Section 2  Development related to trade rules

1. World Trade Organization (WTO) as the centerpiece of the multilateral free trade system

This section provides a broad overview of recent developments related to the WTO\(^1\), including the Doha Round negotiations and plurilateral negotiations outside the round negotiations, namely (i) Information Technology Agreement (ITA) expansion negotiations, (ii) Environmental Goods Agreement (EGA) negotiations, and (iii) Trade in Services Agreement (TiSA) negotiations, as well as initiatives to resist protectionism, implementation of the WTO Agreements and the use of dispute settlement procedures by Japan.

(1) Doha Round negotiations (promotion of multilateral negotiations)

At the Fourth WTO Ministerial Conference held in Qatar in 2001, DDA was launched with consideration given to the special needs of developing country members. This Round covers not only trade in agricultural commodities, including forestry and fisheries products, and mining and industrial products, but also encapsulates such areas as liberalization of trade in services, trade rules concerning anti-dumping and other remedial matters, environmental issues, and problems faced by developing country members. Furthermore, it also covers investment, competition, and trade facilitation as fields where rule-making should be considered. (Table III-1-2-1).

\(^1\) Reflecting the recognition that the protectionism that became pervasive in the 1930s was a cause of World War II, the General Agreement on Tariffs and Trade (GATT), which was based on the underlying principle of the provision of most favored nation treatment and national treatment, was put into effect in 1948 with the aim of achieving multilateral trade liberalization. The GATT signatory countries realized substantial tariff reductions and developed trade-related rules concerning non-tariff matters through eight rounds of multilateral negotiations. In 1995, GATT was reorganized into the World Trade Organization (WTO). The WTO, which currently has 162 member countries, has the following functions: (i) negotiations (revision of the WTO Agreements through round negotiations, and negotiations about tariff reductions); (ii) monitoring (resistance against protectionist measures through multilateral monitoring); and (iii) dispute settlement (settlement of trade disputes through WTO dispute settlement procedures). Therefore, the WTO serves as infrastructure for the world trade system that regulates multilateral trade. Specifically, regarding the WTO’s negotiation function (i), the Doha Development Agenda was launched in 2001 as the first round of negotiations since the establishment of the WTO, and since then, this round of negotiations has continued until now for 14 years. Amid the impasse in the negotiations, plurilateral negotiations concerning specific rules and specific sectors are being conducted actively between interested parties, including Information Technology Agreement (ITA) expansion negotiations, on environmental goods and a new services trade agreement. The WTO’s function of monitoring (ii) plays an important role in maintaining the free trade system by resisting protectionism. In recent years, protectionist movements have become active in response to the slowdown of the world economy, among other factors, so making political commitment to monitoring and resisting protectionism is becoming increasingly important. The WTO’s dispute settlement function (iii) is a system to settle bilateral trade disputes without turning them into political problems through a neutral, quasi-judicial procedure. As the dispute settlement procedure concerning the implementation of the WTO Agreements is functioning effectively at the WTO, there has been an increase in the number of cases in which members, including emerging countries, use this procedure. Japan is also actively using the dispute settlement procedure in order to resolve its disadvantages arising from other countries’ measures that are not conforming to the WTO rules and in order to develop the rules through the accumulation of precedents.
In the Doha Round, decision-making by consensus by all member countries is the principle so after the launch of the Round, the negotiations proceeded slowly, making progress sometimes and suffering setbacks at other times due to the conflict of interests between developed and emerging countries. After the breakdown at a Ministerial Conference held in July 2008, the negotiations remained in an impasse (Figure III-1-2-2). At the Eighth Ministerial Conference (MC8) in December 2011, the ministers agreed, while acknowledging that there was no prospect of a single undertaking in the near future in the Doha Round, to recognize the necessity of exploring different negotiating approaches and to advance negotiations in areas where progress could be achieved, as was delivered in the “Elements for Political Guidance” from the Chairman’s Concluding Statement. Through subsequent negotiations, members shared a common recognition that trade facilitation, some elements of agriculture, and development were fields in which progress was possible. As a result of intensive negotiations at the Ninth WTO Ministerial Conference (MC9) held in Bali, Indonesia in December 2013, an agreement was reached on the Bali Package, which included an agreement on trade facilitation and which was the first multilateral agreement to be reached since the establishment of the WTO.
Figure III-1-2-2  History of the Doha Round negotiations

