

Chapter 6

COMPETITION, GOVERNMENT PROCUREMENT, TRADE FACILITATION

Competition

Background of the Rules

The purposes of the competition-related provisions in Japan's EPAs/FTAs are to: (a) maximize the effects of liberalization of trade and investment by restricting anti-competitive practices; and (b) establish common understanding and cooperative framework regarding necessity for regulating anti-competitive practices with the other party country.

As discussed in this section, with respect to purpose (a), Japan's EPAs incorporate the principles regarding competition policy discussed in the WTO; with respect to purpose (b), they place greater emphasis on coordination and cooperation with other EPA/FTA countries, similar to bilateral cooperation/mutual assistance agreements on competition policy. In order to facilitate a better understanding of the rules on competition policy contained in the EPAs/FTAs, the following paragraphs will provide an overview of: (1) the discussion on the "trade and competition policy" issue in the WTO; and (2) bilateral cooperation/mutual assistance agreements.

1. "Trade and competition policy" at the WTO

Pursuant to the Singapore Ministerial Declaration of 1996, issues relating to "trade and competition policy," together with those of "trade and investment," "transparency of government procurement" and "trade facilitation" were studied and examined at WTO forums as one of the "Singapore" issues. The examination of competition policy at the WTO is based on the concern that the market access conditions of imports improved as a result of trade liberalization, including tariff reductions, might be impaired by international anti-competitive practices. The discussion of "trade and competition policy" in the WTO has been suspended since the Cancun Ministerial Conference.

2. Bilateral cooperation/mutual assistance agreements

Bilateral cooperation/mutual assistance agreements have been executed between

competition authorities (primarily of developed countries) since the 1990s. These agreements provide 1) negative comity (*i.e.*, they require consideration of the interest of the relevant foreign country in applying one country's domestic competition law, which might lead to domestic competition law not being applied); 2) positive comity (*i.e.*, they require the competition authorities of countries to enforce their own laws when any anti-competitive practices occur within their borders but have an impact in another country); 3) consultation and notification; and 4) information exchange and cooperation in enforcement.

These provisions are needed because the purpose of bilateral cooperation/mutual assistance agreements is: (1) to settle conflicts of sovereign rights caused by extraterritorial application of competition laws; and (2) to avoid inconsistencies arising from the concurrent application of competition laws of different countries to the same set of facts and cases, rather than to correct the trade-distortive effects of the anti-competitive practice. Japan has executed bilateral cooperation/mutual assistance agreements with the competition authorities of the U.S. (1999), EU (2003) and Canada (2005). As a result of such agreements and the sharing of information there have been more cases in these jurisdictions involving the simultaneous initiation of global investigations. Examples of such cases include the marine hose cartel (2007) and high-voltage electrical power line cartel (2009), etc. The close information sharing also includes investigation of the merger between BHP Billiton and Rio Tinto (2008) and examination of the iron ore production JV project (2010), as well as the Fair Trade Commission of Korea, with which a cooperation agreement has not been signed. Discussions based on the latter case continue not only pursuant to bilateral agreements but also within multilateral frameworks such as the OECD, UNCTAD, APEC and, the International Competition Network (ICN), which was established in 2001 with the competition authorities of interested countries as members.

Overview of Legal Disciplines

1. Provisions related to competition policy in EPAs/FTAs

As mentioned above, the provisions related to competition policy contained in Japan's EPAs/FTAs have a goal consistent with both: (a) the discussions at WTO forums, an objective of the EPAs/FTAs; (b) developing coordination and cooperation [in the competition policy area] with EPA/FTA countries, a goal typically pursued in bilateral cooperation/mutual assistance agreements. Keeping in mind the difference in the underlying concerns between the discussions at WTO forums and bilateral cooperation/mutual assistance agreements, we will provide an overview of the provisions related to competition policy contained in Japan's EPAs/FTAs.

The provisions on competition policy contained in EPAs/FTAs and regional agreements can be categorized as follows: (a) treaties and agreements which have no substantive regulatory provisions (*i.e.*, they create no common substantive competition rules) but provide for the manner of implementing the substantive provisions of the parties' respective competition laws so as to resolve intra-regional problems related to competition (*e.g.*, NAFTA); and (b) treaties or agreements which provide substantive regulatory provisions (*i.e.*, a common substantive competition law) specifying prohibited and restricted practices, which may be different from the relevant laws of the signatory countries. In the case of the EU/EEA, there is stronger market integration than a simple FTA, which is in the background of such common competition laws. Keeping in mind that the competition-related provisions in Japan's EPAs/FTAs belong to category (a), we will analyze three different types

of competition-related provisions in the EPAs that have been executed between Japan and Singapore, Mexico, Malaysia, the Philippines, Chili, Thailand, Brunei Indonesia, Viet Nam, Switzerland, India and Peru respectively: (a) provisions specifying the objectives [of the chapter on competition] (the “Objectives Section”); (b) those providing substantive rules (the “Substantive Section”); and (c) those providing procedural rules (the “Procedural Section”).

2. Japan-Singapore EPA (signed January 2003, effective in November of the same year)

(a) Objectives Section

The Japan-Singapore EPA provides in item (x) of Article 1 (“Objectives”) of Chapter 1 (“General Provisions,”) that one of the objectives of the EPA is “encouraging effective control of and promoting co-operation in the field of anti-competitive activities.”

(b) Substantive Section

The Substantive Section is contained in the chapter on “Competition”. Paragraph 1 of Article 103 (“Anti-competitive Activities”) of Chapter 12 (“Competition”) provides that “[e]ach Party shall, in accordance with its applicable laws and regulations, take measures which it considers appropriate against anti-competitive activities, in order to facilitate trade and investment flows between the Parties and the efficient functioning of its markets.” The EPA adopted a framework under which the competition authority of the country within whose jurisdiction anti-competitive activities are conducted enforces its own competition law. In addition, paragraph 2 of the same Article provides that “[e]ach Party shall, when necessary, endeavour to review and improve or to adopt laws and regulations to effectively control anti-competitive activities”. This provision was included in part because Singapore had no domestic competition law at the time of the execution of the EPA.

(c) Procedural Section

As part of the Procedural Section, paragraph 1 of Article 104 of Chapter 12 provides that “[t]he Parties shall, in accordance with their respective laws and regulations, co-operate in the field of controlling anti-competitive activities subject to their available resources”. As also contemplated in the Substantive Section, the EPA adopted a framework under which the competition authorities of the contracting parties enforce their respective laws [within their own jurisdiction]. In addition, paragraph 2 of the same Article provides that “[t]he sectors, details and procedures of co-operation under this Chapter shall be specified in the Implementing Agreement”. The Implementing Agreement contains provisions on: 1) “Notification” (Article 17 of Chapter 5); 2) “Exchange of Information” (Article 18 of the same Chapter); 3) “Technical Assistance” (Article 19 of the same Chapter); 4) “Terms and Conditions on Provisions of Information” (Article 20 of the same Chapter); 5) “Use of Information in Criminal Proceedings” (Article 21 of the same Chapter); 6) “Scope” (Article 22 of the same Chapter); 7) “Review and Further Co-operation” (Article 23 of the same Chapter); 8) “Consultations” (Article 24 of the same Chapter); and 9) “Communications” (Article 25 of the same Chapter).

