

Milan/Salone, the world's most prestigious furniture fair, said to be most difficult to participate in (April 2008 and 2009). These activities have generated numerous outcomes, such as contracting with overseas retailers and features by both national international media. METI will continue organizing Japan Fair exhibitions at well-known trade fairs as integrated efforts of public and private sectors, providing information to domestic business operators and supporting the expansion of sales channels before, during and after the fairs.

#### **(d) Efforts to strengthen design industry**

Japan established the Good Design Award to recognize designs with excellence in 1957 and recently promotes futuristic designs under the theme of "From the Demand Side in the Near Future." The Good Design Award had traditionally focused on products sold in Japan but has been opened to products to be sold overseas since FY2005, increasing its reputation throughout the world. Efforts are currently taking place to raise awareness of the high quality of Japan's designs by expanding this award in Asia and other countries. A collaboration system with a design award in Thailand was just established in 2008.

In 2007, METI formulated the "Kansei Value Creation Initiative" to promote manufacturing that focuses on "Kansei (sensitivity or sense cultivated by national traditions and cultures)," which is an important element of design. METI held the Kansei-Japan Design Exhibition in Paris in December 2008 aiming to advocate the production of goods with values, refined skills of producers as well as history and culture that would appeal to the sense of users, intrigue them and arouse their emotions in addition to conventional values such as functionality and price. A similar exhibition is scheduled to be held in New York in May 2009.

## **2. Promotion of volume zone innovation**

Chapter 2 Section 2-2 contended that the acquisition of the middle-class market (volume zone) in emerging economies, which is expected to grow considerably in the future, needs to be considered in light of the fact that Japan's (and other developed countries) exports declined rapidly due to the latest financial crisis, and that in order to acquire the volume zone, it is necessary to develop products and services that are relatively high in quality but in a low price range, in addition to the conventional sales strategies of high function and high quality.

This section introduces policies contributing to the promotion of company efforts to generate innovation ("Volume Zone innovation") that would allow unconventional low-cost technologies, marketing, and production processes, as well as those contributing to licensing production, investment, local production and reflow of profits that would be necessary for such a business model.

### **(1) Human resources development contributing to expansion of local production**

For the promotion of mutual understanding and economic partnerships in Asia, the Ministry of Economy, Trade and Industry (METI) and the Ministry of Education, Culture, Sports and Science and Technology (MEXT) have been implementing an initiative called the Asian Human Resource Fund program since FY2007 with the aim of "utilizing wisdom and excellent capabilities of human

resources in Asia for the future of Asia.” This program is Japan’s first human resource program offering comprehensive assistance to international students extensively covering from application/admission procedures, specialized education programs, courses to learn Japanese, and job placement support. This program offers courses to learn business Japanese and Japanese business practices that had been barriers to work and demonstrate their abilities at Japanese-owned companies, and provides consistent support for international students in seeking positions at Japanese-owned companies through internships and placement services.

Thanks to this initiative, it is expected that international students, companies and universities achieve win-win-win outcomes in the following manner:

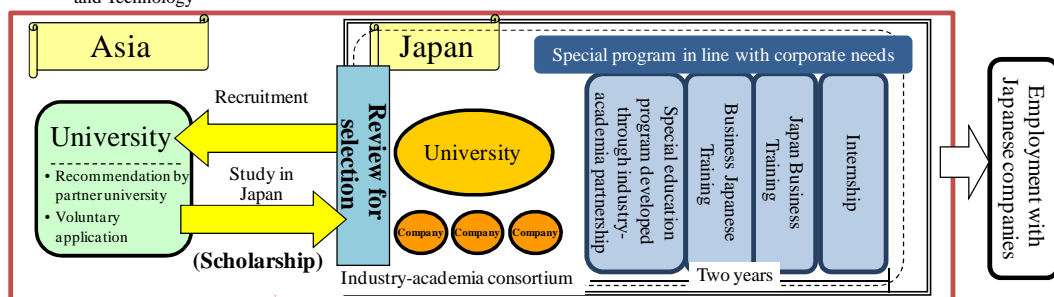
- (1) International students deepen understanding of the Japanese language and the culture of Japanese-owned companies, and are able to work at Japanese-owned companies
- (2) Companies can hire international students, who are excellent globalized human resources, thereby expanding their business chances
- (3) International students and companies are more satisfied with universities, and universities are able to attract more excellent students

This project also contributes to human resources development in Asia as a whole and to the globalization of Japanese universities and companies, through the expansion of acceptance and exchanges of excellent human resources who would serve as a bridge between Japan and Asia (see Figure 3-2-2-1).

**Figure 3-2-2-1 Two frameworks for Asia Human Resources Fund program**

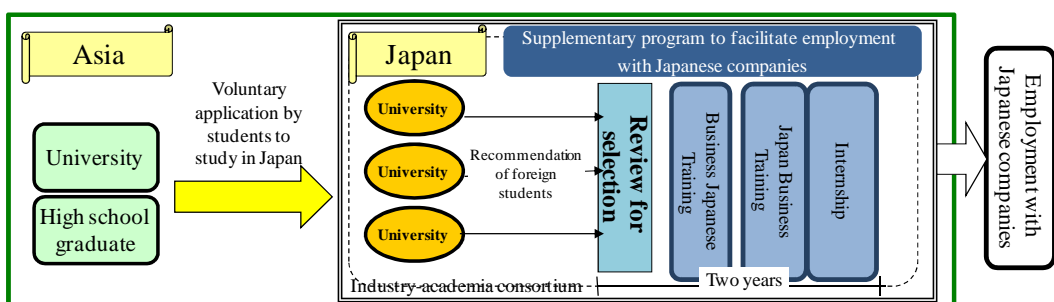
**(1) Program for developing advanced specialist foreign students**

- Education program through industry-academia partnership consortium mainly for university students
- Jointly implemented by the Ministry of Economy, Trade and Industry and the Ministry of Education, Culture, Sports and Science and Technology



**(2) Program for developing advanced practical foreign students**

- Implementation of education programs in nine regional blocks throughout Japan
- Implemented by the Ministry of Economy, Trade and Industry



Source: Ministry of Economy, Trade and Industry, Japan

Competition over acquiring highly advanced and globalized human resources, such as researchers, engineers and business executives, is increasingly becoming fiercer. The world's leading excellent human resources are core resources of Japan's competitiveness. Thus, it is important to have institutional incentives to attract high-level human resources, as well as to create an attractive country and environment for those human resources. It is also necessary to identify the promotion of acceptance of high-level human resources from abroad as a national strategy and to make active efforts from a medium- and long-term perspective.

To that end, the government set up the Council for the Promotion of Accepting High-Level Human Resources (Chairman: Naoki Tanaka, President of the Center for International Public Policy Studies) and presided over the Chief Cabinet Secretary, to examine the future direction of the policy to accept high-level human resources.

## **(2) Promotion of a license production model**

A licensed production model in which a design/production technology of a product possessed by a Japanese company is used by another company that pays a license fee can be a form of new business opportunities for Japanese-owned companies in emerging economies. This section introduces policies that can contribute to the license production model: for example, investment agreements, protection of intellectual property and removal of double taxation.