Note 1: G4 consists of the U.S., the EU, India, and Brazil. G6 consists of G4 + Japan and Australia.
Note 2: SSM: Special safeguard mechanism for the agricultural sector in emerging economies
Source: METI

Subsequently, member countries considered the results of the Tenth WTO Ministerial Conference (MC10) and it became clear that there was a division of opinion between developed countries—which argued that “different negotiating approaches” were necessary to replace the Doha Round negotiations that had not achieved sufficient results despite as many as 14 years of negotiations—and developing countries, which insisted that the negotiations should be continued. Concerning new challenges that must be resolved in order to respond to changes of the times, such as the deepening of the global value chain and the spread of IT (information technology), there was also a division of opinion between developed countries—including the United States, the EU and Japan—and developing countries—including India and China—that showed a cautious stance on initiatives to tackle the new challenges.

Under these circumstances, at the Tenth WTO Ministerial Conference (MC10) held in Nairobi, Kenya, in December 2015, agreements were reached on the fields of export competition concerning agriculture (abolition of export subsidies, enhancement of the regulation on export credit, etc.), area in relation to development, and ITA expansion negotiations (the details will be explained later). Regarding the future treatment of the Doha Round and initiatives to tackle new challenges, a final agreement was not reached so the ministerial declaration indicated arguments made by both sides in parallel and made clear that some countries were calling for initiatives to tackle new challenges of the times.

(2) Information Technology Agreement (ITA) expansion negotiations

One of the important results of the Tenth WTO Ministerial Conference (MC10) was the conclusion of the Information Technology Agreement (ITA) expansion negotiations. The 201 items covered by the ITA account for around 10% of the annual value of world trade, which is some 1.3 trillion dollars. The elimination of tariffs is scheduled to gradually start from July 1, 2016, with the tariffs on around 90% of all covered items to be abolished by July 2019 and the tariffs on all such items to be completely abolished by January 2024.
(A) Backgrounds to expansion negotiations

The ITA, which concerns the elimination of tariffs on IT products and which was reached before the expansion negotiations, was reached at a WTO Ministerial Conference in Singapore in December 1996 between 29 members, including Japan, the United States, the EU and the Republic of Korea (ROK) and went into effect in 1997. Since then, the number of participating countries increased, and as of the end of March 2016, there were 82 members (including China, India and Thailand but not including Mexico, Brazil, and South Africa, for example), which together account for more than 97% of the total value of world trade in the 17 items covered by the ITA, meaning that the ITA will contribute to the elimination of tariffs equivalent to approximately 15% (5.3 trillion dollars (2013)) of the total value of world trade. The main items covered include semiconductors, computers, communications equipment, and semiconductor manufacturing equipment.

In consideration of the technological advance since the existing agreement went into effect, hopes are growing in each country’s industrial sector that the list of goods in the current agreement will be expanded and the scope of application of the list will be clarified. As a result, the ITA expansion negotiations were launched in May 2012 with the aim of expanding the list of goods covered by the agreement and the clarification of the scope of application.

(B) Developments leading up to the conclusion of the negotiations

After the launch of the negotiations, monthly negotiation meetings were held in Geneva, and progress was made in preparing a list of candidate goods. In the autumn of 2012, work began on narrowing down the list of candidate goods, with the participation of the Philippines, Singapore, and China. However, as China insisted that many items be excluded from the list, the negotiations were often suspended.

