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.[1] 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.[2] 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.[3]

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.

[1] 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.

[2] Law of Customs Brokerage, Article 3.

[3] Based on the 10th 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.[4] 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.[5] 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.[6] 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.

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

[5] 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.

[6] 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			
		FY2008[a]	FY2010[b]	FY2012[c]	Final bound[d]
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)[e]	6.6	6.6	6.6	6.4
6.	International tariff "peaks" (% of all tariff lines)[f]	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-*ad valorem* tariffs (% of all tariff lines)	6.7	6.6	6.7	6.3
11.	Non-*ad valorem* tariffs with no AVEs (% of all tariff lines)	1.4	2.0	1.5	1.5
12.	Nuisance applied rates (% of all tariff lines)[g]	1.3	1.3	1.5	1.2
Number of lines		8,841	8,826	9,168	9,009
	Ad valorem	5,181	4,590	4,839	4,874
	Duty-free lines	3,660	3,652	3,714	3,558
	Non-*ad valorem*	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. [7] 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.[8] 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 lies between 5% and 10%. Tariff-rate quotas apply to1.8% 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.[9]

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
Plants and part of plants	121190931	0	2.5
	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)

[7] 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.

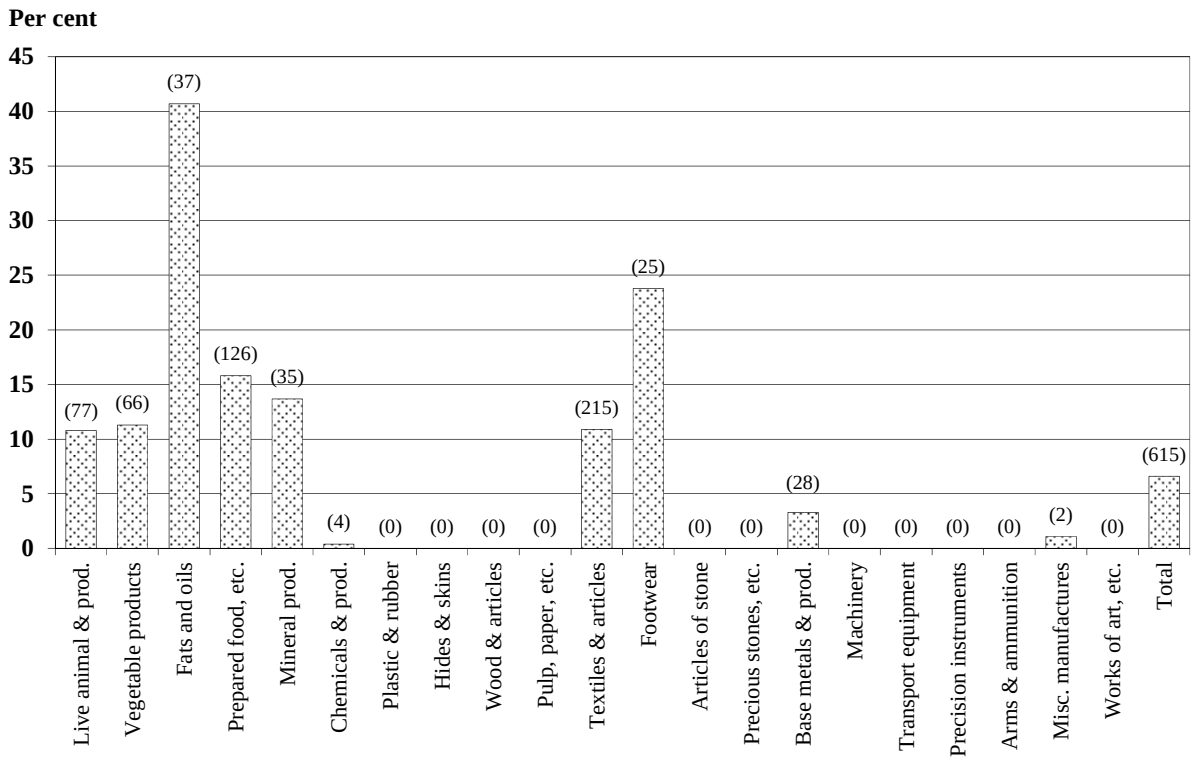
[8] *Ad valorem* equivalents were provided by the authorities for 478 out of 615 non-*ad valorem* tariff lines. For 35 lines that carry alternate rates of duty, and 27 lines with compound rates, the *ad valorem* part of the line was used in the tariff analysis (where no AVE was provided).

[9] 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



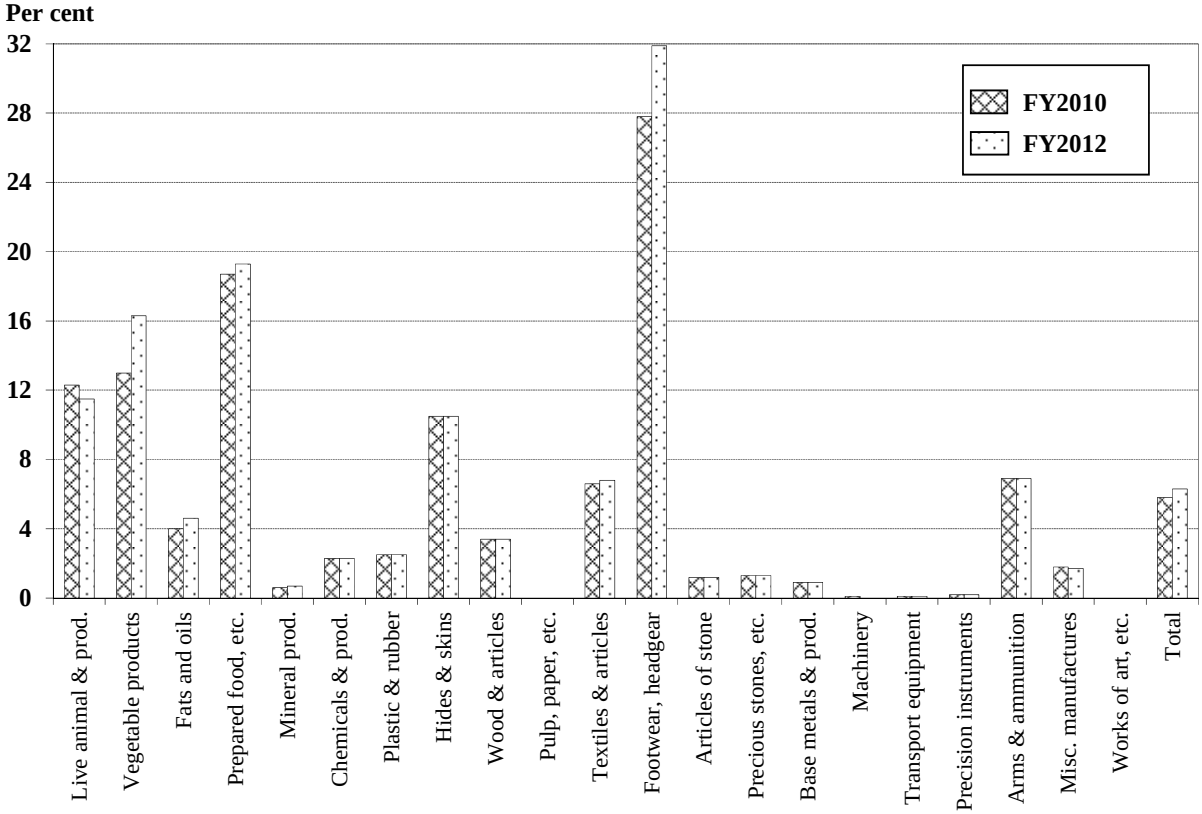
Note: **Each bar depicts the percentage of tariff lines within each HS section that carry non-*ad valorem* duties; the figures in parentheses show the corresponding number of lines. In-quota rates are not included (lines subject to state trading are included).**

