Chapter 4

THE EUROPEAN UNION

TARIFFS

1) High tariff Products

<Outline of the measure>

The simple average of bound tariff rates for non-agricultural products is 3.9%. However, high tariff rates, 22% on trucks and 10% on passenger cars, remain. Moreover, tariff rates for electric appliances (maximum 14%) and textiles (maximum 12%) are higher than those of other developed countries, rendering imported products at an extremely severe competitive disadvantage in comparison with domestically-made products.

<Problems under international rules>

Higher tariff rates themselves do not conflict with the WTO Agreements unless they exceed the bound rates. However, from the viewpoint of promoting free trade and enhancing economic welfare, it is desirable to reduce tariffs to the lowest possible rate and to eliminate tariff peaks.

<Recent developments>

Negotiations on enhancement of market access for non-agricultural products in the DDA are ongoing and include negotiations on reducing and eliminating tariff rates.

2) The tariff classification issue

A. Information Technology Agreement

In the EU, while tariffs are not imposed on products covered by the ITA such as computers, computer equipment and semiconductors, high tariffs are imposed on electrical appliances like televisions and video apparatus, which are not covered by the

ITA. Technological convergence is going on between these categories of products, and problems are arising due to arbitrary changes in tariff classifications of products covered by the ITA.

The ITA has ensured a free trade system for IT products and has contributed to further technological progress in the IT sector. This sector is a field in which technological progress moves quickly and, at the time of the ITA was concluded, it was stated, "Each party's trade regime should evolve in a manner that enhances market access opportunities for information technology products," (refer to the first paragraph of the ITA declaration), and, "Participants shall meet periodically under the auspices of the Council on Trade in Goods to review the product coverage specified in the Attachments, with a view to agreeing, by consensus, whether in the light of technological developments, experience in applying the tariff concessions, or changes to the HS nomenclature, the Attachments should be modified to incorporate additional products, and to consult on non-tariff barriers to trade in information technology products," (declaration Annex paragraph 3) so that from the beginning it addressed the need to respond to technical progress.

However, the problem actually occurring in the EU is that certain IT products that have incorporated multiple functions through technological innovation have tariffs imposed because they are classified as non-ITA products under the EC's customs law, thereby incurring an adverse effect on the intentions of the ITA.

In December 2006, Trade Minister Amari wrote to EU Trade Commissioner Mandelson requesting resolution. In January 2007, there were meetings between Minister Amari and Commissioner Mandelson and between the Trade Vice-Minister and the External Trade Director General to discuss resolution of this problem. In the future, the government of Japan should continue to raise the issues toward seeking a resolution during the ITA committee and bilateral negotiations.

Following are outlines for individual issues:

(a) Digital Multifunction Machines

<Outline of the measure>

Digital multifunction machines are information technology equipment that combine the functions of a printer, copying machine, scanner, facsimile and others, which are used with computers and networks and are considered to be connected to computers with major functions for computer output. While Japan and the US classify digital multifunction machines under the same HS code 8471.60 as conventional printers, covered by the ITA and with a tariff rate of 0%, the EU had classified these machines under HS 9009.12 (analog copiers) and imposed 6% duties.

Since there was no international consensus on how to classify digital multifunction machines, discussions were held during the HS committee of the World Customs Organization (WCO) (details are discussed later). As a result, an independent code was newly set up in HS2007 for digital multifunction machines, HS code 8443.31, and implemented in January 2007.

Although this tariff classification issue settled, the problem of handling the tariff was still not resolved. The EU continues to impose a 6% tariff on digital multifunction machines beyond 2007, considering them not to be covered by the ITA.

<Problems under international rules>

The development and manufacturing of digital multifunction machines is based on printer technology rather than conventional copier technology and, even in terms of user applications, they are primarily used as network devices for computers, which are covered by the ITA. They are advanced machines that combine the functions of printers, facsimiles and scanners—all single function machines covered by the ITA—and therefore the ITA should cover them in the same manner as conventional single function machines and impose no tariff.