After agreement was reached between the United States and China on the items covered by the ITA at the U.S.-China summit meeting held on the occasion of the November 2014 APEC Leaders’ Meeting in Beijing, the members participating in the negotiations agreed on the 201 items (new types of semiconductors, semiconductor manufacturing equipment, digital multifunction copiers/printers, digital audio/video equipment, medical appliances, etc.) covered by the expanded ITA in July 2015. The list of items covered by the expanded ITA, together with a declaration concerning the agreement on the deadlines for the elimination of tariffs, the implementation schedule and other matters, were reported to and published at the WTO General Council Meeting in the same month.

From September 2015, Japan chaired the ITA expansion negotiations, during which the deadlines for the elimination of tariffs, among other matters, were negotiated. At the Tenth WTO Ministerial Conference (MC10) held in Nairobi, Kenya, in December 2015, which was chaired by Minister of Economy, Trade and Industry Motoo Hayashi, the negotiations were concluded with the participation of 53 members (including the 28 EU countries), which together account for more than 90% of the value of world trade in the items covered.

The annual value of world trade in the 201 items covered is more than 1.3 trillion dollars, which is equivalent to around 10% of the total amount of world trade and which is much higher than the global trade share of 4.8% for automotive products. The value of Japanese exports of the 201 items covered to
the rest of the world is around 9 trillion yen, or some 12% of the country’s total net exports of 73 trillion yen. The value of tariffs to be reduced is estimated at around 170 billion yen.

(3) Environmental Goods Agreement (EGA) negotiations

(A) Background to discussions

The launch of negotiations on “the reduction or, as appropriate, elimination of tariff and non-tariff barriers to environmental goods and services” and the establishment of the Committee on Trade and Environment Special Session (CTESS) were included in the 2001 Doha Ministerial Declaration. In response, discussions began within the CTESS concerning the list of environmental goods to be subject to the reduction or elimination of tariffs.

Subsequently, with the Doha Round negotiations having reached a stalemate, the venue for discussions concerning the reduction or elimination of tariffs on environmental goods shifted to APEC. At the November 2011 APEC Leaders’ Meeting in Honolulu, participants agreed to reduce applied tariff rates on the goods concerned to 5% or less by the end of 2015, while at the APEC Leaders’ Meeting in Vladivostok in September 2012, they agreed on a list of 54 environmental goods.

(B) Background to the start of negotiations

Due in part to the agreement at APEC to reduce tariffs on 54 types of environmental goods, discussions among the “Friends of Environmental Goods and Services” (Japan, the U.S., the EU, the ROK, Taiwan, Singapore, Canada, Australia, New Zealand, Switzerland, and Norway), a group comprised of countries promoting liberalization of exports of environmental goods, began in November 2012, concerning the approach to future WTO negotiations on the liberalization of environmental goods.

Discussions in Geneva accelerated after an agreement was reached at the October 2013 APEC Leaders’ Meeting in Bali to explore opportunities to make progress at the WTO, based on the APEC List of Environmental Goods. In January 2014, 14 voluntarily-participating members (Japan, the U.S., the EU, China, the ROK, Taiwan, Hong Kong, Singapore, Canada, Australia, New Zealand, Switzerland, Norway, and Costa Rica) issued a joint statement aimed at the launch of WTO negotiations concerning environmental goods. This was timed to coincide with the WTO’s informal ministerial meeting in Davos.

In July 2014, voluntarily-participating members launched WTO negotiations concerning environmental goods and confirmed their intention to aim for elimination of tariffs on a wider range of items than the 54 items agreed upon at APEC.

(C) Current status of negotiations

Since July 2014, a negotiation meeting has been held once every two months in Geneva to perform the work of identifying the items that each participating country wished to add to the list of items.

Since April 2015, discussions have been held about the items thus identified from the viewpoint of environmental credibility and the work of narrowing down the list of items has proceeded.