***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[10], 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.**

[10] 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.[11] The simple average rate for all the AVEs supplied is 37.7%[12]; 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
(%)

	Ad valorem rates[a]	Duty-free rates[a]	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
Economic partnership agreements:										
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)

[11] 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.

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

	Ad valorem rates[a]	Duty-free rates[a]	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
Memorandum[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.[13]

[13] 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[14], 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.[15] 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.[16] 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.

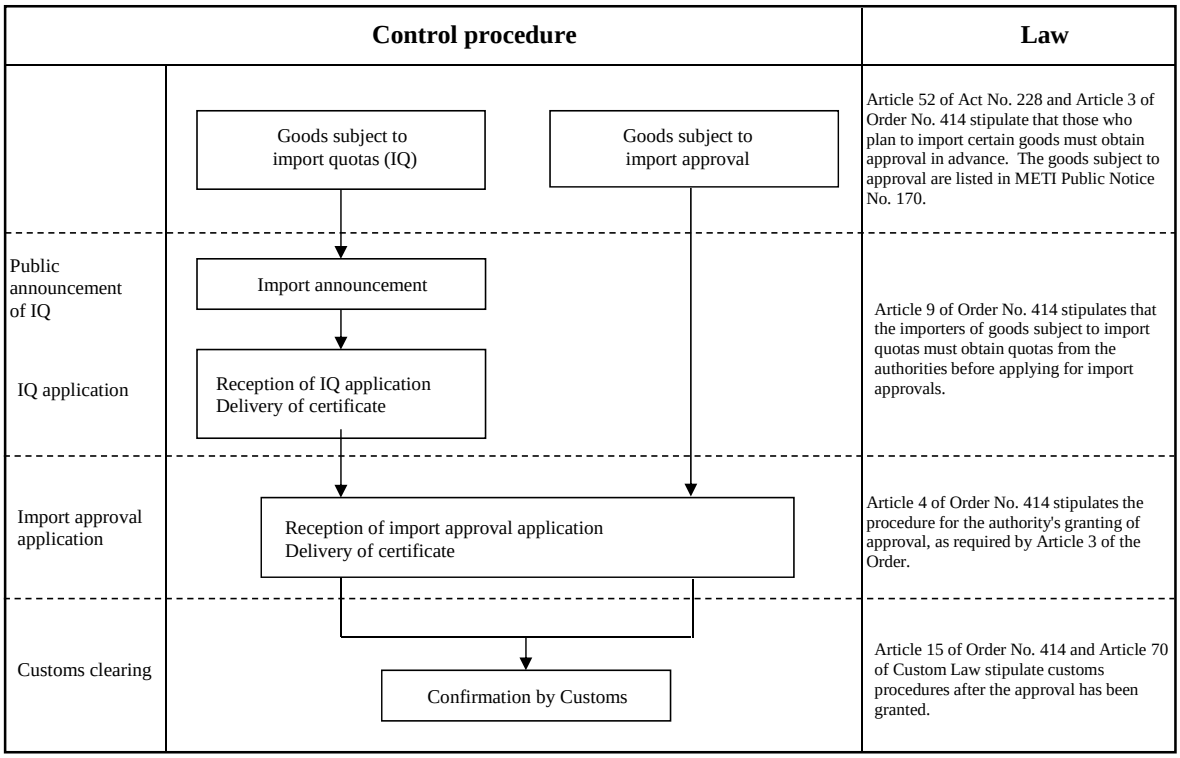
[14] In EPAs with Switzerland, Peru, and Mexico, certificates may also be issued by approved exporters.

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

[16] 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[a]

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



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

***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.[17] 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

[17] 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/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 [12.11.2012].

criteria.[18] 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.[19]

(v) State trading

27. State-trading activities in Japan involve leaf tobacco, opium, rice, wheat and barley, and milk products.[20] 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.[21] 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).[22]

(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

[18] 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.

[19] As of September 2011, there are no import regulations for antisera for any uses.

[20] WTO document G/STR/N/14/JPN, 6 July 2012.

[21] Articles 3.1 and 3.4, the Tobacco Business Law.

[22] 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. [23]

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%.[24]

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).[25] During the period under review, Japan made notifications under the GPA on: national legislation[26], statistics for the period 2009 and 2010[27], and modifications to Appendix I.[28] 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)* [29], and certain public corporations are listed. Japan's thresholds for GPA coverage expressed in Special Drawing Rights (SDRs) remained unchanged

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

[24] WTO document G/ADP/N/230/JPN, 2 August 2012.

[25] 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]

[26] WTO documents GPA/37/Add.8, 13 April 2011; and GPA/37/Add.9, 16 April 2012.

[27] WTO documents GPA/104/Add.4, 5 May 2011; and GPA/108/Add.4, 23 February 2012.

[28] 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.

[29] 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.[30]

35. In the recently concluded re-negotiation of the GPA, Japan added seven designated cities (*shitei toshi*)[31] to the entity coverage, and improved its services coverage (13 new services sectors).[32] 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.[33]

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[34]; 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.

[30] 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.

[31] These are (i) Saitama-shi; (ii) Shizuoka-shi; (iii) Sakai-shi; (iv) Niigata-shi; (v) Hamamatsu-shi; (vi) Okayama-shi; and (vii) Sagamihara-shi.

[32] 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).

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

[34] 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.[35] 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).[36] 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).[37] 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.

[35] 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 [12.11.2012].

