

METI Priorities Based on the 2011 Report on Compliance by Major Trading Partners with Trade Agreements (May 13, 2011)

The 2011 Report on Compliance by Major Trading Partners with Trade Agreements—WTO, FTA/EPAs, and BITs—was today adopted by the Industrial Structure Council's Subcommittee on Unfair Trade Policies and Measures, and published. The Report addresses the consistency of wide ranging trade policies and measures of major trading partners with WTO agreements and other international rules, and requests improvements of those policies and measures.

The trade policies and measures recently adopted by these countries and territories are generating concern over the increase of giving preference to domestic production or products for temporarily securing employment and promoting key industries, while showing that the spread of protectionism after the global economic crisis is prevented. The 2011 Report particularly shows that the increase of the following types of measures can be observed; (i) measures influenced by growing interest in rare resources and renewable energy and (ii) measures imposing excessive regulatory burdens in light of their objective without using international standards or common practices.

With close attention to the above trend, METI continues its efforts to solve each of the addressed measures. The cases it currently gives a high priority in its trade policy are enumerated.

In addition, the current status of each policies and measures specified in last year's METI Priorities and METI's relevant actions can be found in the annexed "Status of Recent METI Priorities in 2010," which shows significant improvements in various cases.

Issues for which Solutions Continue to be Sought by Various Means including Bilateral or Multilateral Consultations and WTO Dispute Settlement Mechanism

With regard to the following issues, solutions will be sought through various means such as bilateral consultations, the fora for the improvement of the business environment introduced by EPAs, mutual review mechanisms, including WTO standing committees, and the WTO dispute settlement mechanism.

- China
 - Addressing Export Restrictions on Raw Materials
 - Correction of Discrimination in the National Indigenous Innovation Product Accreditation System and in Other Government Procurement Regulations and Practices

Note: China's accession to the WTO Government Procurement Agreement is still under negotiation. However, METI listed those measures, because China's introduction of them directly contravenes the spirit of the WTO Government Procurement Agreement.

 - Correction of Inappropriate Application of Anti-dumping Investigations
 - Improvement in Insufficient Regulations of Counterfeit, Pirated and Other Infringing Products

- Asian Countries and Territories (ASEAN countries, Korea, Chinese Taipei, Hong Kong and India)
 - Improvement in Insufficient Regulations of Counterfeit, Pirated and Other Infringing Products

- The United States
 - Improvement of Sunset Review Practice and Early Termination of Inappropriate Long-Standing AD Duty Orders on Japanese Products

- Russia
 - Abolition of the Measure to Increase Custom Duties on Automobiles, etc.

Note: Russia's accession to the WTO is still under negotiation. However, METI listed this measure, because Russia introduced it in direct contravention to the spirit of WTO Agreements while negotiating WTO accession.

- Argentina
 - Improvement of Application of the Non-Automatic Import Licensing System

Issues Already Referred to the WTO Dispute Settlement Mechanism

The following issue has already been referred to the WTO dispute settlement procedures by Japan. Japan will keep seeking improvements of the measures concerned through the WTO mechanism.

- Canada

Abolition of the "Local Content Requirement" in the Ontario's Feed-in Tariff Program for Renewable Energy

Issues on which Japan Urges Prompt Implementation of the WTO Recommendations

With regard to the following issues as a result of recourse made by Japan and other Members to the WTO dispute settlement procedures, the WTO Dispute Settlement Body (DSB) adopted recommendations that require the United States, EU and China to bring their measures into conformity with relevant WTO Agreements. Japan will continue urging these three Members to implement the WTO recommendations promptly and fully and to take appropriate action in accordance with the recommendations.

- The United States
 - Prompt Implementation of the WTO Recommendations on the Zeroing Methodology
 - Halt of Distribution of Duty Revenues Collected through Anti-dumping and Countervailing Duty Measures to U.S. Companies Based upon the Byrd Amendment
 - Prompt Implementation of the WTO Recommendations on Anti-dumping Measures against Hot-Rolled Steel Products from Japan

 - EU
 - Elimination of Import Duties Imposed on IT Products Specified as Non-Dutiable by the WTO Information Technology Agreement

 - China
 - Prompt Implementation of the WTO Recommendations on Trading Rights and Distribution Services for Certain Publications and Audiovisual Entertainment Products
- Note: The WTO process is ongoing between the United States and China, in which Japan participated as a third party and continues to pay attention to China's implementation of WTO recommendation with great interest.

Further, with regard to import bans or import restrictions on Japanese products adopted by various countries in connection with the emission of radioactive materials after the nuclear accident caused by the Great East Japan Earthquake, METI has paid and will pay close attention to their WTO consistency, including whether they are based on scientific grounds or not.