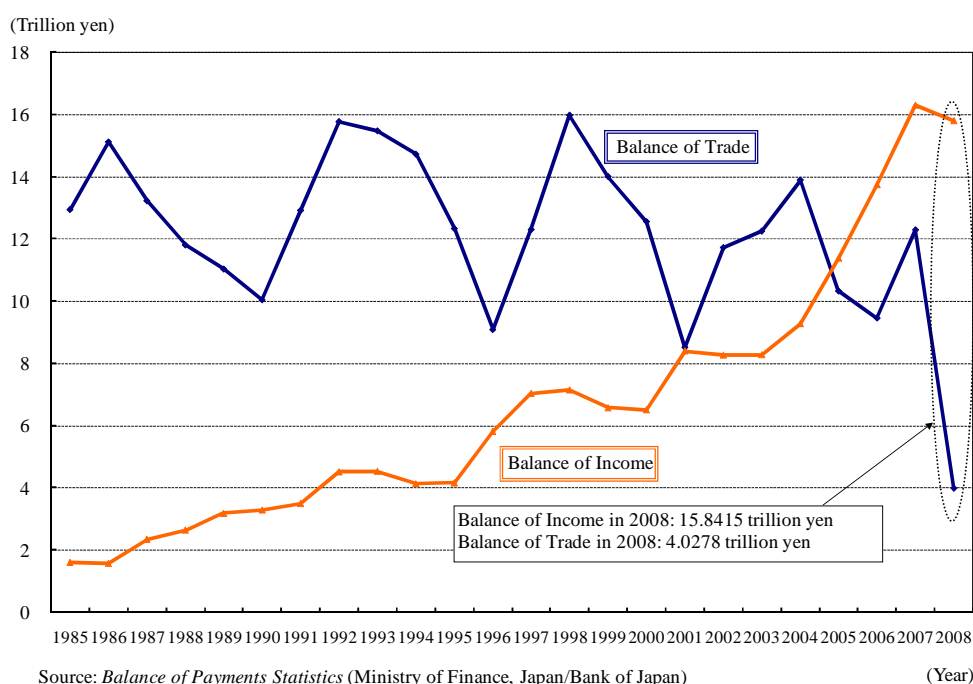
### **(A) Investment agreement**

#### **(a) Trend of Japan's direct investment abroad**

The world's direct investment abroad expanded rapidly since the 1980s, playing an important role as a driver of the world's economic growth, together with trade. Foreign direct investment as a percentage of GDP was 5.8% in the value of direct investment abroad and 5.3 % in the value of inward direct investment in 1980, and increased to 28.9% and 27.9%, respectively in 2007.

Japan's international balance of payments indicates that Japan has constantly recorded a surplus in balance of trade since the latter half of the 1980s and the volume of overseas investment gradually expanded. In recent years, income receivable generated by such overseas investment has increased, with the balance of income of about ¥15.8 trillion in 2008, which is much greater than the balance trade of about ¥4 trillion. The balance of income has exceeded the balance of trade for the fourth consecutive year (see Figure 3-2-2-2). In 2008, the direct return on investment among income receivable was ¥5.261 trillion, showing steady performance.

**Figure 3-2-2-2 Change in Japan's balance of trade and balance of income**



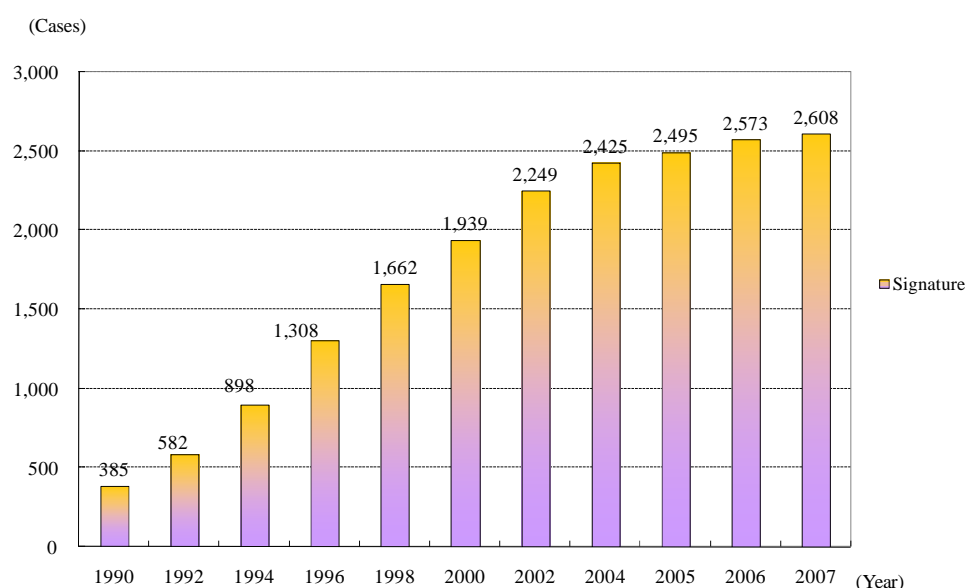
### (b) Signing of bilateral investment treaties around the world

In light of the expansion of direct investment abroad, each country in the world has started to sign bilateral investment treaties since the end of the 1950s in order to protect investors and their invested properties from various risks, such as unfair treatment or expropriation (including nationalization) in invested countries.

The number of bilateral investment treaties in the world has increased drastically in recent years, reaching 2608 treaties as of 2007 (see Figure 3-2-2-3). Taking the figures by country, while Germany, China, the UK and France have concluded around 100 bilateral investment treaties, Japan has concluded merely 21 as of May 15, 2009, including economic partnership agreements.<sup>46</sup>

<sup>46</sup> In the case of Japan, if the bilateral investment treaties already signed (including the investment chapter in EPA) with Uzbekistan, Peru and Switzerland, are included, the number of bilateral investment treaties would be 24 (as of May 2009).

**Figure 3-2-2-3 Change in bilateral investment treaties of the world**



Source: IIA MONITOR No.3 (2008) (UNCTAD)

**Figure 3-2-2-4 Conclusion of Japan's bilateral investment treaties**

Partner country	Signed	Enacted
Egypt	January 28, 1977	January 14, 1978
Sri Lanka	March 1, 1982	August 27, 1982
China	August 27, 1988	May 14, 1989
Turkey	February 12, 1992	March 12, 1993
Hong Kong	May 15, 1997	June 18, 1997
Pakistan	March 10, 1998	May 29, 2002
Bangladesh	November 10, 1998	August 25, 1999
Russia	November 13, 1998	May 27, 2000
Mongolia	February 15, 2001	March 24, 2002
Singapore (Economic Partnership Agreement)	January 13, 2002	November 30, 2002
South Korea	March 22, 2002	January 1, 2003
Vietnam	November 14, 2003	December 19, 2004
Mexico (Economic Partnership Agreement)	September 14, 2004	September 17, 2005
Malaysia (Economic Partnership Agreement)	December 13, 2005	July 13, 2006
Philippines (Economic Partnership Agreement)	September 9, 2006	December 11, 2008
Chile (Economic Partnership Agreement)	March 27, 2007	September 3, 2007
Thailand (Economic Partnership Agreement)	April 3, 2007	November 1, 2007
Cambodia	June 14, 2007	July 31, 2008
Brunei (Economic Partnership Agreement)	June 18, 2007	July 31, 2008
Indonesia (Economic Partnership Agreement)	August 20, 2007	July 1, 2008
Laos	January 16, 2008	August 3, 2008
Uzbekistan	August 15, 2008	Yet to be enacted
Peru	November 21, 2008	Yet to be enacted
Vietnam (Economic Partnership Agreement)*	December 25, 2008	Yet to be enacted
Switzerland (Economic Partnership Agreement)	February 19, 2009	Yet to be enacted

