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**Trade Policy Review Body**

**TRADE POLICY REVIEW**

REPORT BY THE SECRETARIAT

JAPAN

This report, prepared for the twelfth Trade Policy Review of Japan, has been drawn up by the WTO Secretariat on its own responsibility. The Secretariat has, as required by the Agreement establishing the Trade Policy Review Mechanism (Annex 3 of the Marrakesh Agreement Establishing the World Trade Organization), sought clarification from Japan on its trade policies and practices.

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Document WT/TPR/G/310 contains the policy statement submitted by Japan.

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Note: This report is subject to restricted circulation and press embargo until the end of the first session of the meeting of the Trade Policy Review Body on Japan. This report was drafted in English.

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## SUMMARY

1. Since December 2012, Japan has been implementing an ambitious reform programme to overcome deflation and revitalize its economy after more than a decade of sluggish performance. The programme consists of a "three arrows strategy": monetary easing (2% inflation target to be achieved at the earliest possible time mainly through the expansion of the monetary base); fiscal stimulus (about US\$100 billion in January 2013 and an extra US\$53 billion in December 2013 in an attempt to boost growth); and structural reforms in areas such as agriculture, energy and healthcare which will take longer to be implemented, not least because the reforms require legislative and administrative changes that take time to prepare.

2. The expansionary monetary and fiscal policy measures adopted since the last review have supported Japan's economy but have been insufficient to achieve strong economic growth. Indeed, Japan's real GDP growth is estimated at 0.9% for 2014 (down from 1.5% both in 2012 and 2013). The authorities recognize that far-reaching structural reforms are necessary to address long-standing structural problems and achieve sustainable growth in the future. While some steps have been taken in this regard, more is needed including further trade and investment liberalization measures so as to encourage private investment, increase productivity, and enhance competitiveness.

3. Since 2011, Japan has had a persistent trade deficit, the longest since comparable records began. In 2013, Japan had its biggest annual trade deficit (US\$118 billion), although exports increased in U.S. dollar terms while imports grew to their highest-ever level. Increased imports of fossil fuels were a major factor in the rise in imports as they replaced energy from nuclear power following the accident at the Fukushima nuclear plant in 2011 and the subsequent shut-down of other nuclear power plants.

4. Japan's FDI inflows continue to be lower than in other major developed economies and the Japan Revitalization Strategy sets a target of doubling FDI by 2020. To achieve this, Japan is to expand the use of public-private partnerships, while private finance initiatives in infrastructure projects are envisaged over the next ten years. Japan is the second-largest outward direct investor in the world, particularly in certain ASEAN countries where subsidiaries of Japanese companies often play a leading role in sectors such as autos and electronics.

5. Japan's current network of 13 regional trade agreements (RTAs) in force is the same as at the time of its previous review. Under these agreements, Japan has excluded some sensitive agricultural and related products, notably certain tariff lines for meat and meat products, fish and fish products, dairy products, rice, products of the milling industry, plywood, leather and products thereof, and footwear. Some of these products are also excluded from Japan's Generalized System of Preferences (GSP) scheme.

6. During the review period, an RTA with Australia was signed, and another was reached in principle with Mongolia. In addition, Japan is in negotiations with: Canada; Colombia; China; the European Union; the Gulf Cooperation Council (GCC); the Republic of Korea; and Turkey. Moreover, Japan is part of the Trans-Pacific Partnership (TPP) negotiations and the Comprehensive Regional Economic Partnership Agreement. Japan aims to increase its trade under RTAs from around 19% in 2013 to 70% by 2018.

7. In general, Japan's trade policies during the review period have remained relatively stable while it has been actively negotiating RTAs, pursuing domestic reforms to improve its competitiveness, and participating in work in the WTO.

8. Japan's overall simple average applied MFN tariff rate declined from 6.3% in FY2012 to 5.8% in FY2014 due to higher unit prices for many agricultural products which reduced the *ad valorem* equivalents (AVEs). Thus, the simple average for agriculture (WTO definition) is 14.9% (down from 17.5% in FY2012), and 3.7% for non-agricultural products (the same as in FY2012).

9. Japan has bound 98.3% of its tariff (159 lines are unbound). The difference between the average bound MFN tariff (5.9%) and the average applied MFN tariff (5.8%) in FY2014 was negligible, which reflects a high degree of predictability in the tariff. However, the average bound



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rate remains considerably higher for agricultural products (15.2%) than for non-agricultural products (3.7%).

10. Japan makes relatively little use of contingency trade remedies. It applied neither countervailing or safeguard measures during the review period and has only one anti-dumping duty in force on electrolytic manganese dioxide originating from China, South Africa, and Spain. The period of imposition was extended by five years and will expire on 5 March 2019. In 2014, Japan initiated an anti-dumping investigation on toluenediisocyanate from China.

11. For a variety of reasons, Japan's SPS and TBT requirements are often more strict than international standards and the cost of meeting its quality and safety standards can be high. As at 31 March 2014, there were 10,525 Japanese Industrial Standards (JIS), 5,823 of which correspond with international standards, and 97% of JIS had been harmonized with identical or modified international standards. Japan currently imposes import prohibitions on beef and poultry from various countries to prevent the spread of some animal diseases, including BSE and avian flu.

12. Japan made some changes to its government procurement framework, basically to preclude from participation in open tendering parties who, *inter alia*, intentionally execute construction works or services with poor workmanship, or overcharge by false reporting contracts. Japan also recently lowered some of its thresholds for goods and services under the GPA.

13. The Anti-Monopoly Act was amended in December 2013, *inter alia*, to abolish the hearing procedure of the Japan Fair Trade Commission (JFTC) for administrative appeals. Once the Act comes into force, any appeal regarding decisions of the JFTC will be subject to the exclusive jurisdiction of the Tokyo District Court with a view to ensuring expertise and enhancing procedural fairness.

14. The main developments regarding Japan's Intellectual Property Rights (IPR) framework were the strengthening of copyright protection in the digital environment, introducing trademark protection for non-traditional marks, improving the efficiency of the patent system, and an important judicial decision on the protection of standard essential patents. Japan remains an active participant in multilateral fora regarding harmonization of regimes protecting IPRs.

15. Despite changes in agricultural programmes over the past few years, support and protection given to agriculture in Japan remains high compared to other countries and is provided by a comprehensive set of policies. While the government has continued to move toward income support, market price support is the main component and it, along with other transfers based on output and inputs, is potentially one of the most production and trade-distorting forms of support.

16. As one of the biggest consumers of fish and seafood in the world, Japan provides a range of support measures to fisheries. The budget support to the sector increased after the extensive damage caused by the 2011 tsunami with the aim of completing the recovery of fishing port facilities by end-FY2015. Although the average applied MFN tariff on fish and fish products was 6.2% in FY2014 (same as in FY2012), import quotas apply to several species of fish.

17. The shutdown of nuclear power plants following the accident in Fukushima in 2011 has provoked a major reconstruction programme. Although the electricity sector has been gradually reformed over the past twenty years, the regional utilities are still the main producers, transmitters, distributors, and retailers, while interchange between some of the regions remains limited. Recent amendments to the Electricity Business Act aim to secure a stable supply of electricity, suppressing electricity rates to the maximum extent possible, and expanding consumer choice and business opportunities.

18. In the financial services sector, the Financial Services Agency (FSA) of Japan has amended rules on large exposures in line with international standards, with effect from December 2014. Through supervisory guidelines and related measures, the FSA revised the minimum capital requirements for internationally active banks and intends to introduce other capital buffers and liquidity measures in accordance with Basel III. On telecommunications and transport sectors, Japan's legislation and policies have remained largely unchanged.

19. Overall, despite a long period of relatively weak economic performance and some severe shocks to the economy over the past few years, Japan remains an open transparent economy – although support and protection in some areas, particularly agriculture, remain high. Japan has many unique characteristics, some of which have helped it become the third richest country in the world, but others add to the cost of importing, exporting, investing, and doing business. Addressing many of these impediments to growth is the target of the third arrow of the current reform programme and necessary if growth is to accelerate to a higher and sustainable level.

## 1 ECONOMIC ENVIRONMENT

### 1.1 Recent Economic Developments

1.1. At the time of its 12<sup>th</sup> TPR in 2013, Japan was recovering from the earthquake and tsunami of 2011 which resulted in sharp declines in private consumption and stock-building, and widespread supply chain disruptions affecting production across the country, particularly in export-led sectors such as automobiles and electronics. Production had also been affected by the shutdown of nuclear power plants following the accident in Fukushima in 2011. Moreover, Japan confronted other key challenges, notably very high public debt, rapidly aging population, and nearly two decades of deflation and low growth.<sup>1</sup>

1.2. Since then, Japan has been implementing an ambitious reform programme to overcome deflation and revitalize the economy. The programme consists of a "three arrows strategy"<sup>2</sup>: monetary easing, flexible fiscal policy, and structural reforms (section 1.3).

1.3. Regarding monetary policy, on 22 January 2013 the government and the Bank of Japan (BOJ) released a joint-statement, where BOJ set a 2% price-stability target to be achieved at the earliest possible time.<sup>3</sup> On 4 April 2013, BOJ introduced "Quantitative and Qualitative Monetary Easing" which included increasing the monetary base by some ¥60-70 trillion per year mainly through the purchase of Japanese government bonds.<sup>4</sup> As a result, BOJ has now become the single biggest holder of Japanese government bonds (JGBs) underscoring the scale of its monetary easing programme.<sup>5</sup> On 31 October 2014, BOJ announced it will expand the monetary base each year by some ¥80 trillion (from ¥60-70 trillion) in a further effort to achieve the 2% inflation target.<sup>6</sup>

1.4. On the fiscal side, the strategy has involved short-term economic stimulus combined with medium-term measures aimed at achieving fiscal consolidation. In early 2013, a fiscal package of ¥10.3 trillion (some US\$100 billion or about 2% of GDP) was adopted.<sup>7</sup> In December 2013, an extra fiscal stimulant of ¥5.5 trillion (US\$53.4 billion or about 1% of GDP) was approved to mitigate the downside risks to the economy of the consumption tax rate increase from 5% to 8% applied as of 1 April 2014.<sup>8</sup> This was the first increase in the consumption tax in 17 years and the first step in a two-stage boost that is set to take the tax rate to 10% in April 2017.<sup>9</sup> The consumption tax, levied on goods and services transactions, is the largest component of indirect taxes, contributing 20.7% to total tax revenue in FY2013. The 8% consumption tax rate consists of the national consumption tax (6.3%) and a local consumption tax (1.7%).

1.5. Japan also aims to halve by FY2015 the primary deficit of central and local governments as compared to that of FY2010, and to achieve a primary surplus by FY2020. Thereafter Japan will seek to reduce the public debt-to-GDP ratio (estimated at about 240% of GDP in 2013). According to the IMF, the fiscal measures adopted by Japan are a welcome step but a concrete medium-term

<sup>1</sup> WTO (2013).

<sup>2</sup> The programme is commonly known as "*Abenomics*" because it is advocated by Prime Minister Shinzo Abe following the December 2012 general election.

<sup>3</sup> Joint Statement of the government and the BOJ. Viewed at: [http://www5.cao.go.jp/keizai1/2013/130122\\_joint\\_statement\\_of\\_the\\_government\\_and\\_the\\_bank\\_of\\_japan.pdf](http://www5.cao.go.jp/keizai1/2013/130122_joint_statement_of_the_government_and_the_bank_of_japan.pdf). The idea is to dispel the deflation mind-set entrenched among businesses and households.

<sup>4</sup> BOJ online information. Viewed at: <http://www.boj.or.jp/en/announcements/release2013/k130404a.pdf>.

<sup>5</sup> In March 2014, the BOJ had ¥201 trillion in JGBs, 20.1% of the total. IMF News Report, 18 June 2014.

<sup>6</sup> BOJ Press Release, "Expansion of the Quantitative and Qualitative Monetary Easing", 31 October 2014.

<sup>7</sup> On 11 January 2013, the government formulated its "Emergency Economic Measures for the Revitalization of the Japanese Economy". In order to implement the measures, a supplementary budget of FY2012 was passed through the Diet on 26 February 2013. The budget for FY2013 was passed on 15 May 2013. Viewed at: [http://www5.cao.go.jp/keizai1/2013/130111\\_emergency\\_economic\\_measures.pdf](http://www5.cao.go.jp/keizai1/2013/130111_emergency_economic_measures.pdf).

<sup>8</sup> Decision taken on 1 October 2013 based on the "Act for the Fundamental Reform of the Tax System".

<sup>9</sup> Originally, the consumption tax rate was scheduled to increase to 10% in October 2015. However, this has been delayed until April 2017 in light of data suggesting that the increase in the sales tax rate from 5% to 8% affected Japan's real GDP growth rate more than expected.

fiscal consolidation strategy beyond 2015 is needed otherwise the public debt-to-GDP ratio would again begin to rise after 2019.<sup>10</sup>

1.6. Regarding the exchange rate of the yen, a nominal depreciation against the U.S. dollar of about 22% took place in 2013 (Table 1.1), reflecting several factors such as the new monetary framework, a reversal of the yen's safe haven status, and a structural weakening of Japan's trade balance given higher energy imports (section 1.2.1). Between January-November 2014, the nominal exchange rate of the yen also depreciated against the U.S. dollar.<sup>11</sup>

**Table 1.1 Selected macroeconomic indicators, 2009-13**

	2009	2010	2011	2012	2013
	(% change, unless otherwise indicated)				
<b>National accounts</b>					
Real GDP	-5.5	4.7	-0.5	1.5	1.5
Final domestic demand	-4.0	2.9	0.4	2.3	1.8
Private consumption	-0.7	2.8	0.3	2.0	2.0
Government consumption	2.3	1.9	1.2	1.7	2.0
Gross fixed capital formation	-10.6	-0.2	1.4	3.4	2.6
Exports of goods and services	-24.2	24.4	-0.4	-0.2	1.6
Imports of goods and services	-15.7	11.1	5.9	5.3	3.4
Exports of goods and services (% of GDP) <sup>a</sup>	12.7	15.2	15.1	14.7	16.2
Imports of goods and services (% of GDP) <sup>a</sup>	12.3	14.0	16.0	16.7	19.1
Employment	-1.5	-0.3	-0.1	-0.3	0.7
Unemployment rate (annual average)	5.1	5.0	4.6	4.3	4.0
<b>Household disposable income (% change)</b>	-1.1	0.5	-0.1	-0.1	..
<b>Prices and interest rates</b>					
Consumer prices (CPI) (average; % change)	-1.3	-0.7	-0.3	0.0	0.4
GDP deflator (% change)	-0.5	-2.2	-1.9	-0.9	-0.6
Basic discount rate and basic loan rate (%)	0.3	0.3	0.3	0.3	0.3
<b>Exchange rate (annual average, ¥ per US\$)</b>	93.5	87.8	79.8	79.8	97.6
	(% of GDP)				
<b>Fiscal balance</b>					
Revenue	29.6	29.6	30.8	31.2	31.7
Expenditure	40.0	38.9	40.6	39.9	40.0
Balance	-10.4	-9.3	-9.8	-8.7	-8.3
Primary balance	-9.9	-8.6	-9.0	-7.8	-7.6
Excluding social security	-9.3	-8.2	-9.0	-8.0	-7.6
Government debt, gross	210.2	216.0	2,229.8	237.3	243.4
<b>Saving and investment</b>					
National saving (gross)	22.2	22.3	22.4	21.9	..
Domestic investment (gross)	19.7	19.8	20.2	20.8	21.0
<b>Current account</b>	2.9	4.0	2.2	1.0	0.7
Goods	1.1	2.0	-0.1	-0.9	-1.8
Exports	10.9	13.3	13.4	13.1	14.2
Imports	9.7	11.4	13.4	14.0	16.0
Services	-0.7	-0.6	-0.6	-0.9	-0.7
Primary income	2.7	2.8	3.1	3.0	3.4
Secondary income	-0.2	-0.2	-0.2	-0.2	-0.2
<b>Capital account</b>	-0.1	-0.1	0.0	0.0	-0.2
<b>Financial account</b>	3.4	4.6	2.8	1.0	-0.3
Direct investment	1.2	1.3	2.0	2.0	2.7
Portfolio investment	4.4	2.7	-2.7	0.7	-5.3
Financial derivatives (other than reserves)	-0.2	-0.2	-0.3	0.1	1.2
<b>Reserve assets</b>	0.5	0.8	2.9	-0.6	0.8

.. Not available.

a Percentage distribution in annual nominal GDP.

Source: IMF (2014), Japan – 2014 Article IV Consultation – Staff Report, Country Report No. 14/236. Viewed at: <https://www.imf.org/external/pubs/ft/scr/2014/cr14236.pdf>; and information provided by the Japanese authorities.

<sup>10</sup> IMF (2014a).

<sup>11</sup> The authorities indicated that Japan's recent fiscal and monetary policy actions are intended to stop deflation and support domestic demand and do not target foreign exchange rates.

1.7. In 2013, the Japanese economy grew by 1.5% (the same as in 2012) supported by strong industrial production, retail sales, and consumer spending. Expenditure on rebuilding the physical infrastructure also helped.<sup>12</sup> For 2014 and 2015, the IMF expects Japan's real GDP growth to be 0.9% and 0.8%, respectively, as fiscal stimulus winds down.<sup>13</sup> On 31 October 2014, BOJ halved its forecast for economic growth for FY2014 to 0.5%.<sup>14</sup> The consumption tax increase had a negative effect on domestic demand which together with weak capital spending and big cuts in inventories caused the economy to shrink by 7.3% and 1.9% in the second and third quarters of 2014, respectively.

1.8. In 2013, Japan had an annual average inflation rate of 0.4% (zero in 2012) supported by BOJ's accommodative monetary policy stance. For 2014, the IMF expects an average inflation rate of 2.7%, i.e. somewhat above the 2% target, mainly as a result of the consumption tax increase. Nonetheless, underlying inflation (excluding the consumption tax increase) is expected to be 1.1% in 2014. For 2015, the IMF expects inflation of 2%.<sup>15</sup> Following additional monetary easing, BOJ expects to meet its 2% inflation target in or around FY2015.<sup>16</sup>

1.9. Japan's current account surplus decreased during the review period from US\$127.1 billion in 2011 to US\$33.2 billion in 2013 (Table 1.2), reflecting a narrowing of the gap between gross national savings and gross domestic investment (Table 1.1). This decline is mainly the consequence of the trade deficits recorded since 2011, the longest period since comparable records began in the 1970s (section 1.2.1). For 2014 and 2015, respectively, the IMF expects current account surpluses of 1% and 1.1% of GDP.<sup>17</sup>

**Table 1.2 Balance of payments, 2009-13**

(US\$ billion)

	2009	2010	2011	2012	2013
<b>Current account</b>	145.4	217.9	127.1	58.7	33.2
Goods	57.6	108.6	-4.1	-53.6	-90.0
Exports	547.0	735.0	789.7	776.9	696.0
Imports	489.4	626.4	793.8	830.5	786.0
Services	-34.9	-33.7	-38.2	-50.6	-35.7
Credit	121.0	131.3	137.6	134.2	135.4
Transport	31.6	39.0	38.4	40.2	39.6
Travel	10.3	13.2	11.0	14.6	15.2
Other	79.1	79.1	88.3	79.5	80.7
Debit	155.9	165.0	175.8	184.8	171.1
Transport	40.6	46.5	49.5	55.4	47.0
Travel	25.2	27.9	27.2	27.9	21.9
Other	90.2	90.6	99.1	101.5	102.3
Primary income	135.2	155.4	183.4	177.2	169.1
Secondary income	-12.4	-12.5	-13.9	-14.4	-10.2
<b>Capital account</b>	-5.0	-5.0	0.4	-1.0	-7.6
Credit	1.1	0.9	7.5	6.0	1.2
Debit	6.1	5.8	7.1	7.0	8.8
<b>Financial account</b>	173.2	254.1	165.9	61.6	-16.7
Direct investment	61.3	71.4	116.8	119.1	133.6
Portfolio investment	219.4	151.2	-162.1	40.4	-261.5
Financial derivatives	-10.2	-11.7	-16.9	7.4	57.0
Other investment	-124.4	-0.1	55.2	-67.0	14.6
Reserve assets	27.0	43.3	172.9	-38.3	39.5
<b>Net errors and omissions</b>	32.7	41.1	38.5	3.9	-42.3

Source: Information provided by the Japanese authorities.

<sup>12</sup> Based on the estimation of reconstruction spending in the aftermath of the 2011 earthquake and tsunami, ¥25 trillion of fiscal resources have been allocated until March 2016.

<sup>13</sup> IMF (2014b).

<sup>14</sup> BOJ press release, "Outlook for Economic Activity and Prices", 31 October 2014.

<sup>15</sup> IMF (2014b).

<sup>16</sup> BOJ press release, "Outlook for Economic Activity and Prices", 31 October 2014.

<sup>17</sup> IMF (2014b).

## 1.2 Trade Performance and FDI

### 1.2.1 Trade in goods and services

1.10. During 2011-13, Japan's ratio of merchandise trade (exports and imports) to GDP averaged 28%. In 2013, the share of exports of goods and services in GDP was 16.9% (15.7% in 2011), while the share of imports was 19.5% (16.4% in 2011). These shares have increased since 2009, with imports rising faster (mainly due to higher fuel imports). Japan continues to be the world's fourth largest exporter and importer of goods (considering the countries of the European Union together and excluding intra-EU trade). In services trade, Japan ranked fifth and fourth among world exporters and importers, respectively.<sup>18</sup>

1.11. The appreciation in the exchange rate of the yen against major currencies up to 2012 eroded somewhat the international competitiveness of Japanese exports.<sup>19</sup> In 2013, exports rose by 9.5% to ¥69.77 trillion, their first increase in three years, but in U.S. dollar terms that represented a decline of 10.5% (US\$715.1 billion) given the significant depreciation of the yen against the U.S. dollar (Table 1.1). Imports reached their highest-ever level of ¥81.24 trillion (US\$833.2 billion) in 2013. Consequently, Japan had its largest trade deficit (¥11.47 trillion or US\$118.1 billion) in 2013.

1.12. Manufactures continue to dominate Japan's exports accounting for 87.6% of total merchandise exports in 2013, slightly down from 88.1% in 2011 (Chart 1.1). During 2011-13, machinery and transport equipment, led by automotive products, remained Japan's most important merchandise export, representing 57.9% of the total in 2013, followed by chemical products with a 10.6% share (Table A1.1).

1.13. Imports of fossil fuels have increased to fill an energy gap since the 2011 Fukushima crisis forced the shutdown of nuclear reactors that once supplied a third of Japan's power (section 4.3.2.1 and Table 4.19). Despite this, the share of primary products in total merchandise imports decreased from 51.4% in 2011 to 50.5% in 2013 mainly due to a reduction in agricultural imports during the period. On the other hand, the share of manufactures went up from 47.1% in 2011 to 48% in 2013, with machinery and transport equipment increasing from 20.8% of total imports in 2011 to 22.6% in 2013 (Table A1.2).

1.14. In 2013, the United States became Japan's largest export market, attracting 18.8% of total exports (up from 15.5% in 2011), followed by China with 18.1% (Chart 1.2). The share of Asia as a whole as an export destination also decreased slightly, but APEC's share increased to 78.4% (from 76.1%). The share of the European Union declined to 10% in 2013 from 11.7% in 2011, owing mainly to the global economic crisis (Table A1.3).

1.15. China's share in Japan's merchandise imports remained relatively stable at around 21-22% over 2011-13, and it remains Japan's largest trading partner. The share of goods imported by Japan from Asia decreased slightly to 50.9% in 2013, while the share of imports from the Middle East continued to rise mainly due to larger fuel imports. On the other hand, the share of imports from the United States decreased from 14.3% to 13.9% during 2011-13, and that of the European Union was stable at 9.4% (Table A1.4).

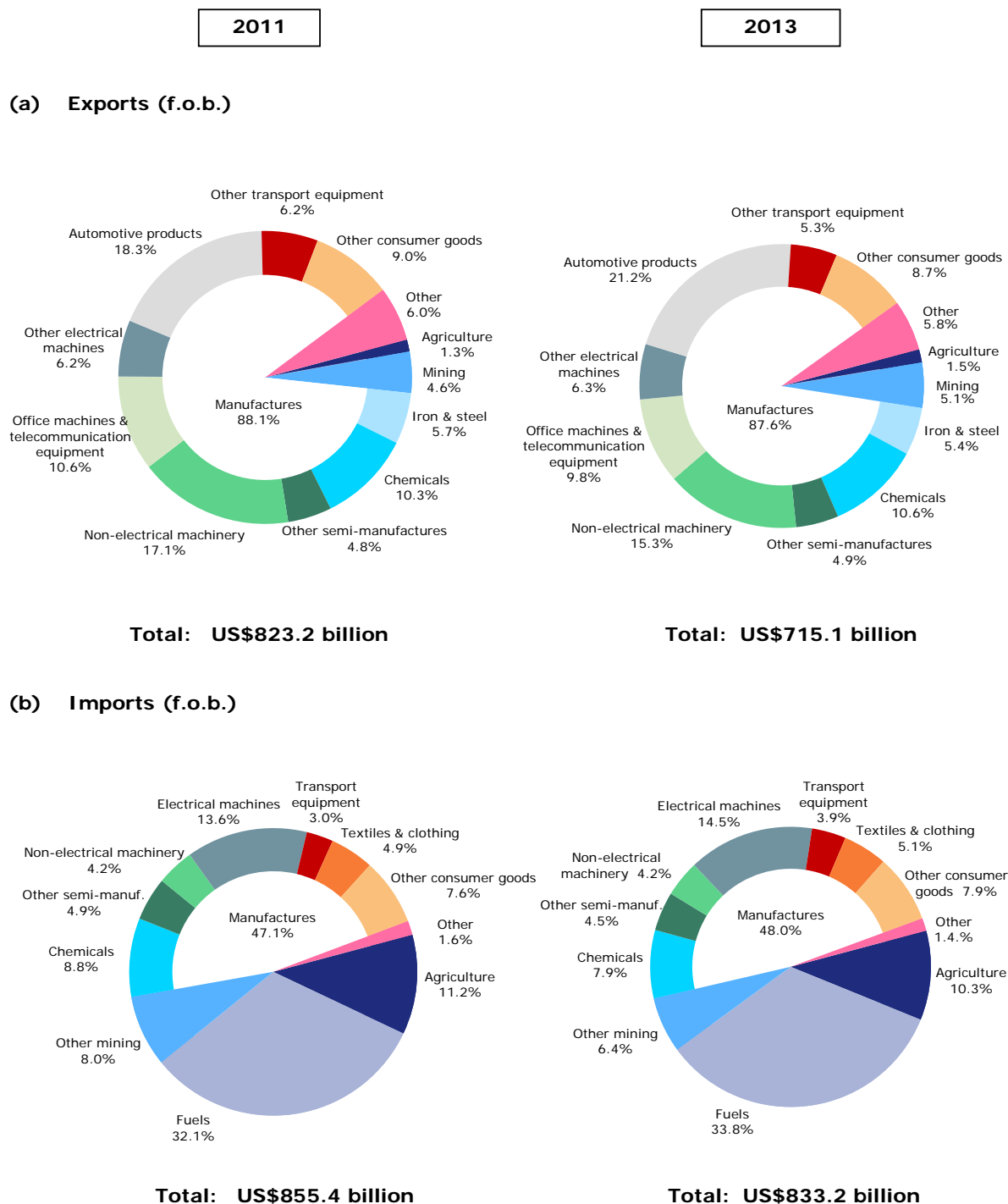
1.16. Balance of payments data indicate that Japan is a net importer of services with a deficit that averaged US\$41.5 billion during 2011-13 (Table 1.2). Net outflows occurred in the form of payments for foreign travel and trade-related transport.

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<sup>18</sup> WTO Statistics Database, "Trade Profiles: Japan". Viewed at: [http://stat.wto.org/CountryProfiles/JP\\_E.htm](http://stat.wto.org/CountryProfiles/JP_E.htm).

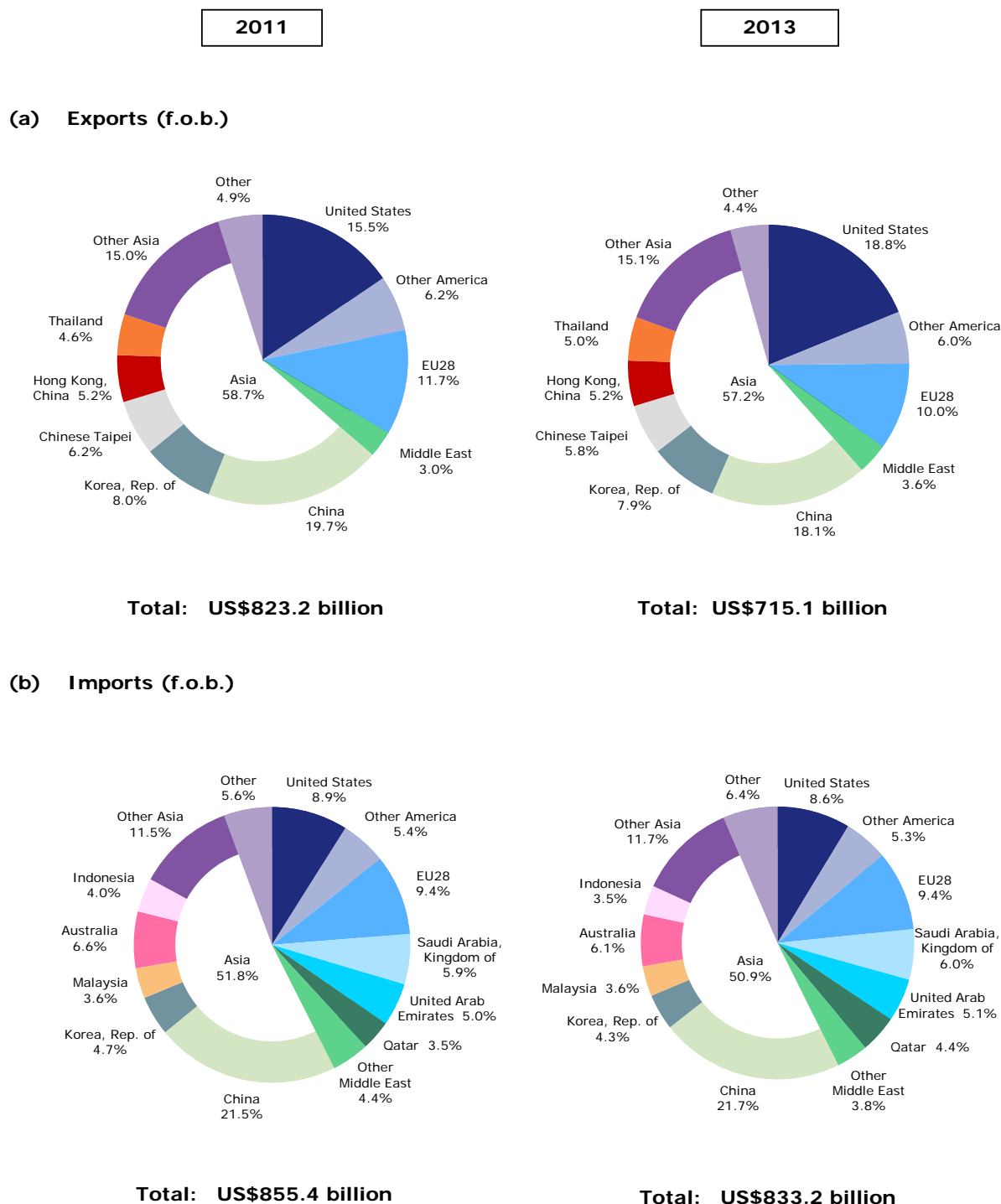
<sup>19</sup> Japanese companies have also shifted a large part of their production to foreign countries.

Chart 1.1 Product composition of merchandise trade, 2011 and 2013



Source: UNSD, Comtrade database (SITC Rev.3).

Chart 1.2 Direction of merchandise trade, 2011 and 2013



Source: UNSD, Comtrade database.

### 1.2.2 Foreign direct investment

1.17. Until recently, the government did not consider attracting FDI a high priority, while the local business community in general considered investment by large foreign companies as a threat.



Consequently, Japan's inward FDI is far below that of other major developed economies.<sup>20</sup> The continued low level of FDI may also be attributed to factors such as the relatively high cost of doing business in Japan<sup>21</sup>; strict and complicated domestic sector regulations; limited availability of risk capital; regulatory barriers; the difficulty involved in hiring qualified employees; and impediments to mergers and acquisitions.

1.18. Japan aims to double the outstanding amount of FDI by foreign companies to ¥35 trillion by 2020. To achieve this, tax incentives to stimulate investment and private-demand-led growth are also being discussed. A cut in corporate tax (currently 30%) is considered as the initial major step (section 3.3.1.5).<sup>22</sup>

1.19. Japan is the second-largest outward direct investor in the world, with US\$136 billion in 2013, up from US\$56 billion in 2010 (Table 1.3), presumably due to low returns in the domestic economy. In particular, Japan has been strengthening its position as a major direct investor in some ASEAN countries where subsidiaries of Japanese companies often play a leading role in sectors such as autos and electronics.<sup>23</sup>

**Table 1.3 Foreign direct investment, 2009-13**

(US\$ million)

	2009	2010	2011	2012	2013
FDI inflows	11,938	-1,252	-1,758	1,732	2,304
FDI inward stock	200,144	214,880	225,787	205,361	170,929
FDI inward stock (% of GDP)	3.6	3.9	3.8	3.4	3.5
FDI outflows	74,699	56,263	107,599	122,549	135,749
FDI outward stock	740,927	831,076	962,790	1,054,928	992,901
FDI outward stock (% of GDP)	13.5	15.1	16.3	17.7	20.3

Source: UNCTAD (2014), *World Investment Report 2014*, Geneva.

1.20. The United States is now the largest investor in Japan, accounting for 58.9% of inward FDI in 2013, followed by the European Union. The largest recipient of FDI was the electric machinery industry, followed by glass and ceramics, and finance and insurance. FDI is highly concentrated in the metropolitan areas of Greater Tokyo and Kansai; elsewhere the presence of foreign-affiliated companies remains negligible.<sup>24</sup>

1.21. The United States, the European Union, and Thailand were the major recipients of outward foreign direct investment by Japan in 2013. The main industries/sectors invested in were finance and insurance, communications, mining, and wholesale and retail.

1.22. Since December 2011, Japan has been implementing the "Program for Promoting Japan as an Asian Business Centre and Direct Investment into Japan". Location subsidies, tax incentives, and reduced patent fees for R&D sites are being offered in the context of this programme. According to the authorities, from FY2010 to FY2014 the total subsidy under this programme amounted to ¥4 billion.

### 1.3 Outlook

1.23. Japan aims to achieve strong and sustainable growth in the future by encouraging private investment, increasing productivity, and enhancing competitiveness. Structural reforms are thus

<sup>20</sup> Japan's annual inflows of FDI peaked in 2007-08, but were negative in 2010-11 meaning that the funds repatriated by foreign investors exceeded the new investments they made. In 2013, FDI inflows reached US\$2.3 billion in 2013 (Table 1.3). By comparison, in 2013, the United States and China recorded inflows of US\$188 billion and US\$124 billion, respectively. UNCTAD (2014).

<sup>21</sup> Japan ranks 27<sup>th</sup> out of 189 countries in the World Bank's *Doing Business 2014* index (compared with 20<sup>th</sup> in 2012); it ranks 140<sup>th</sup> with regard to paying taxes, 120<sup>th</sup> with respect to starting a business, and 91<sup>st</sup> on dealing with construction permits. World Bank online information. Viewed at: <http://doingbusiness.org/rankings>.

<sup>22</sup> The government has expanded tax incentives to encourage firms to raise wages. In December 2013, the government reached an agreement with representatives of employers and labour unions on the need to increase wages. As a result, many major firms have agreed to increase base wages and bonuses in 2014.

<sup>23</sup> For example, Japan's implemented overseas direct investment into Indonesia reached US\$2.5 billion in 2012. Oxford Analytical Daily Brief, 25 June 2014.

<sup>24</sup> Oxford Analytical Daily Brief, 21 July 2014.

envisaged in areas such as agriculture, energy, and healthcare.<sup>25</sup> Regarding the latter, Japan aims to expand: the market size of health care, disease prevention and other life-related industries from ¥4 trillion currently to ¥10 trillion in 2020; the market size of pharmaceutical products, medical equipment, regenerative medicine and other medical-care-related industries from ¥12 trillion to ¥16 trillion.

1.24. Some of the principles of the structural reforms being undertaken include: expanding the utilization of public-private partnerships and private finance initiatives (PPP/PFI) in infrastructure projects from ¥4.1 trillion to ¥12 trillion over the next ten years; and promoting corporate investment. The aim is to enhance the ratio of business start-ups to exceed the ratio of business closures from the current rate of around 5% to above 10%, and increase the return of capital investment from ¥63 trillion in FY2012 to ¥70 trillion per year. Moreover, Japan is taking steps to: increase its trade under RTAs to 70% by 2018 (up from 19% in 2013) (section 2.3.2); attract 30 million international tourists by 2030 (up from some 10.4 million people in 2013); and accelerate reconstruction in the northeast of the country in anticipation to the 2020 Olympics.

1.25. As part of the third arrow of structural reforms and in light of demographic challenges, on 24 June 2014 the government released its "Revised Japan Revitalization Strategy" aimed at becoming a world-class business centre by attracting global companies. The strategy includes increasing the use of foreign workers and enhancing workforce participation of women, youth and the elderly.<sup>26</sup> To improve corporate productivity, the government is considering allowing a "white-collar exemption" to labour rules that require companies to pay extra for overtime. The plan also includes a corporate governance code for listed companies, and a revision of the portfolio of the US\$1.26 trillion Government Pension Investment Fund (GPIF) was completed on 31 October 2014.

1.26. Another key demographic challenge facing the economy of Japan is to fund its social security system, mainly related to pensions and health care. Given present trends, Japan's population is expected to decrease from 127 million today to 87 million in 2060 when about 40% of the population will be 65 (currently the retirement age) or older. For this reason, a Japanese government advisory panel recently proposed a goal to ensure a population of 100 million by 2060 which is based, *inter alia*, on the assumption that the fertility rate in 2030 would be 2.07%.

1.27. The government also intends to press ahead with regulatory reforms, but so far the measures implemented deal with relatively minor issues such as the elimination of the limits on floor area ratios.<sup>27</sup> Regulatory reforms will be pursued by utilizing the newly designated six National Strategic Special Zones (NSSZ): Tokyo and Kansai areas designated as "the international business and innovation hubs"; Niigata and Yabu cities, and Fukuoka city as "the reform centres for agriculture and employment system", respectively; and the Okinawa prefecture as the international tourism centre.

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<sup>25</sup> The government has set up an Industrial Competitiveness Council and a Regulatory Reform Council. On 14 June 2013, "Japan's Revitalization Strategy" was launched, which was followed by the "Agenda for the Evolution of the Growth Strategy" on 20 January 2014. The Industrial Competitiveness Enhancement Act was also enacted in January 2014. On 24 June 2014, "Japan's Revitalization Strategy" was revised. By June 2014, the Diet had passed 38 bills out of 40.

<sup>26</sup> Improve female (25 to 44 years of age) participation in the workforce from the current rate of 68% to 73% by 2020; reduce by 20% the number of long-term unemployed (more than 6 months) over the next five years, as well as increase the rate of employment change and new hiring from 7.4% in 2011 to 9%; and double the number of international students by 2020. To spur more women to enter the workforce, the plan aims to establish after-school programmes for an additional 10,000 school-age children. It will also consider modifying tax and pension rules that currently favour stay-at-home wives over working women.

<sup>27</sup> This special measure by relaxing the limits on floor area ratio for residential use in specific areas aims to facilitate the development of residences located close to global business districts.

## 2 TRADE AND INVESTMENT REGIME

### 2.1 General Framework

2.1. Several government ministries are responsible for general trade policy in Japan including the Ministry of Foreign Affairs (MOFA), and the Ministry of Economy, Trade and Industry (METI), while several other ministries are responsible for specific issues or sectors such as: the Cabinet Office; the Ministry of Finance; the Ministry of Agriculture, Forestry and Fisheries; the Ministry of Education, Culture, Sports, Science and Technology; the Ministry of the Environment; and the Ministry of Land, Infrastructure, Transport and Tourism. In addition, several government agencies also have an input into certain aspects of trade policy such as the Bank of Japan, and the Japan External Trade Organization, while the Customs and Tariff Bureau is part of the Ministry of Finance.

2.2. In the Diet, there are several committees responsible for various aspects of trade including the committees on: Economy, Trade and Industry; Financial Affairs; Forestry and Fisheries; and Fundamental National Policies. Overall coordination of trade policies rests with the Cabinet and responsibility for trade-related legislation with the Cabinet and Diet. In planning and implementing a trade policy, the relevant ministry or government agency prepares a proposal and consults with other relevant governmental bodies. They submit their views and comments concerning the proposal. After obtaining approval from all the relevant ministries/agencies, the proposal becomes government policy. Regarding drafting of laws and governmental regulations, the relevant ministry or agency consults with all government bodies on the contents of a draft, and reflects their comments before the ministry in charge prepares a draft bill or regulation to be approved by the Cabinet and, where required, sent to the Diet for debate. There are many laws and regulations relating to trade with the principle laws in Table 2.1.

**Table 2.1 Major trade-related laws and regulations, October 2014**

Legislation	Most recent amendment
<b>Foreign trade and exchange restrictions</b>	
Foreign Exchange and Foreign Trade Act (1949 Law No. 228)	2009
Export and Import Transaction Act (1952 Law No. 299)	2013
Foreign Exchange Order (1980 Order No. 260)	2014
Export Trade Control Order (1949 Order No. 378)	2013
Import Trade Control Order (1949 Order No. 414)	2009
<b>Customs- and tariff-related regulations</b>	
Customs Law (1954 Law No. 61)	2013
Customs Tariff Law (1910 Law No. 54)	2014
Temporary Tariff Measures Law (1960 Law No. 36)	2014
Cabinet Order Relating to Countervailing Duties (1994 Order No. 415)	2009
Cabinet Order Relating to Anti-Dumping Duties (1994 Order No. 416)	2009
Cabinet Order Relating to Emergency Duties (1994 Order No. 417)	2009
Cabinet Order Relating to Retaliatory Duties (1994 Order No. 418)	2000
Cabinet Order on Tariff Quotas (1961 Order No. 153)	2014
<b>Trade promotion</b>	
Trade and Investment Insurance Act (1950 Law No. 67)	2014
<b>Services and energy</b>	
Construction Business Act (1949 Law No. 100)	2014
Banking Law (1981 Law No. 59)	2011
Insurance Business Law (1995 Law No. 105)	2011
Financial Instruments and Exchange Law (1948 Law No. 25)	2011
Telecommunications Business Act (1984 Law No. 86)	2014
Law Concerning the Measures by Large-Scale Retail Stores for Preservation of Living Environment (1998 Law No. 91)	2000
Employee's Pension Insurance Law (1954 Law No. 115)	2011
Civil Aeronautics Act (1952 Law No. 231)	2014
Marine Transportation Law (1949 Law No. 187)	2012
Act on Special Measures Concerning the Handling of Legal Services by Foreign Lawyers (1986 Law No. 66)	2014
Certified Public Accountants Act (1948 Law No. 103)	2011
Certified Tax Accountant Law (1951 Law No. 237)	2007
Law for Improvement of International Tourist Hotels (1949 Law No. 279)	2011
Travel Agency Law (1952 Law No. 239)	2011

Legislation	Most recent amendment
Electricity Utilities Industry Act (1964 Law No. 170)	2012
Gas Utility Industry Law (1954 Law No. 51)	2012
Petroleum Stockpiling Act (1975 Law No. 96)	2012
Act on the Quality Control of Gasoline and Other Fuels (1976 Law No. 88)	2008
<b>Standards and technical regulations</b>	
Industrial Standardization Act (1949 Law No. 185)	2013
Law Concerning Standardization and Proper Labelling of Agricultural and Forestry Products (JAS Law) (1950 Law No. 175)	2013
The Act on Securing Quality, Efficacy and Safety of Pharmaceuticals, Medical Devices, Regenerative and Cellular Therapy Products, Gene Therapy Products, and Cosmetics (1960 Law No. 145)	2013
Food Sanitation Law (1947 Law No. 233)	2014
Quarantine Law (1951 Law No. 201)	2008
Plant Protection Act (1950 Law No. 151)	2012
Act on Domestic Animal Infectious Diseases Control (1951 Law No. 166)	2013
Building Standard Law (1950 Law No. 201)	2011
Electrical Appliance and Material Safety Law (1961 Law No. 234)	2011
Consumer Product Safety Law (1973 Law No. 31)	2013
High Pressure Gas Safety Act (1951 Law No. 204)	2011
Road Vehicle Law (1951 Law No. 185)	2014
Act Concerning the Rational Use of Energy (1979 Law No. 49)	2011
Fire Service Law (1948 Law No.186)	2009
<b>Intellectual property rights</b>	
Patent Act (1959 Law No. 121)	2014
Customs Law (1954 Law No. 61)	2013
Act Against Unjustifiable Premiums and Misleading Representations (1962 Law No. 134)	2014
Unfair Competition Prevention Act (1993 Law No. 47)	2012
Utility Model Act (1959 Law No. 123)	2014
Design Act (1959 Law No. 125)	2014
Trademark Act (1959 Law No. 127)	2014
Copyright Law (1970 Law No. 48)	2014
Civil Code (1896 Law No. 89)	2013
<b>Agriculture</b>	
Basic Law on Food, Agriculture and Rural Areas (1999 Law No. 106)	2009
Temporary Law for Compensation Price for Producers of Milk for Manufacturing Use (1965 Law No. 112)	2008
<b>Others</b>	
Administrative Procedure Law (1993 Law No. 88)	2006
Act Concerning Prohibition of Private Monopolization and Maintenance of Fair Trade (Anti-Monopoly Act) (1947 Law No. 54)	2013

Source: Information provided by the Japanese authorities.

2.3. In addition to the relevant ministries, several Incorporated administrative agencies (IAA) or other types of official agencies are responsible for, or involved in, trade-related activities, including:

- Japan External Trade Organization (JETRO), which is responsible for trade promotion while the Japan Bank for International Cooperation (JBIC) and the Nippon Export and Investment Insurance (NEXI) are the official export credits agencies of Japan;
- In addition to government ministries, the development and implementation of standards and SPS measures are the responsibility a number of agencies including; the Japanese Industrial Standards Committee; the Pharmaceuticals and Medical Devices Agency; the National Public Safety Commission; the Consumer Affairs Agency; and the Government Regulatory Unit;
- Japan Oil, Gas and Metals National Corporation provides technical and financial support for exploration and development of minerals both in Japan and abroad; and
- Japan National Tourism Organization which promotes tourism and tourism-related services in Japan.

## 2.2 Trade Policy Objectives

2.4. Under the third arrow of Abenomics, on structural reform, there have been several significant developments in Japan's economic policy, including global economic integration which includes trade policy. The diminishing surplus on the current account and persistent trade deficits have increased emphasis on improving competitiveness through a favourable business environment, both within and outside Japan. Therefore, the focus of Japan's trade policy under Abenomics includes:

- extending its network of economic partnership agreements (see below);
- strategic approaches to emerging economies to support expansion by Japanese enterprises, export infrastructure and systems, and to secure supplies of resources; and
- promoting foreign direct investment into Japan (see below).<sup>1</sup>

## 2.3 Trade Agreements and Arrangements

### 2.3.1 WTO

2.5. Japan grants MFN or preferential treatment to a country or territory that meets one or more of the following criteria: it is a Member of the WTO; it is covered by a provision of the Cabinet Order under Article 5 of the Customs Tariff Law; or with whom Japan has a bilateral treaty of commerce and navigation. At present that includes all countries and territories except Andorra, Equatorial Guinea, the State of Eritrea, Lebanon, the Democratic People's Republic of Korea, South Sudan, and the Democratic Republic of Timor-Leste.

2.6. According to the authorities, maintaining and strengthening the multilateral trading system under the WTO has been a main pillar of Japan's external economic policy. As one of the major Members of the WTO, Japan is committed to supporting the system. At the same time, Japan is also promoting bilateral and regional negotiations on economic partnership agreements as a means of complementing the multilateral trading system.

2.7. Japan actively participates in the WTO in both regular work and in negotiations. In recent years it has focused on the Trade Facilitation Agreement and is a party to the plurilateral negotiations on expanding the Information Technology Agreement, trade in services, and Environmental Goods Agreement.

2.8. In dispute settlement, Japan has been a complainant in 19 cases, a respondent in 15, and a third party in 146 cases (Table A2.1). Japan has submitted numerous notifications under the different WTO agreements (Table A2.2).