(ANNEX) Status of Recent METI Priorities in 2010

Country	Priority Issues	Actions Taken and Resulted Improvements
China	<p>Prompt Implementation of the WTO Recommendations concerning the Protection and Enforcement of Intellectual Property Rights</p>	<p>At the DSB meeting on March 19, 2010, China reported that it had completed all domestic legislative procedures necessary to implement the DSB's recommendation (the United States, on the other hand, stated that they cannot share China's view that it had already implemented the recommendation). Japan is watching with great interest as to whether China has properly implemented the recommendation as reported.</p>
	<p>Correction of Discrimination in National Indigenous Innovation Product Accreditation System and Other Problems in Government Procurement</p>	<p>The National Indigenous Innovation Product Accreditation system, which China published in November 2009, would lead to discriminatory treatment against foreign products and will be in breach of the G20's commitments that voiced opposition to protectionism. Therefore, in December 2009, the Government of Japan and Japanese industries sent letters expressing strong concern against the system.</p> <p>The draft Implementing Regulation of the Government Procurement Law, which was issued in January 2010, would not be consistent with the principles of the national treatment of the GPA and thus, would provide discriminatory treatment to foreign products and enterprises. Therefore, in February 2010, the Government of Japan, in cooperation with Japanese industries, submitted comments on it, requesting that the Implementing Regulation keep conformity with the WTO Government Procurement Agreement (GPA), and strongly expecting China to quickly accede to the GPA.</p> <p>In the light of the concern mentioned above, in June 2010, the Government of Japan, also in cooperation with Japanese industries, submitted comments on the draft Administrative Measures for the Government Procurement of Domestic Products, which was issued in May 2010.</p> <p>Although the final versions of the above regulations related to government procurement have not been published yet, Japan monitors these measures and induces the Government of China to revise them through various levels and occasions.</p>

<p>Negotiation on Export Restrictions on Raw Materials</p>	<p>In January 2010, Japan participated in a consultation as a third party, which was established by request from the United States and made statements. (In April 2011, the report of the Panel would have been circulated.)</p> <p>Also, Japan is working on for urging the Chinese government to improve this matter all levels. For example, Mr. Masayuki Naoshima, Minister of Economy, Trade and Industry at that time conveyed his concerns about the drastic cut of Chinese export quotas of rare-earth published by the Ministry of Commerce China in July 2010, to Minister of the Ministry of Commerce, Ministry of Industry and Information Technology and Chairman of the National Development and Reform Commission through the Japan-China High Level Economic Dialogue held in August of that year.</p>
<p>Improvement with regard to Inappropriate Application of Anti-dumping Measures</p>	<p>Japan requested China to improve the anti-dumping measures in the Transitional Review Mechanism on China at the WTO Anti-Dumping Committee in May 2010. Japan has also informed China of problems of AD agreement with individual cases through the submission of the Government of Japan's comments. At the WTO Anti-Dumping Committee in October 2010, Japan pointed out procedural deficiencies in the changed circumstance review of chloroprene rubber from Japan, and requested that the Government of China answers to its written questionnaire.</p>
<p>Handling of Counterfeit, Pirated and Other Infringing Products</p>	<p>Japan has been addressing this issue by means of both requests for improvement of the systems and the provision of action-based cooperation at forums including by the dispatch of a joint government-private mission concerning the protection of intellectual property rights in August 2010 and hosting of the meeting of Japan-China joint IP working group session in October 2010.</p>

Asian Countries and Territories (Note)	Handling of Counterfeit, Pirated and Other Infringing Products	Japan has continues requesting these countries and territories to improve relevant legislation and strengthen enforcement efforts in multilateral and bilateral discussions under the auspices of APEC, WIPO, WTO, etc., and continued support for the development of human resources in the relevant national or regional organizations.
United States	Halt of Distribution under the Byrd Amendment	Japan has implemented countermeasures against the U.S. since September 2005. The U.S. repealed the Byrd Amendment in February 2006. However, since the distribution of duties will be continued under the transitional clause, Japan has urged the United States to halt the distribution and extended the countermeasures in September 2006. As the United States had not yet ceased the distribution, Japan has extended the term of the countermeasures every year since 2006. (The latest extension took effect in September 2010.)
	Prompt Implementation of the WTO Recommendations on the Zeroing Methodology	In January 2007, the WTO Appellate Body fully accepted Japan’s claims and concluded that zeroing is inconsistent with WTO agreements. However, since the United States had not clarified the particulars of actions taken by the deadline for the WTO recommendations, Japan asked for the establishment of a compliance panel in April 2008. As a result, in August 2009, the WTO Appellate Body established the United States had failed to comply with the DSB’s recommendations and rulings. Since the United States has not implemented the above ruling yet, in April 2010, Japan requested the resumption of the arbitration procedure to determine the level of the suspension of concession against the United States. In December 2010, for public comments, the United States published proposed modifications of its methodologies, including changes to certain provisions of its regulations in response to the WTO recommendations and rulings concerning zeroing. Although Japan and the United States agreed to suspend the arbitration procedure until September 7, 2011, Japan continues to watch the U.S. movement toward the implementation in cooperation with the EU and other Members, and to urge the United States to implement the recommendations and rulings fully and promptly at a monthly DSB meeting, in the Japan-United States Economic Harmonization Initiative, and other occasions.
	Prompt Implementation of the WTO Recommendations on Anti-dumping Measures against Hot-Rolled Steel Products from Japan	In January 2007, the U.S. Government expressed its intention to work with the new Congress on this issue. Since the United States has not yet implemented the WTO recommendations, Japan has made a request for prompt implementation of the recommendations at a monthly DSB meeting, in the Japan-United States Economic Harmonization Initiative in 2011, and on other occasions.
	Securing WTO-Consistent Implementation of the “Buy American” Clause Included in the American Recovery and Reinvestment Act of 2009	With regard to the “Buy American” provisions contained in the American Recovery and Reinvestment Act passed in February 2009, many countries including Japan showed their concerns. As a result, the clause including the statement “applied in a manner consistent with U.S. obligations under international agreements” was finally inserted into the Act and consistency with GPA was ensured. Japan keeps paying careful attention to whether the United States