Reflecting on the expected objectives of the ITA, if products covered by the ITA become multifunctional and more advanced products are treated as not being covered by the ITA, then progress in IT technology is impeded rather than promoted, benefits to consumers are destroyed and there is a negative impact on the development of industries and society.

<Recent developments>

The discussion on this issue has been ongoing since Brazil brought the matter before the WCO. In May 2001, a majority voted in favor of classifying the machines under HS code 8471 (computer peripheral devices), but opposing countries exercised reservations and the debate continued. There was a second vote in November 2002, which resulted in a majority voting in favor of classifying the machines under HS code 9009 (analog copy machines), but the opposing countries again exercised reservations and the debate continued. Under a third vote in November 2003, the results were tied. As a result of Japan's efforts, a customs code for digital multifunction machines was newly set up in HS2007; implemented January 1, 2007. The EU, with the amendment to HS2007, will impose a 6% tariff on multifunction machines (including facsimile machines) that have the capability of copying more than 12 sheets per minute under classification HS84433191.

(b) Flat Panel Display Tariff Classification

<Outline of the measure>

In 2004, the EU changed the tariff classification of flat panel display (FPD) monitors, including liquid crystal display (LCD) monitors and plasma display panel (PDP) monitors.

Previously, these monitors were classified as computer output devices (HS 8471.60: 0% tariff rate). By the reclassification, they are now classified as video monitors that receive video signals (HS 8528.21: 14% tariff rate), and subject to a high tariff rate.

<Problems under international rules>

These monitors fall under the category of "monitors used exclusively or mainly for automatic data processing systems" in Chapter 84, Note 5(B)(a) of the Tariff Schedule under the HS Convention. Rule 3(b) of the "General Rules of Interpretation" of the HS Convention also provides that the "category of an item should be determined by the material or component that gives essential character to such item." According to these provisions, these monitors should be classified as computer output devices.

However, by applying Rule 3(c) of the General Rules of Interpretation which provides that "when the category of an item cannot be determined under 3(b), the item should be classified under the heading which occurs last in numerical order among those which equally merit consideration," the EU classifies only monitors used exclusively for automatic data processing systems in the category of computer output devices. This has the effect of expanding the category of video monitors to also include monitors that are obviously used mainly for automatic data processing systems.

Moreover, FPD monitors are listed in ITA Attachment B regardless of their HS code classification so, regardless of tariff classification changes, the ITA should cover them and no duty should be imposed.

The fact that the EU, which has a large world trade share, has made an unfair change in the tariff classification to adopt a higher tariff rate, not only contradicts its status of actively accelerating improvement of market access, but also significantly deteriorates business predictability and impedes stable trading.

<Recent developments>

In March 2005, the EU announced a new tariff rule: among FPD monitors classified as video monitors, those with a 19-inch or smaller screen at the aspect ratio of 4 to 3 or 5 to 4 would be entitled to duty-free treatment through the end of 2006. Although only temporary, this new rule afforded tariff exemption to almost all computer monitors imported to the EU. During the Japan-EU Regulatory Reform Dialogue held in 2005, Japan requested that the EU provide detailed information on the exemption and

review the tariff classification so that FPD monitors classified as video monitors would be permanently classified as computer output devices and eligible for a 0% tariff rate. Japan should continue paying attention to the exemption in the future. Since the provisional tariff is temporary, it is necessary to deal with that as soon as possible. While there is information that the existing temporary tariff rate will be extended, there has not been an announcement of any specific measure, so they are subject to tariffs from January 2007.

(c) Digital Cameras

<Outline of the measure>

Based on the ITA, all Member countries, including the EU, agreed to eliminate tariffs on digital still image video cameras (digital cameras); the tariff has been zero in the EU since 2000. However, the EU has been studying the added video function of digital cameras covered by the ITA and is considering taking them out of the ITA's scope and thereby imposing tariffs by changing the classification from digital camera (HS85258030: tariff rate 0%) to video camera recorder ([1] the type that cannot record external input, HS85258091: tariff rate 4.9%; or [2] the type that can record external input (HS85258099: tariff rate 12.5%).