### 2.3.2 Regional and preferential agreements

2.9. Current policy for negotiating Economic Partnership Agreements (EPAs) is based on the Japan Revitalization Strategy, decided by Cabinet in 2013 and, before that, the Basic Policy on Comprehensive Economic Partnerships of 2010. Under the Strategy, "the government will raise FTA ratio from current 19% to 70% by 2018, by promoting economic partnership as a basis of global economic activities". The FTA ratio is defined as the percentage of the volume of trade to which FTAs (signed or in force) are applied in total trade volume of Japan. The Strategy confirms that work on several EPAs will proceed concurrently (including the Trans-Pacific Partnership (TPP), the Regional Comprehensive Economic Partnership (RCEP), the Japan-China-Republic of Korea FTA, and the Japan-EU EPA).

2.10. As at November 2014, the network of 13 regional trade agreements or EPAs in force is the same as that reported in the last Trade Policy Review.<sup>2</sup> Under these agreements, Japan has tended to exclude a variety of agricultural and related products – particularly certain tariff lines for meat

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<sup>1</sup> METI (2014b), p. 20.

<sup>2</sup> WTO document WT/TPR/S/276/Rev.1 of 18 June 2013, Table A.II.3.

and meat products, fish and fish products, dairy products, rice, products of the milling industry, plywood, leather and products thereof, and footwear.

2.11. During the period under review, the Japan-Australia EPA (JAEPA) was signed (July 2014) and agreement in principle was reached on the Japan-Mongolia EPA in the same month.

2.12. In 2013 Japan began negotiations with China and the Republic of Korea on a China-Japan-Republic of Korea free trade agreement in March, with the European Union in April, started negotiations on the Regional Comprehensive Economic Partnership in May, entered the negotiations on the Trans-Pacific Partnership in July, and Japan and Turkey held a scoping meeting on a possible EPA in June. EPA/FTAs with Canada, Colombia, the Gulf Cooperation Council, and the Republic of Korea are under negotiation (Table 2.2).

**Table 2.2 Trade agreements concluded by, not yet in force and under negotiation**

Title	Launched	Status	Note
Australia Mongolia	April 2007 June 2012	Signed, July 2014 Agreement in principle, July 2014	
China-Japan-Republic of Korea Regional Comprehensive Economic Partnership	March 2013 May 2013	Under negotiation Under negotiation	ASEAN (Brunei Darussalam, Cambodia, Indonesia, Laos, Malaysia, Myanmar, the Philippines, Singapore, Thailand, Viet Nam), Australia, China, India, Japan, Republic of Korea, and New Zealand
Trans-Pacific Partnership	July 2013 (Japan joined)	Under negotiation	Australia, Brunei Darussalam, Canada, Chile, Japan, Malaysia, Mexico, New Zealand, Peru, Singapore, the United States, and Viet Nam
European Union	April 2013	Under negotiation	
Canada	November 2012	Under negotiation	
Colombia	December 2012	Under negotiation	
Gulf Cooperation Council	September 2006	Under negotiation	Kingdom of Bahrain, State of Kuwait, Oman, Qatar, Kingdom of Saudi Arabia, United Arab Emirates
Republic of Korea	December 2003	Under negotiation	

Source: Various.

### 2.3.3 Other agreements and arrangements

2.13. Japan provides preferential access under the Generalized System of Preferences to 144 countries or territories. Since the last review of Japan, Samoa was taken off the list in April 2014 because it was no longer classified as a least-developed country, and Croatia graduated from the list because it had been classified as a high-income economy in the previous three years' World Bank statistics.

2.14. Under the GSP scheme, preferential tariff rates apply to 409 tariff lines out of 2,320 (at the 9-digit level) in Chapters 1 to 24 (agriculture and fisheries) and 3,153 out of 7,029 in Chapters 25 to 97.<sup>3</sup> The preferential margin varies from one product to another and the main exclusions are rice and rice products, meat and meat products, fish, dairy products, pineapples, cereal products, textiles and clothing, leather and leather products, and footwear.

2.15. Forty-seven of the countries and territories that receive GSP treatment are least-developed countries and qualify for more extensive product coverage under Japan's duty-free and quota-free treatment for LDCs. Currently, about 98% of tariff lines are covered.

2.16. Product coverage under the duty-free quota-free scheme for least developed countries and the GSP scheme is reviewed each year as part of the annual tariff revision. The GSP scheme itself is revised every ten years with the next revision due in 2021.

2.17. Japan has been a Member of APEC since its foundation in 1989 and a member of the Asia-Europe Meeting (ASEM).

<sup>3</sup> Japanese authorities.

## 2.4 Investment Regime

2.18. As noted in Chapter 1, Japan's inward FDI remains significantly lower than outward FDI and low compared with other developed economies (section 1.2.2). Japan is ranked 27<sup>th</sup> out of 189 economies in the World Bank's *Doing Business* report for 2014 and its ranking varies considerably from one heading to another: while Japan is ranked first for resolving insolvency; it is ranked 140<sup>th</sup> for paying taxes; and 120<sup>th</sup> for starting a business.<sup>4</sup>

2.19. According to the authorities the only provisions that affect FDI directly are in the Act for Promotion of Japan as an Asian Business Center of 2012 which provides incentives to encourage investment in establishing Research and Development and Regional Headquarters, primarily through tax breaks, including corporate and income tax breaks. However, many other laws affect investment, including the Foreign Exchange and Foreign Trade Act, the Order on Inward Foreign Direct Investment, and the Foreign Exchange Order.<sup>5</sup>

2.20. The Act on National Strategic Special Zones of 2013 allows for the designation of zones where regulatory reform is expected to lead to increased investment. According to the authorities, precise details for each zone are to be decided by consensus between the national government, local authorities, and the private sector.

2.21. In March 2014, six National Strategic Special Zones were identified with three objectives:

- the Tokyo zone and the Kansai zone for comprehensive regulatory reform with the aim of establishing them as bases for international business and innovation;
- the Niigata City zone, the Yabu City zone, and the Fukuoka City zone with the aim of regulatory reform for agriculture and employment; and
- the Okinawa Prefecture zone for tourism-focused business.<sup>6</sup>

2.22. Under the revised Japan Revitalization Strategy of 2014, the objective of strengthening the competitiveness of Japan and promoting investment requires "accelerating the TPP and other economic partnership negotiations to remove obstacles to the cross-border movement of goods, services and investment; fundamentally reforming energy policy to prevent energy costs, including electricity rates, from rising; carrying out a pro-growth corporate tax reform and "so on" and sets a target of doubling investment by foreign companies in Japan to ¥35 trillion by end-FY2020. These objectives are to be achieved through several initiatives including: regulatory reform to improve the business climate; support measures for investment; enhancing National Strategic Special Economic Zones; and improving the system for the resolution of labour disputes.<sup>7</sup>

2.23. The Council for Promotion of Foreign Direct Investment was established by the government in April 2014 following a recommendation by the Expert Group Meeting on Foreign Direct Investment in Japan. The Expert Group noted the low level of FDI in Japan and identified several contributory factors:

- an inflexible labour market and low participation by women in the labour force as well as language skills;
- corporate governance, particularly the low focus on improving shareholders' returns;
- relatively high energy and distribution costs, the costs of meeting Japan's quality and safety standards and, particularly for agricultural raw materials, high costs of inputs;
- high nominal and effective rates of corporation tax and costs of complying with the tax system as well as other administration costs such as setting up businesses.

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<sup>4</sup> World Bank (2013), p. 200.

<sup>5</sup> WTO document WT/TPR/S/276/Rev.1 of 18 June 2013, section II(3).

<sup>6</sup> Kantei (2014), p. 88.

<sup>7</sup> Kantei (2014).



2.24. The Expert Group made a number of recommendations including reducing the tax and administrative costs, improving human resources, harmonization and simplification of licensing and approval systems, and promotion of EPAs, tax agreements, and other bilateral investment-related treaties.<sup>8</sup>

2.25. The FY2014 Subsidy Program for Projects Promoting Foreign Direct Investment, Site Location and Regional Development in Japan (Project of site location for global companies) provides subsidies of up to ¥500 million for the costs of survey design, purchasing or leasing facilities and equipment for global companies establishing regional headquarters or research and development sites in Japan. Seven projects were selected in FY2014. Four projects were selected in each year under the equivalent FY2012 and 2013 programmes.<sup>9</sup>

2.26. Japan has bilateral investment treaties with 32 countries/territories, including ten bilateral trade agreements which include investment provisions (Table 2.3).

**Table 2.3 Bilateral investment treaties in force**

(country and year they were signed)

Investment treaties		
Egypt (1977)	Mongolia (2001)	Papua New Guinea (2011)
Sri Lanka (1982)	Korea, Republic of (2002)	Iraq (2012)
China (1988)	Viet Nam (2003)	Kuwait, the State of (2012)
Turkey (1992)	Cambodia (2007)	Japan; China; and Korea, Republic of (2012)
Hong Kong, China (1997)	Lao People's Democratic Republic (2008)	Mozambique (2013)
Bangladesh (1998)	Peru (2008)	Myanmar (2013)
Pakistan (1998)	Uzbekistan (2008)	
Russia (1998)	Colombia (2011)	
Regional trade agreements with investment provisions		
Singapore	Mexico	Indonesia
Chile	Thailand	Switzerland
Brunei	Philippines	
India	Malaysia	

Source: Japanese authorities.

2.27. In addition, Japan has, or is a party to, 62 tax conventions applicable to 85 jurisdictions, including other signatories to the Convention on Mutual Administrative Assistance in Tax Matters (Table 2.4).

**Table 2.4 Tax conventions**

Country/ territory	Avoidance of double taxation and prevention of fiscal evasion	Tax information exchange	Convention on mutual administrative assistance in tax matters	Country/ Territory	Avoidance of double taxation and prevention of fiscal evasion	Tax information exchange	Convention on mutual administrative assistance in tax matters
Albania			*	Korea, Republic of	*		*
Argentina			*	Kuwait, the State of	*		
Armenia	*			Kyrgyz Republic	*		
Australia	*		*	Liechtenstein		*	
Austria	*			Lithuania			*
Azerbaijan	*		*	Luxembourg	*		*
Bahamas		*		Macao, China		*	
Bangladesh	*			Malaysia	*		
Belarus	*			Malta			*
Belgium	*		*	Mexico	*		*
Belize			*	Moldova, Republic of	*		*
Bermuda		*		Netherlands	*		*
Brazil	*			New Zealand	*		*
Brunei Darussalam	*			Norway	*		*
Bulgaria	*			Oman	*		
Canada	*		*	Pakistan	*		

<sup>8</sup> Cabinet Office (2014).

<sup>9</sup> METI online information. Viewed at:

[http://www.meti.go.jp/english/policy/external\\_economy/investment/index\\_FDI\\_into\\_Japan.html](http://www.meti.go.jp/english/policy/external_economy/investment/index_FDI_into_Japan.html)  
[October 2014].



Country/ territory	Avoidance of double taxation and prevention of fiscal evasion	Tax information exchange	Convention on mutual administrative assistance in tax matters	Country/ Territory	Avoidance of double taxation and prevention of fiscal evasion	Tax information exchange	Convention on mutual administrative assistance in tax matters
Cayman Islands		*		Philippines	*		
China	*			Poland	*		*
Colombia			*	Portugal	*		
Costa Rica			*	Romania	*		
Croatia			*	Russian Federation	*		
Czech Republic	*		*	Samoa		*	
Denmark	*		*	Saudi Arabia, Kingdom of	*		
Egypt	*			Singapore	*		
Fiji	*			Slovakia	*		*
Finland	*		*	Slovenia			*
France	*		*	South Africa	*		*
Georgia	*		*	Spain	*		*
Germany	*			Sri Lanka	*		
Ghana			*	Sweden	*		*
Greece			*	Switzerland	*		
Guernsey		*	*	Tajikistan	*		
Hong Kong, China	*			Thailand	*		
Hungary	*			Tunisia			*
Iceland			*	Turkey	*		
India	*		*	Turkmenistan	*		
Indonesia	*			Ukraine	*		*
Ireland	*		*	United Kingdom	*		*
Isle of Man		*		United States	*		*
Israel	*			Uzbekistan	*		
Italy	*		*	Vietnam	*		
Jersey		*		Zambia	*		
Kazakhstan	*						

Source: MOF online information. Viewed at:

[http://www.mof.go.jp/english/tax\\_policy/tax\\_conventions/international\\_182.htm](http://www.mof.go.jp/english/tax_policy/tax_conventions/international_182.htm) [October 2014].

### 3 TRADE POLICIES AND PRACTICES BY MEASURE

#### 3.1 Measures Directly Affecting Imports

##### 3.1.1 Customs procedures and requirements

3.1. Since Japan's last review in 2013, there has been little change to customs clearance procedures and requirements. Japan Customs, under the Ministry of Finance, continues to administer and enforce customs legislation. There are no special registration requirements for importers and the use of a customs broker is optional.<sup>1</sup> A customs import declaration is needed for importation, in addition to other documents which may be required through risk management, such as bill of lading, commercial invoice, and packing list. Electronic application formalities between various agencies have been unified through the completion of the common portal for the next generation single window. Currently seven customs offices are permanently open.

3.2. Japan Customs introduced the Authorized Economic Operator (AEO) programme in March 2006 and subsequently developed it to simplify customs procedures and facilitate legitimate trade.<sup>2</sup> Importers, exporters, manufacturers, warehouse operators, customs brokers, and logistics operators are eligible to become AEOs in Japan. Importers with cargo security management and a good compliance record may file import and customs duty declarations separately; this allows goods to be released before filing the customs duty declaration; import declarations may be filed in advance of cargo arrivals.

3.3. As at 1 April 2014, the total number of AEOs was 523 (compared with 501 on 1 April 2013). Following progressive improvements in Japan's AEO scheme, the release time for AEO import cargoes has been reduced significantly. According to the latest time-release study conducted in March 2012 on maritime cargoes, the release time was 0.1 hours (6 minutes) for AEO import cargoes as against 2.6 hours (156 minutes) for non-AEO import cargoes. On air cargoes, less than one minute was needed for AEO import cargoes compared to 0.3 hours (18 minutes) for non-AEO import cargoes.<sup>3</sup>

3.4. Japan has mutual recognition arrangements (MRAs) on AEO programmes with Canada, the European Union, the Republic of Korea, Malaysia, New Zealand, Singapore, and the United States. Under these MRAs, Japan Customs takes into account the status of the members of the other AEO programme when conducting its own risk assessment. Japan is in consultation with Switzerland on the possibility of having MRAs on AEOs.

3.5. Japan ranks 20<sup>th</sup> (out of 189 economies) in the World Bank's Trading Across-Borders 2015 Index; import procedures take 11 days and cost US\$1,107 per container (compared with 11 days and US\$970 per container in 2013).<sup>4</sup> The Japanese authorities indicate that this data refers to import procedures other than customs. Customs fees and charges are described in the website of Japan Customs.<sup>5</sup>

##### 3.1.2 Customs valuation

3.6. During the review period, Japan amended some provisions concerning the determination of customs value of imported goods in customs-related laws and regulations with the aim of improving their clarity particularly for complicated transactions (e.g. conditions of buyer and buying commission have been simplified).

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<sup>1</sup> According to Article 3 of the Law of Customs Brokerage, to operate as a customs broker an approval is required from the Director of Customs.

<sup>2</sup> In 2005, the World Customs Organization adopted the SAFE Framework of Standards which includes the Authorized Economic Operator (AEO) programme. AEOs must prove to have high quality internal processes that will prevent goods in international transport being tampered with. This facilitates trade for low-risk operators and ensures Customs can focus inspection resources on more high-risk parties.

<sup>3</sup> Japan Customs (2012).

<sup>4</sup> World Bank Group online information. Viewed at: <http://doingbusiness.org/data/exploreconomies/Japan>.

<sup>5</sup> Japan Customs online information. Viewed at: <http://www.customs.go.jp/english/exp-imp/customsfee.htm>.

3.7. All importers must file a customs declaration basically after goods have entered into bonded (hozei) area; this may now be done without entry of goods into the bonded area under certain conditions, such as an authorized importer presenting an import declaration with the Electronic Data Processing System. The customs value of imported goods is determined according to their c.i.f. price (in principle based on the transaction value of the imported goods).

3.8. Importers may pay the assessed customs duty through the multi-payment network system. The network connects teller institutions (government authorities) with financial institutions. The government does not charge any fee for the use of the system; however, the financial institutions involved may collect fees. An advance ruling, which is issued in writing by Customs upon written request of an applicant, is binding on such Customs in respect of the applicant that sought it. An applicant includes not only importers but also other relevant parties. Information in writing on advance rulings are made available through the internet on the website of Japan Customs.<sup>6</sup>

3.9. Complaints against Customs' decisions may be made to the Director-General of Customs within two months of the decision. Further appeals may be lodged with the Minister of Finance within one month of the decision by the Director-General of Customs. A lawsuit may be filed against the Minister's decision within six months of such decision. According to the authorities, in 2013 there were 43 complaints (as in 2012), 18 appeals (as compared to 8 in 2012), and 5 law suits were filed (compared to 3 in 2012).

### 3.1.3 Rules of origin

3.10. Japan has notified the WTO that it has non-preferential rules of origin.<sup>7</sup>

3.11. Japan provides preferential rules of origin under the Generalized System of Preferences (GSP) and its various RTAs/EPAs (section 2). To benefit from preferential duties, certificates of origin need to be provided, issued by authorized institutions in the exporting country<sup>8</sup>, in order to prove that the product being imported is basically "wholly obtained" or "substantially transformed" (e.g. change of tariff classification at the HS 4-digit or 40% of value added) in the exporting country. For goods "not wholly obtained", specific criteria based on change of tariff classification rules, processing rules, and value added rules are applied on a product-by-product basis. Rules of origin under EPAs and the GSP apply these specific criteria for various products.

3.12. Japan's MFN rules of origin to determine, *inter alia*, whether to apply MFN rates (as opposed to general rates) are detailed in Article 4-2 of the Cabinet Order for Enforcement of the Customs Law, and Articles 1-5 and 1-6 of the Ordinance for Enforcement of the Customs Law.<sup>9</sup> MFN tariff rates are applicable to imports from eligible countries, where the country of origin is defined as the country in which the goods concerned have been wholly obtained or have undergone substantial transformation (change of tariff classification at the HS 4-digit level).

### 3.1.4 Tariffs

#### 3.1.4.1 MFN applied tariff

3.13. Goods imported into Japan may be subject to customs tariffs, consumption tax (VAT), and excise duties on products such as liquor, tobacco, gasoline, LPG, and automobiles (section 3.3.1).

3.14. The structure of Japan's MFN applied tariff has remained largely unchanged over the last few years. In FY2014, Japan's tariff schedule comprised 9,151 lines (down from 9,168 in FY2012) at the HS nine-digit level (Table 3.1).<sup>10</sup> Of all tariff lines, 93.3% involve *ad valorem* rates

<sup>6</sup> See <http://www.customs.go.jp/english/>.

<sup>7</sup> WTO documents G/RO/N/1, 9 May 1995 and G/RO/N/1/Add.1, 22 June 1995.

<sup>8</sup> In EPAs with Mexico, Peru, and Switzerland certificates may also be issued by approved exporters.

<sup>9</sup> The MFN rules of origin are also used to determine the country of origin for some trade remedy measures and import trade statistics.

<sup>10</sup> Excluding in-quota lines (in-quota lines subject to state trading are included in the calculations). The Japanese tariff schedule has three distinct sets of rates: statutory rates (include both general and temporary rates); WTO bound rates; and preferential rates (under the GSP, and RTAs/EPAs with Brunei Darussalam, Chile, India, Indonesia, Malaysia, Mexico, Peru, Philippines, Singapore, Switzerland, Thailand and Viet Nam). In the case of statutory rates, the "temporary" rate, which is reviewed annually, is normally used instead of the

(including duty free lines which are 40.4% of all lines). The remaining 6.7% (i.e. 613 lines) are non-*ad valorem*: specific rates are applied to 2.6% of the lines; 3.1% have alternate specific duty or *ad valorem*; 0.6% have compound rates; and other types of tariff (differential duties and sliding duties) apply to 0.3% of tariff lines (Chart 3.1).<sup>11</sup>

**Table 3.1 Structure of MFN tariffs, FY2010, FY2012 and FY2014**

(%, unless otherwise indicated)

	MFN applied			Final bound <sup>a</sup>
	FY2010	FY2012	FY2014	
Bound tariff lines (% of all tariff lines)	98.8	98.3	98.3	98.3
Simple average rate	5.8	6.3	5.8	5.9
WTO agricultural products	15.7	17.5	14.9	15.2
WTO non-agricultural products	3.5	3.7	3.7	3.7
Duty free tariff lines (% of all tariff lines)	41.4	40.5	40.4	38.7
Simple average rate of dutiable lines only	10.0	10.7	9.9	9.8
Domestic tariff "peaks" (% of all tariff lines) <sup>b</sup>	6.6	6.6	6.6	6.7
International tariff "peaks" (% of all tariff lines) <sup>c</sup>	7.4	7.6	7.4	7.5
Overall standard deviation of tariff rates	16.0	20.5	14.3	14.5
Coefficient of variation of tariff rates	2.7	3.2	2.4	2.4
Tariff quotas (% of all tariff lines)	1.8	1.8	1.8	1.8
Non- <i>ad valorem</i> tariffs (% of all tariff lines)	6.6	6.7	6.7	6.3
Non- <i>ad valorem</i> tariffs with no AVEs (% of all tariff lines)	2.0	1.5	1.8	1.5
Nuisance applied rates (% of all tariff lines) <sup>d</sup>	1.3	1.5	1.5	1.4
<b>Number of lines</b>	<b>8,826</b>	<b>9,168</b>	<b>9,151</b>	<b>8,992</b>
<i>Ad valorem</i> rates	4,590	4,839	4,840	4,875
Duty free lines	3,652	3,714	3,698	3,542
Non- <i>ad valorem</i> rates	584	615	613	734
Specific	207	236	236	228
Compound	56	57	57	58
Alternate	289	290	288	289
Other	32	32	32	0

a Final bound rates are based on the FY2014 tariff schedule in HS12 nomenclature. Calculations are based on bound rates only.

b Domestic tariff peaks are defined as those exceeding three times the overall simple average applied rate.

c International tariff peaks are defined as those exceeding 15%.

d Nuisance rates are those greater than zero, but less than or equal to 2%.

Note: All tariff calculations exclude in-quota lines and include AVEs, as available, provided by the Japanese authorities. In case of unavailability, the *ad valorem* part is used for compound and alternate rates. FY2010 tariff schedule is based on HS07 nomenclature and FY2012 and FY2014 are based on HS12.

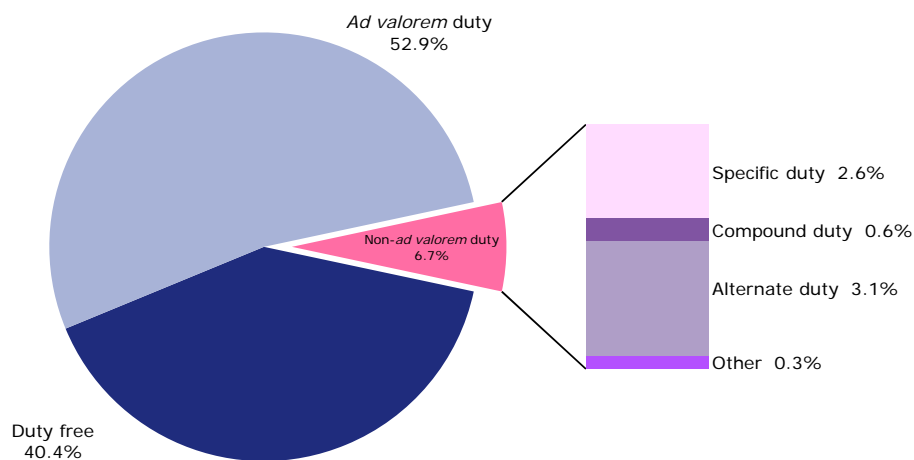
Source: WTO calculations, based on data from Japan Customs. Viewed at:

[http://www.customs.go.jp/english/tariff/2014\\_4/index.htm](http://www.customs.go.jp/english/tariff/2014_4/index.htm).

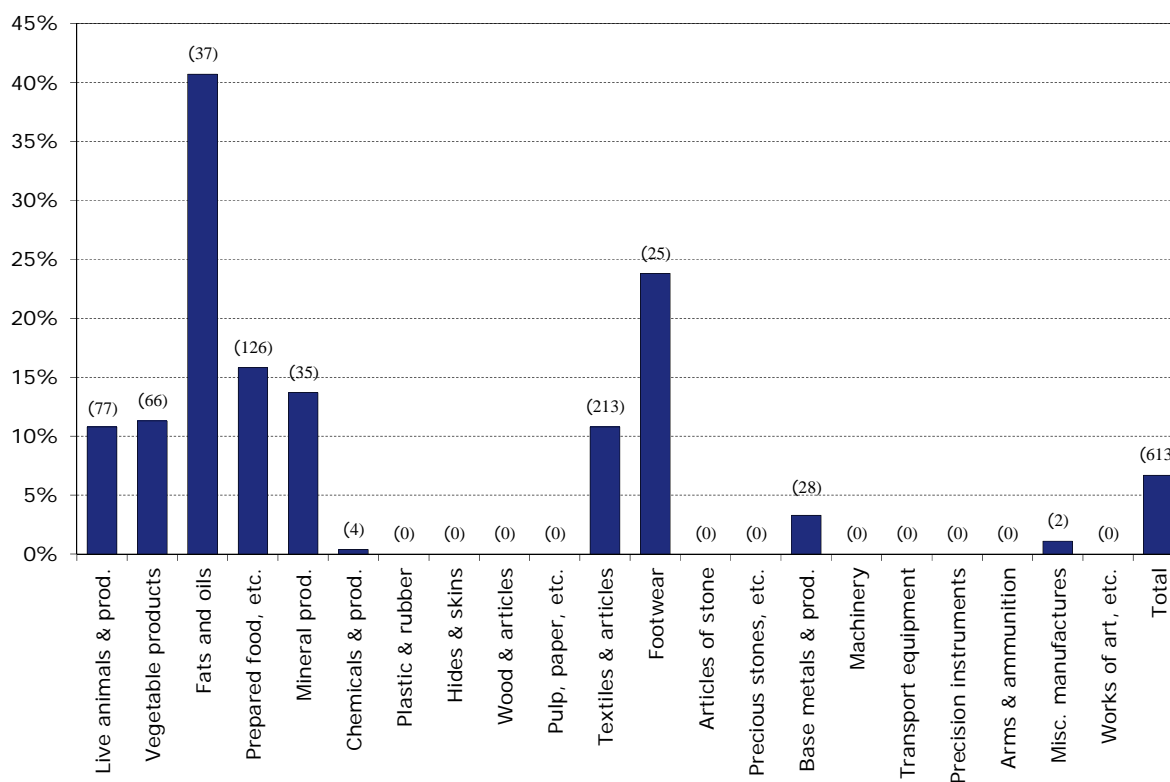
3.15. The non-*ad valorem* rates apply mainly to fats and oils, followed by footwear, prepared foods, mineral products, vegetables, live animals and animal products, and textiles and clothing (Chart 3.2).

higher general rate; the lower of the statutory and WTO bound rates are applied to WTO Members on an MFN basis, except when preferential rates are applied. Where the temporary, general, or preferential rate is above the WTO bound rate, the latter rate applies to WTO Members.

<sup>11</sup> An alternate duty involves either an *ad valorem* or specific rate; usually the higher of the two is applied (except in the case of HS2204.21-2 and HS2204.29-1). A compound duty involves a combination of *ad valorem* and specific rates. A differential duty involves a specific rate charged per kg of imports with the rate varying directly with the difference between the standard import price, set by the authorities, and actual import price. A sliding duty involves a specific tariff rate for imports valued up to a certain threshold; the rate declines as the value exceeds the threshold and becomes zero at a certain point.

**Chart 3.1 Tariff distribution by type of duty, FY2014**

Source: WTO Secretariat calculations, based on data from Japan Customs. Viewed at: [http://www.customs.go.jp/english/tariff/2014\\_4/index.htm](http://www.customs.go.jp/english/tariff/2014_4/index.htm).

**Chart 3.2 Share of non-ad valorem duties, by HS section, FY2014**

Note: Each bar depicts the percentage of tariff lines within each HS section that carry non-ad valorem duties; the figures in parentheses show the corresponding number of lines. In-quota rates are not included (lines subject to state trading are included).

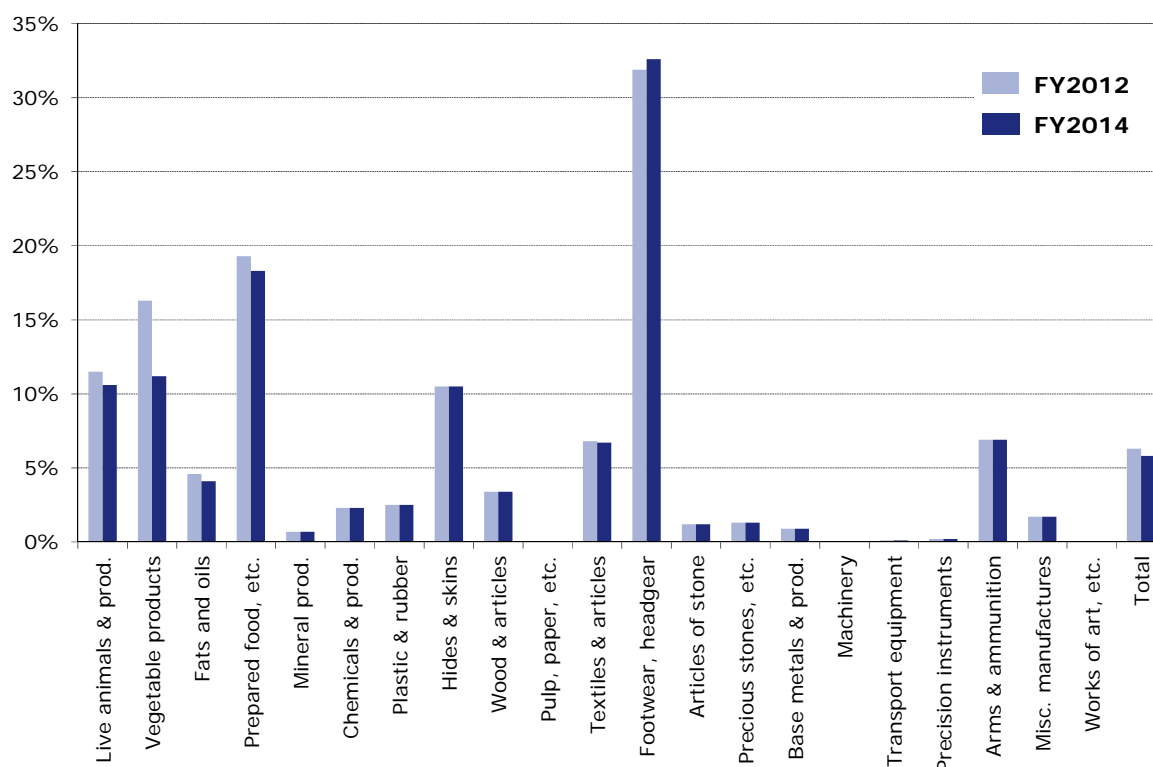
Source: WTO Secretariat estimates, based on based on data from Japan Customs. Viewed at: [http://www.customs.go.jp/english/tariff/2014\\_4/index.htm](http://www.customs.go.jp/english/tariff/2014_4/index.htm).

3.16. In FY2014, Japan's overall simple average applied MFN tariff rate was 5.8% (down from 6.3% in FY2012) (Table A3.1). This reduction is due to lower average *ad valorem* equivalents (AVEs) of non-ad valorem duties. The authorities provided for 450 out of 613 AVEs based on

import data for 2012.<sup>12</sup> Consequently, the tariff analysis is based on 98.8% of the 9,151 tariff lines. The simple average rate for all the AVEs supplied is 29.7%<sup>13</sup>; however, the highest rate is 298.6%, for certain semi-milled or wholly milled rice. Of the 104 highest tariffs, 96 had non-*ad valorem* rates.

3.17. Import duties on agricultural products are higher than duties on non-agricultural products: the simple average for agriculture (WTO definition) is 14.9% (17.5% in FY2012), compared with 3.7% for non-agricultural products (same as in FY2012). Simple average applied MFN tariffs are also relatively high for footwear and headgear, prepared foods, vegetables, live animals, hides and skins, arms and ammunition, and textiles and clothing (Chart 3.3).

**Chart 3.3 Simple average applied MFN tariff rates, by HS section, FY2012 and FY2014**



Note: Excluding in-quota rates (lines subject to state trading are included). Including *ad valorem* equivalents (AVEs) provided by the Japanese authorities, as available. The *ad valorem* part of compound and alternate rates are used where AVEs are not available.

Source: WTO Secretariat calculations, based on data from Japan Customs. Viewed at: [http://www.customs.go.jp/english/tariff/2014\\_4/index.htm](http://www.customs.go.jp/english/tariff/2014_4/index.htm).

3.18. There are 161 tariff lines (1.8%) subject to MFN tariff quotas: 150 out-of-quota tariffs and 11 out-of-quota tariffs of state trading (in-quota lines are excluded). The out-of-quota rates for 38 tariff lines are *ad valorem*. The average rates differ considerably: in-quota rates average 18.1%, while out-of-quota rates average 67.1%. The quota allocation method and process remains somewhat intricate (section 4.1).<sup>14</sup>

<sup>12</sup> For 29 out of 288 alternate rates no AVE was provided (the *ad valorem* part was used in the tariff analysis). For 25 out of 57 compound rates no AVE was provided (the *ad valorem* part was used). For 89 out of 236 specific rates and 20 out of 32 "other duties" rates no AVE was provided.

<sup>13</sup> In comparison, the simple average of the AVEs at the time of Japan's last review was 37.7%, which was based on 2010 imports.

<sup>14</sup> For details of the quota allocation method, see WTO (2001).

### 3.1.4.2 Bound tariff

3.19. Japan has bound 98.3% of lines (159 lines are unbound) (Table 3.1); unbound lines relate mainly to fisheries (fish, crustaceans, seaweed), petroleum oils, and wood and articles thereof. *Ad valorem* rates account for 8,417 bound lines (93.6%), of which 3,542 lines are duty free. The difference between the average bound MFN tariff (5.9%) and the average applied MFN tariff (5.8%) in FY2014 was negligible, which reflects a high degree of predictability in the tariff.<sup>15</sup> Japan has not used this gap to raise tariffs during the last few years. However, the average bound rate (WTO definition) is considerably higher for agricultural products (15.2%) than for non-agricultural products (3.7%).

### 3.1.4.3 Preferential tariff

3.20. Japan offers preferential tariff rates to 138 developing countries and 7 territories under the GSP; least developed countries (48 in 2014) receive additional preferences. China remains the largest beneficiary of preferential access to the Japanese market; it accounts for over three quarters of all preferential imports under the GSP scheme.<sup>16</sup> Japan also grants preferential access under its RTAs/EPAs for imports from ASEAN, Chile, Brunei Darussalam, India, Indonesia, Malaysia, Mexico, Peru, Philippines, Singapore, Switzerland, Thailand, and Viet Nam (section 2.3.2).

3.21. Simple average tariff rates under all preferential arrangements (GSP, LDC, and EPAs) are lower than the simple average applied MFN rates. However, the rates vary widely from one product group to another. The overall simple average preferential rates range from 0.5% to 4.8%, while agriculture is subject to rates from 1.5% to 13.9% (Table 3.2). Tariffs under these arrangements are also high for certain processed and industrial goods, such as leather, rubber, footwear and travel goods, and textiles and clothing imports (under GSP); items such as dairy products, some footwear, and textiles and clothing are not included in the GSP scheme for developing countries and are therefore subject to applied MFN rates of duty.

**Table 3.2 Summary analysis of Japan's preferential tariffs, FY2014**

	Number of preferential lines <sup>a</sup>	Average (%)	Total	WTO agriculture		WTO non-agriculture	
			Duty-free rates (%)	Average (%)	Duty-free rates (%)	Average (%)	Duty-free rates (%)
<b>MFN</b>		<b>5.8</b>	<b>40.4</b>	<b>14.9</b>	<b>25.9</b>	<b>3.7</b>	<b>44.0</b>
GSP	2,987	4.8	58.1	13.9	34.6	2.6	63.9
LDC	5,264	0.5	97.9	1.5	96.7	0.2	98.2
<b>Economic Partnership Agreements</b>							
Singapore	4,225	3.1	83.4	11.9	49.1	1.1	91.9
Mexico	4,149	3.1	84.9	13.0	40.4	0.8	95.9
Malaysia	4,419	2.6	84.7	11.5	49.5	0.5	93.4
Chile	4,317	2.8	83.1	12.1	49.0	0.6	91.5
Thailand	4,487	2.6	85.1	11.6	49.6	0.5	93.8
Indonesia	4,333	2.8	81.4	12.3	43.4	0.6	90.7
Brunei Darussalam	4,162	3.3	80.9	12.5	42.0	1.1	90.4
ASEAN	4,500	2.8	80.9	12.3	41.5	0.6	90.6
Philippines	4,574	2.6	83.1	11.5	46.2	0.5	92.2
Switzerland	4,339	3.0	80.5	12.5	41.8	0.7	90.0
Viet Nam	4,468	2.8	82.0	12.4	42.6	0.6	91.7
India	4,314	3.2	78.8	13.0	40.6	0.8	88.3
Peru	4,479	3.0	80.4	12.8	41.6	0.6	89.9

<sup>15</sup> Whereas bound and applied MFN rates coincide for most lines, bound rates exceed applied MFN rates for, *inter alia*, live animals and animal products (HS Section 1); vegetables (Section 2); prepared foods, beverages, and tobacco (Section 4); chemicals and products (Section 6); plastics and rubber (Section 7); textiles and clothing (Section 11); and base metals (Section 15). The gap between bound and applied rates ranges from 0.3 percentage points to 40 percentage points.

<sup>16</sup> Other major beneficiaries of Japan's GSP scheme include: Myanmar (4.1% of total imports under preferential treatment), Bangladesh (3.9%), and South Africa (3.5%).



	Number of preferential lines <sup>a</sup>	Average (%)	Total Duty-free rates (%)	WTO agriculture		WTO non-agriculture	
				Average (%)	Duty-free rates (%)	Average (%)	Duty-free rates (%)
<b>Memorandum<sup>b</sup></b>							
Singapore	4,519	2.7	83.9	11.8	49.3	0.6	92.5
Malaysia	4,523	2.6	85.2	11.5	49.5	0.5	94.0
Thailand	4,567	2.6	85.1	11.5	49.6	0.5	93.8
Indonesia	4,510	2.7	82.3	12.0	43.4	0.5	91.9
Brunei Darussalam	4,506	2.8	81.5	12.1	42.0	0.6	91.2
Philippines	4,639	2.6	83.7	11.5	46.2	0.5	92.9
Viet Nam	4,568	2.7	82.1	12.0	42.6	0.5	91.9

a The number of preferential lines includes only lines on which the rates are lower than the corresponding MFN applied rate. The 2014 MFN tariff consists of 9,151 tariff lines out of which 3,698 lines bear a duty-free rate.

b Based on lowest rate applied from country's EPA and the ASEAN EPA.

Source: WTO Secretariat calculations, based on data from Japan Customs. Viewed at:

[http://www.customs.go.jp/english/tariff/2014\\_4/index.htm](http://www.customs.go.jp/english/tariff/2014_4/index.htm).

### 3.1.5 Import prohibitions, restrictions, licensing, and quotas

3.22. Imports of certain goods are prohibited under Article 69-11 of Japan's Customs Law. For reasons of national security, safeguarding consumer health and well-being, preserving domestic plant and animal life and the environment, imports of narcotics, certain weapons, and animals or plants listed in the appendices of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), may be prohibited or subject to import licensing. Japan's Foreign Exchange and Foreign Trade Law governs import licensing procedures.<sup>17</sup> In addition, some commodities, including certain fish, are subject to import quotas.

3.23. Items requiring import approval include weapons and other items from the Libyan Arab Jamahiriya as per United Nations Security Council Resolution. At present, products that require import approval or are prohibited include: certain marine products, chemical products, propellant powders, nuclear goods, weapons, animals and plants, substances that deplete the ozone layer, specified hazardous wastes, waste chemical weapons goods, alcohol, rough diamonds, cultural property illegally removed from Iraq, all goods from the Democratic People's Republic of Korea, weapons and other items related to nuclear programmes or ballistic missile programmes from Iran, and weapons and other items from the State of Eritrea. Licences to import are issued free of cost.

3.24. Japan uses quantitative restrictions on imports (import quotas); according to the authorities, the quotas adhere to the WTO Agreements. Products subject to import quotas (unchanged since 2007) include: certain fish products and controlled substances listed in the Montreal Protocol on Substances that Deplete the Ozone Layer.

3.25. The METI is responsible for administering the import quota system. Eligible importers are issued with an import quota allocation certificate normally valid for four or six months. The method for allocating quotas, specified in METI notices, has not changed since 2007 and remains somewhat complex. Quota allocations are decided on an annual basis. Fish-related quotas are allocated based on domestic supply and demand, e.g. the amount of imports, domestic production, consumption, and prices in the previous year, as well as projections for the coming year. These quotas are issued by the METI with the consent of the Ministry of Agriculture, Forestry and Fisheries (MAFF). Applicants for quota allocations must meet various criteria. Some quotas are allocated on a first-come first-served basis. When the amount applied for exceeds remaining unallocated quota, quotas are allocated by lottery.

3.26. Unused quota entitlements are non-transferable and cannot be carried over to the next period. Additionally, the government does not reallocate any unused quotas.

3.27. Japan has in place a system of prior confirmation to collect data on certain imports. The system is intended to ensure that these imports are for specific uses, and to verify documentation and origin requirements. Prior confirmation is required from the Minister of Economy, Trade and Industry, or other relevant minister. The system is used, *inter alia*, for goods where fraudulent

<sup>17</sup> This is described in Chart III.3 in WTO (2013).



declarations have been found in the past or are deemed of high risk. These include: vaccine of microbial origin for experimental use; specified foreign cultural property; tuna; marlin; whales; poppy and hemp seeds; certain substances listed in the Montreal Protocol; radioisotopes; diamonds; and various other chemicals.

### 3.1.6 Contingency trade measures

3.28. Japan has only one anti-dumping duty in force: 14%-46.5% on electrolytic manganese dioxide originating from China, South Africa, and Spain. The period of validity for such anti-dumping duties was extended by five years and will expire on 5 March 2019 (it has been in force since September 2008). On 14 February 2014, Japan initiated an anti-dumping investigation into toluenediisocyanate from China.

3.29. Japan's legislative and institutional framework regarding contingency trade measures remain unchanged since its previous review. The Customs Tariff Law and the relevant Cabinet Orders and Guidelines define Japan's legal framework regarding the use of anti-dumping, countervailing, and safeguard measures.

3.30. Contingency trade remedies investigations are carried out by teams established on a case-by-case basis and composed of relevant officials from the Ministry of Finance, METI and the Ministry in charge of the relevant industry.<sup>18</sup> The Ministry of Finance is involved in an investigation as the agency responsible for tariff policy and customs administration (Article 40 of the Cabinet Order for Organization of the Ministry of Finance), and the METI carries out an investigation as the agency responsible for increase, improvement and adjustment of import and export (Article 6(2) of the Cabinet Order for Organization of METI).

3.31. Japan did not apply neither countervailing nor safeguard measures during the review period.

### 3.1.7 Standards and other technical requirements

3.32. The legal framework on standards and technical regulations in Japan has remained largely unchanged since its last review. The main laws for implementing the TBT Agreement in Japan, together with the agency responsible, are described in Table 3.3.

3.33. Other laws related to standards and technical requirements include (Ministries in charge in parentheses): Road Vehicles Act of 1951, last amended in 2014 (MLITT); Act on the Rational Use of Energy of 1979, last amended in 2008, applies to motor vehicles and other products designated by Ministerial Order (MLIT)<sup>19</sup>; Act Concerning the Safety Assurance and Quality Improvement of Feed of 1953, last amended in 2007, applies to animal feeds (MAFF); Act on the Evaluation of Chemical Substances and Regulation of their Manufacture of 1973, last amended in 2014 (MHLW); Industrial Safety and Health Act of 1972, last amended in 2014 (MHLW); Telecommunications Business Act of 1984, last amended in 2014 (Ministry of Internal Affairs and Communications, (MIC)); Radio Act of 1950, last amended in 2014, includes provisions relating to technical regulations, conformity assessment, and certification of radio equipment (MIC); Fertilizer Control Act of 1950, last amended in 2014 (MAFF).

3.34. For WTO matters, the TBT notification authority is the Ministry of Foreign Affairs and the TBT enquiry points are: (i) the Standards Information Service in MOFA which handles enquiries in the fields of drugs, cosmetics, medical devices, foodstuffs, food additives, telecommunication facilities, motor vehicles, ships, aircraft and railway equipment (excluding enquiries concerning JIS which are handled by JETRO); and (ii) the Standards Information Service in JETRO which mainly handles enquiries in the fields of electric equipment, gas appliances, measurement scales, foodstuffs, food additives, etc. Those enquiries concerning JIS on medical devices, motor vehicles, ships, aircraft and railway equipment are handled by JETRO.<sup>20</sup>

<sup>18</sup> Articles 8(5) of the Customs Tariff Law and 6(4) of the AD Guideline; Articles 7(6) of the Customs Tariff Law and 5(4) of the CVD Guideline; and Articles 9(6) of the Customs Tariff Law, and 6(2) of the SG Guideline.

<sup>19</sup> Enforcement Ordinance for the Act on the Rational Use of Energy of 1979, and Enforcement Regulations for the Act on the Rational Use of Energy of 1979.

<sup>20</sup> WTO document G/TBT/2/Add.10, 11 June 1996.

**Table 3.3 Main laws on standards and technical regulations**

Legislation/Agency	First passed	Last amended	Purpose
Industrial Standardization Act METI	1949	2013	Applies to all products except medicines, agriculture and fertilizer chemicals, silk yarn, foodstuffs, agricultural and forestry products. The Law establishes the Japanese Industrial Standards (JIS) Committee and the JIS Mark Scheme and provides the legal basis for standards, certification, accreditation of certification bodies and laboratories.
Consumer Product Safety Act METI	1973	2011	Sets out requirements for: (1) a narrow range of specified products which must comply with technical requirements; and (2) specified maintenance products (some types of domestic water heaters and electric appliances) which must be provided with information on maintenance. It also provides the legal basis for reporting product accident information for consumer products.
The Act on Securing Quality, Efficacy and Safety of Pharmaceuticals, Medical Devices, Regenerative and Cellular Therapy Products, Gene Therapy Products, and Cosmetics Ministry of Health, Labour and Welfare (MHLW)	1960	2013	Regulating the manufacture, import, and sale of pharmaceuticals, and medical devices, regenerative and cellular therapy products, gene therapy products, and cosmetics.
Act on Standardization and Proper Labelling of Agricultural and Forestry Products MAFF and Consumer Affairs Agency	1950	2013	Applies to foods, drinks, oils, and fats as well as other agricultural, forestry, livestock and fishery products and products made from them except liquors, drugs, and cosmetics. The Law provides the legal basis for the Japanese Agricultural Standards (JAS) and criteria for adopting standards, quality grading, labelling, registration of certifying bodies, etc.
Building Standard Law Ministry of Land, Infrastructure, Transport and Tourism (MLIT)	1950	2014	Applies to construction of buildings and buildings. The Law provides for the establishment of standards for construction of buildings, including fireproofing and procedures for inspection and certification of buildings, and type approval.
Electrical Appliance and Material Safety Act METI	1961	2011	Applies to electrical appliances and materials. The Law regulates the manufacture and sale of electrical appliances and requires manufacturers and importers of these appliances to register with the METI and ensure conformity with technical requirements.
Measurement Act METI	1992	2011	Establishes the units of the SI as the measurement units in Japan and provides the legal basis to apply and verify them and certify devices for their measurement.

Source: WTO Secretariat on the basis of information provided by the Japanese authorities.

3.35. Japan's main agencies responsible for standards, technical requirements, and conformity assessment are listed in Box 3.1.

3.36. Up to October 2014, Japan had made a total of 735 notifications, 119 of which being made since 1 January 2011 (including corrigenda and revisions) to the TBT Committee under Article 10.6 of the TBT Agreement. One notification was made of an agreement with another country (Singapore) on issues related to technical regulations, standards or conformity assessment procedures. No WTO Member has used the TBT Committee to raise any concerns about TBT-related issues in Japan since March 2008 when the United States and Australia raised concerns about labelling guidelines on Waygu beef. Japan has used the TBT Committee to raise several concerns with TBT-related measures taken by other Members.<sup>21</sup>

<sup>21</sup> WTO TBT Information Management System online information. Viewed at: <http://tbtims.wto.org/>.

