

Chapter 4: Towards new growth of Japanese economy by linkages with outside of Japan

This Chapter presents the policies that should be implemented by Japan in order to address the intensifying global competition. In Section 1, we will introduce the measures taken by Japan to improve its trade and investment environment. Major trading countries around the world are expanding their networks of high-level economic partnerships, and countries are striving to strengthen the competitiveness of business locations; it is essential for Japan not to be disadvantaged by its trade and investment environment. In the midst of uncertainty about the future of world economy, there is a need to deal with the rise of the protectionism as well as to maintain and strengthen the free trade system.

In Section 2, we will clarify the direction of the Japanese government's support measures for overseas business activities. As each country is actively implementing its support measures, this section introduces our measures including acquisition of emerging markets that show remarkable growth, support for development of overseas packaged infrastructure business, support for overseas business development of small and medium-sized enterprises, removal of import restrictions that have been imposed against Japanese agricultural, forestry and fishery products due to the nuclear accident, and global human resources development.

In Section 3, we will introduce the measures that Japanese government should implement in order to strengthen the locational competitiveness, in the era when companies choose countries amid globalization of economic activities, and will present the image of how we prevent the hollowing out of industry and achieve sustainable economic growth. We will also clarify the measures we are taking to make Japanese markets more attractive, including the reduction of corporate taxes, support measures for attracting foreign companies, and several support measures for the creation of new industries.

Section 1: Improvement of trade and investment environment bolstering Japanese enterprises' initiatives

While the initiatives for reconstruction from the Great East Japan Earthquake are underway, we must promote major structural changes toward Japan's revitalization, recognizing the falling population and aging society as well as international environment such as Asian growth. This section explains the initiatives to promote a multifaceted free trade system and to establish strategic foreign economic relationships, which are necessary to accomplish such objectives as strengthening of the competitiveness of Japanese companies, increasing Japan's imports and exports, attracting direct investment in Japan, increasing employment and the creation of an environment that allows Japanese companies to display their strengths.

1. Economic partnership agreement (EPA) and investment agreement shoring up linkages with the world economy

Currently, high-level EPA/FTA networks are expanding among major trade countries worldwide; it is Japan's policy to promote strategic and multifaceted economic partnerships with a wide range of

countries, including Japan's major trade partners, based on the "Basic Policy for Comprehensive Strategic Economic Partnership."

(1) Recent trends that surround EPA/FTA

As a result of the accelerated regional integration in response to changes in the international economic environment and in development strategies of countries, the number of EPA/FTA signings has been increasing year by year since the 1990s. This occurs in the following context: [1] the U.S. and European nations stepped up their initiatives, including liberalization and facilitation of trade and investment, toward economic partnerships with economically deeply connected neighboring countries (examples: U.S and the EC accelerated their initiatives for NAFTA (effective in 1994) and the EU (started in 1993), respectively); [2] while NIEs and ASEAN were achieving a high rate of growth at a fast pace through promotion of economic liberalization, emerging countries including Chile, Mexico and Peru strategically used EPA/FTA as a means to shift their economic policies toward liberalization of trade and investment as well as introduction of market mechanism; [3] East Asia including Japan took a positive stance toward EPA/FTA. The number of regional trade agreements reported to WTO is 511 cases, as of January 15, 2012.

In addition to the increase in number of the EPA/FTA networks that are rapidly expanding, there are the following two characteristics in recent EPA/FTA: (1) conclusion of high-quality agreements, and (2) intensification of initiatives toward extensive economic partnerships in the Asia-Pacific region¹.

(A) Spreading of high-quality EPA/FTA

One of the main objectives of EPA/FTA is promotion of trade through reduction of custom duties between contracting parties; it is common practice to use "EPA/FTA liberalization rates" as a means to indicate a percentage of trade items or trade value for which custom duties are removed to the total trade items or trade value between contracting parties. Under international economic rules, EPA/FTA are positioned as an exception to the system of GATT (General Agreement on Tariffs and Trade)/WTO (World Trade Organization); GATT allows certain GATT member states to form a preferred free trade agreement between them, on the condition that custom duties, etc. will be removed "within a reasonable length of time" "on substantially all the trade between the constituent territories in products originating in such territories."²

1 For trends of individual FTAs in major countries/regions such as the U.S. and Europe, see p. 474 ff. of the "2011 Report on Compliance by Major Trading Partners with Trade Agreements" (METI). ← This can be updated to the 2012 version if it meets the deadline.

2 Article 24, Paragraph 5 of GATT (excerpt) "Accordingly, the provisions of this Agreement shall not prevent, as between the territories of contracting parties, the formation of a customs union or of a free-trade area or the adoption of an interim agreement necessary for the formation of a customs union or of a free-trade area; Provided that:

(c) any interim agreement referred to in subparagraphs (a) and (b) shall include a plan and schedule for the formation of such a customs union or of such a free-trade area within a reasonable length of time."

Article 24, Paragraph 8 of GATT (excerpt) "For the purposes of this Agreement: (b) A free-trade area shall be understood to mean a group of two or more customs territories in which the duties and other restrictive regulations of commerce (except, where necessary, those permitted under Articles XI, XII,

In recent years, more and more FTAs concluded by developed countries and major countries show a liberalization rate as high as 95% or above in terms of trade items. In the case of the FTAs concluded by the U.S., for example, the liberalization rates are as follows: 97.6% on the side of the U.S. and 97.7% on the side of Chile under the Chile-U.S. FTA (effective in January 2004), 96.0% on the side of the U.S. and 99.9% on the side of Australia under the Australia-U.S. FTA (effective in January 2005), 99.2% on the side of the U.S. and 98.2% on the side of South Korea under the South Korea-U.S. FTA (effective in March 2012), and 98.2% on the side of the U.S. and 99.3% on the side of Peru under the Peru-U.S. FTA (effective in February 2009)³. Under the EU-South Korea FTA, which took provisional effect in July 2011, the liberalization rates are 99.6% on the side of the EU and 98.1% on the side of South Korea.

A high liberalization rate means that economic entities in the contracting countries can engage in trade of a lot more items without tariff barriers; it is considered that such high-quality FTAs will make a significant contribution to trade expansion and economic growth of the contracting countries.

(B) Movement toward an extensive economic partnership in the Asia-Pacific region

Along with the spread of high-quality FTAs, another noteworthy trend is the intensification of initiatives toward an extensive economic partnership in the Asia-Pacific region. With the help of the development of FTA networks, division of roles between processes, and integration and optimum placement of production locations are considerably promoted in the Asia-Pacific region; if reduction of custom duties, accumulation of rules of origin, and standardization of various rules concerning business activities are implemented in a unified manner through an extensive economic partnership, then such measures will back up the efforts made by companies toward sophistication of supply chains that extend across this region. Consequently, companies can optimize their business flows, and countries can achieve optimization of relatively strong combination and further streamlining of the economy, leading to growth of the entire region.

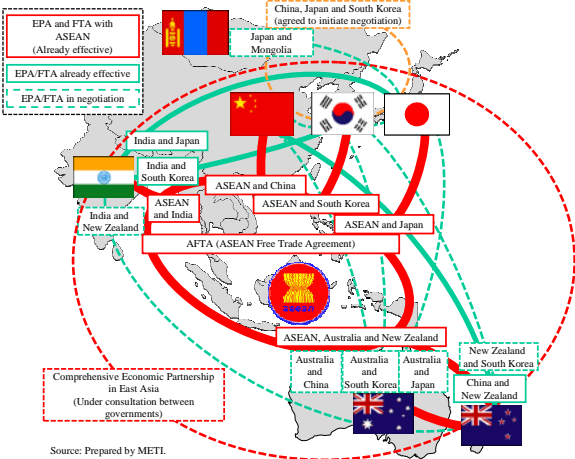
In 2010, custom duties were in principle removed among the six original ASEAN member states (Indonesia, Singapore, Thailand, Philippine, Malaysia and Brunei), and FTAs in East Asia region are said to have advanced to a new level with the effectuation of all the “ASEAN+1” FTAs in the area of goods. The “ASEAN+1” FTAs are those which ASEAN has concluded with each one of the six neighboring countries (Japan, China, South Korea, India, Australia and New Zealand)⁴; FTA networks are now extended across East Asia, as ASEAN serving as a hub. (Figure 4-1-1-1)

XIII, XIV, XV and XX) are eliminated on substantially all the trade between the constituent territories in products originating in such territories.”

3 Based on the “*Basic Policies on Comprehensive Economic Partnership*” (Cabinet Secretariat, January 2011). The figures are based on trade items.

4 ASEAN, Australia and New Zealand have concluded a third-party FTA.

Figure 4-1-1-1
Economic partnership in East Asia



In November 2006, the U.S. (President Bush at that time) proposed the framework of a “Free Trade Area of Asia-Pacific (FTAAP)” as initiatives to cover not only the East Asia region but the Asia-Pacific. The FTAAP is a framework aiming for liberalization of trade in the Asia-Pacific region; at the Yokohama APEC in November 2010, it was affirmed that a “FTAAP should be pursued as a comprehensive free trade agreement by developing and building on ongoing regional undertakings, such as ASEAN+3 ASEAN+6 and the Trans-Pacific Partnership, among others,” and declared that specific measures would be taken to realize this objective⁵.

Since 2009, intergovernmental consultations have been made for specifically defined fields under the framework of the East Asia Free Trade Area (EAFTA), in which 10 ASEAN countries and three countries (China, Japan and South Korea) are participating, and the framework of the Comprehensive Economic Partnership in East Asia (CEPEA), in which ASEAN+3 and Australia, India and New Zealand (ASEAN+6) are participating; at the ASEAN leaders’ meeting in April 2012, a chairman’s statement was issued to the effect that the countries planned to initiate, by the end of the year, negotiation toward the Regional Comprehensive Economic Partnership (RCEP), which is a concept based on the above-mentioned frameworks.

Originating from the Trans-Pacific Strategic Economic Partnership Agreement (so-called P4 agreement), which became effective among four countries (Singapore, New Zealand, Chile and Brunei) in 2006, the Trans-Pacific Partnership (TPP) Agreement is currently newly negotiated with participation of the U.S., Australia, Peru, Vietnam and Malaysia in addition to the four countries.

In the East Asia region, China, Japan and South Korea completed in December 2011 their industry-government-academia joint study on a FTA framework between the three countries, and they agreed at the China-Japan-South Korea summit held in May 2012 to initiate negotiation within the year.

As described above, various initiatives, while having a synergetic effect, toward an extensive economic partnership are currently proceeding at multiple levels in the East Asia and Asia-Pacific

5 “Roadmap toward the Free Trade Area of Asia-Pacific (FTAAP)” (November 13-14, 2011, APEC leaders meeting)

regions. Specific moves of the initiatives will be detailed in “(3) Japan’s initiatives toward economic partnership under the basic policy.”

(2) Japan’s initiatives so far and promotion of strategic and multifaceted economic partnership

(A) Initiatives so far and lagging of Japan

Japan has concluded EPAs with 12 countries and one region so far, beginning from the Japan-Singapore EPA that has been effective since November 2002. (Table 4-1-1-2)

Table 4-1-1-2

EPAs concluded by Japan

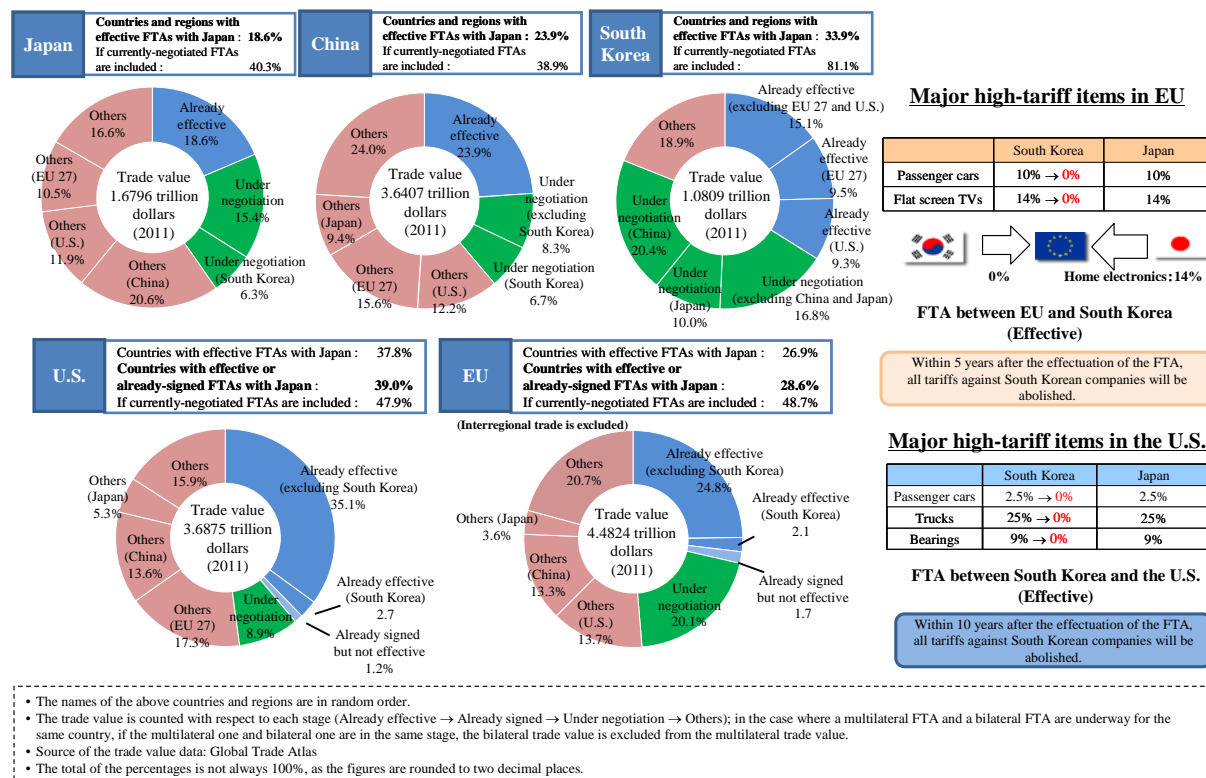
Partner country	Effective date
Singapore	Nov. 2002
Mexico	Apr. 2005
Malaysia	July 2006
Chile	Sept. 2007
Thailand	Nov 2007
Indonesia	July 2008
Brunei	July 2008
ASEAN	Dec. 2008
Philippines	Dec. 2008
Switzerland	Sept. 2009
Vietnam	Oct. 2009
India	Aug. 2011
Peru	Mar. 2012

Source: Prepared by METI.

The ratio of already signed or effective EPAs/FTAs to the total trade value (FTA ratio) is 39.0% in the U.S., 33.9% in South Korea and 28.6% in EU (excluding interregional trade); however, the FTA ratio in Japan is only 18.6%, indicating that Japanese initiatives fall behind other nations. (Figure 4-1-1-3)

Figure 4-1-1-3

Ratio of FTAs to trade of major countries, and major high-tariff items in the EU and the U.S.



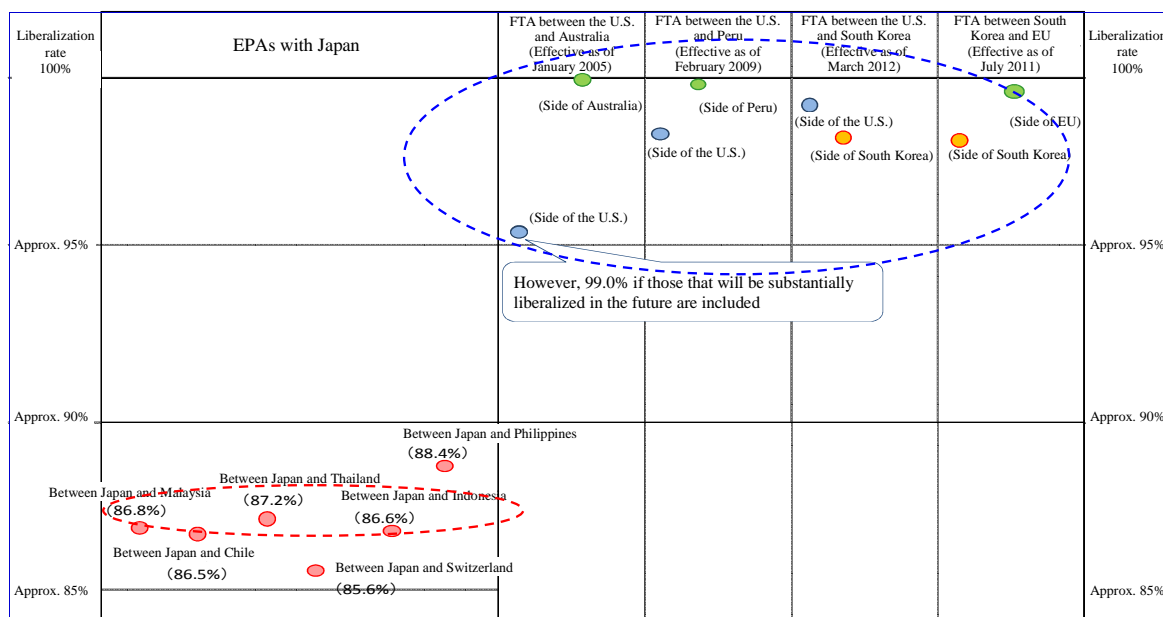
Liberalization rates of the EPAs concluded by Japan are low compared to the world standard, and this is considered as one of the major factors of the lagging of Japan's initiatives. The EPAs that Japan have concluded so far have achieved liberalization rates of 90% or above in terms of trade value, but show approximately 86% to 87% in terms of trade items. The reason for this is nothing but the fact that Japan has made so many exceptions to the liberalization; considering that, as stated above, in recent years more and more FTAs, especially those concluded between developed nations, commonly achieve a liberalization rate of 95% or above and nearly 100% in terms of trade items, it cannot be denied that the liberalization rates of EPAs/FTAs concluded by Japan are low. (Figure 4-1-1-4)

The more there are exceptions to liberalization, the more it will be difficult to win concessions from the partner country over liberalization of the items in which Japan has interests; because exceptions will narrow the room for negotiation and the negotiation itself will face rough going.