<Problems under international rules>

Digital cameras are clearly covered by the ITA and changing the tariff rate just because of an added function is highly likely a violation of EU bound rates based on the ITA. Currently, most digital cameras in the market, with few exceptions, have the additional function of taking moving images. Therefore, if digital cameras with the moving image recording function are subject to tariff, possibly the ITA will no longer cover most of the digital cameras distributed in the market. As represented by digital cameras, technological progress of IT products occurs quickly and additional functions are added in many cases. So, imposing tariffs because of the additional functions may lead to the nullification of the ITA.

<Recent developments>

As a result of consideration of the tariff classification change for digital cameras with video functions being advanced by the European Commission, the Tariff Classification Committee presented the draft of an Explanatory Note for digital camera and video recorder classification to the European industry group in January 2007. The Tariff Classification Committee will adopt the Explanatory Note as early as 2007 and it is increasingly possible that digital cameras with certain video functions added will be

changed to the same classification as video camera recorders.

B. Digital video camera (camcorder) classification

<Outline of the measure>

The EU's tariff classification distinguishes between (a) video cameras with the ability to record not only signals from embedded camera units but also signals from outside equipment; and (b) those cameras without this ability; different tariff rates of 14% and 4.9% respectively apply. In its Official Journal of July 2001, the EU ruled that a 14% tariff rate also would apply to cameras in which the recording of pictures from exterior equipment (DV-in) could be "decontrolled by software." Consequently, video cameras with DV-in control software that were subject to a 4.9% tariff rate were classified as cameras subject to a 14% tariff rate. Some EU members gave notice that they would collect unpaid tariffs for some imported products cleared through customs at the 4.9% tariff rate over the past 3 years before the announcement of the classification changes claiming that the import declarations were in error.

<Problems under international rules>

Although the WTO permits Members to apply tariffs within their bound rates, unjustified and sudden changes in tariff rates, as described above, significantly undermine the predictability of business activities and obstruct fair trade.

<Recent developments>

During the Japan-EU Regulatory Reform Dialogue held in March 2006, the EU rejected Japan's request for canceling the 14% tariff retroactivity, arguing that the matter of tariffs should be discussed in WTO negotiations. Japan believes that the issue is directly related to the EU's tariff classification rather than the tariff rates. Japan will continue to request in the Regulatory Reform Dialogue scheduled in FY2007 that the retroactivity be cancelled.

ANTI-DUMPING

Anti-dumping is an area of hidden protectionism in the European Union. The current EC legislation contains amendments to bring European practice into conformity with the Anti-Dumping Agreement. Japan considers this Agreement to be one of the major successes of the Uruguay Round negotiations. However, abuse in this area, which seems to have become common practice, is troublesome since it may continue where

discretion is allowed even if the EC implementing legislation does not seem to violate the Agreement. This is especially the case with regard to the European Commission because Commission authorities have greater discretionary powers than do the authorities in the United States; yet not all past administrative practices actually have been corrected (for example, asymmetrical comparison of normal value and export price, deduction of anti-dumping duties as a cost, problems involved in determining the scope of anti-dumping duty, *etc*.). It is, therefore, necessary to monitor the administration of the current EC anti-dumping provisions for conformity to the WTO Anti-Dumping Agreement.

"Automatic" Extension of Anti-Dumping Measures to New Members of the EU

<Outline of the measure>

When the EU expanded in 1995, the anti-dumping measures taken by the existing 12 members were automatically applied to the three new members (Austria, Finland and Sweden). At that time, Japan negotiated with the European Commission and ultimately reached an agreement that the EU would conduct a simplified, accelerated review of anti-dumping measures across the entire region if requested.