**Box 3.1 Agencies in charge of TBT issues**

<b>Ministry of Economy, Trade and Industry (METI)</b>
<b>Japanese Industrial Standards Committee (JISC)</b> Its functions include deliberations on the development/revision of JIS and making recommendations and reports on consultation responses to the relevant ministers with respect to the promotion of industrial standardization, such as JIS, JIS Mark Certification Scheme, and Laboratory Accreditation System
<b>Japan Accreditation System for Product Certification Bodies of JIS Mark (JASC)</b>
<b>National Institute of Advanced Industrial Science and Technology (AIST)</b>
<b>National Metrology Institute of Japan (NMIJ)</b>
<b>National Institute of Technology and Evaluation (NITE)</b>
<b>International Accreditation Japan (IA Japan)</b>
<b>Specified Measurement Laboratory Accreditation Program (MLAP)</b> Accreditation of laboratories for micro-existent substances (e.g. dioxins)
<b>Japan Calibration Service System (JCSS)</b>
<b>Japan National Laboratory Accreditation System (JNLA)</b>
<b>Japan External Trade Organization (JETRO)</b>
<b>Ministry of Internal Affairs and Communication (MIC)</b>
<b>Telecommunication Technology Committee (TTC)</b>
<b>Japan Cable Television Engineering Association (JCTEA)</b>
<b>Ministry of Agriculture, Forestry and Fisheries (MAFF)</b> Responsible for adopting standards for foodstuffs, agricultural and forestry products and labelling under the Quality Labelling Standard System and the accompanying JAS system
<b>Ministry of Foreign Affairs (MOFA)</b> Notification authority for the TBT Agreement
<b>Ministry of Health, Labour and Welfare (MHLW)</b>
<b>Pharmaceuticals and Medical Devices Agency (PMDA)</b> Reviews and related services, e.g. scientific review of applications for market authorization Post-marketing safety measures, e.g. on the quality, efficacy and safety of drugs and medical devices Promotion of regulatory science Relief services for adverse health effects

Source: WTO Secretariat on the basis of information provided by the Japanese authorities.

3.37. As at 31 March 2014, there were 10,525 Japanese Industrial Standards (JIS), and the number of JIS with corresponding international standards was 5,823. To ensure compliance with the TBT Agreement, Japan has been aligning JIS to international standards if corresponding international standards exist. As at 31 March 2014, the proportion of those JIS which are harmonized with (identical (IDT) or modified (MDF) according to the definition of ISO/IEC Guide 21-1) international standards (ISO and IEC standards) was 97%.

3.38. Between April 2013 and March 2014, 338 JIS items were revised, 83 were withdrawn, and 209 were newly established (Table 3.4).

3.39. Between April 2013 and March 2014, 103 JAS were revised, 14 were withdrawn, and 1 was newly established. As at 31 March 2014, there were 201 JAS in force (the same as in 2011), and the number of JAS with corresponding international standards was 77 as at the end of March 2014. The proportion of those JAS which are harmonized with international standards is 77%.

3.40. The authorities indicate that when international standards do not meet requirements in Japan, domestic standards or technical regulations are needed. For example, *tatami* (traditional floor coverings), *futon* (Japanese mattresses), Japanese rice cookers, Japanese electric fans, pocket warmers, and Japanese low tables with heat source, require domestic standards.

**Table 3.4 JIS established, revised, and withdrawn, April 2013-March 2014**

JIS Divisions		Number of JIS newly established	Number of JIS revised	Number of JIS withdrawn	JIS in force at the end of March 2014
A	Civil engineering and architecture	6	27	1	576
B	Mechanical engineering	37	67	16	1,672
C	Electronic and electrical engineering	50	51	12	1,639
D	Automotive engineering	1	6	5	368
E	Railway engineering	0	2	0	148
F	Shipbuilding	0	0	0	395
G	Ferrous materials and metallurgy	38	22	23	455
H	Nonferrous materials and metallurgy	5	21	4	411
K	Chemical engineering	14	64	2	1,752
L	Textile engineering	0	0	0	218
M	Mining	4	4	0	166
P	Pulp and paper	0	0	0	77
Q	Management system	7	6	1	86
R	Ceramics	2	7	0	373
S	Domestic wares	0	6	0	190
T	Medical equipment and safety appliances	18	28	7	536
W	Aircraft and aviation	0	0	0	97
X	Information processing	7	6	0	522
Z	Miscellaneous	20	21	12	844
	Packing				
	Welding				
	Radioactivity, etc.				
Total		209	338	83	10,525

Source: Information provided by the Japanese authorities.

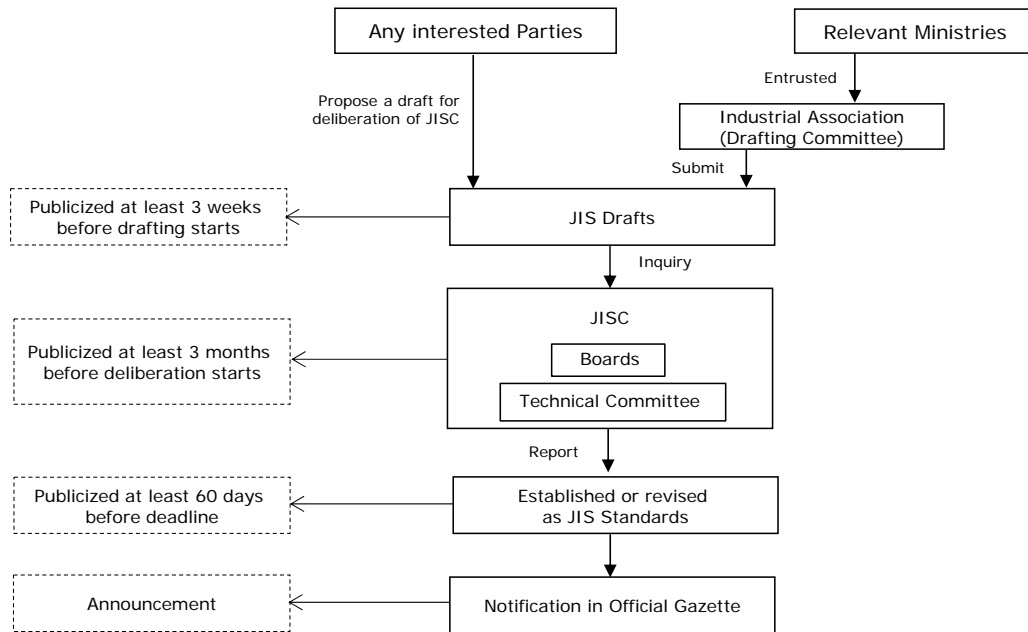
3.41. The process for developing JIS is described in Chart 3.4, while the process used with respect to JAS is in Chart 3.5.

3.42. Approximately 7,873 domestic and 859 foreign factories in 21 countries and economies are certified to affix JIS marks (JIS Mark scheme). The JIS Mark scheme is voluntary unless relevant regulations require JIS for domestic sales. The authorities state that domestic and foreign factories are treated in the same manner with regard to certification of the JIS marks, and the JIS Mark scheme is internationally harmonized, based on ISO/IEC 17065. As at October 2014, 24 organizations were accredited as JIS mark certification bodies.

3.43. Compliance with the JAS is not necessary for imports into Japan except organic plants and organic processed foods of plant origin. The JAS Law allows third-party organizations to certify operators (e.g. manufacturers) to affix JAS marks. The Minister of Agriculture, Forestry and Fisheries as well as Registered Certifying Bodies (RCBs) and Registered Overseas Certifying Bodies (ROCBs) are responsible for monitoring and managing JAS marks.<sup>22</sup> Foreign producers or manufacturers that are certified by RCBs and ROCBs may conduct their own grading and affix the JAS marks to their products. At present, there are 28 ROCBs, 18 for organic products, and 10 for forestry products. Under the JAS Law, foreign enterprises certifying operators that produce, process, and/or distribute agricultural or forestry products in conformity with the JAS may be accredited as ROCBs.

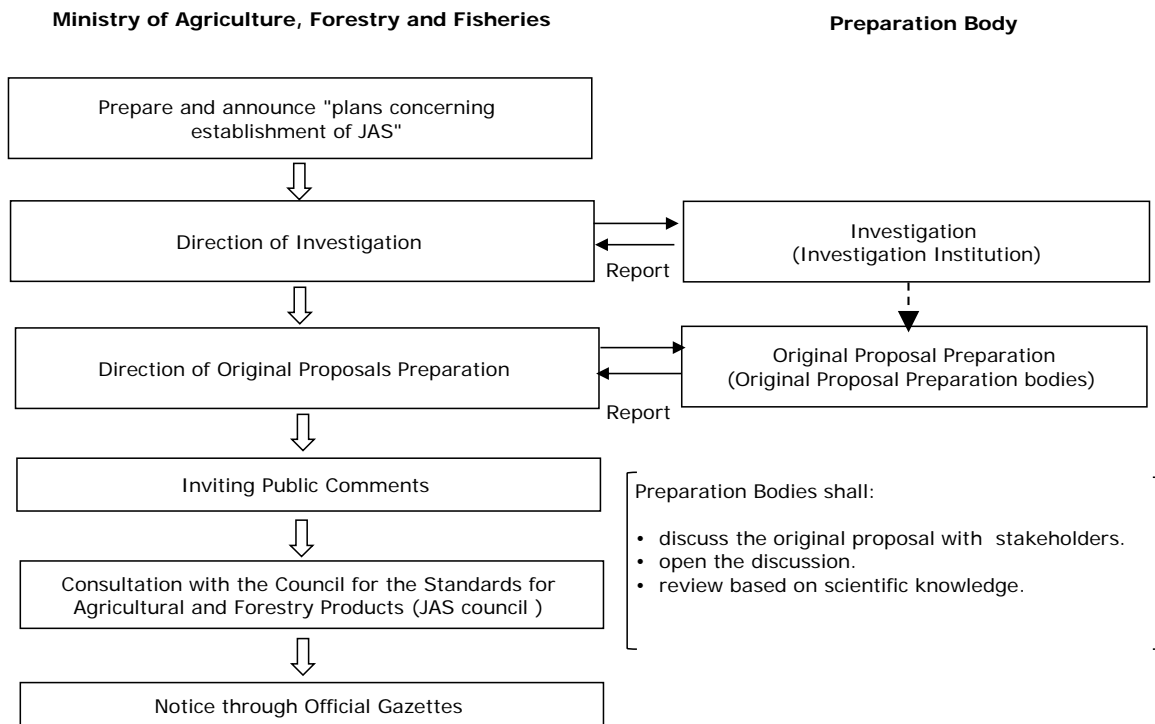
<sup>22</sup> For further details see WTO document WT/TPR/S/243/Rev.1, 2 May 2011.

**Chart 3.4 Flowchart of JIS developing process**



Source: JISC online information. Viewed at: <https://www.jisc.go.jp/eng/jis-act/flow-dev.html> .

**Chart 3.5 Flowchart of JAS developing bodies**



Note: JAS Council consists of consumers, producers and academic experts.

Source: Information provided by the authorities.

3.44. Overseas manufacturers of electrical and consumer products may undergo conformity assessment and certification conducted in foreign countries by foreign registered conformity assessment bodies, in accordance with relevant laws (e.g. the Electrical Appliance and Material Safety Act and the Consumer Product Safety Act). Additionally, under the provisions of the High

Pressure Gas Safety Law, some cylinders and designated equipment for high pressure gas made by foreign manufacturers are allowed to omit some inspections if the manufacturers are registered with the government. Japan accepts test data on chemical products developed in other countries based on OECD Test Guidelines and OECD GLP principles and the Decision of the OECD Council concerning the Mutual Acceptance of Data in the Assessment of Chemicals.<sup>23</sup>

3.45. The METI has designated 23 inspection bodies (as in 2013), of which seven are foreign. The designated inspection bodies include: eight bodies under the Consumer Product Safety Act, 11 under the Electrical Appliance and Material Safety Act, 2 under the Law Concerning the Securing of Safety and Optimization of Transaction of Liquefied Petroleum Gas, and two under the Gas Utility Industry Law.

3.46. Japan is a member of the ISO, ITU, the International Electrotechnical Commission, the International Accreditation Forum, the Bureau international des poids et mesures, the Organisation internationale de métrologie légale, and the International Laboratory Accreditation Cooperation as well as several regional standards and accreditation bodies.

### 3.1.8 Sanitary and phytosanitary measures

3.47. The main changes introduced since 2013 to the legal framework on SPS measures in Japan include the following:

- Regulations under the Plant Protection Act amended in 2013. Changes included: updating the quarantine pest list, the non-quarantine pest list, the table of pest/plant/area combinations subject to: (a) inspection at growing site in exporting countries, (b) import prohibition, and (c) special phytosanitary measures to be carried out in exporting countries.<sup>24</sup>
- The provisional maximum residue limits (MRLs) for pesticides in feeds, established in 2006 under the Enforcement Ordinance of the Standards of Feed and Feed Additives, were recently revised by the MAFF.<sup>25</sup>

3.48. The main laws for implementing the SPS Agreement in Japan, together with the agencies responsible, are listed in Table 3.5.

3.49. The MAFF, the MHLW, and the Food Safety Commission continue to be responsible for Japan's SPS measures (Box 3.2). Japan's enquiry point and national notification authority under the SPS Agreement remains the Standards Information Service within the International Trade Division of the MOFA's Economic Affairs Bureau.<sup>26</sup> The procedure for establishing SPS measures also remained unchanged during the review period.

3.50. Up to October 2014, Japan had made some 386 notifications, 108 since 1 January 2011 (including corrigenda and revisions) being made to the SPS Committee. Japan has raised its concerns about measures maintained by several Members on import restrictions related to radionuclides, while several other Members have raised or supported concerns about measures maintained by Japan on import restrictions related to foot-and-mouth disease.<sup>27</sup>

3.51. According to the authorities, SPS measures applied by Japan are based on the relevant international standards. Where such relevant international standards do not exist, SPS measures are based on scientific risk assessment, in accordance with the WTO SPS Agreement. Additionally, the authorities state that, regarding food safety issues, the Japanese Food Safety Commission publishes the result of the risk assessments.

<sup>23</sup> Based on the Chemical Substances Control Law.

<sup>24</sup> MAFF; and WTO documents G/SPS/N/JPN/316, 28 June 2013; G/SPS/N/JPN/316/Corr.1, 23 July 2013; and G/SPS/N/JPN/316/Add.1, 11 March 2014.

<sup>25</sup> WTO documents G/SPS/N/JPN/321, 16 August 2013; and G/SPS/N/JPN/330, 20 January 2014.

<sup>26</sup> WTO document G/SPS/ENQ/26, 11 March 2011.

<sup>27</sup> WTO SPS Information Management System, <http://spsims.wto.org>.

**Table 3.5 Principal laws on SPS measures**

Legislation/Agency	First passed	Last amended	Purpose
Food Sanitation Act MHLW, Consumer Affairs Agency	1947	2014	Applies to food and additives, and containers and packaging.  The Act provides for the setting and application of standards on food additives as well as inspections by the Minister of Health, Labour and Welfare of establishments.
Food Safety Basic Law Consumer Affairs Agency, Food Safety Commission	2003	2013	Aims to promote policies to ensure food safety by: establishing basic policy principles; clarifying responsibilities of national and local governments, and food-related business operators and the roles of consumers; and establishing basic direction for policy formulation.
Act on Standardization and Proper Labelling of Agricultural and Forestry Products MAFF, Consumer Affairs Agency	1950	2013	Applies to foods, drinks, oils, and fats as well as other agricultural, forestry, livestock and fishery products and products made from them except liquors, drugs, and cosmetics.  The Act provides the legal basis for the Japanese Agricultural Standard (JAS) and criteria for adopting standards, quality grading, labelling, registration of certifying bodies, etc.
Act Concerning Safety Assurance and Quality Improvement of Feed MAFF	1953	2007	Aims to contribute to public safety and stable production of livestock products by regulating the production of feeds and feed additives, setting official specifications for feeds, conducting tests of feeds in conformity with official specifications.
Plant Protection Act MAFF	1950	2012	Provides the legal basis for regulations on plant protection including quarantine for local, import and export plants.
Act on Domestic Animal Infectious Diseases Control MAFF	1951	2013	Aims to protect and promote the livestock industry by preventing the outbreak and spread of infectious diseases in domestic animals.

Source: WTO Secretariat on the basis of information provided by the Japanese authorities.

### Box 3.2 Key agencies responsible for SPS measures

#### **Ministry of Agriculture, Forestry and Fisheries Food Safety and Consumer Affairs Bureau**

Responsible for SPS measures relating to animal feed, animals, plants, veterinary drugs, etc.

#### **Ministry of Health, Labour and Welfare**

##### **Department of Food Safety, Pharmaceutical and Food Safety Bureau**

Responsible for administration of food safety including specifications and standards for food, food additives, pesticide residues, animal drug residues, genetically modified foods and food containers, inspection and safety measures for food.

#### **Cabinet Office - Food Safety Commission**

Conducting risk assessment on food and making recommendations to relevant ministries  
Implementing risk communication among stakeholders, e.g. consumers and business operators  
Responding to food-borne accidents and emergencies.

#### **Ministry of the Environment**

Responsible for managing risks to the environment from imports, including from invasive alien species.

#### **Ministry of Foreign Affairs**

Enquiry point and notification authority.

Source: WTO Secretariat on the basis of information provided by the Japanese authorities.

3.52. Regarding food safety measures, in Japan more than 800 pesticides have residues standards and at least 800 food additives are approved for use. According to the authorities, it is very difficult to confirm whether all these substances comply with international standards. While Codex standards are considered in MHLW's risk management, only additives that have been reviewed by the Food Safety Commission and approved by MHLW may be used in food and beverages sold in Japan. This approach is commonly applied not only for food additives but in the setting of all types of food standards.



3.53. Japan currently imposes import prohibitions on beef and poultry from various countries to prevent the spread of BSE and avian flu.<sup>28</sup> The authorities maintain that the process of lifting the import ban includes technical consultations, consideration of import requirements, and the implementation of risk assessment that takes due account of the World Organization for Animal Health (OIE) code,<sup>29</sup> and involves consultation with relevant domestic industries, consumers, and requesting countries. Japan has allowed beef imports from the United States, Canada, France, the Netherlands, Ireland and Poland under certain conditions based on scientific review by FSC.

3.54. Under the provisions of the Food Sanitation Act, imported food may be exempted from inspection upon importation into Japan if a cargo is inspected by an official inspection organization in the exporting country and bears the result of the inspection. However, items such as bacteria and mycotoxins, whose characteristics may change during transportation, are not exempted. The inspection bodies must be registered with the government of Japan, through the government of the exporting country.<sup>30</sup> As at October 2014, 3,891 such laboratories were registered. In the areas of animal health and plant health, Japan has not accredited any laboratory abroad.

3.55. Japan is a member of the Codex Alimentarius Commission and the OIE, and a contracting party to the International Plant Protection Convention (IPPC). Its contact points are: Director of Plant Quarantine Office, Plant Protection Division, Food Safety and Consumer Affairs Bureau, the MAFF (in relation to IPPC); Director of Animal Health Division, Food Safety and Consumer Affairs Bureau, the MAFF (in relation to OIE); and Director of Office for Resources, Policy Division, Science and Technology Policy Bureau, the Ministry of Education, Culture, Sports, Science and Technology (in relation to Codex). Japan participates in the International Conference on Harmonization toward the harmonization of pharmaceutical standards/regulations.

### 3.1.9 Labelling and packaging requirements

3.56. Food labelling in Japan continues to be governed by the JAS Law and the Food Sanitation Act. Under the provisions of the JAS law, mandatory labelling standards for food are currently in force. These include: cross-category quality labelling standards for processed foods, fresh foods, and genetically modified foods<sup>31</sup>, and individual quality labelling standards.<sup>32</sup> Food that contains additives must also be labelled with the additives included. Imported processed food does not require labelling of place of origin of the ingredients, which is mandatory for domestically-produced processed food. All organic plants and organic processed foods to be sold in Japan must comply with the JAS organic standards and carry the JAS organic mark.<sup>33</sup>

3.57. The Food Sanitation Act requires that any allergenic substances contained in processed foods must be indicated on the labels. At present, it is mandatory to include eggs, milk, wheat, buckwheat, peanuts, crab, and shrimps in the description of ingredients, while it is recommended to include abalone, squid, salmon roe, oranges, kiwi fruit, beef, walnuts, mackerel, salmon, gelatine, soybeans, chicken, pork, matsutake-mushroom, peaches, yams, apples, and bananas.

3.58. Under both the Food Sanitation Act and the JAS Law, genetically modified (GM) foods must be labelled as such. Presently, the list of GM products that need to be labelled comprises eight crops (soybeans, corn, rapeseed, potatoes, cottonseed, alfalfa, papaya, and sugar beet) and

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<sup>28</sup> At the end of October 2014, imports of beef were prohibited from Austria, Belgium, Brazil, the Czech Republic, Denmark, Finland, Germany, Greece, Israel, Italy, Liechtenstein, Luxembourg, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden, Switzerland and the United Kingdom. Imports of poultry were prohibited from 57 countries/regions.

<sup>29</sup> WTO document WT/TPR/M/211/Add.1, 22 May 2009.

<sup>30</sup> Results of examinations based on the AOAC (Association of Analytical Communities) method, which are either endorsed or established by the exporting country, are accepted.

<sup>31</sup> Cross-category quality labelling standards are provided for all processed foods and beverages (except alcohol and medical drugs). Fresh foods must be labelled with their name and place of origin. Processed foods must be labelled with the name, the list of ingredients, the net content, the date of minimum durability or use-by date, instructions for storage, the name and address of the manufacturer, and the country of origin (only for imported products).

<sup>32</sup> Specific labelling requirements are provided as quality labelling standards for individual products depending on their characteristics.

<sup>33</sup> To label food as "organic", certification that the food meets certain JAS requirements is needed from a registered certifying body or a registered overseas certifying body. Only certified food is allowed to be distributed with a JAS organic mark.



33 kinds of designated processed food, mainly made of soybeans or corn; it also includes the newly added papaya and processed foods containing papaya as a main ingredient. The MHLW does not permit imports of GM foods that do not meet its safety requirements.

3.59. During the period under review, changes to the food labelling system under the Food Sanitation Act included a standard for infant foods labelling<sup>34</sup>, while under the JAS Law the quality labelling standards for chilled meatballs, and chilled hamburger steaks was changed in 2012.<sup>35</sup>

### 3.1.10 Government procurement

3.60. Japan is a party to the WTO Agreement on Government Procurement (GPA). During the review period, some changes were made to Japan's legal framework basically to preclude certain parties from participating in open tendering: (i) a party who is prescribed in Article 32, item 1 of the Act to Prevent Unjust Acts by Organized Crime Group Members<sup>36</sup>; (ii) parties who intentionally executed construction work, production or other services with poor workmanship, and/or intentionally overcharge by a false report for contracts where the amount to be paid was decided after the contract.<sup>37</sup>

3.61. To implement the Protocol Amending the WTO Agreement on Government Procurement adopted in March 2012, the relevant Cabinet orders were modified and entered into force on 16 April 2014, the same day as the Protocol came into force in Japan.<sup>38</sup>

3.62. The government of Japan does not have official data on government procurement spending as a percentage of GDP. However, according to an OECD study, in 2011 Japan spent 15.4% of its GDP on government procurement.<sup>39</sup>

3.63. The Account Law and relevant ordinances specify the procurement procedures for central government entities, while the Local Autonomy Law and relevant ordinances stipulate the procedures for local governments. Japan's GPA coverage encompasses all central government entities, all 47 prefectures, 19 designated cities (*shitei toshi*)<sup>40</sup>, and more than 100 public corporations.

3.64. Regarding its central government entities, Japan recently lowered its thresholds for goods and services under the GPA (excluding construction services and architectural, engineering and other technical services) from 130,000 Special Drawing Rights (SDRs) to 100,000 SDRs.<sup>41</sup> The coverage of services for GPA procurement was also recently expanded. In terms of local government procurement procedures, the authorities stated that local government procurement procedures are basically the same as those of the central government, except for Japan's voluntary measures.<sup>42</sup>

<sup>34</sup> WTO document G/SPS/N/JPN/290, 30 January 2012.

<sup>35</sup> WTO document G/TBT/N/JPN/335, 17 June 2010.

<sup>36</sup> With this purpose, Article 70 of the Budget, Settlement of Account and Accounting Regulations (Imperial Ordinance No. 165 of 1947) was revised on 1 April 2013.

<sup>37</sup> Article 71 of Imperial Ordinance No. 165 of 1947 was revised on 1 April 2013.

<sup>38</sup> These included the modification of the Cabinet Order Stipulating Special Procedures for Government Procurement of Products or Specified Services (Cabinet Ordinance No. 300 of 1980), and the Cabinet Order Stipulating Special Procedures for Government Procurement of Products or Specified Services in Local Government Entities (Cabinet Order No. 372 of 1995).

<sup>39</sup> OECD online information. Viewed at: <http://statlinks.oecdcode.org/422013201P1G108.XLS>.

<sup>40</sup> 19 cities are covered under the revised GPA, while 12 are under the GPA 1994. 20 cities have populations over 500,000.

<sup>41</sup> See WTO document GPA/W/328, 22 April 2014.

<sup>42</sup> Japan's voluntary measures include improved market access and the Operational Guideline on Procedures for Government Procurement. In addition, there are voluntary measures pertaining to individual sectors, such as super-computers, non-R&D satellites, computer products and services, telecommunication, and medical technology. Except for these voluntary measures, certain local authorities (prefectures and designated cities) must comply with the GPA.

3.65. In addition to its commitments under the GPA, Japan has chapters on government procurement in nine of its EPAs<sup>43</sup>; the Japan-ASEAN, Japan-Malaysia, Japan-Viet Nam, and Japan-Brunei EPAs do not have such a chapter.

3.66. With regard to the procedures of central government entities, a specific contractor may be selected under the single tendering contract method if, *inter alia*, the nature or objectives of the procurement does not allow competition, or competition is not possible or disadvantageous to the government because of the urgent nature of the contract, or the contract value is small, in accordance with clause 4 or 5 of Article 29.3 of the Accounts Law. The authorities state that single tendering corresponds to "limited tendering" in the GPA.

3.67. The Act for the Promotion of Use of Wood in Public Buildings, issued in 2010, stipulated promotion of the use of wood in the construction of public buildings; the authorities maintain that the law is operated without distinction between domestic and imported goods. In June 2013, Japan eliminated its goal of covering 50% of domestic demand for wood with domestic supply. It currently does not have a wood self-sufficiency rate as a policy objective.

3.68. In accordance with the Basic Policy for Public Procurement of Information Systems adopted in March 2007, in the event that the amount of the contract affecting a design or development is estimated to be not less than ¥500 million, it must be divided in principle. Government organizations are also required to formulate procurement plans.

3.69. The total value of procurement above the threshold level of 100,000 SDRs specified under Japan's voluntary measures on government procurement was approximately ¥1.83 trillion in 2012 (up by 30.0% from 2011).<sup>44</sup> In 2012, open tendering accounted for 68.6% of the total (67.9% in 2011). During the same period, the share of selective tendering in terms of value decreased from 1.5% to 1.2%, and that of single tendering from 30.5% to 30.2%. Procurement of overseas goods and services, supplied by either domestic or foreign suppliers decreased from 7.9% to 6.0% in terms of value. Procurement of foreign goods amounted to 10.3% of the total in 2012, compared with 13.7% in 2011 (Table 3.6).<sup>45</sup> Procurement from foreign suppliers increased from 3.1% in 2011 to 3.2% in 2012 in contract terms, but decreased from 3.1% to 3.0% in value terms during the same period. The shares of foreign suppliers in contracts resulting from open and single tenders, respectively, were 1.5% and 4.4% in 2012 (1.4% and 4.8% in 2011). As at 10 May 2014, 66,895 firms (of which 267 were either wholly or partially owned by foreigners) have central-government-wide unified qualification for participating in tendering contracts for, *inter alia*, manufacturing, sales of products, and offers of service.

3.70. Open tendering is the norm in Japan's government procurement. However, for procurement contracts between the government and a Cooperative Association or Federation of Cooperative Associations of small and medium enterprises (SMEs), the government may use limited tendering procedures, in line with the Cabinet Order Stipulating Special Procedures for Government Procurement of Products or Specified Services (Government Ordinance No. 300 of 1980). Procurement from SMEs is "encouraged" under the Law on Ensuring the Receipt of Orders from the government and Other Public Agencies by Small and Medium Enterprises (enacted in 1966); under the Law, the government, local authorities, and other public agencies must endeavour to expand procurement opportunities for SMEs, by way of, *inter alia*, providing information on procurement plans. Nonetheless, no tendering is reserved exclusively for SMEs. These laws and regulations apply equally to domestic and foreign SMEs.

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<sup>43</sup> Japan's EPAs with Chile, India, Indonesia, Mexico, Peru, Philippines, Singapore, Switzerland, and Thailand have chapters on government procurement.

<sup>44</sup> For details of Japan's voluntary measures on government procurement, see the Prime Minister of Japan and his Cabinet online information. Viewed at: <http://japan.kantei.go.jp/procurement/2013/ch/1-0FY2013ch1-0.pdf>. Procurement for public works (including architectural, engineering and other technical services) is excluded from the measures. Procurement by sub-central government entities is also excluded.

<sup>45</sup> Foreign suppliers are defined under the Japan's voluntary measures on government procurement as a "corporation in which approximately more than 50% of shares are owned by foreign investors/capital".

**Table 3.6 Procurement by product and by origin, 2011 and 2012**

(¥100 million and %)

	Products	2011		2012	
		Total value	Foreign share	Total value	Foreign share
1	Products from agriculture, and from agricultural and food processing	44.8	0.0	21.5	0.5
2	Mineral products	293.2	30.7	518.8	11.0
3	Products of the chemical and allied industries	30.7	7.8	41.1	0.0
4	Medicinal and pharmaceutical products	555.6	14.2	385.3	18.8
5	Artificial resins; rubber, raw hides and skins; leather; and articles thereof	16.4	0.0	16.1	4.9
6	Wood and articles of wood; paper-making material; paper and paperboard and articles thereof	147.3	0.0	188.5	0.0
7	Textiles and textile articles; thread for spinning and weaving; and articles thereof	80.9	1.4	68.7	2.5
8	Articles of stone, of cement and similar materials; ceramic products; glass and glassware; and articles thereof	4.0	0.0	0.4	0.0
9	Iron and steel and articles thereof	177.8	1.3	170.5	0.1
10	Non-ferrous metals and articles thereof	53.8	13.8	41.3	5.3
11	Power-generating machinery and equipment	22.9	7.7	60.0	5.0
12	Machinery specialized for particular industries	171.2	1.3	84.3	2.2
13	General industrial machinery and equipment	74.5	1.7	112.8	0.8
14	Office machines and automatic data-processing equipment	1,669.1	4.7	2,382.7	3.9
15	Telecommunications and sound-recording and reproducing apparatus and equipment	468.1	3.0	576.2	2.9
16	Electrical machinery, apparatus and appliances, and electrical parts thereof	193.7	6.5	284.6	5.2
17	Road vehicles	299.6	0.6	421.1	1.7
18	Railway vehicles and associated equipment	90.1	56.7	57.9	0.0
19	Aircraft and associated equipment	101.4	54.6	157.6	74.2
20	Ships, boats and floating structures	36.5	0.0	136.3	0.0
21	Sanitary, plumbing, and heating equipment	7.2	0.0	3.5	0.0
22	Medical, dental, surgical and veterinary equipment	613.5	44.3	776.0	25.8
23	Furniture and parts thereof	49.4	0.0	54.5	0.0
24	Scientific and controlling instruments and apparatus	874.3	28.8	1,384.2	20.1
25	Photographic apparatus and equipment, optical goods, and clocks	17.6	9.5	22.7	3.5
26	Miscellaneous articles	1,117.9	5.3	1,059.8	5.9
	<b>Total</b>	<b>7,211.4</b>	<b>13.7</b>	<b>9,026.5</b>	<b>10.3</b>

Source: Information provided by the Japanese authorities.

3.71. Most cases of proven infringement of Japan's Antimonopoly Act (AMA) continue to involve bid-rigging related to public works. During 2012-13, one case of bid-rigging involving government officials was made known to the public. In addition, seven cases of disturbance of biddings by procurement officials were criminally charged in 2012 under Article 8 of the "Act on Elimination and Prevention of Involvement in Bid-Rigging etc. and Punishments for Acts by Employees That Harm Fairness of Bidding etc." The Act for Promoting Proper Tendering and Contracting for Public Works defines major policy instruments for preventing bid-rigging and other improper actions. As regards Japan's bid-challenge procedures, complaints about procurement procedures by the central government and public corporations are processed by the Office for Government Procurement Challenge System (CHANS) and considered by the Government Procurement Review Board (GPRB). The Council on Government Procurement Review has decided that in principle the procuring entity should follow the recommendations of the GPRB. Five complaints have been filed since 2011.<sup>46</sup> Each local government covered by the GPA has its own review body and its own regulation on the structure and administration of its review body. The authorities state that members of the body are selected in line with Article XVIII:4 of the GPA.

## 3.2 Measures Directly Affecting Exports

### 3.2.1 Export procedures and requirements

3.72. According to the World Bank's Doing Business report, in 2014, Japan ranked 20<sup>th</sup> out of 189 countries and territories for ease of trading across borders at a total time of 11 days and a cost of US\$915 for exporting a container (compared to 11 days and US\$880 in 2013), of which

<sup>46</sup> Of these five complaints, one was dismissed and four were upheld. For details, see Cabinet Office online information (in Japanese). Viewed at: <http://www5.cao.go.jp/access/japan/shori-j.html> [14 October 2014].

US\$145 and five days is for documents' preparation and two days and US\$75 for customs' clearance and technical control.<sup>47</sup>

3.73. There have been no major changes to the procedures and requirements for exports since the last review of Japan and most requirements are based on international agreements and/or security as well as gathering statistics. The documents required include the export declaration form (Customs form C-5010), invoices, and other papers as required by specific laws and regulations.<sup>48</sup>

3.74. The principal legislation affecting exports are set out in Table 3.7. In addition, there are several laws applicable to specific groups of products such as the Narcotics and Psychotropics Control Act, the Cannabis Control Act, and the Stimulant Drug Control Act.

**Table 3.7 Principal legislation affecting exports**

Legislation	First passed	Last amended	Purpose
Customs Act	1954	2013	Is the principal legislation covering customs procedures and documentation.
Foreign Exchange and Foreign Trade Control Act	1949	2009	Sets out the legal basis for registration of exporters and the application of export controls in specified circumstances.
Act on Conservation of Endangered Species of Wild Fauna and Flora	1992	2005	Provides legal basis for the Minister of the Environment to draft guidelines on conservation of endangered species, the requirement to have approval for international trade, and other measures for their protection.
Act on Controls on the Illicit Export and Import and Other Matters of Cultural Property	2002		Legal basis for measures in connection with the import, export, and recovery of stolen cultural property in order to ensure proper implementation of the Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property.
Export Trade Control Order	1949	2013	Sets out the products to which export controls apply.
Foreign Exchange Order			Sets out the technologies (including software) to which export controls apply.

Source: Japanese authorities.

3.75. Under the 2011 amendments to the Customs Act, goods manufactured by an AEO can be exported through another business entity without the goods being placed in a customs area. In the two-year period up to April 2014, the number of AEOs increased by 54 to 523 but there are no data on the value or type of goods exported by AEOs.

### 3.2.2 Export taxes, charges, and levies

3.76. There are no export taxes, charges, or levies applied by the government or other public authorities in Japan.

### 3.2.3 Export prohibitions, restrictions, and licensing

3.77. Under the Customs Act, export prohibitions apply to a limited range of products: narcotics and certain other drugs; child pornography; articles which infringe intellectual property rights; and certain articles that constitute unfair competition under the Unfair Competition Prevention Act (essentially related to intellectual property rights as well).

3.78. In addition, the Foreign Exchange and Foreign Trade Control Act provides the legal basis for applying export controls while product lists and detailed operational guidelines are found in secondary legislation, including Cabinet orders, Ministerial orders, etc. The main Orders under the Act are the Export Trade Control Order of 1949 (last amended in 2014) which sets out the goods and their destinations where the permission or approval of METI is required for export, and the Foreign Exchange Order of 1980 (last amended in 2013) which sets out the technologies and

<sup>47</sup> World Bank (2014).

<sup>48</sup> Japan Customs online information. Viewed at: <http://www.customs.go.jp/english/summary/export.htm> [September 2014].

destinations where permission from METI is required for transfer outside Japan. These lists of goods and technologies are updated regularly, as are destinations and end-user lists.<sup>49</sup>

3.79. Japan maintains export controls for security, conservation, and humanitarian reasons, including international commitments such as CITES and Chemical Weapons Convention (CWC) as well as Japan's participation in non-binding arrangements such as; the Wassenaar Arrangement on transfers of conventional arms and dual-use goods and technologies; the Missile Technology Control Regime; the Treaty on the Non-Proliferation of Nuclear Weapons; the Nuclear Suppliers Group; and the Australia Group. For example, METI permission is required for the export of goods and technologies regulated under the International Export Control Conference with the objective of preventing the proliferation of weapons of mass destruction.

3.80. The Trade and Economic Cooperation Bureau in METI is responsible for export control policy and legislation and participation in international export control discussions and negotiations. It is also responsible for issuing export licences and enforcement.

3.81. Most of the products in the lists of goods appended to the Export Trade Control Order and the lists of technologies appended to the Foreign Exchange Order are related to Japan's international commitments or its participation in non-binding arrangements and include a "catch-all" category for products or technologies that could be used in weapons of mass destruction.<sup>50</sup> The Export Trade Control Order also includes exports of several agricultural, fishing, and forestry-related products to all regions where METI approval is required.<sup>51</sup> In these cases, METI is obliged to obtain the consent of the MAFF before granting a licence.

3.82. To obtain an export licence, the exporter must apply to METI with an application form and supporting documents, including an end-use certificate from the end-user. In practice, licences are refused for military weapons and certain materials which can be used in developing weapons of mass destruction. In December 2011, the government announced that it would permit arms exports to partner countries for joint development provided the government of the country-of-destination obtained consent from Japan before any item exported from Japan was transferred to a third country. For dual-use items, licence approval depends on METI's assessment of the risk which is based on the destination and the end-user although, for the "catch-all" category of products a licence is not required for exports to 27 countries.<sup>52</sup>

3.83. For technologies, including software, a licence is required for the transfer of a listed technology from Japan to another country, or for transfer within Japan to a non-resident.

3.84. Normally, each consignment of goods for export under the Export Trade Control Order or technology for transfer abroad under the Foreign Exchange Order requires an individual export licence but there are five different kinds of bulk export licences: for regular exports of less-sensitive goods to some locations; for established trading relationships; for re-exports of certain goods for repair or replacement to some locations; and for repeated exports to an overseas subsidiary.<sup>53</sup>

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<sup>49</sup> METI online information. Viewed at:

[http://www.meti.go.jp/english/policy/external\\_economy/trade\\_control/index.html](http://www.meti.go.jp/english/policy/external_economy/trade_control/index.html) [December 2014].

<sup>50</sup> CISTEC (2012), p. 14.

<sup>51</sup> Articles 2, 4, and 11 of the Export Trade Control Order and Appended Table 2; rows 28 (wheat bran, rice bran, barley bran); 29 (feed mixtures for cattle, pigs, sheep, goats, deer, chickens, and quail); 30 (mycelia of *lentinus edodes*); 32 (logs of *kalopanax pictus*, and *quercus*); and 33 (eels fry) to all regions; and row 34 (frozen baby clams, hard clams and sea mussels) to the United States (under the Shellfish Sanitation Agreement between Japan and the United States).

<sup>52</sup> Argentina, Australia, Austria, Belgium, Bulgaria, Canada, Czech Republic, Denmark, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Republic of Korea, Luxemburg, Netherlands, New Zealand, Norway, Poland, Portugal, Spain, Sweden, Switzerland, United Kingdom, and United States.

<sup>53</sup> CISTEC (2012), pp. 25-26.

### 3.2.4 Export support and promotion

3.85. Japan notified the Committee on Agriculture that it had not provided any export subsidies for FY1995-2013.<sup>54</sup>

3.86. The Japan Bank for International Cooperation (JBIC) and the Nippon Export and Investment Insurance (NEXI) are the official export credits agencies of Japan.<sup>55</sup> According to the authorities, provision of these credits is based on the terms and conditions of the OECD Arrangement on Officially Supported Export Credits.<sup>56</sup>

3.87. NEXI was established in 2001 and took over the export insurance programmes then run by METI. It was established as an incorporated administrative agency under the Act on General Rules for Incorporated Administrative Agencies, and the Trade and Investment Insurance Act. In conducting its business, NEXI provides trade and investment insurance with the objective of breaking-even financially. It offers several insurance products covering different aspects of trade risks as well as investment insurance for Japanese companies. However, export credit insurance represents over 80% of the total underwritten amount which has been relatively stable for the past few years at ¥8.2 to ¥8.6 trillion (Table 3.8).

**Table 3.8 NEXI insurance activity, FY2009-13**

(¥ million)

	2009	2010	2011	2012	2013
Premium income	40,203	39,757	33,378	38,797	31,994
<i>of which</i>					
Export credit insurance					
One year or less	3,866	5,754	5,462	5,025	5,612
More than one year	9,730	9,403	8,611	6,918	7,703
Overseas investment insurance	2,956	2,595	3,177	3,718	4,471
Overseas untied loan insurance	21,425	13,477	10,065	17,924	6,078
Reinsurance	597	1,064	1,528	3,207	3,771
Claims paid	10,441	8,574	8,359	4,416	12,234
<i>of which</i>					
Export credit insurance	9,591	7,346	7,157	3,079	9,675
One year or less	..	..	..	..	..
More than one year	..	..	..	..	..
Overseas investment insurance	0	0	0	0	0
Overseas untied loan insurance	0	0	0	0	0
Reinsurance	137	0	0	0	436
Underwritten amount	8,199,062	8,582,951	8,537,772	8,300,064	8,517,171
<i>of which</i>					
Export credit insurance					
One year or less	2,747,597	3,498,241	3,321,146	3,451,195	3,855,361
More than one year	3,483,858	3,810,662	3,789,341	2,700,699	2,993,984
Overseas investment insurance	213,193	219,229	440,367	530,106	611,679
Overseas untied loan insurance	1,606,754	741,082	549,068	1,369,370	706,030
Reinsurance	25,885	39,998	51,834	83,311	108,365

.. Not available.

Source: NEXI Annual Report 2013.

3.88. In its current form, JBIC was established in April 2012 under the Japan Bank for International Cooperation Act of 2011. It had previously been part of the Japan Finance Corporation although its origins go back to the Export-Import Bank of Japan created in 1950.

3.89. Most of JBIC's lending activities are for overseas investment loans – which represented about three-quarters of the total operations of ¥2,206.1 billion in FY2013. These investments include projects that will deliver raw materials to Japan, projects involving Japanese companies, as

<sup>54</sup> WTO document G/AG/N/JPN/174 of 24 February 2012, 185 of 25 April 2013, 176 of 1 May 2012, 156 of 28 May 2010, etc.

<sup>55</sup> OECD online information. Viewed at: <http://www.oecd.org/tad/xcred/eca.htm> [September 2014].

<sup>56</sup> WTO document WT/TPR/S/276/Rev.1, Chapter 3, para. 94, of 18 June 2013.

well as projects abroad using exports from Japan. JBIC also continues to provide direct loans for exports (Table 3.9).<sup>57</sup>

**Table 3.9 JBIC lending and investments, FY2009-13**

(¥ billion)

	2009	2010	2011	2012	2013
Export loans	97.8	151.2	207.9	126.6	126.2
Import loans	8.2	69.5	172.6	304.3	56.2
Investments	2,193.7	710.3	962.0	3,138.5	1,671.0
Untied loans	344.3	75.8	23.2	293.7	46.0
Equity participation	13.0	19.8	1.5	74.3	97.4
Guarantees	707.9	638.1	228.5	303.2	209.1
<b>Total</b>	<b>3,365.1</b>	<b>1,765.9</b>	<b>1,595.9</b>	<b>4,240.91</b>	<b>2,206.1</b>

Source: JBIC Report on FY2013 JBIC Operations (<http://www.jbic.go.jp/en/information/press/press-2014/0515-21176> [September 2014]).

3.90. JBIC's funding comes from different sources, but are mostly from government accounts or with government guarantees including Government-Guaranteed Foreign Bonds, borrowing from the Fiscal Investment and Loan Program (FILP) and the Foreign Exchange Fund Special Account (FEFSA) (Table 3.10).<sup>58</sup>

**Table 3.10 JBIC funding sources, FY2009-12**

(¥ billion)

	2009	2010	2011	2012
Capital contribution from FILP industrial investment	20.0	35.5	200.0	69.0
Borrowing from FILP fiscal loan	906.6	690.9	201.0	400.0
Borrowing from FEFSA	987.4	323.5	230.4	1,744.9
Government-guaranteed foreign bonds	626.3	463.3	423.2	205.3
FILP agency bonds	70.0	50.0	50.0	0.0
Other (including repayments)	16.7	(244.4)	(6.9)	180.6

Source: JBIC Report on FY2013 JBIC Operations (<http://www.jbic.go.jp/en/information/press/press-2014/0515-21176> [September 2014]).

3.91. JETRO is the official agency responsible for promoting exports through information, research, support for, and participation in, international trade fairs, and other activities to promote exports from, and investment in, Japan. JETRO was originally established in 1958 but now operates as an incorporated administrative agency under the Japan External Trade Organization Incorporated Administrative Agency Act of 2002. JETRO currently has 74 offices around the world.

### 3.3 Measures Affecting Production and Trade

#### 3.3.1 Taxes

3.92. Total tax revenue in Japan in FY2013 was ¥46,953 billion with the biggest contributions from income tax (33% of the total), consumption tax (23%), and corporation tax (22%) suggesting that the tax base is quite narrow although the total for income tax includes capital gains tax (Table 3.11).

3.93. For FY2013 and 2014, the Ministry of Finance has made or proposed a number of changes to the taxes:

- Introducing a new 45% (plus an additional 10% for local taxes) marginal rate for individual income tax for incomes over ¥40 million;
- Introducing a tax exemption for small investments (new investment of up to ¥1 million per year) in special accounts for 10 years;

<sup>57</sup> JBIC (2013).

<sup>58</sup> MOF online information. Viewed at: [http://www.mof.go.jp/english/filp/filp\\_report/zaito2013/index.html](http://www.mof.go.jp/english/filp/filp_report/zaito2013/index.html) [November 2014].



- Extending and improving tax incentives for housing;
- Increasing inheritance tax by reducing deductions and raising the highest marginal rate to 55% while encouraging earlier transfers and business succession;
- Encouraging investments by corporations through relaxed capital allowances and tax credits for production facilities, energy-related facilities, and research and development spending; and
- Abolishing the special corporate tax of 10% one year ahead of schedule. The special corporate tax was introduced at the start of FY2012 for reconstruction after the Great East Japan Earthquake and was abolished end-FY2013.<sup>59</sup>

**Table 3.11 Tax revenue, FY2009-13**

(¥ billion)

	2009	2010	2011	2012	2013 Revised estimate
Income tax	12,913,887	12,984,351	13,476,192	13,992,487	15,530,813
Corporation tax	6,356,407	8,967,688	9,351,426	9,758,311	10,493,718
Inheritance tax	1,349,778	1,250,439	1,474,381	1,503,946	1,574,336
Consumption tax	9,807,541	10,033,311	10,194,597	10,350,429	10,829,301
Liquor tax	1,416,756	1,389,290	1,369,318	1,349,638	1,347,000
Tobacco tax	822,383	907,671	1,031,547	1,017,942	1,037,548
Gasoline tax	2,715,189	2,750,101	2,648,399	2,621,915	2,574,263
Liquefied petroleum gas tax	12,324	11,888	11,301	10,713	10,265
Aviation fuel tax	79,266	74,931	46,247	49,360	52,188
Petroleum and coal tax	486,791	501,932	519,103	566,946	599,473
Promotion of power resources development tax	329,277	349,166	331,379	328,049	328,292
Motor vehicle tonnage tax	635,112	446,541	447,754	396,894	381,356
Customs duty	731,880	785,881	874,227	897,230	1,034,379
Tonnage tax	8,851	9,512	9,681	9,829	9,972
Other	63	70	177	42	122
Stamp revenue	1,067,572	1,024,021	1,046,873	1,077,676	1,126,069
<b>Total for general account</b>	<b>38,733,076</b>	<b>41,486,794</b>	<b>42,832,602</b>	<b>43,931,407</b>	<b>46,952,947</b>

Source: FY2011 and FY2012 Survey of the Settled Amount of Tax and Stamp Revenues. Viewed at:

[http://www.mof.go.jp/tax\\_policy/reference/account/h21.pdf](http://www.mof.go.jp/tax_policy/reference/account/h21.pdf) ,  
[http://www.mof.go.jp/tax\\_policy/reference/account/h22.pdf](http://www.mof.go.jp/tax_policy/reference/account/h22.pdf) ,  
[http://www.mof.go.jp/english/tax\\_policy/account/h2011e.pdf](http://www.mof.go.jp/english/tax_policy/account/h2011e.pdf) ,  
[http://www.mof.go.jp/english/tax\\_policy/account/h2012e.pdf](http://www.mof.go.jp/english/tax_policy/account/h2012e.pdf) , and  
[http://www.mof.go.jp/english/tax\\_policy/account/h2013e.pdf](http://www.mof.go.jp/english/tax_policy/account/h2013e.pdf) .