Now that the agreements with the countries that take an active stance toward EPA/FTA (such as the countries of ASEAN and Central and South America) are settled to a certain extent, it will be necessary for Japan to conclude EPAs/FTAs with a higher liberalization rate, given the countries/regions with which Japan should actively promote EPA/FTA in the future. To eliminate the lagging of Japan's initiatives toward EPA/FTA, it is vital for Japan to work hard for significant reduction of exceptions to liberalization.

Figure 4-1-1-4

Comparison of liberalization rate in FTAs of Japan and the U.S., etc.



Note: This Figures indicate the liberalization rates on the basis of items (the ratio of the items for which tariffs will be abolished within 10 years to all the items). However, in terms of the liberalization rates on the basis of trade value (the ratio of the items for which tariffs will be abolished within 10 years to import value), the figures of 90% or more are achieved under the EPAs with Japan: 99% or more in the EPAs between Brunei and Japan and between Japan and Switzerland; approximately 95% in the EPAs between Japan and Singapore, between Japan and Malaysia, and between Japan and Vietnam.
Source: Materials distributed by the government at the "Regional symposium to think together about the TPP" and other occasions (Compiled by the Cabinet Secretariat).

(B) Promotion of strategic and multifaceted economic partnership

If Japan falls behind in taking initiatives toward EPA and if Japan’s trade and investment environment should pale compared to those of other nations, the locational competitiveness and export competitiveness of Japan will be damaged, bringing loss of employment opportunities. In particular, the lagging of Japan in taking initiatives will cause significant impact on Japanese companies’ competitiveness in correlation with South Korea. In some trade items, such as those in the electrical and electronic fields, South Korean companies have already surpassed the foreign market shares of Japanese companies; since 2011, the EU-South Korea FTA and the South Korea-U.S. FTA have become effective, and Japanese products are now burdened with 10% or more of differences in tariffs on certain trade items. In the global market, where companies (especially manufacturing companies) face fierce competition with high cost-consciousness, the burden of several to several ten’s of percent in tariff differences is a considerable handicap⁶.

Japanese manufacturing industry has already been on the decline in the long run and the number of business facilities and employment are decreasing. Japan’s lagging in taking EPA initiatives is not the only reason for the decline of domestic manufacturing industry, as industry is also affected by overseas transfers due to such other reasons as change of industrial structures, foreign exchange, cheaper human

6 In the automobile industry, for example, the amount of custom duties paid in 2010 to TPP member states such as the U.S. for automobiles and automobile parts was at least 137 billion yen; considering that the total operating loss announced by major automobile manufacturers in 2010 was about 500 billion yen (on a non-consolidated basis), the impact on competitive condition, caused by imposition of custom duties, is tremendous.

costs and lower corporate taxes in foreign countries; however, the lag is considered as one of the factors that raise concerns over the hollowing-out of industry.

In order to overcome such an unfavorable situation and to achieve sustainable growth despite the prospective decline of domestic markets, it is necessary for Japan to incorporate growth into Japanese market by deepening economic ties with the Asian nations and emerging countries, for which market growth can be expected, as well as the U.S. and European nations, countries with plentiful supplies of resources, and other nations, and to restructure the foundations for future growth and development of Japan.

Based on the perception described above, the Japanese government made a Cabinet decision on the “Basic Policy for Comprehensive Strategic Economic Partnership” (hereinafter referred to as the “Basic Policy”⁷) on November 9, 2010, declaring its strong determination to open up the country such as that “it (the Government of Japan) will take major steps forward from its present posture and promote high-level economic partnerships with major trading powers that will withstand comparison with the trends of other such relationships.” According to the Basic Policy, “with regard to EPAs or broader regional economic partnerships that are politically and economically important and will be of especially great benefit to Japan, the Government of Japan, while taking into consideration the sensitivity of trade in certain products, will subject all goods to negotiations for trade liberalization and, through such negotiations, pursue high-level economic partnerships.” On the other hand, it is necessary to “press ahead with fundamental domestic reforms in order to strengthen the competitiveness it will need for economic partnerships of this kind,” and in particular, as regards Japan’s agriculture, “considering Japan's aging farming population, the difficulty farmers have in finding people to take over their farms when they are ready to retire, and the low rate of profit, there is a risk that sustainable agriculture will not be possible in the future.” Therefore, under the Basic Policy, it was decided that, at the same time as the promotion of high-level economic partnerships, Japan will first press ahead with proper domestic reforms in the areas of agriculture, movement of persons and regulatory reform, from the viewpoint of “opening up the country.”

As in regards the concrete initiatives toward economic partnerships, the Basic Policy states that Japan will increase its efforts in the Asia-Pacific region to conclude or speed up the ongoing bilateral EPA negotiations with the countries currently negotiating with Japan, to commence negotiations toward wide-area economic partnerships that are currently studied, and to actively promote EPAs with major countries/regions with which Japan has not yet started negotiations; and that “concerning the Trans-Pacific Partnership (TPP) Agreement, it is necessary to act through gathering further information, and Japan, while moving expeditiously to improve the domestic environment, will commence consultations with the TPP member countries.” It is also decided that Japan will promote initiatives for major countries/regions outside the Asia-Pacific region, including the EU and the Gulf Cooperation Council (GCC)⁸, as well as initiatives for other countries/regions such as, in particular, emerging countries and countries with plentiful of resources.

7 See the website of National Policy Unit, Cabinet Secretariat for the full text: <http://www.npu.go.jp/pdf/20101109/20101109.pdf>

8 Bahrain, Kuwait, Oman, Qatar, Saudi Arabia and United Arab Emirates.

In response to the Basic Policy, the “Minister-Level Meeting on FTAAP and EPA,” “Headquarters for the Revitalization of Food, Agriculture, Forestry, and Fisheries (established under the Cabinet)” and the “Study Group for Movement of People (established under the Minister of State for National Policy)” have been established with the aim of deliberating on specific initiatives toward economic partnerships and domestic reforms, and these meetings, as well as their sub-meetings, are carrying out discussions including ministerial-level discussions. Some of related regulatory or institutional reforms were discussed under the existing Government Revitalization Meeting.

Under the Guideline on Policy Promotion For the Revitalization of Japan (Cabinet decision adopted on May 17, 2011), which presented the policy toward reconstruction from the Great East Japan Earthquake, the “Strategy for Strengthening Bonds between Countries” was clearly indicated; the Guideline stated as regards EPA/FTA that “the Minister-level Meeting on FTAAP (Free Trade Area of the Asia-Pacific)/EPA (Economic Partnership Agreements) will consider the basic policy for strengthening “kizuna” (the bonds of friendship) with other countries, such as promoting high-level economic partnerships based on “Basic Policy on Comprehensive Economic Partnership” (Cabinet decision adopted in November 2010) and establishing economic security, taking into consideration factors such as the sentiments of the farmers and fishermen who have suffered enormous damage from the earthquake and the nuclear incident, progress in the international negotiations, and concerns of de-industrialization.” At the same time, it was confirmed that the basic stance and direction of the Basic Policy would be maintained.

Thereafter, in October, the Headquarters for the Revitalization of Food, Agriculture, Forestry, and Fisheries adopted the Basic Policy and Action Plan for the Revival of the Food, Agriculture, Forestry and Fishery Industries (hereinafter referred to as the “Basic Policy and Action Plan”). Under this Basic Policy and Action Plan, it was stated that “the Government of Japan will work intensively over the next five years for the enhancement of the competitiveness and soundness of Japan’s food, agriculture, forestry, and fisheries and for the promotion of regional economies, and thus for the realization of an early revitalization of them.” It was also stated that “in order to realize a situation where high-level economic partnerships are compatible with the revitalization of agriculture, forestry, and fisheries, it is indispensable to resolve issues specified in the Basic Policy, and to secure the understanding of the people as well as stable financial resources in addition.”

Under the Strategy for Rebirth of Japan, which was adopted as a Cabinet decision in December 2012 after discussions at the National Policy Meeting, it was once again recognized that “harnessing global demand, including stronger demand in Asia-Pacific region, is vital for Japan to continue and increase economic growth” and “Japan needs to proactively promote high-level economic partnerships and play leading roles in creating new trade and investment rules,” and determined that “Japan will pursue strategic, multifaceted economic partnerships with key trade partners and a wide variety of other countries.” (Table 4-1-1-5)

Table 4-1-1-5

Basic strategy for revitalization of Japan (Cabinet Office decision on December 24, 2011)

(1) Promotion of economic partnerships and harnessing on the world's growth potentials
<Overall concept>
Harnessing global demand, including stronger demand in Asia-Pacific region, is vital for Japan to continue and increase economic growth. To bring on the world's growth potentials in domestic economic growth and to contribute to the world economy, Japan needs to proactively promote high-level economic partnerships and play leading roles in creating new trade and investment rules. From these perspectives, Japan will pursue strategic, multifaceted economic partnerships with key trade partners and a wide variety of other countries. In concrete terms, to actualize the Free Trade Area of the Asia-Pacific (FTAAP), Japan will push ahead with negotiations with South Korea and Australia, and aim to promptly start negotiations on Japan-China-South Korea, ASEAN+3, and ASEAN+6 regional economic partnerships. Regarding the Trans-Pacific Partnership (TPP) Agreement, the government will proceed with consultations with nations concerned toward participating in the negotiations. It will also aim at early launching of negotiations on Japan-EU EPA.

(2) Revitalization of food, agriculture, forestry, and fisheries
<Overall concept>
(First part omitted)
To actualize high-level economic partnerships in a compatible manner with revitalization of agriculture, forestry, and fisheries, as well as improvement of food self-sufficiency, it is indispensable to resolve problems described in the Basic Policy and Action Plan for the Revitalization of Japan's Food, Agriculture, Forestry, and Fisheries, and to secure public understanding and stable financial resources in addition. Consideration will thus be made in a concrete manner on issues, such as a shift from the consumers pay principle to the taxpayers pay principle, reform of direct payment framework, and creation of benefits distribution mechanisms accrued from opening up the country.

(3) Japan's initiatives toward economic partnership under the basic policy

(A) Initiatives under negotiation, consultation or study

As described in the beginning, countries are actively taking initiatives toward EPA/FTA. To incorporate the world growth potential into the growth of Japan, and to enable Japan's contribution to the world economy, it is essential for Japan to proactively promote high-level economic partnership and to lead the creation of new trade and investment rules. From this perspective, Japan will promote strategic and multifaceted economic partnerships with a wide range of countries including Japan's major trade partners. Japan's current initiatives will be introduced in the following order: (a) the Asia-Pacific region, (b) major countries/regions other than those in the Asia-Pacific region, (c) other countries/regions. (Figure 4-1-1-6 and Figure 4-1-1-7)

Figure 4-1-1-6

Japan's EPAs

- Already effective (13): Singapore, Mexico, Malaysia, Chile, Thailand, Indonesia, Brunei, ASEAN, Philippines, Switzerland, Vietnam, India and Peru
- Under negotiation (5): Australia, GCC (Gulf Cooperation Council), South Korea, Mongolia (agreed on initiation of negotiation), and Canada (agreed on initiation of negotiation)
- Under study or consultation (4): China, Japan and South Korea (agreed on initiation of negotiation within the year), RCEP (under consultation between the governments), EU (implementing scoping) and Columbia (under joint study)



Source: Prepared by METI.

Figure 4-1-1-7

Japan's initiative for EPAs

		2009	2010	2011	2012	Recent progress
Under negotiation	Australia	Negotiation initiated in April 2007		Negotiation suspended due to the earthquake		Negotiation was temporarily suspended due to the earthquake. Resumption of negotiation was agreed at the top-level meeting in November 2011. Negotiation has been resumed from December 2011.
	South Korea (Suspended)	Working-level consultation toward initiation of negotiation				Negotiation has been suspended from November 2004. Working-level consultation has been held for resumption of negotiation.
	GCC (Suspended)		GCC is reviewing FTAs in general			The 4th interim meeting was held in March 2009. Currently, GCC is reviewing FTAs in general
	Canada			March Joint study	March Agreed on initiation of negotiation	From March 2011 to January 2012, joint study was implemented. Initiation of negotiation was agreed at the Canada-Japan top-level meeting on March 2012.
	Mongol		June Joint study between public and private sectors		March Agreed on initiation of negotiation	From June 2010 to March 2011, joint study between public and private sectors was implemented. Initiation of negotiation was agreed at the Japan-Mongolia top-level meeting in March 2012.
Under consultation with concerned countries toward participation in negotiation	TPP		November Consultation for information collection	November Consultation toward participation into negotiation		Consultation was initiated for information collection in December 2010. In November 2011, it was announced that consultation toward participation in negotiation would be initiated. The consultation was initiated in January 2012.
Implementing scoping	EU		July Joint examination work	May Scoping		Joint examination work was implemented at the EU-Japan joint high-level group. At the EU-Japan periodical top-level consultation held in May 2011, it was agreed to initiate the process toward negotiation. Currently the scoping is being implemented to determine the scope of negotiation and the level of ambition.
Joint study completed	Japan/China/South Korea	Private joint study group since June 2003	May Industry-government-academia joint study			Industrial-government-academia joint study was implemented from May 2010. The joint study was completed in December 2011. At the China-Japan-South Korea top-level meeting held in May 2012, it was agreed to initiate negotiation within the year.
Under joint study	Colombia			November Joint study		At the top-level meeting in September 2011, it was agreed to launch joint study. The joint study has been initiated from November 2011.
Under examination between the governments	RCEP (Regional Comprehensive Economic Partnership for East Asia)	ASEAN + 3 Joint expert study group ASEAN + 6 Joint private expert study group	October Intergovernmental examination	Agreed on establishment of a working group for trade and investment	November	Based on the agreement made by the ministers of economy and prime ministers in October 2009, intergovernmental examination was initiated for 4 areas (rules of origin, tariff classification, customs procedures and economic partnership). At the ASEAN-related top-level meeting held in November 2011, it was determined that working groups would be established for goods trade, services trade and investment.

Source: Prepared by METI.

(a) Initiatives in Asia-Pacific region

The Asia-Pacific region is important for Japan in the spheres of politics, economics and security, and it is invaluable for Japan's prosperity to deepen the partnership with this region. EPAs/FTAs will create seamless markets in the Asia-Pacific region and would become an important tool to convey the vigor of this region to Japan. Japan has already concluded seven bilateral EPAs with ASEAN countries (a total of seven countries including Singapore, Malaysia, Thailand, Indonesia, Brunei, Philippines and Vietnam), as well as the EPA with ASEAN as a whole. As the initiatives toward EPAs with countries of the Asia-Pacific region other than ASEAN, the EPAs with Mexico, Chile, India and Peru have been effective. Japan is currently negotiating the EPA with Australia, and has agreed with Mongolia and Canada on initiation of negotiation; the EPA negotiation with South Korea is temporarily suspended but earlier resumption of the negotiation is being sought.

[India-Japan EPA] (effective since August 2011)

Negotiation with India was initiated in January 2007, and the agreement was signed on February 2011 and came into effect on August 1. India's population is more than 1 billion and its economy, which is the third largest in Asia, has been showing remarkable growth in recent years. The India-Japan EPA stipulates liberalization and facilitation of trade, promotion of investment, establishment of institutions in related areas, and other matters between Japan and the rapidly growing, third largest economy in Asia. At this point in time, the economic relationship between India and Japan

does not reflect the economic scale of both countries. For example, India accounts for 1.4% (843.5 billion yen; 2011) of Japanese exports, and 0.8% (541 billion yen; 2011) of Japanese imports; the percentages remain low⁹. It is expected that the economic relationship between India and Japan will further be enhanced by the effectuation of the India-Japan EPA.

[Japan-Peru EPA] (effective since March 2012)

Negotiation with Peru was initiated in May 2009, and the agreement was signed in May 2011 and came into effect on March 1, 2012. In recent years Peru has achieved high economic growth rates (positive growth in 13 consecutive years until 2011); the Japan-Peru EPA is expected to promote liberalization and facilitation of trade and investment between the both countries, and to deepen the mutually beneficial economic partnership in a wide range of areas including movement of people, competition and intellectual property, leading to further vitalization of the economy of Japan and Peru. Peru has been vigorously engaging in FTA negotiations in recent years and it already has effective FTAs with the U.S., China, Canada, South Korea, Mexico, Panama, etc. and already signed FTAs (to be effective in the future) with the EU and Costa Rica; the effectuation of the Japan-Peru FTA is important for Japan to prevent Japanese companies from falling behind foreign companies in Peruvian markets. In addition, as Peru is one of major exporters of mineral resources to Japan (the second-ranked exporter of zinc ore and copper ore; 2011), the FTA has great significance for Japan in securing stable supplies of resources. Within 10 years after the effectuation in March 2012, tariffs will be removed for the trade items (excluding, however, used items) that are equivalent to 99% or above of two-way trade value between the two countries.

[Australia-Japan EPA] (under negotiation)

Negotiation with Australia initiated in April 2007. The FPA with Australia will contribute to strengthening of “comprehensive strategic relations” with Australia, which shares fundamental values and strategic interests with Japan, and expansion of trade and investment is expected from removal of custom duties and other relevant measures. As Japan is largely dependent on Australia for resources such as iron ore and coal, we expect that the FPA will contribute to stable supplies of resources, energy and food. At the 15th negotiation meeting held in April 2012, we held valuable discussions on a variety of areas including trade in goods and services, investment, rules of origin and food supplies.