EU	Correction of Duty Rates on Products Covered by the Information Technology Agreement	In August 2010, the panel has released a report with respect to the ITA issue. The report supports all the claims of Japan and concluded that the EU's treatment is inconsistent with the WTO agreement. In December 2010, Japan and the EU agreed that the reasonable period of time for the EU to implement the recommendation and ruling of the panel expires on June 30, 2011. Japan will continue to urge the EU to comply the recommendation by the panel at every opportunity under the cooperation with the United States and Chinese Taipei.
Canada	Abolition of the "Local Content Requirement" in the Ontario's Feed-in Tariff Program for Renewable Energy	In May 2009, the Ontario Provincial Government in Canada adopted certain local content requirements in its fixed-price subsidy program on electricity generated from renewable energy source, such as solar and wind power (Feed in Tariff Program). Japan considers that such a measure is inconsistent with Article III of the GATT which stipulates the national treatment obligations and Article II of the TRIM Agreement, and further, it would fall under the definition of a "prohibited subsidy" (subsidies contingent on the use of domestic over imported goods) as specified in Article 3 of the WTO SCM (Subsidies and Countervailing Measures) Agreement. In September 2010, Japan requested consultations under the WTO with Canada and continued bilateral consultations.
Russia	Repeal of Increases in Customs Duties on Automobiles, etc.	Since November 2008, Japan has on several occasions conveyed concerns to the Russian government, including appeals made by the Prime Minister and at Minister level, on the tariff increases by Russia. In addition, Japan also conveyed concerns in concert with the EU to the Russian government in WTO negotiations on the Russian accession.
Argentina	Improvement of Application of the Non-Automatic Import Licensing System for Elevators, etc.	There has been a certain improvement in the issue of import licenses for several products through the actions including requests from METI to the Argentine Ambassador to Japan in March 2009, and the approach by the Japanese embassy in Argentina to the Argentine authorities in August 2009. However, in addition to the remaining delays in obtaining import license for the other products, there has been a remarkable increase in the number of products subject to non-automatic import license. Under such circumstances, Japan has repeatedly expressed concerns about Argentina's import license regime with the other WTO members including the EU and the U.S. in the WTO Import License Committee and Goods Council and is continuing to request Argentina to take positive action on this matter through Argentine embassy.

(Note) Asian Countries and Territories: ASEAN countries, Korea, Chinese Taipei, Hong Kong and India

Summary of METI Priorities in 2011

Set forth below are a summary of METI priorities in 2011:

China:

Addressing Export Restrictions on Raw Materials

The Chinese government maintains the export licensing requirements for a number of raw materials products in order to exercise control over the parties permitted to export these products and the quantities that can be exported. Further, the Chinese government imposed high rates of export taxes on exports of these products, for example, 40% on coke, 20% on rare earths, and 15% on zinc, in 2009. These measures are inconsistent with China's WTO obligations, specifically, under GATT Article XI, which sets forth the general elimination of quantitative restrictions, and under China's Protocol on Accession, including commitments on the removal of export duties or the ceiling of export duty rates, while the Chinese government alleges that they are WTO-consistent because they are measures taken for environmental protection and conservation of exhaustible natural resources.

In this connection, in June 2009, the United States and EU simultaneously requested consultations under the WTO Dispute Settlement rules, followed by Mexico in August 2009, with respect to measures on the following nine items and processed or semi-processed products using them as raw materials: bauxite, coke, fluorspar, magnesium, manganese, silicon-carbide, silicon metal, yellow phosphorus, and zinc. Since the consultation failed to achieve a solution, a panel was established in January 2010. Japan has participated in these panel proceedings as a third party. The report of the Panel would have been circulated to the parties in April 2011.

On July 8, 2010, the Ministry of Commerce of China published that they set the total amount of export quotas for rare earths at approximately 8,000t with a decrease of 40% over the prior year. As China supplies a major quantity of rare earths that make up 97% of the world's supply, instability in terms of the supply of rare earths has become clear. Regarding this, Mr. Masayuki Naoshima, Minister of Economy, Trade and Industry conveyed his concern about the drastic cut of Chinese export quotas of rare earths to the Minister of the Ministry of Commerce, the Ministry of Industry and Information Technology and the Chairman of the National Development and Reform Commission through the Japan-China High Level Economic Dialogue held in August of that year and Japan will have continued on all levels to urge the Chinese government to improve this matter.

Japan will continue requesting that breaches of China's commitments on its Protocol for Accession be rectified, as well as that China's trade policy be implemented in a transparent and foreseeable

manner.

Addressing Discrimination in the National Indigenous Innovation Product Accreditation System and in Government Procurement Regulations

In November 2009, the National Indigenous Innovation Product Accreditation system was jointly published by the Ministry of Science and Technology (MOST), National Development and Reform Commission (NDRC) and Ministry of Finance (MOF). The system specifies the subject products as the following six categories: (i) computers and peripheral devices; (ii) communication products; (iii) advanced office equipment; (iv) software; (v) new energy and new energy equipment; and (vi) highly energy-efficient products, such as “Indigenous Innovation Products”, provided that their producers hold related intellectual property right in China, and their trademark is originally registered in China. Products covered in the catalogue of the Indigenous Innovation Products will enjoy preferential treatment in the government procurement.

Both of the Government of Japan and Japanese industries voiced serious concerns that the indigenous innovation product accreditation system would lead to discriminatory treatment against foreign products and will be in breach of the G20’s commitments that voiced opposition to the protectionism.

