commitments". Entries may have been summarized but their substance has been preserved. "Unbound\*" means unbound due to lack of technical feasibility. A Classification heading followed by an asterisk (e.g. CPC51310\*) means "part of" the heading, unless otherwise explicitly stated. The nomenclature used for the first column of the table is that of WTO document MTN.GNS/W/120. For negative listing agreements, the abbreviations in brackets indicate the chapter to which the reservations apply (CB for cross-border and I for investment) and the obligations to which the reservations are lodged MA for market access, NT for national treatment, LP or Loc.Pres for local presence, SMD for composition of senior management and board of directors, PR or Perf. Req. for performance requirements.

Source: WTO Secretariat.

Table AIV.8  
Japan's trade regimes for construction services, 2012

Subsectors	GATS commitments	FTAs commitments	Other preferential treatment	Applied regime
A. General construction for buildings (CPC 512)	(1) unbound*; (2), (3) none, excluding for services related to mining (no commitments)	<p><b>Positive listing agreements:</b></p> <p><b>BRN, IND, IDN, MAL, SGP, THL:</b> (1) unbound*; (2), (3) none; (4) commercial presence required except for services related to mining (3), (4) MA: services requiring mining rights or mining lease rights must be supplied by a Japanese national or juridical person established in Japan, + (4) commercial presence required, (3), (4) NT <i>idem</i> + 3) prior notification)</p> <p><b>PHL, VNM:</b> no commitments for services related to mining</p> <p><b>Negative listing agreements:</b> <b>CHL, MEX, CH:</b> reservation for existing measure on requirement of establishment and permission system for construction business</p> <p><b>CHL and MEX:</b> local presence for CB</p> <p><b>CH:</b> all 4 modes MA</p>	None	Applied regime based on the best treatment granted by EPAs
B. General construction services for civil engineering (CPC 513)	(1) unbound*; (2), (3) none, excluding for services related to mining (no commitments)	<p><b>Positive listing agreements:</b></p> <p><b>BRN, IND, IDN, MAL, SGP, THL:</b> (1) unbound*; (2), (3) none (4) commercial presence required except for services related to mining (3), (4) MA: services requiring mining rights or mining lease rights must be supplied by a Japanese national or juridical person established in Japan, + (4) commercial presence required, (3), (4) NT <i>idem</i> + (3) prior notification)</p>	None	Applied regime based on the best treatment granted by EPAs

Table AIV.8 (cont'd)

Subsectors	GATS commitments	FTAs commitments	Other preferential treatment	Applied regime
C. Installation and assembly services (CPC 514, 516)	(1) unbound*; (2), (3) none, excluding for services related to mining (no commitments)	<p><b>PHL,VNM:</b> no commitments for services related to mining</p> <p><b>Negative listing agreements:</b>  <b>CHL, MEX, CH:</b> reservation for existing measure on requirement of establishment and permission system for construction business</p> <p><b>CHL and MEX:</b> local presence CB  <b>CH:</b> all 4 modes MA</p> <p><b>Positive listing agreements:</b>  <b>BRN, IND, IDN, MAL, SGP, THL:</b> (1) unbound*; (2), (3) none; (4) commercial presence required except for services related to mining (3), (4) MA: services requiring mining rights or mining lease rights must be supplied by a Japanese national or juridical person established in Japan,+ (4) commercial presence required, (3), (4) NT <i>idem</i> + (3) prior notification</p> <p><b>PHL,VNM:</b> no commitments for services related to mining</p> <p><b>Negative listing agreements:</b>  <b>CHL, MEX, CH:</b> reservation for existing measure on requirement of establishment and permission system for construction business</p> <p><b>CHL and MEX:</b> local presence CB  <b>CH:</b> all 4 modes MA</p>	None	Applied regime based on the best treatment granted by EPAs
D. Building completion and finishing services (CPC 517)	(1) unbound*; (2), (3) none, excluding for services related to mining (no commitments)	<p><b>Positive listing agreements:</b>  <b>BRN, IND, IDN, MAL, SGP, THL:</b></p>	None	Applied regime based on the best treatment granted by EPAs

Table AIV.8 (cont'd)