Since Singapore had no domestic competition law at the time of the execution of the Japan-Singapore EPA, the “scope” of “notification” and “exchange of information” is limited

to “the sectors of telecommunications, electricity and gas” (Article 22 of the Implementing Agreement). This outcome reflects a flexible approach to establishing the scope of cooperation that takes into account the diversity of the substance and development of competition laws of the other party country. It is noteworthy that the Japan-Singapore EPA includes concepts similar to those of bilateral cooperation/mutual assistance agreements between developed countries, such as (a) coordination of enforcement activities, (b) positive comity, and (c) negative comity. In addition, the exclusion of the competition chapter from the application of the dispute settlement procedures of the Japan-Singapore EPA (Article 105) is similar to exclusions contained in EPAs executed with other countries. Incidentally, Singapore enacted “the Competition Act 2004” in 2004 (which was put into effect on January 1, 2006) and, based on the law, established the Competition Commission of Singapore (CCS) the following year. As a result, the names of Singaporean authorities concerned were altered in the protocol to revise the Implementing Agreement that was agreed upon in 2007.

3. Japan-Mexico EPA (signed in September 2004, effective in April 2005)

(a) Objectives Section

The Japan-Mexico EPA provides in item (d) of Article 1 (“Objectives”) of Chapter 1 (“General Provisions”) that one of the objectives of the EPA is to “promote cooperation and coordination for the effective enforcement of competition laws in each Party.” As a competition authority already existed in Mexico at the time of the execution of the EPA, it is noteworthy that in comparison with other economic partnership agreements “coordination” is specified as one of the objectives, in addition to “cooperation”.

(b) Substantive Section

Like the Japan-Singapore EPA, the Japan-Mexico EPA contains a chapter dealing specifically with competition policy issues. The chapter’s Substantive Section sets forth that “[e]ach Party shall, in accordance with its applicable laws and regulations, take measures which it considers appropriate against anti-competitive activities, in order to facilitate trade and investment flows between the Parties and the efficient functioning of its market.” The Japan-Mexico EPA, also like the Japan-Singapore EPA, has adopted a framework under which the competition authorities of contracting party countries enforce their respective competition laws [within their own jurisdictions]. It has no provision requiring the “review, improvement or adoption of laws and regulations” for controlling anti-competitive practices. Such a provision was not included in part because an enforcement authority already existed in Mexico at the time of the execution of the agreement.

(c) Procedural Section

In its Procedural Section, the Japan-Mexico EPA sets forth several provisions similar to those of the Japan-Singapore EPA. Paragraph 1 of Article 132 provides that “[t]he Parties shall, in accordance with their respective laws and regulations, cooperate in the field of controlling anti-competitive activities”. Paragraph 2 of the same Article provides that “[t]he details and procedures of cooperation under this Article shall be specified in an implementing agreement.” This structure is similar to that of the Japan-Singapore EPA. In addition, like other EPAs, it stipulates that the dispute settlement procedures of the Japan-Mexico EPA shall not apply to the competition chapter (Article 135). Unlike the Japan-Singapore EPA, the

Japan-Mexico EPA specifically provides, in addition to the above-mentioned provisions, “Non-Discrimination” (Article 133) and “Procedural Fairness” (Article 134).

The Implementing Agreement contains provisions on: 1) “Notification” (Article 2); 2) “Cooperation in Enforcement Activities” (Article 3); 3) “Coordination of Enforcement Activities” (Article 4); 4) “Cooperation Regarding Anti-competitive Activities in the Territory of the Country of One Party that Adversely Affect the Interests of the Other Party” (Article 5); 5) “Avoidance of Conflicts over Enforcement Activities” (Article 6); 6) “Technical Cooperation” (Article 7); 7) “Transparency” (Article 8); 8) “Consultations” (Article 9); 9) “Confidentiality of Information” (Article 10); and 10) “Communications” (Article 11). Reflecting the fact that both Japan and Mexico enforced competition laws at the time of the execution of the EPA, the Implementing Agreement has provisions for “negative comity” and “positive comity” by enforcement authorities similar to those of bilateral cooperation/mutual assistance agreements between the competition organizations of developed countries.

4. Japan-Malaysia EPA (signed in December 2005, effective in July 2006)

(a) Objectives Section

Like the two above-mentioned EPAs, the Japan-Malaysia EPA also includes an Objectives Section, Substantive Section and Procedural Section. First, with respect to the Objectives Section, item (e) of Article 1 (“Objectives”) of Chapter 1 (“General Provisions”) provides that one of the objectives of the EPA is “to encourage effective control of and promote co-operation in the field of anti-competitive activities”. This is the same wording as that of the Japan-Singapore EPA.

(b) Substantive Section

As for the Substantive Section, Article 131 of Chapter 10 (“Controlling Anti-competitive Activities”) provides that “[e]ach Country shall, in accordance with its applicable laws and regulations, take measures which it considers appropriate against anti-competitive activities for the efficient functioning of its market” (paragraph 1); and “[e]ach Country shall, when necessary, endeavour to review and improve or adopt laws and regulations to effectively control anti-competitive activities” (paragraph 2). This is the same provision as that of the Japan-Singapore EPA.

(c) Procedural Section

, The Japan-Malaysia EPA has the same provisions in the Procedural Section as those of the Japan-Singapore EPA, stipulating that “[t]he Countries shall, in accordance with their respective laws and regulations, co-operate in the field of controlling anti-competitive activities subject to their respective available resources” (paragraph 1 of Article 132), and “[t]he details and procedures of co-operation under this Article shall be specified in the Implementing Agreement” (paragraph 2 of Article 132). The non-application of the dispute settlement procedures provided for in the EPA to the competition chapter (Article 133) is the same as that of the Japan-Singapore EPA and the Japan-Mexico EPA.

In addition, the Implementing Agreement, which provides the “details and procedures of co-operation,” sets forth provisions on: 1) “Transparency” (Article 12); 2) “Technical Co-

operation” (Article 13); and 3) “Discussion” (Article 14). Since Malaysia had no domestic competition law at the time of the execution of the EPA, as in the case of Singapore, the Implementing Agreement lacks provisions such as “exchange of information,” “notification” and “comity”, which are found in bilateral cooperation/mutual assistance agreements between developed countries and under the Implementing Agreement of the Japan-Mexico EPA. It provides that the governments shall “review” their cooperation pursuant to the competition chapter when either country adopts new laws and regulations that control anti-competitive activities (Article 15). In Malaysia, the “Competition Law 2010” was enacted in 2010 and put into effect in January 2012.