At a negotiating meeting in November 2015, discussions were held with a view to reaching an agreement on the list of items at the Tenth WTO Ministerial Conference (MC10) held in Nairobi, Kenya in December of the same year, but no agreement was reached. 17 countries and regions were
participating in the negotiations as of the end of March 2016, following the addition of some new participating members, namely Israel in January 2015 and Turkey and Iceland in May of the same year. The Leaders’ Declaration at the G7 Ise-Shima Summit in May 2016 included an agreement to “aim to conclude an ambitious Environmental Goods Agreement (EGA) that eliminates tariffs on a broad range of environmental products by the G20 Summit in September in Hangzhou,” and the negotiations are ongoing with a view to concluding the agreement by that time.

(4) TiSA (Trade in Services Agreement) negotiations

Given the length of time since GATS entered into force in 1995 and the fact that the widespread use of the Internet and other technological innovations have brought about major changes in the supply and consumption of services, there have been calls for the revision of the schedules of commitments and the formulation of new rules, to take account of changes in the circumstances within the WTO as well. However, the Doha Round negotiations have been at an impasse with little prospect for rapid progress, so member countries have promoted the liberalization of trade in services through the conclusion of EPAs/FTAs.

Amid this situation, in response to the results of at the Eighth WTO Ministerial Conference (MC8) in December 2011, discussions began in early 2012 concerning the establishment of a new agreement aimed at the liberalization of trade in services among interested members as part of the “different negotiating approaches.” The interested countries and regions, which included Japan, held successive rounds of talks aimed at reaching a new trade in services agreement tailored to the 21st century, discussing such matters as new rules and methods of commitments for liberalization. In June 2013, the participants issued a joint statement confirming that they had entered into the full negotiating stage, and negotiations have been held around once every two months. A total of 23 countries and regions (Japan, the U.S., the EU, Australia, Canada, the ROK, Hong Kong, Taiwan, Pakistan, Israel, Turkey, Mexico, Chile, Colombia, Costa Rica, Panama, New Zealand, Norway, Switzerland, Iceland, Liechtenstein and Mauritius) are members as of the end of March 2016.

(5) Resisting protectionism

Following the global financial crisis, political pressure to introduce protectionist measures aimed at supporting domestic industries and securing employment increased in each country.\(^1\) There was strong concern that submission to this political pressure by one country would lead to other countries following suit or taking reprisals, resulting in a worldwide proliferation of protectionism that would adversely affect global trade and the global economy. Amid this situation, the multilateral trading system embodied by the WTO has played a crucial role in resisting protectionism and maintaining the free trade system. In recent years, protectionist movements have become active in response to the slowdown of the world economy, among other factors, meaning that making political commitment to monitoring and resisting protectionism as described below is becoming increasingly important.

The 14th Report on G20 Trade and Investment Measures, published in November 2015, noted that

\(^1\) See the *White Paper on International Economy and Trade 2009*, Chapter 2, Section 3.
the number of new trade-restrictive measures implemented by the G20 members during the investigation period had remained high as in the previous period, and called upon the G20 members to reinforce their efforts to counter protectionism. Such report is expected to strengthen the monitoring of each country’s trade measures and help prevent the proliferation of protectionist measures.

In addition, high-level international political statements calling for efforts to resist protectionism have been adopted at G20 and APEC meetings. Members have the obligation to comply with the WTO agreements, but political statements are significant because they express a level of commitment above and beyond that stipulated in the WTO agreements. The need to resist protectionism was reaffirmed in documents prepared in 2015 as a result of the Japan-China-ROK Trilateral Economic and Trade Ministers’ Meeting in October, the APEC Ministerial Meeting and the G20 Antalya Summit in November, and the Tenth WTO Ministerial Conference (MC10) in December.

