

METI PRIORITIES ON WTO INCONSISTENT FOREIGN TRADE POLICIES raised in the Report on the WTO Inconsistency of Trade Policies by Major Trading Partners

The **2005 Report on the WTO Inconsistency of Trade Policies by Major Trading Partners** was released today by the WTO Committee's Subcommittee on Unfair Trade Policies and Measures of the Industrial Structure Council. The Report examines trade policies and measures implemented by Japan's major trading partners that are inconsistent with the WTO agreements and other international rules.

In response to the Report, METI is releasing the "**METI Priorities on WTO Inconsistent Foreign Trade Policies**" ("**METI Priorities**"). This document includes follow-up results on the 2004 version of the "METI Priorities" published on March 29, 2004, and details those issues that METI deems to be a high priority in implementing trade policy.

1 . Follow-up on the METI Priorities Issued on March 29, 2004

The METI Priorities issued on March 29, 2004, comprised 16 priority foreign trade policies and measures deemed to be a high priority in implementing trade policy. Table 1, below, summarizes the results of METI's actions and efforts with respect to these issues. While METI welcomes that six of these issues have largely been resolved, though future developments need to be watched. Further action, however, still is required to either amend or repeal ten issues, though partial improvements have been made for certain policies and measures.

Table 1. Follow-up on Individual Trade Policies and Measures Published in 2004

Country / Territory	Priorities published on March 29, 2004	Follow-up result
U.S.	Anti-dumping Act of 1916	
	The Byrd Amendment (Amendment to the Tariff Act of 1930)	
	Anti-dumping measures on certain hot-rolled steel products from Japan	
China	Problems related to the refund of value-added taxes on semiconductors	
	Problems related to the selling both imported and domestic automobiles	
	Enforcement of the quota system for imported automobiles and auto parts	
	Failure to fulfill tariff concessions for photographic film	
	Implementation of anti-dumping measures	
	Delay in improving domestic legislations on the right to trade and distribution services	
	Abundance of counterfeit, pirated and other infringing products	
European Union	Draft regulations on registration, evaluation, and authorization of Chemicals (REACH)	
	Directives on waste electrical and electronic equipment (WEEE)	
	Directives on the restriction of the use of certain hazardous substances in electrical and electronic equipment (RoHS)	
ASEAN countries	Malaysia : Problems related to imposition of internal taxes on automobiles	
	Thailand : Problems related to imposition of tariffs on digital cameras	

Country / Territory	Priorities published on March 29, 2004	Follow-up result
East Asian countries	The abundance of counterfeit, pirated and other illegal products	

- : Problems have largely been resolved, though future developments need be watched.
- : Further action is needed.

Note: East Asian countries include China, Hong Kong, Chinese Taipei, Republic of Korea and ASEAN countries

2 . METI Priorities concerning the issues raised in the 2005 Report on the WTO Inconsistency of Trade Policies by Major Trading Partners

This sections details items which METI deems a high priority in implementing trade policy. There are 13 priority items, each of which is listed in Table 2, below; ten of these items have carried over from 2004 and three are new items. Annex 1 to this document compares the measures to 2004, while Annex 2 outlines each of the individual priority foreign trade policies and measures, accompanied by follow-up results on the 2004 version of the “METI Priorities”.

Table 2. Individual Trade Policies and Measures deem to be of a high priority

Country / Territory	Priorities published on April 18, 2005	Remarks
U.S.	The Byrd Amendment (Amendment to the Tariff Act of 1930)	Ongoing
	Anti-dumping measures on certain hot-rolled steel products from Japan	Ongoing
	Calculation of dumping margins via the zeroing procedure	New item
China	Failure to fulfill tariff concessions for photographic film	Ongoing
	Implementation of anti-dumping measures	Ongoing
	Issues related to counterfeit, pirated and other infringing products	Ongoing
	Problems related to the system for certifying finished vehicle characteristics	New item
European Union	Draft regulations on registration, evaluation, and authorization of chemicals (REACH)	Ongoing
	Directives on waste electrical and electronic equipment (WEEE)	Ongoing
	Directives on the restriction of the use of certain hazardous substances in electrical and electronic equipment (RoHS)	Ongoing
ASEAN countries	Malaysia : Problems related to imposition of internal taxes on automobiles	Ongoing
	Indonesia : Problems related to the imposition of tariffs on digital cameras	New item
East Asian countries	Issues related to counterfeit, pirated and other infringing products	Ongoing

Note: East Asian countries include China, Hong Kong, Chinese Taipei, Republic of Korea, ASEAN countries and India (India has been newly included from this year.)