### 3.3.1.1 Income tax

3.94. There are six brackets for income tax with a top rate (including inhabitants tax) of 40% on taxable income over ¥18 million. A new bracket of 45% for taxable income of more than ¥40 million is to be introduced for 2015. However, about 80% of taxpayers are in lower tax bands and pay a marginal rate of 10% or less.<sup>60</sup>

3.95. Income tax covers ten different categories of income: interest; dividends; real estate; business; employment; retirement; timber; capital gains; occasional; and miscellaneous. However, income from capital gains, interest, and dividends are taxed at 20% while retirement income and income from timber are also treated differently. Income from all ten categories is included under income tax.

<sup>59</sup> MOF (2013b); and MOF (2013a).

<sup>60</sup> MOF (2013c), p. 13.



### 3.3.1.2 Corporation tax

3.96. Corporation tax is charged on worldwide income for domestic corporations (defined as those whose head office is located in Japan – which, under the Commercial Code, means all companies incorporated in Japan). Foreign companies are subject to corporation tax or withholding tax on income from within Japan.

3.97. The corporation tax rate on corporate incomes was reduced from 30% to 25.5% in FY2012, although it has been reported that when other taxes (see local taxes below) are added the total effective tax rate on corporations is about 34.62%. However, only about 30% of corporations have taxable profits.<sup>61</sup>

3.98. An enterprise that undertakes to maintain specified bookkeeping records and documentation and gains approval from the Director of the District Tax Office can file a blue return that entitles it to several concessions including:

- The right to carry forward tax losses for nine years (increased from seven years in April 2012) or carried back to the previous year;
- The authorities may correct the corporation's estimate of income only when errors are found when the accounts are examined. In making corrections to a tax return, the authorities must provide detailed reasons in writing; and
- Special taxation measures such as special depreciation and tax credits as set out in the Special Taxation Measures Law.

### 3.3.1.3 Corporation tax-based incentives

3.99. Tax incentives are used in Japan to encourage investment in specific areas and in specific activities (research and development). In general the tax credit of 8-10% of spending on specified R&D can be counted against corporation tax up to a limit of 20% of corporation tax payable (30% for FY2013-2014) with higher credits available if R&D spending has increased compared to the previous three years. There are also tax incentives to encourage global enterprises to establish R&D subsidiaries or regional headquarters in Japan by reducing taxable income from approved activities by 20%.

3.100. In addition, for FY2011-2015 incentives are available for creating employment, for FY2013-2017 for increasing wages and, for FY2013-2016, for purchases of machinery and equipment under certain circumstances.

3.101. In addition, where qualified companies implement the relevant projects in designated Comprehensive Special Zones for International Competitiveness<sup>62</sup>, they may qualify for preferential treatment of either:

- specially recognized capital allowances (50% of acquisition price of equipment (25% for buildings)) or tax credits (15% of acquisition price of equipment (8% for buildings)) calculated based on the price of assets/buildings acquired between 1 August 2011 and 31 March 2016; or
- a 20% deduction for five years in taxable income from certain business activities conducted based on plans approved by the Prime Minister between 1 August 2011 and 31 March 2016; while
- other incentives exist for Comprehensive Special Zones for Local Revitalization.<sup>63</sup>

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<sup>61</sup> MOF (2013c), p. 15.

<sup>62</sup> Hokkaido, Ibaraki, Tokyo, Kanagawa, Aichi/Gifu/Mie/Nagano/Shizuoka, Kyoto/Osaka/Hyogo, and Fukuoka.

<sup>63</sup> Cabinet Secretariat online information. Viewed at: <http://www.kantei.go.jp/jp/singi/tiiki/sogotoc/> [September 2014].

3.102. Following the 2011 Great East Japan Earthquake, a variety of measures were introduced in severely damaged areas to encourage reconstruction which included tax credits of 10% of salaries plus employee expenses, special capital allowances or tax credits on acquired assets, and a five-year exemption from corporation tax for new enterprises.<sup>64</sup>

3.103. The Act on Special Measures Concerning Taxation of 1957 (last amended in 2014) also includes a variety of tax incentives which include accelerated capital allowances, tax credits, and reduction in taxable income for enterprises in international strategic comprehensive special zones, reduced taxation for income from research and development for approved enterprises and other measures to reduce tax for enterprises in specified areas.

#### 3.3.1.4 Consumption tax

3.104. Consumption tax is charged on the value added principal for asset transfers (defined as sale or lease of assets or services), that is, tax paid on purchases is deducted from tax received for sales and the balance paid to the State. In April 2014, the tax was increased from 5% to 8% and the government intends to increase it again to 10% in April 2017. The tax is charged at the point of transferring goods and providing services or, for imports, when cargo is retrieved from a bonded area. For domestic transactions, an enterprise is required to make an annual transfer to the State of the balance between consumption tax paid on inputs and charged on sales. There are relatively few non-taxable transactions – mainly medical, nursing, and educational services as well as financial transactions – and there are provisions for exemptions for small enterprises (taxable sales of ¥10 million or less). In addition, there are several types of transactions that are exempt from consumption tax including exports, international aviation, and international transport services.<sup>65</sup>

#### 3.3.1.5 Local taxes

3.105. Local taxes payable by enterprises include:

- Inhabitant taxes, which are prefectural and municipal taxes comprised of a per capita rate and a corporate tax rate, where;
  - The per capita rate is computed and levied without regard for income of the enterprise; and
  - The corporate tax rate is assessed based on the corporation tax paid by the enterprise in the current fiscal year (from 1 October 2014) at 3.2-4.2% for a prefecture, and 9.7-12.1% for a municipality;
- Enterprise tax which may be charged by prefectures based on taxable income, paid in capital and value added up to the rates set out in Table 3.12;
- Business office tax for companies with premises larger than 1,000 m<sup>2</sup> and/or more than 100 employees in certain cities at ¥600 per m<sup>2</sup> and 0.25% of total employee remuneration; and
- Fixed assets tax of 1.4% of the value of fixed assets.

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<sup>64</sup> Reconstruction Agency online information. Viewed at: <https://www.reconstruction.go.jp/english/topics/2013/03/special-zones-for-reconstruction.html> [September 2014].

<sup>65</sup> For non-taxable transactions, consumption tax paid on inputs is not deductible, whereas for exempt transactions, consumption tax paid on inputs is deductible from the regular settlement for the tax.

**Table 3.12 Maximum rates of enterprise taxes**

	Tax base	Rate (%)	Rate (%) From 1 Oct. 2014
Capital less than ¥100 million	Net income	5.30	6.70
Capital greater than ¥100 million	Net income	2.90	4.30
	Value added	0.48	0.48
	Paid in capital	0.20	0.20
Electricity, gas supply, and insurance companies	Gross receipts	0.70	0.90

Source: Authorities.

**3.3.1.6 Excise duties**

3.106. Total revenue from all excise duties (Table 3.13) contributed approximately 12% to total tax revenue in FY2013 where gasoline and liquor taxes contributed more than other excise duties combined (Table 3.11). In general, excise duties are charged at point of shipment from the place of manufacture or from the bonded area, although there are provisions for payment at the end of the month following shipment/withdrawal or even later if the tax-payer provides a security. Exports are exempt from excise duties.

**Table 3.13 Excise duties**

Duty		¥
<b>Liquor tax</b>	(¥/kl)	
Sparkling alcohol drinks	220,000	
Low malt beer (25-50% malt)	178,125	
Low malt beer (less than 25% malt)	134,250	
Other	80,000	
Fermented liquor	140,000	
Refined sake	120,000	
Wine	80,000	
Shochu, etc.	200,000	plus 10,000 per 1% alcohol over 20%
Whisky, brandy, spirits	370,000	plus 10,000 per 1% alcohol over 37%
Blended liquor	220,000	plus 11,000 per 1% alcohol over 20%
Sake compound	100,000	
Mirin	20,000	
Sweet wine or liqueur	120,000	plus 10,000 per 1% alcohol over 12%
Powdered liquor	390,000	
<b>Tobacco taxes</b>		
General rate		
Tobacco tax		5,302 per 1,000 cigarettes
Special tobacco tax		820 per 1,000 cigarettes
Reduced rate (for 3 <sup>rd</sup> grade tobacco) <sup>a</sup>		
Tobacco tax		2,517 per 1,000 cigarettes
Special tobacco tax		389 per 1,000 cigarettes
<b>Gasoline tax</b>		48,600 per kl
<b>Liquefied petroleum gas tax</b>		17.5 per kg
<b>Aviation fuel tax</b>		18,000 per kl
<b>Petroleum and coal tax</b>		
Crude petroleum		2,540 per kl
Natural gas		1,600 per tonne
Coal		1,140 per tonne
<b>Local gasoline tax</b>		5,200 per kl
<b>Motor vehicle tonnage tax<sup>b</sup></b>		
<b>3 year inspection certificate</b>		
Passenger vehicles	Private	12,300 per 0.5 tonne or part thereof
Light motor vehicles	Private	9,900
Motorcycles	Private	5,700
	Business	4,500
<b>2 year inspection certificate</b>		
Passenger vehicles	Private	8,200 per 0.5 tonne or part thereof
Trucks over 2.5 tonnes	Private	8,200 per tonne or part thereof
	Business	5,200 per tonne or part thereof
Trucks under 2.5 tonnes	Private	6,660 per tonne or part thereof
	Business	5,200 per tonne or part thereof
Light motor vehicles	Private	6,600
	Business	5,200

Duty		¥
<b>1 year inspection certificate</b>		
Passenger vehicles	Private	4,100 per 0.5 tonne or part thereof
	Business	2,600 per tonne or part thereof
Trucks over 2.5 tonnes and buses	Private	3,300 per tonne or part thereof
	Business	2,600 per tonne or part thereof
Trucks under 2.5 tonnes	Private	3,300 per tonne or part thereof
	Business	2,600 per tonne or part thereof
Light motor vehicles	Private	3,300
	Business	2,600
Motorcycles	Private	1,900
	Business	1,500
<b>Vehicles not needing inspection certificate</b>		
Two wheeled	Private	4,900
	Business	4,100
Other	Private	9,900
	Business	7,800
<b>Promotion of power-resources development tax</b>		375 per 1,000 kW/h

- a The reduced rate of tobacco tax applies to a limited number of brands of 3<sup>rd</sup> grade cigarettes (MOF online information. Viewed at: [http://www.mof.go.jp/tax\\_policy/summary/consumption/127.htm](http://www.mof.go.jp/tax_policy/summary/consumption/127.htm) [November 2014]), all of which are owned by Japan Tobacco.
- b Motor vehicle tonnage tax is payable at each inspection.  
 Personal cars and motorcycles: the first inspection at 3 years and at 2 year intervals thereafter.  
 Personal light trucks: inspection every 2 years.  
 Personal trucks: the first inspection at 2 years with an inspection each year thereafter.  
 Business cars: an inspection every year.  
 Special vehicles: an inspection every 2 years.

Source: Ministry of Finance, Tax Bureau (2014).

### 3.3.1.7 Tax treaties

3.107. Japan has, or is a party to, 62 tax conventions applicable with 85 jurisdictions, including other signatories to the Convention on Mutual Administrative Assistance in Tax Matters (Table 2.4).

### 3.3.2 Subsidies and support

3.108. Support given to agriculture (section 4.1.2.3), fisheries (section 4.2.3.4), maritime services (section 4.6.1) is detailed in other sections of this report. Support for exports and provided through taxation measures is detailed above.

3.109. The last notification to the Committee on Subsidies and Countervailing Measures under Article XVI:1 of GATT 1994 and Article 25 of the Agreement on Subsidies and Countervailing Measures includes a list of 55 different schemes with another two (for fisheries) in a supplemental notification.<sup>66</sup> The schemes covered by the notification are primarily for small crafts, minerals and fuels, and agriculture and fisheries for the period FY2009-11. For non-agricultural and non-fisheries subsidies, subsidies for loans for purchasing petroleum and LPG for stockpiling by private companies accounted for ¥556 billion out of a total of ¥708 billion while minerals-related subsidies accounted for most of the remainder.

3.110. The FY2014 Subsidy Program for Projects Promoting FDI, Site Location and Regional Development in Japan provides for subsidies for survey design for buildings, facility costs, equipment costs, and facility lease fees. The subsidies rates are up to one-half for SMEs and one-third for other enterprises up to a limit of ¥500 million.<sup>67</sup>

3.111. Several other programmes also exist to support small and medium enterprises. These programmes were expanded in FY2013 to include, *inter alia*, projects to support manufacturing (FY2013 budget of ¥11.9 billion), and support for business creation (¥4.8 billion), in addition to existing programmes which included direct support for financing (¥26.5 billion). However, most support in FY2013 was focused on reconstruction after the Great East Japan Earthquake. In addition to direct support, SMEs also qualify for loans from public financial institutions and loan

<sup>66</sup> WTO document G/SCM/N/253/JPN of 8 July 2013, Suppl. 1 of 17 March 2014.

<sup>67</sup> JETRO (2014).

guarantees: at end FY2012, out of a total value of outstanding loans of ¥240 trillion, 9.5% was from public financial institutions and another 13.6% was guaranteed.<sup>68</sup>

3.112. In March 2014, it was reported that METI would start providing subsidies for energy storage systems (lithium-ion batteries). The subsidies would be available for households (up to ¥1 million) and commercial enterprises (up to ¥100 million) with a total budget of ¥10 billion.<sup>69</sup> Another report also stated that the government intended to introduce a subsidy for vehicles powered by fuel cells at ¥2 million per vehicle with further support in some prefectures for local purchases.

### 3.3.3 State-owned enterprises<sup>70</sup>

3.113. As in other countries, in Japan there are some enterprises which the State or a public authority wholly or partly owns or controls which provide services or goods to businesses or the public. In some cases, these goods or services could be provided by the private sector, but for a variety of reasons, including market failure, the private sector may not offer adequate coverage or may not be involved at all.

3.114. At the State level, many of these agencies are incorporated administrative agencies. These are agencies established: "for the purpose of efficiently and effectively conducting affairs and businesses that need to be securely implemented from a public viewpoint, such as the stability of the lives of citizens, society and the economy, and that are, among those that do not need to be directly implemented by the State itself, those that may not necessarily be implemented properly if entrusted to private entities or those that need to be conducted monopolistically by a single entity."<sup>71</sup> The system of incorporated administrative agencies was introduced in 2001 as part of the Central Government Reform of Japan to separate the functions of policy and legislation on one side and implementation on the other. Most incorporated administrative agencies were established under the Act on General Rules of Incorporated Administrative Agencies of 1999 plus a law specific to the agency in question (e.g. NEXI) was established under the Act on General Rules for Incorporated Administrative Agencies of 1999 and the Trade Insurance and Investment Act of 1950). In some cases entities equivalent to incorporated administrative agencies have been established under specific laws (e.g. the National University Corporation established under the National University Corporation Act of 2003).

3.115. As at November 2014, there were 98 incorporated administrative agencies in Japan. Many are engaged in research, and some carry out official functions usually reserved for the State, such as national archives and national statistics. However, some of them appear to be engaged in delivery of goods and services which the authorities believe would not be adequately provided by the private sector. These include some of the functions of NEXI (section 3.2.4), the Agriculture Livestock Industries Corporation (ALIC) (section 4.1.2.3, which has been notified to the WTO as a state trading enterprise), and the Japan Housing Finance Agency (JHF). A full list of incorporated administrative agencies is in Table A3.2.

3.116. In addition, there are other state-owned agencies which are not classed as incorporated administrative agencies, such as Japan Post Holdings Co. Ltd, and some offices in certain ministries are involved in commercial activities, such as the MAFF which imports rice, wheat, and barley.

3.117. Japan has notified four entities as state trading enterprises under Article XVII of GATT 1994 and the Understanding on the Interpretation of Article XVII (Table 3.14).<sup>72</sup>

<sup>68</sup> METI (2013b), pp. 10 and 12.

<sup>69</sup> Colthorpe A. (2014).

<sup>70</sup> State-owned enterprises are not necessarily state-trading enterprises in the sense of Article XVII of GATT 1994 or the Understanding on the Interpretation of Article XVII.

<sup>71</sup> Article 2, Section 1, Act on General Rules for Incorporated Administrative Agencies of 1999.

<sup>72</sup> WTO document G/STR/N/15/JPN of 11 July 2014.

**Table 3.14 State trading enterprises notified to the WTO under Article XVII**

Agency	Role	Trade-related activities
Japan Tobacco Inc.	JT is mainly engaged in the manufacture and sale of tobacco products, prescription drugs, beverages and processed foods. It has a monopoly on tobacco production in Japan.	JT purchases all the leaf tobacco produced by domestic tobacco cultivators who enter into contracted purchase agreement with JT.
Ministry of Health, Labour and Welfare (MHLW)	Supply of opium for medical and scientific purposes, as well as to conduct necessary control over the cultivation of opium poppy, and the transfer, receipt and possession and other relevant activities concerning opium and poppy straw.	MHLW carries out all imports and purchases all domestic production of opium and poppy straw. There are no exports.
Ministry of Agriculture, Forestry and Fisheries (MAFF)	MAFF can import rice, wheat and barley, and can export rice when particular necessity exists, based on the Law for Stabilization of Supply-Demand and Price of Staple Food.	Almost all imports of rice, wheat, and barley are carried out by MAFF. In FY2011-13, MAFF purchased limited quantities of domestic rice production as a public stock against a possible supply shortage and did not purchase domestic production of wheat and barley.
Agriculture and Livestock Industries Corporation (ALIC)	ALIC, as a state trading enterprise, imports designated dairy products to ensure proper and smooth operation of the system to stabilize supply/demand and price of the designated milk products.	ALIC's role as an importer of dairy products declined in the period 2011-13, although it still imported over 25% of whey and butter in 2013 and recommenced imports of SMP. It exported nothing nor bought any domestic production.

Source: WTO document G/STR/N/15/JPN of 11 July 2014.

3.118. A 2014 report by the OECD defined a state owned enterprise as an autonomous public entity involved in commercial activities and controlled, directly or indirectly, by central government. Based on this definition, the Japanese authorities identified:

- two minority-owned listed entities (Japan Tobacco and Nippon Telegraph and Telephone Corporation) with a combined market value of ¥10,884 billion,
- eight majority-owned non-listed enterprises with a combined market value of ¥14,794 billion, and
- 16 statutory corporations or quasi-corporations with a combined value of ¥12,286 billion.

3.119. Most of these entities are primarily engaged in transportation although the largest, in value terms, was a majority-owned non-listed enterprise in the "other activities" category which was valued at ¥12,448 billion (presumably this is Japan Post Holdings) (Table 3.15).<sup>73</sup>

**Table 3.15 Aggregate data on State-owned enterprises in Japan**

	Minority-owned listed entities		Majority-owned non-listed entities		Statutory corporations and quasi-corporations	
	No.	Market value (¥ billion)	No.	Value (¥ billion)	No.	Value (¥ billion)
<b>Total</b>	2	10,884	8	14,794	16	12,286
Primary sectors					1	27
Finance					6	10,293
Telecoms	1	5,432				
Transport			5	2,298	9	1,966
Other utilities			1	12,448		
Other activities	1	5,452	2	49		

Source: OECD (2014), *The Size and Sectoral Distribution of SOEs in OECD and Partner Countries*, OECD Publishing, p. 40. Viewed at: <http://dx.doi.org/10.1787/9789264215610-en> [September 2014].

3.120. In the context of this trade policy review, the authorities indicated that there are six enterprises in Japan that meet the criteria in Table 3.16 for large (i.e. operating revenue greater than ¥100 billion) commercial entities wholly- or partially-owned or controlled by the State or other public authorities. Some of these entities may have been included in the aggregate data on State-owned enterprises in Table 3.15.

<sup>73</sup> OECD (2014b), p. 10.

**Table 3.16 Large state enterprises, FY2013**

(¥ billion)

Name/operation	Total asset value	Total operating revenue	Total operating profit before/after tax	Government contribution to revenue and/or equity	State/public authority holding
<b>New Kansai International Airport Company Ltd</b> Established in 2012 for the operation of Kansai International Airport and Itami Airport	1,985	127	32/24	4	100% shares
<b>Narita International Airport Corporation Ltd</b> Established in 2004 for the operation of Narita International Airport	859	199	33/20	0	100% shares
<b>Nippon Telegraph and Telephone Corporation</b> Owns all the shares issued by NTT East, NTT West. Required to ensure proper and stable provision of telecommunications services by these companies throughout Japan, including remote rural areas, as well to conduct research relating to telecommunications technologies.	7,302	431	277/279	0	35.65% shares (36.56% voting)
<b>Japan Post Holdings Co. Ltd</b> Owns all the shares issued by Japan Post Co. Ltd	9,711	265	122/145	0	100% shares
<b>Japan Finance Corporation</b> Finance	24,653	788	-36 (excluded from tax)	402	100% shares
<b>Japan Tobacco Inc.</b> JT is mainly engaged in the manufacture and sale of tobacco products, prescription drugs, beverages and processed foods	4,611	2,400	648	0	33.35% shares

Note:

Enterprises which have commercial operations operate in areas in competition with other privately-owned enterprises, or in areas which could be in competition with privately owned enterprises; and the State or other public authority may exert some degree of control over these enterprises:

- through the terms of the law establishing the enterprise;
- by owning all or part of the voting shares; or
- by having the right to assign all or part of the voting shares to particular groups or individuals; or
- have a special right or privilege granted by the State, such as exemptions from competition policy, credit or debit guarantees, or direct or indirect subsidies from the State; and
- have an operating revenue greater than ¥100 billion.

Source: Japanese authorities.

3.121. In addition, there are several other agencies which are involved in commercial activities which are not included in the above list and have operating revenues of over ¥100 billion. These include:

- Tokyo Metro Co. Ltd, which is owned 53.4% by the government and 46.6% by the Tokyo Metropolitan Government, and, in FY2014, had an operating revenue of ¥394 billion and an operating profit of ¥100 billion<sup>74</sup>;
- Japan Petroleum Exploration Co. Ltd (JAPEx) in which METI has 34% of voting rights, had, in FY2014, net sales of ¥277 billion and a net income of ¥29 billion<sup>75</sup>;
- INPEX, in which METI has 18.94% of shares, had, in FY2014, net sales of ¥1,335 billion and an operating income of ¥734 billion.<sup>76</sup> INPEX also has 4.99% of voting rights shares in JAPEx; and
- Japan Railway Construction, Transport and Technology Agency (JRJT) which is wholly-owned by MLIT. In addition to research and promotion of technology relating to transport, JRJT owns JR Hokkaido, JR Shikoku, JR Kyushu, and JR Freight, provides subsidies to some railway and shipping companies, constructs and leases railway lines,

<sup>74</sup> Tokyo Metro online information. Viewed at: <http://www.tokyoMetro.jp/corporate/ir/accounting/index.html> (Japanese) [September 2014].

<sup>75</sup> JAPEx (2014), p. 29.

<sup>76</sup> INPEX (2014), pp. 96 and 135.



and wholly and partly owns shipping vessels. In FY2013 JRTT had gross income of ¥902 billion and net income of ¥19 billion (see also section 4.6.3).<sup>77</sup>

### 3.3.4 Competition policy

#### 3.3.4.1 Recent developments

3.122. The AMA was amended in December 2013, *inter alia*, to abolish the hearing procedure of the Japan Fair Trade Commission (JFTC) for administrative appeals.<sup>78</sup> Once the Act comes into force, any appeal regarding decisions of the JFTC will be subject to the exclusive jurisdiction of the Tokyo District Court, with a panel of three or five judges hearing cases with a view to ensuring expertise and enhancing procedural fairness. The changes made to the AMA also seek to further improve hearing procedures within the JFTC prior to issuing final orders, such as cease and desist orders.

3.123. The independence of the JFTC is maintained under the amended AMA. The JFTC is administratively attached to the Cabinet Office but its chairman and commissioners perform their functions independently and cannot be dismissed against their will during their terms of office. The budget of the JFTC increased from ¥8.8 billion in FY2013 to ¥11.3 billion in FY2014; it had 830 officials in FY2014 (823 officials in FY2013).

#### 3.3.4.2 Exemptions from prohibition of cartels

3.124. Table 3.17 summarizes the exemptions for the prohibition of cartels contained under the AMA and individual laws; 22 practices under 16 laws are now exempt under these provisions.

**Table 3.17 Exemptions under the Anti-Monopoly Act and individual laws**

Relevant ministries and agencies	Legislation	System
<b>1. Exemptions under the AMA (1 law, 3 systems)</b>		
Japan Fair Trade Commission	Section 21	Acts under intellectual property rights
	Section 22	Acts of cooperatives
	Section 23	Resale price maintenance contracts concerning published works
<b>2. Exemptions under various individual laws (15 laws, 19 systems)</b>		
Financial Services Agency	Insurance Business Act	Insurance cartels
	Act on Non-Life Insurance Rating Organization of Japan	Exemptions concerning compulsory automobile insurance and earthquake insurance
Ministry of Justice	Corporate Reorganization Act	Reorganization company's acquisition of its shares
Ministry of Finance	Act on Securing of Liquor Tax and on Liquor Business Associations	Rationalization cartels
Ministry of Education, Culture, Sports, Science and Technology	Copyright Act	Cartels on fees for secondary use of commercial phonograms
Ministry of Health, Labour, Welfare	Act on Coordination and Improvement of Environmental Health Industry	Cartels to prevent excessive competition
Ministry of Agriculture, Forestry and Fisheries	Agricultural Cooperatives Act	Federations of agricultural cooperatives; Agricultural Association Corporation
Ministry of Economy, Trade and Industry	Export and Import Transaction Act	Cartels on export
	Act on the Organization of Small and Medium-Sized Enterprise Association	Joint economic undertakings
	Small and Medium-Sized Enterprise Cooperatives Act	Federations of small business associations
Ministry of Land, Infrastructure, Transport and Tourism	Marine Transportation Act	Maritime transportation cartels (international); maritime transportation cartels (coastal service)
	Road Transportation Act	Transportation cartels
	Civil Aeronautics Act	Aviation cartels (international); aviation cartels (domestic)

<sup>77</sup> JRTT (2014).

<sup>78</sup> On 7 December 2013, the AMA Amendment Bill was approved in the 185<sup>th</sup> extraordinary session of the Diet, and the Enacted Act was promulgated on 13 December 2013. The Enacted Act is expected to come into force in 2015.



Relevant ministries and agencies	Legislation	System
	Coastal Shipping Associations Act	Maritime transportation cartels (coastal service); joint shipping businesses
	Special Measures Act on the Proper Management and Revitalization of the Taxi Business in Specified and Semi-Specified Regions	Cartels on reduction in the number of vehicles

Source: Information provided by the Japanese authorities.

### 3.3.4.3 Holding companies, and mergers and acquisitions

3.125. Chapter 4 of the AMA prohibits mergers and acquisitions if they would cause a substantial restraint of competition.<sup>79</sup> A company must submit a business report to the JFTC, within three months of the end of each business year, if the total assets of the company and its subsidiaries exceed specified thresholds: ¥600 billion for a holding company, ¥8 trillion for a financial company, and ¥2 trillion for other companies.<sup>80</sup> In FY2013, 100 business reports (the same as in FY2011) were submitted under Section 9 of the AMA (33 holding companies). There were no notifications of establishment of new holding companies under Section 9 in FY2013 (none in FY2011).

### 3.3.4.4 International arrangements

3.126. Most of Japan's EPAs provide for each party to take appropriate measures against anti-competitive activities in accordance with its laws and regulations, and to cooperate in controlling anti-competitive activities, e.g. by notifying the other party of enforcement activities, cooperation, coordination, requests for enforcement activities, and consideration of the other party's interests.<sup>81</sup> Japan has three other bilateral cooperation agreements on anti-competitive activities, with Canada, the European Union, and the United States. Furthermore, during the review period the JFTC concluded three memoranda on cooperation with the competition authorities of Viet Nam (28 August 2013), the Philippines (28 August 2013), and Brazil (24 April 2014).

### 3.3.4.5 Enforcement

3.127. Investigations into possible violations of the AMA may be initiated as a result of reports from the general public, detection by the JFTC itself, notifications by the Small- and Medium-Enterprise Agency, or reports by leniency applicants. The AMA provides two types of measures to impose sanctions and thereby deter violations of the Act: administrative measures, such as surcharges and orders to take "elimination measures" (cease and desist orders) and criminal penalties.<sup>82</sup> In addition, to these measures, the AMA allows those affected by specific violations of the AMA to bring private damages actions (Table 3.18).

<sup>79</sup> "Substantial restraint of competition" means a situation where a market structure changes as a result of a merger, and specific companies can control the market by influencing variables such as price, quality, and quantity.

<sup>80</sup> A newly-established company that corresponds to any of these thresholds must submit a notification to the JFTC, within 30 days of establishment.

<sup>81</sup> EPAs with: Chile, Chapter 14; India, Chapter 11; Indonesia, Chapter 11; Malaysia, Chapter 10; Mexico, Chapter 12; Peru, Chapter 12; the Philippines, Chapter 12; Singapore, Chapter 12; Switzerland, Chapter 10; Thailand, Chapter 12; and Viet Nam, Chapter 10. There is no chapter on competition in the EPAs with ASEAN or Brunei Darussalam.

<sup>82</sup> Criminal penalties include imprisonment of up to five years or a fine of up to ¥5 million for private monopolies and unreasonable restraint of trade, and imprisonment of up to two years or a fine of up to ¥3 million for international agreements constituting unreasonable restraint of trade and unfair trade practices, restrictions of the number of members of trade associations, and violations of final and binding decisions by the JFTC. These criminal proceedings may be initiated only after an accusation is filed by the JFTC with the Public Prosecutor General. Appeals are available in the high courts and eventually the Supreme Court.

**Table 3.18 Enforcement of competition policy, 2009-13**

Details	Fiscal year				
	2009	2010	2011	2012	2013
<b>(A) Cease and desist orders</b>					
Number of cases	26	12	22	20	18
Private monopolization	0	0	0	0	0
Cartels	22	10	17	20	17
Price-fixing cartels	5	6	5	1	8
Bid-rigging	17	4	12	19	9
Unfair trade practices	4	2	5	0	1
Commenced hearings	12	8	40	22	12
<b>(B) Surcharge payment orders</b>					
Number of addresses	85	152	280	108	176
Surcharge amount (in ¥ billion)	36.07	72.08	44.25	25.07	30.24
Commenced hearings	13	22	45	25	13
<b>(C) Recently processed investigation cases</b>					
<b>Cases investigated</b>					
Carry-overs from the previous fiscal year	19	22	23	9	13
New cases begun during the current fiscal year	133	143	157	266	137
<b>Total</b>	<b>152</b>	<b>165</b>	<b>180</b>	<b>275</b>	<b>150</b>
<b>Cases processed</b>					
Legal measures					
Cease and desist orders	26	12	22	20	18
Surcharge payment orders <sup>a</sup>	0	0	0	0	0
Sub-total	26	12	22	20	18
Others					
Warnings	9	3	2	6	1
Cautions	69	95	138	208	114
Discontinued cases <sup>b</sup>	26	32	9	28	7
Sub-total	104	130	149	242	122
<b>Total</b>	<b>130</b>	<b>142</b>	<b>171</b>	<b>262</b>	<b>140</b>
<b>Carry-overs to the next fiscal year</b>	22	23	9	13	10
<b>Criminal accusations</b>	0	0	0	1	1

a Surcharge payment orders were made without a recommendation or cease and desist order.

b Discontinued due to lack of evidence of wrong-doing.

Source: Information provided by the Japanese authorities.

### 3.3.5 Intellectual property rights (IPRs)

#### 3.3.5.1 Overview

3.128. The legal framework on IPRs in Japan has remained largely unchanged since its last review although some legislation was amended in 2014. The principal legislation relating to IPRs in Japan is listed in Table 3.19.

3.129. The Intellectual Property Strategy Headquarters (the Headquarters) was established in the Cabinet Secretariat in March 2003 with the purpose of developing measures to fulfil the mandates and to coordinate the work of various governmental authorities responsible for administration and enforcement of IPRs (Chart 3.6).<sup>83</sup>

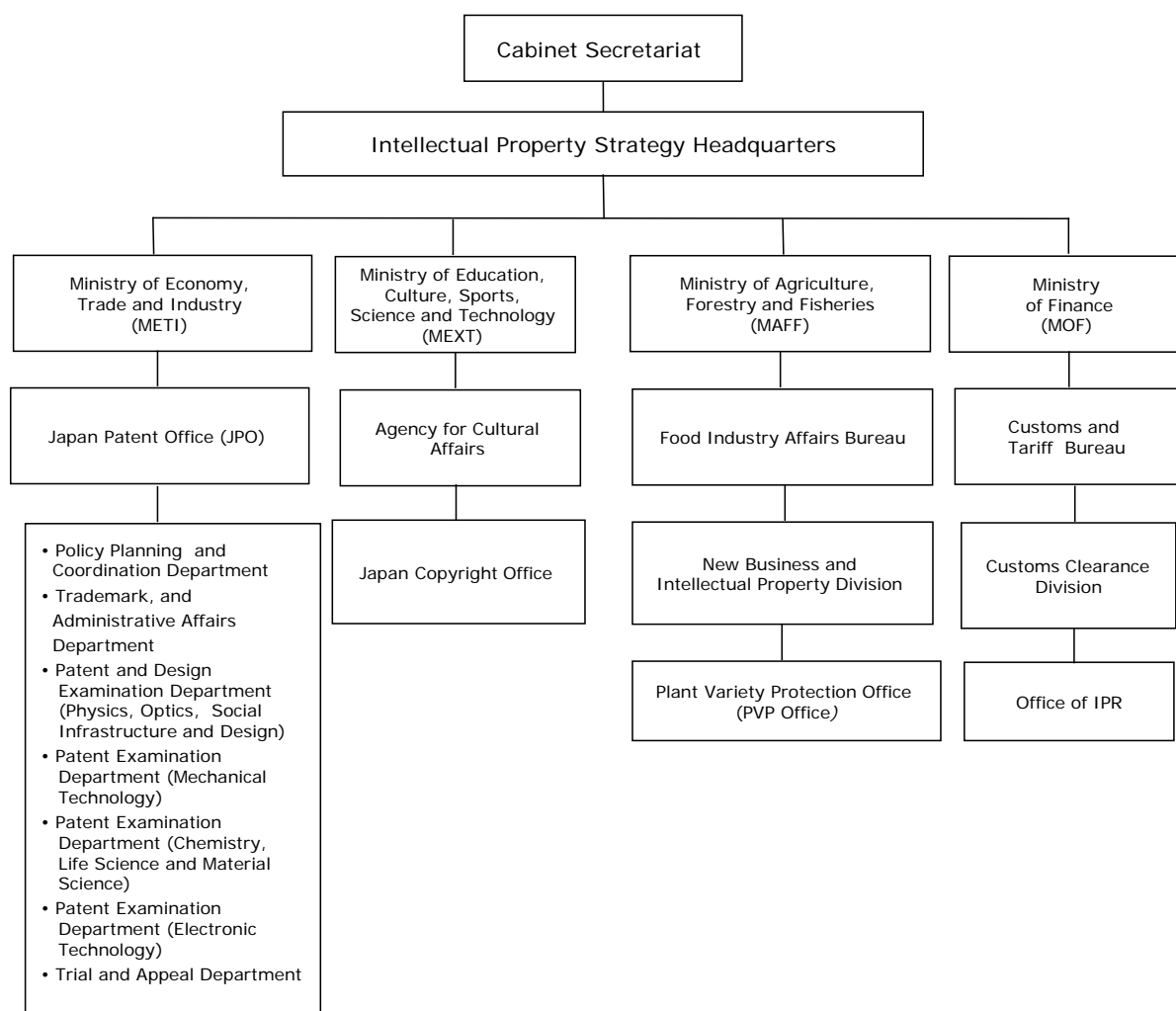
<sup>83</sup> The Headquarters comprises political and expert members. Political members include the Prime Minister, as Director-General of the Headquarters, all Cabinet Ministers, and ten expert members. The ten expert members are generally drawn from industry, law firms, and academia.

**Table 3.19 Principal legislation relating to IPRs**

Legislation	First passed	Last amended
Patent Act	1959	2014
Utility Model Act	1959	2014
Designs Act	1959	2014
Trademark Act	1959	2014
Copyright Act	1970	2014
Law on the Circuit Layout of Semiconductor Integrated Circuits	1985	2014
Plant Variety Protection and Seed Act	1998	2007
Unfair Competition Prevention Act	1993	2012
Law on Exceptional Provisions for the Registration of Program Works	1986	2009
Law on Management Business of Copyright and Neighbouring Rights	2000	2008
Act on Special Provisions for Procedures Related to Industrial Property Right	1990	2014
Patent Attorney Act	2000	2007
Intellectual Property Basic Act	2002	2003
Act on International Applications under the Patent Cooperation Treaty	1978	2014
Law Concerning the Exceptional Provisions to the Copyright Act, required as a consequence of the Enforcement of the Universal Copyright Convention	1956	2000

Note: There are also enforcement laws for several of these acts.

Source: Information provided by the Japanese authorities.

**Chart 3.6 Structure of IPR administration and enforcement**

Source: WTO Secretariat on the basis of information provided by the Japanese authorities.

3.130. On 7 June 2013, the IP Strategy Headquarters issued the Intellectual Property Policy Vision to address shortcomings within the current climate for development of intellectual property by improving registration of intellectual property both in Japan and abroad, the rights from registration, and the protection of those rights. The Vision notes progress made since the Intellectual Property Basic Act was passed in 2003 and outlines the measures that should be taken to continue improvements over the next twenty years around four pillars:

- building up a global intellectual property system for enhancing industrial competitiveness through continuing cooperative relationships with advanced countries and countries with emerging markets so that the Japanese IP system can become a standard. In addition enhancing assistance to Japanese companies to expand into these markets and attract human capital into Japan;
- provide support for enhancing intellectual property management by SMEs and venture companies by raising awareness of the importance of IP within SMEs and providing government support for IP activities and acquisition of rights for their use overseas;
- improving the environment for adjusting to the digital network society by developing platforms for content circulation for data and entertainment: "In order to stimulate the creation of new industries and to continue the development of culture, it is necessary to create a cycle of content reproduction and use by overcoming the conflicting interests of rights-holders and users, and by designing a flexible system that would promote new business creation";
- strengthening soft power focusing on the IP content industry through initiatives such as "cool Japan", improving consumption abroad of Japan cultural and entertainment products through an outbound approach (promotion and information abroad), an inbound approach (establish a cultural centre to draw human capital and technology into Japan), and protection from internal and external counterfeits, and pirated products.<sup>84</sup>

3.131. The IP Strategic Program 2013 identifies specific plans of action and provides concrete proposals for future work, including on standardization and cutting edge digital network.

3.132. Since it joined WIPO in 1975, Japan has acceded to 17 international intellectual property treaties administered by the WIPO; it is currently a member of seven committees.<sup>85</sup> Japan also has an extensive network of bilateral treaties affecting intellectual property.<sup>86</sup>

### 3.3.5.2 Patents

3.133. The process to follow for patent applications is described in Chart 3.7. According to the authorities, the average time from "Requesting for Examination" to "Substantive Examination" (first action pendency) was approximately 11 months at the end of FY2013. The average time from "Requesting for Examination" to "Decision to Grant a Patent or Decision of Refusal" (total pendency) was approximately 30 months in FY2012. The designated period for applicants to submit "Written argument/Amendment" is 60 days (for domestic applicants) or three months (for foreign applicants) after "Notification of Reasons for Refusal". The average period between "Appeal against Decision of Refusal" and "Appeal Decision to Grant a Patent (or of Refusal)" is approximately 14 months. The average period between "Appeal for invalidation" and "Appeal decision of invalidation (or to maintain the Registration)" is approximately 9 months.

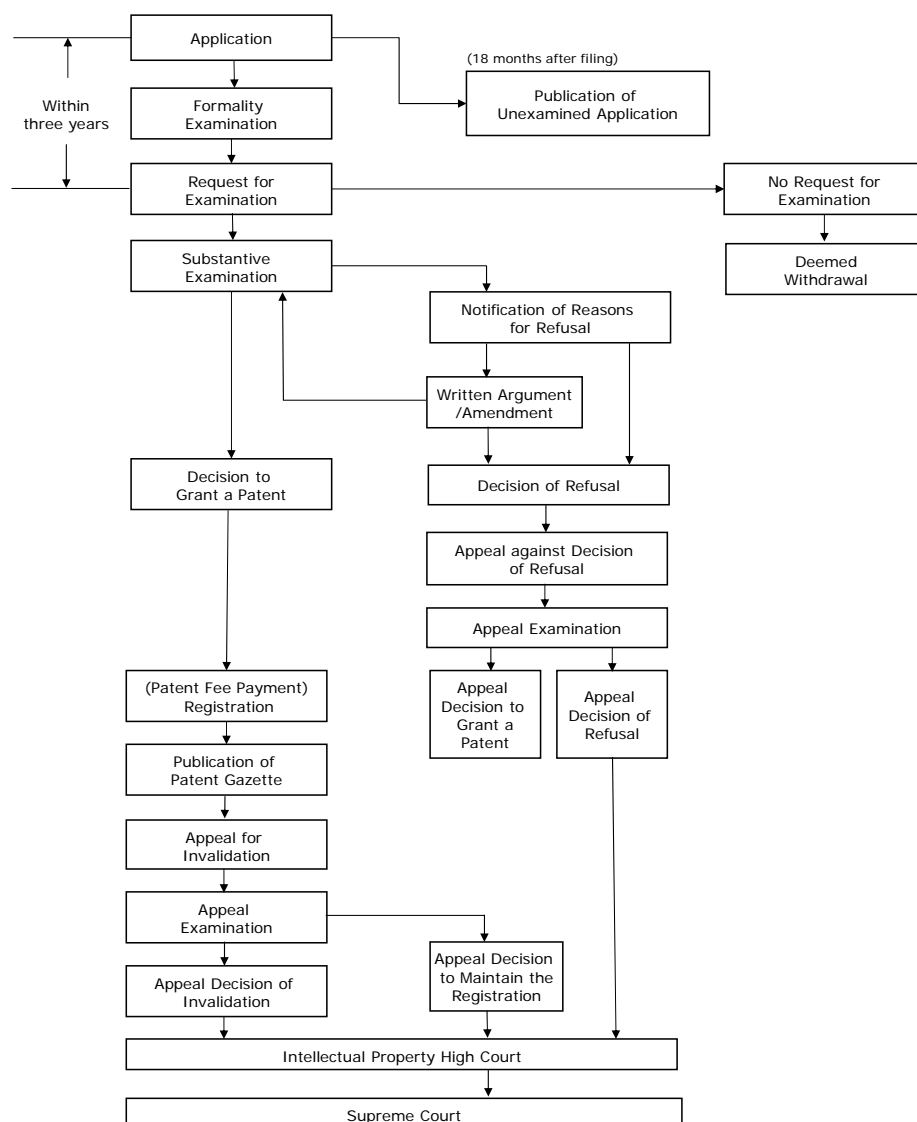
<sup>84</sup> Intellectual Property Strategy Headquarters (2013).

<sup>85</sup> See Table III.10 in WTO (2013).

<sup>86</sup> See WIPO, <http://www.wipo.int/wipolex/en/profile.jsp?code=JP>.

Chart 3.7 Flowchart for patent applications

## Procedures for obtaining a Patent Right



Source: JPO online information. Viewed at: [http://www.jpo.go.jp/tetuzuki\\_e/t\\_gaiyo\\_e/pa\\_right.htm](http://www.jpo.go.jp/tetuzuki_e/t_gaiyo_e/pa_right.htm).

3.134. Under the Industrial Competitiveness Enhancement Act of 2013, the cost of filing patent applications by an individual, a small- or medium-sized enterprise that has commenced business or been established less than ten years or a micro-enterprise, has been reduced, including examination requests, patent annuities (for the first to tenth year) for domestic applications as well as search fee, transmittal fee, and preliminary examination fee for PCT international applications in Japanese. Those companies filing PCT international applications in Japanese will have two-thirds of the international filing fee and handling fee reimbursed by the Japan Patent Office (JPO).<sup>87</sup> The JPO list of fees for IP applications indicates a specific fee for a patent application in a foreign language.<sup>88</sup>

3.135. In 2014, the Patent Act was revised to provide relief measures so that applicants are entitled to extend certain periods required for filing, examination, and other procedures when they have compelling reasons, e.g. following disasters. These measures will also be applied to the same cases covered by the Utility Model Act, Design Act, Trademark Act, and Act on International

<sup>87</sup> Uehara A. (2014).

<sup>88</sup> JPO online information. Viewed at: [http://www.jpo.go.jp/tetuzuki\\_e/ryoukin\\_e/ryokine.htm](http://www.jpo.go.jp/tetuzuki_e/ryoukin_e/ryokine.htm).

Applications under the Patent Cooperation Treaty. In addition, the Act was revised to create a new system for submitting an opposition to a granted patent, so in order to achieve the stability of patent rights earlier.

3.136. Reducing pendency to around 14 months by FY2023 from 29.6 in 2012 remains an objective.<sup>89</sup> In April 2014, the JPO released the Quality Policy on Patent Examination which outlines the fundamental principles of quality management in patent examination in order to grant high-quality patents.<sup>90</sup> Based on this Quality Policy, the JPO is dedicated to achieving the fastest and highest quality examination in the world.

3.137. In order to reduce pendency and reinforce examination capacity, the JPO has increased the number of fixed-term patent examiners and established a more efficient and effective examination system by outsourcing preliminary prior art searches. According to the authorities, the JPO achieved its goal of 11-months for the first action pendency (the average pendency from requesting examination to the substantive examination) at the end of FY2013.

3.138. The number of applications for patents made to the JPO was 328,436 in 2013, compared with 342,796 in 2012 (Table 3.20). In 2013, applications originating from Japan represented the vast majority, but a significant proportion came mainly from the United States, Germany and the Republic of Korea. The number of patents granted has increased steadily reflecting work by the JPO to reduce patent pendency.

**Table 3.20 Patent applications and patents granted, 2005-13**

	2005	2006	2007	2008	2009	2010	2011	2012	2013
<b>Patent applications to JPO by origin</b>									
Japan	367,960	347,060	333,498	330,110	295,315	290,081	287,580	287,013	271,731
Other	59,118	61,614	62,793	60,892	53,281	54,517	55,030	55,783	56,705
<b>Patent applications originating from Japan to all patent offices</b>									
Total applications origin	530,005	517,486	508,263	509,990	463,601	468,417	475,051	490,444	..
Japan									
<b>Patents granted by JPO by origin</b>									
Japan	111,088	126,804	145,040	151,765	164,459	187,237	197,594	224,917	225,571
Other	11,856	14,595	19,914	25,185	28,890	35,456	40,729	49,874	51,508

.. Not available.

Source: Information provided by the Japanese authorities.

3.139. Japan participates in the Patent Prosecution Highway (PPH), whereby applicants may request that their applications determined to be patentable in the Office of Earlier Examination (OEE) undergo accelerated examination in the Office of Later Examination (OLE) based on simplified procedures. There is no fee for using this service.<sup>91</sup>

3.140. The government of Japan also supports SMEs on acquisition of IPRs through the following two initiatives: (i) support through consultations to SMEs about their overseas expansion at a support centre (e.g. IP comprehensive support counters); and (ii) support in terms of fees, subsidizing half the costs SMEs incur in filing foreign applications when they are planning to expand their business overseas, and reducing search fees by two-thirds where the PCT application is filed in Japanese by an individual, a small- or medium-sized enterprise that has commenced business or been established less than ten years or a micro-enterprise.

<sup>89</sup> The examination period excludes cases where the JPO requests an applicant to respond to the second notification of reasons for refusal and other actions by submitting an amendment and other documents within a period stipulated under the law.

<sup>90</sup> JPO Press Release (25 April 2014), *JPO Releases "Quality Policy" on Patent Examination*. Viewed at: [http://www.jpo.go.jp/seido\\_e/s\\_gaiyou\\_e/patent\\_policy.htm](http://www.jpo.go.jp/seido_e/s_gaiyou_e/patent_policy.htm).

<sup>91</sup> The purpose of the PPH is to facilitate an applicant's acquisition of a patent at an early stage worldwide and to enhance the utilization of search and examination results between IP offices so as to reduce the burden of examination and enhance the quality of examination worldwide. The JPO proposed the PPH and enacted it with the United States in 2006 for the first time in the world. Since 2013, Japan has implemented PPH with countries such as Australia, Colombia, Indonesia, Malaysia, Poland and Thailand. As at 1 October 2014, 33 offices participate in the PPH.

3.141. In 2014, the Japan IP High Court made the first decision on the standard essential patent case (Apple vs. Samsung). The Court used a new approach to address this issue after the United States made its decisions.<sup>92</sup>

### 3.3.5.3 Utility models (UMs)

3.142. Under the Utility Model Act, the process for registration of a utility model is similar to that of a patent but without the substantial examination of novelty and inventive step. A utility model application can be converted into a patent application within three years of filing the application. Applications for utility models, designs and trademarks must be made in Japanese.