Industrial associations of Japan, the U.S. and the EU sent a letter of protest on December 10, 2009, and both the U.S. government and the EU also issued letters expressing concern and requested consultations.

As the criteria for the accreditation of applicable products and other details are unclear, the Government of Japan has inquired of them from the Government of China through diplomatic channels, and requested an explanation from MOST about the applicable products and the criteria for the accreditation, which are unclear.

After receiving complains from each country, etc., the Government of China notified that it will announce the revised version later after examining opinions from each industrial sector. However, up to this time, the revised version has not been announced, and the acceptance of application has not yet begun either. Based on the present situation, Japan will continue to monitor the development of the National Indigenous Innovation Product Accreditation system in connection with government procurement.

In addition to the above, in January 2010, the Legislative Affairs Office of the State Council issued a

draft Implementing Regulation of the Government Procurement Law. Japan considers that the draft Regulation is not consistent with the national treatment requirement of the GPA and would provide discriminatory treatment to foreign products and enterprises. On February 5, the Government of Japan submitted comments on it, requesting that the Implementing Regulation maintain conformity with the GPA, and strongly expecting China to quickly accede to the GPA.

Furthermore, Japanese industries, including JMCTI (Japan Machinery Center for Trade and Investment), the Japanese Chamber of Commerce and Industry in Beijing, China, the Japan External Trade Organization (JETRO), and Japan Electronics and Information Technology Industries Association (JEITA), submitted a joint opinion requesting that the Implementing Regulation keep conformity with the GPA. After receiving these public comments, the final version of the Implementing Regulation has not been announced yet. In May 2010, the Government of China also issued a draft Administrative Measures for the Government Procurement of Domestic Products, which defines a domestic manufacture product as "End-products to be produced in China and for the domestic production cost ratio to exceed 50%" and stipulates the accreditation procedure of a domestic product. In June 2010, the Government of Japan and Japanese industries also submitted opinions that the draft Administrative Measures are not consistent with the national treatment requirement of the GPA.

Indeed, the series of Chinese measures, including the Indigenous Innovation Product Accreditation system, the draft Implementing Regulation, and the draft Administrative Measures in the area of government procurement will not be legally found inconsistent with the GPA unless and until China joins it. However, China is currently negotiating the accession to the GPA, and thus Japan will monitor these measures closely and continue requesting the Government of China to revise them.

Improvement with regard to Inappropriate Application of Anti-dumping Investigations

Following its accession to the WTO in December 2001, China initiated 182 anti-dumping (AD) investigations until June 2010, 30 of which involved Japanese products. However, it is generally pointed out that AD investigations in China have the following deficiencies:

- (i) The Ministry of Commerce (MOFCOM, China's investigating authority) initiates investigations without examining the accuracy and adequacy of the facts and evidence provided in the application concerned.
- (ii) It is unclear how MOFCOM evaluates all relevant economic factors and indices having a bearing on the state of the domestic industry, and MOFCOM fails to disclose sufficient basis for "an objective examination" regarding a causal relationship between the dumped imports

and injury to the domestic industry, in particular separating and distinguishing the injurious effects of other causal factors from the effect of dumped imports.

- (iii) MOFCOM uniformly applies the “facts available” and then unfair anti-dumping duties ranging from several dozens of percent to over 100% to other exporters or producers to whom MOFCOM fails to provide a notice of the initiation of an investigation or a copy of the full text of the application concerned on the ground that it is unaware of them.

Japan requested China to improve the procedures and practices of the AD investigations at various occasions, including the Transitional Review Mechanism on China at the WTO Anti-Dumping Committee in October 2008 and in October 2009, and the Japan-China Economic Partnership Consultation. Furthermore, the Government of Japan had consultations with, and submitted comments to, MOFCOM, in each case where Japan found procedures inconsistent with WTO agreements and inappropriate practices. At the WTO Anti-Dumping Committee in October 2010, Japan requested that China answer specific questions about procedures concerning the changed circumstance review on the chloroprene rubber from Japan, which was considered to be inappropriate.

Japan will continue to urge MOFCOM to implement AD investigation systems in a manner consistent with WTO agreements and, based on opinions or requests of Japanese companies, Japan will also continue asking MOFCOM to duly conduct investigations.

Addressing Counterfeit, Pirated and Other Infringing Products

China has carried out a series of legislative amendments concerning the protection of intellectual property rights since it acceded to the WTO. However, as well as inadequacy of the legislative systems, there are still a lot of problems in respect of its enforcement including the implementation regime.

Since 2002, the Government of Japan and the International Intellectual Property Protection Forum (IIPPF) have continued to dispatch the intellectual property protection government-industry joint mission to China. In 2010, the seventh mission (high-level) and the eighth mission (expert-level) were dispatched in August and November respectively, which made a request to the Chinese government for the improvement of legislative system and implementing measures.

Memorandum of Understandings (MOUs) on cooperation for intellectual property protection were signed in succession between METI and China’s Ministry of Commerce in June 2009; METI and China’s State Administration for Industry and Commerce (SAIC) in August 2009; Japan Patent

Office (JPO) and China's State Intellectual Property Office (SIPO) in December 2009. On the basis of the above MOUs, Japan requested China to improve its domestic legislation, administer the legislation appropriately and effectively, and strengthen administrative and judicial enforcement through various bilateral meetings including the First Japan-China Anti-Counterfeit Working Group in July 2010 and the Second Intellectual Property Rights Working Group in October 2010 (both held in Beijing). Furthermore, Japan has been making efforts to solve the problems from both human resource and systematic perspectives. Such efforts include holding the Symposium about Infringement on Internet in Tokyo in May 2010 where a conference took place between participants from China (China's Ministry of Commerce and Chinese internet service providers (ISPs)) and those from Japan (Japanese major ISPs and right holders) about deleting and preventing infringing goods, and supporting for the development of related institutions such as Chinese customs, police, courts and administrative offices concerning intellectual property rights.