\*Including the contents of the Japan-Vietnam Investment Treaty enacted on December 19, 2004

Source: Website of the Ministry of Economy, Trade and Industry, Japan

There is an increasing number of bilateral investment treaties that provide for dispute settlement procedures in cases where an investor (company) has taken measures considered to be in violation of the treaty. When there is no bilateral investment treaty equipped with such dispute settlement procedures, it is not easy for an investor to have the legal grounds to appeal to an investment arbitration body about the act of violation by the country invested in. According to UNCTAD, the number of cases of investment arbitration of disputes between host countries under the international investment treaty (the number of filed arbitrations to the arbitration body) remained at 14 cases<sup>47</sup> until 1998, since the first case was filed in 1987,<sup>48</sup> but such cases increased dramatically since the end of 1990s<sup>49</sup>, recording a total of 318 cases as of December 2008. On the other hand, the number of Japanese-owned companies using the investment arbitration system is only one,<sup>50</sup> which had been filed by a foreign subsidiary.

### **(c) Bilateral investment treaty as a tool to promote protection/facilitation of investment**

Bilateral investment treaties have long been positioned as an “investor protection treaty” that provides for national treatment/MFN treatment for the invested assets, requirements, compensation amount and compensation form in case of expropriation, free transfer of money, dispute settlement procedures between contracting countries, and dispute settlement procedures between corporations and host countries, in order to protect investors from such risks as expropriation of invested assets and arbitrary interpretation of laws by the host country. In addition to such framework to protect invested assets, the 1990s saw an emergence of a new type of bilateral investment treaty (investment protection/liberalization treaty) that provides for national treatment/MFN treatment at the time of the investment approval, ban on performance requirements,<sup>51</sup> prohibition of enhancement of the restriction on foreign investment, obligation to drastic liberalization and guarantee of transparency (disclosure of laws and regulations, obligation to reply to questions from a partner country, etc.) (see Figure 3-2-2-5)<sup>52</sup>.

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<sup>47</sup> UNCTAD (2005) “INVESTORS-STATE DISPUTES ARISING FROM INVESTMENT TREATIES: A REVIEW”

<sup>48</sup> Case between the Asian Agricultural Products Limited against the Government of Sri Lanka (ICSID Case No.ARB/87/3)

<sup>49</sup> In 1996, the Ethyl suit under NAFTA raised interest in investment arbitration (a U.S. corporation filed a suit against the Canadian government contending that the Canadian government’s environmental regulations are regarded as expropriation under the FAFTA. The government of Canada settled the case by paying money in legal fees and damages)

<sup>50</sup> In 1998, a subsidiary of a Japanese security company in London filed an arbitration with the United Nations Commission on International Trade Law (UNCITRAL) against the measures taken by the government of the Czech Republic when the London subsidiary bought a Czech bank through a Dutch paper company, in line with the bilateral investment treaty between the Czech Republic and the Netherlands.

<sup>51</sup> Specific requirements for investment; for example, to meet the local contents ratio and to export certain proportion of products

<sup>52</sup> A typical one is the investment chapter under NAFTA. In the case of Japan, the investment chapter in bilateral EPA, Japan-South Korea, Japan-Vietnam, Japan-Cambodia, Japan-Laos, Japan-Uzbekistan, and Japan-Peru investment treaties belongs to this type of treaty.

Figure 3-2-2-5 Benefits of concluding investment treaties

1. Protection of invested assets and fair treatment of investors
(1) <b>Business license</b> once granted <b>will not be removed</b>
(2) Business assets <b>will not be nationalized</b>
(3) Prevents <b>discontinuation of business due to enhancement of rules</b> (indirect expropriation)
(4) Enforces the strict <b>compliance with investment contract, concession contract and investment incentives</b> of the partner government (Umbrella clause)
(5) Ensures <b>free transfer of money</b> to Japan
2. <b>Prohibition of discriminatory treatment</b> compared with foreign rival corporations <b>other than local capital (Most-favored-nation treatment)</b>
3. <b>Prohibition of discriminatory treatment</b> compared with rival companies of local capital ( <b>National treatment</b> )
4. Obligation to give <b>fair and equitable treatment (EFT)</b> for investors and invested assets
5. Some treatment prohibits the following investment license requirements ( <b>prohibition of performance requirements</b> )
(1) Requirement to <b>employ</b> a fixed proportion or fixed number of <b>local personnel</b>
(2) Requirement for <b>executives and directors</b> , etc., to be of a certain <b>nationality</b>
(3) Requirement for a local capital partner to <b>transfer technology</b>
(4) Requirement for <b>injection of a certain R&amp;D budget for local project</b>
(5) Requirement to set up local headquarters in a certain area
(6) Requirement for a certain area to exclusively supply products (not to set up other supply centers in other countries)

NB. In cases where a partner country violates any of these obligations, an investor is entitled to file an **international arbitration** against the state.

Source: Ministry of Economy, Trade and Industry, Japan

#### (d) Approaches to bilateral investment treaty

If any country in which a Japanese company is developing or plans to develop its business is relatively closed to the world, or has an insufficient legal framework (laws are often changed or transparency is poor, etc.), and its investment environment needs to be developed, it is highly necessary to conclude a bilateral investment treaty with such country. At the same time, a conclusion of a bilateral investment treaty, and the resources the government can spend for negotiations are limited. Therefore, when concluding a bilateral investment treaty, it is necessary to proceed with negotiations with speed and flexibility, while identifying strategic priorities on partner countries/regions with the main aim of meeting the real needs.

Possible candidates for contracting partners of bilateral investment treaties are the countries that can improve transparency and their investment environment through conclusion of the treaty, those possessing or likely to receive a certain level of Japanese investment stock, producers of petroleum or natural gas, such as the Middle East, Africa, Latin America, Central Asia, etc., countries with abundant resources like rare metals, and countries acting as the center of regional markets. Any country having a positive attitude toward concluding a high-quality treaty with low negotiation costs can also be a candidate.