[Japan-South Korea EPA] (negotiation suspended)

EPA negotiation with South Korea was initiated in December 2003, but was suspended after the 6th negotiation meeting in November 2004. However, there is some movement toward resumption of negotiation: after 2008, working-level consultations have been held toward resumption of negotiation, and formal implementation of the practical processes necessary for resumption of negotiation was agreed at the Japan-South Korea top-level meeting in October 2011. Earlier resumption of the negotiation is hoped for, as there are multiple benefits in Japan-South Korea EPA including expansion

9 Source: Trade Statistics of Japan by the Ministry of Finance

of trade and investment between the two countries and the strengthening of the international competitiveness of both countries.

[Japan-Mongolia EPA] (agreed on the initiation of negotiation)

Japan and Mongolia held government-civilian joint study meetings toward Japan-Mongol EPA in total three times in June 2010, November 2010 and March 2011, with participation of representatives from industries, academia and governments of the both countries. As a result of the study meetings, both countries have completed a report that included recommendation to their leaders for earlier initiation of Japan-Mongol EPA negotiation. In response to the joint study report, the both countries agreed at the top-level meeting in March 2012 to initiate Japan-Mongol EPA negotiation toward establishment of mutually beneficial and mutually complementary economic relationship. This is the first EPA negotiation for Mongolia. After conclusion of the EPA, it is expected that the investment environment of such areas as energy and mineral resources will be improved, and that the economic relations between both countries will be further strengthened through expansion of trade and investment.

[Canada-Japan EPA] (agreed on initiation of negotiation)

Canada and Japan held joint study meetings in total four times in March 2011, April 2011, July 2011 and January 2012. In response to the joint study report, it was agreed at the top-level meeting held in March 2012 to initiate negotiation toward a bilateral EPA, which will open the path to substantial economic benefits of both countries. Canada's oil reserves including oil sands are the second largest in the world (next to Saudi Arabia), its uranium production is the second largest in the world, nickel is the third largest, and zinc is the fourth largest; considering the abundance of energy and mineral resources in Canada, deepening of economic relations with Canada is of great importance to Japan from the perspective of securing stable supplies of resources.

In addition to the initiatives described above, there are broad-based EPA initiatives, including China-Japan-South Korea FTA and comprehensive economic partnership for East Asia. (We will mention TPP in (B) below.)

[China-Japan-South Korea FTA] (agreed on initiation of negotiation within the year)

China, Japan and South Korea had been implementing a civilian joint study concerning an FTA since 2003; based on the discussion at the 2nd China-Japan-South Korea Summit held in October 2009, the three countries decided, at the 6th China-Japan-South Korea Economic and Trade Ministers Meeting, to initiate industry-government-academia joint study from the first half of 2010. In response to this decision, the China-Japan-South Korea industry-government-academia joint study toward an FTA was initiated from May 2010, and the joint study was completed in December 2011; the three countries agreed at the China-Japan-South Korea Summit in May 2012 that negotiation toward the FTA would be initiated within the same year.

[Regional Comprehensive Economic Partnership for East Asia: RCEP] (under examination between the governments)

A joint expert study was initiated from 2005 for the framework of the East Asia Free Trade Area (EAFTA), which is participated in by 10 ASEAN countries and China, Japan and South Korea (ASEAN+3), and civilian study was initiated from 2007 for the framework of the Comprehensive Economic Partnership in East Asia (CEPEA), which was proposed by Japan in 2006 and is participated in by ASEAN+6 (Australia, China, India, Japan, New Zealand and South Korea); the final reports for these studies were submitted to economic ministers and state leaders in 2009, and it was agreed to initiate consultations between the governments about the reported content. Through the intergovernmental consultations, working groups for trade facilitation (four areas, including rules of origin, customs procedures, list of tariff items and economic cooperation) were established, and the rules and practice of the existing five ASEAN+1 FTAs were compared and analyzed in each area; a final report was prepared in 2011.

Based on the past initiatives toward EAFTA and CEPEA, ASEAN has proposed the framework of the Regional Comprehensive Economic Partnership for East Asia (RCEP), and a chairman's declaration was issued at the ASEAN top-level meeting in April 2012 to the effect that negotiation for RCEP would be initiated by the end of the year. In response to this, it was agreed between economy ministers of ASEAN and Japan, at the unofficial meeting (ASEAN roadshow) in the same month upon visit of ASEAN economy ministers, to work toward initiation of negotiation by the end of the year.

In the future, we will proceed with the study toward initiation of negotiation, through the working groups (three areas including trade in goods, trade in services and investment) which have been established on the basis of the joint proposal by China and Japan.

It becomes necessary to further deepen the comparative study and research on ASEAN+1 FTA toward liberalization of trade and investment, and we expect that the Economic Research Institute for ASEAN and East Asia (ERIA; see Column 20) would play an important role.

If an extensive economic partnership in the East Asia region is developed, the followings can be expected: (A) through effective use of FTAs on behalf of production networks that are expanding, optimum production allocation and locational strategy will be realized, leading to strengthening of international competitiveness of East Asian industries; (B) burdens will be reduced by standardization of rules and simplification of procedures; (C) under the circumstances where competition with third countries is intensified, Japan-based production of high-value added materials will be promoted through reduction of custom duties and regulatory improvement of trade remedies, preventing outflows of technologies, know-how and technical experts.

Column 20 Initiatives in 2011 of Economic Research Institute for ASEAN and East Asia

ERIA is an international organization comprised of 16 nations in East Asia region (10 ASEAN nations, Japan, China, South Korea, India, Australia and New Zealand), with the purpose of promoting integration of East Asian economy. In order to realize affluent economic society in Asia, which is the growth center of the world, and to resolve regional common issues, ERIA engages in study and reports study results as policy recommendation to the leaders and ministers.

ERIA started when Japan proposed an OECD-like framework in East Asia at the ASEAN-Japan Economic Ministers' Meeting, etc. in August 2006. Research, study, symposiums and the like have been implemented under the three pillars: promotion of economic integration in East Asia, correction of unequal development of regional economies, and the realization of sustainable growth. ERIA makes policy recommendation to the East Asian Summit, the ASEAN Summit, etc. The major achievements in 2011 for each of the three pillars are described as follows.

(A) Promotion of economic integration in East Asia

In 2011, the existing rules in ASEAN+1 FTAs were compared and analyzed in cooperation with the ASEAN Secretariat, in order to promote integration of the East Asian economy. It is expected that the results will be used in ASEAN Plus working groups, etc., which are to be established in the future in connection with comprehensive economic partnerships. ERIA regards ASEAN economic integration, aiming for the establishment of an ASEAN community by 2015, as the most important research project; under direction of ASEAN leaders and economy ministers, ERIA engages in progress assessment and economic effect analysis of the "blue print (action plan)" toward realization of the ASEAN economic community and is proposing policy recommendations; the role of ERIA is becoming more and more important toward 2015. Further, ERIA proposed the "Jakarta Framework" concerning a future concept of ASEAN region after 2015, and received a high evaluation from ASEAN leaders.

(B) Correction of unequal development of regional economies

As the initiatives to correct unequal development of regional economy, ERIA formulated the "Comprehensive Asian Development Plan" in 2010, and has been supporting the "Master Plan on ASEAN Connectivity." During 2011, ERIA continued to engage in support and follow-up for implementation of these Plans, and feasibility studies of more than 60% of the projects, in which ERIA had planned to engage, have already been completed. At the 6th East Asia Summit held in November 2011, leaders of the participating countries appreciated the ERIA's support. ERIA engages in other initiatives toward correction of unequal development; such initiatives include support for small and medium-sized companies, such as preparation of indexes of policies for small and medium-sized companies and business matching for small and medium-sized companies, and capacity building projects aiming for improvement of policy research ability of developing countries.

(C) Realization of sustainable growth

ERIA has been implementing studies and research toward realization of sustainable growth, including chemical materials control and the 3R policy; in particular, the role of ERIA in the energy area was strengthened in 2011. Specifically, based on the efforts of the existing cooperative areas toward the strengthening of East Asian energy collaboration, it was agreed at the East Asian Energy Ministerial Meeting in September 2011 that ERIA would act as the study and research center for the following five areas: (A) formulation of energy forecast, (B) improvement of emergency policies and measures in case of emergent energy disruption, (C) promotion of use of existing fossil fuel resources,

(D) improvement of electric infrastructure including nuclear power generation, and (E) development of clean energy and smart communities, etc.; this agreement was also welcomed at the East Asian top-level meeting in November 2011.

These activities of ERIA were highly acclaimed at the ASEAN top-level meeting in November 2011; it was encouraged that ERIA would continue to contribute to ASEAN top-level meetings and East Asian top-level meetings. At the ERIA Board of Directors of 2011, building of capacity to cope with danger and disasters in East Asia was considered as the highest priority issue, taking into account the experience of the Great East Japan Earthquake, and the importance of risk management was reconfirmed; we desire for the achievement of these goals.

(b) Initiatives with major countries/regions outside the Asia-Pacific

[EU-Japan EPA] (implemented scoping)

Out of the initiatives with major countries/regions outside the Asia-Pacific region, we will first introduce the initiatives with the EU. Except for the Asia-Pacific region, the EU is the largest trade partner of Japan: the total trade value between the EU and Japan is about 14 trillion yen (2011); the EU is the world's third largest trade partner of Japan, and Japan is the world's seventh largest trade partner of the EU; Japan's investment balance to the EU is about 17 trillion yen (2011) and the EU's investment balance to Japan is about 7 trillion yen (2011). About 3,300 Japanese companies have expanded their businesses to the EU and created employment for about 400,000 or more workers in the EU. The further strengthening of EU-Japan economic relations through the EU-Japan EPA will have a positive impact on the economic growth of both the EU and Japan, and the strengthened mutual dependence and increased trust relations may lead to the strengthening of comprehensive relations including politics and security. As the EU-South Korea FTA took provisional effect in July 2011, it is concerned that Japanese industries are in a disadvantageous position in European markets; there are increasing calls for the realization of the EU-Japan EPA, such as the request submitted by the Japan Economic Federation for earlier initiation of EU-Japan EPA negotiation.

Scoping (work to determine the scope of negotiation) was implemented in response to the agreement made at the EU-Japan periodical top-level meeting in May 2011. It is expected that the European Commission and EU member states will proceed to relevant coordination.

[GCC-Japan FTA] (Under negotiation)

Negotiation was initiated with GCC countries in September 2006, and two official meetings and four interim meetings were held until March 2009. However, due to the GCC's request, the negotiation was suspended in July 2009, and Japan is now encouraging the GCC to resume the negotiation. The GCC region accounts for about 75% of the total oil imports of Japan (2011) and the total export value from Japan to this region reaches 1.6 trillion yen (2011). In addition, thanks to the demand for large infrastructure development resulting from the increasing population in this region, many countries are actively promoting marketing activities by means of joint government and private sector efforts. Not to mention the perspective of trade and investment expansion as well as energy security, it is important for Japan to create and maintain friendly relations, including economic relations, with GCC countries.

(c) Initiatives with other countries/regions

As stated in the Basic Policy, Japan will take the initiatives with other countries/regions as follows: “Taking into account of the progress in the negotiations on the Doha Development Agenda, efforts for regional integration in the Asia-Pacific region, and efforts for the strengthening of economic partnerships with major countries, the Government of Japan will work actively to strengthen economic partnerships, including conclusion of EPAs, with other Asian countries, newly emerging powers, and resource-rich countries, based on a comprehensive assessment from an economic as well as diplomatic and strategic viewpoint.”

[Columbia] (under joint study)

At the top-level meeting in September 2011, launch of an EPA joint study was agreed. Based on this agreement, joint studies were held three times by May 2012.

According to the classification under the Basic Policy, we have introduced the EPAs/FTAs that are currently negotiated, discussed or studied. In order to address demands from globally expanding businesses, it is important not only to take initiatives toward creation of these new agreements, but also to facilitate efficient use of EPAs/FTAs as well as to improve (re-negotiate) the content of the existing EPAs.

As of May 2011, Japan has 13 effective EPAs (Singapore, Mexico, Malaysia, Chile, Thailand, Indonesia, Philippines, Brunei, ASEAN, Switzerland, Vietnam, India and Peru); corporate use of these agreements is becoming widespread, and these agreements come to the stage of actual use and practice. In order to promote international development of Japanese companies under the stage of actual use and practice of EPAs, we should (A) make efforts for steady enforcement of EPAs, (B) improve the business environment so that the government and private sectors can enjoy benefits through active use the EPAs, and (C) recognize, and improve or address problems and emerging needs through examination of actual status of EPAs; it is becoming more and more important for us to place emphasis on the efforts covering the entire life cycle of EPAs, and to increase the quality of EPAs.

(B) Initiatives toward TPP

In addition to the initiatives toward EPAs/FTAs that are currently negotiated, discussed or studied as described above, we are in the process of consultations with related countries, toward participation in TPP negotiation. Negotiation toward TPP agreement originated from the P4 agreement, which became effective in 2006 between the four countries (Singapore, New Zealand, Chile and Brunei); in 2008, the U.S., Australia and Peru announced that they would join and newly initiate consultation; TPP agreement negotiation was initiated when Vietnam joined in March 2010 (Malaysia participated from the negotiation in October 2010). Currently, TPP is negotiated among nine countries, and participation is not limited to the nations that originally joined the negotiation but is open to new participants; the TPP initiatives, for which negotiation is actually initiated, are part of the roadmap toward FTAAP and it is envisioned that the initiatives will expand over the Asia-Pacific region.

Negotiation has advanced steadily, and until now (as of May 2012), official negotiation meetings were held 12 times: in March, June, October and December of 2010, and February, March, June,

September, October and December of 2011, and March and May of 2012. At the occasion of the APEC held in Honolulu, Hawaii in November 2011, the leaders from the nine countries published the Outline of the Trans-Pacific Partnership¹⁰, which is a written summary of the progress of negotiation by then. (Table 4-1-1-8) In the Leaders Statement¹¹, which was published at the same time as the Outline, it was stated that “we have committed ... to dedicate the resources necessary to conclude this landmark agreement as rapidly as possible. At the same time, we recognize that there are sensitive issues that vary for each country yet to be negotiated, and have agreed that together, we must find appropriate ways to address those issues in the context of a comprehensive and balanced package, taking into account the diversity of our levels of development.” On that occasion, President Obama of the U.S. stated that though “it is an ambitious goal,” “we've directed our teams to finalize this agreement in the coming year (2012).” (Table 4-1-1-9)

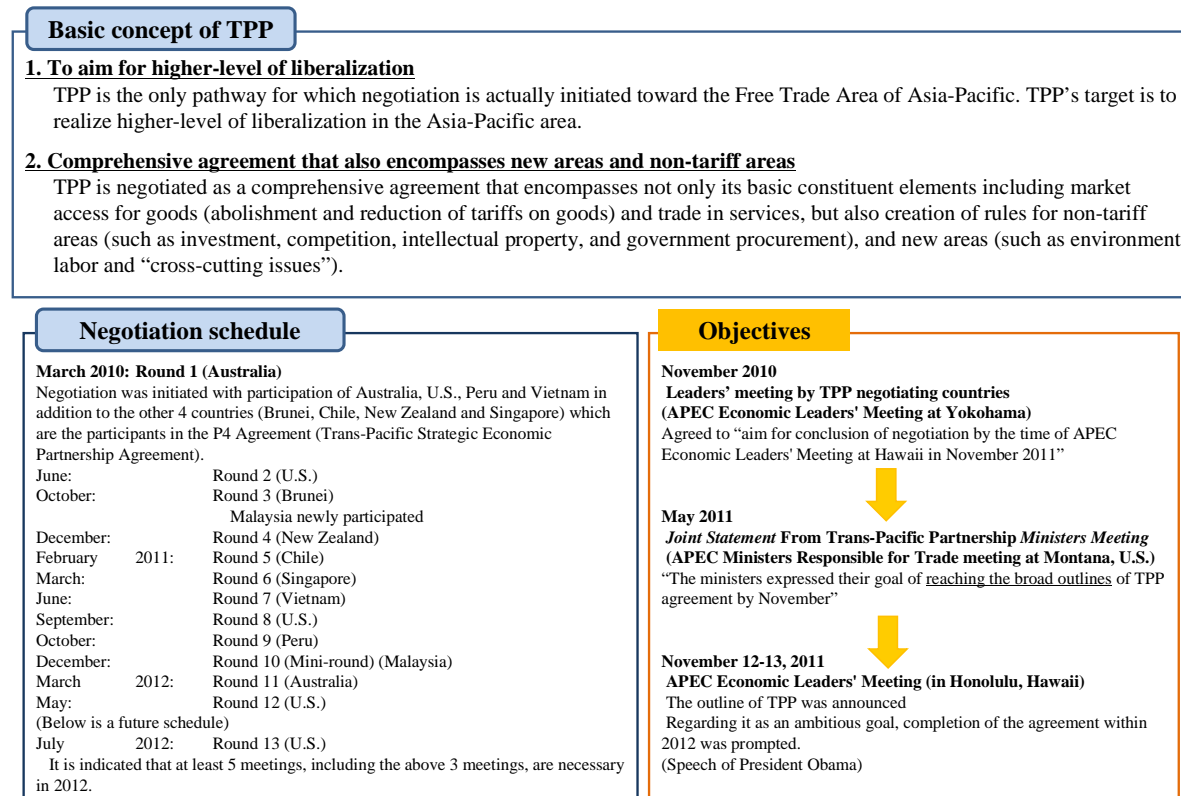
Table 4-1-1-8
 Outline of the Trans-Pacific Partnership (TPP) in November 12, 2011 (extract/tentative translation)

<p>Key Features</p> <p>In reporting to Leaders on the achievement of the broad outlines of an agreement, the Trade Ministers identified five defining features that will make TPP a landmark, 21st-century trade agreement, setting a new standard for global trade and incorporating next-generation issues that will boost the competitiveness of TPP countries in the global economy.</p> <ul style="list-style-type: none"> ○ Comprehensive market access: to eliminate tariffs and other barriers to goods and services trade and investment, so as to create new opportunities for our workers and businesses and immediate benefits for our consumers. ○ Fully regional agreement: to facilitate the development of production and supply chains among TPP members, supporting our goal of creating jobs, raising living standards, improving welfare and promoting sustainable growth in our countries. ○ Cross-cutting trade issues: to build on work being done in APEC and other by incorporating in TPP four new, cross-cutting issues. These are: <ul style="list-style-type: none"> - Regulatory coherence. Commitments will promote trade between the countries by making trade among them more seamless and efficient. - Competitiveness and Business Facilitation. Commitments will enhance the domestic and regional competitiveness of each TPP country's economy and promote economic integration and jobs in the region, including through the development of regional production and supply chains. - Small- and Medium-Sized Enterprises. Commitments will address concerns small- and medium-sized enterprises have raised about the difficulty in understanding and using trade agreements, encouraging small- and medium-sized enterprises to trade internationally. - Development. Comprehensive and robust market liberalization, improvements in trade and investment enhancing disciplines, and other commitments, including a mechanism to help all TPP countries to effectively implement the Agreement and fully realize its benefits, will serve to strengthen institutions important for economic development and governance and thereby contribute significantly to advancing TPP countries' respective economic development priorities. ○ New trade challenges: to promote trade and investment in innovative products and services, including related to the digital economy and green technologies, and to ensure a competitive business environment across the TPP region. ○ Living agreement: to enable the updating of the agreement as appropriate to address trade issues that emerge in the future as well as new issues that arise with the expansion of the agreement to include new countries.