When the EU expanded with the addition of ten new member countries (Poland, Hungary, the Czech Republic, Slovakia, Slovenia, Estonia, Lithuania, Latvia, Cyprus and Malta) in May 2004, the AD measures that were in effect automatically extended to the new members. Also, when two new members (Romania and Bulgaria) acceded to the EU in January 2007, the EU-wide AD measures were automatically extended to them. Meanwhile, AD measures imposed and investigations conducted by Romania and Bulgaria were automatically invalidated.

<Problems under international rules>

Expansion in the membership of a customs union, which results in an automatic extension of the AD measures already applied by existing members to new members, without initiating new investigations into injury to the domestic industry in new members, seems to be inconsistent with Article XXIV:5, which provides that trade regulation must not be any more restrictive than prior to the formation of a customs union. Similarly, in terms of complying with the AD Agreement, when expanding the scope of AD measures, it is necessary to reinvestigate whether the case meets the requirements for initiating an AD investigation and whether there has been dumping and injury to domestic industry, and to consider the causal relationship between dumping and injury. Japan considers it a violation of the AD Agreement to automatically expand AD measures without carrying out these procedures.

<Recent developments>

In the Japan-EU Regulatory Reform Dialogue in November 2006, prior to the accession of Bulgaria and Romania to the EU in 2007, Japan pointed out to the EU that the automatic extension of the EU AD measures against Japanese products to new members would be inappropriate pursuant to the AD Agreement.

Meanwhile, in December 2006, the European Commission noted that, when dumping and injury determination are regarded as significantly changed by an enlargement through the addition of new members, the interested parties may request a review (interim review) accompanied by evidence to prove such change.

At the time of the EU enlargement of January 2007, there was only one EU AD measure against Japan in effect, but Japan should keep watch on this matter as a systemic issue in order to prevent inappropriate AD measures.

STANDARDS AND CONFORMITY ASSESSMENT SYSTEMS

1) 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) and Draft Directive on Batteries and Accumulators

<Outline of the measure>

The EU Directives on Waste Electrical and Electronic Equipment (WEEE) and the Restriction of the Use of Certain Hazardous Substances in Electrical and Electronic Equipment (RoHS), which took effect in February 2003, restrict the use of lead, mercury, cadmium, *etc*. in electrical and electronic equipment. The purpose of this restriction is to prevent disposal of electrical and electronic equipment containing hazardous substances (Substance Ban); the directive provides for recovery/recycling obligations for almost all electrical and electronic devices.

In November 2003, the European Commission adopted a proposal for a new Directive on Battery and Accumulators that made it mandatory to recover and recycle all batteries sold in the EU internal market and laid down minimum standards for the WTO Member's battery recovery/recycle systems for the prevention of incineration and burial of batteries.

< Problems under international rules>

The drafts of the two directives, adopted in June 2000 by the European Commission, had the potential of being more trade-restrictive than necessary to fulfill a legitimate objective (Article 2.2 of the TBT Agreement) because of an across-the-board ban with few exceptions. Japan and other interested countries voiced concerns about

this in the TBT Committee. As a result, the final EU Directives on WEEE and RoHS were issued addressing almost all concerns voiced by Japan.

To date, almost all EU Member states have established domestic laws regarding the WEEE Directives. But, as the European Commission is scheduled to review the Directive in 2008, it is necessary to closely monitor the scope of application of the Directives, administration of provisions for producer responsibility, disposal requirements, and revised targets for collection, reuse, reproduction and recycling for changes.

Also at this time, almost all EU Member states have finished establishing domestic laws regarding the RoHS Directive. The treatment of exemptions from the Directive is still under discussion by the Technical Adaptation Committee (TAC). The additional nine items for exemption announced in the Official Journal of the European Communities on October 14, 2006, included all the exemptions requested by concerned Japanese industries. However, on November 8, 2006, at the sixth consultation on additional exemptions, the EU proposed to retract one item that was previously exempt (lead in optical isolators). This underscores the need for close monitoring of future developments. In May 2006, the European Commission published the RoHS Enforcement Guidance Document to provide guidance for enforcement of the Directive in each Member state; however, it is not legally binding.