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

[37] 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
	Total	**10,813.1**	**13.7**	**9,231.4**	**11.2**

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.[38] 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 Council on Government Procurement Review has decided that in principle the procuring entity should follow the recommendations of the GPRB. Four

[38] For details see WTO document WT/TPR/S/243/Rev.1 May 2011.

complaints have been filed since 2010.[39] 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).[40] 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[41] and the Standards Information Service within the Business Services Department of the Japan External Trade Organization (JETRO)[42], as the enquiry points under the TBT Agreement.[43] 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.[44] 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

[39] 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].

[40] 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.

[41] 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).

[42] 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.

[43] WTO document G/TBT/2/Add.10, 11 June 1996.

[44] 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.[45]

46. Since July 2010, Japan has made 66 notifications of technical regulation to the WTO.[46]

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[a]	Equivalent to international standards	Acceptance of overseas certification[b]	Acceptance of overseas test data[b]
A. Mandatory technical regulations					
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[c]	..	..	..	..	..
Safety Regulations for Road Vehicles	84	..	46	46	..
Law concerning the Safety Assurance and Quality Improvement of Feed	..	..	..	..	..

Table III.5 (cont'd)

[45] 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.

[46] WTO documents G/TBT/N/JPN/337-405.

	Number of standards/ regulations	Corresponding to international standards[a]	Equivalent to international standards	Acceptance of overseas certification[b]	Acceptance of overseas test data[b]
Law concerning Examination and Regulation of Chemical Substances and Regulation of their Manufacture	4	..	..	..	100
Industrial Safety and Health Law	181				
Telecommunications Business Law[d]	..	..	..	..	..
Radio Law[e]	..	..	..	..	..
Fertilizer Control Law	..	..	..	..	..
B. Voluntary standards					
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 organic processed foods, which are mandatory standards, were revised in March 2012.

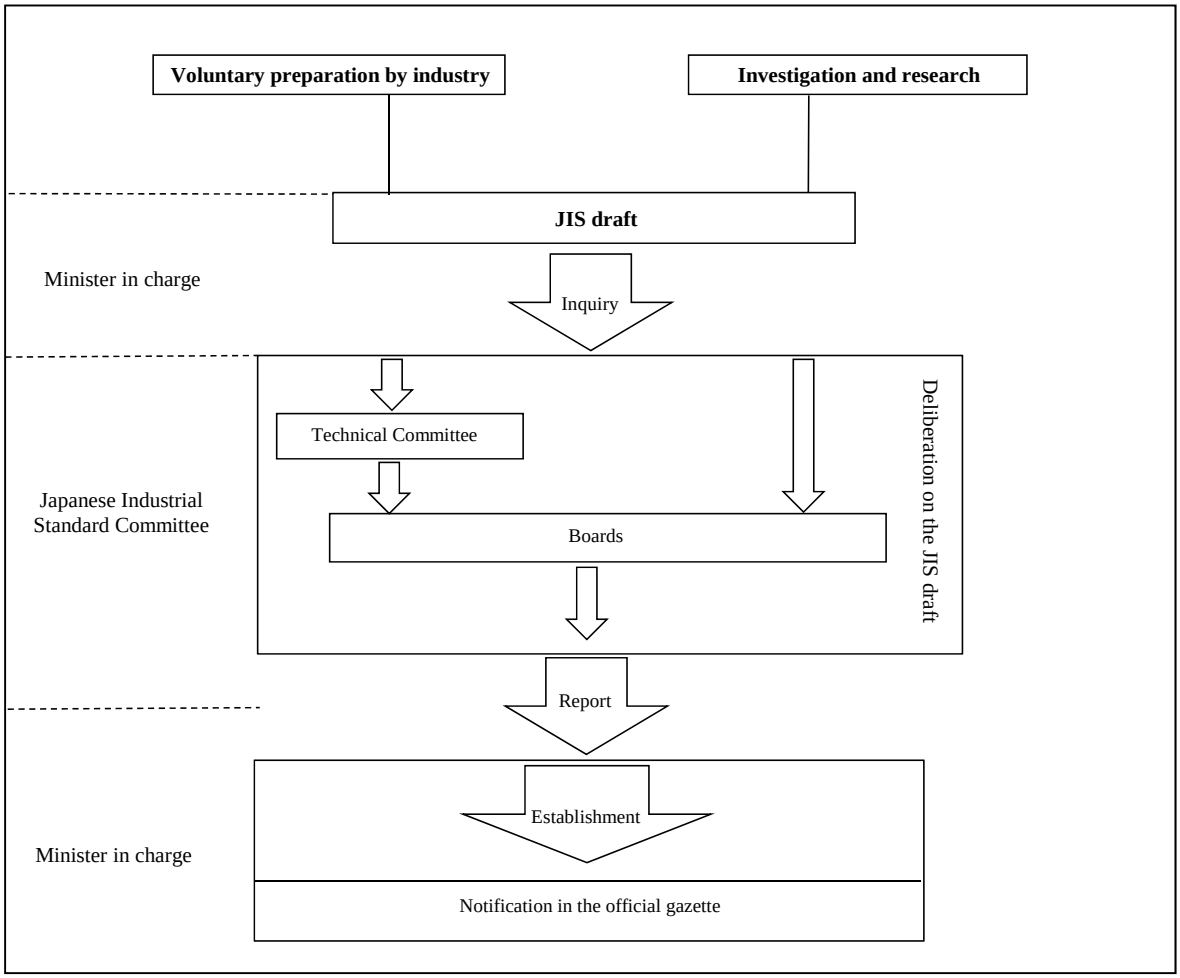
51. About 8,000 domestic and 700 foreign factories in 21 countries and economies are certified to affix JIS marks (JIS Mark scheme). The JIS Mark scheme is voluntary unless relevant regulations require JIS for domestic sales. The authorities state that domestic and foreign factories are treated in the 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.[47] 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

[47] 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[48]; 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.[49]

[48] 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.

[49] 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.[50] New items were added to the list of products subjected to the Consumer Product Safety Act and the Electrical Appliances and Material Safety Act.[51] New standards relating to product safety were also established.[52]

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.[53]

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. These test results can replace official on-site inspections. Currently, there are nine designated foreign inspection bodies.

[50] WTO document G/TBT/N/JPN/356, 3 May 2011.
[51] 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.
[52] WTO document G/TBT/N/JPN/362, 12 August 2011.
[53] 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.[54] The procedure for establishing SPS measures also remained unchanged during the review period.[55]

61. During the period under review, Japan submitted 41 SPS notifications to the WTO.[56] 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).[57] 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[58]; establishment of new standards for calf liver[59]; new import requirements for mangoes from Pakistan[60]; and the revision of the Ministerial Ordinance of Standards and Specifications for Safety of Pet Food.[61]

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.[62] 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.[63]

[54] WTO document G/SPS/ENQ/26, 11 March 2011.
[55] For more details regarding SPS legislation and procedures please see WTO document WT/TPR/S/243/Rev.1 May 2011.
[56] WTO documents G/SPS/N/JPN/262-301.
[57] Australia, Canada, the European Union, New Zealand, and the United States.
[58] WTO document G/SPS/N/JPN/277, 9 June 2011.
[59] WTO document G/SPS/N/JPN/297, 3 May 2012.
[60] WTO document G/SPS/N/JPN/272, 23 February 2011.
[61] WTO document G/SPS/N/JPN/270, 7 February 2011.
[62] WTO documents G/SPS/N/JPN/271, 16 February 2011; and G/SPS/N/JPN/271/Corr.1, 21 February 2011.
[63] 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.[64] 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.[65] 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[66], 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.[67] 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.[68] 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

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

[65] 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.