Subsectors	GATS commitments	FTAs commitments	Other preferential treatment	Applied regime
E. Other construction services (CPC 511 , 515, 518)	No commitments	<p>(1) unbound*; (2), (3) none; (4) commercial presence required except for services related to mining (3), (4) MA: services requiring mining rights or mining lease rights must be supplied by a Japanese national or juridical person established in Japan,+ (4) commercial presence required, (3), (4) NT <i>idem</i> + (3) prior notification</p> <p><b>PHL:</b> no commitments for services related to mining</p> <p><b>Negative listing agreements:</b></p> <p><b>CHL, MEX, CH:</b> reservation for existing measure on requirement of establishment and permission system for construction business</p> <p><b>CHL and MEX:</b> local presence CB <b>CH:</b> all 4 modes MA</p> <p><b>Positive listing agreements:</b></p> <p><b>BRN, IND, IDN, MAL, SGP, THL:</b></p> <p>(1) unbound*; (2), (3) none; (4) commercial presence required, except for services related to mining (3), (4) MA: services requiring mining rights or mining lease rights must be supplied by a Japanese national or juridical person established in Japan,+ (4) commercial presence required, (3), (4) NT <i>idem</i> + (3) prior notification</p> <p><b>PHL:</b> no commitments for services related to mining</p>	None	Applied regime based on the best treatment granted by EPAs

Table AIV.8 (cont'd)

Subsectors	GATS commitments	FTAs commitments	Other preferential treatment	Applied regime
		<b>Negative listing agreements:</b> <b>CHL, MEX, CH</b> reservation for existing measure on requirement of establishment and permission system for construction business  <b>CHL and MEX:</b> local presence CB <b>CH:</b> all 4 modes MA		

Note: CPC means the United Nations Provisional Central products Classification. Restrictions to national treatment are indicated only to the extent that they differ from or add specific restrictions to market access restrictions. Mode 4 commitments are indicated only if they differ from the standard entry "unbound except as indicated in the horizontal commitments". Entries may have been summarized but their substance has been preserved. "Unbound\*" means unbound due to lack of technical feasibility. A Classification heading followed by an asterisk (e.g. CPC51310\*) means "part of" the heading, unless otherwise explicitly stated. The nomenclature used for the first column of the table is that of WTO document MTN.GNS/W/120. For negative listing agreements, the abbreviations in brackets indicate the chapter to which the reservations apply (CB for cross-border and I for investment) and the obligations to which the reservations are lodged MA for market access, NT for national treatment, LP or Loc.Pres for local presence, SMBD for composition of senior management and board of directors, PR or Perf. Req. for performance requirements.

Source: WTO Secretariat.

Table AIV.9  
Japan's trade regimes for distribution services

Subsectors	GATS	FTAs	Other preferential treatment	Applied regime
4.A. Commission agent services	(1), (2), (3) none, except for petroleum, petroleum products, rice, tobacco, salt, and alcoholic beverages and products supplied at public wholesale markets	<p><b>Positive listing agreements:</b></p> <p><b>JPN-BRN, JPN-IND, JPN-IDN, JPN-MAL, JPN-PHL:</b> (1), (2), (3), (4) none, except for petroleum; petroleum products (3) NT prior notification, alcoholic beverages</p> <p>(3) MA, (4) MA number of licences conferred may be limited; and products supplied at public wholesale markets (1), (2) unbound*; (3) MA; (4) MA, the number of licences may be limited, services must be supplied by a juridical person established under Japanese law</p> <p><b>JPN-VNM:</b> (1), (2), (3), (4) none; except for petroleum; petroleum products (3) NT prior notification; alcoholic beverages (1), (2), (3), (4) unbound); and products supplied at public wholesale markets (1), (2), unbound*; (3) MA; (4) MA, the number of licences may be limited, services must be supplied by a juridical person established under Japanese law</p> <p><b>JPN-THL:</b> (1), (2), (3), (4) none, except for petroleum; petroleum products (3) NT prior notification, (4) unbound); alcoholic beverages (3) MA; (4) MA, the number of licences may be limited, services must be supplied by a juridical person established under Japanese law</p> <p>(1), (2), (3) none, except for alcoholic beverages (1), (3) unbound); and petroleum products (3) NT prior notification</p>	<p>Bilateral Investment Treaty (BIT)</p> <p><b>JPN-VNM BIT:</b> reservations for existing measures for oil industry</p> <p><b>JPN-PER BIT:</b> reservations for existing measures on the prior notification requirements for oil industry (I,NT)</p>	As in best EPAs