Priorities and Actions

< United States >

The United States is among those countries that frequently implement so-called “trade remedy” measures. Japanese industries, along with industries of many other countries, have been harmed by US anti-dumping policies and measures.

Specifically, following a challenge by Japan and other affected countries of the US

Antidumping Act of 1916 at the WTO, both the WTO Panel and Appellate Body found against the US law. Ultimately, the US President signed legislation on December 3, 2004, that repealed the Antidumping Act of 1916. METI welcomes this action.

METI will continue to take action to resolve problems caused by other US trade remedy measures that it considers abusive and inconsistent with US WTO obligations. In particular, the United States should expeditiously implement the decision of the WTO dispute settlement body (DSB) striking down the Byrd Amendment. If the United States does not act promptly, Japan will join its co-complainants in this case and implement necessary countermeasures. With respect to US anti-dumping measures on certain hot-rolled steel products from Japan, METI will continue to closely monitor US efforts to amend the relevant regulations within the WTO mandated time frame. With respect to US practices to calculate dumping margins by using the zeroing methodology, METI will pursue actions, *e.g.*, under WTO dispute settlement procedures, to seek the elimination of this practice.

- **The Byrd Amendment (Amendment to the Tariff Act of 1930)**
- **Anti-dumping measures on certain hot-rolled steel products from Japan**
- **Calculation of dumping margins via the zeroing procedure (new item)**

< China >

China made a wide range of commitments when it sought accession to the WTO. Since accession, China has striven to implement these commitments by enacting and revising numerous laws and regulations. Japan appreciates that, following its own actions and those of other affected countries, China announced its intention in April 2004 to fully abolish its refund of value-added taxes on semiconductors. However, further improvements are still required in many instances (*e.g.*, the delay in appropriately enacting and revising domestic laws and regulations, the lack of transparency and consistency in enforcing them, and certain newly introduced systems and practices thought to be protectionist in nature).

Japan is particularly concerned about certain issues detailed below and which have led to serious problems. METI will continue to request that China fulfill its WTO obligations at every bilateral and multilateral opportunity at every opportunity, including Vice Minister-level meetings between METI and China's State Development and Reform Committee and Ministry of Commerce; industry-specific dialogues between government officials and industries; and the Transitional Review Mechanism in the WTO. METI also will continue its efforts to resolve other ongoing problems, in particular, problems related to failure to fulfill tariff concessions for photographic film by leveraging various opportunities.

- **Failure to fulfill tariff concessions for photographic film**
- **Implementation of anti-dumping measures**
- **Issues related to counterfeit, pirated and other infringing products**
- **Problems related to the system for certifying finished vehicle characteristics (new item)**

< E U >

EU rules being introduced as means to protect the environment, health, safety and other things have the potential to seriously restrict trade and are causing serious concern among Japanese industries. The rules, below, are particularly worrisome. METI will continue to request that these rules reflect the interests and concerns of Japanese businesses.

- **Draft regulations of registration, evaluation and authorization of chemicals (REACH)**
- **Directives on waste electric and electronic equipment (WEEE)**
- **Directives on the restriction of the use of certain hazardous substances in electrical and electronic equipment (RoHS)**

< ASEAN countries >

High tariffs on certain products, as well as trade restrictions affecting services and foreign investment in ASEAN countries, are the most serious concerns for Japanese industry. Though many of the problems are not necessarily WTO-inconsistent, they should be liberalized to promote free trade.