5. Japan-Philippines EPA (signed in September 2006, effective in December 2008)

(a) Objectives Section

As in the previously discussed EPAs, the provisions of the Japan-Philippines EPA related to competition policy include an Objectives Section, Substantive Section and Procedural Section. With respect to the Objectives Section, item (f) of Article 1 (“Objectives”) of Chapter 1 (“General Provisions”) provides that one of the objectives of the Japan-Philippines EPA shall be to “promote competition by addressing anti-competitive activities and cooperate in the field of competition”. In comparison with the Japan-Singapore EPA and the Japan-Malaysia EPA, the Japan-Philippines EPA has a provision to “promote competition by addressing anti-competitive activities” in place of the wording “to encourage effective control of...anti-competitive activities.” In addition, like the Japan-Singapore EPA and Japan-Malaysia EPA, the Japan-Philippines EPA does not refer to the “coordination for the effective enforcement of competition laws...,” which is contained in the Japan-Mexico EPA.

(b) Substantive Section

With respect to the Substantive Section, the first sentence of paragraph 1 of Article 135 of Chapter 12 provides that “[e]ach Party shall, in accordance with its applicable laws and regulations, take measures which it considers appropriate to promote competition by addressing anti-competitive activities, in order to facilitate trade and investment flows between the Parties and the efficient functioning of its market.” The substance of this provision is virtually the same as that of the Japan-Singapore EPA and Japan-Malaysia EPA. In addition, the provision to “review and improve or adopt laws and regulations to effectively promote competition” (paragraph 2 of Article 135) is the same as that of the two above-mentioned EPAs, because, like them, no competition authority existed in the Philippines due to the absence of domestic competition laws at the time of the execution of the EPA.

(c) Procedural Section

The Procedural Section is substantially similar to those of the Japan-Singapore EPA and Japan-Malaysia EPA. Paragraph 1 of Article 136 provides for cooperation “in accordance with their respective laws and regulations...subject to their respective available resources[.]”

thus establishing a framework under which the competition authorities of the contracting parties enforce their respective laws within their respective jurisdictions. The EPA also leaves the details of the cooperation to the “Implementing Agreement” (paragraph 2 of Article 136) and excludes the provisions of the competition chapter from the scope of the dispute settlement procedures provided for in the EPA (Article 137), which is the approach taken in the Japan-Singapore EPA and Japan-Malaysia EPA.

Unlike the two above-mentioned EPAs, the last sentence of paragraph 1 of Article 135 provides that “[a]ny measures shall be taken in conformity with the principles of transparency, non-discrimination and procedural fairness.” The “Implementing Agreement”, like the Japan-Malaysia EPA, has only limited content. It only contains provisions on 1) “Technical Cooperation” (Article 13), 2) “Transparency” (Article 14) and 3) “Discussion” (Article 15), and only provides that the parties shall “review” their cooperation pursuant to the competition chapter when either country adopts new laws and regulations relating to the implementation of its competition policy (Article 16).

6. Japan-Chile EPA (signed in March 2007, effective in September of the same year)

(a) Objectives Section

The provisions related to competition policy in the Japan-Chile EPA are in line with those in Japan-Mexico EPA in terms of the objectives, substantive and procedural sections. In the Objectives Section, item (f) of Article 2 (“Objectives”) of Chapter 1 in the Japan-Chile EPA (“General Provisions”) provides like other EPAs, that one of the objectives of the EPA is to “promote cooperation and coordination for the effective enforcement of competition laws in each Party.” Since a competition authority already existed in Chile at the time of the conclusion of the EPA, “coordination” is specified as one of the objectives in addition to “cooperation.”

(b) Substantive Section

In the Japan-Chile EPA, Chapter 14 covers “Competition.” In the Substantive Section, Article 166 provides: “Each Party shall, in accordance with its laws and regulations and in a manner consistent with this Chapter, take measures which it considers appropriate against anti-competitive activities so as to prevent the benefits of the liberalization of trade and investment from being diminished or nullified by such activities.” The content of the provision is similar to Substantive Sections of other EPAs. Like the one with Mexico, the EPA with Chile, where a competition authority already existed at the time of the conclusion of the EPA, has no provision requiring the “review, improvement or adoption of laws and regulations.”

(c) Procedural Section

In its Procedural Section, as in the Japan-Mexico EPA, the Japan-Chile EPA provides “Cooperation on Controlling Anti-competitive Activities” (Article 167), “Non-Discrimination” (Article 168), “Procedural Fairness” (Article 169), “Transparency” (Article 170) and “Non-Application of Dispute Settlement” (Article 171). As mentioned above, although “Comity (Coordination)” is provided for in the General Provisions, there is no

explicit provision in the Procedural Section. Unlike other EPAs, the Japan-Chile EPA does not provide an “Implementing Agreement” on “Competition.”

7. Japan-Thailand EPA (signed in April 2007, effective in November of the same year)

(a) Objectives Section

With respect to the Objectives Section, item (h) of Article 1 (“Objectives”) of Chapter 1 (“General Provisions”) of the Japan-Thailand EPA provides that one of the objectives of the EPA is to “promote fair and free competition by proscribing anti-competitive activities and cooperate in the field thereof.” Although the expression is different from the objectives sections in other EPAs, the content itself is almost the same.

(b) Substantive Section

In the Japan-Thailand EPA, Chapter 12 covers “Competition.” Specifically, in the Substantive Section, the following is provided for in Article 147: “Each Party shall, in accordance with its respective laws and regulations, promote fair and free competition by proscribing anti-competitive activities in the Party, in order to facilitate trade and investment flows between the Parties and the efficient functioning of its market.” As in the Japan-Mexico EPA and the Japan-Chile EPA, a competition law and a competition authority already existed in Thailand at the time of the conclusion of the EPA, and so the Japan-Thailand EPA has no provision requiring the “review, improvement or adoption of laws and regulations.”

(c) Procedural Section

In its Procedural Section as well as that in Japan-Mexico EPA and Japan Chili EPA, since enforcement authorities already existed, the Japan-Thailand EPA provides “Cooperation on Promoting Fair and Free Competition by Proscribing Anti-competitive Activities” (Article 148) “Non-Discrimination” (Article 149), “Procedural Fairness” (Article 150) and “Non-Application of Dispute Settlement” (Article 151). Regarding “Cooperation,” similar to the other EPAs (except Japan-Chili EPA), details are provided in Chapter 4 of the Implementing Agreement, which contains provisions on: 1) “Notification” (Article 12); 2) “Exchange of Information and Coordination” (Article 13); 3) “Transparency” (Article 14); 4) “Technical Cooperation” (Article 15); 5) “Consultation” (Article 16); 6) “Review” (Article 17); 7) “Treatment of Confidential Information” (Article 18); 8) “Use of Information in Criminal Proceedings” (Article 19); and 9) “Communications” (Article 20).