In addition to the promotion of bilateral treatment negotiations, treaty-related tools of JETRO, NEXI, JICA, JBIC, etc., are also important in terms of protection/facilitation of investment.<sup>53</sup> The Council for the External Investment, consisting of the government, private industrial associations and

<sup>53</sup> “Views on the Development of Global Investment Environment — Towards Legal Basis of Overseas Investment” by the Nippon Keidanren, April 15, 2008, and “Requests for Promotion of Conclusion of Investment Treaty” by the Japan Foreign Trade Council, Inc. also request early development of a high-quality legal framework for investment. In response to these views of the business community, the policy of strategic use of investment treaties was included in the 2008 Basic Policy for Economic and Financial Reform, compiled on June 27, 2008.

the related organizations, was established in December 2008 for that purpose. Taking the discussions at the Council into account, it is necessary to proceed with specific discussions about priorities of bilateral investment negotiations and effective use of related tools.

## **(B) Protection of intellectual property**

In a highly advanced economic society, the production of intellectual and creative activities, such as inventions, designs, know-how and works of art works, play an important role. A system has been developed to legally protect inventions, designs, copyright works, circuit layouts of integrated circuits, and business secrets, etc., in order to promote such creative activities. Also, efforts are being made to protect trademarks in order to protect reliability acquired as a result of sales promotion activities and production activities, to protect consumers and to maintain competitive regularity.

In international trade, the percentage of products and services counterfeiting such intellectual properties is dramatically increasing in recent years. If the protection of intellectual property is insufficient or inappropriate, it may endanger the trade order.

Some emerging economies, although having a protection system for intellectual property, have an insufficient protection level; for example, protection is limited to a very narrow scope or is reduced to an extremely short period and is unable to ensure the effectiveness in exercising the right to halt the infringement of intellectual property rights. There are developed countries, too, with a system that virtually discriminates foreign products, for example, through excessive protection or protective forms that largely deviate from the majority of the international community.

The importance of an international framework for appropriate protection of intellectual property from the view of improving the international trade order is increasing. There are moves to use a plurilateral framework like the Anti-Counterfeiting Trade Agreement (ACTA) (provisional name) for counterfeit and pirated goods, as well as the bilateral and regional frameworks, such as EPA, concerning general intellectual property affairs, in addition to the multilateral frameworks represented by the World Intellectual Property Organization (WIPO) and the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) of the WTO.

### **(a) Japan contributing to a plurilateral framework: ACTA Initiative**

Prime Minister Junichiro Koizumi advocated the necessity of developing a legal framework to prevent proliferation of counterfeit and pirated goods at the G8 Gleneagles Summit in July 2005, and the efforts for the ACTA Initiative were launched by the initiatives of Japan and the U.S. The negotiations started in June 2008, after an unofficial meeting involving countries highly interested in protecting intellectual property (including some developing countries), and were followed by four meeting sessions. Individual and specific discussions on the draft provisions are under way for early realization of the ACTA Initiative. In order to guarantee the transparency of the Initiative, the outline of the negotiations were released on April 7, 2009 after consultations among the participating countries.<sup>54</sup>

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<sup>54</sup> Statement available on the METI website (Announcement of the Outline of the ACT Initiative



### (i) Current state of counterfeit and pirated goods and the limitation of the current international framework

In recent years, the global proliferation of counterfeit and pirated goods not only has negative economic impacts, such as loss of profits to be inherently given to corporations (the right holders) and the erosion of motivation for innovation and creativity, but also may directly threaten the safety and health of consumers. Furthermore, counterfeit and pirated goods have possibly become easy financial sources for criminal syndicates as they are produced and distributed by groups affiliated with criminal organizations or terrorist groups.

As counterfeit and pirated goods have become a global issue and each country is enhancing its control, the issue of counterfeit and pirated goods is becoming increasingly diversified and complicated: for instance, the advancement of international division of labor in which parts and counterfeit labels produced in one country are then assembled in another country by affixing the counterfeit labels to products to be exported, or an increasing number of country of origin deceptions by exporting via a number of countries, as well as an increasing number of transactions via the Internet (see Figure 3-2-2-6 and Figure 3-2-2-7).

**Figure 3-2-2-6 Threat to global economy/society by the spread of counterfeit and pirated goods**

#### Economic damage

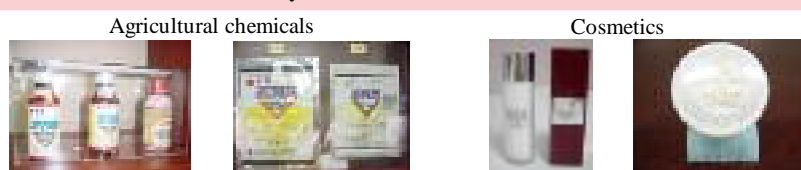
##### Estimate of transactions involving counterfeit and pirated goods throughout the world

Approx. 500 billion euro per year (estimate by the World Customs Organization and the International Criminal Police Organization)

Approx. \$ 200 billion\* (OECD documents) \*Trade volume base

#### Threat to health and safety of consumers

Example of intellectual property infringement: Agricultural chemicals, cosmetics  
→ harmful to the human body



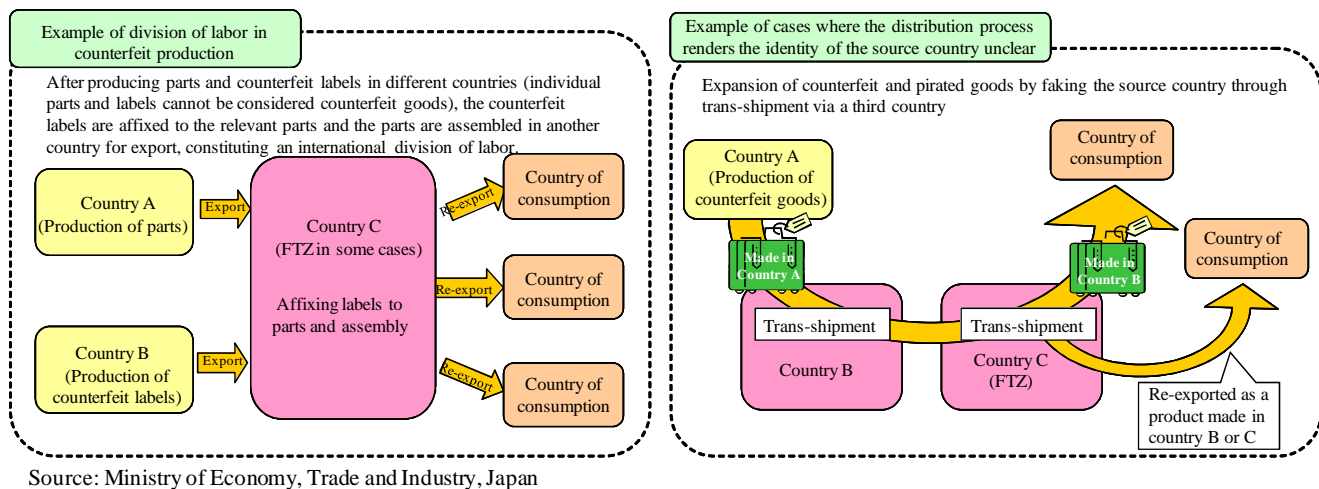
Source: Counterfeit-Showcase (JETRO Beijing)

#### Easy income source for organized crime groups

- Production, distribution, sale of counterfeit goods tend to be conducted by large-scale criminal organizations
- More lenient penalty than drug trading, and brings huge profits

Source: Ministry of Economy, Trade and Industry, Japan

**Figure 3-2-2-7 Increasingly complicated and sophisticated distribution of counterfeit and pirated goods**



Source: Ministry of Economy, Trade and Industry, Japan

Countermeasures against diversifying and complicating counterfeit and pirated goods cannot be sufficiently dealt with by a single country, and thus, an internationally concerted approach is required.