METI will do its utmost to tackle these problems in the Doha Round of WTO negotiations, as well as through FTA negotiations.

- **Malaysia: Problems related to imposition of internal taxes on automobiles**
- **Indonesia: Problems related to imposition of tariffs on digital cameras (new item)**

< Asian countries and territories (China, Hong Kong, Chinese Taipei, Republic of Korea, ASEAN countries and India) >

Issues related to counterfeit, pirated and other infringing products in Asian countries and territories have caused serious problems to Japanese industry.

In order to remedy this situation, METI will request each individual trading partner to improve relevant legislation, enforce legal protection appropriately and effectively, and further strengthen enforcement efforts by administrative and judicial branches. At the same time, METI will provide each trading partner with the necessary support.

Japanese companies have suffered the most in China. METI will request that China implement administrative measures to improve enforcement of legislation and impose stricter controls. METI will also cooperate with JETRO and other organizations in order to support industry initiatives, such as requesting stricter controls, obtaining necessary information and organizing industry-specific discussions.

(Annex 1) Comparison Between METI Priorities Published in 2004 and Those Published in 2005

Country / territory	Priorities published on March 29, 2004	Follow-up result	Priorities published on April 18, 2005
United States	Anti-dumping Act of 1916		
	The Byrd Amendment (Amendment to the Tariff Act of 1930)		The Byrd Amendment (Amendment to the Tariff Act of 1930)
	Anti-dumping measures on certain hot-rolled steel products from Japan		Anti-dumping measures on certain hot-rolled steel products from Japan
		(new item)	Calculation of dumping margins via the zeroing procedure
China	Problems related to the refund of value-added taxes on semiconductors		
	Problems related to the selling of both imported and domestic automobiles		
	Enforcement of the quota system for imported automobiles and auto parts		
	Failure to fulfill tariff concessions for photographic film		Failure to fulfill tariff concessions for photographic film
	Implementation of anti-dumping measures		Implementation of anti-dumping measures
	Delay in improving domestic legislations on the right to trade and distribution services		
	Abundance of counterfeit, pirated and other infringing products		Issues related to counterfeit, pirated and other infringing products
	(new item)	Problems related to the system for certifying finished vehicle characteristics	
European Union	Draft regulations on registration, evaluation, and authorization of chemicals (REACH)		Draft regulations on registration, evaluation, and authorization of chemicals (REACH)
	Directives on waste electrical and electronic equipment (WEEE)		Directives on waste electrical and electronic equipment (WEEE)
	Directives on the restriction of the use of certain hazardous substances in electrical and electronic equipment (RoHS)		Directives on the restriction of the use of certain hazardous substances in electrical and electronic equipment (RoHS)
ASEAN countries	Malaysia : Problems related to imposition of internal taxes on automobiles		Malaysia: Problems related to imposition of internal taxes on automobiles
	Thailand : Problems related to imposition of tariffs on digital cameras		
		(new item)	Indonesia: Problems related to the imposition of tariffs on digital cameras
Asian countries	The abundance of counterfeit, pirated and other illegal products		Issues related to the system for counterfeit, pirated and other illegal products

: Problems have largely been solved, though future developments need to be watched; : Further action is needed.

Note: Asian countries include China, Hong Kong, Chinese Taipei, Republic of Korea, ASEAN countries and India (India has been newly included from this year.)

(ANNEX 2)

OUTLINE OF INDIVIDUAL TRADE POLICIES AND MEASURES REFERRED TO IN “METI PRIORITIES ON WTO INCONSISTENT FOREIGN TRADE POLICIES”

This section explains the individual trade policies and measures listed in the “METI Priorities”, and provides follow-up results on the trade priorities listed in the 2004 version of the “METI Priorities” issued on March 29, 2004.