Regarding “Comity,” unlike the Japan-Mexico EPA, which explicitly provides both “negative comity” and “positive comity,” the Japan-Thailand EPA only provides that “(t)he competition authorities of the Parties shall, as appropriate, consider coordination of their enforcement activities with regard to matters that are related to each other” (Article 13).

8. Japan-Brunei EPA (signed in June 2007, effective in July 2008)

The Japan-Brunei EPA does not have a chapter or provision related to competition.

9. Japan-Indonesia EPA (signed in August 2007, effective in July 2008)

(a) Objectives Section

One of the objectives of the Japan-Indonesia EPA - provided for in item (e) of Article 1 (“Objectives”) of Chapter 1 (“General Provisions”) - is to “promote competition by addressing anti-competitive activities, and cooperate on the promotion of competition.” With the exception of the fact that the EPA does not mention “Coordination” as in the Japan-Mexico and Japan-Chile EPAs, the content is similar to the Objectives Sections in other EPAs.

(b) Substantive Section

In the Japan-Indonesia EPA, Chapter 11 covers “Competition.” As for the Substantive Section, Article 126 provides similar to Substantive Sections in other EPAs: “(e)ach Party shall, in accordance with its laws and regulations, promote competition by addressing anti-competitive activities, in order to facilitate the efficient functioning of its market”. Because a competition law and a competition authority already existed in Indonesia, the EPA has no provision requiring the “review, improvement or adoption of laws and regulations.”

(c) Procedural Section

Regarding its Procedural Section as in the EPAs with countries where enforcement authorities already existed, the Japan-Indonesia EPA provides for: “Cooperation on the Promotion of Competition” (Article 127); “Non-Discrimination” (Article 128); and “Procedural Fairness” (Article 129).^{*} Regarding “Cooperation,” as in some other EPAs, details are provided in the Implementing Agreement, which contains in chapter 5 provisions on: 1) “Notification” (Article 12); 2) “Exchange of Information” (Article 13); 3) “Coordination of Enforcement Activities” (Article 14); 4) “Technical Cooperation” (Article 15); 5) “Transparency” (Article 16); 6) “Consultations” (Article 17); 7) “Review” (Article 18); 8) “Confidentiality of Information” (Article 19); and 9) “Communications” (Article 20).

Like the Japan-Thailand EPA, “Comity” in the EPA is expressed as a general provision (Article 14), and neither “negative comity” nor “positive comity” are explicitly provided for.

^{*} Chapter 14 (Dispute Settlement) excludes Chapter 11 (Competition) from the application of the dispute settlement procedures (Article 138).

10. Japan-Viet Nam EPA (signed in December 2008, effective in October 2009)

(a) Objectives Section

One of the objectives of the Japan-Viet Nam EPA – provided for in item (c) of Article 1 (“Objectives”) of Chapter 1 (“General Provisions”) – is to “promote cooperation and coordination for the effective enforcement of competition laws in each Party.” The content is similar to the Objectives Sections in other EPAs such as the Japan-Chile EPA.

(b) Substantive Section

In the Japan-Viet Nam EPA, Chapter 10 covers “Competition.” As for the Substantive Section, Article 99 provides similarly to Substantive Sections in other EPAs: “(e)ach Party

shall, in accordance with its laws and regulations, promote competition by addressing anti-competitive activities, in order to facilitate the efficient functioning of its market”.

(c) Procedural Section

As for the Procedural Section, although competition authorities already existed in Viet Nam at the time of the conclusion of the EPA, its provisions are simple compared with those in other EPAs. Specifically, it has only two articles: “Cooperation” (Article 101) and “Technology Cooperation” (Article 102). With respect to the principles of transparency and non-discrimination, Article 99, which sets rules for the Substantive Section, simply provides that “[a]ny measures shall be taken in conformity with the principles of transparency, non-discrimination and procedural fairness.” Unlike other EPAs, the Japan-Viet Nam EPA does not have any implementing agreement concerning “competition.” Instead, “Miscellaneous provisions” (Article 104) provides that “[a]ny detailed arrangements to implement the provisions of the Chapter may be made by the competition authorities of the contracting parties.

11. Japan-Switzerland EPA (signed in February 2009, effective in September 2009)

(a) Objectives Section

With respect to the Objectives Section, item (c) of Article 1 (“Objectives”) of Chapter 1 (“General Provisions”) of the Japan-Switzerland EPA provides that one of the objectives of the EPA is “to promote cooperation and coordination for the effective enforcement of competition laws in each Party.” The content is similar to the Objectives Sections in other EPAs.

(b) Substantive Section

In the Japan-Switzerland EPA, Chapter 10 covers “Competition.” In the Substantive Section, Article 103 provides: “Each Party shall, in accordance with its laws and regulations, take measures which it considers appropriate against anti-competitive activities when it recognizes that such activities prevent the benefits of the liberalization of trade and investment from being nullified or impaired by such activities, or prevent the efficient functioning of its market.” The content of the provision is similar to Substantive Sections of other EPAs.

(c) Procedural Section

With respect to the Procedural Section, since competition authorities existed in Switzerland at the time of the conclusion of the Japan-Switzerland EPA, the EPA, like other EPAs, provides for “Cooperation” (Article 104) and “Dispute Settlement” (Article 106). Regarding “Transparency,” “Non-Discrimination,” and “Procedural Fairness,” they are provided in Article 103. Regarding “Cooperation,” the EPA, like other EPAs, provides details in the Implementing Agreement, which contains provisions on: 1) “Notification” (Article 10), 2) “Cooperation Regarding Anti-competitive Activities” (Article 11), 3) “Exchange of Information” (Article 12), 4) “Coordination of Enforcement Activities” (Article 13), 5) “Cooperation Regarding Anti-competitive Activities in the Territory of the Country of One Party that Adversely Affect the Interests of the Other Party” (Article 14), 6) “Avoidance of

Conflicts over Enforcement Activities” (Article 15), 7) “Transparency” (Article 16), 8) “Consultations” (Article 17), 9) “Confidentiality of Information” (Article 18), 10) “Use of Information for Criminal Procedures” (Article 19), 11) “Communications between Competition Authorities of the Two Contracting Party Countries” (Article 20). It is noteworthy that in the Japan-Switzerland EPA, like the Japan-Mexico EPA, the Implementing Agreement has provisions for “negative comity” and “positive comity” by competition authorities, similar to those of bilateral cooperation/mutual assistance agreements between the enforcement organizations of developed countries.

12. Japan-India EPA (signed in February 2011, effective in August of the same year)

(a) Objectives Section

Chapter 1, Article 1 “Objectives” of the Japan-India EPA stipulates “promote cooperation for the effective enforcement of competition laws in each Party.”