The Directive on Batteries was enacted in September 2006, requiring EU Member states to establish domestic laws by September 26, 2008. The Directive bans sales of batteries and accumulators containing more than 0.0005% of mercury and more than 0.002% of cadmium by weight, except for batteries for cordless power tools and others. Also, mandating the collection, disposal and recycling of primary batteries (disposable alkali and manganese batteries) and accumulators including those sold before the enforcement of the Directive, may lead to excessive increases in cost burden on the producers.

<Recent developments>

At the Japan-EU Regulatory Reform Dialogue in March 2006, regarding the WEEE Directives, Japan asked the European Commission for clarification of the marking standards, preparation of unified guidelines applicable to all EU Member states for the provision of information to disposal facilities, and the monitoring of the Directives' enforcement in Member states prior to a 2008 review. On the RoHS Directive, Japan also asked the European Commission to clarify the method for certification of compliance, the definition of placement on the market and exemptions so that Japanese companies could smoothly prepare themselves for implementation and compliance with the Directive in response to the domestic measures to be enforced by each EU Member state. Also, at the Japan-EU Regulatory Reform Dialogue in December 2006, Japan submitted a paper expressing concern over the opaque state of enforcement of the above mentioned Directives.

2) Framework Directive on Eco-Design Requirements for Energy-using Products (EuP)

<Outline of the measure>

On August 1, 2003, the European Commission adopted a framework directive on eco-design requirements for Energy-using Products (EuP Directive), which was a consolidation of two previously studied directives on eco-design of electrical and electronic equipment and on energy efficiency requirements for end-use equipment. The draft framework directive was introduced into the European Parliament and adopted by the Council of the EU in July 2005. The draft framework directive is subject to implementing measures and related enforcement provisions, which could take approximately 24 months. The Council of the EU aims at implementing the directive by 2007.

The EuP Directive is a "framework directive" that stipulates cross-sectional matters common to various products/devices. Implementing directives dealing with regulations of individual products/devices are being adopted one-by-one. Implementing measures for an EuP framework are expected to include either one or both of the following requirements, depending on EuPs, to control them in terms of their environmental compatibility (eco-design requirements): (i) requirements of eco-design envisaging the environmental aspect of a product for its entire life through implementing comprehensive environmental assessment to enhance its environmental functions (requirement for comprehensive eco-design); and (ii) requirements of eco-design focusing on specific environmental aspects of a product covering its entire life cycle, such as enhancing energy efficiency when using electric equipment (requirement for specific eco-design).

"Energy-using Products" covered by the directive include all products that function by the input of energy (electricity, fossil fuels (oil and gas), renewable fuels, *etc*.) including parts which are intended to be incorporated into EuP, and which are placed on the market as individual parts for end users or the environmental performance of which can be assessed independently. Currently, transportation equipment (land, marine and air transportation equipment including automobiles) is excluded because existing and voluntary regulations offer effective controls. However, the necessity of covering the equipment under the directive will be discussed in the future.

<Problems under international rules>

In order to prevent non-EU companies from being treated disadvantageously compared to EU companies, it is necessary to ensure that non-EU entrepreneurs' opinions should be duly reflected in the development of implementation measure directives.

<Recent developments>

At the Japan-EU Regulatory Reform Dialogue held in March 2006, Japan again raised questions regarding such matters as ensuring opportunities for Japanese companies to participate in preparatory studies and consultation forums in each product area concerning the consideration of implementing measures and directives; the possibility of exterritorial application of the EU eco-label; whether there is a plan to formulate guidance regarding technical document files to be prepared for conformity assessment; interpretation of the scope of products subject to the Directive; and the relationship between the Directive and other international standards, such as IEC.

Also, at the Japan-EU Regulatory Reform Dialogue held in December 2006, Japan expressed concern about the overall delay from the original schedule in the progress of work on deciding implementing measures and asked about the prospective work schedule going forward. Japan also submitted a request seeking continued close cooperation on the matter and further provision of relevant information to Japan.