3.143. In December 2013, the JPO changed the operation related to the description of the report of the utility model technical opinion. Now, when examiners do not cite a specific prior art, they explain in the report either that they could or could not conduct effective search because of clarity of claims. In 2014, under the revision of the Patent Act, and in line with the legal systems overseas, the Utility Model Act was to be revised to take relief measures so that applicants are entitled to extend certain periods required for filing and other procedures when they have compelling reasons, e.g. following disasters.

3.144. Nearly all applications for registration of utility models are accepted (Table 3.21). This is because for all the applications which have passed the formality check, as well as the check of the basic requirements, the registration of the utility model right is instituted without going through a substantive examination of novelty, inventive step, etc.

**Table 3.21 Utility models applications and registrations, 2005-13**

	2005	2006	2007	2008	2009	2010	2011	2012	2013
<b>UM applications to JPO by origin</b>									
Japan	9,421	8,922	8,399	7,717	7,799	6,889	6,305	6,292	5,965
Other	1,966	2,043	1,916	1,735	1,708	1,790	1,679	1,820	1,657
<b>UM registrations granted by JPO by origin</b>									
Japan	8,462	8,523	8,160	7,187	7,361	6,756	5,998	6,221	5,738
Other	2,111	2,070	1,920	1,730	1,658	1,816	1,597	1,833	1,625

Source: Information provided by the Japanese authorities.

### 3.3.5.4 Designs

3.145. The JPO also deals with the examination and registration of design applications under the Designs Act. Japan is now preparing for acceding to the Geneva Act of the Hague Agreement Concerning the International Registration of Industrial Designs. In 2014, Japan's Design Act was revised to improve the provisions for simultaneously filing a design application with multiple offices overseas in one procedure based on the Geneva Act, so as to reduce the cost imposed on applicants.

3.146. Because of the recent difficult economic conditions, design applications have decreased but the level of registrations granted by JPO has increased (Table 3.22). Applicants are becoming more selective in filing applications, and more likely to file applications with high "registrability" in Japan, which causes the high level of acceptance.

**Table 3.22 Design applications and registrations, 2005-13**

	2005	2006	2007	2008	2009	2010	2011	2012	2013
<b>Design applications to JPO by origin</b>									
Japan	35,746	33,094	32,202	29,621	27,674	28,083	26,658	27,934	26,407
Other	3,508	3,630	4,342	3,948	3,201	3,673	4,147	4,457	4,718
<b>Design registrations granted by JPO by origin</b>									
Japan	29,971	27,034	25,228	25,986	25,819	24,458	23,042	24,610	24,272
Other	2,662	2,655	3,061	3,396	2,993	2,980	3,232	3,739	4,016

Source: Information provided by the Japanese authorities.

<sup>92</sup> Japan IP Court online information. Viewed at: [http://www.ip.courts.go.jp/eng/vcms\\_if/25ne10043yosi.pdf](http://www.ip.courts.go.jp/eng/vcms_if/25ne10043yosi.pdf).

### 3.3.5.5 Trademarks

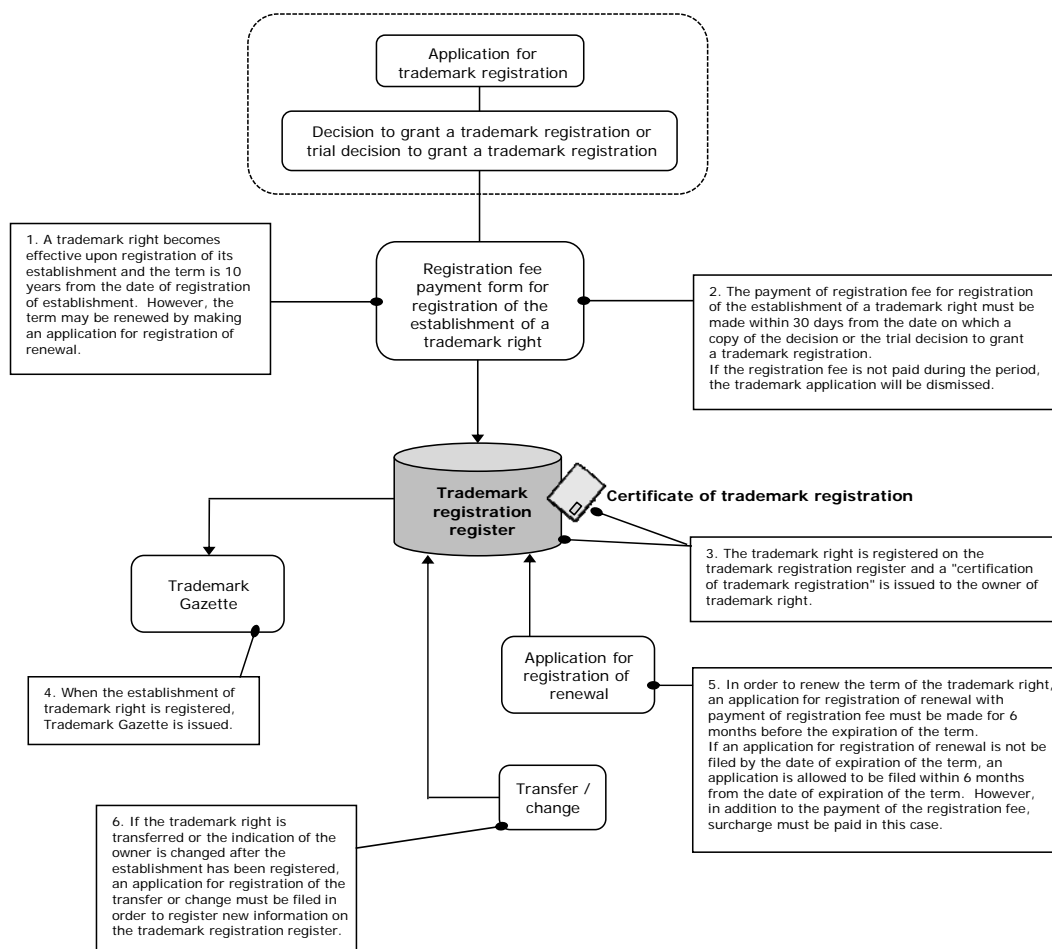
3.147. Protection under the Trademark Act is only available for registered trademarks, although some protection under the Unfair Competition Prevention Act is available for unregistered trademarks. In 2014, Japan's Trademark Act was revised in two respects. First, it was revised to expand the scope of protection by adding non-traditional trademarks such as "colour" and "sound" that are already being protected in some foreign countries. Secondly, the Act is revised to expand the scope of eligible entities that can register the regional collective trademarks by adding associations of commerce and industry, chambers of commerce and industry, and specified non-profit corporations.

3.148. In May 2014, the Trademark Act was revised to protect non-traditional marks (i.e. sound, motion, hologram, color per se, and position) already protected in Europe and the United States. This aims to support companies' diverse brand strategies. The revised Act is expected to come into effect in Spring 2015.

3.149. Chart 3.8 describes the procedure for registration of a trademark.

**Chart 3.8 Procedure for registering a trademark**

#### Trademark



Source: JPO online information. Viewed at:

[http://www.jpo.go.jp/seido\\_e/s\\_qaiyou\\_e/registration\\_trademark.htm](http://www.jpo.go.jp/seido_e/s_qaiyou_e/registration_trademark.htm).

3.150. When a trademark application is filed, it takes approximately 4.3 months to send first notification including reasons for refusal. The period from the payment of registration fee to establishment of a trademark right to the registration of it on the Trademark Register is



approximately two weeks when the payment procedure is made via internet and around one month when it is made in paper form. The period from the establishment of a trademark right to the publication of the Trademark Gazette is around one month. The period from an application for registration of renewal of a trademark right to the registration of the renewal on the Trademark Register is about two weeks when the application is made via internet and about one month when it is made in paper form. It takes 10 days to register a transfer of a trademark right from a former holder to a new holder or a change of the name or the address of a holder on the Trademark Register.

3.151. In 2013, the number of trademark applications and registrations reached 117,674 and 103,399, respectively (Table 3.23).

**Table 3.23 Trademark applications and registrations, 2005-13**

	2005	2006	2007	2008	2009	2010	2011	2012	2013
<b>Trademark applications by origin</b>									
Japan	114,015	111,754	118,155	95,674	90,474	92,163	84,673	95,548	92,495
Other	21,761	24,023	25,066	23,511	20,367	21,356	23,387	23,462	25,179
<b>Trademark registrations by origin</b>									
Japan	80,962	88,411	79,836	82,469	88,449	79,338	70,800	77,129	82,736
Other	13,477	15,024	16,695	17,774	20,268	18,442	18,479	19,231	20,663

Source: Information provided by the Japanese authorities.

### 3.3.5.6 Geographical indications (GIs)

3.152. GIs are protected under the Trademarks Act and the Unfair Competition Prevention Act. Additional protection for GIs for wines and spirits, pursuant to Article 23 of the TRIPS Agreement, and for sake, is administered by the National Tax Agency and available under the Law Concerning Liquor Business Association and Measures for Securing Revenue from Liquor Tax through its Labelling Standard Concerning Geographical Indications.

3.153. Japan has no GI registration system. The Commissioner of the National Tax Agency designates places where wines, spirits, and sake are produced if the GI fulfils the fundamental principle, i.e. that the wines and spirits possess specific characteristics in quality or good reputation and place. So far, six GIs have been designated for Japanese liquors, including Iki, Kuma, Ryukyu, Satsuma (spirits), Hakusan (sake) and Yamanashi (wine). The abuse of GIs is dealt with in court, based on the Unfair Competition Prevention Act, on a case-by-case basis.

3.154. In June 2014, the Act for Protection of Names of Designated Agricultural, Forestry and Fishery Products and Foodstuffs was promulgated. The aim is to protect GIs of agricultural products, secure the interest of producers of such products and thereby contribute to the development of the sector, and ensure the interest of consumers. This Act is to enter into force by June 2015.

### 3.3.5.7 Copyright

3.155. In 2012, the Copyright Act was amended on the incidental use of copyright works to strengthen the protection against illegally downloading music or film files, including criminal penalties.<sup>93</sup> In 2012, the Beijing Treaty on Audiovisual Performances was adopted to reinforce the protection of the performers' rights. To accede to the Beijing Treaty and to clarify that not only books published in paper but also electronic books are covered by the right of publication, the Copyright Act was amended in 2014. This amendment will enter into force in 2015.<sup>94</sup>

### 3.3.5.8 Enforcement

3.156. The annual Survey Report on Losses Caused by Counterfeiting for FY2013, continued to show substantial, though declining, losses among the 8,081 enterprises covered in the survey:

<sup>93</sup> Copyright Research and Information Centre online information. Viewed at: <http://www.cric.or.jp/english/index.html>.

<sup>94</sup> With the progress of digitization and networking, the number of electronic books and of pirated copies of published works which are illegally reproduced and uploaded on the internet has been increasing rapidly.

down from ¥125.5 billion in FY2011 to ¥100.1 billion in FY2012 affecting 21.8% of those surveyed.<sup>95</sup> About two-thirds of those surveyed indicated that they had suffered losses in China with a fifth losing in Chinese Taipei.

3.157. The Intellectual Property High Court (IP High Court), a special branch within the Tokyo High Court, *inter alia*, hears suits against appeal/trial decisions made by the JPO, as the court of first instance, and civil cases relating to intellectual property as the court of second instance.<sup>96</sup>

3.158. In 2013, 353 suits against appeal/trial decisions made by the JPO were commenced (413 in 2010) and 429 were terminated (444 in 2010). In the same year, 114 intellectual property appeal cases were commenced (104 in 2010) and 99 were terminated (101 in 2010).

3.159. An individual or enterprise may seek to have imports and exports suspended on the grounds of infringement of the following IPRs: trademarks, copyright and related rights, patents, designs, utility models and PBRs, as well as on the grounds of violation of unfair competition law. The process toward such suspension is initiated upon request for suspension of imports and exports to the customs office or on *ex-officio*. In such cases, the customs official is responsible for determining whether there is such an infringement. For goods already imported or produced in Japan, a lawsuit through the courts of first instance is required or, if the parties agree, arbitration under the Arbitration Centre for Industrial Property. Appeals to decisions by the court of first instance shall be made to the IP High Court regarding cases on a patent right, utility model right, right of layout-designs of integrated circuits or an author's right over a computer programme throughout Japan, as well as other IP cases within the Tokyo High Court jurisdiction.

3.160. Border enforcement plays a pivotal role in preventing IPR-infringing goods from entering and exiting Japan. In FY2013, there were 28,135 cases of seizure/denial of entry at the border due to IPR infringement (against 23,280 in 2011), while the number of items seized or denied entry went from 728,000 in 2011 to 1.1 million in 2012 and 628,000 in 2013 (Table 3.24).

**Table 3.24 Seizure of imports, 2009-13**

Category	Main items	2009	2010	2011	2012	2013
<b>Products concerned</b>		('000 units)				
Shoes	Sports shoes	26	166	137	37	23
Accessories	Necklaces, rings, charms	80	84	85	27	20
Clothing	T-shirts, sweatshirts, jeans	112	45	77	94	82
Bags	Handbags, purses	72	46	54	84	85
Medicine	Medicine	85	40	53	390	43
Household utensils	Thermos bottles, mirrors	28	22	40	3	8
Hats	Hats, caps	23	37	29	11	14
Mobile phones and equipment	Mobile phones, and its coverage	15	11	28	63	90
Clothing equipment	Zippers	65	48	17	13	7
Computer accessories	Computers	14	18	14	30	13
Other	Accessories of bags, CDs, watches, key cases, electronic appliances, etc.	524	114	194	367	243
<b>Total</b>		<b>1,044</b>	<b>631</b>	<b>728</b>	<b>1,118</b>	<b>628</b>
<b>Types of violation</b>		(cases)				
Patent rights		15	9	8	3	2
Utility model rights		0	0	0	0	0
Design rights		88	56	88	79	43
Trade mark rights		21,415	22,994	22,843	26,304	27,975
Copyright (related rights)		423	273	484	322	383
Plant breeders' rights		0	0	1	0	0
Unfair competition		19	1	3	2	19
<b>Total</b>		<b>21,893</b>	<b>23,233</b>	<b>23,280</b>	<b>26,607</b>	<b>28,135</b>

Source: Information provided by the Japanese authorities.

3.161. Japan Customs does not distinguish between seizures made following complaints and on an *ex-officio* basis in statistics. The same procedure is applied after determining whether IP rights are infringed or not.

<sup>95</sup> METI (2014).

<sup>96</sup> WTO (2013).

3.162. Since 2002, Japan has concluded 13 economic partnership agreements (EPA) with its trading partners, mainly in Asia. Most of these EPAs have an IP section, the main purpose of which is to secure adequate, effective, non-discriminatory, and transparent IP protection and enforcement in trade. Moreover, Japan attaches great importance to IP enforcement in various multilateral cooperation fora, such as the WTO TRIPS Council, WIPO, APEC, and OECD.

## 4 TRADE POLICIES IN SELECTED SECTORS

### 4.1 Agriculture

4.1. In 2012, agriculture contributed around 1.02% to GDP, which is about the same as in 2004 (Table 4.1), and 3.6% of total employment in 2013. Although agriculture is a relatively small part of the economy and employment it is important for historical and cultural reasons and, according to the authorities, for food security.

**Table 4.1 Agriculture in the economy, 2004-12**

	2004	2005	2006	2007	2008	2009	2010	2011	2012
GDP total (¥ billion)	503,725	503,903	506,687	512,975	501,209	471,139	482,384	471,311	473,784
GDP agriculture (¥ billion)	5,600	5,134	4,991	4,834	4,743	4,522	4,769	4,544	4,835
Employment total (million persons)	63.29	63.56	63.89	64.27	64.09	63.14	62.98	62.89	62.70
Employment agriculture (million persons)	2.64	2.54	2.50	2.52	2.47	2.44	2.37	2.31	2.24

Source: Statistical Year Books and authorities.

4.2. As a mountainous island nation, relatively little land in Japan is suitable for agriculture: out of a total land area of approximately 377,900 km<sup>2</sup>, 12% is cultivated and a further 0.9% is grassland.<sup>1</sup> The area under cultivation has been declining for some years as land has been withdrawn from production, principally through "dilapidation artificially"<sup>2</sup> which the authorities defined as "the land use transformation that cultivated land has been converted to other uses including construction work and abandonment."

4.3. There have been several changes to the legislation on land ownership since the major reforms of the late 1940s and the provisions of the Land Act of 1952 limiting land holdings to 3 ha were removed in 1970. However, farms remain small and holdings are often fragmented: in 2010 there were 2.5 million farm households with an average size of 1.3 ha often in several different parcels. Of the 2.5 million farm households, 1.6 million were classified as commercial farm households (defined as farms of at least 0.3 ha or annual sales of at least ¥500,000). Commercial farms may then be classified as: part-time and full-time; or as business, semi-business, or side-business. Even commercial farmers farms are usually small in size, although in Hokkaido the majority of the commercial farms are over 10 ha (Table 4.2).<sup>3</sup>

4.4. Several factors account for the small fragmented structure of farms and the relatively low degree of consolidation. The land reforms of the 1940s and the irrigation patterns and labour-intensive nature of rice farming meant that farms were quite productive during that period. However, mechanisation has greatly reduced labour requirements allowing part-time farming while many farmers are reluctant to rent or sell land for farming for social and cultural reasons as well as the opportunity to make large capital gains should the land be rezoned for construction. A high degree of government support and protection for farming has also meant that small-scale farming remains profitable, particularly when supplemented by non-farm incomes. However, the result has been a steadily aging farming population and an inefficient agricultural sector.<sup>4, 5</sup>

4.5. Gross output of agricultural products has been quite stable over the past ten years as, in general, domestic prices and national production have changed very little. Rice remains the most important single product but its production value is less than that of vegetables or livestock (Table 4.3). Rice accounts for about a quarter of gross output, with nearly half of commercial farm households specialized in rice production and well over half of cultivated land under rice production.

<sup>1</sup> MIC (2014), Table 1-6.

<sup>2</sup> MIC (2014), Table 7-8.

<sup>3</sup> MAFF (2014).

<sup>4</sup> Jones RS, Kimura S. (2013).

<sup>5</sup> Godo Y., Takahashi D. (2012).

**Table 4.2 Farm households and average farm size, 2010-13**

		2010	2011	2012	2013
Farm households	'000	2,538	..	..	..
<i>Of which</i>					
Commercial farm households	'000	1,631	1,561	1,504	1,455
<i>Of which</i>					
Full-time	'000	451	439	423	415
Part-time	'000	1,180	1,122	1,081	1,040
Commercial farm households	'000	1,631	1,561	1,504	1,455
<i>Of which</i>					
Business farms	'000	360	..	..	..
Semi-business	'000	389	..	..	..
Side-business	'000	883	..	..	..
Ha cultivated land/household					
Commercial farm households	Ha	1.96	2.02	2.07	2.12
Business farm household	Ha	4.88	5.05	5.18	5.38

.. Not available.

Note: Definitions:

Farm household: operates farming with 10 ares or more of cultivated land or sales of agricultural products of ¥150,000 and over in the previous year.

Commercial farm household: cultivated land under management of 30 ares and over or with annual sales of agricultural products amounting to ¥500,000 and over in the previous year.

Business farm household: commercial farm household where the percentage of agricultural income is more than 50% of the household income, with one and more family members engaged in own farming for 60 days and longer, and under 65 years old.

Semi-business farm household: commercial farm household non-agricultural income is the majority of the household's income, one or more family members engaged in own farming for 60 days and longer, and under 65 years old.

Side-business farm household: farm household with no member engaged in own farming for more than 60 days and under 65 years old.

Full-time farm household: no household member engaged in jobs other than farming.

Source: MAFF (2014), *The 88<sup>th</sup> Statistical Yearbook of Ministry of Agriculture, Forestry and Fisheries (2012-2013)*. Viewed at: [http://www.maff.go.jp/e/tokei/kikaku/nenji\\_e/88nenji/index.html#nse001](http://www.maff.go.jp/e/tokei/kikaku/nenji_e/88nenji/index.html#nse001) [December 2014].

**Table 4.3 Total agricultural production and production of selected products, 2003-12**

	Gross output	Crops		Rice		Vegetables		Wheat		Soya beans	
		(¥ bn)	(¥ bn)	(¥ bn)	('000 tonnes)	(¥ bn)	('000 tonnes)	(¥ bn)	('000 tonnes)	(¥ bn)	('000 tonnes)
2003	8,857	6,460	2,342	7,792	2,097	15,169	..	856	..	232	
2004	8,714	6,183	1,991	8,730	2,143	14,540	..	860	..	163	
2005	8,512	5,940	1,947	9,074	2,033	14,547	..	875	..	225	
2006	8,332	5,818	1,815	8,556	2,051	14,324	..	837	..	229	
2007	8,259	5,720	1,790	8,714	2,089	14,746	..	910	..	227	
2008	8,466	5,820	1,901	8,823	2,111	14,622	..	881	..	262	
2009	8,190	5,590	1,795	8,474	2,085	14,072	..	674	..	230	
2010	8,121	5,513	1,552	8,483	2,249	13,365	..	571	..	223	
2011	8,246	5,639	1,850	8,402	2,134	13,513	..	746	..	219	
2012	8,525	5,879	2,029	8,523	2,190	13,799	..	..	..	..	
		Livestock	Beef cattle	Beef	Milk		Pigs	Pig meat	Hen eggs		
		(¥ bn)	(¥ bn)	('000 tonnes)	(¥ bn)	('000 tonnes)	(¥ bn)	('000 tonnes)	(¥ bn)	('000 tonnes)	
2003		2,329	400	495	694	8,400	467	1,260	345	2,529	
2004		2,458	446	512	688	8,329	519	1,272	387	2,491	
2005		2,506	473	498	676	8,285	499	1,245	435	2,481	
2006		2,453	478	496	649	8,138	498	1,247	401	2,488	
2007		2,479	485	503	636	8,007	523	1,251	402	2,583	
2008		2,585	459	519	660	7,982	579	1,249	450	2,554	
2009		2,547	482	516	703	7,910	512	1,310	421	2,508	
2010		2,553	464	514	675	7,720	529	1,292	442	2,515	
2011		2,551	463	500	658	7,474	536	1,267	451	2,483	
2012		2,588	503	518	687	7,630	537	1,297	420	2,507	

.. Not available.

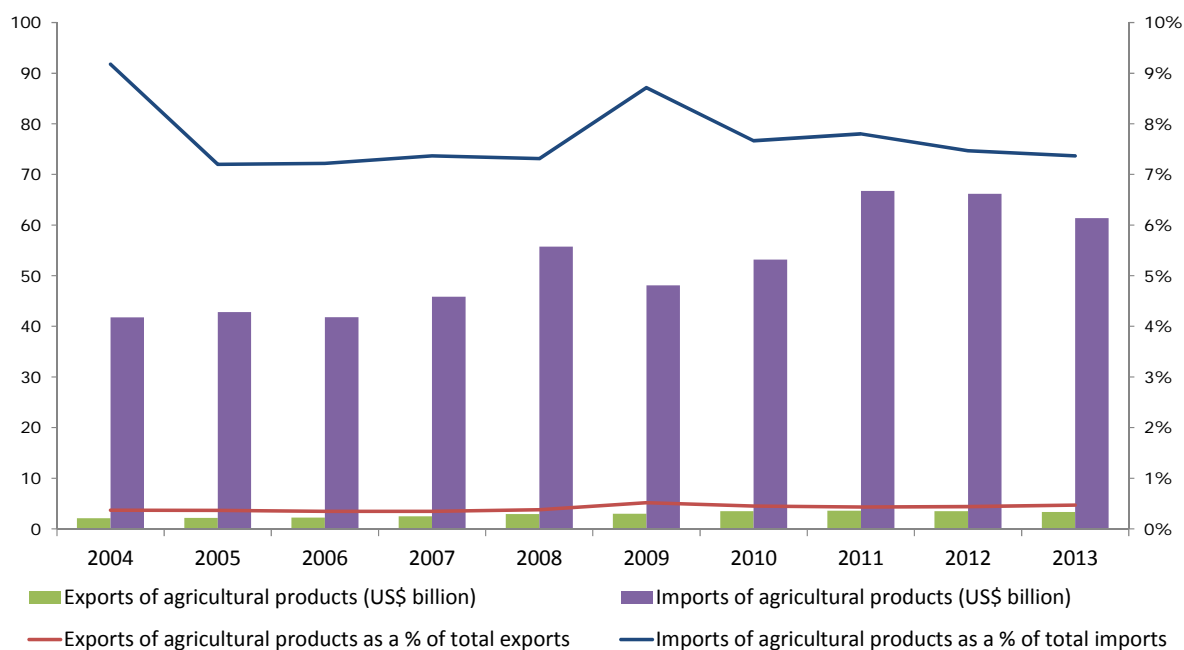
Source: Statistical Year Books and authorities.

#### 4.1.1 Trade

4.6. Japan has a deficit in trade in agricultural goods with imports of over US\$61.4 billion and exports of US\$3.4 billion in 2013.<sup>6</sup> In current U.S. dollar value terms, both imports and exports have increased over the past ten years, but are down compared to their 2011 and 2012 peaks (Chart 4.1).

**Chart 4.1 Trade in agriculture, 2004-13**

(US\$ billion and %)



Source: UNSD Comtrade database.

4.7. Imports of agricultural products are widely spread across many different tariff lines with the top ten products representing less than 50% of total agricultural imports. Although imports in 2013 were lower than the previous two years they were still about 50% higher than in 2006 (in current U.S. dollar terms). Several of the main imported tariff lines are cereals and oilseeds, a significant proportion of which is for processing into food and animal feedstuffs (Table 4.4).

4.8. Exports of agricultural products from Japan tend to be of processed products. Although the overall value of exports has grown over the past few years, performance has been mixed among different tariff lines; for example exports of cigars and cigarettes have been stable in value while declining in volume while exports of bakers' wares and other fermented beverages have increased in both volume and value (Table 4.5).

**Table 4.4 Imports of agricultural products, 2006-13**

HS2002 – Products		2006	2007	2008	2009	2010	2011	2012	2013
<b>Total</b>	US\$ million	41,798	45,852	55,757	48,098	53,203	66,746	66,164	61,383
1005 - Maize	'000 tonnes	16,883	16,628	16,460	16,294	16,188	15,285	14,895	14,401
	US\$ million	2,586	3,843	5,578	3,770	3,956	5,355	5,127	4,750
2402 - Cigars, ... and cigarettes	'000 tonnes	99	92	86	85	78	90	83	80
	US\$ million	3,190	2,989	3,169	3,503	3,511	5,777	5,367	4,103
0203 - Meat of swine, fresh, chilled or frozen	'000 tonnes	725	761	818	703	753	793	779	738
	US\$ million	3,299	3,435	4,164	3,949	4,511	5,225	5,122	3,996
1602 - Other prepared or preserved meat, meat offal or blood	'000 tonnes	534	535	482	503	554	612	656	654
	US\$ million	1,753	1,804	1,930	2,024	2,291	2,855	3,126	2,960
1001 - Wheat and meslin	'000 tonnes	5,337	5,275	5,781	4,703	5,476	6,214	5,970	6,200
	US\$ million	1,280	1,635	3,277	1,448	1,668	2,710	2,156	2,278

<sup>6</sup> For the purposes of this section of the Trade Policy Report, the definition of agricultural product used is that set out in Annex 1 of the Agreement on Agriculture where fish and fish products are taken to include HS2002 Headings 020840, 03, 051191, 1504, 1603, 1604, 1605, and 230120.

HS2002 – Products		2006	2007	2008	2009	2010	2011	2012	2013
1201 - Soya beans	'000 tonnes	4,042	4,161	3,711	3,390	3,456	2,831	2,727	2,762
	US\$ million	1,282	1,663	2,364	1,750	1,834	1,812	1,811	1,883
1205 - Rape or colza seeds	'000 tonnes	2,293	2,154	2,313	2,072	2,344	2,319	2,408	2,461
	US\$ million	717	957	1,570	946	1,164	1,541	1,658	1,682
0901 – Coffee	'000 tonnes	428	396	394	397	417	423	387	464
	US\$ million	1,022	1,067	1,267	1,153	1,406	2,059	1,700	1,586
2204 - Wine of fresh grapes	'000 tonnes	173	174	180	188	201	215	..	463
	US\$ million	1,173	1,253	1,331	1,079	1,173	1,331	1,575	1,582
0201 - Meat of bovine animals, fresh or chilled	'000 tonnes	223	216	199	213	211	213	212	212
	US\$ million	1,267	1,281	1,248	1,157	1,285	1,454	1,515	1,455
0202 - Meat of bovine animals, frozen	'000 tonnes	237	258	259	268	288	304	302	322
	US\$ million	675	767	895	839	1,004	1,190	1,245	1,275

Source: UNSD Comtrade.

**Table 4.5 Exports of agricultural products, 2006-13**

HS2002 - Products		2006	2007	2008	2009	2010	2011	2012	2013
<b>Total</b>	US\$ million	2,226	2,480	2,929	2,999	3,480	3,552	3,512	3,355
2106 - Food preparations n.e.s.	'000 tonnes	21	24	25	23	23	22	22	22
	US\$ million	234	258	303	333	365	376	363	336
2103 - Sauces and preparations	'000 tonnes	69	72	70	69	72	70	69	74
	US\$ million	205	214	239	273	313	326	317	289
2402 - Cigars, ... and cigarettes	'000 tonnes	17	17	18	16	16	16	14	13
	US\$ million	227	249	260	274	297	323	300	228
1905 - Bread, pastry, ... other bakers' wares	'000 tonnes	17	20	20	16	18	16	18	22
	US\$ million	114	133	161	153	183	180	208	218
2202 - Waters with added sugar	'000 tonnes	29	34	43	42	48	43	..	132
	US\$ million	59	70	105	108	136	128	151	127
4103 - Other raw hides and skins	'000 tonnes	64	65	67	71	69	69	70	71
	US\$ million	65	66	103	65	69	113	122	125
1209 - Seeds, fruit, spores, for sowing	'000 tonnes	2	2	2	1	2	1	1	1
	US\$ million	98	99	104	108	123	137	117	119
2206 - Other fermented beverages	'000 tonnes	11	12	13	13	15	16	..	77
	US\$ million	55	63	77	81	101	116	117	112
602 - Other live plants, cuttings, and slips	'000 tonnes	9	21	..	13	..	..	..	..
	US\$ million	23	46	54	51	74	87	105	100
2208 - Alcohol of strength less than 80% vol.	'000 tonnes	8	8	7	9	9	8	..	..
	US\$ million	39	45	53	53	62	72	84	88

.. Not available.

Source: UNSD Comtrade.

## 4.1.2 Agricultural policies

### 4.1.2.1 Legal and institutional framework

4.9. The Ministry of Agriculture, Forestry and Fisheries (MAFF) is responsible for agricultural policy. The Ministry includes several divisions which deal with all aspects of agriculture (as well as forestry and fishing), including trade policy and trade negotiations relating to agricultural products, administering tariff quotas, statistics, domestic market supervision, agricultural insurance, and SPS and TBT measures relating to agriculture, and overseeing and promoting research and development undertaken under the Agriculture, Forestry and Fisheries Research Council.<sup>7</sup>

4.10. In 2013, the government established the Headquarters on Creating Dynamism through Agriculture, Forestry and Fishery Industries and Local Communities which is chaired by the Prime Minister and includes government Ministers. In December 2013, the Headquarters approved the Plan to Create Dynamism through Agriculture, Forestry and Fisheries and Local Communities.

4.11. Agricultural policy is set out in the Food, Agriculture and Rural Areas Basic Plan which is reviewed roughly every five years. The review of the current Plan started in December 2013 and sets out the objectives of doubling incomes in agriculture and rural areas over the next ten years

<sup>7</sup> MAFF online information. Viewed at: <http://www.maff.go.jp/j/policy/index.html> [December 2014] (Japanese).

by increasing demand (both domestic and in export markets), improving value chains, reducing costs, promoting structural reform and improving productivity.<sup>8</sup>

4.12. Current policy is based on the current Basic Plan for Food, Agriculture, and Rural Areas of March 2010 and set out in detail in the Plan to Create Dynamism through Agriculture, Forestry and Fishery Industries and Local Communities. One of the main features of the plans is the concept of "Sixth Industrialization" which aims to improve vertical integration of agriculture from production and processing to retail, including related services.<sup>9</sup>

4.13. Agricultural policy continues to emphasise self-sufficiency, and the Basic Plan sets self-sufficiency targets for FY2020 of 50% on a calorie basis and 70% on a production value basis. The Action Plan also emphasises the importance of protecting infrastructure from natural disasters and nuclear accidents, and sets out several objectives to improve the viability of the agricultural sector and productivity including:

- Using increased farmer retirement due to the large proportion of farmers over 65 as an opportunity to increase the size of farms by encouraging land transfers to younger core farmers, promoting community-based farming co-operatives, and taking measures to reduce fragmentation;
- Enhancing the role of agricultural co-operatives in supplying inputs at lower prices and increasing purchases from farms and agricultural committees to resolve issues related to unused farmland;
- Attracting younger people into agriculture through support, encouragement to set up farm businesses, and education and training;
- Improving value added through higher quality production, and closer links to processors and consumers;
- Rebuilding exports after the 2011 earthquake, tsunami, and nuclear power plant accident as well as promotion abroad and introducing a system for protecting geographical indications; and
- Providing a social safety-net for agricultural producers.

4.14. There are many laws affecting farming generally and specific types of farming. Some of the principal laws include:

- The Food, Agriculture and Rural Areas Basic Act of 1999, last amended in 2009, which obliges the government to establish a basic plan for food, agriculture, and rural areas setting out national policies and objectives;
- The Agricultural Co-operatives Act of 1947, last amended in 2004, which provides exemptions from competition laws for agricultural co-operatives and sets out the services they may provide to their members. These services include supplying farm inputs, purchasing outputs, insurance, welfare, lending and savings, educational facilities, and a range of other activities;
- The Agricultural Land Act of 1951, last amended in 2009, which states that farm land cannot be sold or leased unless the local agricultural committee approves, nor can it be diverted to other uses without the approval of the governor of the prefecture. The 2009 amendment aims to facilitate the efficient use of land by allowing companies to lease

<sup>8</sup> Statement by the Minister of Agriculture, Forestry and Food of 10 December 2013, MAFF online information. Viewed at: [http://www.maff.go.jp/j/keikaku/k\\_aratana/pdf/daijindanwa.pdf](http://www.maff.go.jp/j/keikaku/k_aratana/pdf/daijindanwa.pdf) [December 2014] (Japanese).

<sup>9</sup> The term "sixth industry" is derived by multiplying the industrial sectors as follows. First (primary) × second (secondary) × third (tertiary) to come up with the "sixth industry". The sixth industry is expected to synergistically create new added-value through effective use of agricultural, forestry and fishery products, as well as land, water and other resources in farming, mountain and fishing villages, by integrating production, processing and distribution activities (MAFF (2011b)).



farmland. In the first five years following the amendment, 1,576 firms entered agriculture; and

- The Act on Dairy and Beef Cattle Production Promotion of 1954, last amended in 2011, which obliges the government to establish as basic policy the modernization of dairy and beef cattle production.

4.15. Agricultural policy in Japan uses a comprehensive set of policy measures which result in a relatively high level of protection and support to producers for most products, with the exception of export subsidies which Japan does not have the right to use under its WTO commitments.

4.16. Programmes to encourage production limitation applies to rice which provide support through direct payments based on the amount produced within quotas and include a diversion programme for rice which is intended to encourage farmers to switch land from rice production to other crops. The Japan Dairy Council also administers voluntary production restriction programmes for milk. Farmers are not obliged to participate in these programmes, but most do so. Producer-price stabilization policies apply to beef calves, pork, fruits, vegetables and some other products which partially or fully compensate for differences between sales and target prices or historical average prices. In addition, the government subsidizes the Agricultural Insurance Scheme and provides reinsurance to local insurance funds.

#### 4.1.2.2 Trade policies

4.17. In general, tariffs on agricultural products (WTO definition), with an average of 14.9%, are higher than tariffs on other products, with an average of 3.7%. Furthermore, the standard deviation of 26.5 for tariffs on agricultural products indicates that tariffs vary considerably among agricultural products with over one-quarter duty free and a maximum tariff (*ad valorem* equivalent) of nearly 300%. In addition, 17.4% of agricultural tariff lines are non-*ad valorem* (section 3.1.4.1).

4.18. Japan reserved the right to use the special agricultural safeguard (SSG) on 121 tariff lines. During the three years FY2011 to FY2013, Japan has applied either the volume or price-based SSG a number of times to out-of-quota imports of a variety of products (Table A4.1). These tariff lines include food preparations the prices of which would be expected to vary from one consignment to another more than prices for basic commodities. Therefore, it is not surprising to see the price-based SSG used several times a year on some of these tariff lines.

4.19. In its most recent notification on imports under tariff quotas (for FY2012) to the WTO Committee on Agriculture, Japan has 18 tariff quotas covering 196 tariff lines at the 9 digit level.<sup>10</sup> Fill rates for each quota have been fairly consistent over the past few years but vary considerably from one quota to another. For example, the fill rates for "Other dairy products for general use", "barley and its processed products", "wheat ... and its processed products", "evaporated milk" and some others were over 90% for each year from FY2007 to FY2012 but fill rates for other quotas, such as "skimmed milk", "prepared whey (for infant formula)", "butter and butter oil", and some others were consistently below 40%.

4.20. The method of administering the quotas varies from one quota to another, although the competent authority for all but one quota is MAFF (the exception being "designated dairy products for general use" where the competent authority is the Agriculture Livestock Industries Corporation, a state-trading enterprise). One quota ("prepared edible fat") is partially allocated to a supplying country. Under all methods, the applicant for an allocation must meet criteria such as end-use requirements, a record as an importer, planned usage, etc.<sup>11</sup>

4.21. Under the simultaneous buy and sell (SBS) systems for rice and wheat, an importer and a domestic user make a joint bid to MAFF specifying the government purchase price from the

<sup>10</sup> WTO document G/AG/N/JPN/196 of 1 October 2014.

<sup>11</sup> WTO documents G/AG/N/JPN/1 of 22 May 1995, JPN/1/ADD.1 of 27 June 2001, JPN/8 of 28 June 1996, JPN/8/CORR.1 of 17 October 1997, JPN/8/ADD.1 of 27 June 2001, JPN/23 of 17 October 1997, JPN/23/ADD.1 of 14 September 2000, JPN/23/ADD.2 of 27 June 2001, JPN/42 of 22 September 1999, JPN/57 of 14 September 2000, JPN/57/ADD.1 of 27 June 2001, JPN/81 of 6 June 2003, JPN/91 of 10 March 2004, JPN/100 of 13 September 2004, JPN/133 of 31 March 2008, and JPN/143 of 26 February 2009.

importer and government sale price on the domestic Japanese market. MAFF collects the difference in the prices (Table 4.6).

**Table 4.6 Imports under the SBS system, FY2009-11**

('000 tonnes)

	2009	2010	2011
Rice	100	40	100
Wheat	480	430	830

Source: Japanese authorities.

4.22. Japan did not reserve the right to use export subsidies and has notified the WTO Committee on Agriculture that it has not used any.<sup>12</sup> Export credits, guarantees, and insurance from NEXI are available for agricultural products in the same way as exports of other goods.

4.23. According to the authorities, Japan makes an annual commitment of food assistance and provides funds for purchasing products. Recipient countries purchased 168,296 tons of rice and 231,443 tons of other products using these funds in 2009.

4.24. In August 2013, MAFF developed the Strategy to Promote Agriculture, Forestry, Fisheries Products and Foods. The Strategy sets the export target of major products and countries of ¥1 trillion. In June 2014, the Cabinet adopted the Japan Revitalization Strategy, which includes this export promotion strategy.<sup>13</sup>

#### 4.1.2.3 Domestic support

4.25. Domestic support policies for agriculture in Japan have been evolving for some time although there has been little change in market access measures (tariffs, the special safeguard, and tariff quotas) since the implementation of the results of the Uruguay Round. The relatively high tariffs have helped to maintain domestic prices higher than world prices. Most other forms of market price support have been removed and administered prices now apply to a limited number of products (pig meat, beef, and calves). Participation in other programmes intended to contain production of rice and milk is not obligatory, but little production in excess of limits takes place (see below).

##### 4.1.2.3.1 General support programmes

4.26. Domestic support programmes within Japan apply at both the general and product levels. At the general level support is provided for infrastructure, through extension services, and for insurance/disaster relief programmes as well as payments for conversion from rice production.

4.27. Several new programmes have been introduced to encourage structural reform, including:

- Municipalities are required to prepare master plans for agriculture to identify core farmers and an optimal pattern of land use for the municipal district;
- Legislation has been passed to establish a regional government-supported institution to promote farmland consolidation in each prefecture with a total budget of ¥70.5 billion. The prefectural institutions rent farmland, improve infrastructure if necessary, and lease the land to core farmers;
- Setting-up of Young Farmers Payments provide income support of ¥1.5 million per year and up to two years training. The income support payments may be for up to five years from the start of operating as a farmer. An eligible farmer must be identified in the municipality's plan, be under 45, have an annual income of less than ¥2.5 million, and have a viable production plan. The production plan is reviewed for viability by the prefecture or municipality.

<sup>12</sup> For examples see WTO documents G/AG/N/JPN/194 of 25 April 2014, JPN/185 of 25 April 2013, JPN/176 of 1 May 2012, JPN/164 of 3 May 2011.

<sup>13</sup> Viewed at: <http://www.kantei.go.jp/jp/singi/keizaisaisei/pdf/honbunEN.pdf> [October 2014].

4.28. In addition, farmers that increase farm size are eligible to receive payments of ¥20,000 for each additional 0.1 ha, and payments of up to ¥700,000 per household are available for leasing land to farmers.<sup>14</sup>

4.29. The Agricultural Disaster Compensation Act provides the legal basis for the Agricultural Disaster Compensation Programme to provide compensation from losses caused by disasters, diseases, and other events. The current Agricultural Insurance Scheme is supported by the government and usually operated by the Agricultural Mutual Relief Associations run by farmers. As a general rule, the government contributes about 50% of the premiums. Insurance is mandatory for rice, wheat, and barley, and optional for livestock, fruit production, field crops, silk worms, and greenhouses.<sup>15</sup>

4.30. Starting in 2011, a new scheme, Direct Payment for Environmentally Friendly Farming, was implemented which replaced an earlier scheme of the same name which had operated since 2007. The new scheme extended the objectives and requirements for qualifying for the payments to address global warming and biodiversity. In FY2013, a total area of 51,114 ha received an average payment of ¥60,295 per ha. In FY2012, 216,000 farmers were certified as eco-farmers and qualified for Direct Payments for Environmentally Friendly Farming.<sup>16</sup>

4.31. In FY2000, a direct payment programme for farmers in hilly and mountainous areas was introduced to encourage farmers to continue production, and address environmental concerns relating to abandonment such as flooding, erosion, and stability of hillsides. Payment rates depend on the slope of the land and the type of production from ¥21,000 per 0.1 ha for paddy fields in high inclination areas to ¥1,500 per 0.1 ha for pasture. In FY2008, the scheme covered 665,000 ha and 641,751 participants.<sup>17, 18</sup>

4.32. In FY2011, the scheme for direct payments to farmers in hilly and mountainous areas was extended to cover flat farming areas on isolated islands and other disadvantaged areas.

#### **4.1.2.3.2 Rice**

4.33. Under the production adjustment programme, production quotas are assigned to each prefecture and each individual farmer based on MAFF estimates of supply and demand. The production quotas can be met with less land than had been used for rice cultivation in the past, that is, some land may be diverted to other uses or taken out of production entirely. Although subsidies are available for land diverted to other crops, around 39% of land taken out of rice production is left idle.<sup>19</sup>

4.34. Following a 2010 pilot programme for rice, in 2011 Farm Income Support Payments for rice were implemented for farmers that participated in the production adjustment programme. There are two components to the Farm Income Support Payments for rice: the first is fixed at ¥15,000 per 0.1 ha planted with rice; the second is triggered whenever the producer price falls below the average for the three years 2006 to 2008.

4.35. In December 2013, the government determined a plan to phase out production quotas for rice by 2018 with the objective of giving farmers greater production flexibility. As part of the reform, the first component of the Farm Income Supports Payments (¥15,000 per 0.1 ha) would be halved in 2014 and abolished in the 2018 crop year while the second component was abolished in the 2014 crop year.

#### **4.1.2.3.3 Other cereals, sugar beet and starch potatoes**

4.36. Under the Act on Farm Income Stabilization, core farmers producing wheat, barley, and soya beans, sugar beet, and starch potatoes are eligible for payments based on area planted in the

<sup>14</sup> OECD (2014a), p. 132.

<sup>15</sup> MAFF online information. Viewed at: [http://www.maff.go.jp/j/keiei/hoken/saigai\\_hosyo/](http://www.maff.go.jp/j/keiei/hoken/saigai_hosyo/) [June 2014] (Japanese).

<sup>16</sup> MAFF (2013a).

<sup>17</sup> Sakuyama T. (2006), Vol. 3, No. 1, pp. 27-57.

<sup>18</sup> Saika Y. (2010).

<sup>19</sup> OECD (2013b).

previous year and payments based on the quantity and quality of annual output (Table 4.7). They are also eligible for payments which compensate for up to 90% of any loss of income compared with the average annual income for the preceding five years, excluding the highest and lowest years. The income-related payments are provided from a fund to which the government contributes 75% and participating producers 25%.

**Table 4.7 Payment rates for other cereals, sugar beet, and starch potatoes**

(¥ per unit)

Product	Payment rate	Per unit
<b>Payments based on output<sup>a</sup></b>		
Wheat	6,320	60 kg
Two-row barley	5,130	50 kg
Six-row barley	5,490	50 kg
Naked barley	7,380	60 kg
Soy beans	11,660	60 kg
Sugar beet	7,260	tonne
Starch potatoes	12,840	tonne
<b>Payments based on area</b>	20,000	10 are

a Actual allowances for payments based on output are determined by deducting payments based on area from payments based on output.

Source: Japanese authorities.

#### 4.1.2.3.4 Fruits and vegetables

4.37. Under the Basic Policy for Fruit Industry Promotion of 2010, which replaced the 2005 policy, a new insurance programme for production losses was introduced. The objectives of the Basic Policy include the emphasis on increasing domestic production, consumption, and processing of domestically produced fruits. Under the Basic Policy, payments are made to support the planned fruits production programme, and processing of fresh fruits when the market price has declined or is foreseen to decline. For vegetables, farmer price support payments are made based on the quantity of production of specific vegetables under contract, calculated as the difference between 90% of the average of past six years and the average of annual market prices. The share of national and sub-national payments depend on the vegetable or fruit.<sup>20</sup>

4.38. Targeted farmers are listed in a Fruits Production Restructuring Plan for each production area, based on the Plan of Fruit Industry Promotion of each prefecture. These farmers are also eligible for assistance to convert production to more valuable fruits (defined as profitable fruits or highly valued varieties), for on-farm improvements, and for a four-year period after replanting when incomes decline while the new fruit plants mature. Between 2009 and 2012, 3,083 ha under fruit production were converted to more valuable varieties with the objective being to increase this to 7,641 ha in 2014.

#### 4.1.2.3.5 Tobacco

4.39. The state trading enterprise, Japan Tobacco, which is part-owned by the government (section 3.3.3), is required, under the Tobacco Business Act to enter into purchase contracts with tobacco growers. These contracts specify the area to be planted, the specific varieties of leaf tobacco and the prices by variety and grade. In deciding the total area and price for these contracts, Japan Tobacco is required to respect the opinions of the Leaf Tobacco Deliberative Council which includes representatives of tobacco growers and academics. Japan Tobacco has noted that: "production costs for domestically-grown leaf tobacco is higher than those of foreign-grown leaf tobacco to the extent that the purchasing price for the former (before re-drying) is approximately four times that of the latter (after re-drying)".<sup>21</sup> It was reported that, for 2015, the total area would be set at 8,662 ha (down 2.7% on 2014) and grower prices set at

<sup>20</sup> OECD (2013a), p. 3.

<sup>21</sup> Japan Tobacco Inc. (2014), p. 151.

¥1,920.1 per kg.<sup>22</sup> In 2013, the unit import price for unmanufactured tobacco (HS2002 heading 2401) was US\$6.77 per kg<sup>23</sup> (about ¥661 per kg).

4.40. Government policy also affects sales of the processed products. Although tobacco products are subject to excise duties, some brands, all owned by Japan Tobacco, are subject to lower rates (section 3.3.1.6). Furthermore, importers, wholesalers, and retailers of cigarettes are required to register with the Minister of Finance who must approve final retail prices.<sup>24</sup>

#### 4.1.2.3.6 Livestock products

4.41. Most livestock in Japan, apart from in Hokkaido, are reared on feed. Grains imported as raw material for feedstuffs qualify for a reduced tariff subject to measures to ensure they are not diverted for human consumption. These measures include approval by the government for import by the processing plants, penalties for misuse of feed grains, and specified processing methods.