10 http://www.mofa.go.jp/mofaj/gaiko/TPP/pdfs/TPP01_07.pdf
 11 http://www.mofa.go.jp/mofaj/gaiko/TPP/pdfs/TPP01_08.pdf

Table 4-1-1-9

Outline of the Trans-Pacific Partnership (TPP)



Source: Materials distributed by the government at the “Regional symposium to think together about the TPP” and other occasions (Compiled by the Cabinet Secretariat).

It is determined that at least five negotiation meetings, including the above three meetings, are necessary during 2012; in addition, interim meetings to discuss some issues are being held between an interval of official negotiation meetings. (Table 4-1-1-10)

The areas that are discussed in the TPP agreement negotiation include: market access (industrial goods, textiles and apparel, and agriculture), rules of origin, trade facilitation, SPS (sanitary and phytosanitary standards), TBT (compulsory specifications, voluntary specifications and conformity assessment procedures), trade remedies (such as safeguards), government procurement, intellectual property, competition policies, services (cross-border services, financial services, telecommunications and movement of business persons), e-commerce, investment, environment, labor, institutional issues, dispute settlement, cooperation and cross-cutting issues. (Table 4-1-1-10)¹²

12 These areas are sometimes called the “24 working groups” or “24 areas” (the same applies to negotiation directors’ meetings). However, the classification of working groups or negotiation areas varies in each negotiation meeting, and chapters of an agreement may not always be the same.

Table 4-1-1-10

Outline of the Trans-Pacific Partnership (TPP)

Areas covered under TPP negotiation

<ul style="list-style-type: none"> • Under the negotiation for TPP agreement, 21 areas are covered. • Out of these areas, “environment,” “labor” and “cross-cutting issues” are the areas that Japan has not dealt with before as an independent area in the previous investment agreements and economic partnership agreements. 				
<p>(1) Market Access for Goods (including working groups for agricultural goods, textiles and apparel and industrial goods) To stipulate abolishment of custom duties and methods to reduce custom duties for trade in goods, as well as basic rules for trade in goods such as national treatment.</p>	<p>(2) Rules of Origin To stipulate the rules of origin to determine whether a product originates in the TPP region (a product produced in the TPP countries) and reduction of custom duties applies to the product, as well as the certificate scheme, and the like.</p>	<p>(3) Trade Facilitation To stipulate such matters as improvement of transparency of trade rules and simplification of trade procedures.</p>	<p>(4) Sanitary and Phytosanitary Standards (SPS) To stipulate the rules concerning the measures to ensure safety of foods and to avoid diseases of animals and plants.</p>	<p>(5) Technical Barriers to Trade (TBT) To stipulate the rules to ensure that the specifications, which are provided for product characteristics and production processes with such purposes as safety and environmental preservation, will not constitute unnecessary barriers against trade.</p>
<p>(6) Trade Remedies (Safeguard) To stipulate emergency (safeguard) measures that can be temporarily taken to protect a domestic industry, if import volume of a certain product surges and the domestic industry is damaged or is likely to be damaged.</p>	<p>(7) Government Procurement To stipulate the rules for such matters as the principle of national treatment and bidding procedures with respect to procurement of goods and services by the central government, local governments and the like.</p>	<p>(8) Intellectual Property To stipulate such matters as sufficient and effective protection of intellectual property and regulation against counterfeit or pirated goods.</p>	<p>(9) Competition Policies To stipulate such matters as strengthening and improvement of competition laws and policies, and intergovernmental cooperation, with the aim of preventing the benefits to be obtained through liberalization of trade and investment from being damaged by cartel, etc.</p>	<p>Services (11) Temporary Entry To stipulate the rules concerning requirements, procedures, etc. for entry and temporary stay of natural persons who engage in businesses such as trade and investment.</p>
<p>Services</p>			<p>(14) E-Commerce To stipulate principles and other matters necessary for development of environment and rules concerning e-commerce.</p>	<p>(15) Investment To stipulate the principle of non-discriminatory treatment for domestic and foreign investors (national treatment and most-favored nation treatment), dispute settlement procedures for investment-related disputes and the like.</p>
<p>(11) Temporary Entry To stipulate the rules concerning requirements, procedures, etc. for entry and temporary stay of natural persons who engage in businesses such as trade and investment.</p>	<p>(12) Financial Services To stipulate the definitions and rules specific to the financial services sector, in which cross-border financial services are provided.</p>	<p>(13) Telecommunications To stipulate the rules for telecommunications sector, including obligations of major service providers possessing communications infrastructure.</p>	<p>(16) Environment To stipulate that environmental standards should not be loosened up in order to facilitate trade and investment.</p>	
<p>(17) Labor To stipulate that labor standards should not be loosened up in order to facilitate trade and investment.</p>	<p>(18) Institutional Issues To stipulate establishment of a joint committee, through which countries concerned will consult with each other about operation and other related issues of the agreement, and authorities of such committee, and the like.</p>	<p>(19) Dispute Settlement To stipulate procedures to settle a dispute between countries concerned if there is discrepancy in interpretation or any other aspect of the agreement.</p>	<p>(20) Cooperation To stipulate technical assistance and human resource development for countries whose domestic system is insufficient for performance of the agreed terms.</p>	<p>(21) Cross-Cutting Issues To stipulate provisions to prevent cross-cutting restriction or regulation from interfering with commercial trade.</p>

Source: Materials distributed by the government at the “Regional symposium to think together about the TPP” and other occasions (Compiled by the Cabinet Secretariat).

In addition to the goal of removing tariffs at a higher level, another aim of extensive regional economic partnerships, in which both the developed countries and developing countries participate, is to formulate high level “rules of the 21st century,” which will be the basis of future trade and investment rules covering the Asia-Pacific region. “Cross-cutting issues,” which did not exist in previous EPAs/FTAs, discuss, in particular, such areas as regulatory coherence, competitiveness and business facilitation, small and medium-sized enterprises and development. The unique thing about the cross-cutting issues are that they examine, from a cross-cutting standpoint, individual areas including rules of origin, investment and services; aiming to establish a free environment of trade and investment, the cross-cutting issues attempt to reduce as much as possible the problems, such as differences in state regulations and various obstacles in supply chains, which companies actually developing their businesses would face when they make direct investment in foreign countries and supply products and services to the Asia-Pacific region¹³.

Under the negotiation toward TPP agreement as described above, the U.S. and other participating nations continue discussion with the aim not only to remove tariffs at a high level, but also to create new rules in order to resolve various issues faced by companies, etc. in the Asia-Pacific region, which is the center of growth in the world. For example, while many of the countries participating in the TPP negotiation do not participate in the Agreement on Government Procurement (GPA) of the WTO, the

13 For details, see the “2011 Report on Compliance by Major Trading Partners with Trade Agreements” (METI) pp. 495-496.

discussion focuses on whether the TPP agreement should be in the same level as WTO GPA or should exceed the level of WTO GPA, in order to ensure that the companies of TPP member states and products and services of the companies will be treated fairly in the government procurement markets of TPP member states. For intellectual property protection, the TPP participating countries continue discussion aiming to strengthen the framework for prevention of the spread of counterfeit products and pirated products and to facilitate sales of original products in each country. From the viewpoint of business facilitation for globally developing companies, discussions also cover the establishment of regional rules encompassing entire supply chains, including simplification of customs procedures and improvement of logistics services. In creating the rules, attention is also paid to the small and medium-sized enterprises, whose burden on collection of trade information and customs procedures are relatively heavy compared to large companies. In the areas of investment and services, the issues discussed, with the aim of facilitating foreign business development of companies, include improved transparency of restrictions on foreign investment, as well as relaxation or removal of restrictions on investment and services. It is intended to ensure equal conditions (opportunities) between private companies and nationally owned companies should be given. In the labor and environment areas, discussions include non-relaxation of the labor and environmental standards in order to facilitate trade and investment, and compliance of multinational obligations on protection of workers' rights and on the environment¹⁴.

TPP is under negotiation, and we cannot clearly predict what rules will finally be created; however, we consider that the above-mentioned discussions will lead to creation of region-wide common rules, which cannot be easily created only by accumulation of bilateral EPAs.

At the press conference immediately before the APEC Summit held in Honolulu, Hawaii in November 2011, Japan's Prime Minister Noda stated that Japan would enter into consultation with countries concerned toward participation in TPP negotiation (Table 4-1-1-11), and gave an explanation accordingly to the countries concerned at the APEC Summit¹⁵. Based on the statement of Prime Minister Noda and the "Strategy for the Rebirth of Japan" (Cabinet decision on December 24, 2011), it is determined that Japan will proceed with consultations with countries concerned toward participation in TPP negotiation, and will reach final conclusion from the viewpoint of national benefits, after collecting further information about what other countries require of Japan and after having adequate domestic discussions. In order to implement the consultations with countries concerned and the domestic discussions, the "meeting of related ministers for consultations with countries concerned toward participation in TPP negotiation" has been established; further, individual teams responsible for domestic public relations and information provision, domestic liaison and coordination, and consultations with each country, have been formed, including the secretariat office established in the Cabinet Secretariat; this structure enables the whole government to take concerted action for the

14 For the information obtained by the Government of Japan through consultations with TPP participating countries, see the website of the Cabinet Secretariat: "Status of negotiations toward TPP agreement, by each area" (<http://www.npu.go.jp/policy/policy08/bunya.html>).

15 At the Honolulu APEC, Japan, Canada and Mexico expressed their interest for participation in TPP negotiation.

consultations.

Table 4-1-1-11

Prime Minister Noda press conference (November 11, 2011) (extract)

<p>I have decided to enter into consultations toward participating in the TPP negotiations with the countries concerned, on the occasion of the Asia-Pacific Economic Cooperation (APEC) Economic Leaders' Meeting in Honolulu, Hawaii which I will be attending from tomorrow. To be sure, I am fully aware that while the TPP offers significant benefits, numerous concerns have also been spelled out.</p> <p>(Partially omitted)</p> <p>I will ensure the firm protection of Japan's world-renowned healthcare system, our traditional culture, and our beautiful farming villages, and am determined to reconstruct a stable society that is bolstered by a robust middle-class. At the same time, as a trading nation, in order to pass down the affluence we have cultivated to our future generations and to develop our society into one with vigor, we must incorporate the economic growth of the Asia-Pacific region. From this perspective, Japan will start consultations with the countries concerned, make efforts to gather further information as to what each country would expect from Japan, and, through sufficient national debate, reach a conclusion on the TPP faithfully from the viewpoint of our national interests.</p>
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Under the above-mentioned structure, Japan, since January 2012, has been engaging in consultations with countries concerned toward participation in TPP negotiations, and until now, has basically received support from Vietnam, Brunei, Peru, Chile, Singapore and Malaysia with respect to participation in negotiations. It has been decided that Japan will continue discussions with the U.S., Australia and New Zealand (as of May 2012). As part of the efforts to provide information obtained through the consultations, and to conduct domestic discussions, the ministers, senior-vice ministers and parliamentary secretaries from the Cabinet Secretariat, METI, Ministry of Foreign Affairs, and Ministry of Agriculture, Forestry and Fisheries participated in the “Regional Symposium to Think TPP Together,” which was hosted by the Japan Regional Newspapers Association, etc. and was held in nine places nationwide from February to March; in other occasions, the government, upon request, dispatched to prefectures officers to explain the TPP, and exchanged opinions over TPP with the organizations that had expressed interest in or concerns over TPP. During these occasions, the latest status of the negotiations and information obtained through consultations were explained and questions and answers sessions were held, in order to provide information on TPP to the public, to deepen public understanding, and to hear opinions of the public. The explanation provided at the symposium and to the prefectures, and opinions expressed at the meetings to exchange opinions with entities concerned, are summarized and publicly available on the website of the National Policy Unit, Cabinet Secretariat¹⁶.

(4) Improvement of market environment through investment agreements and institutional development including development of international standards

For Japanese companies expanding their businesses on a global basis, such as in Asia, facilitation of cross-border trade and investment and development of the business environment in other countries are important. The development of the business environment includes improvement of the investment system, development of industrial infrastructure, simplification and facilitation of administrative procedures, protection of intellectual property rights, and improvement of other problems faced by companies in the course of business. The EPAs that Japan has concluded provide a forum for

16 <http://www.npu.go.jp/policy/policy08/index.html#01>

comprehensive discussions between the government and private sectors about development of the business environment. Effective measures to address these issues include conclusion of bilateral agreements other than EPAs and promotion of international standards. As examples of bilateral agreements, there are investment agreements that are effective for protection of investment property, etc., and tax treaties that are effective for adjustment of double taxation. Here, we will focus on (1) investment agreements and (2) tax treaties, overviewing their roles and current status, and will state the importance of environmental development to promote overseas expansion.

(A) Investment agreements

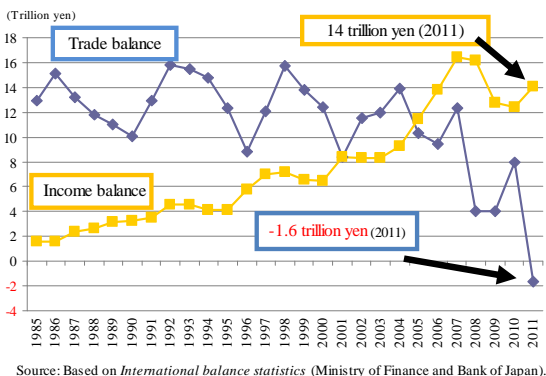
(a) Trend of Japan’s foreign direct investment

After the 1980s, the foreign direct investment of the world has been rapidly expanding and plays an important role, together with trade, in driving growth of the world economy. According to the World Investment Report 2011 prepared by UNCTAD, the ratio of foreign investment balance to GDP was 8.5% externally and 9.1% internally in 1990, and the both figures were 32.4% and 30.4% respectively in 2010, showing considerable growth.

The international trade balance of Japan began to post a trade surplus on a constant basis since the late 1980s, and Japanese foreign direct investment gradually increased. In recent years, the amount of returns accruing from such foreign investment has increased; the income balance in 2011 was about 14 trillion yen, significantly surpassing the trade balance which posted a deficit of about 1.6 trillion yen; the amount of income balance has exceeded the amount of trade balance for seven consecutive years. (Figure 4-1-1-12) Out of the returns in 2011, the direct investment returns remained at a remarkable level of 4.7011 trillion yen.

Figure 4-1-1-12

Japan’s trade balance and income balance

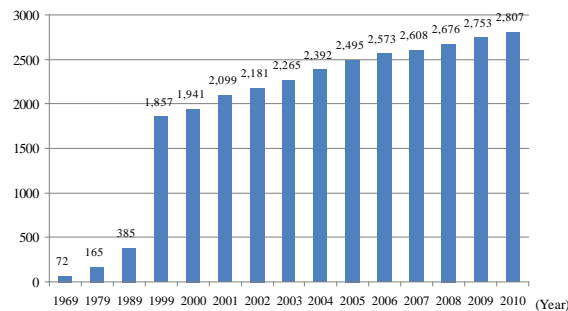


(b) Status of conclusion of investment agreements in the world

In the context of the expanding foreign direct investment, countries have been exchanging investment agreements with the purpose of protecting domestic investors and their investment property from discriminatory treatment or expropriation (including nationalization) by an investment destination country.

Figure 4-1-1-13

Number of investment related agreements in the world



Source: Based on *Recent development in international investment agreements 2008 – June 2009* and *World Investment Report 2011*.

In recent years, the number of investment agreements in the world has significantly increased, and has reached 2,807 cases as of 2010. (Figure 4-1-1-13) Countries like Germany, China, Great Britain and France have concluded about 100 investment agreements each, but Japan has only concluded 28¹⁷ investment agreements (including Chapters concerning investment in EPAs). (Table 4-1-1-14)

Investment agreements often provide dispute settlement procedures to address the cases where investors (such as companies) are treated unfavorably in an investment destination country. If an investment agreement does not contain such dispute settlement procedures, it will be difficult for investors to find a legal basis for filing a complaint with an investment arbitration organization for correction of unfavorable treatment. According to UNCTAD, the total number of investment arbitration that intervened in disputes between investors and nations (the number of cases referred to arbitration organizations) was only 14 cases until 1998¹⁸ since the first case in 1987¹⁹; however, after the late 1990s, the number increased sharply²⁰ and the total number as of the end of 2011 reached 450 cases. On the other hand, there is only one case of a Japanese company filing a complaint under the investment arbitration system; in the one arbitration case, an overseas subsidiary used an agreement between foreign nations²¹.