3) Draft Regulations on Registration, Evaluation and Authorization of Chemicals (REACH)

<Outline of the measure>

In February 2001, the European Commission published a "Strategy for a future Chemicals Policy" that intensified its risk assessment and control of chemical substances. In May 2003, the EC announced a draft regulation on Registration, Evaluation and Authorization of Chemicals (REACH). Subsequently, the draft was amended in response to comments submitted from interested parties around the world via an Internet consultation. The final draft of the European Commission was adopted on October 29, 2003. Subsequently, after deliberation by the European Parliament and the Council of the EU, the draft was adopted by the Council of the EU on December 18, 2006. REACH will enter into force on June 1, 2007. In preparation for the enforcement, the European Commission is pushing ahead with consideration of launching REACH Implementation Projects for the development of related IT systems, development of various guidance documents and preparation for the establishment of the European Chemicals Agency.

Major features of REACH are as follows:

(i) It consolidates the current two systems controlling "existing" and "new" chemical substances. Chemical substances that are manufactured or imported by one manufacture or importer in quantities of more than one ton per year must be registered. As for chemicals manufactured or imported in quantities of more than ten tons per year, a Chemical Safety Report (CSR) must also be

completed.

(ii) The responsibility for risk assessment of existing chemical substances, which have been implemented by governments, is imposed on industries.

(iii) Under certain conditions, it is mandatory to register chemicals used in products that may be hazardous.

(iv) Regarding certain chemical substances that have extremely high degrees of danger of carcinogenicity *etc*., a new system is introduced under which provision of these chemical substances to the market is authorized on the basis of individual uses. (Provision of such chemical substances to the market is prohibited unless industries can prove that the risk is minimal.)

<Problems under international rules>

Although its basic principles of human health and environmental protection are understandable, REACH might create unnecessary obstacles to international trade in that it requires the registration of polymer-constituting monomers that are not detrimental to either human health or the environment.

<Recent developments>

After the European Commission officially notified the WTO of the draft REACH regulation on January 21, 2004, Japan submitted amendment proposals on June 21, 2004. Since October 2004, Japan has also approached the European Commission, the Council of the EU, the governments of EU Member states and memberMembers of the European Parliament to seek understanding for its amendment proposals.

The European Parliament began discussion on the proposed regulation in September 2005, and the EU Council on Competitiveness worked out a political agreement on December 13, 2005, which represented some improvements to the draft proposal regarding the concerns expressed by Japan and included the idea of one registration for each chemical substance and the clarification of chemical substances for notification (listing).

At the Japan-EU Regulatory Reform Dialogue held on December 1, 2006, Japan argued that the obligation of the registration of polymer-constituting monomers was unreasonable and asked the European Commission to reconsider the obligation. However, the European Parliament passed the REACH proposal at a plenary session on December 13, 2006, without any improvement made to the registration requirement for monomer substances in polymers and the Council of the EU adopted it at the Environment Council on December 18, 2006, for enforcement from June 1, 2007. However, the actual start of the enforcement of REACH regulation is expected to be in June 2008, when the European Chemicals Agency is set to be created.

TRADE IN SERVICES

Audio-visual Service

<Outline of the measure>

For the purposes of protecting cultural value, the EU issued Directive 89.552. EEC "Television without Frontiers" (revision: 97. 36. EC) and requested member states to reserve at least half of the television air time for European programs in a feasible and appropriate way (except for news, sports/event, game, commercial and teletext programs). All member states have completed domestic legislation implementing the directive. For example, France provides that at least 60 percent of movies on television must be made in Europe and that more than 40 percent of the programs must be broadcast in French (Government ordinance No. 86-1067 issued on January 18, 1992).

<Problems under international rules>

The above measure does not violate the WTO Agreements because the EU has made no commitment in the AV sector and has registered an MFN exemption. However, the GATS should cover all services and efforts towards further liberalization are desirable.