Table AIV.9 (cont'd)



Subsectors	GATS	FTAs	Other preferential treatment	Applied regime
4.B. Wholesale trade services	(1), (2), (3) none, except for petroleum, petroleum products, rice, tobacco, salt, and alcoholic beverages and products supplied at public wholesale markets	<p><b>Negative listing agreements:</b></p> <p><b>JPN-CHL, JPN-MEX<sup>a</sup>:</b> no reservations Reservations for existing measures on the prior notification requirements for oil industry (I,NT)</p> <p><b>JPN-CH:</b> reservations for existing measures on limitation of licences for distribution of alcoholic beverages (I, MA) reservations for existing measures on the prior notification requirements for distribution services related to petroleum and petroleum products (I,NT)</p> <p><b>JPN-PER:</b> reservations for existing measures on limitation of licences for distribution of alcoholic beverages (I, MA)</p> <p><b>Positive listing agreements:</b></p> <p><b>JPN-BRN, JPN-IND, JPN-IDN, JPN-MAL, JPN-PHL:</b> (1), (2), (3), (4) none, except for petroleum; petroleum products, (3) NT prior notification; alcoholic beverages (3) MA, (4) MA number of licences conferred may be limited; and products supplied at public wholesale markets (1), (2) unbound*; (3) MA; (4) MA the number of licences may be limited, services must be supplied by a juridical person established under Japanese law</p>	<p>Bilateral Investment Treaty (BIT)</p> <p><b>JPN-VNM BIT:</b> reservations for existing measures for oil industry</p> <p><b>JPN-PER BIT:</b> reservations for existing measures on the prior notification requirements for oil industry (I,NT)</p>	As in best EPAs

Table AIV.9 (cont'd)

Subsectors	GATS	FTAs	Other preferential treatment	Applied regime
		<p><b>JPN-VNM:</b> (1), (2), (3), (4) none, except for petroleum; petroleum products (3) NT prior notification; alcoholic beverages (1), (2), (3), (4) unbound; and products supplied at public wholesale market (1),(2) unbound*; (3) MA, (4) MA, the number of licences may be limited, services must be supplied by a juridical person established under Japanese law</p> <p><b>JPN-THL:</b> (1), (2), (3), (4) none, except for petroleum; petroleum products (3) NT prior notification; (4) unbound; alcoholic beverages (3) MA; (4) MA, number of licences conferred may be limited; and products supplied at public wholesale markets (1), (2) unbound*; (3) MA, (4) MA, the number of licences may be limited, services must be supplied by a juridical person established under Japanese law</p> <p><b>JPN-IDN, JPN-MAL, JPN-PHL; JPN-THL:</b> commitments subject to standstill</p> <p><b>JPN-SGP:</b> (1) (2), (3) none, except for alcoholic beverages (1) (3) unbound; and petroleum products (3) NT prior notification</p> <p><b>Negative listing agreements:</b> <b>JPN-CHL, JPN-MEX<sup>a</sup>:</b> reservation for existing measures on residency and licencing for livestock trading (CB, LP) reservations for existing measures on the prior notification requirements for oil industry (I,NT)</p>		

Table AIV.9 (cont'd)