(c) Investment agreements as a tool to promote protection and facilitation of investment

Originally, investment agreements had the main purpose to protect investors from country risk in an investment destination country, such as appropriation of investment property and arbitrary application

17 As of March 2012 (Number of signatures)

18 UNCTAD(2005) “INVESTOR-STATE DISPUTES ARISING FROM INVESTMENT TREATIES: A REVIEW”

19 Asian Agricultural Products Ltd. v. the Republic of Sri Lanka (ICSID Case No. ARB/87/3)

20 It is said that the interest in investment arbitration was heightened following the “ethyl case” of NAFTA in 1996 (A U.S. company filed a complaint against the government of Canada, claiming that the government’s environmental regulation fell into the “exploitation” under NAFTA. The case was settled by means of monetary payment from the government of Canada to the U.S. company).

21 A London subsidiary of Japanese securities company purchased a Czech bank via a legal entity established under the laws of Netherlands; the Czech government took certain action on the Czech bank; in 1998, the London subsidiary referred the action taken by the Czech government to arbitration by the arbitration rules of the UNCITRAL, under the bilateral investment agreement between Czech and Netherlands.

of laws. These agreements are called the “agreements for protection of investment” and their main contents include domestic treatment, most-favored nation treatment, conditions for appropriation and calculation methods of compensation, free remittance of money, dispute settlement procedures between contracting states, and dispute settlement between an investment destination country and investors. Since the 1990s, in addition to the protection of investment property, investment agreements began to incorporate such issues as domestic treatment and most-favored nation treatment at the stage of investment establishment, prohibition of performance requirements²², prohibition of strengthening restriction on foreign investment, obligation to exert efforts for gradual liberalization, and establishment of transparency (including public disclosure of laws and regulations and obligation to give answers to inquiries from the partner country) (“agreements for liberalization and protection of investment”). (Table 4-1-1-15)²³

22 Performance requirements are specific requirements imposed as the conditions for investment, including, for example, the requirement to use local materials (local contents) at a certain percentage, and the requirement to export products at a certain percentage.

23 The chapter of investment under NAFTA is a representative example; in the case of Japan, this type of investment agreements include the chapter of investment under a bilateral EPA, and investment agreements between Japan and South Korea, Japan and Vietnam, Cambodia and Japan, Japan and Laos, Japan and Uzbekistan, and Japan and Peru.

Table 4-1-1-14

Investment related agreements concluded by Japan

Partner countries (including regions)	Signing	Effective
Egypt	January 28,1977	January 14,1978
Sri Lanka	March 01,1982	August 07,1982
China	August 02,1988	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
Mongol	February 15,2001	March 24,2002
Singapore (EPA)	January 13,2002	November 30,2002
South Korea	March 22,2002	January 01,2003
Vietnam	November 14,2003	December 19,2004
Mexico (EPA)	September 14,2004	September 17,2005
Malaysia (EPA)	December 13,2005	July 13,2006
Philippines (EPA)	September 09,2006	December 11,2008
Chile (EPA)	March 27,2007	September 03,2007
Thailand (EPA)	April 03,2007	November 01,2007
Cambodia	June 14,2007	July 31,2008
Brunei (EPA)	June 18,2007	July 31,2008
Indonesia (EPA)	August 20,2007	July 01,2008
Laos	January 16,2008	August 03,2008
Uzbekistan	August 15,2008	September 24,2009
Peru	November 21,2008	December 10,2009
Vietnam (EPA) *1	December 25,2008	October 01,2009
Switzerland (EPA)	February 19,2009	September 01,2009
India (EPA)	February 16,2011	August 01,2011
Peru (EPA) *2	May 31,2011	March 01,2012
Papua New Guinea	April 26,2011	Not yet decided
Colombia	September 12,2011	Not yet decided
Kuwait	March 22,2012	Not yet decided
China, Japan and South Korea	May 13,2012	Not yet decided

Note 1: The content of the Japan-Vietnam investment agreement, which has been effective from December 19, 2004, is incorporated.

Note 2: The content of the Japan-Peru investment agreement, which has been effective from December 10, 2009, is incorporated.

Note 3: In addition, the agreement on a private contract organization was signed with Taiwan on September 22, 2011, and relevant procedures were completed on January 20, 2012.

Note 4: Based on the information as of May 2012.

Source: Prepared by METI.

Table 4-1-1-15

Merit of conclusion of investment agreement

1. Protection of the investment asset & fair services for investors
(1) Business licenses once issued aren't canceled later. (2) Business assets are neither expropriated nor nationalized. (3) Business termination due to strengthened regulation (“indirect expropriation”) is prevented. (4) Investment contracts that concession contract concluded with the counterpart government are observed (umbrella clause). (5) Freedom of remittance to Japan is secured.
2. Between firms (foreign firms) excluding local capitals, discriminatory treatment is banned. (Most favored nation treatment (MFN))
3. Between local capital firms, discriminatory treatment is banned. (National Treatment (NT))
4. Duty to offer investors and investment assets fair and equitable treatment. (FET: Fair and Equitable Treatment)
5. Depending on agreement, following investment approval conditions are prohibited. (Prohibition of performance requirement (PR))
(1) Requirement to export goods and services at a certain ratio and level. (2) Requirement to achieve local procurement at a certain ratio and level. (3) Requirement to purchase, use of prioritized local goods and services. (4) Requirement to connect the amount and value of imports with the amount and value of exports, or acquiring of foreign currency. (5) Requirement to connect the amount and value of domestic sales of produced goods and services with the amount and value of exports, or acquiring of foreign currency. (6) Requirement to restrict exports or sales for exports. (7) Requirement of a certain nationality for board members, managers and so on. (8) Requirement of technology transfer to local capital partners. (9) Requirement to place headquarters of a certain region. (10) Requirement to employ a certain ratio or certain number of local persons. (11) Requirement to inject R&D budget at certain level. (12) Requirement to supply products exclusively at certain region. (Not to establish other supply bases in other countries)

Note: When the counterpart country violates these obligations, investors can appeal for international arbitration against the state.

Source: Compiled by METI.

(d) Initiatives toward investment agreements

The existence of an investment agreement with another country, to which Japanese companies expand or are expected to expand their businesses, is important for Japan, when the level of openness to foreign capital is low in the other country or there are many deficiencies in the legal system (such as frequent change of laws and regulations, and low transparency) of the country. However, the government only has limited human and other resources that can be allocated to negotiations toward conclusion of investment agreements. It is necessary to set priorities on negotiating partners, focusing on their needs, and to advance negotiations swiftly and flexibly toward investment agreements.

More specifically, the countries that satisfy the following conditions, in addition to the concerns

about the investment environment, may be potential parties to investment agreements: first, the countries in which a certain level of Japanese investment already exists, or the countries for which future growth or potential investment can be predicted; next, the countries with plentiful of resources such as Middle Eastern nations and the former Soviet Union; lastly, the countries that will become a key base for expansion into regional markets such as South America and African regions. Willingness of a partner country for conclusion of investment agreements will be one of the factors to consider.

In addition to promotion of negotiations toward investment agreements, it is also important, from the viewpoint of protecting and facilitating investment, to effectively use the policy-supporting tools such as JETRO, NEXI, JICA and JBIC²⁴. With the participation of these related entities and private organizations, the Outward Investment Strategy Conference, which was established in November 2008, held three plenary meetings and nine liaison meetings examining the candidate nations for negotiations toward investment agreements and effective use of related tools.

(B) Tax treaties

(a) Roles of tax treaties and overview of current status

The purpose of tax treaties is to adjust international double taxation by such measures as determination of taxable categories concerning investment and economic activities between both countries. By concluding the tax treaties, the legal framework for such matters as mutual consultations between tax authorities of the both countries and exchange of taxpayer information will be established, contributing to resolution of disputes concerning taxes and to prevention of circumvention of law or avoidance of tax. Consequently, it is expected that legal stability of taxation on Japanese companies operating overseas will be ensured and healthy investment and economic exchanges will be further promoted.

Currently, Japan is a party to 53 tax treaties concluded with 64 countries/regions. (Table 4-1-1-16)

(b) Status of recent conclusion and amendment of tax treaties

In recent years, Japan has concluded new tax treaties with the countries with plentiful in resources, such as Middle Eastern countries, and has made amendment to existing tax treaties with developed countries. In particular, an arbitration system was introduced into the new Japan-Netherlands tax treaty and Hong Kong-Japan tax agreement, which took effect in 2011; under the arbitration system, if a dispute cannot be resolved within two years from initiation of mutual consultation, resolution of the dispute will be sought through arbitration of a third party other than tax authorities. Under the arbitration system, it is mandatory that an award should be given and be enforced within a certain period of time (normally two years) and taxpayers will enjoy benefits such as prevention of

24 Taking into account the request to expedite improvement of investment agreements, which was made in the “Opinions for improvement of global investment environment: toward improvement of legal foundation for Japanese foreign investment” by the Japan Federation of Economic Organizations dated April 15, 2008 and the “Request to promote conclusion of investment agreements” by the Japan Foreign Trade Council dated March 19, 2008, the policy guidance toward the “Strategic use of bilateral investment agreements” was determined in 2008, and promotion of conclusion of investment agreements were also incorporated in the “New Growth Strategy: Blueprint for Revitalizing Japan” in 2010 and the “Strategy for Rebirth of Japan: Overcoming Crises and Embarking on New Frontiers” in 2012.

prolongation of mutual consultation and complete elimination of double taxation.

Table 4-1-1-16

Countries/regions that concluded a tax treaty with Japan

List of countries/regions that concluded a tax treaty with Japan (53 treaties and 64 applicable countries/regions as of April 2012)			
<East Asia and Southeast Asia>	<Middle East>	<East Europe and Central Asia>	<Europe>
Indonesia	Israel	Azerbaijan	Ireland
South Korea	Egypt	Republic of Moldova	UK
Malaysia	Saudi Arabia	Ukraine	Italy
Singapore	Turkey	Kyrgyzstan	Austria
Thailand		Georgia	Finland
China	<Africa>	Tajikistan	Netherlands
Philippines	Zambia	Turkmenistan	Switzerland
Vietnam	South Africa	Belarus	Sweden
Brunei	<North America>	Uzbekistan	Luxembourg
Hong Kong	U.S.	Kazakhstan	Spain
<South Asia>	Canada	Russia	Denmark
India		Armenia	Germany
Sri Lanka	<Central and South America and Caribbean Region>	Slovakia	Norway
Pakistan	Brazil	Czech	France
Bangladesh	Mexico	Hungary	Belgium
<Oceania Region>	Bermuda	Bulgaria	Isle of Man
Australia	Bahamas	Poland	
New Zealand	Cayman	Romania	
Fiji			

Efforts are also made toward conclusion of tax agreements, focusing on information exchange that contributes to preventing international tax evasion or tax avoidance.

It is important that we, by concluding new tax treaties with the countries which we have not yet concluded the treaties and amending the existing treaties, enhance contents of tax treaties and expand networks, including reduction of ceiling tax rates in the source country against investment income (dividends, interests and royalties), improvement of provisions related to transfer pricing, and introduction of the arbitration system. (Table 4-1-1-17)

Table 4-1-1-17

Recent agreements/current status

(As of April 2012)		
◇ Signing		
January 2010	Tax treaty with Luxemburg	(Effective from 2011)
January 2010	Tax treaty with Belgium	(Not yet effective)
February 2010	Tax agreement with Bermuda	(Effective from 2010)
February 2010	Tax agreement with Singapore	(Effective from 2010)
February 2010	Tax treaty with Malaysia	(Effective from 2010)
February 2010	Tax treaty with Kuwait	(Not yet effective)
May 2010	Tax treaty with Switzerland	(Effective from 2011)
August 2010	Tax treaty with Netherland	(Effective from 2011)
November 2010	Tax treaty with Saudi Arabia	(Effective from 2011)
November 2010	Tax agreement with Hong Kong	(Effective from 2011)
January 2011	Tax agreement with Bahamas	(Effective from 2011)
February 2011	Tax agreement with Cayman	(Effective from 2011)
June 2011	Tax agreement with the Isle of Man	(Effective from 2011)
December 2011	Tax agreement with Jersey	(Not yet effective)
December 2011	Tax agreement with Guernsey	(Not yet effective)
December 2011	Tax treaty with Portugal	(Not yet effective)
◇ Basic consensus		
December 2011	Tax agreement with Oman	[New]
March 2012	Tax agreement with Liechtenstein	[New]
◇ Countries currently officially negotiating with Japan		
	U.S.	[Amendment]
	Germany	[Amendment]
	United Arab Emirates	[New]

2. Initiative towards forming rules on a global and regional scale

In addition to conclusion of bilateral or regional economic partnership agreements, initiatives for formulation of rules on a global scale or at regional scale through the WTO, etc. are essential for improvement of Japan's investment environment.

(1) WTO as a multifaceted free trade system

From December 15 to December 17, 2011, ministers from all the member states (153 countries) of the World Trade Organization (WTO) gathered at Geneva, Switzerland to hold the 8th Periodical Ministerial Meeting of the WTO. This ministerial meeting was held amid the fear for collapse of the multifaceted trade system, where the Doha Round negotiations were deadlocked for a long period of time and each nation was reinforcing its protectionist policies. Mr. Edano, Minister of Economy, Trade and Industry, attended the plenary meeting, and urged to take action against the "two crises."²⁵

In this section, we will overview the action taken by the WTO for the restriction of protectionism, the status of Doha Round negotiations and other efforts (Russia's accession to the WTO and negotiation toward amendment of government procurement agreements), focusing on the results of the 8th Periodical Ministerial Meeting of the WTO in the last year.

25 "Statement by Mr. Yukio Edano Minister of Economy, Trade and Industry" WT/MIN(11)/ST/9(WTO, 15/12/2011)

(A) Inhibition of protectionism

After the outset of the global economic crisis triggered by the Lehman Shock in September 2008, countries experienced a surge of political pressure demanding the introduction of protectionist policies that would support domestic industries and secure domestic employment²⁶. There was a concern that if a country adopted protectionism due to the domestic pressure, other countries would follow or take retaliatory measures, causing a chain reaction and consequently protectionism would plague the world, causing adverse effect to world trade and the economy. Amid these circumstances, the WTO, which is a multifaceted free trade system, plays an important role in restricting protectionism and maintaining the free trade system.

However, uncertainties of the world economy increased in 2011, and the WTO announced on September 23, 2011 a downward adjustment of the prospected world trade, from a 6.5% increase to a 5.8% increase²⁷. At the same time, Mr. Lamy, Director-General of the WTO, recognizing the WTO's efforts to restrict protectionism after the Lehman Shock, published his statement that "members must remain vigilant (...) this is the time to strengthen and preserve the global (multilateral) trading system." In the WTO report published in October 2011 about trade measures taken by G20 members²⁸, it was demonstrated that the number of trade restrictive measures taken by G20 members from October 2010 still remained high. (Figure 4-1-2-1)

Given such a situation, the countries came to recognize the necessity for multilateral efforts against the resurgent protectionism.

The multilateral initiatives for restriction of protectionism include: (A) international political agreements such as in APEC and G20, (B) the monitoring function of the WTO over each country's trade policies; and (C) enforcement of rules through effective use of dispute resolution procedures, and other measures. We will give details about (C) in Section 3; below is an overview of the initiatives of (A) and (B).

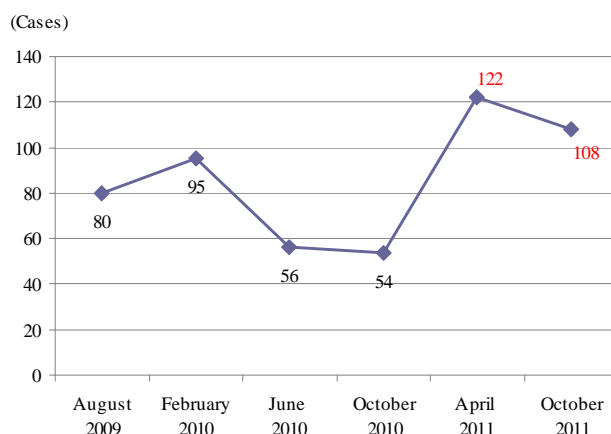
26 See Chapter 2, Section 3 of the "White Paper on International Economy and Trade 2009"

27 WTO press release (WTO, 23/9/2011)

28 "REPORT ON G-20 TRADE MEASURES" (WTO, 25/10/2011)

Figure 4-1-2-1

Number of restrictive trade measures of G20 members



Source: Prepared by METI based on WTO's G20 Report.

(a) International political agreement

High-level international political declarations toward restriction of protectionism were made at the meetings of G20 and APEC, including the leaders' declaration at the G20 London Summit on April 2, 2009. The member states are essentially obliged to observe the WTO agreements, but they may declare, by means of political agreements, commitments that are stricter than the WTO agreements.

There are two major factors that heighten the effectiveness of the restriction on protectionism through the political declarations of G20 and APEC. The first one is the commitment to "standstill (status quo)," under which the member states promise not to implement new protectionist measures more than they do now. The other one is the commitment of "rollback," under which the member states correct the protectionist measures that they have already introduced^{29, 30}. Further, at the Honolulu APEC Summit, it was affirmed that the member states would refrain from introducing measures causing a significant protectionist impact, even if such measures were WTO-compliant.

Amid uncertain economic conditions, some countries, especially developed nations, advocated in advance for the 8th WTO Periodical Ministerial Meeting in December 2011 that these high-level political agreements, which had been continuously declared at APEC and G20, should be also affirmed at the WTO. However, some of the other countries, especially developing nations, expressed an opinion that the right of member states to exercise WTO-compliant policies should not be compromised amid the current global economic circumstances, and difficulties were faced in determining specific texts to be agreed on by all the member states at the ministerial meeting. On December 15, which was the first day of the ministerial meeting, 23 countries/regions, including the EU, Japan and the U.S., announced a joint press statement that called for strong determination for resisting protectionism, and consequently all the WTO member states agreed that they "recognize the

29 At the G20 Cannes Summit in 2011, the commitments made at Toronto Summit for standstill and rollback were reaffirmed (the outcome document of the G20 Cannes Summit in November 2011).