For Japanese companies (rights holders), in addition to responding, mainly by "Government General Office for Measures against Counterfeit and Pirated Products," the unified contact point for government established in METI to requests for consultations or for provision of information from individual companies, METI has supported various private sector activities including meetings between the Chinese government or industry and the specific Japanese industry. METI continues to offer such support. Besides, METI has conducted survey for the purpose of grasping the state of damage to Japanese companies and the actual conditions of the crackdown by the concerned agencies in China each year.

Some improvement has been observed, as evidenced by the increase in the number of criminal prosecutions for infringement of intellectual property and the lowering of criminal thresholds for enterprises. However, the proliferation of counterfeit, pirated and other infringing products is still a major concern. The damage suffered by Japanese companies has been huge and, accordingly, Japan will continue to request that China introduce and enforce legislation appropriately, take steps to strengthen criminal and administrative controls, and provide information regarding enforcement of relevant regulations.

Prompt Implementation of the WTO Recommendations on Trading Rights and Distribution Services for Certain Publications and Audiovisual Entertainment Products

In August 2007, the United States requested consultation with respect to Chinese measures regarding the import and distribution of publications and audiovisual products, claiming that they are inconsistent with Article 5 of China's WTO Accession Protocol (granting right to trade), GATT III:4, GATS XVI, XVII etc. The panel was established in September of that year and Japan has

participated in that panel as a third party.

The Panel concluded that (1) measures to prohibit enterprises owned by foreign investors from engaging in importing and distribution operations related to publications, audio-visual products and films for theatrical release, are inconsistent with the Accession Protocol and Working Party Report by failing to grant trading rights to such enterprises, and not justified by GATT XX(a) which exempts measures necessary to protect public morals, (2) measures relating to distribution of publications, sound recordings in electric form and audiovisual entertainment products are inconsistent with Articles XVI, XVII of the GATS, and (3) measures putting imported publications disadvantageous competitive condition are inconsistent with Article III:4 of the GATT. The Appellate Body upheld the Panel's conclusions, rejecting China's appeal on points (1) and (2) above.

In February 2010, China informed the DSB of its intention to implement the DSB recommendations and rulings. On 12 July 2010, China and the United States informed the DSB that they had agreed that the reasonable period of time for China to implement the recommendations and rulings of the DSB would expire on March 19, 2011.

At the DSB held on March 25, 2011, China reported that it had completed the implementation of most of the DSB's rulings and recommendations. In contrast, the United States indicated that it would continue to have consultations with China there was no clear evidence of progress with the implementation. Neither does Japan agree with China in terms of its implementation of the DSB's rulings and recommendations. As this matter is a major concern for Japanese industry, Japan continues to pay close attention to the progress of Chinese implementation, requesting information related to the improvement and enforcement of laws and ordinances to encourage prompt correction in accordance with the DSB's rulings and recommendations.

Asian Countries and Territories (ASEAN Countries, Korea, Chinese Taipei, Hong Kong and India)

Addressing Counterfeit, Pirated and other Infringing Products

While awareness of the need for the protection of intellectual property rights is growing in Asian countries and territories, much remains to be improved in terms of legal systems and their administration, and it is absolutely essential to strengthen the protection of the holders of intellectual property rights.

Japan has requested—through various opportunities and frameworks for multilateral as well as bilateral discussion, such as APEC, WIPO, WTO, and EPAs with various countries—that the Asian

countries and territories administer relevant legal systems appropriately and effectively and strengthen enforcement efforts by administrative and judicial branches. In February 2008, a joint government-private mission was dispatched to India to have meetings for the first time. During the meetings, experts in intellectual property rights from both countries exchanged views and Japan asked India to strengthen the protection of intellectual property rights in that country.

Japan has also supported the development of human resources in relevant local organizations such as customs, police, and administrative offices related to intellectual property rights, making strenuous efforts toward improvements and solutions in terms of both personnel and institutional aspects. The seminars were held for customs and police officers to distinguish genuine goods from counterfeit products by providing practical know-how about crackdowns on counterfeit goods in July 2010 in Indonesia, in December 2010 in Korea, and in January 2011 in the Philippines.

As ASEAN countries often become locations of distribution of infringing products, it is essential to promote exchanges of information on cases of infringement of intellectual property rights among the countries concerned to help rectify these conditions. Japan has been leading international efforts to strengthen the protection of intellectual property rights: for example, the establishment of a joint session between experts from customs and intellectual property fields that was proposed by Japan was agreed at the APEC IPEG in June 2007; then, a joint session between experts from customs and intellectual property fields was held in Peru in February 2008.

Further, mainly through the Government General Office for Measures against Counterfeit and Pirated Products, Japan supports various activities, for example, responding to the requests of individual enterprises for advice and the provision of information.

However, the actual proliferation of counterfeit, pirated and other infringing products in Asian countries and territories, including the manufacture and distribution of infringing products, still poses great concern. Also, given the serious damage suffered by Japanese companies, Japan will continue to request that these countries and territories to introduce and enforce legislation appropriately, take steps to strengthen criminal and administrative controls, and provide information regarding enforcement of relevant regulations.