Subsectors	GATS	FTAs	Other preferential treatment	Applied regime
4.C. retailing services	(1), (2), (3) none, except for petroleum, petroleum products, rice, tobacco, salt, and alcoholic beverages and products supplied at public wholesale markets	<p><b>JPN-CH:</b> reservations for existing measures on limitation of licences for distribution of alcoholic beverages and public wholesale markets (I, MA) Reservation for existing measures on residency and licencing for livestock trading (CB, LP) Reservations for existing measures on the prior notification requirements for distribution services related to petroleum and petroleum products (I, NT)</p> <p><b>JPN-PER:</b> reservations for existing measures on limitation of licences for distribution of alcoholic beverages and public wholesale markets (I, MA), Reservation for existing measures on residency and licencing for livestock trading (CB, LP)</p> <p><b>Positive listing agreements:</b> <b>JPN-BRN, JPN-IND, JPN-IDN, JPN-MAL, JPN-PHL:</b> (1), (2), (3), (4) none, except for petroleum, petroleum products, (3) NT prior notification, alcoholic beverages (3) MA, (4) MA number of licences conferred may be limited and products supplied at public wholesale markets (1), (2) unbound*; (3) MA; (4) MA, the number of licences may be limited, services must be supplied by a juridical person established under Japanese law</p>	<p>Bilateral Investment Treaty (BIT)</p> <p><b>JPN-VNM BIT:</b> reservations for existing measures for oil industry</p> <p><b>JPN-PER BIT:</b> reservations for existing measures on the prior notification requirements for oil industry (I,NT)</p>	As in best EPAs

Table AIV.9 (cont'd)

Subsectors	GATS	FTAs	Other preferential treatment	Applied regime
		<p><b>JPN-VNM:</b>  (1), (2), (3), (4) none, except for petroleum, petroleum products, (3) NT prior notification, alcoholic beverages  (1), (2), (3), (4) unbound; and products supplied at public wholesale markets  (1),(2) unbound*; (3) MA, (4)  MA, the number of licences may be limited, services must be supplied by a juridical person established under Japanese law</p> <p><b>JPN-THL:</b>  (1), (2), (3), (4) none, except for petroleum, petroleum products; (3) NT prior notification, (4) unbound; alcoholic beverages (3) MA, (4) MA number of licences conferred may be limited, and products supplied at public wholesale markets  (1), (2) unbound*; (3) MA, (4) MA, the number of licences may be limited, services must be supplied by a juridical person established under Japanese law</p> <p><b>JPN-IDN, JPN-MAL, JPN-PHL, JPN-THL:</b>  commitments subject to standstill</p> <p><b>JPN-SGP:</b>  (1) (2) (3) none, except for alcoholic beverages  (1) (3) unbound; and petroleum products (3) NT prior notification</p> <p><b>Negative listing agreements:</b>  <b>JPN-CHL, JPN-MEX<sup>a</sup>:</b> reservation for existing measures on residency and licencing for livestock trading (CB, LP)  reservations for existing measures on the prior notification requirements for oil industry (I, NT)</p>		

Table AIV.9 (cont'd)

Subsectors	GATS	FTAs	Other preferential treatment	Applied regime
4.D. Franchising services	(1), (2), (3) none, except for petroleum, petroleum products, rice, tobacco, salt, and alcoholic beverages and products supplied at public wholesale markets	<p><b>JPN-CH:</b> reservations for existing measures on limitation of licences for distribution of alcoholic beverages (I, MA) Reservation for existing measures on residency and licencing for livestock trading (CB, LP) Reservations for existing measures on the prior notification requirements for distribution services related to petroleum and petroleum products (I, NT)</p> <p><b>JPN-PER:</b> reservations for existing measures on limitation of licences for distribution of alcoholic beverages (I, MA) Reservation for existing measures on residency and licencing for livestock trading (CB, LP)</p> <p><b>JPN-PER FTA:</b> no reservation for oil industry</p> <p><b>JPN-PER BIT:</b> reservations for existing measures on the prior notification requirements for oil industry (I, NT)</p>	Bilateral Investment Treaty (BIT)	As in best EPAs
		<p><b>Positive listing agreements:</b> <b>JPN-BRN, JPN-IND, JPN-IDN, JPN-MAL, JPN-PHL:</b> (1), (2), (3), (4) none, except for petroleum; petroleum products (3) NT prior notification; alcoholic beverages (3) MA, (4) MA number of licences conferred may be limited; and products supplied at public wholesale markets (1) (2), unbound*; (3) MA; (4) MA the number of licences may be limited, services must be supplied by a juridical person established under Japanese law</p>		