As an international effort, there is a way to pile up regulations concerning the protection of intellectual property rights under bilateral agreements such as EPAs/FTAs, but they are not necessarily effective countermeasures with an immediate effect when considering the fact that there are countries with which Japan virtually cannot conclude bilateral agreements and that counterfeit and pirated goods are already widespread.

The WTO's TRIPS Agreement is an existing multilateral agreement for the protection of intellectual property rights. However, this agreement stipulates the minimum criteria that all member states of the WTO (over 150 states) must satisfy, and is not necessarily sufficient enough as a countermeasure against the diversifying and ever more complex issues of counterfeiting and piracy.

Thus, the formulation of more stringent rules on the enforcement of intellectual property rights is needed. However such efforts are facing difficulties because the interests among member states/regions are tightly intertwined in the international frameworks, such as the WTO in WIPO.

## **(ii) Negotiation strategy for ACTA (provisional name) aiming for a global standard**

Based on the problems faced with the existing frameworks of international negotiations, the ACTA Initiative advocates creating a high level of international rules by highly ambitious countries interested in the protection of intellectual property rights. Some are dubious about the effectiveness of the ACTA since discussions have been conducted only by a few countries, without involving major infringing countries. However, the ACTA (provisional name) is designed to become the global standard for the enforcement of the intellectual property rights in the future through the expansion of the member states and by actively applying the ACTA (provisional name) rules as a model of enhanced enforcement of intellectual property rights to the bilateral agreement between the country that is participating in the ACTA negotiations and a non-member state. This type of trade policy approach is drawing much attention as a new international strategy that is completely different from conventional

multilateral or bilateral approaches.

### **(iii) Outline of ACTA (provisional name)**

ACTA initiative aims to achieve a higher regulatory level in targeting counterfeit and pirated products than the existing TRIPS agreement against infringement of intellectual property rights (TRIPS plus). Enhancement of the enforcement of the intellectual property rights requires high-level regulations and proper implementation of those regulations. For the ACTA initiative, discussions are conducted about the provisions not only in regards to the legal framework but also in regards to international cooperation and enforcement of proper regulation implementation.

Examples of legal measures include: (i) enhancing enforcement under the civil code (method of determining appropriate damages in case of counterfeit and pirated goods); (ii) enhancing control by customs authorities (seizure of counterfeit and pirated goods at the point of export or transit); and (iii) enhancing enforcement under criminal law (criminal procedures and criminal penalties against transactions of goods with counterfeit labels). Also discussed is (iv) enhancing enforcement of intellectual property rights in a digital environment, which is not covered by the TRIPS agreement (which relates to roles and responsibilities of the Internet service providers for combating intellectual property rights infringement on the Internet). .

Furthermore, with respect to international cooperation and enforcement practices, discussions are underway about international cooperation among authorities in enforcement, increase in the number of experts and raising public awareness. Thus, the initiative has drawn much attention not only from Japan but also from other countries around the world as an international effort for integrated enhancement of the enforcement of intellectual property rights in both legal and practical aspects.

In the course of promoting various efforts for enforcement of protection of intellectual property rights, Japan will actively lead the ACTA initiative and accelerate the discussions toward a conclusion of negotiations as soon as possible.

### **(b) Intellectual property rights protection in the EPA**

While there are frameworks such as ACTA (provisional name) within specific countries, there are bilateral/intra-regional frameworks that allow for more speedy negotiations.

#### **(i) Intellectual property protection provisions under EPA**

Japan has concluded EPAs with 11 countries/regions (of which nine have been enacted), and most of them include an Intellectual Property Chapter incorporating provisions for development of intellectual property protection strategies and streamlining of procedures in the partner country, as well as provisions for enhancement of protection of intellectual property rights and strengthening of enforcement mechanisms.

For the Japan-India EPA, which is under negotiation, Japan is making an effort to provide more protection for intellectual property rights than is provided by international agreements such as TRIPS. Japan-Australia EPA negotiations are in process based on the recognition that both countries are

equipped with a high level of intellectual property protection.

### **(ii) Three characteristics of the EPA Intellectual Property Chapter**

The characteristics of the Intellectual Property Chapter in EPAs that Japan has enacted or signed are roughly categorized into the following three points, although they are not completely applicable to all EPAs.

First is the streamlining/transparency of procedural matters. The TRIPS agreement does not contain provisions for detailed procedures for acquiring rights, but the EPAs include provisions for: the removal, in principle, of requiring authentication; for requiring classification affixation based on the international convention of which the partner country is a non-member state; and, for creating easily available access to information on intellectual property systems.

Second is the enhancement of protection of intellectual property. The EPAs include provisions for protection systems for well-known trademarks and for the system in which any applicant for a patent shall be given priority for examination in a partner country in the case where his/her application has already been filed in Japan.

Third is enhancement of enforcement. The TRIPS agreement sets forth national boundary measures and criminal punishment procedures, but obligatory provisions are limited solely to intellectual property infringement goods. The EPA obliges submission of information on infringing goods for the improvement of procedures and in order that information contributes to the expansion of the scope of items subject to obligatory provisions.

### **(3) Elimination of dual taxation, etc.**

#### **(A) Tax treaty**

Tax treaties are designed to clarify relations of two countries in regards to taxation on investment and economic activities in order to deal with the issue of international dual taxation. Furthermore, the conclusion of a treaty establishes a cooperative relationship between the tax authorities of two contracting states for solving conflicts on taxation between said authorities and for preventing tax evasion. Treaties such as these are expected to ensure the legal stability of taxation on corporations and to further promote investment and economic exchanges.

Japan has concluded 45 tax treaties thus far, which are applied to 56 countries. The tax treaty network covers about 90% of the world's investment based on the investment balance (see Figure 3-2-2-8).