30 "APEC Ministers' Statement on the WTO, the Doha Development Agenda Negotiations, and Resisting Protectionism" (at the Honolulu APEC in November 2011)

growing tendency toward protectionism and commit to resist any form of protectionism.” It is a big step forward that all the member states of the WTO have recognized the WTO’s role in resisting protectionism and have agreed to the commitment. However, specific factors such as standstill and rollback were not stated as agreement of all the member states, but only reflected in part of the chairman’s report, in which the chairman summarized the discussions at the ministerial meeting. Although there are difficulties in multilateral decision making, it is important for each nation to continue resisting political pressure toward inward-looking policies and to transmit political messages about multilateral fight against the protectionism.

(b) Monitoring of each country’s trade policies

Based on the leaders’ request made at the G20 London Summit held on April 2, 2009, the WTO has been monitoring trade measures of each country and making quarterly reports, from the late 2008³¹. The WTO is making reports concerning trade measures of G20 members³² and reports concerning all the WTO member states³³; the former has been reported at G20 summits. These efforts are expected to strengthen the monitoring of trade measures taken by each country and to prevent the spread of protectionist measures in the global recessionary phase. The report on trade and investment measures taken by G20 countries (6th edition) was submitted at the G20 Cannes Summit, informing that the total number of trade restrictive measures taken by the G20 member states remained at a high level, affected by the financial crises of EU nations.

At the 8th periodical WTO ministerial meeting, held in December 2011, an order was given through the ministerial decision³⁴ to maintain and strengthen the function of the Trade Policy Review Body (TPRB) to monitor trade and trade-related measures. It was recommended that the reports of Director-General Lamy should be issued on a regular basis and TPRB was requested to continue discussions for strengthening its monitoring function based on information provided from the member states.

The WTO’s monitoring function over trade policies has been developed after the global economic crisis, and has now become one of WTO’s important and essential functions to resist protectionism.

(B) Doha Round negotiations (promotion of multifaceted negotiation)

(a) Past development of GATT/WTO

The member states of GATT, which was inaugurated in 1948, engaged in multifaceted negotiations for eight times in total, aiming to formulate free and fair trade rules. Through several round negotiations³⁵, tariffs were gradually reduced, and trade-related rules other than tariffs were also

31 As part of efforts to address economic crises, the WTO established on October 14, 2008 in the Director-General Secretariat a task force to examine the impact of the financial crises, in order to monitor and report each country’s trade policies.

32 At G20, the three organizations (WTO, OECD and UNCTAD) report the trade and investment measures of each G20 country.

33 WTO Director-General, at its responsibility, publishes the trade-related measures of all the member states.

34 “TRADE POLICY REVIEW MECHANISM” (WT/L/848) (WTO, 2011)

35 Since the 5th negotiation (Dillon Round) initiated in 1960, the term “round” was used for the names of multifaceted negotiations.

established; after conclusion of the Uruguay Round in 1993, GATT was developmentally reorganized into the WTO (World Trade Organization).

In addition to the tasks that GATT addressed until then, including reduction of tariffs and non-tariff barriers against trade in goods through round negotiations as well as strengthening and enhancement of commercial rules to improve predictability, the WTO expands its scope of discipline and newly covers trade in services and trade-related aspects of intellectual property rights. The dispute settlement function is also drastically strengthened and its coverage and effectiveness are expanded more than GATT.

(b) Characteristics and background of Doha Round negotiations³⁶

Launch of the Doha Development Agenda was declared at the 4th WTO Periodical Ministerial Meeting held in Doha, Qatar in 2001 (hereinafter, “Doha Round”); responding to the needs of the present age of globalization and IT revolution, the Doha Round is characterized by its coverage of a broad range of issues, including trade liberalization, trade in services, trade rules such as anti-dumping, the environment and issues concerning developing nations. Promotion of the Doha Round has significance for Japan, due to reasons such as that: (A) it will reduce tariffs of other developed nations and major developing nations, (B) it will facilitate expansion of Japanese service industries into overseas markets, (C) it will improve predictability through strengthened commercial rules and will prevent commercial disputes, and (D) it will promote domestic structural reforms of the member states/regions.

The Doha Round is the initiatives that are complex and difficult to be taken, because its aim is to reach agreement among the member states/regions whose stages of economic development, interests and concerns are diversified. Under the previous Uruguay Round, agreement was reached through persistent efforts of parties concerned, after eight years of seesawing negotiations. Doha Round negotiations were once stalled due to conflict between developed nations and developing nations since the collapse of the ministerial meeting held in July 2008; however, momentum increased in fall 2010, and ambassador-level and higher working-level discussions were made in a focused manner in 2011, the year considered as the “window of opportunity.”³⁷ In response to these efforts, the chairman’s report was issued on April 21, 2011, which reflected progress of negotiations in all negotiation areas. (Figure 4-1-2-2)

First time in the Doha Round documents were comprehensively collected in all the areas; although it was a necessary step toward conclusion of the negotiations, the contents of documents reflected the harsh current conditions of the negotiations. In the Cover Note³⁸, Director-General Lamy raised problems and required a great deal of thought on future discussions, by indicating that today there were significant political gaps that cannot be bridged under the tariff negotiations on non-agricultural products and stating that the successful conclusion of the Round was put at serious risk; discussions

36 Detailed in “2011 Report on Compliance by Major Trading Partners with Trade Agreements” (Trade Policy Bureau, METI), Part of Materials, Chapter 1 “Trend of the Doha Development Agenda.”

37 See the ministerial declaration at the Yokohama APEC 2010, the outcome document of the G20 Seoul Summit, etc.

38 COVER NOTE BY TNC CHAIR (TN/C/13)

were initiated in each area toward a new consensus in 2011 negotiations.

At the non-official trade negotiations committee on June 22, 2011, Director General Lamy sought to yield, no later than the Periodical Ministerial Meeting in December, a partial agreement under Paragraph 47 of the Doha Declaration and, as a proposal of the partial agreement, presented a draft package of “LDC (least developed countries) plus”³⁹ that contained nine items. After that, intensified ambassador-level discussions were held in Geneva for each issue, mainly at the ambassadors’ meeting of a small number of countries hosted by Director-General Lamy, but the discussion did not reach an agreement and the non-official trade negotiations committee held in July 26, 2011 stated a conclusion that it would be difficult to reach an agreement on LDC-plus package by December. It was also determined that discussions would focus on the action plan after December of the Doha Round, not on the pursuit of a packaged partial agreement.

At the political level, the necessity for pursuit of an innovative and reliable negotiation approach was commonly affirmed at the Cannes G20 Summit in November 2011. The determination to initiate pursuit of an innovative and reliable approach for the Doha Round was also affirmed at the same month’s APEC ministerial meeting and leaders’ meeting held in Hawaii, U.S.

(c) Outcome of the 8th Periodical Ministerial Meeting and the “new approach”

Under the “Elements for Political Guidance” in the chairman’s statement for the Periodical Ministerial Meeting in December 2011, while it was recognized that single undertaking would not be expected in the near future, the necessity to find out a new approach was commonly recognized and it was agreed that discussions would be advanced in the areas for which progress could be expected, including reaching preliminary agreements. (Table 4-1-2-3)

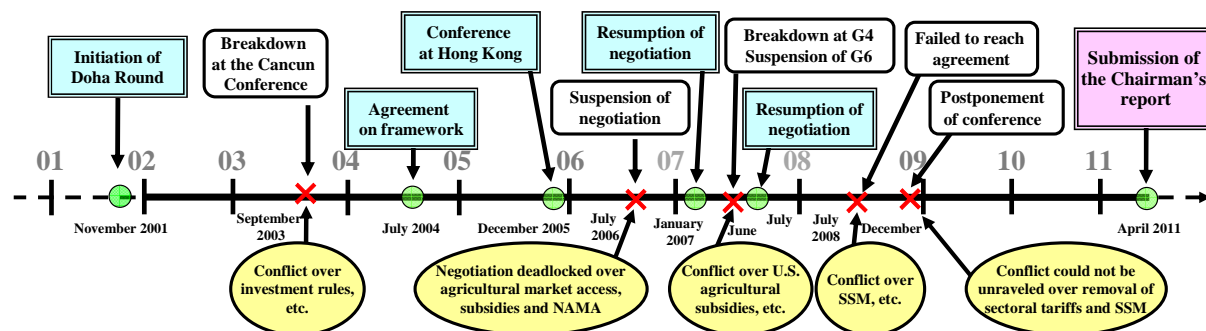
In January of the next year, Mr. Edano, Minister of Economy, Trade and Industry, and Mr. Tsutsui, Senior Vice Minister of Agriculture, Forestry and Fisheries, attended to the WTO non-official ministerial meeting held in Davos, which was the first opportunity for ministers of major countries to gather after conclusion of the Periodical Ministerial Meeting . The meeting focused on the “new approach,” and common understanding was reached on having a realistic attitude; details were entrusted to technical tasks at Geneva.

As it was clarified that single undertaking would be difficult for the time being, the activities to find out a “new approach” have been initiated at Geneva. As there is a fear that countries are becoming inward-looking after the global economic crises, it is important for the countries to share the common value of free trade and to exert efforts for maintenance and strengthening of the multilateral free trade system under WTO; Japan will continue its efforts for the progress of the negotiations.

39 Non-tariff and non-quota, rules of origin, cotton and LDC service waiver are presented as the LDC items; trade facilitation, export competition of agriculture, S&D monitoring mechanism, subsidies for fisheries, and environmental goods/services are presented as prospective “plus” items.

Figure 4-1-2-2

Development of Doha Round negotiations



Notes: 1. G4 means U.S., EU, India and Brazil. G6 means G4 + Japan and Australia.
 2. SSM means special safeguard mechanism for developing countries.
 Source: Prepared by METI.

Table 4-1-2-3

Doha Round Negotiation items and major discussions regarding single undertaking

Agriculture	Reduction of domestic subsidies, reduction of custom duties, and consideration for developing countries
NAMA (Non-Agricultural Market Access)	Reduction of custom duties (Swiss formula and removal of sectoral tariffs), and removal of non-tariff barriers
Services	Liberalization including reduction of restriction on foreign investment, and strengthening of disciplines including increase of transparency of domestic regulation
Rules	Strengthening of anti-dumping disciplines, and disciplines on subsidies
Trade facilitation	Simplification and expediting of trade procedures, and support for developing countries in implementing relevant measures
Development	Special and differential treatment for developing countries (S&D)
TRIPs (Trade-Related Aspects of Intellectual Property Rights)	Geographical Indication (GI) of wines and spirits, and multinational notification and registration scheme
Trade and environment	Liberalization and facilitation of trade in environment-related goods and services

Source: Prepared by METI.

Column 21 Will be able to become a “new approach” in the Doha Round?

-- Discussions around plurilateral agreements ----

<Traditional approach>

As provided in paragraph 47 of the Doha Ministerial Declaration on November 20, 2001, the Doha Round is premised on the single undertaking of the negotiated eight areas. A consensus among the member states is required for the single undertaking, and there is no prospect of major development in the near future, due to the prominent conflict between developed nations and developing nations⁴⁰.

As seen from the current status of the Doha Round, the necessity of a “new approach” is recognized today. The “plurilateral”⁴¹ negotiation method is one possible new approach; under this method, certain interested nations, not all the member states, engage in negotiations. We will overview major

40 Director-General Lamy expressed the current status of negotiations as the “paralysis in the organization’s ability to negotiate” (at the non-official trade negotiations committee on July 26, 2011).

41 Plurilateral is a concept differentiated from multi-lateral.

options of the WTO below.

<Concept of plurilateral>

(1) GATT Article 24 and GATS Article 5

Article 1 of GATT (General Agreement on Tariffs and Trade) stipulates most-favored treatment as the basic principle, and does not allow reduction of tariffs only to a specific nation, as a general rule. However, in case of trade in goods, Article 24 of GATT allows formation of a customs union or free trade areas under certain conditions,⁴² as exceptions to the most-favored treatment. Such exceptions are allowed from the viewpoint of trade liberalization, on the condition that the formation of a customs union or free-trade areas and conclusion of the interim agreement concerning such formation should not have the purpose of raising barriers against trade between the nations within a region and the nations outside the region, but should have the purpose of facilitating trade within the region⁴³. Most-favored treatment is also obligated under Article 2 of GATS (General Agreement on Trade in Services) with respect to trade in services; Article 5 of GATS allows specific countries to enter into an agreement liberalizing trade in services between them under certain conditions⁴⁴; this is considered as an exception to the obligation of most-favored treatment.

Such an agreement is concluded only between specific countries (bilateral⁴⁵ or multilateral) and is effective only between the parties. Some of the WTO member states criticize that movement toward such form of plurilateral agreements could weaken the multifaceted trade system of the WTO, because such agreements are outside of the WTO framework and are not subject to WTO dispute settlement procedures. However, according to the agreed interpretation of GATT Article 24, such agreements will “contribute to expansion of world trade through closer integration of economy of the member states”; under such agreements, trade creation effect will exceed distortion effect, achieving the goal of expanding world trade⁴⁶.

(2) The Agreement on Government Procurement (GPA) (WTO Agreement Annex 4: Pluri-lateral Trade Agreements)

The Agreement on Government Procurement (GPA), for which negotiation toward amendment has largely reached agreement in December 2011, is categorized as a plurilateral trade agreement included in Annex 4 of the WTO Agreement (Marrakesh Agreement Establishing the World Trade Organization). While GATT and GATS exclude application of domestic treatment when a

42 See Article 24 of the Marrakesh Agreement Establishing the World Trade Organization: “duties and other restrictive regulations of commerce (...) are eliminated (...) with respect to substantially all the trade in products originating in such territories.”

43 Detailed in “2011 Report on Compliance by Major Trading Partners with Trade Agreements” (Trade Policy Bureau, METI), Part II, Chapter 15.

44 The conditions include that the agreement should have substantial sectoral coverage and that discriminatory measures against domestic treatment should be eliminated.

45 In the case of an agreement between two countries, it is defined as bilateral, not plurilateral.

46 “*Explanation on WTO Agreement*” (Edited by the Ministry of Foreign Affairs, Economic Affairs Bureau, First International Organization Division; published by the Japan Institute of International affairs, 1996) p. 79.

government agency procures goods/services for use by the government, GPA stipulates the domestic treatment and the rule of non-discrimination.

The agreements included in Annex 4⁴⁷. will have binding effect only on the member states which have accepted such agreements separately from the single undertaking, and will not create either obligations or rights for the other member states. Therefore, GPA is only applicable to its current members (42 countries/regions, mainly developed nations⁴⁸). On the other hand, because GPA is included in Annex 4 of the WTO agreement, GPA is covered by the WTO dispute settlement procedures. A consensus of all the member states is required for establishment of an agreement under Annex 4⁴⁹; under the present circumstances where a consensus cannot be reached in the Doha Round, there should be a considerably high barrier for creating a new plurilateral trade agreement which will have effect only on certain nations.

(3) Information Technology Agreement (ITA)

Through the ministerial declaration issued at the Singapore WTO ministerial meeting held in 1996⁵⁰, 29 countries/regions agreed to remove tariffs of information technology (IT) products by 2000; this agreement is commonly called the ITA (Information Technology Agreement). Effectuation of the ITA required the following conditions: (A) the nations representing about 90% of the global trade of IT products must give notice of acceptance and (B) staging toward the removal of tariffs must be agreed. The ministerial declaration itself does not have legal binding effect; each member state will modify its schedule of concession in order to reflect the content of declaration, and consequently the schedule will apply to all the member states under the principle of most-favored treatment. ITA requires that all products must be reduced to a zero tariff level by modifying schedules of concession, and violation of this requirement means violation against GATT Article 2 and will be subject to the WTO dispute settlement procedures.

Under such method, the effect of tariff removal will be equally shared by all the member states; therefore effectuation of ITA requires participation of the nations that represent a large majority of world trade (called a critical mass), in order to address the free rider problem. How to compose a critical mass is the key to reach agreement among the participating nations.

We have summarized major plurilateral agreements under the WTO. As plurilateral agreements contribute to the free trade system, they have been around for some time; taking into account the technological advancement after conclusion, there is a movement toward expansion of existing plurilateral agreements such as the ITA. We should examine the future direction of these agreements from the viewpoint of development of free trade, not focusing on the structural conflict between developed nations and developing nations.

47 See Article 2, paragraph 3 of the Marrakesh Agreement Establishing the World Trade Organization.

48 Armenia, Canada, EU, 27 EU member states, Hong Kong (China), Iceland, Israel, Japan, South Korea, Lichtenstein, Netherlands Aruba, Norway, Singapore, Switzerland, the U.S. and Taiwan.

49 See Article 10, paragraph 9 of the Marrakesh Agreement Establishing the World Trade Organization.

50 “Ministerial Declaration on Trade in Information Technology Products” (1996)

(C) Joining of Russia into the WTO

Since the formation of the WTO, its member countries/regions have been expanding. There were 128 original WTO member countries/regions, and the number increased to 153 countries/regions as of March 2012. The joining of Russia, which was said to be the last non-member great power, as well as joining of Samoa and Montenegro, was officially approved at the 8th Periodical Ministerial Meeting in December 2011; along with Vanuatu, whose joining was officially approved in October 2011, the members are expected to increase in 2012 to 157 countries/regions. In addition, about 30 countries are currently applying for WTO accession. It is expected that members will further be increased in the future as well and that the WTO will continue to support the free trade system of the world.

In June 1993, Russia applied to join GATT, which was the predecessor of the WTO, and the Working Party on the accession of Russia was established in the same year.