To effectively counter protectionism, the G20 and APEC political statements on resisting protectionism include two major elements in addition to maximum self-restraint on measures which comply with the WTO agreements but which may have serious protectionist effects. One is the standstill commitment, a pledge not to introduce any new protectionist measures. The other is the rollback commitment, a pledge to rectify protectionist measures that are already in place. At the G20 Antalya Summit, held in Antalya, Turkey in November 2015, the extension of the commitment to standstill and rollback on protectionism measures until 2018 was reconfirmed15.

(6) Implementation of the WTO Agreement (rules)

The WTO agreements set out the provisions for dispute settlement procedures in the event of trade disputes between members through clarifying the interpretation and application of the rules. Regarding recommendations based on the dispute settlement procedures, there are provisions for the procedures for monitoring compliance with a recommendation and for the authorization of countermeasures in the event of non-compliance with a recommendation. As a result, the recommendation is highly effective and its compliance rate is high. They are also useful for resolving trade disputes without turning them into political problems. Since the WTO’s launch in 1995, its dispute settlement procedure has been initiated in 504 cases (as of the end of March 2016).

The details of recent cases which have been referred by Japan as a complaining party to the WTO’s dispute settlement procedure and in which the Ministry of Economy, Trade and Industry has been involved in resolution efforts, can be found in Chapter 2. 7. “Initiatives using the WTO’s dispute settlement procedure.”

2. Economic partnership agreements

(1) Situation surrounding economic partnerships (EPAs/FTAs)

For export companies in Japan, promoting economic partnerships helps to maintain or increase the competitiveness of exports through the elimination or reduction of tariffs, among other measures. On

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15 The commitment to standstill and rollback was also reconfirmed at the G20 Brisbane Summit in 2014 and the G20 St. Petersburg Summit in 2013.
the other hand, for companies owning investment assets or providing services abroad, economic partnerships put in place an environment that makes it easier to develop their business in other countries.

Since the 1990s, moves toward regional integration have accelerated, due to the changes in the international economic environment and each country’s development strategy, and the number of EPAs and FTAs concluded has been growing over time. Factors behind this include (i) more active moves by the countries of the West to seek economic partnerships with neighboring countries with which they have strong economic ties, through the liberalization and facilitation of trade and investment (e.g. the U.S. and the EC (which later developed into the EU in 1993) respectively accelerated moves for the establishment of NAFTA (entered into force in 1994) and a single market); (ii) the fact that, amid high growth achieved by NIEs and ASEAN countries through their early promotion of economic deregulation, emerging economies such as Chile, Mexico and Peru adopted a strategy of utilizing EPAs/FTAs as part of their policy shift toward the liberalization of trade and investment, and the introduction of the market mechanism; and, furthermore, (iii) the fact that, since the late 2000s, major countries worldwide have actively sought to conclude EPAs/FTAs in order to expand trade and investment, in light of the stagnation of the Doha Round of WTO negotiations. The number of notifications of regional trade agreements (RTAs)\(^{16}\) in accordance with Article XXIV of GATT, among other provisions, was less than 27 in 1990, but had risen to 625 as of February 1, 2016\(^{17}\).

(2) Economic integration in the Asia-Pacific region and FTA trends worldwide

In the East Asia and Asia-Pacific region, moves toward the conclusion of FTAs intensified after Japan brought an EPA with Singapore into force in 2002. Singapore, Malaysia, the ROK and China were among those that brought into force numerous FTAs with countries and regions within and outside East Asia over the next few years, through to the latter half of the 2000s.

In 2010, tariffs among the six original members of ASEAN (Indonesia, Singapore, Thailand, Philippines, Malaysia, and Brunei) were eliminated in principle. In addition, all of the ASEAN+1 FTAs entered into force in the goods sector, a move which is said to have taken East Asian FTAs to a new level. ASEAN+1 FTAs are the FTAs that ASEAN has concluded individually with six surrounding countries (Japan, China, ROK, India, Australia, and New Zealand), covering East Asia with a network of FTAs that has ASEAN as its hub.