(b) Substantive Section

The Japan-India EPA includes a chapter “Competition” (Chapter 11), that states “Each Party shall, in accordance with its laws and regulations, take measures which it considers appropriate against anticompetitive activities”, “The Parties shall, in accordance with their respective laws and regulations, endeavour to cooperate in the field of controlling anticompetitive activities subject to their respective available resources,” and “Each Party shall apply its competition laws and regulations in a manner which does not discriminate between persons in like circumstances on the basis of their nationality.”

(c) Procedural Section

The EPA establishes Article 120 “Procedural Fairness” and Article 121 “Transparency” related to the procedural regulations. Moreover, Article 122 stipulates “Non-Application of Chapter 14” stating that “The dispute settlement procedures provided for in Chapter 14 shall not apply to this Chapter.”

13. Japan-Peru EPA (signed in June 2011, effective in March 2012)

(a) Objectives Section

The Japan-Peru EPA does not have a provision related to the objective.

(b) Substantive Section

In the Japan-Peru EPA, Chapter 12 covers “Competition.” Article 189 provides: “Each Party shall, in accordance with its laws and regulations, take measures which it considers appropriate against anti-competitive activities, in order to facilitate trade and investment flows between the Parties through the efficient functioning of its markets.” Because competition law and an competition authority already existed in Peru, the EPA has no provision requiring the “review, improvement or adoption of laws and regulations.”

(c) Procedural Section

The EPA includes Article 190 “Cooperation on Controlling Anticompetitive Activities”, Article 191 “Non-Discrimination”, Article 192 “Procedural Fairness”, and Article 193 “Transparency” related to the procedural regulations. Moreover, Article 194 stipulates “Non-Application of Paragraph 1 of Article 7”, stating that the dispute settlement procedures shall not be applied to the Competition Chapter.

Conclusion

Some provisions on competition in regional trade agreements include common substantive provisions like in the customs union countries such as EU or South Africa, or provisions like in NAFTA such as “Each contracting party shall take appropriate measures to prohibit anti-competitive conduct.”

The recent global situation surrounding competition laws includes “expansion” and “deepening” of competition laws. Since the 1990’s, there has been progress in terms of increase (expansion) of countries introducing the competition law, as well as strengthening (deepening) of cooperation, particularly between competition authorities of developed countries regarding tangible enforcement of the laws. “Expansion” of competition laws means an increase in the number of competition authorities that possibly apply competition laws in their own country in response to international cases because of impacts on domestic market. Whereas “deepening” means establishment of cooperation systems as laid down in bilateral antimonopoly cooperation agreements or chapters on competition in EPAs.

However, there are concerns that such expansion of competition laws will lead to domestic competition laws being applied to international cases such as enterprise merger in third countries or an international cartel, which may develop into an exclusion order or surcharge payment order. Moreover, it has previously been pointed out that in cases where an internationally active Japanese company does not sufficiently research the competition laws of that country, it would be a problem. In order to handle such situations, it is thought necessary for each country to have its competition laws framed on a common foundation. In other words, harmonization is thought essential between countries regarding cartel regulations, unilateral act regulations, and corporate combination regulations. Efforts in international competition network (ICN), etc. have progressed in recent years.

Government Procurement

Background of the Rules

With respect to government procurement, which is said to represent 10% to 15% of a country’s GDP, the imposition of certain regulations has a great significance from the perspective of the free trade of goods and services. The WTO agreements acknowledge this fact by including the WTO Agreement on Government Procurement (hereafter referred to as “the GPA”) as a plurilateral agreement (for details, see Chapter 14 of Part II).

However, since only 43 countries and autonomous customs areas (mainly, developed countries) are signatories to the GPA, the establishment of disciplines for government procurement in EPAs/FTAs is particularly significant if the other contracting party country has not entered into the GPA. Even if the other contracting party country is a member of the GPA, it is still meaningful because the disciplines of the GPA can be strengthened through the reduction of the relevant threshold and extension of relevant entities.

Unlike the GATT and the GATS, the GPA has no provisions specifically concerning regional trade agreements. Article III:1(b) of the GPA (the non-discriminatory treatment clause) provides that each party country shall provide to the products, services and suppliers of other contracting party countries, treatment no less favorable than “that accorded to products, services and suppliers of any other Party.” Therefore, if a regional trade agreement between the contracting party countries of the GPA promises any treatment which is more favorable than the GPA with respect to the government procurement covered by the GPA, such favorable treatment will be bestowed to all the contracting party countries of the GPA by virtue of the aforesaid non-discrimination treatment clause. In contrast, if provisions on government procurement are contained in a regional trade agreement between the contracting party countries and non-contracting party countries of the GPA, the substance of such provisions will not be applied to the relationship with other contracting party countries of the GPA, which essentially means that the government procurement market has not yet been subject to the regulation of the GPA. For example, in the EPAs/FTAs signed by Japan, there are only 2 GPA contracting party countries (Singapore and Switzerland). Other partner countries do not participate in the GPA. When there is an agreement on market access to government procurement with non-contracting party countries (for example, Chile, Mexico, etc.), Japan can get the market access to the government procurement of them by only making a commitment to give the market access which Japan has already opened under the GPA, unless Japan makes new or additional commitment for liberalization. In other words, this will help in achieving large results because substantially without any change for Japanese side, concessions can be obtained only from the partner countries.

Overview of Legal Disciplines

Generally, when provisions on government procurement are included in a regional trade agreement, they mostly say that the provisions of the GPA apply *mutatis mutandis*. The main issues of negotiation are national treatment, non-discrimination, fair and equitable procurement procedures, complaint filing systems, delisting of privatized entities, offsets, etc. The EPAs which have been executed by Japan provide as follows:

1. Japan-Singapore EPA

Chapter 11 covers government procurement. It provides that the provisions of the GPA, except for some clauses, shall apply *mutatis mutandis* to the procurement of goods and services specified in Annex VII A by the entities of the contracting party countries specified in Annex VII B if the procurement amount is not less than SDR 100,000. (SDR means the special drawing rights of the International Monetary Fund.)

Unlike the GPA, the Japan-Singapore EPA has no provisions on most-favoured-nation and stipulates that it shall not apply to any procurement by the regional government entities or any procurement of construction works.

The Japan-Singapore EPA provides that the relevant threshold shall be reduced from SDR 130,000, which is the threshold stipulated in the GPA, to SDR 100,000, and thus imposes obligations greater than those of the GPA. Although Singapore is a contracting party country of the GPA, a commitment to a threshold of SDR 100,000 does not violate the principle of non-discrimination under the GPA. Because the GPA provides that non-discrimination treatment shall be given “[w]ith respect to all laws, regulations, procedures and practices regarding government procurement covered by this Agreement,” the GPA applies only to the procurement of not less than SDR 130,000, which Japan agrees to procure under the GPA. Therefore, the measures under the Japan-Singapore EPA for the procurement of SDR 100,000 or more but less than SDR 130,000, which is covered by the Japan-Singapore EPA, are not subject to the rules of the GPA. In Japan, under voluntary measures by the government, the threshold for all non-party countries (including the contracting parties to the GPA) is established at SDR 100,000 by law.