**Figure 3-2-2-8 Countries with which Japan has concluded tax treaties (45 treaties applied to 56 countries/As of May 2009)**

List of countries with which Japan has concluded tax treaties (45 treaties applied to 56 countries/As of May 2009)					
(East/Southeast Asia)		(Middle East)	(Eastern Europe/Central Asia)		(Europe)
Indonesia	Israel	Azerbaijan	Russia	Ireland	Denmark
South Korea	Egypt	Moldova	Armenia	UK	Germany
Malaysia	Turkey	Ukraine	Slovakia	Italy	Norway
Singapore	(Africa)	Kyrgyz Republic	Czech Republic	Austria	
Thailand		Georgia	Hungary	Finland	
China	Zambia	Tajikistan	Bulgaria	Netherlands	France
Philippines	South Africa	Turkmenistan	Poland	Switzerland	Belgium
Vietnam	(North America)	Belarus	Rumania	Sweden	
(South Asia)			Uzbekistan		Luxembourg
	U.S.			Spain	
India	Canada	(Oceania)	Australia		
Sri Lanka	(Central/South America)		New Zealand		
Pakistan			Fiji		
Bangladesh	Brazil				
	Mexico				

Source: Website of Ministry of Finance, Japan

Since the revision of Japan-U.S. Tax Treaty, Japan has revised treaties with developed countries and has drastically lowered withholding tax rates. Also under negotiation are tax treaties with Middle East countries, including United Arab Emirates, Kuwait and Saudi Arabia and Asian countries, including the Philippines, Pakistan and Brunei (see Figure 3-2-2-9).

**Figure 3-2-2-9 Process/current state after the conclusion of Japan-US Tax Treaty**

Signed	(As of April 2009)
November 2003 Japan-U.S. Tax Treaty	(2004 in force)
February 2006 Japan-UK Tax Treaty	(2006 in force)
February 2006 Japan-India Tax Treaty	(2006 in force)
December 2006 Japan-Philippines Tax Treaty	(2008 in force)
January 2007 Japan-France Tax Treaty	(2007 in force)
January 2008 Japan-Pakistan Tax Treaty	(2009 in force)
January 2008 Japan-Australia Tax Treaty	(2008 in force)
December 2008 Japan-Kazakhstan Tax Treaty	(Not in force)
January 2009 Japan-Brunei Tax Treaty	(Not in force)
<b>Agreement in principle</b>	
January 2009 Japan-Kuwait Tax Treaty	(New)
<b>Official negotiations under way</b>	
Netherlands	(Revision)
UAE	(New)
Saudi Arabia	(New)
Switzerland	(Revision)

Source: Website of Ministry of Finance, Japan

Together with domestic legal systems, a tax treaty is an important economic infrastructure that plays a role as an international taxation mechanism, such as in coordination of dual taxation, response to tax evasion and promotion of investment exchanges. It is important to continue expanding its networks, as well as other related tools such as investment treaties, etc., from the viewpoint of developing the international business environment.

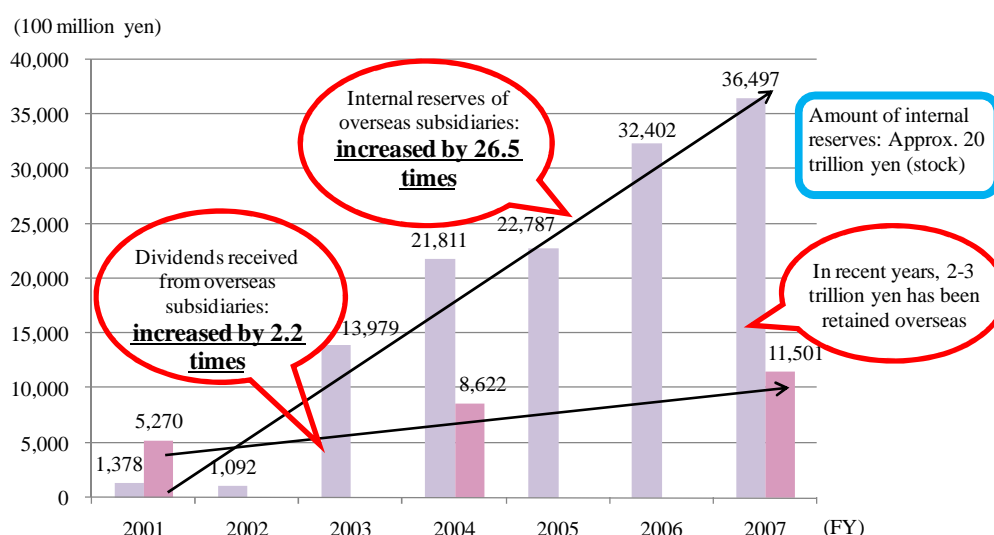
## (B) Environment development contributing to inflow of profits gained by overseas subsidiaries into Japan

In order to achieve sustainable economic growth in Japan under the conditions imposed today by the expansion of markets in emerging economies, which are expected to become larger than the Japanese market in the medium-to-long term, it is imperative for Japanese-owned companies to obtain economic growth overseas, which would in turn lead to the prosperity of Japan.

Japan has been actively involved in the policies of the WTO and EPAs/FTAs to promote the global expansion of Japanese-owned companies. At the same time, the growth strategy of Japan, which is entering an age of declining population, is to create a positively self-perpetuating cycle of development: acquisition of overseas markets and promotion of domestic innovations by bringing overseas profits obtained from the global expansion of Japanese-owned companies back to Japan and linking the profits with forward-looking domestic investment, such as capital investment and R&D, etc.

The ratio of overseas production of Japanese-owned companies has reached 30% in recent years, and the income of overseas subsidiaries has quadrupled in four years. In the past, while the amount of internal revenues of overseas affiliated companies increased at the pace of 2-3 trillion yen every year, the dividend has been limited to a small increase and the inflow of funds from overseas into Japan has been sluggish (see Figure 3-2-2-10). There was a growing concern that the stagnant inflow of funds into Japan may impede business activities, such as capital investment and R&D which encourages innovations, resulting in lower international competitiveness of Japanese corporations (see Figure 3-2-2-10).

**Figure 3-2-2-10 Change in the amount of internal reserves of overseas affiliated companies and dividends received from them**



Source: *Basic Survey on Overseas Business Activities* (Ministry of Economy, Trade and Industry, Japan)

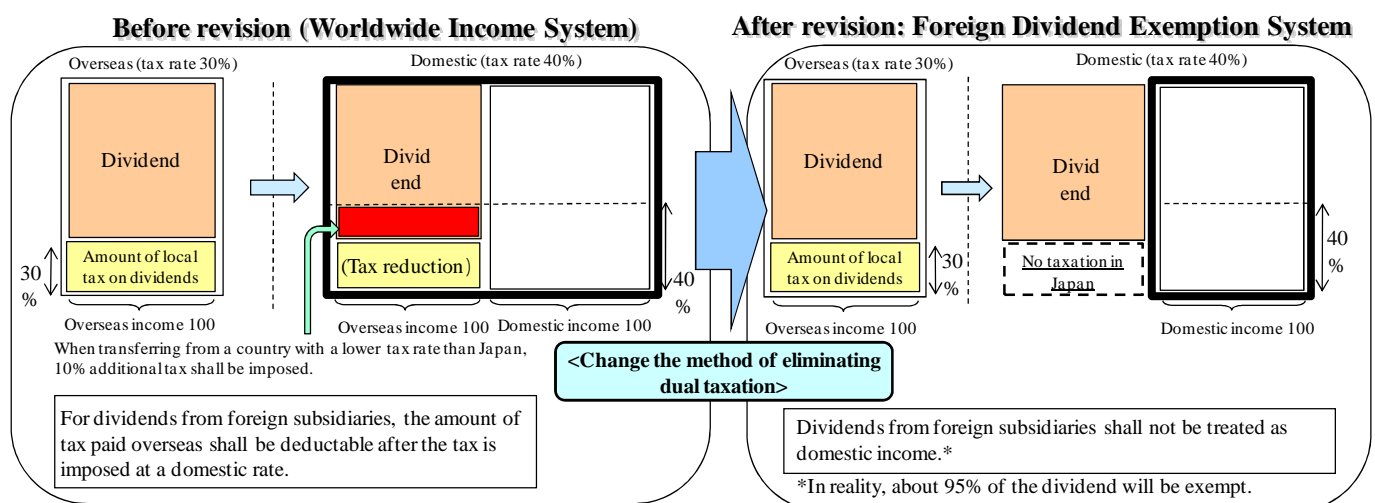
### (Introduction of the foreign dividend exemption system)