Russia has engaged in bilateral negotiations toward WTO accession, with 58 member countries including Japan. The negotiation between Japan and Russia concluded in November 2005, and the negotiations with the other countries ended in November 2011 when the negotiation with Georgia concluded. On the other hand, the Working Group toward WTO Accession, in which multilateral negotiations were conducted, was temporarily suspended, due to the outbreak of a military conflict between Russia and Georgia in August 2008, and the Russia's statement in June 2009 that Russia would form a customs union with Kazakhstan and Belarus and the three countries would join the WTO as a customs union (the customs union itself effectuated in January 2010). In May 2010, Russia made an official statement that it would no longer aim to join the WTO as a customs union but that each of the three countries would aim for WTO accession, and examination work was initiated. Russia's accession was approved at the WTO Periodical Ministerial Meeting in December 2011. Russia will ratify the accession protocol, and will officially accede to the WTO after 30 days from the ratification.

After Russia's accession to the WTO, Japan may have the following advantages.

Through the negotiations toward accession, Russia has promised to observe the WTO agreement. Russia's WTO accession is expected to make such improvements as: improvement of non-transparent trade-related measures, improvement of inconsistent policy operation, simplification of administrative procedures, and the avoidance of sudden changes of policies. For example, Russia promised that the automobile tariff rate, which was increased by Russia in January 2009, would be reduced, at the same time as its WTO accession, to the rate before the increase, and that the schedule of concession and the timeline that were promised by Russia would apply after the accession. Significant deterrent effects can be expected, because if hypothetically Russia intends to continue, after the accession, taking such measures as increase of tariffs, such measures can only be taken within the framework of the WTO agreement. Improvement can also be expected for VATs, as Russia confirmed that the VATs (value-added taxes) would be promptly and properly returned within a specific period.

The average applied tariff rates for industrial products are currently 9.5%, and will be ultimately reduced to 7.3% after the WTO accession; the average applied tariff rates for all products, including agricultural products, will be reduced to average 10% to 7.8%.

For the area of services, Russia made such promises at the time of WTO accession as that the restriction on foreign investment would be removed within four years after the WTO accession for the telecommunications area, and that establishment with 100% foreign capital of local subsidiaries, would be liberalized in the area of distribution services, including wholesale, retail and franchise.

(D) Negotiations toward amendment of the Agreement on Government Procurement

The Agreement on Government Procurement which came into effect in 1996 mandates new negotiations to begin within three years from the date of entry into force of the Agreement and the Committee on Government Procurement began negotiation toward revisions of the Agreement in 1997; the revisions mainly sought: 1) to improve the Agreement and simplify procedures, 2) to eliminate discriminatory measures and practices which distort open procurement, and 3) to expand the coverage (such as procurement organizations) of the Agreement.

With respect to 1) and 2), an interim agreement on new provisions was established in December 2006.

In accordance with the modality (negotiation framework) agreed among the member states in July 2004, bilateral negotiations were continuously held with respect to 3) above, based on the requests (requests made by a member state to another member state for expansion of coverage of the Agreement) and offers (offers made to another member state by a member state for expansion of its domestic coverage) submitted among the member states. It was not easy to overcome the differences in opinions among the member states, and agreement could not be reached for many years; however, at the WTO Government Procurement Ministerial Meeting, which was held on December 15, 2011 prior to the 8th WTO Periodical Ministerial Meeting, the 14-years negotiations substantially concluded, and the revision proposal for the Agreement was officially adopted at the government procurement committee on March 30, 2012. Upon conclusion of the Agreement, each country has expanded its government procurement organizations, and thereby the coverage of government procurement has been expanded and new government procurement markets have been created. For example, Japan has reduced the base amounts of goods/services to be internationally procured, the U.S. has newly added 10 federal organizations to the coverage of international procurement, and South Korea has added 10 central government organizations and subways, etc. to the coverage of international procurement. The WTO Secretariat estimates that these revisions would create new government procurement markets in the size of US \$80-100 billion annually. In addition, the provisions of the Agreement were also revised, introducing such provisions as that promotes participation of developing nations including the grant of S&D (special and differential treatment) to developing nations. The reason behind these revisions is the fact that the most countries currently participating in the Agreement on Government Procurement are developed countries, and promotion of participation by developing countries, which have large potential markets of government procurement, is one of the top priorities. The provisions that promote more efficient procedures have also been introduced, including encouragement of use of electronic measures; we expect that participation into foreign government procurement will be facilitated.

(E) Movement toward ITA expansion negotiation

(a) Background of expansion negotiation

After the coming into effect of the ITA in 1997, the number of participating countries has expanded. As of May 2012, 74 countries/regions, representing more than 97% of world trade, have participated in ITA (However, major countries in Southern America such as Mexico and Brazil, and South Africa, etc. have not participated). Major products covered by the ITA include semiconductors, computers, communication equipment and semiconductor manufacturing equipment. Fifteen years have passed since the effectuation of the existing agreement, and technologies have advanced during that period; interested countries are now initiating movements toward expansion and clarification of scope of the product list under the existing agreement.

In particular, countries aim to expand the product list in order to enable the ITA agreement to newly cover such products as medical devices and digital camcorders that have become increasingly sophisticated, lithium-ion batteries that are used in many IT products, and new integrated circuits, as well as to clarify the ITA coverage (including transfer from Attachment B to Attachment A under the existing Agreement), which was once referred to the WTO dispute settlement procedures in the past.

(b) Movement toward expansion negotiation

Around the same time as the deadlocked tariff negotiations under the WTO Doha Round, the U.S. held a public comment meeting in May 2011, and the industry submitted a list of products with respect to which the industry have requests. The Leaders Declaration adopted at the APEC top-level meeting in November 2011 stated that the APEC economies would “play a leadership role in launching negotiations to expand the product coverage and membership.

The participating countries have been exchanging opinions, with the aim of initiating the negotiations from the first half of 2012. In May 2012, a concept paper was submitted to the WTO jointly by Japan, the U.S. and other countries, calling for initiation of expansion negotiations; the concerned countries substantially agreed, at the official meeting of the ITA committee held in the same month, to the initiation of negotiations, by strongly supporting the expansion of ITA and initiation of the work needed.

(F) Enforcement of the current WTO agreement (rules)

The WTO agreement formulates free and fair trade rules, and provides regulations concerning dispute settlement procedures that will resolve a trade conflict or dispute arising between the member countries/regions through interpretation and application of the rules. Under the WTO procedures, not only corrective recommendations can be issued to problematic measures, but also countermeasures can be initiated when the recommendations are not followed; compared to other international dispute settlement procedures, the effectiveness of the WTO procedures is significantly high. It is important for Japan to require that another country/region correct its laws, regulations or measures that violate the WTO agreement, in order to eliminate disadvantages against Japan as well as to secure the effectiveness of the agreement. To avoid turning a trade conflict into a political issue, it is also important that Japan’s claims and administration are in accordance with the rights and obligations stipulated under the WTO agreement.

According to the above-mentioned policy, Japan, by effectively using such means as bilateral negotiations and the WTO dispute settlement procedures, requests correction of the policies and measures taken by other countries in violation of the WTO agreement. Compared to the era of the GATT, the number of consultation requests under the WTO dispute settlement procedures has been significantly increased, thanks to the drastic enhancement of the dispute settlement procedures, and the member states are actively utilizing the trade rules for dispute resolution. Since the inauguration of the WTO in 1995, the WTO dispute settlement procedures have been used in 436 cases (as of the end of April 2012). As a party to the disputes, Japan requested consultations in 15 out of these cases; Japan also participated in many other cases as a third party nation.

Column 22 Cases that are referred to dispute settlement procedures for solution

By any possible means including bilateral negotiations and the WTO dispute settlement procedures, Japan seeks to correct the policies and measures taken by foreign governments in violation of the WTO agreement. The followings are the recent example cases where Japan, as a party to a dispute, refers the dispute to the WTO dispute settlement procedures and seeks to resolve the dispute.

(1) Unfair recognition of dumping, by the zeroing method (the U.S.)

Under the antidumping procedures, the U.S. recognized dumping by an unfair method called the “zeroing” practice. Based on the zeroing, antidumping taxes had been unfairly imposed on Japanese bearing industry since 1989.

In November 2004, Japan made a consultation request in accordance with the WTO dispute settlement procedures, claiming that the U.S. zeroing system and its application of the system violated the WTO agreement. The Appellate Body recognized, in January 2007, that the zeroing violated the WTO agreement and recommended that the U.S. should abolish the practice. Nevertheless, the U.S. only abolished part of the zeroing practice in February 2007, and did not adequately follow the recommendation.

In August 2009, the Appellate Body ruled out that the U.S. had failed to implement the recommendation after the due date under the WTO recommendation. However, the U.S. still failed to implement the recommendation, and Japan initiated the arbitration procedures to determine the scope of countermeasures in April 2010. Accordingly, in December 2010, the U.S. officially announced the proposal for revision of its domestic regulations, in order to abolish the zeroing (Japan and the U.S. agreed in the same month on a temporary suspension of the arbitration procedures).

After the announcement by the U.S., Japan and the U.S. held several unofficial discussions, and on February 6, 2012, the U.S. agreed on a memorandum with Japan toward resolution of the dispute. Based on this memorandum, the U.S. announced in its Federal Register on February 14 the revision of the regulations of the Department of Commerce (the new regulations would apply from preliminary decisions to be made on or after April 16, 2012).

In this zeroing dispute, the U.S. had no choice but to correct the practice, because of the repeated recognition of violation and recommendations for correction made at the WTO; this case demonstrated that the use of the WTO dispute settlement procedures is an effective tool for prompting a government

to take initiatives toward dispute resolution. When the WTO dispute settlement procedures are used toward correction of unfair trade measures of another country, it is important to make consistent and prioritized efforts for a WTO dispute case in the future as well, to carry forward the procedures without hesitation in using countermeasures in case of non-compliance with a WTO recommendation, and to increase the pressure in cooperation with other countries that share the same problem consciousness.

(2) Action against export restriction by China on raw materials

The Chinese government is controlling the export of many raw materials ((A) imposition of export taxes, (B) restriction on export quantity, and (C) setting of minimum export prices). In many occasions including WTO committees and bilateral consultations, countries have been making requests to improve China's export control, claiming that the measures are inconsistent with the GATT and the WTO protocol on the accession of China. The Chinese government responded that the export control was in consideration for the environment to preserve limited natural resources, and therefore were consistent with Article 20 of the GATT; however, no detailed explanation was provided on the grounds justifying the measures based on the WTO protocol.

In June 2009, the EU and the U.S. made a consultation request against China, claiming that the export control for nine categories of raw materials (including bauxite, coke and fluorite) was inconsistent with the WTO agreement, but the issue was not resolved by consultations and a panel was formed in December 2009 (Japan participated as a third party country). A panel report was published in July 2011, concluding that China's export control was inconsistent with the WTO agreement. China appealed in August 2011, but the Appellate Panel published in January 2012 a report that basically supported the panel decision. Thus China is required to correct the export control that has been deemed inconsistent with the WTO agreement.

In March 2012, Japan, along with the EU and the U.S., requested WTO consultations with respect to China's export control on rare earths, tungsten and molybdenum, and the consultation was initiated in April 2012. Japan will continue to seek correction of China's controversial export control in accordance with the WTO agreement. (As of May 17, 2012).

(2) Promotion of regional economic integration and economic growth through APEC

APEC is a regional cooperative framework in the Asia-Pacific, which was established in 1989 under the leadership of Australia and Japan and is currently participated in by 21 countries/regions. At the top-level meeting held in Bogor, Indonesia in 1994, the developed economies set a target of attaining free and open trade and investment by 2010 (in the case of the developing economies, by 2020) (Bogor Goals). APEC has had profound influences not only on the liberalization of trade and investment within the Asia-Pacific region but also on the formation of trade and investment rules worldwide; for example, APEC made significant contributions upon the conclusion of the Information Technology Agreement (ITA) at the WTO Ministerial Meeting in 1996. At the APEC top-level meeting in 2006, the members agreed to implement further studies on the methods and means to promote regional economic integration, including the long-term plan for the Free Trade Area of the Asia-Pacific

(FTAAP), and after that, the discussions at APEC toward regional economic integration rapidly progressed.

(A) History

(a) Year 2010 (chairman economy: Japan)

In 2010, Japan as the APEC chairman economy hosted a series of meetings from top-level and ministerial meetings to expert-level meetings; as the outcome, Yokohama Vision, aiming to establish an “economically-integrated community,” “robust community” and “secure community,” was adopted. In the Yokohama Vision, it was reported that remarkable progress had been made as of 2010 toward the achievement of the Bogor Goals and confirmed that the initiatives toward regional economy integration would be further promoted aiming to achieve the Bogor Goals by 2020. In addition, countries concerned also agreed to take specific measures toward realization of the FTAAP as a comprehensive free trade agreement, based on, and through further development of, the regional initiatives that are currently underway, including the ASEAN+3, ASEAN+6 and Trans-Pacific Partnership (TPP). It was also agreed that, in the process of realizing the FTAAP, APEC would make contributions as the incubator of the FTAAP, by playing an important role in defining, coordinating and taking action for “next generation” trade and investment issues that should be included in the FTAAP. In order to further ensure the growth of the Asia-Pacific region, which is the center of growth of the world, the long-term and comprehensive “APEC Leaders' Growth Strategy” was adopted, aiming to achieve growth with five growth attributes: balanced, inclusive, sustainable, innovative, and secure growth.

(b) Year 2011 (chairman economy: the U.S.)

In 2011, the economies set three priorities (strengthening regional economic integration and expanding trade and investment; encouraging green growth; and advancing regulatory cooperation and convergence) and examined the specific outcome that should be sought toward realization of the Yokohama Vision and Growth Strategy.

◆ Strengthening regional economic integration and expanding trade and investment

Next-generation trade and investment issues, which should be included in the FTAAP, were discussed; with the purpose of restricting protectionist measures in innovation policies within the APEC region, “promotion of effective, non-discriminatory, and market-driven innovation policy” was agreed; and results of “strengthening participation of SMEs in global production network” were summarized.

◆ Encouraging green growth

Liberalization of trade and investment in environmental goods /services (EGS) was agreed to be promoted, through reduction of the tariffs on environmental goods (the APEC list of environmental goods to be prepared within 2012, and the tariffs to be reduced by the end of 2015 to 5% or less), and removal of the non-tariff barriers.

◆ Advancing regulatory cooperation and convergence

It was agreed that each economy would introduce “good regulatory practice” in order to increase transparency, effectiveness and efficiency of regulations, and that regulatory cooperation would be

promoted to ensure international compatibility of new technologies including smart grids.

(B) Future prospects

In 2012, Russia chaired the discussions under four priorities: (1) trade and investment liberalization, and regional economic integration, (2) strengthening food security, (3) establishing reliable supply chains and (4) intensive cooperation to foster innovative growth; the outcome will be summarized at the APEC top-level meeting and Ministerial Meeting to be held in Vladivostok in September. Firmly complying with the trends of the Yokohama Vision in 2010 as well as the Honolulu Declaration in 2011, Japan will exert its efforts into further development of regional economic integration within the Asia-Pacific region, by promoting liberalization and facilitation of trade and investment within the region. By incorporating into Japan the strong growth potential, demands for infrastructure and huge purchasing power of the middle class within this region, Japan will realize non-zero-sum trade policies aiming to bring affluence and vigor into Japan.

Concrete results will be sought with the priorities on “improvement in the synergy between innovation and trade,” “promotion of green growth,” “women’s activity promotion” and “improvement of business environment.” (Figure 4-1-2-4)

(a) Improvement in the synergy between innovation and trade

In recent years, companies that are expanding their businesses into certain countries are facing protectionist measures (such as that domestic registration of intellectual property rights, or compatibility with domestic specifications, is required as one a qualification for government procurement bidding, a government unfairly interferes with licensing transactions and demands supply of technical information or domestic products are treated favorably) taken by the countries in relation to innovation policies. To avoid such policies from spreading into the Asia-Pacific region, the APEC top-level meeting in 2011 agreed on the common principle of the promotion of effective, non-discriminatory, and market-driven innovation policy.

With the purpose to connect the outcome with specific action to be taken by each economy, and from the viewpoint that “it is necessary for further growth of the Asia-Pacific region to improve the synergy between innovation and trade, by accelerating the bidirectional flows, in which, on the one hand, improved competitiveness originating from created innovation will expand trade and investment, while on the other, free, open trade and investment will promote free movement of people, goods, money, ideas and etc. and will lead to innovation,” the “APEC Conference on Innovation and Trade” was held in April 2012 under the leadership of Japan, focusing on “specific steps for utilizing a free and open environment for trade and investment for the promotion of cross-border innovation.” This conference was co-sponsored by China, Malaysia, Russia, Chinese Taipei and the U.S. At this conference, not only government officials in charge of trade & investment and innovation policies, but also innovation-related entrepreneurs, investors, companies and researchers, participated as speakers. They deepened discussions about “roles of the governments,” “business environments,” “social infrastructures, such as information and communications technology (ICT),” “human resource development (entrepreneur education),” and “interconnectedness between innovation leaders,” which are all essential factors for promoting cross-border innovation, and shared the following recognition.