4.42. Administered prices apply to pig meat, beef, and calves (Table 4.8). For calves, ALIC implements a deficiency payment system which pays calf producers the difference between the guaranteed price and the actual average price. Should prices fall below the target rationalization price the difference between the local price and the target rationalization price is paid by a combination of ALIC, prefectural governments, and contributions from producers.

**Table 4.8 Administered prices for calves, beef, and pig meat, FY2014**

(¥)

Product	Guaranteed price	Target rationalization price
Japanese black calves	329,000 per calf	275,000
Japanese brown calves	300,000 per calf	253,000
Dairy breeds	128,000 per calf	87,000
Cross breeds	195,000 per calf	143,000
	Upper stabilization price	Standard stabilization price
Beef	1,105,000 per tonne	850,000
Pig meat	570,000 per tonne	425,000

Source: Japanese authorities.

4.43. For beef producers, when prices fall below the standard stabilization price ALIC or other beef-related organizations may purchase and store beef which may be released whenever prices rise above the upper stabilization price. A similar scheme is used for pig meat.

4.44. Under the Price Stabilization Fund for Eggs payments are made to egg producers under contract, calculated as 90% of the difference between the baseline price (¥187/kg in FY2014) and the average trading price, multiplied by the quantity of eggs sold.<sup>25</sup>

4.45. The Feed Price Stabilization Programme operates to help to even out fluctuations in feed prices. Farmers pay ¥500 per tonne of concentrated feed into the fund operated by the milling industry. The fund is supplemented by the government and millers.<sup>26</sup> When feed prices surge the millers can receive payments from the fund to limit price increases, such as in late 2012 and into 2013.<sup>27</sup>

#### 4.1.2.3.7 Dairy

4.46. In addition to the administered prices for dairy calves going for beef production (Table 4.8), dairy producers also benefit from a number of support programmes.

<sup>22</sup> Tobacco Reporter (2015).

<sup>23</sup> UNSD Comtrade online database. Viewed at: <http://comtrade.un.org/data/> [December 2014]. For 2013 imports were 55,464,244 kg and value of US\$375,582,745.

<sup>24</sup> Japan Tobacco Inc. (2014), p. 151.

<sup>25</sup> OECD (2013a), p. 2.

<sup>26</sup> USDA (2010).

<sup>27</sup> USDA (2014).

4.47. The Japan Dairy Council (JDC)<sup>28</sup> operates a voluntary supply control system for liquid milk and a separate quota system for milk for processing. Compliance with the planned production system is voluntary, but only 5% of dairy producers operate outside the system. The annual production allowances determined by the JDC are based on its estimates of demand and are allocated to nine regional blocs each of which then sets production allowances for the cooperatives and dairy farmers within each bloc. To cushion producers against sudden price fluctuations, producers and the government contribute to the farm business stabilization fund (at rates which vary from one bloc to another but at a ratio of 1:3 respectively). The fund compensates producers of milk for processing whenever prices fall below the average for the previous three years.<sup>29</sup> For milk going for cheese production producers are eligible for a subsidy of ¥15.1 per kg of milk (FY2013).

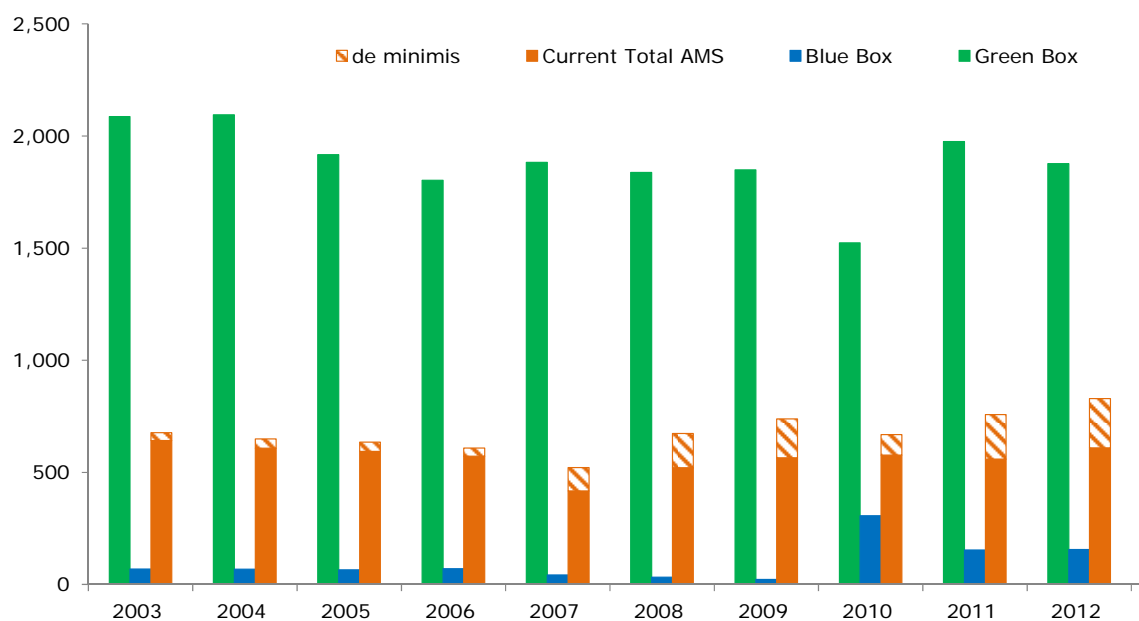
#### 4.1.2.4 Support levels

##### 4.1.2.4.1 WTO notifications

4.48. The most recent notification from Japan to the WTO Committee on Agriculture covers FY2010 to FY2012. According to the notifications, about two-thirds of all support for agriculture (support notified under the Green Box, Blue Box, and Amber Box (including *de minimis*)) is in the Green Box and less than one-third under the Amber Box (including *de minimis*) (Chart 4.2).

**Chart 4.2 Support notified to the WTO Committee on Agriculture, FY2003-12**

(¥ billion)



Source: WTO notifications.

#### Green Box

4.49. Total support notified under the Green Box has fluctuated considerably over the past few years from ¥1,522.9 billion in FY2010 to ¥2,094.2 billion in 2004, with a sharp increase in FY2011 attributed to reconstruction and rehabilitation following the earthquake. In FY2012, infrastructural services along with disaster rehabilitation made up nearly half of the total spending

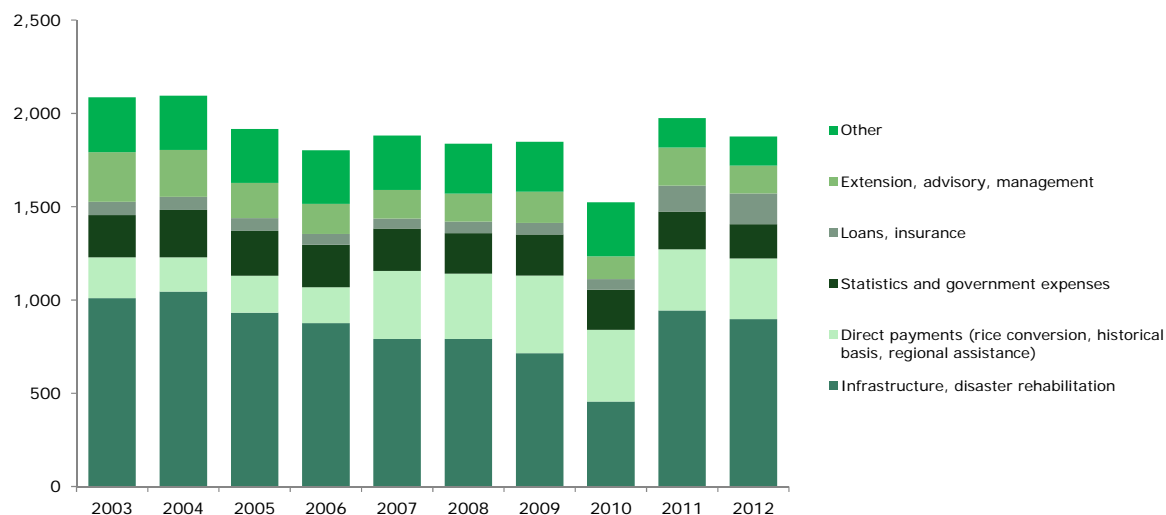
<sup>28</sup> The JDC was established in August 1962 at the behest of the Ministry of Agriculture, Forestry and Fisheries. In 1966, with the enactment of the Deficiency Payment Law, the Japan Dairy Council became a public service corporation. It is composed of prefectural-level associations, and overseen by national advisory organizations such as the Central Union of Agricultural Cooperatives and five other national federations of agricultural associations (JDC online information. Viewed at: <http://www.dairy.co.jp/eng/eng15.html> [December 2014]).

<sup>29</sup> JDC online information. Viewed at: <http://www.dairy.co.jp/eng/eng08.html> [December 2014].

while direct payments under various headings (rice conversion programme and others under environmental programmes, payments on historical bases, and regional assistance) accounted for about a sixth, while expenses of government officials and official agricultural statistics accounted for another tenth of the total (Chart 4.3).

**Chart 4.3 Green Box support, FY2003-12**

(¥ billion)



Source: WTO notifications.

### Blue Box

4.50. All spending notified under the Blue Box is for the rice income stabilisation programme. Changes in spending reflect changes in policy with a fall in FY2007-09 followed by sharp increase in FY2010 which then levelled off at over ¥150 billion for FY2011 and FY2012 (Chart 4.2).

### Amber Box

4.51. After several years of decline, the trend for the total support in the Amber Box since 2007 (including *de minimis*) has been upwards. The lowest point in 2007 corresponded to the elimination of reference prices for several crops. Since then support for beef and veal, and pig meat plus non-product-specific support under the crop income stabilization payments have increased (Chart 4.4).

#### 4.1.2.4.2 OECD indicators

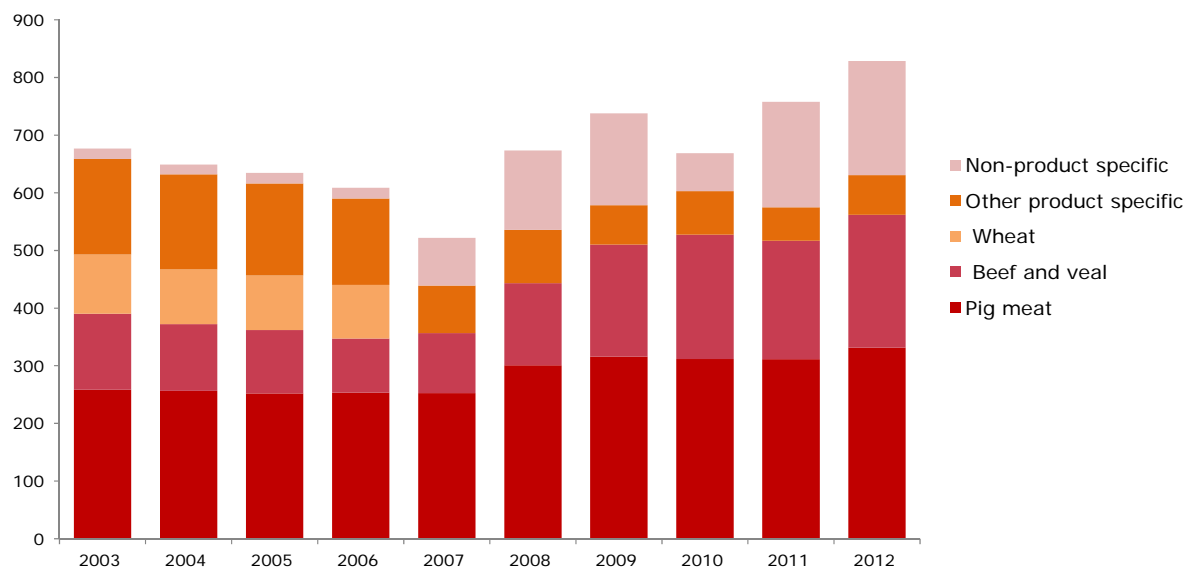
4.52. The OECD has been publishing reviews of agricultural policies in Japan, other OECD countries, and some other economies for several years. In these publications, the value of transfers to agricultural producers is measured using the Producer Support Estimate (PSE) and associated indicators. The methodology for calculating these indicators is different from that used to calculate the Aggregate Measure of Support (AMS), and the two sets of data are neither compatible nor comparable. The total PSE is "The annual monetary value of gross transfers from consumers and taxpayers to agricultural producers, measured at the farm gate level, arising from policy measures that support agriculture, regardless of their nature, objectives or impacts on farm production or income. It includes market price support, budgetary payments and budget revenue foregone, i.e. gross transfers from consumers and taxpayers to agricultural producers arising from policy measures based on: current output, input use, area planted/animal numbers/receipts/incomes (current, non-current), and non-commodity criteria." Thus, the PSE includes estimates for the value of transfers provided by market access measures, such as tariffs



and tariff quotas, as well as input subsidies, direct payments to producers that are coupled to prices or production, and direct payments decoupled from prices and production.<sup>30</sup>

**Chart 4.4 Amber Box support, FY2003-12**

(¥ billion)



Source: WTO notifications.

4.53. Although both PSE and the Total Support Estimate (TSE) were lower in 2013 than their peak level in the mid-1990s they are still high relative to other OECD countries. Furthermore, market access measures, such as high tariffs, and production restraints on some products mean farm prices are more than twice border prices as measured by the Producer Nominal Protection Coefficient (Producer NPC). The high tariffs are also the main component of market price support which is, in turn, the main component of the PSE (Chart 4.5).

4.54. Single commodity transfers (SCTs) make up most of the support provided to agriculture and the rates of support vary considerably from one product to another but overall represent more than half of gross farm receipts (which includes the value of farm production plus non-market-price support payments). For most commodities, the SCT has increased over the past six years (Table 4.9).

4.55. Despite changes in agricultural programmes over the past few years, support and protection given to agriculture in Japan is high compared to other countries and it is provided by a comprehensive set of policies ranging from tariffs and other forms of market price support, to deficiency payments, payments related to production, and payments not linked to prices or production as well as general support such as research, and extension services. However, market price support is the main component and it, along with other transfers based on output and inputs, is categorized as one of the potentially most production and trade-distorting forms of support.<sup>31</sup>

<sup>30</sup> OECD (2014a), p. 49.

<sup>31</sup> OECD (2014a), p. 13.





	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013
<b>Eggs</b>										
SCT (¥ billion)	56	66	60	60	67	60	63	68	64	67
% of gross receipts	15	15	15	15	15	15	14	15	15	15
<b>Selected fruits and vegetables<sup>a</sup></b>										
SCT (¥ billion)	471	403	430	357	384	375	512	431	426	435
% of gross receipts	42	37	39	32	35	35	45	40	39	39

a Selected fruits and vegetables are apples, Chinese cabbage, cucumber, grapes, mandarins, pears, spinach, strawberries, and Welsh onions.

Source: OECD Producer and Consumer Support Estimates database. Viewed at: <http://www.oecd.org/tad/agricultural-policies/producerandconsumersupportestimatesdatabase.htm> [October 2014], and WTO Secretariat estimates based on OECD data for selected fruits and vegetables.

## 4.2 Fisheries

### 4.2.1 Features

4.56. According to the Japan Fisheries Agency in MAFF, Japan has 4.47 million km<sup>2</sup> of territorial waters (12 nm) plus the Exclusive Economic Zone (EEZ) (200 nm) which would give it the sixth largest EEZ in the world.<sup>32</sup> This area includes some of the richest and most varied fishing grounds in the world. In 2012, Japan was the seventh biggest producer of capture fisheries and the eleventh of aquaculture in the world with a total catch of 4.8 million tonnes in 2011, valued at ¥1,421 billion.<sup>33</sup> Total production has been declining for some time for several reasons including declines in some stocks<sup>34</sup> – such as the significant decline of Pacific sardine catch in Japan's EEZ – and reduction of the far-seas fleets and limited access to the EEZs of other countries. Furthermore, the 2011 earthquake and tsunami severely damaged the fisheries sector and the subsequent accident at the Fukushima nuclear power plants raised concerns about food safety of fisheries' products. Total fisheries-related damage was estimated at ¥1.26 trillion<sup>35</sup> and the prefectures worst affected accounted for 21% of total marine fisheries and aquaculture production in 2011.<sup>36</sup>

4.57. Japan is one of the biggest consumers of fish and seafood in the world with one of the highest consumption levels at 54 kg per capita in 2011, although this is considerably lower than the peak of over 70 kg per capita per year in the early 1990s.<sup>37</sup> Despite the decline in consumption, production has declined further and Japan is now a major importer of fish and seafood products (Table 4.10 and Table 4.11).

4.58. Although Japan is one of the biggest producers and consumers of fishery products, the sector is small compared to the rest of the economy: in 2012 the contribution of fisheries to GDP was less than 0.2% and its contribution to employment was less than 0.3% (Table 4.10). However, it remains economically important for many coastal communities and socially and culturally for the whole country.

**Table 4.10 Fish in the economy, 2005-13**

	2005	2006	2007	2008	2009	2010	2011	2012	2013
GDP total (¥ billion)	503,903	506,687	512,975	501,209	471,139	482,384	471,311	473,784	478,075
GDP fisheries (¥ billion)	831	806	850	789	771	735	726	752	..
Employment total (million)	63.56	63.89	64.27	64.09	63.14	62.98	62.89	62.70	53.11
Employment fisheries (million)	0.23	0.22	0.21	0.23	0.20	0.18	0.18	0.16	0.15

.. Not available.

Source: Statistical Year Books and authorities.

<sup>32</sup> MAFF (2013b), p. 4.

<sup>33</sup> MIC (2014), Table 7-47.

<sup>34</sup> FAO (2011).

<sup>35</sup> MAFF online information, *The damages cause by the Great East Japan Earthquake and actions taken by Ministry of Agriculture, Forestry and Fisheries*. Viewed at: [http://www.maff.go.jp/e/quake/press\\_since\\_120605.html](http://www.maff.go.jp/e/quake/press_since_120605.html) [December 2014].

<sup>36</sup> FAO (2012), p. 20.

<sup>37</sup> FAOStat, Food Balance Sheets online database. Viewed at: [http://faostat3.fao.org/faostat-gateway/go/to/download/FB/\\*/\\*E](http://faostat3.fao.org/faostat-gateway/go/to/download/FB/*/*E) [December 2014].

Table 4.11 Fisheries production, 2004-12

	Total	Marine Fisheries						Inland			Whaling	
		Total	Total	Pelagic	Offshore	Coastal	Culture	Total	Fisheries	Culture		
		(000 tonnes)										(Number)
2004	5,775	5,670	4,455	535	2,406	1,514	1,215	105	60	45	111	
2005	5,765	5,669	4,457	548	2,444	1,465	1,212	96	54	42	121	
2006	5,735	5,652	4,470	518	2,500	1,451	1,183	83	42	41	87	
2007	5,720	5,639	4,397	506	2,604	1,287	1,242	81	39	42	103	
2008	5,592	5,520	4,373	474	2,581	1,319	1,146	73	33	40	84	
2009	5,432	5,349	4,147	443	2,411	1,293	1,202	83	42	41	89	
2010	5,313	5,233	4,122	480	2,356	1,286	1,111	79	40	39	76	
2011	4,766	4,693	3,824	431	2,264	1,129	869	73	34	39	61	
2012	4,864	4,798	3,759	458	2,209	1,090	1,040	67	33	34	87	
		(¥ billion)										
2004	1,603	1,500	1,066	169	396	500	434	103	51	52	0 <sup>a</sup>	
2005	1,600	1,498	1,059	162	388	509	439	102	50	52	0	
2006	1,606	1,529	1,079	154	400	525	450	78	24	54	0	
2007	1,653	1,576	1,127	..	..	..	449	77	23	55	0	
2008	1,628	1,543	1,125	..	..	..	418	85	24	61	0	
2009	1,470	1,381	972	..	..	..	409	89	26	62	0	
2010	1,483	1,400	972	..	..	..	428	83	23	60	0	
2011	1,419	1,327	940	..	..	..	387	92	20	72	0	
2012	1,418	1,329	916	..	..	..	413	89	18	71	0	

.. Not available.

a Values for fisheries production are in billion yen but, according to the authorities, the value of whaling has been ¥200-400 million in recent years which rounding to the nearest billion gives zero.

Source: Statistical Japan Yearbooks and authorities.

4.59. Marine fisheries account for most production in both value and volume terms. Marine aquaculture contributed around one-fifth of the marine production in volume terms in 2010 but suffered from the 2011 earthquake with total production reduced by nearly 22%. Inland fisheries are small compared to total production and catch has declined considerably over the past decade. However, even though the volume of production of inland aquaculture has also declined, its value has increased as production has focused on higher value products (Table 4.11).

4.60. For a number of reasons, FAO and OECD statistics differ between each other and with national data, although all three sources indicate similar trends. In terms of species landed in domestic ports, Japan's fisheries' production includes a wide variety, with skipjack and other species of tuna, pelagics (mackerel, herring, etc.), and shellfish and molluscs representing just over 20% each in value terms.

4.61. According to OECD data, the decline in the catch value (2.8% annual average decline 2005-11) is similar to the decline in the quantity caught (2.7% annual average decline 2005-12) (Table 4.12)<sup>38</sup> indicating that unit prices have not changed much over the past few years.

4.62. OECD data do not include figures for whaling. According to FAO data, there has also been a decline in the quantity of aquatic mammals caught (Table 4.13).

4.63. The structure of the fishing fleet has followed the trend in capture, as has the number of people engaged in fisheries. However, the fishing fleet is still dominated by small vessels of less than 5 tonnes and the vast majority of the 89,000 fishing entities are individual management entities (Table 4.14). Of these management entities, approximately half are run by full-time fishermen, although most of the part-time fishermen earn most of their income from fisheries.

<sup>38</sup> OECD (2013c). WTO Secretariat calculations.

**Table 4.12 Fisheries landings in Japan, 2005-12**

('000 tonnes, ¥ billion)

	Total landings		Tuna		Pellagics		Shellfish, molluscs	
	('000 tonne)	(¥ bn)	('000 tonne)	(¥ bn)	('000 tonne)	(¥ bn)	('000 tonne)	(¥ bn)
2005	4,511	1,109	657	226	1,653	190	801	253
2006	4,511	1,103	597	225	1,745	196	717	231
2007	4,436	1,149	636	256	1,631	209	758	231
2008	4,416	1,149	572	256	1,691	221	762	211
2009	4,200	998	517	210	1,591	190	769	188
2010	4,172	994	558	207	1,560	204	740	190
2011	3,859	959	500	196	1,502	194	733	200
2012	3,729	..	522	..	1,472	..	654	..

.. Not available.

Source: OECD (2013), *OECD Review of Fisheries: Country Statistics 2013*, OECD Publishing, [http://dx.doi.org/10.1787/rev\\_fish\\_stat\\_en-2013-en](http://dx.doi.org/10.1787/rev_fish_stat_en-2013-en).**Table 4.13 Aquatic mammals taken by Japan, 2005-12**

Aquatic mammals		2005	2006	2007	2008	2009	2010	2011	2012
Blue-whales, fin-whales	(number)	943	1,348	1,020	1,006	1,114	909	569	703
Miscellaneous aquatic mammals	(tonne)	1,652	1,599	1,573	1,154	1,404	932	562	500
Sperm-whales, pilot-whales	(number)	16,140	14,026	13,153	9,155	11,210	6,580	3,284	1,775

Source: FAO Fisheries' statistics database. Viewed at: <http://www.fao.org/fishery/statistics/global-capture-production/query/en> [December 2014].**Table 4.14 Structure of fisheries, 2004-12**

	Persons engaged ('000)	Registered fishing craft						Total tonnage ('000 tonnes)
		<5 tonnes (number)	5-10 tonnes (number)	10-30 tonnes (number)	30-100 tonnes (number)	100-200 tonnes (number)	Over 200 tonnes (number)	
2004	231	282,430	18,524	10,721	729	611	855	1,304
2005	222	278,056	18,025	10,668	656	582	823	1,269
2006	212	273,593	17,802	10,512	614	559	762	1,226
2007	204	266,625	17,674	10,417	588	551	721	1,195
2008	222	259,987	17,370	10,309	558	529	703	1,168
2009	212	252,902	17,058	10,148	522	498	614	1,112
2010	203	247,629	16,811	10,063	503	477	591	1,087
2011	178	225,500	16,097	9,617	464	437	550	1,019
2012	174	226,926	15,956	9,710	463	433	564	1,017

Source: Statistical Yearbooks, and authorities.

4.64. According to the authorities, the number of registered fishing vessels exceeds the number of persons engaged in fishing for several reasons: one person may have several vessels for different fishing methods, such as one for aquaculture and another for marine capture; the definition of a person engaged in fishing is someone over 15 years old and engaged at sea in fishery works for more than 30 days per year, while someone who does not meet this definition may have one or more registered vessels; and the number of persons engaged in fishing in 2011 and 2012 does not include the three prefectures affected by the Great East Japan Earthquake of 2011.

#### 4.2.2 Trade

4.65. Japan is one of the biggest importers of fisheries' products in the world, with imports of over US\$15 billion, compared to exports of just under US\$2 billion in 2013.<sup>39</sup> Since 2005, imports have fluctuated from a low of US\$13.2 billion in 2007 to a high of US\$18.1 billion in 2012 while following a downward trend for quantities imported (Table 4.15). Exports have followed an upward trend although the value declined in 2011 compared to 2010 before increasing to a new maximum level of nearly US\$2 billion in 2013 (Table 4.16).

<sup>39</sup> For the purposes of this section of the Trade Policy Report, fish and fisheries products are taken to include HS2002 Headings 020840, 03, 051191, 1504, 1603, 1604, 1605, and 230120.

**Table 4.15 Imports of fish products, 2006-13**

(US\$ million and '000 tonnes)

HS2002		2006	2007	2008	2009	2010	2011	2012	2013
Total	US\$ million	14,030	13,258	14,512	13,355	15,030	17,470	18,096	15,407
030613 - Shrimps & prawns, ... frozen	'000 tonnes	230	207	197	198	205	205	201	187
	US\$ million	1,955	1,742	1,756	1,737	1,943	2,195	2,136	2,167
030420 - Fish fillets, frozen	'000 tonnes	213	198	191	176	194	225	236	224
	US\$ million	1,371	1,325	1,533	1,499	1,523	2,080	2,198	1,869
030490 - Fish meat other than fillets, frozen	'000 tonnes	299	297	273	215	246	259	258	236
	US\$ million	693	705	1,051	676	848	908	1,007	777
160520 - Shrimps & prawns, prepd./presvd	'000 tonnes	69	67	64	65	70	77	78	72
	US\$ million	528	506	528	552	615	775	808	773
160419 - Prepd./presvd fish ... other	'000 tonnes	119	119	92	93	104	100	96	96
	US\$ million	812	784	590	603	809	912	939	737
030379 - Fish, n.e.s., frozen	'000 tonnes	220	231	247	224	209	203	207	166
	US\$ million	580	577	673	663	703	763	782	626
030799 - Molluscs & invertebrates ... other	'000 tonnes	68	68	65	56	59	74	78	92
	US\$ million	372	365	379	355	401	544	632	582
160590 - Molluscs & invertebrates, prepd./presvd ... other	'000 tonnes	109	102	86	89	93	99	92	96
	US\$ million	499	451	422	426	484	631	583	533
030380 - Fish livers & roes, frozen	'000 tonnes	55	50	53	46	47	50	54	46
	US\$ million	488	440	644	449	401	498	708	490
030192 - Live eels (anguilla spp.)	'000 tonnes	20	21	16	12	15	10	5	5
	US\$ million	266	251	336	191	410	431	387	479

Source: UNSD Comtrade.

**Table 4.16 Exports of fish products, 2006-13**

HS2002		2006	2007	2008	2009	2010	2011	2012	2013
Total	US\$ million	1,414	1,667	1,649	1,592	1,953	1,871	1,823	1,982
160590 - Molluscs & invertebrates, prepd./presvd ... other	'000 tonnes	6	7	6	7	7	7	7	8
	US\$ million	289	358	334	357	494	494	451	461
030799 - Molluscs & invertebrates ... other	'000 tonnes	9	13	29	26	32	40	51	64
	US\$ million	37	72	89	81	166	233	322	454
030379 - Fish, n.e.s., frozen	'000 tonnes	126	135	116	173	160	96	100	127
	US\$ million	118	135	122	165	168	133	146	151
030374 - Mackerel, frozen, excl. fillets	'000 tonnes	173	147	123	78	116	96	104	112
	US\$ million	101	111	132	73	109	108	113	121
030420 - Fish fillets, frozen	'000 tonnes	5	6	6	5	5	6	6	7
	US\$ million	52	67	73	74	85	100	99	90
030319 - Pacific salmon, frozen, excl. fillets	'000 tonnes	66	57	45	55	64	22	21	32
	US\$ million	149	109	97	140	202	84	75	83
030343 - Skipjack/striped-bellied bonito, frozen, excl. fillets	'000 tonnes	52	54	55	21	59	45	27	41
	US\$ million	42	68	94	23	80	68	53	79
160420 - Prepared/presvd. fish other than whole/in pieces	'000 tonnes	10	11	11	8	8	8	8	9
	US\$ million	64	72	84	75	84	84	83	76
030371 - Sardines, frozen, excl. fillets	'000 tonnes	2	4	1	1	2	13	23	55
	US\$ million	2	3	1	1	2	9	18	42
030341 - Albacore/longfinned tunas, frozen, excl. fillets	'000 tonnes	12	32	9	16	7	13	17	19
	US\$ million	28	61	23	41	17	36	55	42

Source: UNSD Comtrade.

### 4.2.3 Policy

4.66. Overall responsibility for national fisheries' policies lies with the Fisheries Agency in MAFF, while prefectural governments are responsible for local issues, such as management of local fisheries' resources. Regarding important policy decision-making, the Fisheries Policy Council (national level), the Regional Fisheries Coordination Committees (at regional level), and the Sea Area Coordination Committees (at prefectural level) are consulted for opinions depending on the nature of the issue.

4.67. The Fisheries Cooperative Associations (FCA) are private cooperative organizations established voluntarily by fishermen. The FCAs provide for sales of fish, purchases of equipment and inputs, credit and insurance services and give guidance to their members. MAFF or the local governments lead and supervise the FCAs as required by law.

4.68. The Fisheries Research Agency (FRA), an incorporated administrative agency, was established in 2001 as an independent body by incorporating nine National Fisheries Research

Institutes. In 2003 it took over the duties of the Japan Marine Fishery Research Centre, and the Japan Sea-Farming Association, and, in 2006, the National Salmon Resources Centre. The FRA is responsible for research into many aspects of capture and aquaculture as well as monitoring fishing stocks. In 2009, following a request from the Fisheries Agency, it published "The Grand Design of Fisheries and Resources Management in Japan".<sup>40</sup>

4.69. The main laws concerning the fisheries sector are:

- Fisheries Law of 1949 (revised in 1962 and last amended in 2007) which sets out basic rights to fisheries and licensing requirements for individuals and management entities;
- Basic Law on the Fisheries Policy of 2001 (last amended in 2008) which provides for measures to ensure sustainable exploitation, stability of supply, protection of the marine environment, and the basis for amendments of related legislation;
- Fisheries Cooperative Association Law of 1948 (last amended in 2007) which sets out the legal framework for the Fisheries Cooperation Associations;
- Law to Ensure Sustainable Aquaculture Production of 1999 (last amended in 2005) which addresses environmental concerns associated with aquaculture;
- Act on the Exercise of the Sovereign Right for Fishery, etc. in the Exclusive Economic Zone of 1996 (last amended in 2001);
- Act on Preservation and Control of Living Marine Resources of 1996 (last amended in 2007) which sets out the legal basis for establishing the total allowable catch (TAC) and total allowable effort (TAE);
- Act on the Protection of Fishery Resources of 1951 (last amended in 2010) which provides for measures to protect marine resources, such as closure of fishing grounds, and catch and gear restrictions, as well as measures to address pollution.<sup>41, 42, 43</sup>

4.70. Policy for the fisheries sector is set out in the Basic Plan for Fisheries which was formulated in 2012 following earlier plans such as the Basic Fisheries Plan of 2002 that was further developed in 2007. The Basic Plan sets out multiple objectives for the sector and fishing communities, based on four axes:

- Reconstruction of damage caused by the Great East Japan Earthquake;
- Sustainable use of resources through resource management and sustainable aquaculture;
- Promotion of consumption based on foods' safety, quality, and promotion; and
- Improved safety and livelihood of fishing communities.<sup>44, 45</sup>

4.71. The average duty on imports of fish and fish products is 6.2% with a maximum rate of 15% and a standard deviation of 3.7 – which indicates that there is not much variation among tariffs. In addition, other market access measures apply to several species:

- For some tuna and tuna-like species, such as bluefin tuna, southern bluefin tuna and bigeye tuna, Japan has import control systems, including import approval and acknowledgements for imports which, according to the authorities, are in accordance with the conservation and management measures of some tuna regional fisheries

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<sup>40</sup> FRA (2009).

<sup>41</sup> European Parliament (2013).

<sup>42</sup> FAO (undated).

<sup>43</sup> Japanese authorities.

<sup>44</sup> MAFF (2013b).

<sup>45</sup> Mizahara M. (2012).

management organizations (RFMOs) such as the International Commission for the Conservation of Atlantic Tuna (ICCAT) and the Commission for the Conservation of Southern Bluefin Tuna (CCSBT); and

- Import quotas apply to several other species, including herring, cod, mackerel, sardines, and saury. According to the authorities, these measures complement its management of coastal fisheries' resources, including TACs which apply to some of these species.<sup>46</sup>

#### 4.2.3.1 Reconstruction

4.72. The Great East Japan Earthquake and tsunami caused extensive damage to the fishery sector in Japan causing an estimated ¥1.25 trillion in damage to 28,612 vessels, and 319 ports, and including ¥133.5 billion in damage to aquaculture facilities and products. Under the Fisheries Recovery Master Plan, the objective is to complete the recovery of fishing port facilities by end-FY2015. Over 12,000 vessels had been recovered by end-FY2013 and considerable progress has been made in replacing or recovering processing and distribution and seedling production facilities. To address concerns about food safety following the Fukushima nuclear power plant accident, an extensive system for monitoring radiation levels in the relevant area was introduced, backed, if necessary, by voluntary or compulsory suspension of fishing operations, sales, and distribution.

#### 4.2.3.2 Stock management

4.73. In 2012 the FRA assessed 52 species and 84 fishing stocks and estimated that resource levels were low for 35 stocks, medium for 34, and high for 15. Management of resources is based on several measures, including fishing rights and permits, as well as voluntary resource management supported by the government.

4.74. Fishery rights and permits for fishing may be granted as follows:

- Fishery rights granted by prefectural governors for coastal fishing based on the fishing ground plan which sets out the type of fishery, the fishing ground and other details. The rights include operation of large-scale set-net fishing, aquaculture in specified areas, and small-scale common fishing;
- The prefectural governors may grant permits for small- to medium-scale fishing based on prefectural regulations which must be approved by MAFF; and
- MAFF may grant permits for large-scale off-shore and distant-water fishing as well as specified fishing methods for certain species. The permits may be: (i) for some designated fisheries where the total number of vessels by tonnage class and each area of operation are specified in a 5-yearly (generally) notification made by the Minister; (ii) for some specified fisheries where the Ministers grants a permit each year; or (iii) for some activities and species where notification must be made to the Minister before the start of the operation period.<sup>47</sup>

4.75. TAC are set for seven species by the Fisheries Agency based on estimates of allowable biological catch and other factors and in consultation with different stakeholders.<sup>48</sup> It has been noted that, in some cases, the TAC had been greater than the allowable biological catch and Japan has not introduced an explicit ban on discards.<sup>49</sup> According to the authorities, efforts have been made to ensure that the TAC conforms to the allowable biological catch and individual quota systems have been introduced for three species, including Atlantic bluefin tuna and southern bluefin tuna.

<sup>46</sup> Japanese authorities; and JETRO (2011), pp. 1-2.

<sup>47</sup> MAFF (2013b), p. 27.

<sup>48</sup> TACs are set for saury, Alaska pollack, horse mackerel, sardine, mackerel, Japanese common squid, and snow crab.

<sup>49</sup> FRC (2008), p. 7 (Japanese). Translated and referred to in European Parliament (2013), p. 25.

4.76. In 2011, a new resource-management framework for both capture and aquaculture was introduced under which the fishery organizations prepare and implement resource-management plans in line with the guidelines developed by the central government or prefectural authorities. As at end-March 2013, 1,705 resource-management plans had been prepared.

4.77. Several measures have been taken to prevent and deter illegal, unreported, and unregulated (IUU) fishing, through bilateral cooperation and information-sharing efforts, and through regional fisheries' management organizations, for example vessel-monitoring systems and trade-related measures such as statistical document programmes and catch documentation systems.

#### 4.2.3.3 International agreements

4.78. Japan is a member of a number of international and regional fishery organizations<sup>50</sup> and has intergovernmental agreements with Australia, Canada, China, France, Kiribati, the Republic of Korea, Marshall Islands, Morocco, the Russian Federation, Solomon Islands, Senegal, and Tuvalu. The agreements with Australia, Canada, and France do not provide for access by Japanese fishing vessels and the agreements with China, the Republic of Korea, and the Russian Federation are mutual-access agreements allowing reciprocal access to each country's EEZ. In addition there are numerous private-sector-based agreements which provide for access to the waters of other countries and territories (Cabo Verde, Côte d'Ivoire, Equatorial Guinea, Fiji, Gabon, Gambia, Guinea, Guinea-Bissau, Madagascar, Mauritania, Mauritius, Micronesia, Mozambique, Nauru, Palau, Papua New Guinea, Sao Tome and Principe, Seychelles, Sierra Leone, St. Helena, and Tanzania).

#### 4.2.3.4 Support for fisheries

4.79. According to the OECD: "General services account for nearly half of government financial transfers, of which construction of public infrastructure is the most significant." Cost reducing transfers represent only a small proportion of total support and "an interest subsidy is the major cost-reducing transfer in Japan" while "support for renewal of small fishing boats and equipment is provided to improve workers' safety at sea on family-owned coastal boats" (Table 4.17).<sup>51</sup>

**Table 4.17 Government transfers to fishing, 2005-11**

(¥ billion)

	2005	2006	2007	2008	2009	2010	2011
<b>Marine capture fisheries</b>	238.4	227.2	214.4	207.7	201.4	149.0	153.0
Decommissioning of vessels and licences	1.7	1.5	1.5	1.4	1.6	1.2	0.5
Disaster relief payments	..	..	..	..	..	..	..
Cost-reducing transfers	1.2	0.4	0.4	0.3	0.3	2.4	1.1
General services	235.6	225.3	212.6	206.0	199.5	145.3	151.4
<b>Aquaculture</b>	0.4	1.8	1.4	1.3	1.1	0.9	0.9
Cost-reducing transfers	..	..	..	..	..	0.2	0.1
General services	0.4	1.8	1.4	1.3	1.1	0.8	0.9
<b>Marketing and processing</b>	2.2	2.0	2.0	2.2	3.0	1.6	0.6
General services	2.2	2.0	2.0	2.2	3.0	1.6	0.6
<b>Total</b>	240.9	231.0	217.9	211.3	205.5	151.5	154.6

.. Not available.

Source: OECD (2013), *OECD Review of Fisheries: Country Statistics 2013*, OECD Publishing, p. 235. Viewed at: [http://dx.doi.org/10.1787/rev\\_fish\\_stat\\_en-2013-en](http://dx.doi.org/10.1787/rev_fish_stat_en-2013-en) [December 2014].

4.80. Supplementary budgets provided additional assistance in response to the 2011 earthquake. The FY2013 budget and supplementary budget provided a total of ¥48.4 billion in financial support to fishermen and cooperatives out of a total of ¥293.3 billion.<sup>52</sup>

<sup>50</sup> Indian Ocean Tuna Commission (IOTC), Western and Central Pacific Fisheries Commission (WCPFC), Inter-American Tropical Tuna Commission (IATTC), International Commission for the Conservation of Atlantic Tuna (ICCAT), Commission for the Conservation of Southern Bluefin Tuna (CCSBT), General Fisheries Commission for the Mediterranean (GFCM), South East Atlantic Fishery Organization (SEAFO), Convention on the Conservation and Management of Pollock Resources in the Central Bering Sea (CCBSP), North Pacific Anadromous Fish Commission (NPAFC), Commission for the Conservation of Antarctic Marine Living Resources, and Northwest Atlantic Fisheries Organization (NAFO).

<sup>51</sup> OECD (2013d), p. 319.

<sup>52</sup> European Parliament (2013), p. 23.



4.81. Supporting the resource management system referred to above, an income stabilization measure was introduced in FY2011, and a cost reduction measure introduced in FY2010. The income stabilization measure is intended to partially compensate for losses in income arising from compliance with a resource-management plan while the cost-reduction measure compensates for any increase above 115% of the average for the past two years in the price of crude oil or feed costs. The cost-reduction measure is half funded by the government and half by the fishermen.<sup>53</sup>

4.82. In addition, a tax exemption for fossil fuels is provided for some sectors, including agriculture and fishing, and the special-purpose tax on light oil (which is used for construction and maintenance of public roads) does not apply to non-road uses of light oils which includes fishing vessels.<sup>54</sup> The authorities stated that other industrial activities, such as aquaculture, forestry, ceramics, and other railways are subject to the same treatment.

4.83. The Fisheries Modernization Fund Interest Subsidy and the Fund for the Measure to Recovery Fishery Resources were notified to the WTO Committee on Subsidies and Countervailing Measures. According to the notification, the Fisheries Modernization Fund provides an interest subsidy to financial organizations, including fisheries' cooperatives, "to advance equipments and modernize management of fisheries and related sectors." The total amount provided was ¥3.9 million in FY2013 and ¥4.6 million in FY2012. Under the Fund for the Measure to Recovery Fishery Resources, the government provides grants for comprehensive programmes implemented by non-governmental organizations. The subsidies are provided for sustainable management of fishery resources, promotion of stock enhancement and aquaculture, and conservation of the coastal environment. The total amount provided was ¥2,706 million in FY2013 and ¥3,071 million in FY2012.<sup>55</sup>

### 4.3 Energy

#### 4.3.1 Features

4.84. Japan imports nearly all its basic energy requirements in the form of natural gas, crude oil, coal, and oil products. Domestic oil production, at 0.005 million bbl/day and reserves of about 44 million barrels are small compared to consumption of 4.7 million bbl/day.<sup>56</sup> One of the main sources of energy used to be from nuclear plants, which accounted for over 15% of total energy supply and over 30% of total electricity production in 2005, but this declined sharply following the accident at the Fukushima nuclear plant in 2011 and the subsequent shut down of other nuclear power plants leading to greater imports of natural gas and a reduction in energy consumption (Table 4.18).<sup>57</sup>

4.85. Most energy imports are in the form of crude oil which is refined in Japan. Most of the refined products are consumed domestically for transport, commercial and public services, and residential use but some are exported. In 2013, total refinery capacity was 4.123 million bbl/day and refinery throughputs were 3.453 million, down from 4.645 million and 4.118 million respectively in 2003.<sup>58</sup>

<sup>53</sup> MAFF (2011a), p. 4.

<sup>54</sup> Martini R. (2012).

<sup>55</sup> WTO document G/SCM/N/253/JPN/Suppl.1 of 17 March 2014.

<sup>56</sup> U.S. Energy Information Administration online data. Viewed at: <http://www.eia.gov/countries/data.cfm> [December 2014].

<sup>57</sup> International Energy Agency online data. Viewed at: <http://www.iea.org/statistics/> [November 2014].

<sup>58</sup> BP (2014).

**Table 4.18 Total primary energy supply, 2005-12**

('000 tonnes of oil equivalent (toe))

	2005	2006	2007	2008	2009	2010	2011	2012
Coal	110,046	111,433	116,363	113,572	101,273	115,116	107,531	112,178
Crude oil	215,701	207,722	211,644	202,602	185,411	185,314	181,067	183,087
Oil products	27,467	25,818	18,038	11,243	15,415	17,009	25,802	27,107
Natural gas	70,565	77,454	83,046	83,715	80,732	86,014	100,062	105,292
Nuclear	79,421	79,095	68,756	67,270	72,905	75,114	25,520	4,154
Hydro	6,576	7,527	6,365	6,575	6,613	7,070	7,155	6,492
Geothermal, solar, etc.	3,837	3,738	3,729	3,482	3,682	3,522	3,704	3,781
Biofuels and waste	6,807	6,928	7,170	6,821	6,381	9,647	10,116	10,191
<b>Total</b>	<b>520,421</b>	<b>519,695</b>	<b>515,111</b>	<b>495,278</b>	<b>472,412</b>	<b>498,808</b>	<b>461,956</b>	<b>452,281</b>

Source: International Energy Agency online database. Viewed at: <http://www.iea.org/statistics/> [November 2014].

### 4.3.2 Electricity

#### 4.3.2.1 Features

4.86. From 2005 to 2012, total electricity production and consumption was quite stable at about 1 million GWh each year. Since then production has declined, and the fuel mix has changed as production from gas increased while production from nuclear declined. Consumption has also been relatively stable, peaking at just over 1 million GWh, but has declined sharply since 2011: reaching 923 GWh in 2012 (Table 4.19).

**Table 4.19 Production and consumption of electricity, 2005-12**

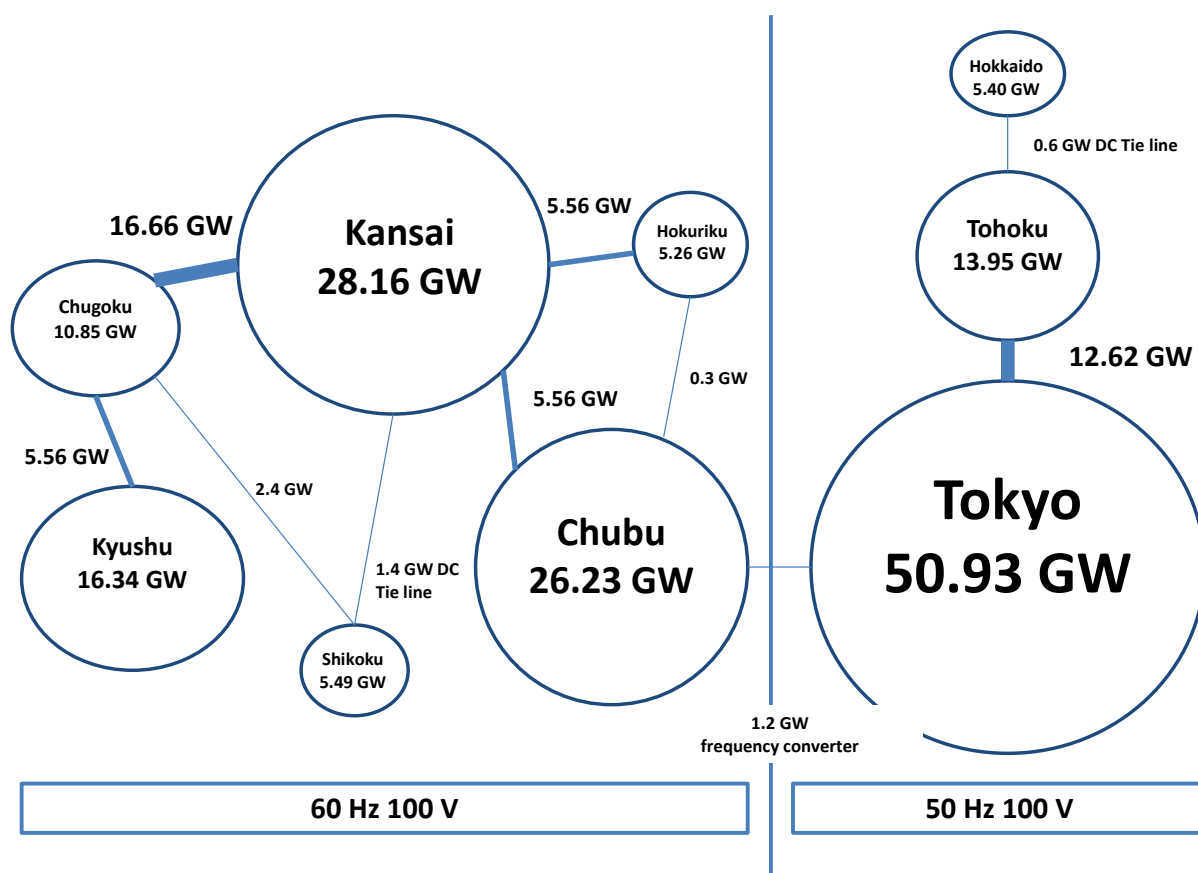
(GWh)

	2005	2006	2007	2008	2009	2010	2011	2012
<b>Production</b>								
Gas	243,819	267,430	294,203	286,867	287,865	300,751	375,046	397,219
Coal	300,829	292,757	307,903	292,124	281,733	299,134	281,936	303,230
Oil	135,164	113,913	154,494	131,209	86,083	91,668	150,976	181,289
Hydro	86,350	97,340	84,234	83,504	83,832	90,682	91,709	83,645
Biofuels	15,340	15,339	16,095	15,448	14,346	29,095	29,150	30,241
Nuclear	304,755	303,426	263,832	258,128	279,750	288,230	101,761	15,939
Waste	7,060	7,299	7,275	7,322	7,457	7,114	8,170	8,332
Solar – pv	1,493	1,794	2,015	2,251	2,758	3,800	5,160	6,963
Wind	1,754	2,210	2,624	2,946	3,616	4,017	4,677	4,838
Geothermal	3,226	3,081	2,043	2,750	2,886	2,632	2,676	2,609
<b>Total production</b>	<b>1,099,790</b>	<b>1,104,589</b>	<b>1,134,718</b>	<b>1,082,549</b>	<b>1,050,326</b>	<b>1,117,123</b>	<b>1,051,261</b>	<b>1,034,305</b>
<b>Losses</b>	<b>50,430</b>	<b>50,225</b>	<b>50,989</b>	<b>51,312</b>	<b>50,526</b>	<b>49,387</b>	<b>49,007</b>	<b>45,386</b>
<b>Consumption</b>								
Industry	341,141	343,763	349,440	309,901	289,367	328,191	286,678	275,883
Transport	19,057	18,771	18,854	18,829	18,815	18,917	18,739	18,645
Residential	283,080	279,594	290,999	286,189	286,016	305,265	290,208	287,343
Services	332,334	339,890	349,068	346,373	338,143	342,665	337,806	333,058
Agriculture	969	864	925	882	876	895	858	893
N.e.s.	1,493	1,794	2,015	2,251	2,758	3,795	5,119	6,877
<b>Total consumption</b>	<b>978,074</b>	<b>984,676</b>	<b>1,011,301</b>	<b>964,425</b>	<b>935,975</b>	<b>999,728</b>	<b>939,408</b>	<b>922,699</b>

Source: International Energy Agency online database. Viewed at: <http://www.iea.org/statistics/> [November 2014].