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

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

[68] 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.[69]

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[70], and individual quality labelling standards.[71] 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.[72]

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

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

[70] 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).

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

[72] 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[73]; papaya and processed foods containing papaya as a main ingredient are now subject to mandatory labelling as required for genetically modified foods[74]; and meat that can be eaten raw is required to carry the warning that "eating raw meat carries a risk of food poisoning".[75]

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[76]; 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[77]; additionally, the quality labelling standards for "Tsuyu" (dipping soup) and soy bean paste were changed in FY2011.[78] 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.[79]

(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 and obtain permission 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.

[73] WTO document G/SPS/N/JPN/264, 4 November 2010.
[74] WTO document G/SPS/N/JPN/276, 14 April 2011.
[75] WTO document G/SPS/N/JPN/282, 28 July 2011.
[76] WTO document G/TBT/N/JPN/349, 9 December 2010.
[77] WTO document G/TBT/N/JPN/355, 26 April 2011.
[78] WTO documents G/TBT/N/JPN/348 and 359, 9 December 2010 and 23 June 2011.
[79] 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.[80]

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.

[80] 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.[81] 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.[82]

(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).[83] The authorities maintain that the main purpose of Japan's export controls is to preserve limited natural resources[84] 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.[85]

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.[86]

[81] Article 52, the Cabinet Order for Enforcement of the Customs Tariff Law.

[82] Articles 10, 19-3 and 20 of the Customs Tariff Law.

[83] 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).

[84] 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.

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

[86] 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.[87]

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 food and agricultural, forestry and fishery products; carrying out market research in foreign countries; and holding business meetings abroad and in Japan. The budget for export promotion amounted to ¥2.3 billion in FY2011 and ¥1.5 billion in FY2012.[88]

(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

[87] 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.

[88] The figures included supplementary budget for reconstruction from the great East Japan earthquake.

corporation tax rate (including local taxes) is 35.64% (FY2012). All income earned in Japan is 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.[89]

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

Tax item	FY2011 budget		FY2012 budget	
	Amount	Percentage	Amount	Percentage
Direct taxes	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[a, b]	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
Indirect taxes	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[a, b]	282	0.7	279	0.6
Liquefied petroleum gas tax[a, b]	12	0.0	11	0.0
Aviation fuel tax[a, b]	13	0.0	13	0.0
Motor vehicle tax[a, b]	294	0.7	286	0.6
Special tonnage tax[a, b]	11	0.0	13	0.0
Special tobacco surtax[b]	157	0.4	146	0.3
Total	**43,262**	**100**	**45,283**	**100**

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.

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

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.

(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.[90] 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.[91]

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_2 emission (effective 1 October 2012).[92]

(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.[93] 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.

[90] 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.

[91] 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.

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

[93] WTO document G/SCM/N/220/JPN, 29 June 2011.

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 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.[94] 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.[95]

(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)).[96]

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).

[94] 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.

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

[96] 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 ¥1,800 billion. INCJ online information. Viewed at: http://www.incj.co.jp/english/ [25.07.2012].

110. The Government also influences various semi-governmental bodies.[97]

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.[98] 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.

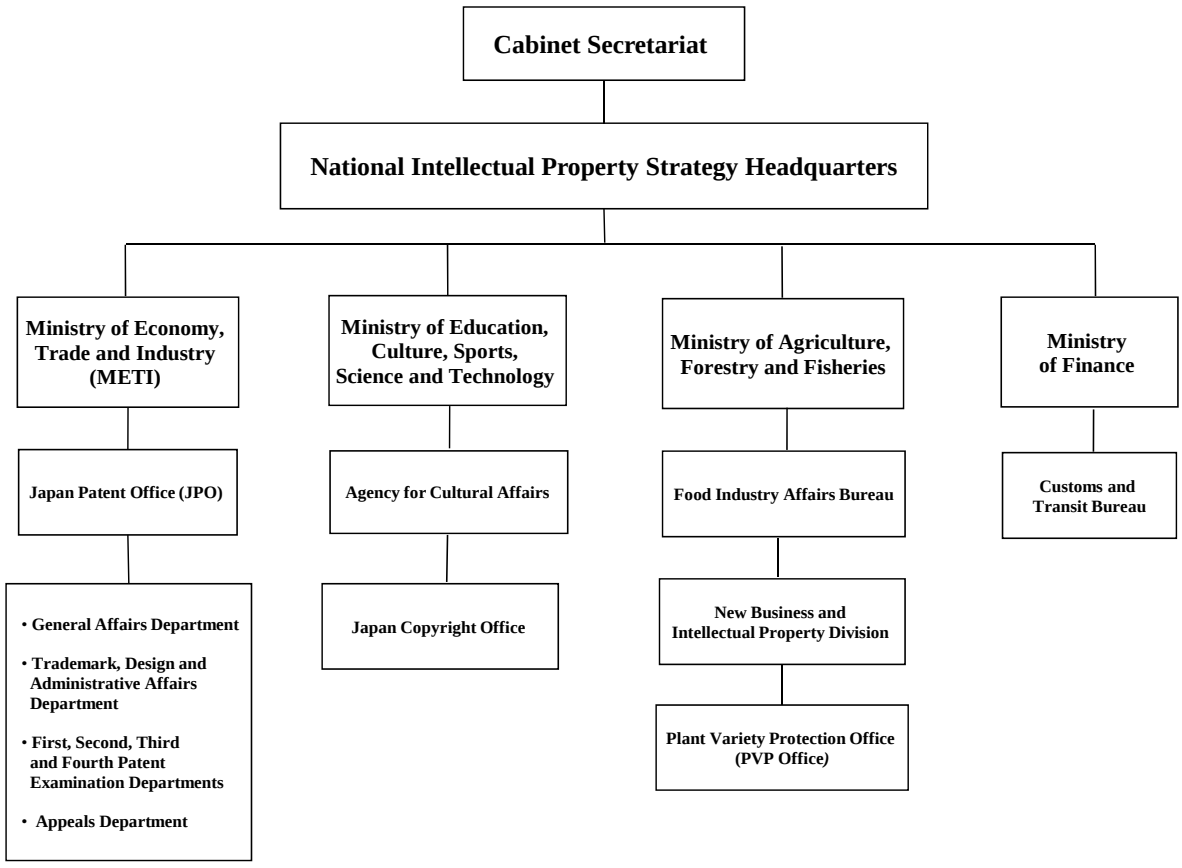
115. The Basic Law also identified the roles of different institutes in implementing the mandates. The Intellectual Property Strategy Headquarters (the Headquarters) was established in the Cabinet Secretariat in March 2003 with the purpose of developing measures to fulfil the mandates and to coordinate 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

[97] 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.