Aided in part by the development of this FTA network, the division of labor between processes and the consolidation and optimal arrangement of production bases has progressed accordingly within East Asia and within the Asia-Pacific region as a whole, when the final consumption markets are taken into account (Figure III-1-2-3). If further tariff reductions on the basis of a unified schedule are achieved and various rules on business activities are standardized through wide-area economic partnerships, it would provide additional backing to efforts by companies to create more advanced supply chains spanning the whole region.

\(^{16}\) Regional Trade Agreements: a generic term applied to agreements, including EPAs and FTAs, that are reached between specific countries and regions on commitments to trade liberalization, etc.

\(^{17}\) See the WTO’s website (http://www.wto.org/english/tratop_e/region_e/region_e.htm).
A large volume of intermediate goods (components) are exported from Japan, ROK and ASEAN countries to China. After assembly in China, the completed goods are exported to large markets, such as North America and EU.

It is important to establish economic partnerships that cover the supply chains across East Asia.

Source: METI

In particular, in the Asia-Pacific region, APEC member countries and regions are aiming to establish the Free Trade Area of the Asia-Pacific (FTAAP). As a pathway to it, several initiatives are being undertaken, including the TPP (Trans-Pacific Partnership), the RCEP (Regional Comprehensive Economic Partnership), and the Japan-China-ROK FTA (Figure III-1-2-4).
Negotiations regarding the Japan-China-ROK FTA and the RCEP respectively began in March and May 2013, and negotiations between the U.S. and the EU concerning the Transatlantic Trade and Investment Partnership (TTIP) started in July 2013. As of May 2014, various economic partnership initiatives are progressing concurrently, aimed at linking North America, Europe, and the Asia-Pacific region (Figure III-1-2-5). It is hoped that these initiatives will create a highly synergistic effect, acting as a mutual stimulus to facilitate the development of worldwide rules for trade and investment through the conclusion of high-level EPAs/FTAs between developed countries as well.
3. Investment-related treaties

(1) Situation surrounding investment-related treaties

Foreign direct investment has been growing rapidly worldwide since the 1980s, playing a major role in driving the growth of the global economy. In terms of the share of GDP accounted for by foreign direct investment, outward direct investment accounted for 5.8% and inward direct investment for 5.3% of GDP by value in 1980, whereas in 2014 the figures were 33.4% and 33.6%, respectively.18

In light of the increase in foreign direct investment, various countries have concluded investment treaties to protect their own investors and their investments from discriminatory treatment and expropriation (including nationalization) in the host countries. Investment rules mainly take the form of bilateral or regional treaties, rather than being multilateral agreements such as WTO Agreements in the field of trade.

The number of investment treaties worldwide has grown substantially, reaching 2,926 in 2014 (Figure III-1-2-6). Looking at the situation by country, Germany, China, the UK, and France have each concluded around 100 investment treaties.

18 UNCTAD, World Investment Report 2015
(2) Major provisions of investment-related treaties

Conventional investment treaties were mainly concluded in order to protect investors from country risks, such as expropriation of investment and arbitrary application of laws and regulations by host countries. Such treaties are called investment protection treaties and they mainly cover such matters as: national treatment and most-favoured-nation treatment after setting up an investment; prohibition of expropriation in principle, as well as requirements for expropriation to be considered legal and methods for calculating the amount of compensation; freedom to transfer money; and dispute settlement procedures between the contracting parties and between investors and the host country. In the 1990s, investment-related treaties (called investment protection and liberalization treaties) began to emerge that incorporated not only this kind of protection for investment but also national treatment and/or most-favoured-nation treatment when setting up the investment, prohibition of performance requirements, prohibition of restrictions on foreign investment and an obligation to strive for progressive liberalization, and efforts to ensure transparency (disclosure of laws and regulations, obligation to respond to inquiries from the counterpart country, etc.) (Figure III-1-2-7).

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19 For example, a specific requirement imposed as a condition on investment activities, such as ensuring a certain proportion of local content or exporting a certain proportion of goods manufactured.