Table AIV.9 (cont'd)

Subsectors	GATS	FTAs	Other preferential treatment	Applied regime
		<p><b>JPN-VNM:</b> (1), (2), (3), (4) none, except for petroleum, petroleum products (3) NT prior notification; alcoholic beverages (1), (2), (3), (4) unbound); and products supplied at public wholesale markets (1), (2) unbound*; (3) MA; (4) MA, the number of licences may be limited, services must be supplied by a juridical person established under Japanese law</p> <p><b>JPN-THL:</b> (1), (2), (3), (4) none, except for petroleum; petroleum products (3) NT prior notification, (4) unbound); alcoholic beverages (3) MA,(4) MA, number of licences conferred may be limited; and products supplied at public wholesale markets (1), (2) unbound*; (3) MA, (4) MA, the number of licences may be limited, services must be supplied by a juridical person established under Japanese law</p> <p><b>JPN-IDN, JPN-MAL, JPN-PHL, JPN-THL:</b> commitments subject to standstill</p> <p><b>JPN-SGP:</b> (1), (2), (3) none, except for alcoholic beverages (1), (3) unbound; and petroleum products (3) NT prior notification</p> <p><b>Negative listing agreements:</b> <b>JPN-CHL, JPN-MEX<sup>a</sup>:</b> reservations for existing measures on the prior notification requirements for oil industry (I, NT)</p>	<p><b>JPN-PER BIT:</b> reservations for existing measures on the prior notification requirements for oil industry (I,NT)</p>	

Table AIV.9 (cont'd)

Subsectors	GATS	FTAs	Other preferential treatment	Applied regime
4. E. Other		<p><b>JPN-CH:</b> reservations for existing measures on limitation of licences for distribution of alcoholic beverages (I, MA), reservations for existing measures on the prior notification requirements for distribution services related to petroleum and petroleum products (I,NT)</p> <p><b>JPN-PER:</b> reservations for existing measures on limitation of licences for distribution of alcoholic beverages (I, MA)</p> <p><b>Positive listing agreements:</b> <b>JP-BRN, JPN-IDN, JPN-MAL, JPN-PHL:</b> (1), (2) none, (3) none, except NT prior notification</p> <p><b>JPN-IDN, JPN-MAL, JPN-PHL:</b> commitments subject to standstill</p> <p><b>JPN-BRN, JPN-IDN, JPN-MAL, JPN-PHL:</b> (1) (2) none (3) none except NT prior notification</p> <p><b>JPN-IDN, JPN-MAL, JPN-PHL:</b> commitments subject to standstill</p> <p><b>JPN-SGP, JPN- THL, JPN-VNM, JPN-IND:</b> no commitments</p> <p><b>Negative listing agreements:</b> <b>JPN-CHL, JPN-MEX<sup>a</sup>:</b> MA: no obligation is provided and GATS commitments apply Reservations for existing measures on the prior notification requirements for oil industry and heat supply (I,NT)</p>	<p>Bilateral Investment Treaty (BIT)</p> <p><b>JPN-VNM BIT:</b> reservations for existing measures for heat supply industry and oil industry</p> <p><b>JPN-PER BIT:</b> reservations for existing measures on the prior notification requirements for heat supply and oil industry (I,NT)</p>	As in best EPAs
- retail sales of motor fuel	-			
- wholesale trade and retailing services of steam and hot water	-			

Table AIV.9 (cont'd)

Subsectors	GATS	FTAs	Other preferential treatment	Applied regime
		<b>JPN-CH:</b> reservations for existing measures on the prior notification requirements for heat supply and distribution services related to petroleum and petroleum products which include retail sales of motor fuel (I, NT)		

a According to the Japanese authorities, with regard to MA, no obligation is provided and GATS commitments apply.