4.87. Up to 1995, electricity in Japan was provided by ten vertically integrated regional utilities companies with monopolies on generation, transmission, distribution and retail in their respective regions. All regions provide retail at 100 V, but the three regions in the east operate at 50Hz and seven in the west at 60 Hz. Although the sector has been gradually reformed over the past twenty years, the regional utilities are still the main producers, transmitters, distributors, and retailers, while interchange between some of the regions remains limited and the three frequency converters between the 50 and 60 Hz areas have a total capacity of only 1.2 GW (Chart 4.6). Okinawa is not connected to the others and operates at 60 Hz retail.

Chart 4.6 Electricity regions, peak demand and interconnections, 2012



Note: Font, circle and line sizes are illustrative and not proportional.

Source: METI.

4.88. Each regional electricity utility has a monopoly on the retail of electricity to general consumers of less than 50 kW in its region. For other consumers, there are three other types of retailers: (i) general electric utilities; (ii) Power Producer and Suppliers (PPS) that may provide supply to consumers with contracts for more than 50kW; and (iii) specified electricity utilities may supply electricity to specified customers. In addition, wholesale electric utilities supply electricity to the general electric utilities. In most cases, the regional utilities are required to allow interconnections and provide a wheeling service for their networks. Since the reforms were introduced, the proportion of electricity generated by the general electric utilities has declined, from about 75% in 1994 to about 68% (Table 4.20).

**Table 4.20 Power production in Japan in FY1994 and FY2012**

(million kWh)

	FY1994	FY2012
General electric utilities	727,102	742,288
Wholesale electric utilities	122,158	68,256
Specified electric utilities	..	1,347
Power producers and suppliers	..	10,063
Private generation	115,071	271,996
<b>Total</b>	<b>964,330</b>	<b>1,093,950</b>

.. Not available.

Source: The Survey of Electric Power Statistics of Japan.

#### 4.3.2.2 Policy and legislation

4.89. The Agency for Natural Resources and Energy and its Advisory Committee for Natural Resources and Energy in METI are responsible for energy policy, planning, and legislation as well as regulation of the industry. The Nuclear Regulation Authority in the Ministry of the Environment is responsible for supervision of nuclear power plants. METI has the authority to issue licences to electricity utilities, and to approve power sales' tariffs for the general electricity utilities and the specified electricity utilities. It may also issue service-related orders to electricity companies, including orders:

- to the general electric utilities and specified electricity utilities to improve operations;
- to a general electric utility to supply another utility in the case of emergencies, and to provide a wheeling service;
- to determine the price and contract period for electricity from renewable sources; and
- to a utility to enter a purchase or interconnection agreement with a producer of electricity from renewable sources.<sup>59</sup>

4.90. The Electric Power System Council of Japan (ESCJ) is the neutral transmission organization. The Council is made up of representatives of electric utilities, PPS, wholesale electricity suppliers, "auto-producers" (private generators), and "neutral members" (appointed based on nominations by the Board of Directors of the ESCJ). The ESCJ is responsible for: developing rules for the development of the electricity system including access to power, and the operation of power systems; dispute resolution; coordination of load-dispatching operations; and data collection and dissemination.<sup>60</sup>

4.91. Japan Electric Power Exchange (JEPX) is a non-profit private entity which was established in 2003 and composed of members from the electricity companies to operate the power exchange system. About 10,446 GWh was traded by JEPX in 2013.

4.92. The principal legislation regulating the electricity sector is the Electricity Business Act of 1964 since when it has been amended a number of times in line with the policy of partial liberalization of the sector:

- In 1995 the Act was amended:
  - To abolish the approval system for entering the wholesale business and to provide the legal bases for the establishment of the auction system for power purchasing;
  - To allow the establishment of Specified Electricity Utilities to use their own generation, distribution, and transmission systems for direct delivery to customers in some areas; and
  - To introduce 'Optional Supply Provisions' into the tariff system;
- In 1999, the Act was revised again:
  - To allow partial liberalization for extra high voltage power for industrial and commercial users (between 20 kV and 2 MW) in the retail sector; and
  - To provide for a transition from an approval system to a notification system for some cases such as decreasing the electricity price;
- The 2003 reforms:
  - Expanded liberalization gradually to reach customers contracted for 50 kW by 2008;
  - Enhanced regulation to ensure transparency in transmission and distribution and introduced accounting unbundling for the general electricity utilities to separate accounting of generation, transmission and distribution activities;

<sup>59</sup> Sato N., Matsudaira S. (2013), p. 102.

<sup>60</sup> ESJ online information. Viewed at: <http://www.escj.or.jp/english/> [December 2014].

- Established the Electric Power System Council of Japan; and
- Established the Japan Electric Power Exchange;
- The 2008 reforms focused on further regulatory changes such as activation of JEPX, and reforming the competitive conditions for accessing transmission lines;
- The 2013 amendment provided for the establishment of the Organization for Cross-regional Coordination of Transmission Operators (OCCTO), which is to be established in 2015; and
- In June 2014, the Act was amended again to allow for full retail competition planned for introduction in 2016.

4.93. Despite the gradual reform of the electricity sector from 1995 to 2008, it was reported in 2012 that the regional utility companies (or general electric utilities in Chart 4.6) continued to generate over 70% of total electricity and most transactions by independent power producers were bilateral long-run contracts, with the regional utilities and JEPX transactions accounting for less than 1% of total electricity generated. Similarly, PPS had a market share of only about 2% of the retail market.<sup>61</sup>

4.94. The 2013 and 2014 amended acts to the Electricity Business Act have followed the government's Electricity System Reform agreed in April 2013 with the objectives of securing a stable supply of electricity, suppressing electricity rates to the maximum extent possible, and expanding consumer choice and business opportunities.

4.95. The first step of the Electricity System Reform was provided for in the 2013 amendment to the Electricity Business Act and the subsequent Cabinet Order of June 2014 to establish the OCCTO in April 2015. OCCTO is to be a government authorized organization with the authority to aggregate and analyse supply and demand, the grid plans of the electric power companies. It will also have the authority to order changes to these plans, including ordering companies to reinforce generation and power interchanges under tight supply-demand situations. The second step of the reform, full retail competition, will begin around 2016 under the 2014 amendment and the government will decide whether to abolish the regulations for the retail tariff around 2018-20 or later depending on the competition status at that time. The third step will be the legal unbundling of the transmission and distribution sectors from the generation and retail sectors, the intention being to secure the neutrality of the transmission and distribution sectors.<sup>62</sup>

## 4.4 Finance

### 4.4.1 Features

4.96. The finance and insurance sector contributed ¥22,854 billion, or 4.9%, to GDP in 2011. This represented a decline in both absolute and relative terms compared to 2005 when the sector contributed ¥30,789 billion, or 6.1% to GDP. Just over 1.5 million people are employed in the sector. However, although the contribution to employment and GDP may appear to be modest, the sector is very important to the economy as total savings continue to increase with banking and insurance companies' assets combined equal to 272% of GDP at end-March 2013 (Box 4.1).

4.97. The financial sector is relatively concentrated: the top three banks have a market share of over 41%, the top three life insurance companies with nearly 52%, and the top three non-life insurance with 65% of their respective markets.

4.98. Although not listed among the top banks in Box 4.1, Japan Post Bank is one of the largest in Japan in terms of deposits (about ¥176 trillion) and Japan Post Insurance one of the largest in terms of non-banking assets (about ¥90 trillion). Both the Japan Post Bank and Japan Post Insurance are wholly-owned subsidiaries of the state-owned Japan Post Holdings Co. Ltd.<sup>63</sup> As noted in the last TPR report, the Postal Service Privatization Act of 2012 provides for the privatisation of Japan Post Holdings but does not set a specific deadline.<sup>64</sup> According to the

<sup>61</sup> Ito K. (2012), p. 11.

<sup>62</sup> METI (2013a).

<sup>63</sup> Japan Post Group (2013).

<sup>64</sup> WTO document WT/TPR/S/276/Rev.1 of 18 June 2013, Chapter 4, paragraphs 46-50.

authorities, the government of Japan is required to hold more than one-third of the shares of Japan Post Holdings Co. Ltd and will dispose of the shares over this threshold at the earliest possible time. The timing and extent of the sale of these shares has not yet been scheduled and will be determined taking into account various factors, such as stock market trends, opinions of specialists and consultations with Japan Post Holdings Co. Ltd.

#### Box 4.1 Market and regulatory regime for financial services, general overview

**Number of financial services providers (end-December 2013):** banks: 196, of which 106 regional banks; insurance companies: 96, of which 43 life insurance, and 55 non-life; securities companies: 252

**Significant players (cooperatives, mutual institutions, and the postal system):** JP Bank and JP Insurance in the Japan Post Group and mutual institutions (with mostly a regional and an SME focus)

**Total bank and insurance companies assets, end-March 2013:**

- as % of the whole financial sector: banking companies: 51.4%, insurance companies: 21.1%
- as % of nominal GDP: banking companies: 193.0%; insurance companies: 79.1%
- as % of real GDP: banking companies: 176.2%; insurance companies: 72.2%

**Major consolidations since January 2013:**

**Banks:** Merger between Mizuho Bank Ltd and Mizuho Corporate Bank Ltd (July 2013); merger between Kiyo Holdings Inc. and Kiyo Bank Ltd (October 2013)

**Securities:** none

**Life insurance:** none

**Non-life insurance:** none

**Market share held by the top 5 largest firms, end-March 2013:**

**Banks** (based on data for all banks across the country): top 3: 41.5%; top 5: 53.9% (Bank of Tokyo-Mitsubishi UFJ Ltd – 18.6%; Sumitomo Mitsui Banking Corporation – 13.8%; Mizuho Corporate Bank Ltd – 9.1%; Mizuho Bank Ltd – 8.5%; Sumitomo Mitsui Trust Bank Ltd – 3.9%)

**Life insurance:** top 3: 51.7%; top 5: 69.0% (JP Insurance – 26.2%; Nippon Life Insurance Company – 15.9%; The Dai-ichi Life Insurance Company – 9.6%; Meiji Yasuda Insurance Company – 9.6%; Sumitomo Life Insurance Company – 7.7%)

**Non-life insurance:** top 3: 65.2%; top 5: 84.3% (Tokio Marine and Nichido Fire Insurance Co. Ltd – 28.6%; Mitsui Sumitomo Insurance Company Ltd – 20.3%; Sompo Japan Insurance Inc. – 16.3%; Aioi Nissay Dowa Insurance Co. Ltd – 11.1%; Nipponkoa Insurance Co. Ltd – 7.9%)

**Employees pensions funds** (by the financial statements for fiscal year 2012): top 3: 13.9%; top 5: 17.7%

**Mutual funds:** top 3: 35.1%; top 5: 47.0% (Nomura Asset Management Co. Ltd – 16.6%; Daiwa Asset Management Co. Ltd – 10.3%; Nikko Asset Management Co. Ltd – 8.2%; Mitsubishi UFJ Asset Management Co. Ltd – 7.0%; Kokusai Asset Management Co. Ltd – 4.9%)

**Securities companies:** top 3: 33.3%; top 5: 48.2% (Mitsubishi UFJ Morgan Stanley Securities Co. Ltd – 12.4%; Mizuho Securities Co. Ltd – 10.7%; Daiwa Securities Capital Markets Co Ltd – 10.1%; Nomura Securities Co. Ltd – 9.0%; SMBC Nikko Securities Inc. – 5.9%)

**Credit rating agencies** (end-December 2013 – based on number of rating analysts): top 3: 76.5%; top 5: 93.9% (Rating and Investment Information Inc. – 34.7%; Japan Credit Rating Agency Ltd. – 27.2%; Standard & Poor's Ratings Japan K.K. – 14.6%; Moody's Japan K.K. – 12.7%; Standard & Poor's Japan K.K. – 4.7%)

**Ownership by type of activity:**

**Banks** (excluding foreign bank branches and locally incorporated foreign banks): Fully state-owned: 0

**Government Financial Institutions: fully state-owned:** 4 (Development Bank of Japan, Japan Bank for International Co-operation, Japan Finance Corporation and Okinawa Development Finance Corporation)

**Life insurance:** fully state-owned: none; fully domestically-owned, private: 17; foreign minority-owned: 3; majority foreign-owned: 15; mutual companies: 5; branches of foreign companies: 3

**Non-life insurance:** fully state-owned: none; fully domestically-owned, private: 24, minority foreign-owned: 1; majority foreign-owned: 6; branches of foreign companies: 23; licensed specified juridical persons: 1

**Mutual funds:** domestic shareholders: 52; foreign shareholders: 32 (based on business reports of each fund submitted in FY2013 and on the nationality of the largest shareholder)

**Securities companies:** domestic shareholders: 215; foreign shareholders: 67 (as at March 2013, based on the nationality of the largest shareholder)

**Credit rating agencies:** domestic shareholders: 5; foreign shareholders: 2 (end December 2013, based on the nationality of the largest shareholder)

**Specific taxes on financial transactions:** No financial transaction tax (FTT); incomes from financial transactions are subject to tax; – tax on individuals differs by type of income.

Source: Information provided by the Japanese authorities.

4.99. The Financial Services Agency (FSA), which reports to the Cabinet Office, is the main regulator for financial institutions in Japan although it shares some prudential supervision with the Bank of Japan while the Japan Fair Trade Commission is responsible for competition policy issues. Within the FSA, the Securities Exchange Surveillance Commission (SESC) is responsible for the regulation of capital markets.



4.100. The Ministry of Finance is responsible for general financial policy while the FSA handles planning and policy-making for the financial system, inspection and supervision, rules and regulations, accounting standards, supervision of certified public accountants and auditing firms, and represents Japan in international and regional discussions.

#### 4.4.2 Banking

4.101. Excluding the Japan Post Bank, the total assets of banks were ¥926,375 billion and deposits of ¥653,856 billion at end March 2014, with foreign banks in Japan holding ¥39,520 billion in assets and ¥8,324 billion in deposits.

4.102. The result of the decade-long process of mergers and alliances among city banks, long term credit banks, and trust banks has been the creation of a relatively small number of "mega banking groups."<sup>65</sup> The structure of the banking and financial services sector during FY2013-14 has been stable relative to previous years: the two mergers (Mizuho Bank and Mizuho Corporate Bank, and Kiyo Bank and Kiyo Holdings) were essentially corporate restructurings and no other mergers or acquisitions were reported (Box 4.2).

4.103. Since 2011, the FSA has amended the rules on large exposures in line with international standards, with effect from December 2014. Through supervisory guidelines and related measures, the FSA revised the minimum capital requirements for internationally-active banks and, according to the authorities, intends to introduce liquidity standards (Liquidity Coverage Ratio (LCR) and Net Stable Funding Ratio (NSFR)), and capital buffers in accordance with Basel III (Box 4.2).

#### Box 4.2 Market and regulatory regime for banking

##### Economic indicators

Non-performing loans as a percentage of total bank assets: 2.3% (end-March 2013)  
 Net operating profits per employee: ¥16.9million  
 Net income per employee: ¥10.3 million

##### Regulatory framework

##### Supervisory authorities:

Ministry/agency responsible for defining banking sector policy: Financial Services Agency (FSA)  
 Sector supervisor (monitoring bank liquidity, overseeing payment and settlement systems, etc.): FSA and the Bank of Japan  
 Responsibility for competition policy issues: the Japan Fair Trade Commission

##### Preferential and bilateral policies:

Preferential arrangements affecting banking services: none  
 Bilateral agreements and MOUs (notably concerning prudential regulation and supervision): 7  
 Recognition of prudential measures of other countries through international agreements or unilaterally: none

##### Licensing:

General criteria: 1. The person who has filed an application for a banking licence shall have the financial basis to conduct the business of a bank soundly and efficiently, and shall have good prospects for income and expenditure pertaining to the business. 2. In light of such matters as its personnel structure, the applicant shall have the knowledge and experience to be able to carry out the business of a bank appropriately, fairly and efficiently, and shall have sufficient social credibility (Banking Act, Article 4.2).

Additional criteria for foreign banks: reciprocity test – Where a person whose entire or partial body of shareholders is a foreign bank, etc. files an application for a banking licence, if the foreign bank, etc. lawfully holds a number of voting rights in the person filing the application for a banking licence exceeding the number calculated by multiplying the voting rights of all of that person's shareholders by 50%, the Prime Minister shall examine whether it can be found that banks are given substantially the same treatment as under the Banking Act in the state where the principal business office of the foreign bank, etc. is located, in addition to the requirements prescribed in the preceding paragraph (Banking Act, Article 4.3). Where a foreign bank intends to receive a business licence, and where establishment of a branch office of the foreign bank requires permission from a foreign government agency or must go through any other procedures, the bank must present a written document to prove that the permission has been obtained (Ordinance for Enforcement of the Banking Act, Article 28).

Licensing organ: the FSA

Validity of a licence: a licence has no validity period

Restrictions on banks selling or disposing of licences: allocated licences may not be sold; the abolition of banking and the dissolution of a bank shall not take effect without the authorization of the Prime Minister (Banking Act, Article 37.1).

<sup>65</sup> Japanese Bankers' Association online information. Viewed at: <http://www.zenginkyo.or.jp/en/banks/changing/index.html> [December 2014].

Minimum capital requirements to obtain a licence (domestic and foreign banks): ¥2 billion

Recognition of home-country supervision: Where a foreign bank intends to receive a business licence, and where establishment of a branch office of the foreign bank requires permission from a foreign government agency or must go through any other procedures, the bank must present a written document to prove that the permission has been obtained (Ordinance for Enforcement of the Banking Act, Article 28).

Other authorizations required:

- A person who wishes to become a holder of voting rights in a single bank which amount to 20% or greater shall obtain authorization from the Prime Minister in advance (Banking Act, Article 52(9)).
- When a branch office of a foreign bank wishes to establish a secondary office, it shall obtain authorization therefore from the Prime Minister (Banking Act, Article 47(3)).

**Prudential regulations:**

Administrative allocation of financial resources: financial resources are not allocated administratively  
Determination of interest rates and fees: banks may determine interest rates and fees freely.

**Measures to ensure compliance with the Basel Committee's Core Principles for Effective Banking Supervision:**

The FSA states in supervisory guidelines: "the FSA tries to reflect principles and guidelines, with regard to bank supervision, which the Basel Committee, etc. develops on their supervision". The FSA has revised the Banking Act, supervisory guidelines, and inspection manuals, based on the Basel Committee's Core Principles (BCP). When the BCP itself is revised, the FSA will review the parts of the guidelines that relate to the revised parts of the BCP, as necessary. To ensure compliance with the BCP, the FSA implements inspections and supervision while taking into consideration the scale and complexity of financial institutions.

**Specific provisions against money laundering:**

Specified business operators including financial institutions are working on customer identification, preparation and preservation of transaction records etc., and reporting of suspicious transactions, which are obligations under "the Act on Prevention of Transfer of Criminal Proceeds". The FSA is encouraging efforts in financial institutions, through examination and supervision.

**Bank deposit insurance scheme:**

The government introduced the deposit insurance system to protect depositors in failed financial institutions and to contribute to the smooth settlement of funds. Non-interest-bearing deposits, such as current deposits are protected in full. The status of other deposits, such as time deposits and ordinary deposits: no more than ¥10 million and interest / person / financial institution; protection, in excess of that amount: depends on the asset status of the failing financial institution. The Deposit Insurance Corporation of Japan (DICJ) is responsible for deposit insurance operation, and failure resolution, as well as the purchase of non-performing loans, and capital injection programmes.

Source: Information provided by the Japanese authorities.

#### 4.4.3 Insurance

4.104. The insurance subsector in Japan has been characterised as having four distinct kinds of institutions:

- Given its size, number of outlets, and range of insurance products, Japan Post Insurance could be considered as a category in itself with ¥6,481.7 billion in premiums, etc. in 2012;
- The insurance cooperatives (*kyosai kumiai*), the largest of which is the agricultural cooperative JA Kyosai with a reported US\$71 billion in premiums in 2010 while the next four had US\$15 billion;
- Private domestic general insurance companies, with ¥28,957.2 billion in premiums, etc. in 2012 make up the largest group and are dominated by the traditional companies with the top three having over half the total life insurance market (JP Insurance, Nippon Life Insurance Company, and Meiji Yasuda Life Insurance Company) (Box 4.1); and
- Foreign general insurers, which were reported to have had about 16% of the insurance market in 2010.<sup>66</sup> There are 15 majority foreign-owned, 4 minority foreign-owned, and 4 branches of foreign life insurance companies, while there are 23 minority foreign-owned and 1 majority foreign-owned, and 4 branches of foreign non-life insurance companies.<sup>67</sup>

<sup>66</sup> Binder S., Luc Ngai J. (2012), p. 109.

<sup>67</sup> WTO document WT/TPR/S/276/Rev.1 of 18 June 2013, Chapter 4, paragraph 51.



4.105. The 6,619 *kyosai* or cooperative insurance societies represent a significant part of the insurance market with 13.4% of total life and non-life markets. *Kyosai* are exempt from the Insurance Business Act. Some – the regulated *kyosai* – are regulated by various ministries depending on the specific legislation governing their activities. For example, JA Kyosai is regulated by the MAFF under the Agricultural Cooperative Act. Others are essentially unregulated, provided they target specific groups of people. A bill to amend the Insurance Business Act to allow for the regulation of unregulated *kyosai* took effect from April 2006.

4.106. Box 4.3 provides details on the regulatory regime for the insurance sector.

#### 4.4.4 Securities

4.107. At the end of 2013, the total market capitalization of companies listed on the first section of the Tokyo Stock Exchange was equivalent to 365% of GDP and bond market capitalization was 939% of GDP (Box 4.4).

4.108. The regulatory regime (Box 4.4) for financial services has continued to evolve. The prohibition on naked short selling, first introduced for six months following the 2008 financial crises and renewed several times, was made permanent and revised rules on short selling in general were introduced with effect from 5 November 2013. Since December 2012, Japan has required mandatory clearing of over-the-counter derivative transactions and, since April 2013, it has also required mandatory reporting. Mandatory trading on electronic platforms will be introduced by September 2015.

#### Box 4.3 Market and regulatory regime for insurance

**Penetration (premiums as share of GDP):** Life insurance: 7.2%; non-life insurance: 1.7%

##### Regulatory framework

##### Supervisory authorities:

Ministry/agency responsible for defining insurance sector policy, and for supervision of the sector: the FSA, ministries specified in law for regulated *kyosai*  
Responsibility for competition policy issues: the Japan Fair Trade Commission

##### Preferential and bilateral policies:

Preferential arrangements affecting insurance services: none  
Bilateral agreements and MOUs: 2

##### Licensing:

Criteria for assessing applications for insurance licence: sufficient financial and organizational base to conduct insurance underwriting; and whether the underwritten insurance products are appropriate  
Incompatibility of life and/or non-life insurance licences: insurance companies may conduct only one of these businesses  
Differential treatment for foreigners in the licensing process: no distinction under the Act  
Prior approval of home-country supervisor: compatible home-country regulation and other criteria applied exclusively to foreigners: a foreign insurer requires a certificate from an organization whose jurisdiction includes the home country, proving that the insurer is lawfully conducting insurance business in its home country that is similar to the insurance business it intends to conduct in Japan  
Limitation on number of providers: none  
Licencing authority: the FSA, which is the single administrative organ for the consideration of licence applications  
Maximum processing time for applications: there is no provision under the Act for a maximum but the standard "to be attempted" is within 120 days  
Period of validity of a licence: without special conditions, a licence has no specified period of validity  
Restrictions on selling or disposing of licences: allocated licences may not be sold; where insurance companies abandon their insurance business, their licences become void  
Other authorization required: approval from the Prime Minister is required for the acquisition of over 20% of the shares of an insurance company. This measure is non-discriminatory.

##### Prudential regulations:

Differences of treatment between state-owned firms, other domestically owned firms, foreign-owned branches, and foreign-owned subsidiaries: foreign-owned subsidiaries are required to hold in Japan the necessary assets in order to secure an insurance policy that provides for the company's potential collapse (Insurance Business Act, Article 197)  
Also, foreign-owned subsidiaries are exempt from a consolidated solvency margin standard  
Recognition of home-country supervision of foreign insurance companies: To obtain a licence, a foreign insurance company must be "carrying on Insurance Business in a foreign state in accordance with the Acts and regulations of the foreign state": home-country supervision of the foreign insurance company is recognized (Insurance Business Act, Article 2(6), 185(1))

Minimum capital requirements to obtain a licence: ¥1 billion. Foreign insurance companies are required to deposit ¥200 million with the deposit office in Japan (Insurance Business Act, Article 6: 190)

Other prudential tests for licence applicants: ¥1 billion minimum capital requirement. In processing licence applications, consideration is given to ensuring equity capital in accordance with the contents and scale of the business anticipated, and a sufficient financial base to conduct the business of an insurance company soundly and efficiently, as well as to having good prospects for income and expenditures pertaining to the business (Insurance Business Act, Article 5(1)(i)). In addition, the solvency margin ratio of each insurance company must always be no less than 200%

Administrative allocation of insurance services: insurance services are allocated administratively

Approval required for life and non-life premiums and products: the contents of insurance products, premium rates, etc., are subject to review at the time of application for a licence. Also, approval is required from the FSA to revise the contents of insurance products, insurance premiums, etc., (Insurance Business Act, Article 5(1)(iii)(iv), 123(1), 187(5), (207)).

Note: The FSA is the supervisory authority for both activities, assisted by the Minister for Health, Labour and Welfare for pension funds. For management and sales of investment trust, licensing takes the form of a registration procedure. Criteria taken into account are historical records of applicants, financial and organizational soundness, and minimum capital (¥50 million at least). Foreign companies intending to exercise these activities must be exercising the same activity in their home country under appropriate supervision and must have a branch or office in Japan. Licences have no fixed duration and are not transferable. There is no limitation on the number of providers. Box 4.5 details the main economic indicators and the general regulatory framework of mutual funds and pensions fund services in Japan.

Source: Information provided by the Japanese authorities.

#### Box 4.4 Market and regulatory regime for securities

##### Economic indicators

##### Total market capitalization of companies listed on the first section of the Tokyo Stock Exchange (end of each quarter 2013):

¥ million: 359,766,497 (March); 393,957,453 (June); 417,303,078 (September); 458,484,253 (December)  
 % of nominal GDP: 307.38% (March); 332.64% (June); 355.39% (September); December 365.40% (December)  
 % of real GDP: 275.34% (March); 307.00% (June); 318.38% (September); 338.78% (December)

##### Bond market capitalization (total outstanding amount of bond issues, end of each quarter 2013): including Government Bonds, Fiscal Investment and Loan Program Bonds, Local Government Bonds, Government-backed Bonds, FILP Agency Bonds, etc., Bank Debenture Bond, and Corporate Bonds

¥100 million: 11,476,488 (March); 11,663,887 (June); 11,705,899 (September); 11,783,802 (December)  
 % of nominal GDP: 980.54% (March); 984.86% (June); 996.92% (September); 939.15% (December)  
 % of real GDP: 878.33% (March); 908.94% (June); 893.11% (September); 870.72% (December)

##### Regulatory framework

##### Supervisory authority and licensing organ:

The FSA

Additional criteria for foreign firms: for sales of investment trusts (Type I Financial Instruments Business), registration requires a corporation to be an entity that is carrying out business of the same sort in its home country in accordance with laws and regulations of the corresponding foreign country.

Period of validity of a licence: none

Transferability of licences: not transferable

Limitation of the number of providers: none

Restrictions on foreigners buying and selling on the stock market: A member of the Financial Instruments Exchange Market is limited to either (1) a Financial Instruments Business Operator (request for registration by the Prime Minister), (2) Authorized Transaction-at-Exchange Operator (request for authorization by the Prime Minister), or (3) Registered Financial Institutions (request for registration by the Prime Minister)

Other authorization required: obligation to register branch offices for brokers. This measure is non-discriminatory

##### Operating conditions:

Requirements to use international accounting and disclosure standards: In October 2013, relevant Cabinet Office Ordinances were amended to eliminate the two requirements: "Being a listed company in Japan" and "Conducting financial or business activities internationally". As a result, a company may prepare its consolidated financial statements in accordance with the International Financial Reporting Standards (IFRS) if: all of the following requirements are met:

(1) The Annual Securities Report contains a description of the special approach taken to ensure the appropriateness of the consolidated financial statements

(2) Board members and employees who have sufficient knowledge about designated international accounting standards are assigned, and the system in which the consolidated financial statements can be prepared, based on the designated international accounting standard, is maintained

On 12 December 2008, in agreement with the European Union, the Japanese GAAPs (Generally Accepted Accounting Principles) were evaluated to be equivalent to International Financial Reporting Standards (IFRS) as adopted by the European Union (EU). (Since January 2009, Japanese companies that are listed on markets within the EU have been able to use the Japanese GAAPs when making disclosures in Europe.)

**Provisions on shareholders' rights in companies listed on stock exchanges:**

The Financial Instruments and Exchange Act does not provide any special regulations on shareholders' rights for companies listed on the financial instruments exchange.

**Provisions on companies' disclosure obligations:**

- for companies listed on financial instruments exchange: disclosure of company information in accordance with securities listing regulations; to protecting shareholders' rights, rules are described in the "Corporate Code of Conduct"
- for general companies: (a) Offering disclosure: among public offerings or secondary distributions of securities of which the total issue price or total distribution price is 100 million yen or more, the issuer must submit a securities registration statement to the Prime Minister before a public offering or secondary distribution (Financial Instruments and Exchange Act, Article 4(1)); also, the issuer must prepare and deliver a prospectus to investors before (or at the same time as) delivering the securities (Article 15(2)); (b) Ongoing disclosure: an issuer of listed securities on the financial instruments exchange or of a public offering or secondary distribution of securities, is obligated to submit its security report after the end of each business year (within 3 months) to the Prime Minister (Financial Instruments and Exchange Act, Article 24(1)); a quarterly securities report must be submitted to the Prime Minister within 45 days of the end of every fiscal quarter (Article 24-7(1)); and when making a public offering or secondary distribution of securities in a foreign state, these issuers must submit an extraordinary report to the Prime Minister without delay (Article 24-5(4)).

Source: Information provided by the Japanese authorities.

4.109. The 2014 amendments of the Financial Instruments and Exchange Act introduced several changes to the legislation regulating securities to take account of new developments in securities offers and trades and improve the overall attractiveness of Japan's financial and capital markets. The amendments include the introduction of measures to promote the use of security-based crowdfunding, the introduction of a new trading system for non-listed shares, removal of the obligation on financial instruments business operators to have business years ending 31 March, exempting treasury stock from large shareholding reporting rules, and establishment of procedures for confiscation of electronic share certificates.<sup>68</sup>

#### 4.4.5 Pension and mutual funds

4.110. There were changes to regulations for pension mutual funds over the past few years. The FSA is the supervisory authority, assisted by the Minister for Health, Labour and Welfare for pension funds. For management and sales of investment trust, licensing takes the form of a registration procedure. Criteria taken into account are historical records of applicants, financial and organizational soundness, and minimum capital (¥50 million at least). Foreign companies that want to operate pension or mutual funds in Japan must have a branch or office in Japan and operate the same activity in their home country under appropriate regulation and supervision. Licences have no fixed duration and are not transferable. There is no limitation on the number of providers. Box 4.1 details the main economic indicators and Box 4.5 the general regulatory framework of mutual funds and pensions fund services in Japan.

#### Box 4.5 Market and regulatory regime for pension funds and mutual funds

**Recent changes:**

Some revisions including revision of the consolidation procedures and improvement of investment reports are going to be made from the viewpoint of making the regulation flexible to suit trends in international rules and changes in social and economic circumstances, and ensuring the supply of appropriate products in consideration of ordinary investors.

**Supervisory authorities:**

FSA registration required to carry out management and sales for investment trust.

**Responsibility for pension fund regulation and supervision:**

Minister for Health Labour and Welfare.

**Licensing criteria:**

Registration with the FSA. Conditions to be considered are: historical records of violations, appropriateness, and sufficiency of human resources organization; a board of directors, corporate auditors or a committee must be established; and capital must be more than ¥50 million.

<sup>68</sup> FSA (2014).

**Additional licensing conditions for foreign companies:**

The corporation must be handling the same sort of business in its home country in accordance with law and regulations of that country, and must have a branch or office in Japan.

**Period of validity of a licence:** none

Transferability of licences: licences are not transferable

Limitation on the number of providers: none

Source: Information provided by the Japanese authorities.

## 4.5 Telecommunications

### 4.5.1 Features

4.111. Japan has a highly-developed and technologically-advanced telecommunications sector characterised by high investment, rapid adoption of new technologies, and readiness to switch off legacy systems: in 2011, Japan had more fibre-to-the-home subscriptions than the European Union; in June 2012 the last 2G network was switched off by KDDI; and NTT intends to switch to optical FTTH and cease copper based telephone and ISDN networks.<sup>69</sup> According to the Ministry of Internal Affairs and Communications (MIC), the information, communication technology (ICT) market was worth ¥82.7 trillion in 2011, accounting for 9% of all industries, and employed 3.897 million people, or 6.9% of total employment.<sup>70</sup>

4.112. The telecommunications market in Japan has evolved considerably from the time when it was dominated by NTT and KDDI (which had monopolies on national and international telecommunications respectively). NTT East and NTT West combined now have slightly more than half the fixed-line market, and, although NTT DoCoMo remains the biggest supplier of mobile services, its net income has been relatively static for several years while SoftBank mobile and KDDI have expanded. NTT Corporation owns 100% of NTT East, NTT West, and NTT Communications, about 63.3% of NTT DoCoMo, about 54.2% of NTT Data, and owns or has holdings in many other companies both within and outside Japan.<sup>71</sup> The NTT Corporation, which is the largest telecommunications company in the world, is 35.7% owned by the government and other public bodies (as at March 2014).

4.113. NTT East and NTT West are officially designated as the dominant suppliers for subscriber lines, and NTT DoCoMo for mobile telephony. As stated in the last review, NTT East and NTT West are designated as universal service providers and are required to provide wired telephone services in all areas (i.e. analogue or, since April 2011, optical IP telephone equivalent in addition to public telephone services and emergency calls). Contributors to the universal service fund are carriers with annual sales greater than ¥1 billion which are interconnected with facilities installed by NTT East or NTT West to provide universal service. Calculation of the amount of compensation varies with the type of service. Funds are collected by the Telecommunications Carriers Association, which has been designated as the universal service support institution.<sup>72</sup> The amount of expenditure approved for this fund in 2013 was ¥6.9 billion.

### 4.5.2 Policy and legislation

4.114. The Strategic Headquarters for the Promotion of an Advanced Information and Telecommunications Network Society (IT Strategic Headquarters) in the Cabinet is responsible for general strategy on information and telecommunications technology. In June 2014 the Headquarters revised the *Declaration to be the World's Most Advanced IT Nation*. The Declaration noted: that a lot of progress had been made in installing advanced infrastructure and emphasised the need to use this infrastructure to its full potential; that eGovernment development could more efficient and better coordinated among public agencies; and that IT was critical in disaster management and played an important role in areas like rural development and agriculture.<sup>73</sup>

<sup>69</sup> Fasol G. (2014) and authorities.

<sup>70</sup> MIC (2013), pp. 48-49.

<sup>71</sup> NTT Corporation online information. Viewed at: [http://www.ntt.co.jp/ir/fin\\_e/index.html](http://www.ntt.co.jp/ir/fin_e/index.html) [December 2014].

<sup>72</sup> WTO document WT/TPR/S/276/Rev.1 of 18 June 2013, paragraphs 4.71-72.

<sup>73</sup> IT Strategic Headquarters (2014).

4.115. The MIC is the government agency primarily responsible for telecommunications policy and legislation, and for regulating the sector (Box 4.6). The Ministry publishes an annual white paper describing recent developments in ICT and public policy for the sector. MIC has also been the agency responsible for assigning spectrum for communications, including the 2012 allocations of spectrums for LTE mobile phones.

#### Box 4.6 Market structure and regulatory regime for telecommunications sector, 2013

##### Economic data

###### Main actors:

Companies providing value-added telecom services: 318 carriers are registered with the Minister; and 16,193 carriers have submitted notifications (up to 1 September 2014).

Market leaders for fixed telecom services: NTT East and NTT West (combined market share for fixed telecom service 54.8%, (June 2014)).

Market leaders for mobile services (cellular phones, PHS, and BWA): NTT DoCoMo (39.9%), KDDI (including Okinawa Cellular, 25.8%), SoftBank Mobile (22.9 %), (June 2014).

Main internet access providers (incl. ADSL, fibre-to-home providers, and cable-based access): NTT group (27.9%), vendor group (26.8%), KDDI group (17.9%), (March 2014).

Foreign ownership participation: Except for the Nippon Telegraph and Telephone Corporation, there are no restrictions in Japan's telecommunications carriers. Foreign ownership shares of listed telecom companies are not available.

State ownership: Nippon Telegraph and Telephone Corporation – 33.3%

###### Tariffs: (evolution since Japan's last TPR (2013))

Local services: no changes on basic monthly charges or local call rate (subscriber lines) of NTT East and NTT West.

Mobile services: NTT DoCoMo, Type S Value: basic monthly service rate – ¥3,000; call rate – ¥108 per 3 minutes (excluding tax). Basic monthly service rate includes a communications allowance of ¥2,000 (excluding tax). NTT DoCoMo, Kakehodai-plan (call-free plan): basic monthly service rate – ¥2,700; call rate – free (this service began in November 2014).

Internet services: Ministry of Internal Affairs and Communications does not regulate the internet connection fee. No changes.

Interconnection rates: (monthly charge per line) for optical fibre significantly lowered to:

- Dry copper local loop: NTT East: ¥1,269, NTT West: 1,345 (in 2014)
- Line sharing local loop: NTT East: ¥87, NTT West: ¥88 (in 2014)
- Single star optical fibre: NTT East : ¥3,159, NTT West: ¥3,206 (in 2014)
- Shared-access optical fibre: NTT East: ¥2,808, NTT West: ¥2,847 (in 2014)
- Mobile phone interconnection rates: significantly lowered, e.g. NTT DoCoMo: ¥24.3/3 min. (in 2009), ¥10.26/3 min. (in 2013).

###### Establishment of new companies, mergers or closures since Japan's TPR:

Registered telecommunications carriers decreased in number by 6, notified telecommunications carriers increased in number by 564 (8 newly registered, 1,119 newly notified) (1 Sep. 2014).

##### Regulatory framework

###### Interconnection:

Recent or planned changes: none

Complaints filed or resolutions effected for interconnection disputes among operators: one request for the Minister of Internal Affairs and Communications to start negotiations since 2010.

###### Competition policy:

###### Results of the "competition review in the telecom business field (2013)":

Fixed telephone and dedicated service markets: a single operator has strong market power and the possibility of using its position to exercise market power; MIC estimated that regulations in the market are sufficient and WAN service has strong competitive pressures in the corporate service market.

Toll bypass telephony, cellular phone (including PHS and BWA, broadband, FTTH, and ADSL market, a single operator is in a position to exercise its market power, or multiple carriers are in a position to exercise their market power in an alliance under an oligopoly; MIC estimates that the existence of regulations and competitive pressures from the other service are sufficient.

050-IP telephony and WAN service market: multiple operators are in a position to exercise their market power in an alliance under an oligopoly; MIC estimates that the existence of regulations and competitive pressure in 050-IP telephony and WAN service markets are sufficient.

ISP market: MIC estimates that no operator can use market power.

###### Japan Fair Trade Commission regulations and actions:

The JFTC establishes Guidelines Concerning the Interpretation of "Specific Business Field" as defined in the Provisions of "Monopolistic Situation" in the Antimonopoly Act. The JFTC, as appropriate, monitors trends of production, sale, price, manufacturing costs, and technical innovations, and profit ratios.

As for the telecommunication sector, fixed telecom and mobile telecom have been shown in the annex since 2004, and broadband services since 2010.

Ministry of Internal Affairs and Communications promotes competition in the telecom market.  
Dominant suppliers: NTT East and NTT West (subscriber lines) NTT DoCoMo (mobile phones)

**Other regulatory aspects:**

Regulatory supervision: For carriers installing Category I designated telecommunications facilities – functional separation of the facility department and the sales department introduced to ensure appropriate supervision of subsidiaries and appropriate management of information obtained through the business activities of interconnection (Telecommunications Business Act, Article 31; the Ordinance for Enforcement of Telecommunications Business Act, Article 22).

Facility sharing: no changes

Local loop unbundling: no changes

Number portability: system introduced by Article 4 of Rule of Interconnection, no changes since 2011

Spectrum management: Licence required from the Minister of Internal Affairs and Communications to operate a radio station. However, if a radio station meets a specific requirement it may be operated only by registration (without a licence).

Mobile interconnection: amendment to the Telecommunications Business Act in December, 2010: rules for interconnection accounting introduced for the telecom carriers with Category II designated telecommunications facilities in March 2011 (Telecommunications Act as amended, Article 34).

Mobile roaming rates (wholesale and retail): No regulation

Accounting rates: no changes

Licensing: Operators of telecommunications businesses with large-scale telecommunications circuit facilities must be registered by the Minister of Internal Affairs and Communications; operators with small-scale telecommunications circuit facilities or without telecommunications circuit facilities must submit a notification to the Minister.

**Universal service**

**Beneficiaries:** Telecommunications carriers that provide universal services and are designated by the Ministry of Internal Affairs and Communications (MIC) as carriers meeting the requirements (eligible telecommunications carriers: NTT East and NTT West).

**Contributors:** Telecommunications carriers that have connections to universal service facilities of NTT East and NTT West (limited to carriers with sales of ¥1 billion or more)

**Services covered:** (1) analogue fixed telephones (access lines for analogue fixed telephones) or optical IP telephone equivalent with analogue fixed telephones (included in universal services from April, 2011); (2) Category I public telephone service; (3) emergency calls (dial 110, 118,119).

**Expenditure** (approved in 2013): total compensation for NTT East and NTT West – ¥6.9 billion

**Method of calculation:**

- for access lines for analogue fixed telephones: benchmark method for the top 4.9% of the high-cost regions; when the cost per line exceeds the national average cost + double standard deviations, part of the cost will be covered by the universal service fund

- category I public telephone service: cancel-out cost-revenue calculation method

- emergency calls: costs of emergency lines that correspond to the top 4.9% high cost lines out of all access lines for analogue fixed telephones are compensated

- optical-IP telephones equivalent to analogue fixed telephones: excluded from compensation.

**Management:** Telecommunications Carriers Association (universal telecommunications service support institution) is responsible for collecting contributions from carriers and providing the subsidies. The institution must obtain permission from the MIC regarding the annual subsidies and contributions.

**Specific tax incentives regime for the telecommunication sector:** no changes.

Source: Information provided by the Japanese authorities.

4.116. The main laws setting the legal basis for the regulation of telecommunications include:

- The Wire Telecommunications Act of 1953 (last amended in 2010) for wired transmissions, including copper and fibre transmissions, including fixed telecoms services, cable television and wired broadband;
- The Radio Act of 1950 (last amended in 2014) for wireless transmissions, including mobile phones, terrestrial and satellite television broadcasting infrastructure, and some wifi networks;
- The Telecommunications Business Act of 1984 (last amended in 2014) which covers telecommunications businesses; and
- In addition to these laws, secondary legislation through Cabinet Orders, Ministerial Ordinances, etc. set out detailed rules for their application and interpretation.



## 4.6 Transport

### 4.6.1 Maritime transport

4.117. Japan depends on maritime transport for its trade with 88% of imports and 71% of exports by value carried by sea and 967 million tonnes are transported by ocean-going vessels. Furthermore, reflecting the fact that Japan is made up of numerous islands, coastwise shipping accounts for a significant proportion of domestic cargo transport with 366 million tonnes of cargo transported by coastwise shipping in 2012.<sup>74</sup> According to the Japan Federation of Coastal Shipping Associations, coastal shipping accounted for 32% of the tonne-kilometres for domestic transport in 2009.<sup>75</sup>

4.118. According to UNCTAD, the relatively high proportion of high-value vessels in the Japanese-owned fleet means that, in value terms, it is probably the highest in the world at nearly US\$100 million. According to UNCTAD's report, on 1 January 2013, the fleet of Japanese flagged vessels and beneficially-owned vessels sailing under foreign or international flags was the second largest in the world in tonnage terms at 223.8 million tonnes for nearly 4,000 vessels.<sup>76</sup> According to the Japanese authorities, the fleet of Japanese-flagged and owned vessels greater than 2,000 tonnes was 2,848 vessels for a total tonnage of 190.8 million tonnes (Table 4.21)

**Table 4.21 Maritime transport, main economic indicators, June 2012**

Fleet	Vessels (number)		Tonnage (DWT)			
			(million tonnes)		(% of world tonnage)	
National flag	150		18.61		..	
Of which foreign controlled	0		0		..	
Beneficially owned fleet under foreign flags	2,698		172.18		..	
Merchandise trade	Volume ('000 tonnes, except for containers: '000 TEU) 2012		Value (¥ billion) 2012		% of Japan's international trade (all mode of transport) FY2009	
	Imports	Exports	Imports c.i.f.	Exports f.o.b.	Imports	Exports
International maritime freight trade	988,103	280,917	70,689	63,748	88.1	71.0
Of which containers	8,770	8,750	24,330	29,368	39.9	43.9
Of which transhipped	130	135	..	..	..	..
Of which dry bulk	338,687	74,583	10,469	7,545	15.3	11.3
Of which liquid bulk	378,805	25,358	24,582	3,100	31.6	1.7
Domestic maritime freight trade	705,939	721,417	..	..	..	..
Of which conducted under a waiver regime	..	..	..	..	..	..
Privately managed terminals	Type of cargo	Managing company(ies) / Nationality		Volume (TEU)	Date & duration of the contract	
Tokyo (some)	Container	Tokyo Port Terminal Corporation /Japanese		4,510,778 (volume 2013)	01.04.2008	
Hakata (some)	Container	HAKATA PORT TERMINAL Co. Ltd /Japanese		772,123 (volume 2013)	20.02.2014	
Ibaraki Port Hitachinaka District (some)	Container	Ibaraki Port Authority Corporation /Japanese		7,605 (volume 2012)	06.2000	

.. Not available.

Source: Information provided by the Japanese authorities.

4.119. Although the Japanese-owned fleet may be the most valuable and one of the largest in the world, it declined significantly from 1995-2005. To address the decline, the government has introduced several support measures, including tax incentives and shared purchase programmes, (see below) and, since 2005, the rate of decline in the number of vessels has slowed while the total tonnage has increased.<sup>77</sup>

<sup>74</sup> MIC (2014), Table 12-16 and 12-17 and Japanese authorities.

<sup>75</sup> Japan Federation of Coastal Shipping Associations online information. Viewed at: [http://www.naiko-kaiun.or.jp/e/about/about\\_cargo.html](http://www.naiko-kaiun.or.jp/e/about/about_cargo.html) [December 2014].

<sup>76</sup> UNCTAD (2013), pp. 42-43.

<sup>77</sup> MIC (2014), Table 12-15.