(Figure 4-1-2-5)

Figure 4-1-2-4

Promotion of regional economic integration and encouragement of economic growth through APEC

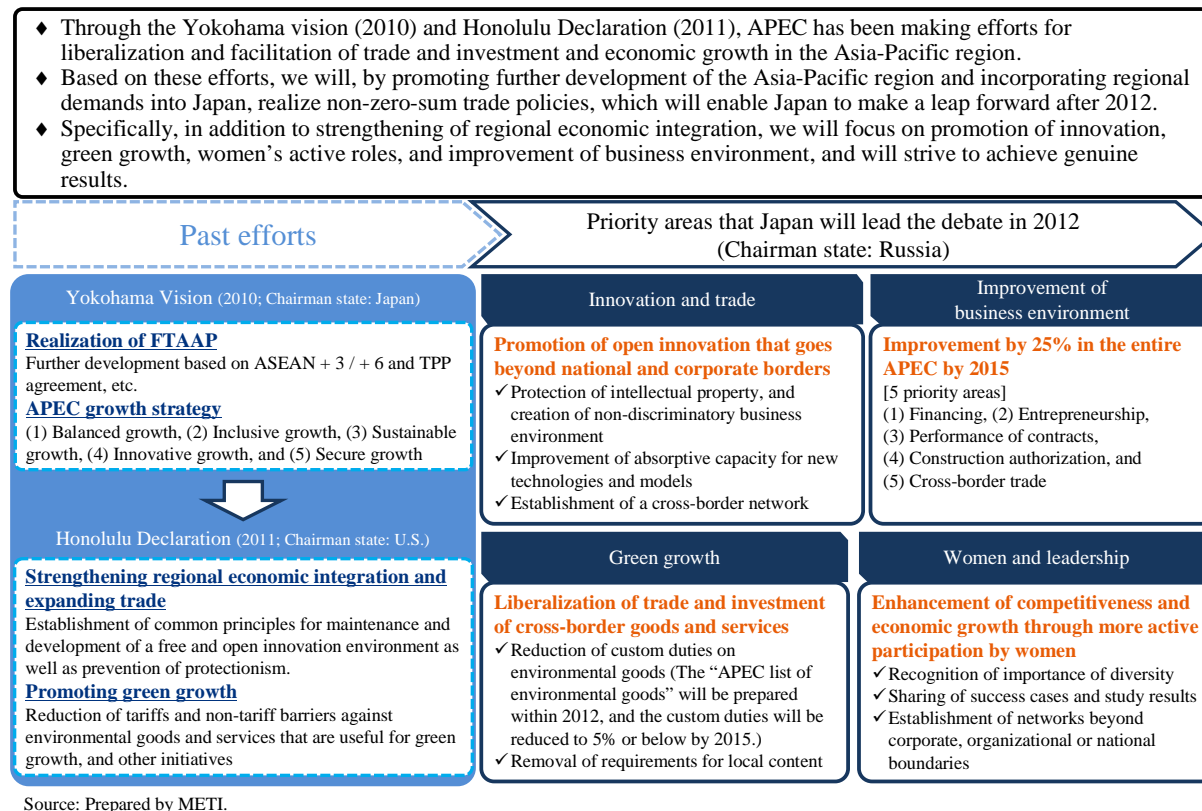


Figure 4-1-2-5

Improvement of synergies between innovation and trade, and visions



Establishing transparent trade and investment systems in the APEC region that are free and open and enhance the base level of "trust" in the economies of the region;

Strengthening and deepening regional economic integration of the member economies in order to achieve a Free Trade Area of the Asia-Pacific (FTAAP);

Establishing environments in which the inventive ideas of private firms and other "innovation

actors” are not restricted by national borders or organizations’ frameworks in the specific areas, especially the protection of intellectual property rights and non-discriminatory business environment on domestic and foreign enterprises;

Promoting the establishment of ICT network technologies and a base for integration, such as logistics and energy infrastructures, through the effective introduction of government and private resources, and thereby enhancing the interconnectedness between innovation leaders in the APEC region.

(b) Promotion of green growth

At the APEC top-level meeting in 2011, it was agreed to reduce the tariffs on environmental goods (to prepare the APEC list of environmental goods within 2012, and to reduce by 2015 the tariffs on the goods included on the list to 5% or less), and to remove the existing local content requirements that distort the trade of environmental goods/services (EGS). It is important for Japan to promote development of the environment where trade in goods/services, which contributes to energy security and the transition to a low-carbon economy, can be freely and smoothly carried out, from the viewpoint of expanding business opportunities of Japanese companies having international competitiveness in those areas. These challenges will also benefit the developing economies that aim to ensure both economic growth and environmental protection. We will advance the discussions with concerned economies, toward the achievement of the APEC leaders’ declaration in 2011.

(c) Promotion of participation by women

From the viewpoint that women’s economic participation will promote economic growth, APEC held in September 2011 the Women and the Economy Summit. As an outcome of the summit, the San Francisco Declaration was adopted, identifying four challenges toward women’s active social participation: access to capital, access to markets, capacity and skills building, and women’s leadership. In March 2012, Japan held the APEC Leadership Forum on Women, where participants confirmed that, in order to create a society where more women can act as leaders, it is essential to positively change both corporate/organizational mindsets and individual mindsets and to create a favorable cycle, and that it is important to i) share the basic policy direction, ii) share the success cases and iii) strengthen networks of parties concerned. The results of the forum will be reflected to the Women and the Economy Forum to be held in Russia in 2012, and we will make efforts for women’s activity promotion in the Asia-Pacific region.

(d) Improvement of business environment

Since 2005, APEC is exerting its efforts toward growth with higher quality in the Asia-Pacific region. As part of these initiatives, APEC leaders in 2009 endorsed an improvement of 25% by 2015 in five key areas (Getting Credit, Starting a Business, Enforcing Contracts, Dealing with Permits and Trading Across Borders) under Doing Business, the World Bank’s indicators concerning actual status of each country’s business environment, and now capability building and other activities are underway. Leading the area of “Getting Credit,” Japan held a capability building seminar aimed at all the economies in 2010, from the viewpoint of forming and strengthening credit information and the legal system, which are evaluation items in Getting Credit under Doing Business; after 2011, Japan has been taking tailor-made initiatives that are suited to the realities of each economy (until now, activities have

been conducted with Thailand and Chinese Taipei).

(3) ASEAN-related top-level meetings (ASEAN-Japan top-level meeting, ASEAN+3 top-level meeting, and East Asia top-level meeting)

In addition to APEC, the initiatives centered on ASEAN also aim to promote cooperation and to formulate rules in East Asia. The initiatives with which Japan involves include the ASEAN-Japan top-level meeting, ASEAN+3 (China, Japan and South Korea) top-level meeting, and East Asia (ASEAN + Australia, China, India, Japan, New Zealand, Russia, South Korea and the U.S.) top-level meeting, and under each of these meetings, economy ministers' meetings are also held. While effectively using the Economic Research Institute for ASEAN and East Asia (ERIA), Japan is actively participating in these regional initiatives, based on the three pillars of economic integration in East Asia: economic partnership, connectivity and growth with quality improvement. (For details of ERIA, see Chapter 4, Section 1, Column 20).

(A) Three pillars of economic integration in East Asia

(a) Economic partnership

At the East Asian top-level meeting and ASEAN+ top-level meeting, intergovernmental examination has been made on economic partnerships in East Asia, with respect to both the Comprehensive Economic Partnership in East Asia (CEPEA) by ASEAN+6 and the East Asia Free Trade Agreement (EAFTA) by ASEAN+3. Based on these efforts, the chairman's statement, which set a target to initiate negotiations toward Regional Comprehensive Economic Partnership for East Asia (RCEP) by the end of the year, was issued at the ASEAN top-level meeting in April 2012. In particular, the working groups for trade in goods, trade in services, and liberalization of investment were established in 2012; these working groups are expected to proceed with making the common rules in East Asia region, while carrying out comparison with the existing FTA rules and regulations of ASEAN+1. It is envisaged that, through these initiatives, further liberalization of trade and investment will be promoted, rules will be communalized, and procedures will be simplified, thereby improving predictability of business activities in the East Asia region. (For details, see Chapter 4, Section 1).

The ASEAN Free Trade Area (AFTA) has been underway since 1992 as an economic partnership within the ASEAN region, and the ASEAN Economic Community (AEC), which will integrate a broader range of areas, is planned to be completed in 2015. In particular, according to the plan, tariffs within the region will be removed by 2015, services, investment, and movements of capital and people will be liberalized, and harmonization of systems will be promoted in such areas such competition policies, consumer protection, intellectual property rights, taxation system and electric commerce. The realization of the ASEAN Economic Community will offer considerable advantages to Japan, which has many production bases in ASEAN; within the framework of the ASEAN-Japan economic ministers' meeting and top-level meetings, Japan is providing support, while effectively using ERIA, with the focus on such issues as trade liberalization, development of software infrastructure, fostering of industrial human resources and closing of gaps. Through dialogue between the Federation of Japanese Chambers of Commerce and Industry in ASEAN (FJCCIA) and the ASEAN-Japan economy

ministers and ASEAN Secretary-General, opinions were exchanged with ASEAN with respect to the future concept of rules suited to realities of business. We plan to formulate the “ASEAN-Japan 10-year Strategic Economic Cooperation Roadmap” in 2012, setting a long-term direction for these initiatives.

(b) Connectivity

In order to facilitate free movement of people, goods and money in East Asia, Japan is promoting the enhancement of “connectivity” between nations. Specifically, under such initiatives as the Master Plan on ASEAN Connectivity (MPAC), which was formulated by ASEAN in 2010, and the Comprehensive Asia Development Plan (CADP), which was formulated by ERIA and was welcomed by the East Asia top-level meeting, Japan aims for physical, systematic and human integration within the East Asia region, through promotion of development of hardware infrastructure such as harbors and railways as well as software infrastructure such as facilitation of customs procedures and harmonization of systems. At the ASEAN-Japan top-level meeting in 2011, Japan presented the flagship projects, which contains 33 priorities to be promoted, including visualization of logistics, development of harbors and railways connecting countries and establishment of anti-disaster networks using satellites. Japan also agreed at the East Asia top-level meeting that it would examine the Master Plan on Connectivity Plus, which aims for strengthening of connectivity among the ASEAN nations and other countries including India and Japan. (Figure 4-1-2-6)

It will be necessary to steadily implement these plans and flagship projects and to achieve concrete results, in cooperation with international organizations such as ERIA and ADB as well as development ministers and foreign affairs ministers of each nation. In this regard, it will also be important that we continue the cooperation already being implemented in various areas of East Asia (including the initiatives toward Japan-Mekong economic and industrial cooperation, the Indonesia economic corridor and the India-Mekong industrial corridor), in a coordinated and uniform manner, taking a panoramic view over the entire region.

(c) Growth with quality improvement

While the East Asian countries are showing significant growth, they are facing constraints and challenges with respect to resources and the environment. As Japan has been dealing with these challenges in the past several tens of years, there is a chance that Japan may be able to establish win-win relationships, by addressing these challenges through effective use of the Japan’s technological capabilities. From such viewpoint, Japan has been providing cooperation in the areas of energy and environment, including smart community, chemical substance management and bilateral credits, through the ASEAN-Japan economic ministers’ meetings and ASEAN-Japan top-level meetings. With the aim of further promoting the sophistication of industries and expanding East Asian markets, Japan is also taking initiatives toward correction of gaps, including cooperation concerning intellectual property rights and fostering of SMEs. (Figure 4-1-2-7)

By 2035, East Asia may account for 67% of the increased global energy demand; in order to meet the rapidly-increasing energy demands of East Asia, Japan took initiatives to lead the energy partnerships in the East Asia region, at the EAS Energy Ministers’ Meeting in 2011. It was agreed that, in addition to the existing cooperation, the following five areas will be studied and researched, with ERIA playing a core role: (A) charting outlook for energy demand and saving potential over the

medium-to-long term; (B) coordinating emergency response policies and measures; (C) enhancing the use of existing fossil fuel resources in the region; (D) improving electric power infrastructure, including nuclear power generation; and (E) developing clean energy and smart communities for efficient use of energy in the region; this agreement was also welcomed at East Asia top-level meetings. From now on, we plan to take initiatives to ensure that the studies and research will be materialized and coordinated action will be taken for energy in the East Asia region.

Figure 4-1-2-6
Enhancing connectivity in East Asia

- Many Japanese companies are already expanding their businesses in ASEAN such as Thailand, and are developing multitiered supply chains.
It is essential for Japan, which aims for integrated growth with Asia, to strengthen the connectivity in this region including the India’s emerging market, as well as to establish efficient production networks and to correct economic disparities.
- Based on the Japan’s proposal at the East Asia Summit in October 2009, ERIA has formulated the East Asia-wide “Comprehensive Asia Development Plan (CADP)” for development of wide-area infrastructure. About 700 regional projects are listed and the total investment will be approximately 390 billion dollars. At the top-level meeting in November of the last year, it was agreed that an East Asia-wide “connectivity master plan plus” would be considered in the future based on CADP.
- With the aim of speeding up the strengthening of connectivity through development of infrastructure and business environment, Mr. Edano, Minister of Economy, Trade and Industry, visited in January 2012 major countries (India, Thailand and Myanmar) in the industrial corridor that connects India, which is an emerging market, with Mekong region, which is a major production center.

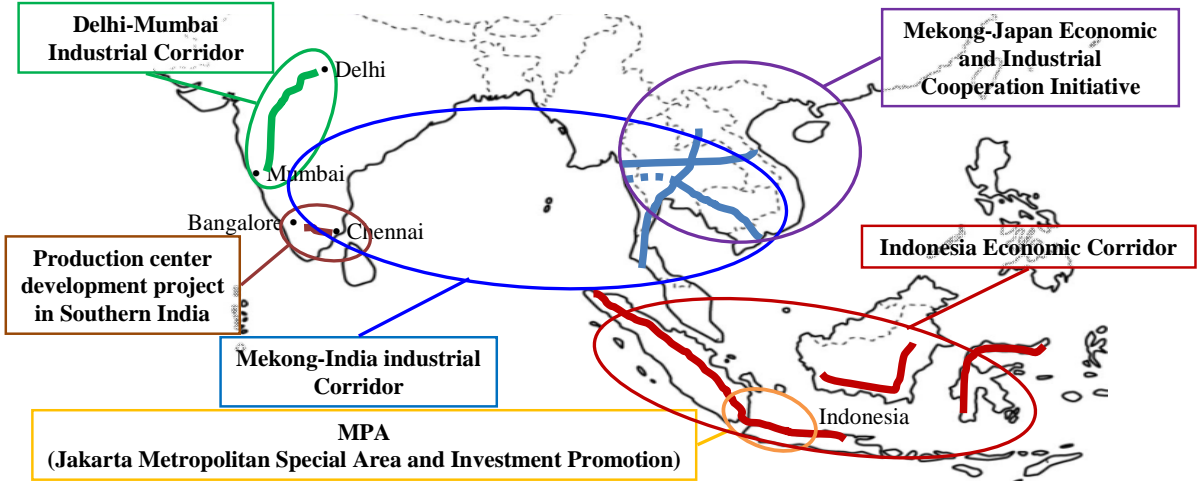
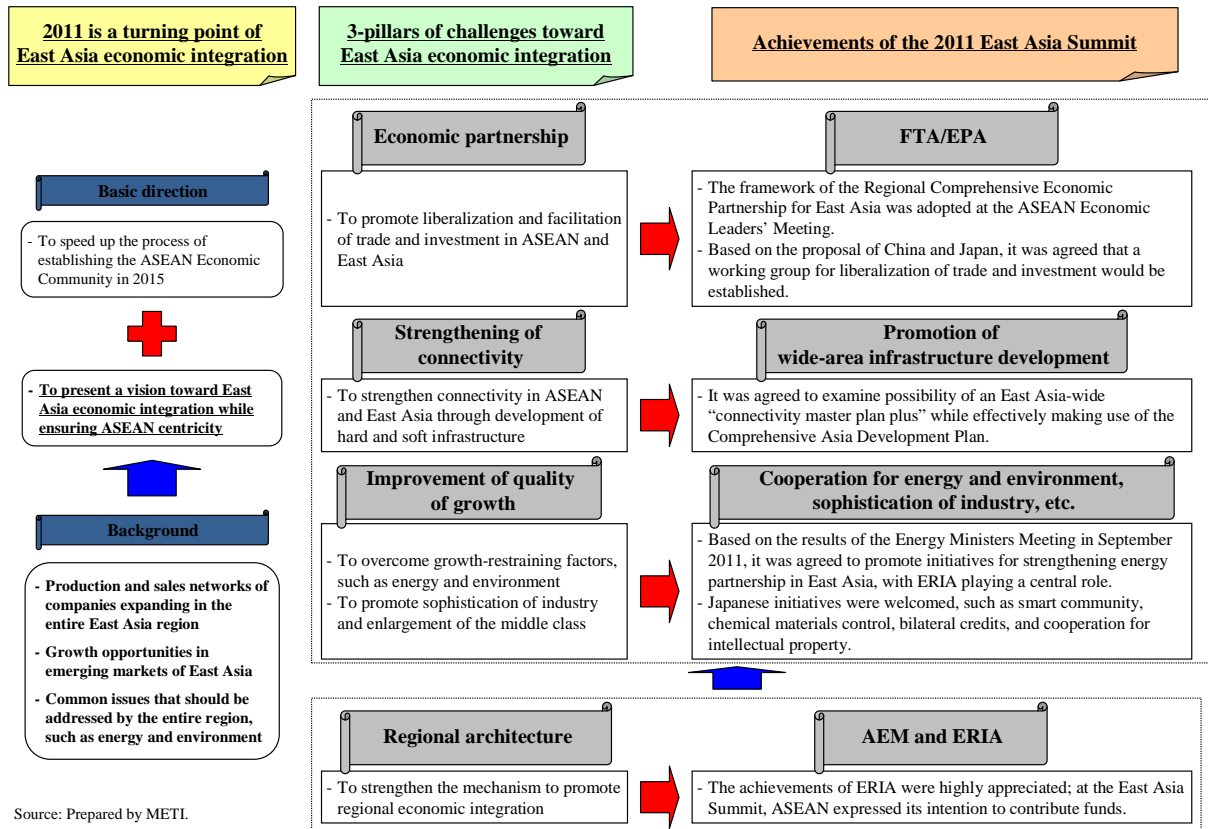


Figure 4-1-2-7

Three pillars of economic integration in East Asia



Source: Prepared by METI.