< U.S. >

Anti-dumping Act of 1916

The United States Anti-dumping Act of 1916 (1916 Act) allows, under certain circumstances, civil actions and criminal proceedings to be brought against importers or distributors who have sold foreign-produced goods in the United States at prices which are “substantially less” than those at which the same products are sold in the relevant foreign market. In case a plaintiff is able to establish that the importer has undertaken price discrimination with a particular intent, including that of destroying or injuring an industry in the United States, the 1916 Act allows for a plaintiff to seek treble damages from and imprisonment of the defendant.

The WTO panel and the Appellate Body, established in accordance with requests by Japan and the EU, concluded that the 1916 Act is inconsistent with the obligations of the United States under WTO agreements. A final recommendation (in the form of the adoption of the report of the Appellate Body) was issued in September 2000 and required the United States bring the 1916 Act into conformity with its WTO obligations. However, the deadline of December 2001 for implementing the recommendation passed without the United States repealing the law. In May 2004, a district court in the United States examining a case brought under the 1916 Act, ordered a Japanese company to pay damages amounting to about 4 billion yen.

The Japanese government repeatedly requested during WTO discussions and in bilateral talks that the United States repeal the law. In June 2004, the United States government expressed its support for a bill to repeal the law as part of a regulatory and competition policy reform initiative between Japan and the United States. In August 2004, the Japanese government submitted an *amicus* brief to an appellate court in the United States, questioning the application of a WTO-inconsistent law regarding in the above-mentioned lawsuit.

Furthermore, considering the ongoing lawsuit, METI deliberated a legislative move to enable Japanese companies to recover damages suffered under 1916 Act proceedings. Consequently, “Damage Recovery Act” (“Special Measure Act for Protecting Companies from the Obligation of Returning Profits due to 1916 United States Act”), the first of its kind in Japan, was passed by the 161st Extraordinary Diet Session last year. The Damages Recovery Act, which took effect and was promulgated on December 8, 2004, grants Japanese companies, sued by companies in the United States under the 1916 Act, the right to request

the latter to indemnify the former for damages suffered as a result of such lawsuits; and denies the approval and execution, in Japan, of court decisions based on the AD Act.

On October 8, 2004, the House of Representatives of the United States passed a bill repealing the 1916 Act. The bill was passed by the Senate on November 19 and, on December 3, the President signed the bill into law, thereby repealing the 1916 Act.

However, the repeal of the 1916 Act is not retroactive and continues to apply to cases pending in US courts. Moreover, on November 23, immediately prior to the repeal of the 1916 Act, the receiver of a bankrupt company in the United States filed a suit against a Japanese company under the 1916 Act.

At present, there are two 1916 Act cases pending in US courts against Japanese companies. Defendants in these cases may eventually be covered by the Damages Recovery Act of Japan. The Japanese government will observe the outcome of these lawsuits and also will take all necessary action, while maintaining close contact with the United States government, lest the Japanese companies concerned suffer undue losses as a consequence of the lawsuits.

The Byrd Amendment (Amendment to the Tariff Act of 1930)

The so-called “Byrd Amendment” (Amendment to the Tariff Act of 1930) distributes revenue collected from anti-dumping and countervailing duties to related US domestic companies.

The WTO panel established at the request of 11 countries and territories including Japan and the EU, as well as the Appellate Body, found that the Byrd Amendment violates WTO agreements. As a result, the DSB recommended that the US repeal the Byrd Amendment. (The report of the Appellate Body was adopted in January 2003.)

However, the US Congress has been slow to repeal the Byrd Amendment and the December 2003 deadline for implementation passed without action by the United States. Subsequently, in January 2004, Japan, the EU and other countries jointly submitted to the WTO an application to impose countermeasures. In August, a WTO arbitrator approved the level of countermeasures and the eight co-complainants submitted applications to the WTO detailing their proposed countermeasures; the applications were approved. With its co-complainants, Japan will take action at all levels to have the Byrd Amendment repealed promptly, including imposing countermeasures

Anti-dumping measures on certain hot-rolled steel products from Japan

The US initiated an anti-dumping investigation against certain hot-rolled steel products from Japan in October 1998, and imposed duties on Japanese imports in June 1999. Both the WTO panel and the Appellate Body determined that the dumping margin calculation methodology and other aspects of the measures were inconsistent with WTO agreements. Consequently, in August 2002, the WTO recommended that the US remedy the WTO inconsistency of its rules and measures.