United States:

Improvement of the Practice of Sunset Review and Unfairly Long-Term Continuation of AD Duties on Japanese Products

The AD Agreement stipulates that any definitive AD duty shall be terminated in five years (Sunset)

unless the necessity for further continuation is found. However, the U.S. practice of sunset reviews is that AD measures are continued in general as long as a domestic company files an application for a review.

There are 16 definitive AD measures currently imposed by the United States on Japanese products. The longest duration of the U.S. measure exceeds 32 years and the duration of the three measures exceeds 20 years. The average duration of these U.S. measures on 16 Japanese products exceeds 15 years.

They excessively discouraged exports of Japanese companies and imposed huge tax burdens on the importers and the users in the United States. For example, some high quality and high reliability Japanese iron or steel products that have won the wide support from U.S. users are unavailable to those customers due to the U.S AD measures, and it is pointed out that the users in the United States are forced to buy other products.

Japan thus requested the termination of these measures in the Trade Policy Review Mechanism (TPRM) on the United States, which took place in September and October 2010, Japan-United States Economic Harmonization in March 2011, and at several recent meetings of the WTO Anti-Dumping Committee.

Japan will continue to request improvements of the U.S. practice of sunset reviews that AD measures shall be continued easily as long as a domestic company files an application, and requests the termination of the inappropriate, long-standing AD measures on Japanese products as early as possible.

Prompt Implementation of the WTO Recommendations on the Zeroing Methodology

The United States applies an AD procedure known as “zeroing,” under which price differences for each transaction or model exported at higher prices than domestic prices are treated as zero and dumping margins for overall products are artificially inflated. The zeroing procedure for calculating dumping margins is unfair since in actual practice it ignores transactions in which dumping is not occurring.

For this reason, Japan requested consultations with the United States under WTO dispute settlement procedures in November 2004, and asked for the establishment of a panel in February 2005. During the panel proceedings it argued that not only the actual application of zeroing by the United States in individual AD cases, but also the zeroing methodology as such were inconsistent with WTO

agreements. The WTO Appellate Body in its report issued in January 2007 fully accepted Japan's claims, ruling that zeroing was inconsistent with the WTO agreements throughout AD procedures, and recommended that the United States bring the zeroing measure into conformity.

In February 2007, Japan presented its request concerning specific issues to be implemented to the USTR and the Department of Commerce through letters from METI's Vice-Minister and had several consultations with the United States for implementation in cooperation with the EU, etc. However, since the United States had not fully implemented the recommendations by the end of the reasonable period of time (December 24, 2007,) Japan submitted to the WTO a request for authorization to impose countermeasures against the United States in January 2008, aiming to reserve the right to invoke the countermeasures. Following this, the U.S. alleged at the DSB meeting that it had fully implemented the recommendations, even though it actually had not. Thereafter, Japan and the United States reached agreement on subsequent procedures in March 2008, and Japan requested the WTO to establish a compliance panel to confirm the United States' failure to take measures to comply with the recommendations in April 2008. The compliance panel in its final report issued in April 2009 fully accepted Japan's claims, and concluded that the United States has not rectified the zeroing methodology as such and the actual application of zeroing in individual AD cases and therefore has not fulfilled its obligation to implement the WTO recommendations. The United States appealed the compliance panel's rulings to the WTO Appellate Body in May 2009. In August, the Appellate Body issued a report fully supporting the panel report, thereby finally concluding that the United States has not fulfilled its obligation to implement the WTO recommendations and rulings.

Since no movement toward implementation has been observed, on April 23, 2010, Japan requested the resumption of the arbitration procedure to induce the United States to implement the WTO recommendations fully and promptly. The Arbitrator's hearing with the parties took place on October 6, 2010. After that, on December 28, 2010, for public comments, the United States published proposed modification of its methodologies, including changes to certain provisions of its regulations in response to the WTO recommendations and rulings concerning zeroing. They have, however, several unclear points in the proposed modification. Therefore, in cooperation with the EU and other countries, Japan will closely monitor the U.S. movement toward the implementation and may take appropriate action, if necessary. (Incidentally, Japan and the United States agreed to suspend the arbitration procedure on December 10, 2010. The period of suspension ends on September 7, 2011.)

Japan will continue to urge the United States to abolish the practice of zeroing through two channels: the WTO dispute settlement procedures and the DDA rules negotiations.

Halt of Distribution of Duty Revenues Collected through Anti-dumping and Countervailing Duties Measures to U.S. companies based upon the Byrd Amendment

A certain amendment to the Tariff Act of 1930 of the United States, as widely known as the “Byrd Amendment”, provides for the distribution of duty revenues collected through anti-dumping (AD) and countervailing duty (CVD) measures to U.S. companies, including such companies that have petitioned for the relevant measures.

The panel was established at the request of 11 countries and territories, including Japan and the EU. In January 2003, the WTO Appellate Body found that the Byrd Amendment is inconsistent with WTO Agreements and recommended that the United States bring it into conformity with them. However, the December 2003 deadline for implementation passed without the United States having amended or abolished the Byrd Amendment. In response to the U.S. failure to comply, an application to impose retaliatory measures submitted by Japan and seven other countries and territories including the EU was approved in November 2004. The EU and Canada implemented the retaliatory measures in May 2005, Mexico in August, and Japan in September. Japan imposed an additional duty at the rate of 15% on 15 products, including bearings and steel.