Note: CPC means the United Nations Provisional Central products Classification. Restrictions to national treatment are indicated only to the extent that they differ from or add specific restrictions to market access restrictions. Mode 4 commitments are indicated only if they differ from the standard entry "unbound except as indicated in the horizontal commitments". Entries may have been summarized but their substance has been preserved. "Unbound\*" means unbound due to lack of technical feasibility. A Classification heading followed by an asterisk (e.g. CPC51310\*) means "part of" the heading, unless otherwise explicitly stated. The nomenclature used for the first column of the table is that of WTO document MTN.GNS/W/120. For negative listing agreements, the abbreviations in brackets indicate the chapter to which the reservations apply (CB for cross-border and I for investment) and the obligations to which the reservations are lodged MA for market access, NT for national treatment, LP or Loc.Pres for local presence, SMBD for composition of senior management and board of directors, PR or Perf. Req. for performance requirements.

Source: WTO Secretariat.



Table AIV.10  
Japan's trade regimes in tourism

Subsectors	GATS commitments	FTAs commitments	Other preferential treatment	Applied regime
9.A. hotels and restaurants (excluding catering)	(1) unbound*; (2), (3) none	<b>Positive listing agreements:</b>  <b>BRN, IDN, MAL, PHL, SGP, THL, VNM:</b> (1) unbound*; (2), (3) none  <b>IND:</b> (1), (2), (3) none  <b>IDN, MAL, PHL:</b> commitment subject to standstill  <b>Negative listing agreements:</b>  <b>MEX, CH, CHL:</b> no reservations (commitment subject to standstill and ratchet obligations)	-	As in the best EPAs, hence no restrictions
9.A. **Catering	(1), (2), (3) none	<b>Positive listing agreements:</b>  <b>BRN, IND, IDN, MAL, PHL, SGP, THL, VNM:</b> (1), (2), (3) none  <b>IDN, MAL, PHL, THL:</b> commitment subject to standstill  <b>Negative listing agreements:</b>  <b>MEX, CH, CHL:</b> no reservations (commitment subject to standstill and ratchet obligations)	-	As in the best EPAs, hence no restrictions
9.B. Travel agencies and tour operators	(1), (2), (3) none	<b>Positive listing agreements:</b>  <b>BRN, IND, IDN, MAL, PHL; SGP, THL, VNM:</b> (1), (2), (3): none  <b>IDN, MAL, PHL, THL:</b> commitment subject to standstill  <b>Negative listing agreements:</b>  <b>MEX, CH, CHL:</b> no reservations (commitment subject to standstill and ratchet obligations)	-	As in the best EPAs hence no restriction

Table AIV.10 (cont'd)

Subsectors	GATS commitments	FTAs commitments	Other preferential treatment	Applied regime
9.C. Tourist guide services	(1) unbound*; (2), (3) none	<b>Positive listing agreements:</b>  <b>BRN, IDN, MAL, PHL, SGP, THL, VNM:</b> (1) unbound*; (2), (3) none  <b>IND:</b> (1), (2), (3) none  <b>IDN, MAL, PHL:</b> commitment subject to standstill  <b>Negative listing agreements:</b>  <b>MEX, CH, CHL:</b> no reservations (commitment subject to standstill and ratchet obligations)	-	As in the best EPAs, hence no restriction
9.D. Other	No commitment	<b>Positive listing agreements:</b> no commitment  <b>Negative listing agreements:</b>  <b>MEX, CH, CHL:</b> no reservations (commitment subject to standstill and ratchet obligations)	-	As in the best EPAs, hence no restriction

Note: CPC means the United Nations Provisional Central products Classification. Restrictions to national treatment are indicated only to the extent that they differ from or add specific restrictions to market access restrictions. Mode 4 commitments are indicated only if they differ from the standard entry "unbound except as indicated in the horizontal commitments". Entries may have been summarized but their substance has been preserved. "Unbound\*" means unbound due to lack of technical feasibility. A Classification heading followed by an asterisk (e.g. CPC51310\*) means "part of" the heading, unless otherwise explicitly stated. The nomenclature used for the first column of the table is that of WTO document MTN.GNS/W/120. For negative listing agreements, the abbreviations in brackets indicate the chapter to which the reservations apply (CB for cross-border and I for investment) and the obligations to which the reservations are lodged MA for market access, NT for national treatment, LP or Loc.Pres for local presence, SMBD for composition of senior management and board of directors, PR or Perf. Req. for performance requirements.

Source: WTO Secretariat.