During the originally designated reasonable period of time (RPT) for compliance (which ended in November 2002), the US failed to fully implement the recommendations, including

legislative amendments with respect to the US anti-dumping duty statute. The US has requested three times that the RPT be extended.

Japan has agreed to these extension requests because partial compliance has been achieved and because of the U.S. Administration's efforts to ensure the passage of the necessary amendments. A new period for compliance has been agreed and is due to expire at the end of July 2005.

Japan will leverage opportunities at the WTO and DSB meetings, as well as in bilateral talks to have the recommendation implemented promptly by the United States.

Calculation of dumping margins via the zeroing procedure (new item)

The United States applies a procedure known as "zeroing" that in effect artificially inflates dumping margins. Under this procedure, in adding up margins calculated through an investigation for each model or export transaction, negative margins (export prices are higher than normal value in a home market) are converted to zero.

The zeroing procedure for calculating dumping margins is unfair since it essentially ignore the transactions in which dumping is not recognized. Accordingly, the procedure is considered to be inconsistent with WTO agreements. November 2004, Japan requested WTO consultations with the United States over this issue. After the consultations failed to achieve satisfactory results, Japan requested that the WTO establish a panel. A DSB meeting authorized the establishment of a panel in February 2005.

< China >

Problems related to the refund of value-added taxes on semiconductors

According to an official notice of the State Council of China, value-added taxes imposed on semiconductors are refunded only to domestic producers, which aroused concern of practical consequences involving higher taxes imposed on imported semiconductors.

On March 18, 2004, the US requested WTO consultations with China over this problem, and the US and China held consultations in April and Japan participated as a third party. In July, the two countries announced that they had agreed that China would abolish the practice by April 1, 2005. Japan appreciates this abolition.

However, China also announced in September 2004 that the Chinese government would continue to support of R&D and training in the field of semiconductors. Japan requested from China details concerning this support at the China's TRM (Transitional Review Mechanism) sessions in the WTO. However, China has provided only terse replies, stating that it is still considering this policy and that the support will ultimately be designed to ensure consistency with WTO agreements. Japan will continue to observe developments related to this issue.

Problems related to the selling of both imported and domestic automobiles

Toward the end of 2003, it was reported that China might introduce a policy to prohibit

dealers from selling both imported and domestic automobiles using the same sales network in China. Under such restrictions, a dealer selling both imported and domestic automobiles would need to either develop a new sales network or discontinue its sale of domestic automobiles. Accordingly, the prohibition could result in conditions unfavorable to the sale of imported automobiles.

Clear provisions on such restrictions are not included in the Auto Industry Development Policy (AIDP) promulgated in June 2004. However, there remains the possibility of the restrictions being introduced as subsidiary rules, or in some other form. Japan indicated this problem at a Japan-China Economic Partnership follow-up meeting held in June 2004; as well as at the China TRM (Transitional Review Mechanism) sessions in September 2004. Japan will continue to observe movements relating to this problem.

Enforcement of the quota system for imported automobiles and auto parts

The WTO accession protocol allows China to maintain import quotas for automobiles and major auto parts until the end of 2004, conditional on the quota value being increased by an annual rate of 15%, from \$6 billion for the first year, etc. China announced an import quota of \$7.94 billion for 2002 in conformance with the agreement and began allocating quotas in April. However, there are concerns about whether the allocation was administered in accordance with its commitments, since China has not published allocation results (lists of companies receiving allocations, allocation values broken down by product, and lists of producing countries). In addition, during the designated period (from April 2002 to March 2003), imports of quota products were only \$3.85 billion, which is extraordinarily low, compared to the \$7.94 billion quota. Imports from April 2003 to March 2004 were \$5.28 billion, far less than the \$9.1 billion quota for the year.