In February 2006, an act to repeal the Byrd Amendment was enacted in the United States. However, the transitional clause of the act permits the distribution of duty revenues on entries of goods made and filed before October 1, 2007. As long as the distribution continues even after the repeal of the Byrd Amendment, the inconsistency with WTO Agreements will remain and there still remain unfair competitive advantages for U.S. producers. In consideration of this situation, Japan twice extended the effective term of the retaliatory measures by one year in September 2006 and in September 2007. Nevertheless, since no move toward a halt of distribution was observed in the United States, Japan further extended the effective term of the retaliatory measures by one year in September 2008, in September 2009 and in September 2010 with subject items and duty rates changed in response to the reduction of the amount of the distribution in the United States (An additional duty rate of 10.6% was adopted on two models of bearing products in 2008. The duty rate was changed to 9.6% in September 2009, and to 4.1% in September 2010.)

Japan requested that the U.S. Government cease distribution continued based on the transitional clause on the occasions of the Japan-United States Economic Harmonization Initiative and WTO DSB meetings. Japan will continue to cooperate with other Members to strongly urge the U.S. Government to promptly halt the distribution and correct the inconsistency with the WTO agreements.

Prompt Implementation of the WTO Recommendations on Anti-dumping Measures against Hot-Rolled Steel Products from Japan

With regard to AD measures that the United States imposed on certain hot-rolled steel products from Japan in June 1999, both the panel established upon the request of Japan and the WTO Appellate Body determined that the methodology of calculating the margin of dumping was inconsistent with WTO agreements and in August 2001, the DSB recommended that the United States bring the measure into conformity with the relevant agreement.

During the original reasonable period of time for implementation (which ended in November 2002), the United States failed to fully implement the recommendations, including the amendment of the U.S. anti-dumping duty statute. Japan and the United States subsequently agreed to extend the period three times. In May 2005, a bill to implement the recommendations was introduced in the U.S. House of Representatives (H.R. 2473,) but there was no prospect of adoption by the end of the extended period for implementation (end-July 2005.) In July 2005, recognizing the United States' intention to continue efforts to enact the bill, Japan reached an understanding with the United States that the period of time for compliance would not be extended any further and that Japan would retain its right to invoke retaliatory measures at any future date.

However, despite requests from Japan for the full and prompt implementation of the recommendations at several meetings, including the Japan-United States Regulatory Reform Initiative in December 2006, the 109th Congress did not pass the bill and it was discarded at the end of 2006. Consequently, in January 2007, then Minister of Economy, Trade and Industry Akira Amari again requested the then USTR Susan Schwab to make further efforts to implement the recommendations as soon as possible. At the DSB meeting in January 2007, the U.S. Government expressed its intention to work with the new Congress on this issue. Although Japan has made several requests at DSB meetings, the Japan-U.S. Regulatory Reform Initiative in October 2008 and Japan-United States Economic Harmonization Initiative, whose first round of working-level meetings was held in the week of February 28, 2011, the United States has not fully implemented the recommendations.

Japan will continue to request, at the DSB meetings, the Trade Policy Review Mechanism (TPRM) of the United States and bilateral consultations such as the Japan-United States Economic Harmonization Initiative, the United States to exert sincere efforts to fully and promptly implement the recommendations and rulings.

European Union

Elimination of Import Duties on IT Products Specified as Non-dutiable by the WTO Information Technology Agreement

In the EU, while computers, computer-related equipment, semiconductors and other products subject to the WTO ITA (Information Technology Agreement) are imported free of duties, high tariffs are imposed on electrical appliances such as televisions and video apparatus, which are not covered by the ITA. Amid the diversification and sophistication of these products in recent years, the EU has already imposed or is currently considering imposing customs duties on such products that should be covered by the ITA through arbitrary changes of its tariff classifications.

Given that technological developments take place quickly in the IT sector, the ITA from its beginning addressed the need to respond to technological progress by, for example, providing, "Each party's trade regime should evolve in a manner that enhances market access opportunities for information technology products" (Paragraph 1 of the ITA declaration) and stipulating for agreement by consensus to incorporate additional products covered by the ITA. However, Japan is seriously concerned that recent developments taking place within the EU to impose tariffs on certain IT products incorporating multiple and/or advanced functions through technological development could go against the basic principle of the ITA, as well as its achievements to date (tax concessions made by various countries).

In January 2007, the Minister of Economy, Trade and Industry Akira Amari requested the European Commissioner for Trade Peter Mandelson to resolve this problem, and there have also been several meetings between the Vice-Minister of METI and the Director General for Trade of the European Commission to discuss resolution of this problem.

However, the EU didn't make an effort to solve this problem. In May 2008, therefore, Japan requested consultations under the WTO dispute settlement procedures in cooperation with the U.S. and Chinese Taipei, claiming that the imposition of customs duties on these products is inconsistent with the WTO ITA. In July 2008, Japan held consultations with the EU.

However, Japan did not receive a satisfactory response from the EU at the consultations. Therefore, Japan requested the establishment of a panel in cooperation with the United States and Chinese Taipei. The panel was established in September 2008.

In August 2010, the panel has released a report supporting all the claims of Japan and concluding that the EU's treatment is inconsistent with the WTO agreement. Since the EU did not file an appeal

to the WTO Appellate Body, the report was adopted at the DSB meeting on September 21, 2010 as final and conclusive. On December 20, 2010, Japan and the EU agreed that the reasonable period of time for the EU to implement the recommendation and ruling of the panel expires on June 30, 2011. Japan will continue to urge the EU to comply with the recommendation by the panel at every opportunity under the cooperation with the United States and Chinese Taipei.