[98] Japanese Government online information (in Japanese). Viewed at: http://www.gyoukaku.go.jp/siryou/tokusyu/seiri_gouri.pdf [25.07.2012].

Cabinet Ministers, and ten expert members. The ten expert members are generally drawn from industries, law firms, and academia.

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 in accordance with the Law for Establishing the Intellectual Property High Court, (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.

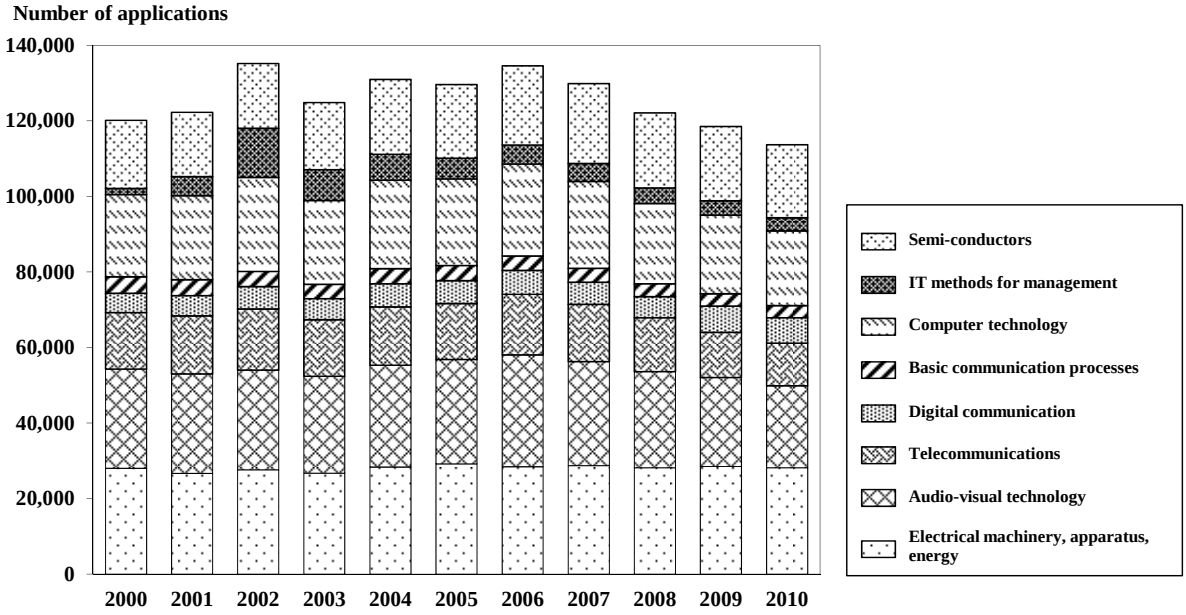
International standardization

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.

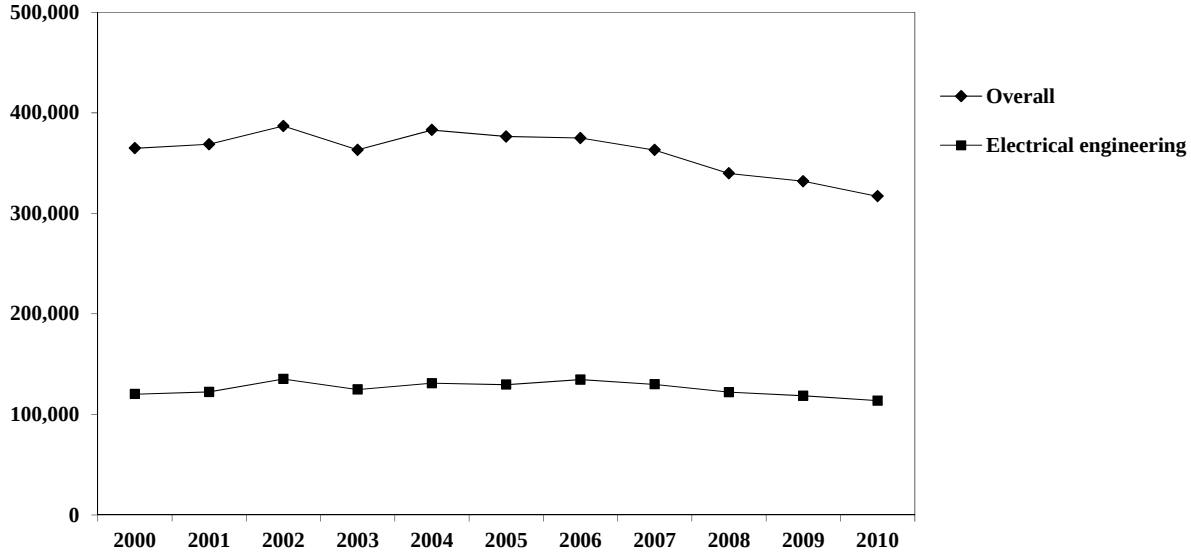
121. Since 2000, PCT applications received by the JPO in the EE field have increased steadily, (by 16.9%) (Chart III.8). Japan has been one of top three PCT receiving countries in the EE field since 2000 (Chart III.9). During 1978-2011, 12 Japanese IT companies were among the top 50 PCT applicants for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

Chart III.6
Japanese patent applications (unexamined patent publications) by fields of electrical engineering, 2000-10