METI expressed its concerns at a Vice Minister-level meeting with China's Ministry of Commerce in May 2004. The Ministry also raised China's quota system at the China TRM sessions in September 2004. China indicated that it would abolish all quantitative restrictions by 2005 and the Chinese government would abolish its import quota system according to its WTO accession commitments. However, China has introduced an automobile import licensing system that took effect on January 1, 2005, and monitors the quantity of imports. METI will observe the situation to prevent the new system from becoming a restrictive measure.

Failure to fulfill tariff concessions for photographic film

The WTO accession protocol included a commitment to reduce tariffs on photographic products (HS-37) to 0-53.5% *ad valorem* as of 2002. However, for around half (35 items) of the photographic products covered (including ordinary photographic film), China has failed to implement the rates committed to at the time of its WTO accession. When translated into *ad valorem* terms, the specific duty levied by China is extremely high (*e.g.*, the concession rate for finished 35 mm color negative film was 42% in 2002, while in *ad valorem* terms, the duty imposed by China is over 100%).

Since 2002, Japan has requested that China remedy this situation. While 2003, 2004 and 2005 revisions in China reduced the specific duty in part, it still remains in force for all items in question, and *ad valorem* rates have not yet been introduced. In addition, even following the revisions, the specific duty in *ad valorem* terms remains considerably higher

than the concession rates.

Japan will continue its efforts to resolve the ongoing problem by leveraging various opportunities, including during meetings of specialists involved in this matter.

Implementation of anti-dumping measures

Since China's accession to the WTO, it has initiated 23 anti-dumping investigations (as of the end of March 2005); 17 of which involve Japanese products. It is noteworthy that the number of anti-dumping investigations in China has risen markedly compared to before its WTO accession.

China's anti-dumping investigations involve various problems, including:

- ◇ Authorities determine "products under investigation" or "like products" without performing adequate examinations of the physical properties and uses of products.
- ◇ Authorities made insufficient disclosures to exporters concerning the methodologies for calculating dumping margins and those used for injury determinations.
- ◇ Injury determinations are based on accumulation, without presenting concrete evidence to prove the validity of this method.

Japan has been making strong appeals at WTO AD committee meetings, bilateral discussions, *etc.* to ensure that authorities in China follow procedures consistent with WTO agreements relating to anti-dumping investigations.

Delay in improving domestic legislations on the right to trade and distribution services

Before China's accession to the WTO, the right to trade (namely, the right to trade in all goods, awarded by the Chinese government) was restricted to certain Chinese enterprises and generally foreign enterprises were prohibited from trading in goods. China committed to permit, within three years of its accession (*i.e.*, by December 2004), all enterprises in China (including foreign-owned enterprises) to obtain the right to trade, subject to some restricted items.

On July 1, 2004, the revised Foreign Trade Law took effect in China. In accordance with the country's commitment at the time of WTO accession, this Law immediately grants the right to trade, upon notification, to all enterprises engaging in foreign trade (including foreign owned enterprises). During the China TRM process that began in September 2004, Japan requested that China implement the Act in a WTO-consistent manner.

At the time of its accession, China also committed to open a sizable portion of its market for distribution services to foreign investment. Specifically, regarding wholesale and retail services except for some segments, it committed to enable the establishment of joint venture enterprises with a majority share of foreign investment within two years after accession, and to abolish restrictions on the ratio of foreign investment within three years after accession.

In this regard, China implemented the Measures for the Administration of Foreign Investment in Commercial Fields, on June 1, 2004, legally fulfilling its commitment to abolish restrictions on the ratio of foreign investment. During the China TRM sessions in September 2004, Japan requested that China ensure that these Measures are enforced in a WTO-consistent manner and in accordance with its WTO accession commitments. Although METI understood that China was preparing implementing rules for the Act, it later learned that the country had suspended drafting of the rules. Accordingly, Japan has requested that China promptly publish and enforce the rules. Japan will continue to monitor developments relating to China's improvement of domestic legislation concerning the right to trade and distribution services.