With respect to the revenues earned by a foreign subsidiary owned by a Japanese company, dual taxation was eliminated by the revision of taxation policies in 2009 so that necessary funds can be transferred to Japan when needed without being affected by taxation and so that paperwork can be reduced by streamlining the system.<sup>55</sup>

Specifically, with respect to dividends received by a foreign subsidiary, the foreign dividend exemption system was introduced as a permanent measure, replacing the indirect foreign tax credit system (see Figure 3-2-2-11).

With the introduction of this system, the profits brought back to Japan are expected to be used in a range of areas, for example, capital investment, R&D and employment expansion, etc., leading to the revitalization of Japan's economy.

Figure 3-2-2-11 Outline of the foreign dividend exemption system



Source: Ministry of Economy, Trade and Industry, Japan

### (3) Expansion of the “volume zone” as a potential market: support for businesses targeting the low-income class (or so-called “Bottom of Pyramid” (BOP))

As seen in Chapter 2, Section 2-2, Japanese-owned companies see the high-income bracket and the middle-income bracket as their main clients in emerging markets, but around 20% of the companies perceive the low-income class as their main business target. In reality, there are a number of Japanese-owned companies boasting internationally acclaimed products, services and technologies that have the capability to address social issues in developing countries. Current markets will be expanded by disseminating such products throughout the low-income population in developing countries. Then, exports of such products and related investment will be promoted, and as a direct consequence employment opportunities will be created. In the medium-to-long term, further expansion of markets through an improvement in the income level in developing countries will enable

<sup>55</sup> A similar foreign dividend exclusion system was introduced in the United Kingdom's 2009 finance bill (announced in April 2009).

Japanese-owned companies to achieve sustainable growth.

Thus, in FY2009, the following projects will be in place in order to support Japanese-owned companies in developing BOP business.

**(A) Public awareness seminar for supporting the solving of social problems through public-private cooperation**

Targeting companies, aid organizations and researchers in Japan seeking new markets, public awareness campaigns on BOP business will be conducted via nation-wide seminars with a view toward sharing and exchanging information on markets in developing countries.

**(B) Dispatch of social problem-solving oriented public-private partnership mission**

Also in FY2009, a study mission will be sent to developing countries to discover the needs in BOP business, to examine the business models and to propose feasible, social problem-solving oriented businesses, with specific products and technologies for BOP business in mind.

**Column 38 Asia's consumption trend map**

Japanese products and services backed by Japan's "soft power" attract much attention from consumers all over the world. In particular, Japanese fashion and entertainment contents are widely accepted by young people in Asian countries. However, Japanese-owned companies are not necessarily succeeding in business expansion in Asia.

Meanwhile, as seen in Chapter 2, Section 2, if Japanese-owned companies regard the volume zone in Asia and other countries as a target of business expansion in the future, it is important for them to fully understand local needs and provide satisfying products and services (price range inclusive) to local customers while taking advantage of Japan's reputation of strength in performance and quality and brand image.

Thus, the Ministry of Economy, Trade and Industry (METI) obtained and analyzed information on market demand in Asian countries: for example, analyzing consumption trends in Asia and developing an Asian consumption trend map.

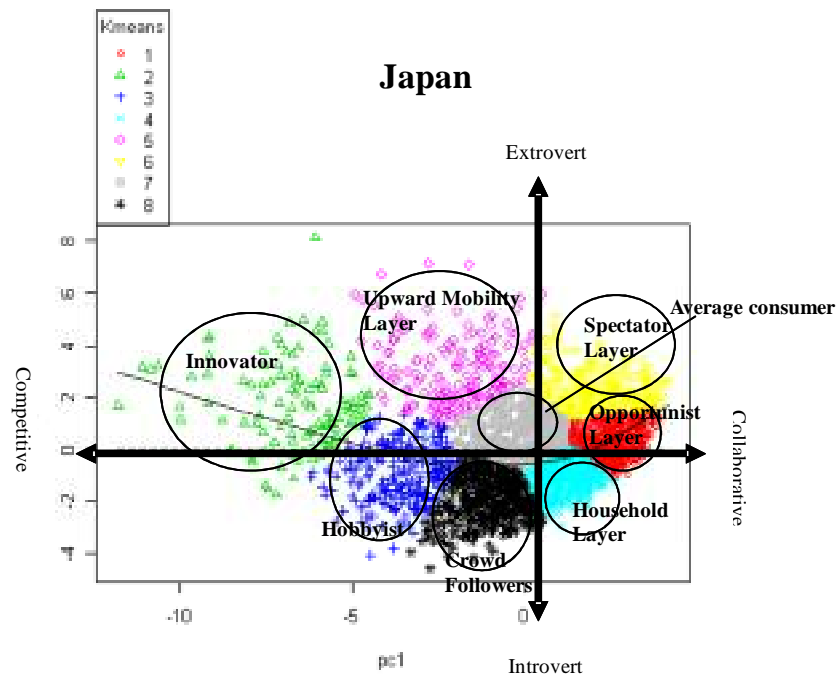
**1. Analysis of consumption trends in Asia and the development of an Asian consumption trend map**

METI formulated a map with reference to an axis that classifies consumption propensity based not only on age and income but also on other variables, dividing Asian consumers into eight categories by grouping those with relatively similar values on the map. METI then identified the specific consumption patterns of consumers in each category. Specifically, a detailed analysis was performed on the possibility of consumption trends in the target sectors of: automobiles, mobile phones, fashion, service and entertainment contents in six ASEAN countries and China and India (see Column Figure 38-1).<sup>56</sup>

<sup>56</sup> See <http://www.meti.go.jp/report/data/g90617aj.html> for details



Column Figure 38-1 Cluster analysis of Japan's consumers



Source: *Asian Consumption Trend Map Report* (Ministry of Economy, Trade and Industry, Japan)