MFN is one of the most important pillars achieving liberalization in the multilateral trade regime and is a basic principle of the WTO Agreements. MFN exemptions are a deviation from this most important principle and it is desirable that it should be removed. The GATS stipulates that MFN exemptions are temporary and ought not exceed ten years.

<Recent developments>

The European Commission adopted the communication on the future of European regulatory audiovisual policy [COM (2003) 784] on December 15, 2003. Based on suggestions contained therein, the European Commission adopted the communication on the film industry in Europe in March 2004. The communication extends the period of government support for the audio-visual sector for another three years (until June 30, 2007) and suggests the adoption of the Recommendation by European Parliament and European Council on Cinema Heritage. The recommendation reflects the emphasis that governments and film industry circles place on the necessity of preserving films. This recommendation improves conditions concerning the preservation, restoration and use of the cinema heritage, and recommends that Members remove impediments to the development and competitiveness of Europe's film industry. The status of implementation of these recommendations is given in the attached table.

In May 2004, the Commission also adopted the Recommendation by the European

Parliament and European Council on the protection of minors, human dignity and refutation rights in relation to the competitiveness of the European audio-visual and information industries. Under this recommendation, the Commission has called for a campaign against discriminations such as sex, race, religion, handicap and age.

Under the Directive on Television Without Borders, certain problems had been referred to experts and external organizations for more careful deliberation. In December 2005, a draft of a new directive, the "Draft of Audiovisual Media Services Directive", was adopted. As stated before, cultural property protection policies in the EU remain rigorous. Japan requests that the EU liberalize certain of its commitments as part of the WTO Doha Round services negotiations.

On February 12 and 13, 2007, the EU chair country Germany held an unofficial conference of media and culture ministers in Berlin. During this conference, the issue of the revision of the "Television without Frontiers Directive" was discussed, with the possibility that a new directive will be adopted in the first half of 2007.

○Status of revision of the "Television with Frontiers Directive," *etc*.

December 15, 2005: The European Commission adopted the "European Parliament and European Council Directive Bill to correct the 89/552/EEC Council Directive concerning coordination of part of the Members regulatory policy concerning execution of television broadcast activities" (COM (2005) 646). A draft of the directive was sent to the European Parliament and European Council.

May 8, 2006: Discussions by the Council (education, youth, culture).

September 13, 2006: Views of the European Socioeconomic Committee.

October 11, 2006: Views of regional committees.

November 13, 2006: Discussion by the Council (culture, audiovisual); views of the European Parliament, and the culture and education committee.

December 13, 2006: Views of the European Parliament (No. 1 reading meeting).

February 12, 2007: Informal conference of media and culture ministers held. Discussion of the revision of the "Television without Frontiers Directive."

Status of Implementation by Principal Countries of Recommendations Concerning Cinema Heritage

United Kingdom	Since November 2005, discussions have been held by the Culture, Media and Sports Committee of the House of Commons concerning the specific policy to be adopted, with a view to preparation of a "Cultural Heritage White Paper." In the opinion statement presented before the Committee held in April 2006 by the British Film Institute, the term "recommendations" was mentioned, and the U.K. proposed that a specific policy should be included in the "Cultural Heritage White Paper." However, no statement concerning the preservation of the cinema heritage was included in the report entitled "Protection and Preservation of Our Cultural Heritage" which summarized the discussions of the Commission held on July 12, 2006.
Germany	On October 2006, following the concept of the European Commission, the German federal government decided to provide a total of 60 million euros in support to supplement individual film production expenses by 16%-20%, for the three-year period beginning in January 2007, in order to promote film production in Germany. The production of documentaries and animated films would also receive support, and support for films whose production expenses amounted to one million euros would be available to small-budget films.
Spain	Domestic laws have not been established.
Czechoslovakia	No specific action taken.
Hungary	As a result of government ordinance No. 203/2006, the law concerning the National Film Preservation Bureau took effect on October 5, 2006. It defined films produced by the former National Film Production Bureau as national property. In addition, ownership of the films would be held by the National Treasury Public Finance Board, and the National Film Preservation Bureau would sell the rights to the films or hold the rights to broadcast the films.
Finland	No specific action taken.