Issues related to counterfeit, pirated and other infringing products

Regarding issue related to counterfeit, pirated and other infringing products in China and in other Asian countries and territories, Japan has requested the countries and territories to improve relevant legislation, enforce legal protection appropriately and effectively, and strengthen enforcement efforts by administrative and judicial branches. These requests have been made at multilateral and bilateral discussions under the auspices of APEC, WIPO, WTO, etc. Also, Japan supports the training of personnel in related local organizations (*e.g.*, customs, police, courts and intellectual property offices) in order to improve control measures in countries and territories where serious damage has been caused by counterfeit products. In July 2004, METI established the Office for Intellectual Property Right Infringement and, in August 2004, the Office of Intellectual Property Protection as the government's unified contact offering advice on related problems. These actions aim to meet the requests of individual enterprises for advice and information; and to further industry-specific discussions with representatives of the Chinese government and industry, as well as helping to organize trade missions.

China has taken certain actions in response to these movements, including reviewing its criminal prosecution thresholds in December 2004. However, the abundance of counterfeit, pirated and other infringing products in China still poses a serious problem, and remains very damaging to Japanese enterprises. Accordingly, Japan will continue to request that China enforce legal protection appropriately and effectively, tighten control in the administrative and judicial branches, introduce proper civil recourse, and remedy local protectionism.

Problems related to the system for certifying finished vehicle characteristics (new item)

The Auto Industry Development Policy (AIDP), promulgated by China in June 2004, includes a provision under which, if the quantity of imported main parts (automobile body, engine, transmission etc.) has reached, or exceeded, a specified level, then these parts are regarded as having the properties of a finished vehicle; therefore, the provision requires that, for certain parts, the higher tariff rate for finished vehicles be applied.

Japan expressed its apprehension about the inconsistency of this provision with WTO agreements, at the Committee on Market Access and the Council for Trade in Goods (in September and November 2004, respectively). China replied that it would not change its practices regarding locally completely knocked-down parts (CKD) and locally semi-completely knocked-down parts (SKD). However, on February 28, 2005, China promulgated the Administrative Rules on Imports of Auto Parts with features applicable to

assembling of whole vehicles. The Rules (which took effect on April 1, 2005) provide that the tariff rate for finished vehicles be applied to imported CKD and SKD parts, as well as to imported main parts whose quantity has exceeded a specified level. Japan will continue to point out the inconsistency of these Rules with GATT and China's Working Party Report on Accession. The automobile industries of the EU are also taking a keen interest in this problem.

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Draft regulations on registration, evaluation, and authorization of chemicals (REACH)

In May 2003, the European Commission published draft regulations on the Registration, Evaluation, and Authorization of Chemicals (known as REACH). REACH is designed to provide more rigorous control and risk evaluation of chemical substances. REACH was amended to create a final draft, which was adopted in October 2003. Following submission of this draft to the European Parliament and the European Council in November 2003, a procedure is underway for introducing final legislation based on the draft.

There are concerns that REACH may impose a greater burden on importers, as opposed to manufacturers in the EU, in part because it essentially renders only EU manufacturers eligible for exemption from the registration of chemical substances contained in articles.

In January 2004, the EU formally notified REACH to the WTO. In response, Japan submitted its comments on the draft in June 2004. Japan also expressed its concerns about REACH on various occasions (*e.g.*, during the WTO Committee on Technical Barriers on Trade (TBT) meetings and in dialogues between Japan and the EU concerning regulatory reform). The EU's reply is that, while it believes REACH to be consistent with WTO agreements, it welcomes guidance and opportunities for dialogue. Accordingly, Japan will continue to take actions to resolve any problems it perceives.

Directives on waste electrical and electronic equipment (WEEE)

The EU Directives on Waste Electrical and Electronic Equipment (known as WEEE), which took effect in February 2003, are aimed at promoting the reuse of wastes through recycling and other processes. Specifically, WEEE seeks to control the generation of waste electric and electronic equipment, and thereby reduce the level of disposed waste. EU Member countries were to complete implementing regulations in line with these directives by August 2004. At present, however, revised regulations have yet to be enforced in most member countries. Japan is interested in certain aspects of the WEEE directives, including the clarification of the scope of the manufacturer's obligations.