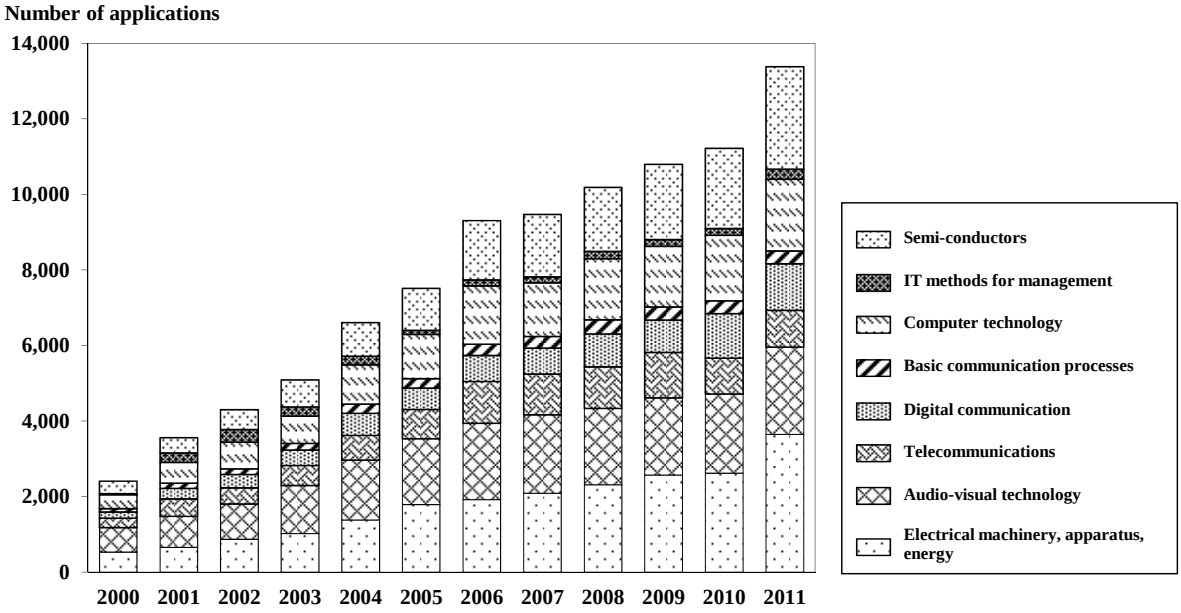
***Source*: WIPO Statistics database.**

Chart III.7
Japanese patent applications (unexamined patent publications), overall vs. electrical engineering, 2000-10



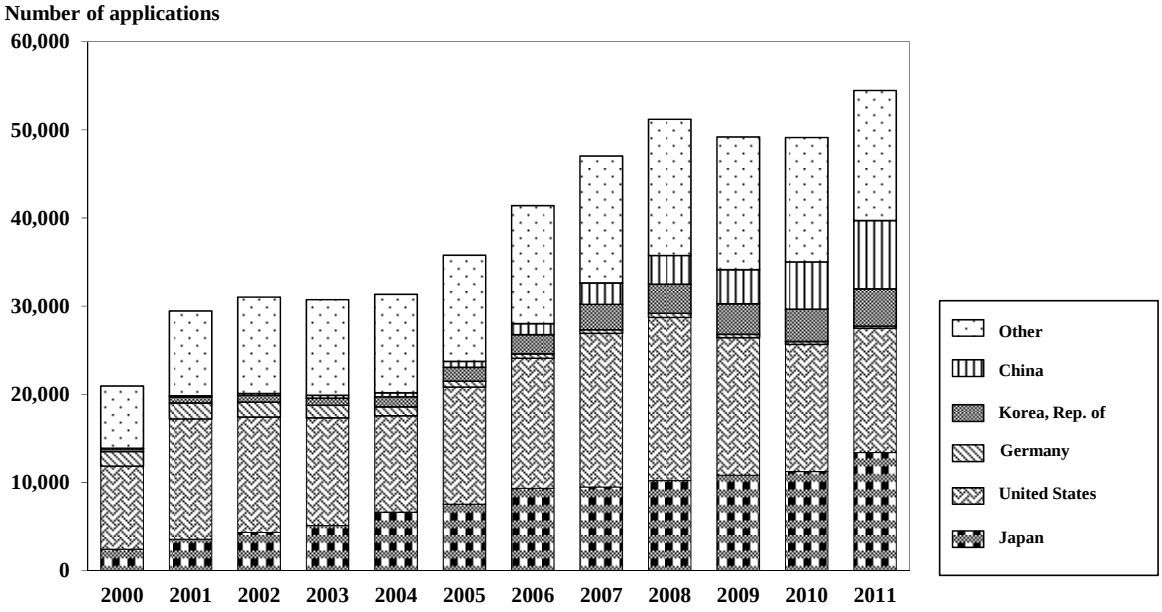
***Source*: WIPO Statistics database.**

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



***Source*: WIPO Statistics database.**

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



***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 competiveness through IP protection and international standardization. It set up clear target indictors 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 simulate 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.

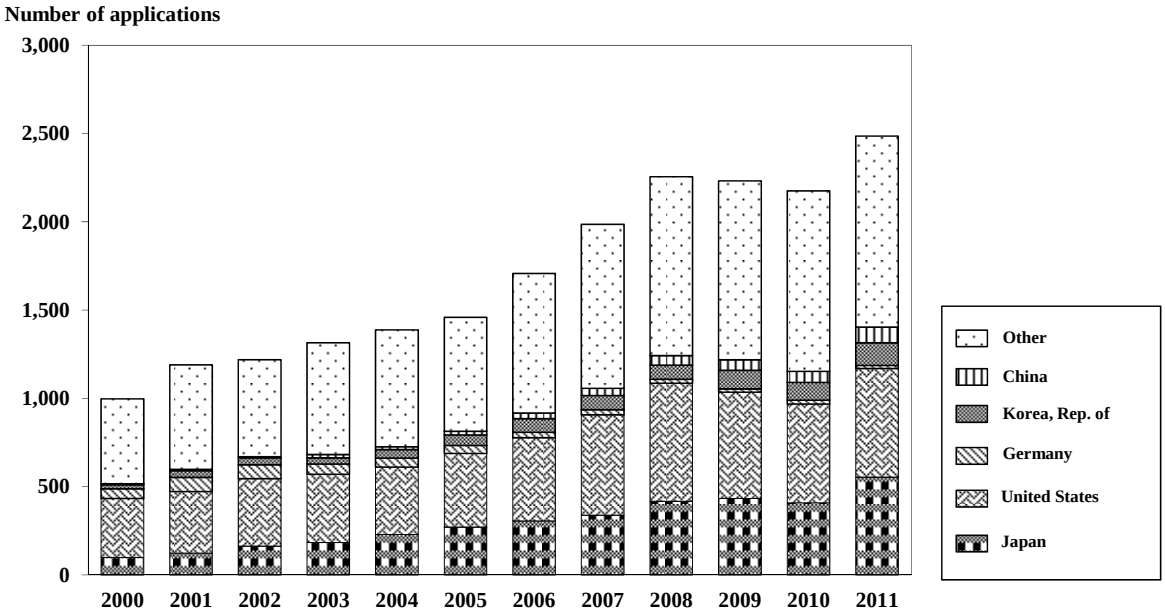
Green technology plan

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).