REGIONAL INTEGRATION

1) Increasing binding tariff rates

<Outline of the measure>

Bulgaria and Romania joined the EU in early 2007 and as has occurred during previous rounds of enlargement of the EU, tariffs of newly acceded Member States conformed to the common external tariff of the EU, raising bound tariff rates of some items. According to Article XXVIII:1 of GATT, bound tariff rates may be raised only

after negotiating and reaching an agreement with the country concerned. However, tariff rates in the newly acceded Member States were raised prior to the completion of the EU's negotiations with Japan. During the EU enlargement of ten countries in May 2004, although Japan had several occasions to press the EU to work toward completion of the negotiation by the time of enlargement, tariffs in the newly acceded Member States were raised without any negotiations at all. As a result, it took 20 months following the enlargement before the compensation was agreed and implemented, and companies exporting to the EU suffered damages arising from the imposition of tariffs that had been raised unilaterally.

<Problems under international rules>

The unilateral increase of tariffs by EU enlargement is inconsistent with Paragraph 6 of GATT Article XXIV, which provides for compensatory adjustment to increase of bound tariff rates through the procedure stipulated in Article XXVIII of GATT.

<Recent developments>

On December 21, 2006, Japan notified its intent to enter into accessions negotiations with the EU under Article XXIV:6 of GATT regarding accession of Bulgaria and Romania to the EU. Currently, negotiations of accession of Croatia and Turkey are on-going. Japan will continue to negotiate with the EU to secure consistency with Articles XXIV:6 and XXVIII of GATT.

2) "Automatic" Extension of Anti-Dumping Measures to New Members of the EU

When the new member countries joined the EU in January 2007, the EU automatically extended the anti-dumping measures in effect in the EU to the ten new members. Japan believes that this action violates the Anti-Dumping Agreement. (*See* Part I Chapter 3 'EU 'Anti-Dumping'')

3) Increase in Polish Customs Duties on Automobiles

<Outline of the measure >

Poland raised its tariffs on automobiles (unbound) from 15 percent to 35 percent in January 1992, two months before the date of the enforcement of the European – Poland Agreement. Poland imposed a 35% tariff on automobiles from outside the EU without exception. By applying the above agreement to the automobiles within the EU, this tariff rate was gradually reduced to zero percent (20 percent in 1998, 15 percent in 1999, zero percent in 2002); Poland also established a zero-tariff import quota (30,000) for EU automobiles from January 1993 (expanding the quota every year).

<Problems under international rules>

Because Poland increased its tariffs just before its entry into the European regional trade agreement (RTA), Japan suspects that the increases may violate Article XXIV:5(b) of the GATT, which stipulates that the "tariff shall not be higher than the corresponding duties existing in the same constituent territories prior to the formation of the free-trade area, or interim agreement". One could argue that there was no violation of Article XXIV:5(b), because the tariffs had been increased already at the time the RTA went into force. But in light of the fact that the agreement had already been signed in December 1991, when the increases were made, it is more logical to view it as increases in conjunction with the agreement.

India requested and was granted the establishment of a panel on this matter in the DSB in November 1994. In September 1995, India again requested Article XXIII consultations with Poland under the WTO rules. In August 1996, the two countries notified the WTO that they had reached a mutually agreeable solution (Poland created a special quota of preferential tariff rates for countries affected which qualify for the GSP).

<Recent developments>

Japan indicated to the Polish Government that the 35 percent gap between tariffs on automobiles made in Japan and in the EU was an area of concern requiring resolution at the earliest opportunity to ensure promotion of trade, investment and other economic exchanges. There was no progress when Poland joined the EU in May 2004 -- the common EU external tariffs applied to Poland. The EU must be monitored to ensure that no unnecessary trade barriers are imposed when Croatia and Turkey join the EU.