During dialogues between Japan and the EU concerning regulatory reform, held in February 2004, Japan expressed its concern about this matter. The EU replied that in most EU member countries, implementing regulations had progressed to their final stages and that the EU would publish guidance materials that would cover the above-mentioned scope of obligations and other relevant topics. Japan will continue to take actions to resolve possible problems at various opportunities.

Directives on the restriction of the use of certain hazardous substances in electrical and electronic equipment (RoHS)

The EU Directives on the Restriction of the Use of Certain Hazardous Substances in Electrical and Electronic Equipment (known as RoHS) took effect in February 2003. RoHS seeks to harmonize regulations in force in EU member countries that restrict the use of hazardous substances in electric and electronic equipment, thereby protecting human health and promoting the reuse of waste electric and electronic equipment via environmentally friendly means. Member countries were to complete implement regulations in line with these directives by August 2004. At present, however, revised regulations have not yet been enforced in most member countries. Japan is interested in certain aspects of the RoHS directives, including the clarification of covered products and the setting of the standard on the maximum allowed contents of hazardous substances.

During dialogues between Japan and the EU on regulatory reform, held in February 2004, Japan expressed its concern about this matter. The EU replied that, in most member countries of the EU, implementing regulations had progressed to their final stages and that the EU would publish guidance materials that would cover the range of products and other relevant topics. Japan will continue to take actions to resolve possible problems, by leveraging various opportunities.

< ASEAN countries >

Malaysia: Problems related to imposition of internal taxes on automobiles

Malaysia discriminates between designated “national cars” manufactured by certain domestic manufacturers (four companies at present) and “non-national cars” manufactured by other manufacturers. The discrimination takes the form of an excise duty (an internal tax levied on certain products such as automobiles). Additionally, in January 2004, a measure was introduced to impose the excise duty on imported completely built-up units (CBU), resulting in a *de facto* discrimination between domestic and imported automobiles; the excise duty is a means of showering preferential treatment on national cars. Additional measures were introduced in January 2005 to reduce the import tax, but they substantially increased the excise duty on CBU and on locally completely knocked-down parts (CKD) (the maximum excise duty rate for 2005 is 250 %).

During the EPA negotiations between Japan and Malaysia that began in 2004, Japan requested that Malaysia abolish this discriminatory treatment between domestic and imported automobiles because it is inconsistent with WTO agreements. In addition, Japan has asked Malaysia to eliminate its automobile import licensing system which favors Bumiputra-dominated enterprises and appears to be effecting *de facto* import restriction in quantitative terms. Japan will continue to request that Malaysia rectify these discriminatory treatments during EPA negotiation and other channels.

Thailand, Indonesia: Problems related to imposition of tariffs on digital cameras

Thailand previously did not impose tariffs on digital cameras because, in accordance with the Information Technology Agreement (ITA), it categorized them as cameras designed to take still images via a digital method. However, when the HS code was revised in January 2002, Thailand reclassified digital cameras and imposed a new 3% tariff on imports.

This practice violated applicable international rules, which obligate countries to impose no tariffs on digital cameras, regardless of whether the HS code has been revised.

Consequently, METI requested on multiple occasions that the Thai government reclassify digital cameras. METI also raised the matter at the October 2004 meeting of the WTO Committee on the ITA. In January 2005, Thailand reclassified digital cameras, which are now subject to 0% tariffs. Thailand acknowledged that the subject cameras represented cameras designed to take still images via a digital method and, therefore, are covered under the ITA. The government formally reported this decision to ITA member countries at the meeting of Committee on ITA on February 24, 2005.

Indonesia also imposed a 5% tariff on digital cameras in 2003. Subsequently, the country increased the tariff rate to 15% in January 2004, when it implemented the ASEAN unified table of articles. Japan believes that this practice violates relevant international rules and will take appropriate action to resolve the matter through the ITA Committee on and other avenues.