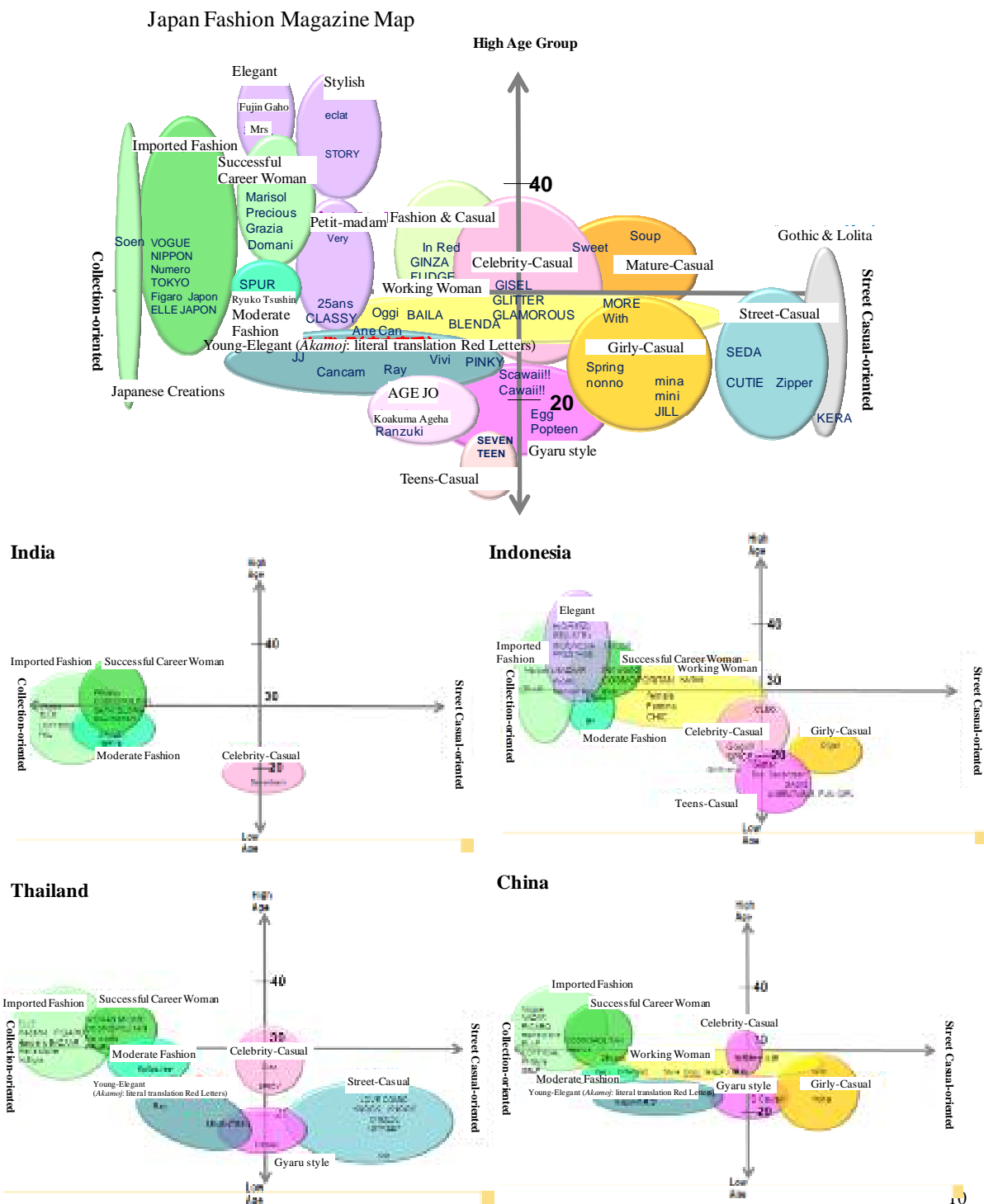
## 2. Fashion magazine category map

It was observed that consumption patterns in each country (particularly young people in their 20s and 30s) could be categorized into several patterns determined by the respective lifestyle. So, an attempt was made to index the consumption patterns by analyzing the applicability of different types of fashion magazines to consumption patterns in a cross-industry and cross-business context, while taking into account the size of clothing and shoe markets in Asian countries.

Through this analysis, the concentrated zones for fashion magazines in each country were located, and an examination was made on the feasibility of expansion of Japanese fashion and consumers' likely affinity with Japanese fashion was defined (see Column Figure 38-2).<sup>57</sup>

<sup>57</sup> See <http://www.meti.go.jp/report/data/g90617aj.html> for details.

**Column Figure 38-2 Trends of fashion magazine maps of individual countries**



Source: *Asian Consumption Trend Map Report* (Ministry of Economy, Trade and Industry, Japan)

### 3. Hypotheses obtained

The following are some examples of hypotheses obtained from the report:

- (1) It may be necessary to spread trends in the countries with relatively similar lifestyle and consumption patterns to that of Japan.
- (2) There is a possibility that consumption patterns of China and Thailand are highly correlated to

those of Japan. There is a possibility that China, Thailand, Malaysia and Singapore have high affinity to Japanese consumption trends.

(3) There is a possibility of the presence of a trend-creating layer (or innovator layer) in each country, which should be used as a gate leading to the spread of trends.

(4) Certain developmental stages are identified in fashion trends, which are applicable to any country.

#### 4. Future outlook

Using this report as a spring board, METI will exchange views on consumption trends in Asia with experts. It will also examine the mechanism of consumption trend diffusion in Asian countries (as well as worldwide) and the promotional measures and distribution and advertisement strategies for trend diffusion of fashion and animation content from Japan.

### **3. Global development of the low carbon revolution**

As environmental and resource restrictions tighten on a global scale, it is important for Japan to present a social model by taking initiatives in shifting to a low carbon society and leading the world in solving global issues. At the same time, it is also necessary to build a framework of global cooperation in the energy conservation and environmental areas and strengthen the global foundation for the creation of a low carbon society. The transition of the world to such social structure not only contributes to solving global issues in the age of increasing demand for energy and global warming, but also leads to the creation of new demand, and can also be a new source of growth for Japan's economy by expanding business in regards to energy conservation, new energy technologies and other industries in which Japan has strength. In addition, increased awareness of the value of a low carbon society and the realization of a low carbon society in every part of the world would mean an increase in the relative competitiveness of Japan's wisdom, technology, industry and soft power. From these points of view, Japan needs to actively contribute to global efforts, such as G8, for the realization of a low carbon society and promote cooperation in energy conservation environmental technologies in Asia where demand for energy is rapidly increasing along with economic growth. Furthermore, it is also important to promote Japan-U.S. cooperation in the area of advanced environmental technology, including fuel cells, solar cells and electric vehicles, etc.

#### **(1) Promotion of international cooperation for energy conservation**

Environmental restraints and resources restraints are common issues worldwide and it is important that the entire global community makes concerted efforts to solve these issues. At the G8 Gleneagles Summit in 2005, leaders of the developed world agreed to connect the issue of climate change with energy policy in an integrated manner and agreed to make efforts in improving energy efficiency in each individual sector. At the G8 Toyako Summit in 2008, consensus was reached on the goal of achieving at least 50% reduction of global emissions by 2050, as advocated by then Prime Minister Yasuo Fukuda. In addition to drawing a shared blueprint for the solution of global warming, its vision