In addition, the Japan-Singapore EPA provides: (i) that when an entity listed in Annex VII B is privatized, this Chapter shall no longer apply to that entity; and (ii) that government officials shall exchange information in respect of government procurement.

2. Japan-Mexico EPA

Chapter 11 has virtually the same provisions as those of the GPA but does not provide for most-favored nation treatment. Procurement by regional government entities and privatized entities are excluded from the scope of application.

Mexico is not a contacting party to the GPA. Under the government procurement system of Mexico, companies of countries that have executed an FTA with Mexico (“Mexico FTA Country Companies”) are treated differentially (*i.e.*, more favorably), than companies of countries that have not executed an FTA with Mexico (“Non-Mexico FTA Country Companies”). In the evaluation of bid prices, the bid prices of Mexican companies are discounted by 10% in comparison with those of Non-Mexico FTA Country Companies. Large bids are designated “international public bids to be called for in accordance with the provisions of the Free Trade Agreement,” and Non-Mexico FTA Country Companies cannot participate. Therefore, Japanese companies were in a disadvantageous situation prior to the Japan-Mexico EPA.

Because of the Japan-Mexico EPA, Japanese companies became able to enjoy treatment equal to that of Mexico FTA Country Companies (such as companies from the U.S. or Canada) and Mexican companies in the government procurement of Mexico.

3. Japan-Malaysia EPA

Malaysia is not a contracting party to the GPA. Although Japan insisted on establishing provisions on government procurement in the Japan-Malaysia EPA, negotiations have failed to establish such provisions. In July, 2012, Malaysia became an observer country to the Committee on Government Procurement.

4. Japan-Philippines EPA

Because the Philippines is not a contracting party to the GPA, Chapter 11 of the Japan-Philippines EPA addresses government procurement with a view to application of legal disciplines and ensuring market access to government procurement in the Philippines.

The Chapter provides that (i) the party countries recognize the importance to a party country of according national treatment and non-discrimination treatment with respect to the measures regarding government procurement, (ii) in the event that a party country offers a non-party country any advantageous treatment concerning the measures regarding government procurement, the former party country shall consent to enter into negotiations with the other party country with a view to extending these advantages or advantageous treatment to the other party country, (iii) for purposes of the effective implementation and operation of this Chapter, a Sub-Committee shall be established, and (iv) the party countries shall enter into negotiations at the earliest possible time, not later than five (5) years after the date of the entry into force of this Agreement, with a view to liberalizing their respective government procurement markets.

5. Japan-Thai EPA

Chapter 11 covers government procurement. Because Thailand is not a contracting party to the GPA, this chapter was included, on the expectation that it would promote better understanding by Japan of the government procurement practices of Thailand. It is also intended to bring them in line with global standards, resulting in the creation of a beneficial environment for Japanese companies.

Specifically, Chapter 11 stipulates information exchange on laws and regulations, policies and practices concerning the government procurement of both Parties and any reforms to the existing government procurement regimes, as well as establishing a sub-committee for the purposes of the effective implementation and operation of the chapter.

6. Japan-Chile EPA

Chapter 12 covers government procurement. While Chile is an observer country of the GPA, and follows the rules of transparency prescribed in Article XVII, it is not a signatory. Therefore, this chapter was included, on the expectation that Chile would apply the legal disciplines to its government procurement, and ensure access to the government procurement market.

Each Party agrees to grant the goods, services and suppliers of the other Party national treatment and non-discriminatory treatment; establish challenge procedures; and conduct further negotiations with the other Party in the event that a Party gives third country an additional benefit concerning access to its government procurement market. This chapter assures that Japanese companies can bid with national treatment and non-discrimination treatment for any procurement of not less than the thresholds at a national, regional and municipal level in Chile, and use the challenge procedures if any problems arise in government procurement.

7. Japan-Brunei EPA

Because Brunei is not a signatory to the GPA, Japan considered including a separate chapter that referred to government procurement in the EPA with Brunei, on the expectation that Brunei would apply legal disciplines to its government procurement. However, Brunei expressed strong reservations about the creation of an independent chapter. After negotiating with Brunei, the Chapter on Improvement of Business Environment (Chapter 8) includes the declaration that both Parties should strive to grant the goods, services and suppliers of the other Party most-favoured-nation treatment, to enhance transparency in government procurement measures and to implement the measures in a fair and effective manner.

8. Japan-Indonesia EPA

Chapter 10 covers government procurement. Because Indonesia is not a contracting party to the GPA, this chapter was included, on the expectation that it would promote better understanding by Japan of the government procurement practices of Indonesia. It is also intended to bring them in line with global standards, resulting in the creation of a beneficial environment for Japanese companies.

Specifically, similar to the Japan-Thailand EPA, Chapter 10 stipulates information exchange on laws and regulations, policies and practices concerning the government procurement of both Parties and any reform to the existing government procurement regimes, as well as establishing a sub-committee for the purposes of the effective implementation and operation of this chapter. In October, 2012, Malaysia became an observer country to the Committee on Government Procurement.

9. Japan-ASEAN EPA

As a result of negotiations, provisions concerning government procurement were not set forth.

10. Japan-Viet Nam EPA

Various principles concerning government procurement are set forth in the chapter on "Improvement of Business Environment" (Chapter 11). Since Viet Nam is a non-GPA member, both Parties are required to make efforts to enhance transparency in government procurement measures and to implement the measures in a fair and effective manner. In December, 2012, Viet Nam became an observer country to the Committee on Government Procurement.

11. Japan-Switzerland EPA

Both Japan and Switzerland are contracting parties to the GPA, and the chapter on "Government Procurement" (Chapter 10) of the EPA stipulates that the rights and obligations of the two countries shall follow the GPA. It also provides that the two countries shall designate a government office as a contact office to promote communications concerning government procurements between the two countries, conduct studies to promote mutual understanding at the joint meetings of the EPA, and hold negotiations to offer benefits to the other party on a reciprocal basis, in the event that one of the parties provides a third party with

access to the government procurement market in better terms than those offered to the other party, and the other party calls for negotiations.

12. Japan-India EPA

Chapter 10 of the Japan-India EPA covers government procurement. It stipulates that “each Party shall ensure transparency of the measures and shall exchange information regarding government procurement in accordance with its national laws and regulations.” Additionally, “each Party shall provide to the goods, services and suppliers of the other Party treatment no less favourable than that it accords to non-Party’s goods, services and suppliers in accordance with its laws and regulations.” India is an observer country but not a contracting party to the GPA. Therefore, “The Parties shall enter into negotiations to review this Chapter with a view to achieving a comprehensive Chapter on Government Procurement, when India expresses its intention to become a Party to the Agreement on Government Procurement.”