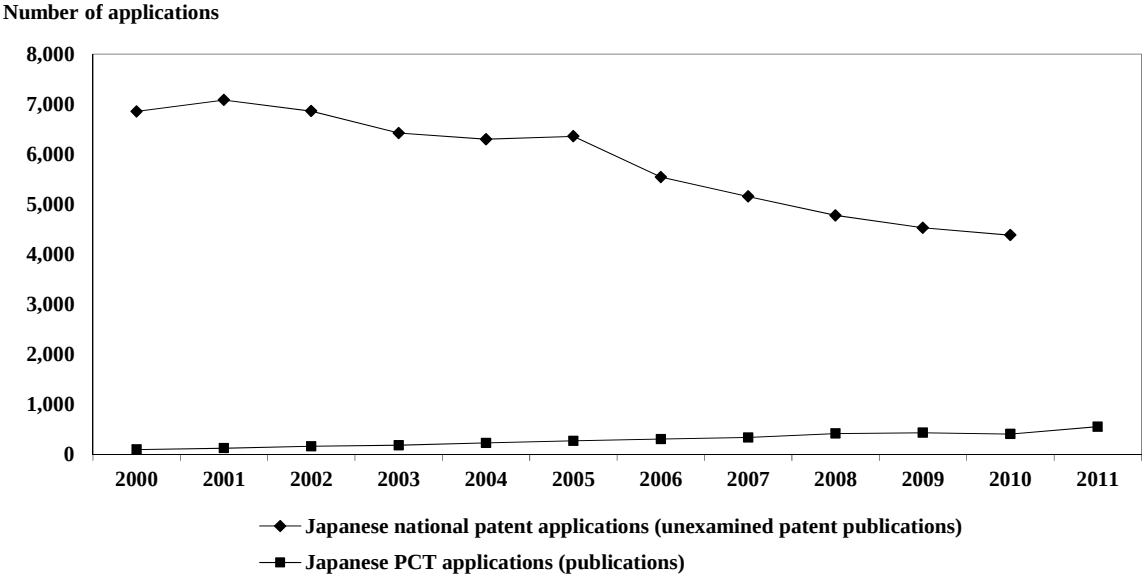
Chart III.10
PCT applications in environmental technology by leading countries, 2000-11



***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



***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.

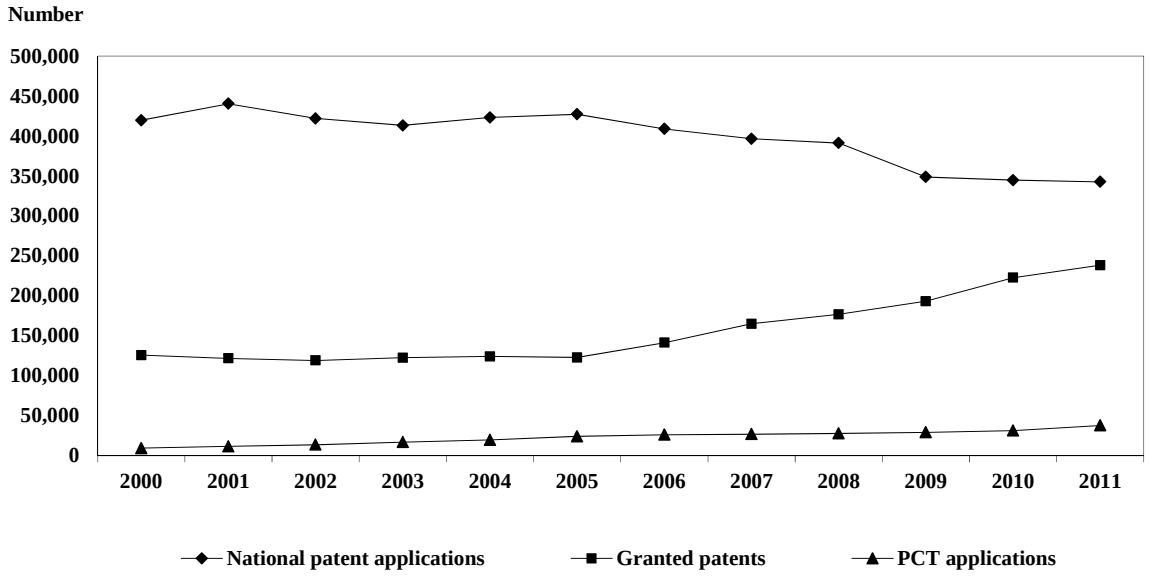
(c) Industrial property rights

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 fillings 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.

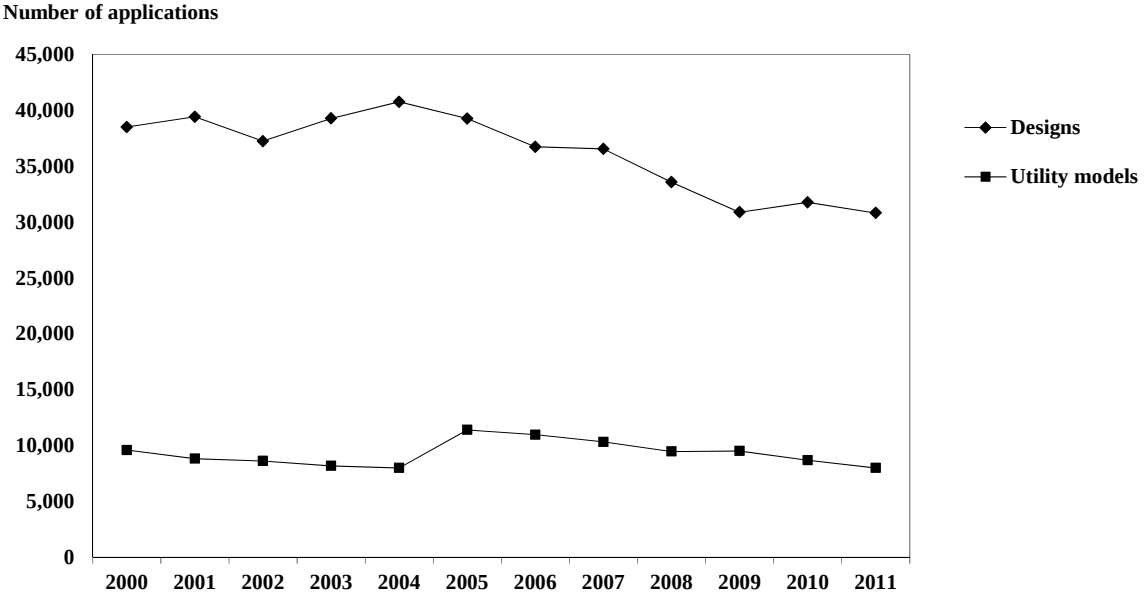
144. The JPO has also attempted to improve the quality of granted patents, and Japan recognized that international cooperation would be crucial in these efforts. International cooperation between the JPO and the U.S. Patent and Trademark Office (USPTO), European Patent Office (EPO), China State Intellectual 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