20 A typical example is the chapter on investment in NAFTA; in the case of Japan, the chapter on investment in its bilateral EPAs and Japan’s investment treaties with ROK, Viet Nam, Cambodia, Lao P.D.R., Uzbekistan, and Peru are all of this type.
Table III-1-2-7  Matters contained in investment treaties

<table>
<thead>
<tr>
<th>1. Protection of investments and fair treatment of investors</th>
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<tbody>
<tr>
<td>(i) Approval for business projects will not be rescinded if it is once granted.</td>
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<tr>
<td>(ii) Business assets will not be illegally expropriated or nationalized.</td>
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<tr>
<td>(iii) Business discontinuation caused by the tightening of regulations (“indirect expropriation”) will be avoided.</td>
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<td>(iv) Investment contracts and concession contracts concluded with the partner countries will be complied with (umbrella clause).</td>
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<tr>
<td>(v) Freedom of money transfer to Japan will be guaranteed.</td>
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<tr>
<th>2. Prohibition of discriminatory treatment among companies other than local-capital companies (foreign companies) (most-favored-nation (MFN) treatment)</th>
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<tr>
<th>3. Prohibition of discriminatory treatment in comparison to local-capital companies (national treatment (NT))</th>
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<th>4. Obligation to provide fair and equitable treatment (FET) for investors and their investments</th>
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<th>5. Some treaties also prohibit the following investment approval requirements. (Prohibition of performance requirements (PR))</th>
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<tbody>
<tr>
<td>(i) To export a given level or percentage of goods/services</td>
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<tr>
<td>(ii) To achieve a given level or percentage of domestic content</td>
</tr>
<tr>
<td>(iii) To purchase, use, or accord a preference to local goods/services</td>
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<tr>
<td>(iv) To relate the volume/value of imports to the volume/value of exports or to the amount of foreign currency obtained</td>
</tr>
<tr>
<td>(v) To relate the volume/value of the resultant goods/services sold within the country to the volume/value of exports or the amount of foreign currency obtained</td>
</tr>
<tr>
<td>(vi) To restrict exports or sales for export</td>
</tr>
<tr>
<td>(vii) To appoint as executives, managers etc., individuals of any particular nationality</td>
</tr>
<tr>
<td>(viii) To transfer technology to the partner providing local capital</td>
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<tr>
<td>(ix) To locate the headquarters for a specific region</td>
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<tr>
<td>(x) To hire a given proportion/number of local workers</td>
</tr>
<tr>
<td>(xi) To achieve a given level/value of research and development locally</td>
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<tr>
<td>(xii) To act as the exclusive supplier of the goods or services to a specific region (i.e. not to establish a separate supply base in another country)</td>
</tr>
<tr>
<td>(xiii) To limit the royalty amount/rate under a certain level</td>
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</tbody>
</table>

Note: If the partner country violates these obligations, the investor can submit the matter to international arbitration, naming the state as a party to the case.

Source: METI

(3) Major provisions of the Energy Charter Treaty

Another treaty that allows cases to be submitted to international arbitration in the same way as investment-related treaties is the Energy Charter Treaty. The Energy Charter Treaty, which entered into
force in 1998, sought to implement market-based reforms in the energy sector in the former Soviet Union and Eastern Europe and encourage corporate activities. The treaty contains similar provisions to ordinary bilateral investment protection treaties (such as the granting of either national treatment (NT) or most-favoured-nation treatment (MFN) (whichever is more favourable) by the contracting parties to the investments of investors of other contracting parties, the prohibition of expropriation unless certain requirements are met, freedom of transfer, and dispute settlement procedures), concerning the liberalization and protection of investment in the energy field. As of January 2016, 48 states including Eastern European and EU states and one international organization have ratified the Energy Charter Treaty. Russia and Australia have signed it, but have not yet ratified it. There are also countries that have only observer status (including the U.S., Canada, China, ROK, and Saudi Arabia).