13. Japan-Peru EPA

Japan-Peru EPA stipulates national treatment, non-discrimination, prohibition of offsets and ensuring transparency and so on.

Evaluations

As mentioned above, provisions on government procurement are included in all the EPAs that Japan has concluded, with the exception of the Japan-Malaysia EPA and the Japan-ASEAN EPA. Japan requires the party countries to promise to comply with the legal disciplines and to liberalize the government procurement market. Because Japan’s EPA party countries (except Singapore, Switzerland) are non-GPA members, it is the first time that Japan has succeeded in imposing legal disciplines with EPAs to liberalize the government procurement market in these countries. The level of disciplines in each EPA differs, because Japan took a flexible position depending on the degree of maturity of the government procurement market in each party country.

In EPA future negotiations, it is desirable to request non-GPA members to comply in particular with the disciplines concerning government procurement and to further liberalize their government procurement market, while taking into consideration the degree of maturity of that market in each party country.

Trade Facilitation

Background to Rules

Negotiations are currently taking place in the DDA to establish comprehensive rules on trade facilitation (*see* Part III, [Supplement VII] “Trade Facilitation (Singapore Issue)”). Also, the EPAs/FTAs entered into by Japan usually have provisions for enhancing the predictability and transparency of customs procedures and simplification of customs procedures from the perspective that, when advancing economic partnership, it is important to

settle individual or specific problems between party countries through bilateral cooperation and, thus, facilitate trade.

Overview of Legal Disciplines

Basically, these provisions involve enhancing the transparency of customs procedures through public announcements of customs-related laws and regulations, harmonizing customs procedures with relevant international standards, and simplifying customs procedures through the use of information and communications technology. In addition, these provisions provide for cooperation and the exchange of information between customs authorities and establishment of sub-committees between customs authorities to promote trade facilitation. Provisions also provide for the promotion of cooperation and the exchange of information between customs authorities for the purposes of preventing violations of customs laws and regulations and preventing the smuggling of illicit drugs, guns, and goods suspected of infringing intellectual property rights on the borders (*See* Chapter 4 of the Japan-Singapore EPA, Section 3 of Chapter 5 of the Japan-Mexico EPA, Chapter 4 of the Japan-Malaysia EPA, Chapter 4 of the Japan-Philippines EPA, Chapter 4 of Japan-Thailand EPA, Chapter 5 of Japan-Chile EPA, Chapter 4 of Japan-Brunei EPA and Chapter 4 of Japan-Indonesia EPA, Chapter 4 of Japan-Viet Nam EPA, Chapter 3 of Japan-Switzerland EPA, Chapter 4 of Japan-India EPA, and Chapter 4 of Japan-Peru EPA.)

In addition to the above, the Japan-Singapore EPA, Japan-Philippines EPA and Japan-Thailand EPA in the chapter on paperless trading provides that the party countries shall cooperate through the exchange of views and information on realizing and promoting paperless trading, encourage cooperation between their relevant private entities engaging in activities related to paperless trading, and review how to realize paperless trading. (*See* Chapter 5 of the Japan-Singapore EPA, Chapter 5 of the Japan-Philippines EPA, and Chapter 5 of Japan-Thailand EPA.) In the Japan-Switzerland EPA's chapter on electronic commerce systems (Chapter 9), it is provided that efforts will be made for all trade-related documents to be disclosed in an electronic format, that trade-related documents in electronic format are to be regarded as the equivalent of their paper counterparts, and that international cooperation will be sought in the promoting the acceptance of trade-related documents in electronic format. The typical custom procedures of Japan's EPAs determine the application scope, definitions, transparency, customs clearance, temporary import and transit goods, cooperation and exchange of information, subcommittees, etc., while the cooperation contents are provided separately in the implementation arrangement. The special characteristics are as follows.

- Adherence to the purpose of the World Customs Organization (WCO) revised Kyoto Convention.
- Does not go beyond abstract regulations, without including numerical targets.
- No regulations concerning prior instructions, express goods, or maintaining confidentiality.
- There are provisions on establishment of subcommittees that review the implementation and application of regulations.

Figure III-6-1 Comparison of Provisions related to Customs Procedures in EPAs signed by Japan

	Acceleration of customs procedures	Cooperation and exchange of information between the customs authorities	Simplification of the procedures for the temporary admission of goods	Transparency of customs procedures	Establishment of sub-committees on customs procedures
Japan-Singapore EPA	For prompt customs clearance of goods traded between the Parties, each Party shall make use of information and communications technology, simplify its customs procedures, and make its customs procedures conform to relevant international standards (Art. 36).	The Parties shall exchange information between customs authorities with respect to the implementation of this Chapter (Art. 38).	Each Party shall continue to facilitate customs clearance of goods in transit (Art. 37).		Art. 39
Japan-Mexico EPA	For prompt customs clearance of goods traded between the Parties, each Party shall make cooperative efforts to make use of information and communications technology, simplify its customs procedures, and make its customs procedures conform to relevant international standards (Art. 50).				

	Acceleration of customs procedures	Cooperation and exchange of information between the customs authorities	Simplification of the procedures for the temporary admission of goods	Transparency of customs procedures	Establishment of sub-committees on customs procedures
Japan-Malaysia EPA	For prompt customs clearance of goods traded between the Countries, each Country shall make use of information and communications technology, simplify its customs procedures, harmonize its customs procedures with relevant international standards, and promote co-operation between its customs authority and other national authorities, and its customs authority and the trading communities of the Country (Art. 54).	The Countries shall co-operate and exchange information with each other on customs matters (Art. 56). The area of co-operation shall include capacity building, such as training, technical assistance and exchange of experts (Art. 57).	Each Country shall continue to facilitate procedures for the temporary admission of goods traded between the Countries (Art. 55).	Each Country shall ensure that all relevant information of general application pertaining to its customs laws is publicly available in the Country, and at the request of an interested person of the Countries, shall endeavor to provide information (Art. 53).	Art. 58
Japan-Philippines EPA	Each party shall make use of information and communications technology, reduce and simplify import and export documentation requirements, and harmonize its customs procedures with relevant international standards, in order to make cooperative efforts for simplification and harmonization of their customs procedures (Art. 53).	The Parties shall cooperate and exchange information with each other in the fields of customs procedures, including their enforcement against trafficking of prohibited goods and importation and exportation of goods suspected of infringing intellectual property rights (Art. 55).	Each Party shall continue to facilitate customs clearance of goods in transit (Art. 54).	Each Party shall ensure that all relevant information of general application pertaining to its customs laws is readily available to any interested person, and at the request of an interested person, provide information (Art. 52).	Art. 56