Canada

Abolition of “Local Content Requirement” in the Ontario’s Feed-in Tariff Program for Renewable Energy

In May 2009, the Province of Ontario of Canada established a fixed price purchase system for electricity generated from solar or wind energy (Feed-in Tariff Program). This program, nevertheless, requires that generators that may participate therein meet a certain local content requirement for using solar wind power electricity generation facility with a certain percentage or more value-added (i.e., assembling and procured parts and components) in the Province. This local content requirement gives generators intending to participate in the Program an incentive to purchase products originated in Ontario in preference to imported ones in procuring photovoltaic cells or other equipment for their generation facilities. Consequently, photovoltaic cells or other related products exported by Japanese companies to Ontario are less favorably treated those produced in Ontario.

Japan’s view is that the measure of Ontario is inconsistent with Article III of the GATT which stipulates the national treatment obligations and Article II of the TRIM Agreement, and further, it would fall under the category of prohibited subsidies (subsidies contingent on the use of domestic over imported goods) specified in Article 3 of the WTO SCM (Subsidies and Countervailing Measures) Agreement.

Further, there is a significant risk that this type of preferential measures of domestic products will be spread all over the world, and consequently, Japan’s environment-related industries including producers of photovoltaic cells will be seriously damaged. Therefore, Japan requested correction at the ministerial level, with no improvement.

Therefore, Japan requested for consultations under the WTO with Canada in last September through the Japanese Mission in Geneva and continued the bilateral consultation.

Russia

Abolition of the Measure to Increase Customs Duties on Automobiles, etc.

In January 2009, Russia raised the rates of customs duties for nine months on automobiles and trucks. After July 2010, the measure has been effectively extended under applying common import custom duty rates in the Custom Union Party among Kazakhstan and Belarus.

And in November 2009, Russia introduced a safeguard measure of special duties to certain steel products such as corrosion resistant pipes with the outer diameter of 420mm or less for three years.

Indeed, it is difficult to achieve correction of the measure with the WTO Agreements because Russia has not yet acceded to the WTO. However, on the grounds that the measures taken by Russia are contradictory to the promotion of free and open trade—the basic principle of the WTO—and rather run counter to the declaration of the summit meetings of the Group of Twenty and so on, the Government of Japan has repeatedly requested that Russia should immediately abolish the measures of increasing the customs duty rates. In November 2008, when the Russian Prime Minister's Office recommended raising the import duty rate for foreign automobiles, Mr. Nikai, the then Japanese Minister of Economy, Trade and Industry indicated in a letter to Ms Nabiullina, Russian Minister for Economic Development and Mr. Khristenko, Russian Minister for Industry and Trade that Japan strongly expected that Russia not implement such measures. In addition, Mr. Naoshima, the then Japanese Minister of Economy, Trade and Industry demanded an improvement of the measures in a meeting with Ms Nabiullina. To date, however, there is no action taken by Russia to repeal the measures. Nevertheless, Japan will not allow such measures that have a large impact on Japanese industries, and will continue to tackle them properly thereof through all available channels.

Argentina

Improvement of Application of the Non-Automatic Import Licensing System

In recent years, Argentina has changed its import licensing system for various products from automatic to non-automatic to meet the necessity to establish a mechanism for the monitor and control during customs clearance procedures, and the system for elevator products was changed to non-automatic in November 2008. This led to a situation where an elevator product exported from Japan to Argentina arriving at a port could not be landed because an import license had not been obtained. Delivery of the product was delayed and warehousing charges were incurred.

The WTO's Agreement on Import Licensing Procedures stipulates that if a non-automatic import licensing system is introduced, the system shall not be treated a restrictive importation and an import license shall be issued within 30 days, if applications are considered as and when received, and within 60 days if all applications are considered simultaneously, from the date of the import application.

In the case under review, import licenses were not issued for the elevator product imported from Japan even after the lapse of 60 days from the date of the import application, and there is a high possibility of being inconsistent with the WTO rules. Therefore, METI requested through the Argentine Ambassador to Japan that Argentina apply the non-automatic import licensing system in a manner consistent with the WTO rules, including the issuance of an import license for the elevator product concerned. In Argentina, the Government of Japan through its Embassy contacts various Argentine authorities concerned to request positive action on the matter.

In response to the request made by Japan, the Argentine side replied that they would make an effort to solve the problem as early as possible. After the request, import licenses were issued on certain examples of the products, including the elevator products kept at the Argentine port.

However, the delay of issue of import licenses for the other products was not corrected. Much more, the scope of products for the non-automatic import licensing system has been expanded. On December 10, 2010, the Argentine Ministry of Industry announced that it would start a new restriction from January 2011 to include cars into the products subject to the non-automatic import licenses and decrease the number of import licenses to be issued to 80% of car imports of the previous year. Moreover, the Argentine authorities published the government gazette on February 16, 2011 adding 179 products to the products subject to thenon-automatic licensing system. At present, the number of products subject to the non-automatic import licensing system has reached about 600, generating further trade concern.

Under such circumstances, Japan repeatedly expressed concerns about Argentina's import license regime with other WTO members including the EU and the United States in the WTO Import License Committee and Council for Trade in Goods and continued requesting Argentina to take positive action on this matter through the Argentine embassy.

Japan will continue requesting through all channels available that Argentina improve the application of this system.