***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.

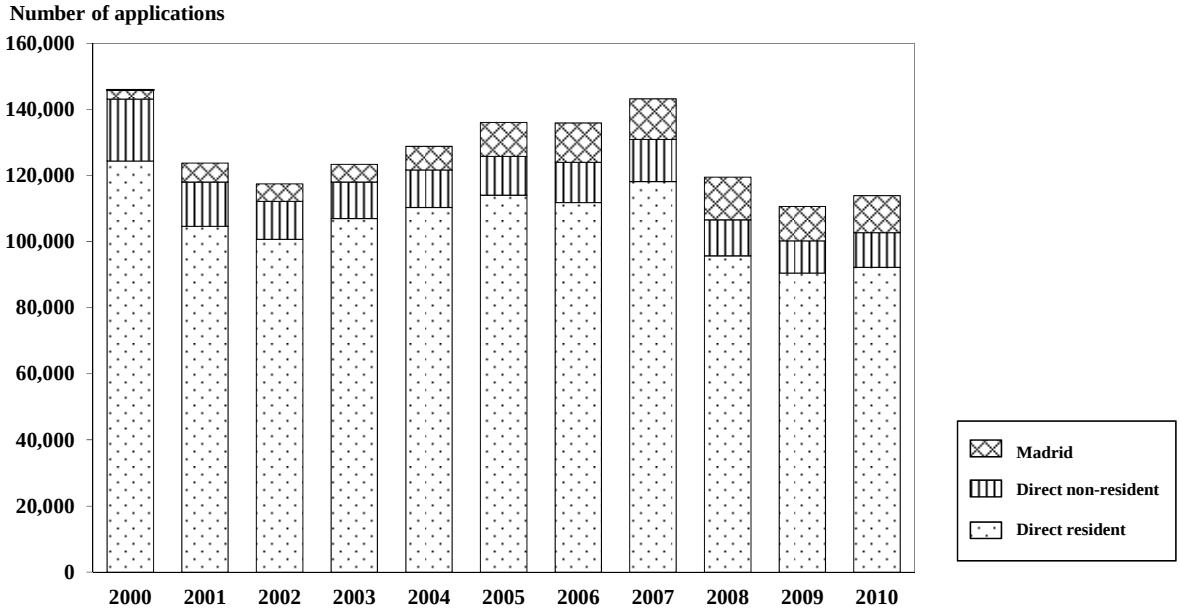
Trademarks

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



***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.[99]

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.

[99] 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.[100]

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).[101]

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

[100] See CRIC online information. Viewed at: 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.
[101] 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 against appeal/trial decisions made by the JPO were commenced 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.[102] 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
Products concerned			('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
Total		**1,044**	**631**	**728**
Types of violation				
Patent rights		15	9	8
Utility model rights		0	0	0

Table III.9 (cont'd)

[102] 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
Total		**21,893**	**23,233**	**23,280**

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[103]; 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

[103] 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 competiveness 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
Membership of WIPO committees:	
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.[104]

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

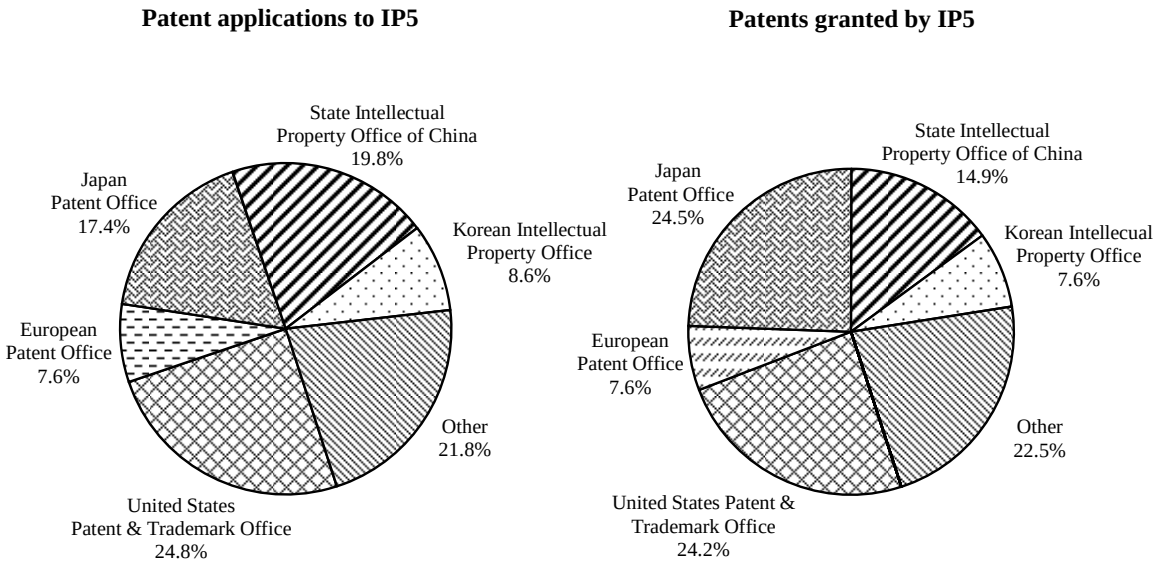
178. The Trilateral Offices is a multilateral cooperation framework established in 1983 between the European Patent Office (EPO); the Japan Patent Office (JPO); and the United States Patent and Trademark Office (USPTO). Patent applications filed and patents granted by these three offices account for 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

[104] 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.

and compatible database systems, and development of an international standard of patent examination process.

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.fiveipoffices.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.[105] The bill also seeks to further improve 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.[106] 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.[107] 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.[108] Japan has three other bilateral cooperation agreements on anti-competitive activities, with Canada, the European Union, and the United States.

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

[106] "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.

[107] 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.

[108] 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

(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[109]; and private damages actions (Table III.11).

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

Details	Fiscal year				
	2007	2008	2009	2010	2011
(A) Legal measures taken against acts prohibited by the Anti-monopoly Act					
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[a]	0	1	0	0	0
Unfair trading practices	3	5	4	2	5
Others	1	0	0	0	0
(B) Surcharge payment orders					
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
(C) Recently processed investigation cases					
Cases investigated					
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
Total	**160**	**142**	**152**	**165**	**180**
Cases processed					
Legal measures					
Cease and desist orders	22	16	26	12	22
Surcharge payment orders[b]	2	1	0	0	0
Sub-total	24	17	26	12	22

Table III.11 (cont'd)

Chapter 10; Mexico, Chapter 12; and Singapore, Chapter 12. There is no chapter on competition in the EPAs with ASEAN or Brunei.

[109] 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[c]	20	15	26	32	9
Sub-total	118	106	104	130	149
Total	**142**	**123**	**130**	**142**	**171**
Carry-overs to the next fiscal year	18	19	22	23	9
Criminal accusations	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.