	Acceleration of customs procedures	Cooperation and exchange of information between the customs authorities	Simplification of the procedures for the temporary admission of goods	Transparency of customs procedures	Establishment of sub-committees on customs procedures
Japan-Thailand EPA	Each Party shall make use of information and communications technology, reduce and simplify import and export documentation requirements, and harmonize its customs procedures with relevant international standards, in order to make cooperative efforts for simplification and harmonization of their customs procedures (Art. 53).	The Parties shall cooperate and exchange information with each other in the field of customs procedures, including their enforcement against trafficking of prohibited goods and importation and exportation of goods suspected of infringing intellectual property rights (Art. 55).	Each Party shall continue to facilitate procedures for the temporary admission of goods traded between the Parties (Art. 54).	Each Party shall ensure that all relevant information of general application pertaining to its customs laws is readily available to any interested person, and, at the request of an interested person, provide information (Art. 52).	Art. 56
Japan-Chile EPA	Each Party shall endeavor to make use of information and communications technology, adopt or maintain simplified customs procedures, harmonize its customs procedures with relevant international standards, and promote cooperation between its customs authority and other national authorities of the Party as well as the trading communities of the Party, in order to expedite customs clearance (Art. 57).	Each Party shall endeavor to assist each other to ensure proper application of customs laws (Art. 58 the Agreement and Art. 2 of the Implementing Agreement).	Each Party shall continue to facilitate customs clearance of goods in transit (Art. 54).	Each Party shall ensure that all relevant information of general application pertaining to its customs laws is readily available to any interested person, and, at the request of an interested person, endeavor to provide information (Art. 52).	Art. 60

	Acceleration of customs procedures	Cooperation and exchange of information between the customs authorities	Simplification of the procedures for the temporary admission of goods	Transparency of customs procedures	Establishment of sub-committees on customs procedures
Japan-Brunei EPA	Each Party shall make use of information and communications technology, simplify its customs procedures, harmonize its customs procedures with relevant international standards, and promote cooperation between its customs authority and other national authorities of the Party as well as the trading communities of the Party, in order for prompt customs clearance (Art. 51).	The Parties shall cooperate and exchange information with each other in the field of customs procedures, including their enforcement against trafficking of prohibited goods and importation and exportation of goods suspected of infringing intellectual property rights (Art. 53).	Each Party shall continue to facilitate customs clearance of goods in transit (Art. 52).	Each Party shall ensure that all relevant information of general application pertaining to its customs laws is readily available to any interested person, and, at the request of an interested person, provide information (Art. 50).	Art. 54
Japan-Indonesia EPA	Each Party shall make use of information and communications technology, simplify its customs procedures, harmonize its customs procedures with relevant international standards, and promote cooperation between its customs authority and other national authorities of the Party as well as the trading communities of the Party, in order for prompt customs clearance (Art. 54).	The Parties shall cooperate and exchange information with each other in the field of customs procedures, including their enforcement against trafficking of restricted and prohibited goods and importation and exportation of goods suspected of infringing intellectual property rights (Art. 55).		Each Party shall ensure that all relevant information of general application pertaining to its customs laws is publicly available, and at the request of an interested person, provide information (Art. 53).	Art. 56

	Acceleration of customs procedures	Cooperation and exchange of information between the customs authorities	Simplification of the procedures for the temporary admission of goods	Transparency of customs procedures	Establishment of sub-committees on customs procedures
Japan-Viet Nam EPA	Each Party shall make use of information and communications technology, simplify its customs procedures, harmonize its customs procedures with relevant international standards, and promote cooperation between its customs authority and other national authorities of the Party as well as the trading communities of the Party, in order to promote prompt customs clearance (Art. 41).	The Parties shall cooperate and exchange information with each other in the field of customs procedures, including their enforcement against trafficking of restricted and prohibited goods and importation and exportation of goods suspected of infringing intellectual property rights (Art. 43).	Each Party shall continue to facilitate customs clearance of goods in transit (Art. 42).	Each Party shall ensure that all relevant information of general application pertaining to its customs laws is publicly available, and at the request of an interested person, provide information (Art. 40).	Art. 44
Japan-Switzerland EPA	Each Party shall make use of information and communications technology, simplify its customs procedures, harmonize its customs procedures with relevant international standards, and promote cooperation between its customs authority and other national authorities of the Party as well as the trading communities of the Party, in order to promote prompt customs clearance (Art. 29).	The Parties shall cooperate and exchange information with each other in the field of customs procedures, including their enforcement against trafficking of restricted and prohibited goods and importation and exportation of goods suspected of infringing intellectual property rights (Art. 31).	Each Party shall continue to facilitate customs clearance of goods in transit (Art. 30).	Each Party shall ensure that all relevant information of general application pertaining to its customs laws is publicly available, and at the request of an interested person, provide information (Art. 28).	Art. 32

	Acceleration of customs procedures	Cooperation and exchange of information between the customs authorities	Simplification of the procedures for the temporary admission of goods	Transparency of customs procedures	Establishment of sub-committees on customs procedures
Japan-India EPA	Each Party shall make use of information and communications technology, simplify its customs procedures, harmonize its customs procedures with relevant international standards and recommended practices, and promote cooperation between its customs authority, other national authorities of the Party, and the trading communities of the Party (Article 45).	The Parties shall cooperate and exchange information with each other on customs matters, including specific cases, such as: customs procedures; customs valuation within the meaning of the Agreement on Customs Valuation; enforcement against the trafficking of prohibited goods and the importation of goods suspected of infringing intellectual property rights; prevention, investigation and repression of violation or attempted violation of customs laws; and trade statistics data relating to customs clearance of goods and conveyances related to goods, exported from a Party to the other Party. (Article 48).	Each Party shall continue to facilitate the procedures for the temporary admission of goods traded between the Parties (Article 46).	Each Party shall ensure that all relevant information of general application pertaining to its customs laws is readily available to any interested person. (Article 44)	Art. 49

	Acceleration of customs procedures	Cooperation and exchange of information between the customs authorities	Simplification of the procedures for the temporary admission of goods	Transparency of customs procedures	Establishment of sub-committees on customs procedures
Japan-Peru EPA	For prompt customs clearance of goods traded between the Parties each Party shall simplify its customs procedures, harmonize its customs procedures with relevant international standards and recommended practices, promote cooperation between its customs authority, other national authorities of the Party, and the trading communities (Article 79).	The Parties shall cooperate and exchange information with each other in the field of customs procedures within the available resources of their respective customs authorities. Such cooperation and exchange of information include mutual administrative assistance and technical assistance (Article 83).		Each Party shall ensure that all relevant information of general application pertaining to its customs laws is readily available. At the request of any interested person of the Parties, each Party shall provide, as quickly and accurately as possible, information relating to the specific customs matters (Article 76).	Art. 85