4.120. Maritime shipping policy and national legislation are the responsibility of the Maritime Bureau in the Ministry of Land, Infrastructure, Transport and Tourism (MLIT). The Maritime Bureau represents Japan at the International Maritime Organization. The Bureau is responsible for setting standards, security, regulation, etc.

4.121. Under the MLIT is the Japan Transport Safety Board, which was formed in 2008 with the merger of the Japan Marine Accident Inquiry Agency and the Aircraft and Railway Accidents Investigation Commission. The National Maritime Research Institute, an incorporated administrative agency under MLIT is a research centre for maritime technologies.

4.122. The Japan Maritime Center, which is described as a public interest incorporated foundation, contributes to policy formation through research and consultation with different stakeholders. The Center was established in April 2007 with the merger of the Japan Maritime Foundation and the Japan Maritime Development Association with funding from the Japanese Shipowners' Association and the Japan Federation of Pilots' Associations.<sup>78</sup>

4.123. The main laws covering maritime transport of goods are: the Basic Act on Maritime Policy of 2007, the Carriage of Goods by Sea Act of 1992; the International Carriage of Goods by Sea Act of 1957; the Maritime Traffic Safety Law of 1972; the Port and Harbour Act of 1950; the Port Regulations Act of 1948; and the Ship Safety Law.

4.124. In March 2012, MLIT established the Ocean Policy Panel to implement the Basic Plan on Ocean Policy of 2008.<sup>79</sup> The Plan and Panel address many aspects of marine policy including exploration and exploitation of minerals, fisheries, and the environment, as well as maritime transport. On maritime transport, the Policy recognises the challenges facing maritime transport in Japan, particularly the decline in the number of Japanese-flagged vessels, the aging of the maritime workforce, and the increasing competition in the region.<sup>80</sup>

4.125. Japan does not discriminate against foreign participation in international maritime services and accords national treatment (Table 4.22). However, cabotage restrictions mean only Japanese flag carriers may carry goods and passengers from one Japanese port to another although, under treaties of friendship, commerce and navigation, Japan allows ships to access cabotage services on a reciprocal basis by obtaining permits from MLIT.

4.126. In 2008, a tonnage tax system was introduced which gave oceangoing shipping companies the option of switching away from tax on profits to a tax system based on tonnage (Table 4.22). The scheme was to operate until end-FY2013 but it has been extended until end-FY2018 and the scope extended to included foreign-flagged vessels operating by Japanese shipping firms and their overseas subsidiaries, provided the flag can be changed to Japan following a navigation order under maritime transport law.

4.127. The Japan Railway Construction, Transportation and Technical Agency (JRTT) provides support to coastal shipping by sharing the cost and ownership of vessels, with JRTT taking 70-90% of costs and ownership. The domestic shipping company pays a usage fee to JRTT for the period of joint ownership which is 7-15 years. JRTT is an independent administrative agency which was created in 2003 by integrating the Japan Railway Construction Public Corporation (JRCC) and the Corporation for Advanced Transport and Technology (CATT – which had incorporated several other entities including the Maritime Credit Corporation and the Association for Structural Improvement of the Shipbuilding Industry). At the end of FY2013, JRTT owned 347 ships with a joint-ownership value of ¥365.3 billion. JRTT also provides subsidies to coastal shipping companies for the take up of new technologies, such as electric propulsion systems, as well as support for ferry services to remote islands. In FY2012 and FY2013, subsidies for Practical Application of Advanced Ship Technologies were ¥95.7 million and ¥45.7 million respectively.<sup>81</sup>

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<sup>78</sup> Japan Maritime Center online information. Viewed at: <http://jpmac.or.jp/english/introduction.html#Japan> [December 2014].

<sup>79</sup> MLIT (2012), p. 118.

<sup>80</sup> MLIT (2008), pp. 10, 14-15, 26.

<sup>81</sup> JRTT (2013), pp. 10-15 and 26; and the authorities.



**Table 4.22 Trade-related maritime transport policies**

Competition policy
<p>Scope of the anti-trust immunity: Marine Transportation Law, Article 28 item (4) Immunity "to conclude an arrangement or agreement or to conduct concerted act concerning the fares or charges and other transportation conditions, routes, allocation of ships as well as sharing of shipping between a ship operator and other ship operators on routes between ports in Japan and a territory other than Japan", i.e. conferences, agreements, discussion agreements, stabilization agreements and vessel sharing agreements and consortia in liner shipping and tramp pools in bulk shipping.</p>
<p>Filing requirements: Marine Transportation Law Article 29-(2) "Any ship operator shall, if he/she intends to engage in the act provided for in Article 28 item (4) or to alter the content thereof, notify beforehand Minister of Land, Infrastructure, Transport and Tourism to that effect".</p>
<p>Marine Transportation Law Article 50 "Any person to whom any of the following items applies shall be liable to a fine of not more than one million yen, item (24) Anyone who has taken action under item 4 of Article 28, or has altered the content of such action, without submitting notification under the provisions of Article 29-(2), Paragraph 1, or who has made a false notification under the same provisions".</p>
<p>Last review concluded: FY2010, by the MLIT in consultation with JFTC, no changes.</p>
<p>Next planned review: FY2015</p>
<p>Tonnage tax: Introduced in 2008 until the end-FY2013 (March 2014); characteristics unchanged corporate tax rates but net profit deemed to be: - for vessels less than 1,000 NT, ¥120/100 NT; - for vessels over 1,000 and up to 10,000 NT, ¥90/100 NT; - for vessels over 10,000 and up to 25,000 NT, ¥60/100 NT; and - for vessels over 25,000 NT, ¥30/100 NT. The tonnage tax system has been extended to end-FY2018 (March 2019) and the scope expanded to cover "deemed-Japanese-flagged-vessel"* with tax rates of one and a half times those for Japanese-flagged vessels. (* "deemed-Japanese-flagged-vessel" means a foreign-flagged-vessel operated by Japanese shipping firm and owned by their overseas subsidiaries which can change its flag to Japan immediately in case of issuing order of navigation in accordance with maritime transport law.)</p>
<p>Other support measures: - Additional depreciation of 18% can be applied to Japanese-flagged vessels; may opt for either declining-balance method or the straight-line method. - "roll over relief" i.e. deferred taxation of capital gains in case of sale of old vessels replaced by new vessels; system extended in 2014 until the end of FY2017. - Coastal Shipping Tentative Measures Program: scrapping incentives FY2013: Not applicable. - Coastal shipping joint ownership scheme under JRJT.</p>
<p>International ship regime (ISR): Ship registration tax under the ISR regime and the Japanese ordinary register (for a 85,000 GT bulker) (1) ISR vessels – ¥38.8 million (2) non-ISR vessels – ¥44.3 million In order to receive tax relief, an ISR vessel must correspond (1) and (2) of the following requirements, and must meet at least (3) or (4) of the following: (1) the vessel must be more than 2,000 GT; (2) the vessel must navigate in the ocean-going sea areas; (3) the vessel must board non-Japanese seafarers with a certificate issued by the Minister of Land, Infrastructure, Transport and Tourism; (4) the vessel must be LNG or RO-RO type. Companies may apply for the ISR scheme as long as they are established under Japanese law, regardless of their shareholders.</p>
<p>Passenger transport: Remote island sea routes are subsidised by regional public transport for management and improvement projects and passenger fares. 300 sea routes were in service at the end of FY2011, 120 of which are subsidised.<sup>a</sup> According to the authorities, the government subsidizes the Projects for Securing and Maintaining Regional Public Transport for secure and maintain bus and demand-responsive transport and remote island sea and air routes, which are optimal means of transport that fill regional needs are supported in those regions where the continued availability of networks of regional transport is endangered. The total value of subsidies is ¥30.6 billion.</p>

a MLIT (2012), p. 138.

Source: Information provided by the Japanese authorities.

4.128. Entry into the port transport sector requires permission from MLIT, and port transport charges are subject to prior notification procedures. However, licensing requirements and an economic needs test were abolished in 2006 and replaced by a permission requirement system

based on technical and financial abilities.<sup>82</sup> Under the Port and Harbour Act, port development, management and operation are entrusted to local public organizations<sup>83</sup> although private management of port terminals is allowed and open to foreign investors.

#### 4.6.2 Air transport

4.129. Japan has a well-developed air transport sector with approximately 61 million international passengers, 86 million domestic passengers, and 95 million tonnes of international cargo in FY2012. There are 97 airports in service in the country but the top five account for nearly all traffic and the top two for over half: Narita International Airport accounted for 62.2% of international passengers; and Tokyo International Airport (Haneda) for 63.8% of domestic passengers. After several years of declining domestic traffic and fluctuating international traffic, the increase in passenger numbers in FY2012, particularly the number of international passengers which was the highest ever, was partly credited to the increased activities of low-cost airlines.<sup>84</sup>

4.130. In 2008, the Airport Law of 1956 was amended to apply three categories of airports: corporate airports which are administered by airport companies, national airports administered by MLIT, including joint use with the Japan Self Defence Force and U.S. forces; and municipal airports administered by local governments. Of the 97 airports in Japan, about 28 are controlled by MLIT.

4.131. The five international airports are:

- Tokyo International Airport (Haneda Airport) is owned by MLIT, which also operates the airside of the airport while the landside is operated by various private companies;
- Narita International Airport is owned and operated by Narita International Airport Corporation which is 100% government-owned;
- Chubu Centrair International Airport is owned and operated by the Central Japan International Airport Company 40% of which is owned by the government, 10% by local authorities, and 50% by others, including private corporations;
- Kansai International Airport and Osaka International Airport which, since July 2012, have been operated by the New Kansai International Airport Corporation (NKIAC) which was established under the Act on the Integrated and Efficient Establishment and Management of Kansai International Airport and Osaka International Airport of 2012. NKIAC is fully government-owned.<sup>85,86,87</sup>

4.132. Under the Act on Operation of National Airports Utilizing Skills of the Private Sector of 2013, MLIT began the process for the privatisation of the operation of Sendai Airport with guidelines for applications published in June 2014. The plan is to complete selection in August 2015, establish the operating right in November 2015, and to begin operations in March 2016.<sup>88</sup>

4.133. In September 2014, NKIAC selected the Qualified Project for Airport Operation of Kansai International Airport and Osaka International Airport under the Act on Promotion of Private Finance Initiative and the Act for Integrated and Efficient Establishment and Administration of Kansai International Airport and Osaka International Airport. The Project outlines the process for selecting a private business operator for the operations at the airports with the intention of

<sup>82</sup> WTO document S/C/N/571, 5 October 2010.

<sup>83</sup> Ports of Singapore Authority has invested in Hibiki port.

<sup>84</sup> MLIT online information. Viewed at: [http://www.mlit.go.jp/koku/15\\_hf\\_000030.html](http://www.mlit.go.jp/koku/15_hf_000030.html) [August 2014].

<sup>85</sup> ICAO (2012).

<sup>86</sup> Japan Credit Rating Agency Ltd (2012).

<sup>87</sup> MLIT online information. Viewed at: [http://www.mlit.go.jp/koku/15\\_hf\\_000033.html](http://www.mlit.go.jp/koku/15_hf_000033.html)

[December 2014].

<sup>88</sup> MLIT (2014).

completing the process of selecting and granting operating rights in August 2015 and commencement of the project in January 2016.<sup>89</sup>

4.134. The Civil Aviation Bureau in MLIT is responsible for air transport policy, preparing legislation, setting standards, providing air navigation services, security, aeronautical regulation, meteorology, etc. The Bureau also sets uniform landing charges for airports it owns and approving them for others.

4.135. There are 26 commercial airlines based in Japan, including All Nippon Airways (ANA) and the flag carrier Japan Airlines (JAL) which are the seventh and eleventh biggest airlines in the world in terms of sales<sup>90</sup> (Box 4.7).

#### Box 4.7 Japan's market and regulatory regime for air transport subsectors, 2014

##### Computer reservation services

General regulatory framework

No specific market regulations, hence no monopoly granted or compulsory use of a specific system. The sector is subject to the generic legislation, the Antimonopoly Act (section 3.3.4). No recent regulatory changes.

##### Economic characteristics

All global players (Sabre, Galileo, WorldSpan, Amadeus) present on the market, two national providers: Axess (JAL) and Infini (Abacus-ANA). No detailed statistical data available.

##### Selling and marketing of air transport services

General regulatory framework

No specific regulations on the sale by foreign airlines of their tickets, no recent regulatory changes.

##### Aircraft repair and maintenance

General regulatory framework: the Aircraft Manufacturing Industry Act does not impose any requirements on repair or maintenance of domestic planes; establishment is conditional on a non-discriminatory economic needs test. No recent regulatory changes.

Economic characteristics: 11 FAA-certified and 11 EASA-certified repair stations. No detailed statistical data available.

##### Ground handling services

General regulatory framework: self-handling and mutual handling are allowed (Aeronautics Law Article 102, 104, 113-2, 15 July 1952; Civil Aeronautics Regulations Japan Article 211, 212, 214, 222, 14 August 1952); third-party handling allowed with no quantitative threshold or limitation to nominatively designated airports. Differentiated situation with some bilateral partners (e.g. with Russia and with Uzbekistan). No recent regulatory changes.

Economic characteristics: foreign third-party handlers are present in Japan, e.g. at Narita Airport, Kansai Airport, Centrair Airport. No detailed statistics data available.

##### Airport management services

General regulatory framework: All airports are for public use; there are some airports managed by private corporations in Japan.

Economic characteristics: 97 airports.

##### Air freight forwarding

General regulatory framework: Air freight forwarding in Japan reserved for Japanese nationals; international air freight forwarding subject to approval based on reciprocity test.

##### Non-transport activities/aerial work

General regulatory framework: reserved to national operators within Japan, prior notification procedure for foreign investment. The Civil Aeronautics Act limits a foreign representative of an aerial work service operator, or foreign voting rights or officers to less than 1/3 of an aerial work service operator (including their holding company).

##### Commercial aviation

General regulatory framework

National establishment rules: the Civil Aeronautics Act limits a foreign representative of a national air carrier, or foreign voting rights or officers to less than 1/3 of a national air carrier (including their holding company).

##### Bilateral agreements

See Table 4.23

##### All cargo

No specific market-access policy, the "known shipper/regulated agent" security regime was introduced in October 2005.

##### Charter

Foreign operators of passenger charter flights require permission from the MLIT. MLIT generally permits passenger charter flights by foreign airlines, except in case of reciprocity problems.

##### Domestic traffic

Reserved to national carriers. New entrants are not restricted. Air carriers may decide freely on routes, capacities, and prices after notifying the MLIT, except for routes and capacities to/from congested airports like Haneda, Narita, Itami, and Kansai.

<sup>89</sup> NKIAC online information. Viewed at: <http://www.nkiac.co.jp/en/concession/index.html> [November 2014].

<sup>90</sup> Forbes (2014).

**Slot allocation**

According to IATA rules, planned expansion of number of slots at Narita (+30,000 by FY2014 at the earliest; current total 270,000).

**Economic characteristics**

ANA HOLDINGS: 231 aircraft, operating revenues ¥1,601.0 billion for FY2013, no shareholder with more than 5%; JAL: 222 aircraft, operating revenues ¥1,309.3 billion for FY2013, no shareholder with more than 5%; and Nippon Cargo Airlines: 12 aircraft, turnover ¥88.9 billion in FY2013, owned 100% by Nippon Yusen Kaisha.

4 low-cost carriers: Peach Aviation (2011, ANA HOLDINGS 38.7%, first Eastern Investment group 33.3%, INCJ 28%); Vanilla Air (2011, ANA HOLDINGS 100%); and Jetstar Japan (JAL, Qantas 33% each, Mitsubishi, Century Tokyo Leasing 16.7% each); Spring Airlines Japan (2013, SPRING AIRLINES 33%, others 67%).

Source: Information provided by the Japanese authorities.

4.136. In January 2010, JAL filed for support from the Enterprise Turnaround Initiative Corporation (ETIC) and for corporate reorganization and protection from creditors.<sup>91</sup> Following a restructuring, which included an investment of ¥350 billion by ETIC and a write-off of debt by the main creditors, reportedly of over ¥500 billion, ETIC disposed of its 96.5% holding in JAL through an initial public offering held in September 2012.<sup>92, 93</sup>

4.137. The increase in passenger numbers in FY2012 has been partly attributed to the entry of low-cost airlines<sup>94</sup> with several low-cost carriers now operating in Japan. Official policy is to encourage their expansion through a review of technical regulations to allow faster turn-around times and through the construction of dedicated terminals.<sup>95</sup> Expansion has also been driven by new open skies agreements (Table 4.23) and aided by the increase in capacity at some of the main airports such as Narita which has increased from 200,000 slots in 2008 to 270,000 in 2013 with the extension of one runway, and the introduction of simultaneous parallel independent departures.

4.138. Airports in Japan have been adapting to cater for low-cost airlines. Kansai International Airport has a one low-cost carrier (LCC) terminal in operation since October 2012 and a second under construction which is planned to open in the second half of 2016. Narita International Airport has built interim LCC reception facilities with construction of a LCC terminal in progress with full completion scheduled for 8 April 2015; and Naha Airport's interim LCC terminal, built by leveraging existing facilities came into operation in October 2012.

4.139. Japan has negotiated and agreed open skies agreements with eleven countries in 2012, and three in 2013. However, the degree of liberalization varies somewhat from one agreement to another and no agreement has included 7<sup>th</sup> freedom or cabotage (Table 4.23).

**Table 4.23 Bilateral air transport agreements, 2014**

Partner	Date	5th	7th	Cab.	Coop.	Desig.	With-holding	Pricing	Capacity	Stat.
United States	25.10.2010	Yes	No	No	Yes	Multi	SOE	DD/ZP	FD (except HND)	No
Korea, Republic of	22.12.2010	Yes	No	No	Yes	Multi	SOE	CoO/ZP	FD (except HND)	Yes
Singapore	19.01.2011	Yes	No	No	Yes	Multi	SOE	CoO/ZP	FD (except HND)	Yes
Malaysia	24.02.2011	Yes	No	No	Yes	Multi	SOE	CoO/ZP	FD (except HND)	Yes
Hong Kong, China	18.05.2011	Yes	No	No	Yes	Multi	SOE	CoO/ZP	FD (except HND)	Yes
Viet Nam	09.06.2011	Yes	No	No	Yes	Multi	SOE	CoO/ZP	FD (except HND)	Yes
Macau, China	14.07.2011	Yes	No	No	Yes	Multi	SOE	CoO/ZP	FD (except HND)	Yes
Indonesia	11.08.2011	Yes	No	No	Yes	Multi	SOE	CoO/ZP	FD (except HND)	Yes
Canada	14.09.2011	Yes	No	No	Yes	Multi	SOE	DD/ZP	FD (except HND)	Yes
Australia	29.09.2011	Yes	No	No	Yes	Multi	SOE	CoO/ZP	FD (except HND)	Yes
Brunei Darussalam	28.10.2011	Yes	No	No	Yes	Multi	SOE	CoO/ZP	FD (except HND)	Yes
Chinese Taipei	10.11.2011	Yes	No	No	Yes	Multi	SOE	CoO/ZP	FD (except HND)	No
United Kingdom	20.01.2012	Yes	No	No	Yes	Multi	CoI	DD/ZP	FD (except HND)	Yes
New Zealand	16.02.2012	Yes	No	No	Yes	Multi	SOE	CoO/ZP	FD (except HND)	Yes
Sri Lanka	23.03.2012	Yes	No	No	Yes	Multi	SOE	CoO/ZP	FD (except HND)	Yes
Finland	08.06.2012	Yes	No	No	Yes	Multi	CoI	CoO/ZP	FD (except HND)	Yes

<sup>91</sup> JAL (2010).

<sup>92</sup> The Economist (2012), *Japan Airlines – From bloated to floated*, 15 September.

<sup>93</sup> ETIC, which was established in October 2009 as a wholly owned subsidiary of the Deposit Insurance Corporation of Japan (DICJ) was reorganized in March 2013 and renamed the Regional Economy Vitalization Corporation of Japan (REVIC). DICJ online information. Viewed at: [http://www.dic.go.jp/english/e\\_kikotoha/e\\_kogaisha/index.html](http://www.dic.go.jp/english/e_kikotoha/e_kogaisha/index.html) [December 2014].

<sup>94</sup> MLIT online information. Viewed at: [http://www.mlit.go.jp/koku/15\\_hf\\_000118.html](http://www.mlit.go.jp/koku/15_hf_000118.html) [December 2014].

<sup>95</sup> MLIT (2012), p. 158.

Partner	Date	5th	7th	Cab.	Coop.	Desig.	With-holding	Pricing	Capacity	Stat.
France	07.07.2012	Yes	No	No	Yes	Multi	Col	CoO/ZP	FD (except HND)	Yes
China	08.08.2012	Yes	No	No	Yes	Multi	SOE	CoO/ZP	FD (except HND)	Yes
Netherlands	22.08.2012	Yes	No	No	Yes	Multi	Col	CoO/ZP	FD (except HND)	Yes
Sweden	11.10.2012	Yes	No	No	Yes	Multi	Col	CoO/ZP	FD (except HND)	Yes
Denmark	11.10.2012	Yes	No	No	Yes	Multi	Col	CoO/ZP	FD (except HND)	Yes
Norway	11.10.2012	Yes	No	No	Yes	Multi	Col	CoO/ZP	FD (except HND)	Yes
Thailand	21.11.2012	Yes	No	No	Yes	Multi	SOE	CoO/ZP	FD (except HND)	No
Switzerland	23.07.2013	Yes	No	No	Yes	Multi	Col	CoO/ZP	FD (except HND)	Yes
Philippines	13.09.2013	Yes	No	No	Yes	Multi	SOE	CoO/ZP	FD (except HND)	Yes
Myanmar	24.10.2013	Yes	No	No	Yes	Multi	SOE	DA/ZP	FD (except HND)	Yes
Austria	20.02.2014	Yes	No	No	Yes	Multi	Col	DD/ZP	FD (except HND)	Yes

Note: "5<sup>th</sup>" stands for fifth freedom rights; "7<sup>th</sup>" for seventh freedom rights; "Cab" for cabotage; "Coop" for cooperation clauses; "Desig." for designation; "Multi" for multi-designation; "SOE" for substantial ownership and effective control; "Col" for Community of Interest; "DD" for dual disapproval; "CoO" for country of origin; "DA" for Double Approval; "ZP" for zone pricing; "FD" for free determination; "HND" Haneda Airport; and "Stat" for statistics.

Source: Information provided by the Japanese authorities.

#### 4.6.3 Rail transport

4.140. Japan has an extensive rail network of over 20,000 km length carrying over 8,837 million passengers or 246,942 million passenger kilometers in 2011 (Table 4.24) making it one of the most extensive and most intensively used railway systems in the world.

**Table 4.24 Railway transport in Japan, FY2011**

Interurban network	Total length (km)	Electrified (km)	Double tracked (km)	Gauge (mm)	Traffic (million)
Total railway network	20,124	12,366	8,386	1,067 or 1,435	Passengers: 8,837 Passenger-km: 246,942
Freight companies	8,337		Unknown	1,067	Tonnes: 29.8 Tonne-km: 19,879

Source: Ministry for Land, Infrastructure, Transport, and Tourism.

4.141. There are over 100 different railway companies operating in Japan. The six passenger rail companies and one freight company formed from the breakup of the Japanese National Railways in 1987 own most of the railway lines, locomotives, and rolling stock. The six passenger rail companies in the JR Group are vertically-integrated regionally-based companies (although operating inter-regional services). Three of them were fully privatized (JR East, JR West, and JR Central). No shareholder in any of the three owns more than 5% of shares and there is no restriction on foreign ownership. The other three (JR Hokkaido, JR Shikoku, and JR Kyushu) and JR Freight are owned by the Japan Railway Construction Transport and Technology Agency (JRJT) which is an incorporated administrative agency (Table 4.25). In addition to the three passenger rail companies and the freight rail company, JRJT owns the Railway Technical Research Institute (RTRI) and the Railway Information System (JR System) which provide supporting services. In addition, JRJT's functions include railway construction, providing rail and shipping subsidies, shipbuilding, and disposing of land previously owned by Japanese National Railways.<sup>96</sup>

4.142. Since 1997, JRJT has been responsible for the construction of high-speed railways (*shinkansen*) which are two-thirds funded by central government, and one-third by local governments. JRJT owns and maintains the lines and leases them to the operators who own and maintain the locomotives and rolling stock.<sup>97</sup> The lease fee is decided through negotiations between the operator and JRJT in association with MLIT based on predicted economic effectiveness, such as expected profit, where such lines are adopted.

<sup>96</sup> JRJT (2013), p. 2.

<sup>97</sup> JRJT (2013), p. 4.

Table 4.25 JR Group, FY2013

Company	Operating revenue (¥ billion)	Operating income (¥ billion)	Revenue from passengers or freight (¥ billion)	Network length (km)		Traffic (Passenger-km million)	
				Shinkansen	Conventional	Shinkansen	Conventional
JR East	2,702.9	406.8	1,696.4	1,134.7	6,377.9	20,863	110,247
JR Central	1,652.5	494.6	1,214.9	552.6	1,418.2	46,930	51,070
JR West	1,331.0	134.6	780.6	644.0	4,371.7	17,618	38,277
JR Hokkaido	82.8	37.2	..	..	2,457.7	..	..
JR Shikoku	28.0	10.2	..	..	855.2	..	..
JR Kyushu	196.1	1.9	..	288.9	1,984.1	..	..
JR Freight <sup>a</sup>	187.8	7.8	104.2	..	8,197.9	..	19,300 tonne-km million

.. Not available.

a JR Freight online information. Viewed at: <http://www.jrfreight.co.jp/english/corporate/financials.html> [September 2014].

Note: JR Freight FY2009.

Source: Annual reports, Japanese authorities.

4.143. The major cities in Japan usually have an urban metro system which is usually wholly- or partly-owned by the municipality although they may also include a number of companies. In the Tokyo area there are eleven major railways, including JR East, Tobu Railway, Tokyo Metro, and Toei with a total network length of 2,658 km, 167,013 million passenger km, and revenue of ¥2,026.1 billion in FY2012.<sup>98,99</sup>

4.144. Many of the smaller regional railways around Japan are loss-making: out of 91 small- and medium-sized private railways 69 had operating deficits in FY2012. The subsidies from the government are provided to projects, carried out by regional railway operators, such as replacement of equipment to improve safety, barrier-free measures, and improvements of facilities for further convenience from the standpoint of ensuring safe regional transport modes, promoting use of regional railway services and improving regional activities. The total amount of the subsidies provided to regional railway operators was approximately 7,100 million yen

4.145. The Railway Bureau in MLIT is responsible for policy and legislation on rail transport in Japan. The principal legislation affecting rail transport is included in several laws, including:

- The Railway Business Act of 1986 (last amended in 2014) which sets out the conditions for MLIT to grant or refuse licenses for operators, charges and conditions for the use of railway tracks, passenger fares, etc.;
- The Railway Operation Act of 1900 (last amended in 2006) which provides for the development and application of technical regulations for the construction railways and the structure and operation of rolling stock as well as regulations relating to fares, passengers and freight;
- The Nationwide Shinkansen Railway Development Act of 1970 (last amended in 2011) which provides for the development of a railway network capable of carrying high-speed trains (greater than 200 km/h);
- The Law Concerning Passenger Railway Companies and the Japan Freight Railway Company of 1986 (last amended in 2014) which provided for the creation of six passenger railway companies and a freight railway company after the break-up of Japanese National Railways; and
- The Japanese National Railways Restructuring Law of 1998 (last amended in 1998) which provided the legal basis for the seven companies formed from the break-up of

<sup>98</sup> JR East (2014), p. 66.

<sup>99</sup> Tobu Railway is a public company, part of the Tobu Group of companies, no single shareholder having more than 5% of shares; Tokyo Metro is owned by the government of Japan (53.4%) and the Tokyo Metropolitan government (46.6%); and Toei is run by the Tokyo Metropolitan Bureau of Transportation on behalf of the owner, the Metropolitan government.



JNR to be restructured as limited liability companies and for their possible privatization as well as to the non-railway businesses of JNR (e.g. ferries).

4.146. In addition, to the basic acts, there are several other laws relating to their enforcement or providing details for their implementation. Furthermore, in addition to MLIT several other public agencies are involved in developing rail transport policy, particularly the local authorities that are responsible for public transport in their jurisdiction. Details on the regulatory regime are set out in Box 4.8 below.

4.147. In addition to policy and preparing legislation, the Railway Bureau is also responsible for setting standards, regulation, licensing, approving passenger fares, freight, and leasing of track. Although there are no regulations on access to other companies' tracks, accounting separation is required so that access can be priced correctly.

#### **Box 4.8 Regulatory framework for railway transport in Japan, 2012**

##### Investment regime:

Prior notification regime for inward foreign direct investment: a foreign investor must notify in advance the Minister of Finance and the minister with jurisdiction over the business to: (1) obtain 10% or more of the stock of public-listed companies, or (2) obtain the stock of non-public-listed companies.

When "national security is impaired, the maintenance of public order is disturbed, or the protection of public safety is hindered", the notifier may be ordered to change the content pertaining to the inward direct investment, or to discontinue the investment (Foreign Exchange and Foreign Trade Act).

##### Right to operate:

Railway transport operators must submit an application to MLIT, take an examination, and obtain a licence in a non-discriminatory manner.

##### Infrastructures ownership:

Railway transport network owners must submit an application to the Minister of Land, Infrastructure, Transport and Tourism, takes an examination and obtain a licence in a non-discriminatory manner.

##### Liberalization of freight transport:

No specific regulations, except Foreign Exchange and Foreign Trade Act.

##### Liberalization of passenger transport:

No specific regulations, except Foreign Exchange and Foreign Trade Act.

Note: The meaning of "Railway Transport" in this context includes railway, underground railway, tramway, monorail, guide-rail system railway, etc. (Article 3, paragraph (3) of the Order on Inward Direct Investment).

Source: Information provided by the Japanese authorities.

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## 5 APPENDIX TABLES

Table A1. 1 Merchandise exports by product groups, 2009-13

	2009	2010	2011	2012	2013
Total exports (US\$ billion)	580.7	769.8	823.2	798.6	715.1
	(% of total)				
Total primary products	5.8	5.6	5.9	5.8	6.6
Agriculture	1.4	1.3	1.3	1.4	1.5
Food	0.7	0.6	0.6	0.6	0.6
Agricultural raw material	0.7	0.7	0.8	0.8	0.9
Mining	4.4	4.3	4.6	4.4	5.1
Ores and other minerals	0.9	0.7	0.7	0.9	0.9
Non-ferrous metals	1.8	1.9	1.9	1.9	1.9
Fuels	1.8	1.7	2.0	1.7	2.3
Manufactures	87.5	88.4	88.1	88.9	87.6
Iron and steel	5.4	5.5	5.7	5.5	5.4
Chemicals	10.6	10.2	10.3	9.9	10.6
5112 Cyclic hydrocarbons	0.8	0.7	0.9	0.9	1.3
5822 Other plastics, flat shapes, non-cellular and not reinforced, etc.	1.0	1.1	1.0	1.0	0.9
Other semi-manufactures	4.7	4.7	4.8	4.9	4.9
Machinery and transport equipment	58.2	59.5	58.3	59.6	57.9
Power generating machines	2.0	1.6	1.7	1.8	1.8
Other non-electrical machinery	11.5	13.8	15.4	14.6	13.5
7284 Machinery and appliances for particular industries, n.e.s.	2.1	3.3	3.4	2.8	2.5
7232 Mechanical shovels, etc., self-propelled	0.7	1.1	1.2	1.3	1.0
7285 Parts, n.e.s. of machines/appliances of 723.48, 727.21, 728.41 to 728.49	0.6	0.8	0.8	0.8	0.7
Agricultural machinery and tractors	0.3	0.3	0.3	0.3	0.3
Office machines & telecommunication equipment	13.6	12.0	10.6	10.3	9.8
7764 Electronic integrated circuits and microassemblies	4.2	4.1	3.6	3.5	3.5
7763 Diodes, transistors, etc.	1.2	1.3	1.2	1.1	1.0
7649 Parts and accessories for apparatus of division 76	1.7	1.2	1.0	0.9	0.9
7638 Sound/video recording/reproducing apparatus; video recording/reproducing apparatus	1.6	1.3	1.1	1.2	0.8
Other electrical machines	6.4	6.3	6.2	6.3	6.3
7725 Switches, relays, fuses, etc. for a voltage not exceeding 1000 V	1.0	1.0	1.0	1.1	1.1
Automotive products	17.8	19.4	18.3	20.8	21.2
7812 Motor vehicles for the transport of persons, n.e.s.	10.7	11.7	10.6	12.2	12.8
7843 Other motor vehicle parts and accessories of 722, 781 to 783	4.2	4.6	4.6	5.0	4.9
7821 Goods vehicles	1.1	1.3	1.4	1.6	1.4
Other transport equipment	6.8	6.2	6.2	5.8	5.3
7932 Ships, boats, etc. (excl. pleasure craft, tugs, etc.)	3.7	3.3	3.1	2.7	2.1
7139 Parts, n.e.s., for piston engines of 713.2, 713.3, 713.8	1.0	1.0	1.1	1.1	1.1
Textiles	1.1	0.9	1.0	1.0	1.0
Clothing	0.1	0.1	0.1	0.1	0.1
Other consumer goods	7.5	7.5	7.9	7.9	7.7
8719 Liquid crystal devices, n.e.s.; lasers (excl. laser diodes)	0.7	0.9	1.0	1.0	0.9
8841 Optical fibres and optical fibre bundles; optical fibre cables other than those of heading 773.1; sheets and plates of polarising material; lenses, prisms, mirrors and other optical elements, unmounted, other than such elements of glass	0.8	0.7	0.7	0.8	0.8
8746 Automatic regulating and controlling instruments	0.6	0.6	0.6	0.7	0.8
Other	6.7	6.0	6.0	5.3	5.8
Gold	0.8	0.8	1.2	0.9	0.7

Source: UNSD, Comtrade database (SITC Rev.3).

Table A1. 2 Merchandise imports by product groups, 2009-13

	2009	2010	2011	2012	2013
Total imports (US\$ billion)	552.0	694.1	855.4	885.8	833.2
	(% of total)				
Total primary products	46.2	48.0	51.4	51.3	50.5
Agriculture	12.3	11.2	11.2	10.6	10.3
Food	10.5	9.2	9.2	8.9	8.6
Agricultural raw material	1.8	1.9	2.0	1.7	1.7
Mining	33.9	36.9	40.1	40.8	40.2
Ores and other minerals	4.4	5.6	5.4	4.7	4.6
2815 Iron ores and concentrates, not agglomerated	1.4	2.0	2.3	2.0	1.9
2831 Copper ores and concentrates	1.5	1.7	1.3	1.3	1.3
Non-ferrous metals	1.9	2.6	2.6	1.9	1.8
6841 Aluminium and aluminium alloys, unwrought	0.6	0.9	0.8	0.7	0.6
Fuels	27.6	28.7	32.1	34.1	33.8
3330 Crude oils of petroleum and bituminous minerals	14.5	15.2	16.6	17.3	17.5
3431 Natural gas, liquefied	5.5	5.7	7.0	8.5	8.7
3212 Other coal, whether or pulverized, not agglomerated	3.9	3.3	3.5	3.2	2.7
3421 Propane, liquefied	0.8	1.0	1.0	1.1	1.0
Manufactures	51.7	50.0	47.1	47.2	48.0
Iron and steel	1.0	1.3	1.4	1.1	1.0
Chemicals	8.8	8.8	8.8	8.3	7.9
5429 Medicaments, n.e.s.	1.4	1.3	1.3	1.6	1.5
5157 Other heterocyclic compounds; nucleic acids	1.1	0.8	0.7	0.7	0.6
5416 Glycosides; glands, etc. and extracts; antisera/vaccines, etc.	0.5	0.5	0.6	0.6	0.6
Other semi-manufactures	3.9	3.6	3.5	3.5	3.5
Machinery and transport equipment	23.0	23.3	20.8	21.5	22.7
Power generating machines	1.3	1.0	0.9	0.9	0.9
Other non-electrical machinery	3.3	3.3	3.3	3.1	3.3
Agricultural machinery and tractors	0.1	0.1	0.1	0.1	0.1
Office machines & telecommunication equipment	11.2	11.9	10.2	10.2	10.9
7764 Electronic integrated circuits and microassemblies	2.9	2.9	2.1	2.0	2.0
7643 Radio or television transmission apparatus	0.6	0.7	1.1	1.6	2.0
7522 Data processing machines, with at least processing, input and output units	0.8	0.9	1.0	1.0	1.0
7763 Diodes, transistors, etc.	0.3	0.5	0.4	0.5	0.9
7649 Parts and accessories for apparatus of division 76	1.4	1.3	1.0	1.0	0.9
Other electrical machines	3.8	3.8	3.4	3.6	3.6
731 Insulated wire, cable, etc.; optical fibre cables	0.7	0.8	0.7	0.7	0.8
Automotive products	1.8	2.0	2.0	2.3	2.5
7812 Motor vehicles for the transport of persons, n.e.s.	0.8	0.9	1.0	1.2	1.3
7843 Other motor vehicle parts and accessories of 722, 781 to 783	0.7	0.8	0.7	0.8	0.9
Other transport equipment	1.5	1.2	1.0	1.4	1.5
Textiles	1.2	1.0	1.1	1.0	1.1
Clothing	4.6	3.9	3.9	3.8	4.0
8453 Jerseys, pullovers, cardigans, etc., knitted/crocheted	0.8	0.6	0.6	0.6	0.6
Other consumer goods	9.2	8.3	7.6	7.9	7.9
Other	2.0	1.9	1.6	1.5	1.4
Gold	0.1	0.2	0.1	0.1	0.2

Source: UNSD, Comtrade database (SITC Rev.3).

**Table A1. 3 Merchandise exports by destination, 2009-13**

	2009	2010	2011	2012	2013
Total exports (US\$ billion)	580.7	769.8	823.2	798.6	715.1
	(% of total)				
America	23.2	22.4	21.7	24.2	24.8
United States	16.4	15.6	15.5	17.8	18.8
Other America	6.7	6.7	6.2	6.4	6.0
Mexico	1.2	1.2	1.2	1.3	1.4
Panama	2.2	2.0	1.8	1.8	1.4
Canada	1.3	1.2	1.1	1.3	1.2
Europe	14.0	12.8	13.3	11.2	11.0
EU(28)	12.5	11.3	11.7	10.2	10.0
Germany	2.9	2.6	2.9	2.6	2.7
The Netherlands	2.3	2.1	2.2	2.0	1.9
United Kingdom	2.0	1.8	2.0	1.7	1.6
EFTA	1.3	1.2	1.3	0.7	0.6
Other Europe	0.3	0.3	0.4	0.3	0.3
Commonwealth of Independent States	0.7	1.2	1.7	1.8	1.8
Russian Federation	0.6	1.0	1.4	1.6	1.5
Africa	1.6	1.6	1.6	1.6	1.6
Middle East	3.7	3.3	3.0	3.5	3.6
United Arab Emirates	1.1	1.0	0.9	1.1	1.2
Kingdom of Saudi Arabia	0.9	0.8	0.8	1.0	1.0
Asia	56.8	58.8	58.7	57.6	57.2
China	18.9	19.4	19.7	18.1	18.1
Six East Asian Traders	29.5	30.4	29.6	29.2	29.0
Republic of Korea	8.1	8.1	8.0	7.7	7.9
Chinese Taipei	6.3	6.8	6.2	5.8	5.8
Hong Kong, China	5.5	5.5	5.2	5.1	5.2
Thailand	3.8	4.4	4.6	5.5	5.0
Singapore	3.6	3.3	3.3	2.9	2.9
Malaysia	2.2	2.3	2.3	2.2	2.1
Other Asia	8.4	8.9	9.4	10.3	10.0
Indonesia	1.6	2.1	2.2	2.5	2.4
Australia	2.1	2.1	2.2	2.3	2.4
Viet Nam	1.1	1.1	1.2	1.3	1.5
Philippines	1.4	1.4	1.4	1.5	1.4
India	1.1	1.2	1.3	1.3	1.2
<i>Memorandum:</i>					
APEC	74.8	76.4	76.1	77.6	78.4

Source: UNSD, Comtrade database.

**Table A1. 4 Merchandise imports by origin, 2009-13**

	2009	2010	2011	2012	2013
Total imports (US\$ billion)	552.0	694.1	855.4	885.8	833.2
	(% of total)				
America	16.0	15.4	14.3	14.1	13.9
United States	11.0	10.0	8.9	8.8	8.6
Other America	5.1	5.4	5.4	5.2	5.3
Canada	1.7	1.6	1.5	1.4	1.4
Brazil	1.2	1.4	1.5	1.4	1.3
Chile	1.0	1.1	1.1	1.1	1.0
Europe	12.3	10.9	10.7	10.7	10.6
EU(28)	10.7	9.6	9.4	9.4	9.4
Germany	3.0	2.8	2.7	2.8	2.9
France	1.7	1.5	1.4	1.4	1.4
Italy	1.2	1.0	1.0	1.1	1.1
EFTA	1.5	1.3	1.2	1.2	1.1
Other Europe	0.1	0.1	0.1	0.1	0.1
Commonwealth of Independent States (CIS)	1.7	2.5	2.3	2.5	3.0
Russian Federation	1.6	2.3	2.2	2.3	2.8
Africa	1.6	1.7	2.0	2.3	2.2
Middle East	16.8	17.1	18.8	19.2	19.3
Saudi Arabia, Kingdom of	5.3	5.2	5.9	6.2	6.0
United Arab Emirates	4.1	4.2	5.0	5.0	5.1
Qatar	2.9	3.1	3.5	4.1	4.4
Kuwait, the State of	1.6	1.5	1.5	1.7	1.6
Asia	51.5	52.4	51.8	51.2	50.9
China	22.2	22.1	21.5	21.3	21.7
Six East Asian Traders	14.5	15.1	15.0	14.8	14.5
Republic of Korea	4.0	4.1	4.7	4.6	4.3
Malaysia	3.0	3.3	3.6	3.7	3.6
Chinese Taipei	3.3	3.3	2.7	2.7	2.8
Thailand	2.9	3.0	2.9	2.7	2.6
Singapore	1.1	1.2	1.0	1.0	0.9
Other Asia	14.8	15.2	15.3	15.1	14.7
Australia	6.3	6.5	6.6	6.4	6.1
Indonesia	4.0	4.1	4.0	3.6	3.5
Viet Nam	1.3	1.2	1.4	1.7	1.7
Philippines	1.2	1.1	1.0	1.1	1.1
<i>Memorandum:</i>					
APEC	66.5	67.0	65.2	64.5	64.3

Source: UNSD, Comtrade database (SITC Rev.3).

**Table A2. 1 WTO dispute settlement cases active 1 January 2011–31 December 2014**

(reverse chronological order)

Subject	Respondent/ complainant/ appellant	Request received for consultation	Status (as at 31 Dec. 2014)	WTO document series
<b>Japan as respondent</b>				
None				
<b>Japan as complainant</b>				
Definitive Safeguard Measures on Certain Passenger Cars	Ukraine	30/10/2013	Panel composed 20/06/2014	DS468
Recycling Fee on Motor Vehicles	Russian Federation	24/07/2013	Consultations	DS463
Measures Imposing Anti-Dumping Duties on High-Performance Stainless Steel Seamless Tubes ("HP-SSST") from Japan	China	20/12/2012	Panel composed 29/07/2013	DS454
Measures Affecting the Importation of Goods	Argentina	21/08/2012	Panel report circulated 22/08/2014	DS445
Measures Related to the Exportation of Rare Earths, Tungsten and Molybdenum	China	13/03/2012	Reports adopted 29/08/2014	DS433
Certain Measures Affecting the Renewable Energy Generation Sector	Canada	13/05/2010	Implementation notified 05/06/2014	DS412
Tariff Treatment of Certain Information Technology Products	European Union	28/05/2008	Implementation notified 20/07/2011	DS376
Measures Relating to Zeroing and Sunset Reviews	United States	24/11/2004	Arbitration request withdrawn 03/08/2012	DS322
<b>Japan as a third party</b>				
Measures on the Importation of Live Pigs, Pork and Other Pig Products from the European Union	Russian Federation/European Union	08/04/2014	Panel established 22/07/2014	DS475
Certain Methodologies and their Application to Anti-Dumping Proceedings Involving China	United States/China	03/12/2013	Panel composed 28/08/2014	DS471
Measures on Atlanto-Scandian Herring	Denmark/European Union	04/11/2013	Mutually agreed solution 21/08/2014	DS469
Certain Measures Concerning Trademarks, Geographical Indications and Other Plain Packaging Requirements Applicable to Tobacco Products and Packaging	Australia/Indonesia	20/09/2013	Panel composed 05/05/2014	DS467
Anti-dumping and Countervailing Measures on Large Residential Washers from Korea	United States/Korea, Republic of	29/08/2013	Panel composed 20/06/2014	DS464
Recycling Fee on Motor Vehicles	Russian Federation/European Union	09/07/2013	Panel established 25/12/2013	DS462
Measures Imposing Anti-Dumping Duties on High-Performance Stainless Steel Seamless Tubes ("HP-SSST") from the European Union	China/European Union	13/06/2013	Panel composed 11/09/2013	DS460
Certain Measures Concerning Trademarks, Geographical Indications and Other Plain Packaging Requirements Applicable to Tobacco Products and Packaging	Australia/Cuba	03/05/2013	Panel composed 05/05/2014	DS458
Certain Measures Relating to Solar Cells and Solar Modules	India/United States	06/02/2013	Panel established 23/05/2014	DS456
Importation of horticultural products, animals and animal products	Indonesia/United States	10/01/2013	Panel established	DS455
Countervailing and Anti-dumping Measures on Certain Products from China	United States/China	17/09/2012	Reports adopted 22/07/2014	DS449
Measures Affecting the Importation of Goods	Argentina/United States	21/08/2012	Panel report circulated 22/08/2014	DS444
Certain Measures Concerning Trademarks, Geographical Indications and Other Plain Packaging Requirements Applicable to Tobacco Products and Packaging	Australia/Dominican Republic	18/07/2012	Panel composed 05/05/2014	DS441
Anti-Dumping and Countervailing Duties on Certain Automobiles from the United States	China/United States	05/07/2012	Report adopted 18/06/2014	DS440
Measures Affecting the Importation of Goods	Argentina/European Union	25/05/2012	Panel report circulated 22/08/2014	DS438
Countervailing Duty Measures on Certain Products from China	United States/China	25/05/2012	Panel report circulated 14/07/2014	DS437



Subject	Respondent/ complainant/ appellant	Request received for consultation	Status (as at 31 Dec. 2014)	WTO document series
Certain Measures Concerning Trademarks, Geographical Indications and Other Plain Packaging Requirements Applicable to Tobacco Products and Packaging	Honduras/Australia	04/04/2012	Panel composed 05/05/2014	DS435
Certain Measures Concerning Trademarks and Other Plain Packaging Requirements Applicable to Tobacco Products and Packaging	Ukraine/Australia	13/03/2012	Panel composed 05/05/2014	DS434
Measures Related to the Exportation of Rare Earths, Tungsten and Molybdenum	China/European Union	13/03/2012	Reports adopted 29/08/2014	DS432
Measures Related to the Exportation of Rare Earths, Tungsten and Molybdenum	China/United States	13/03/2012	Reports adopted 29/08/2014	DS431
Measures Concerning the Importation of Certain Agricultural Products from the United States	India/United States	06/03/2012	Panel composed 18/02/2013	DS430
Anti-Dumping Measures on Certain Frozen Warmwater Shrimp from Viet Nam	United States/Viet Nam	20/02/2012	Panel composed 12/07/2013	DS429
Anti-Dumping and Countervailing Duty Measures on Broiler Products from the United States	China/United States	20/09/2011	Implementation notified 22/07/2014	DS427
Measures Relating to the Feed-in Tariff Program	Canada/European Union	11/08/2011	Implementation notified 05/06/2014	DS426
Definitive Anti-Dumping Duties on X-Ray Security Inspection Equipment from the European Union	China/European Union	25/07/2011	Implementation notified 26/02/2014	DS425
Anti-Dumping Measures on Shrimp and Diamond Sawblades from China	United States/China	28/02/2011	Implementation notified 26/03/2013	DS422
Anti-dumping measures on corrosion-resistant carbon steel flat products from Korea	United States/Korea, Republic of	31/01/2011	Panel established	DS420
Countervailing and Anti-Dumping Duties on Grain Oriented Flat-rolled Electrical Steel from the United States	China/United States	15/09/2010	Compliance proceedings ongoing 26/02/2014	DS414
Certain Measures Affecting Electronic Payment Services	China/United States	15/09/2010	Implementation notified 23/07/2013	DS413
Anti-Dumping Measures on Certain Footwear from China	European Union/China	04/02/2010	Implementation notified 17/012/2012	DS405
Anti-dumping Measures on Certain Shrimp from Viet Nam	United States/Viet Nam	01/02/2010	Reports adopted 02/09/2011	DS404
Use of Zeroing in Anti-Dumping Measures Involving Products from Korea	United States/Korea, Republic of	24/11/2009	Implementation notified 19/12/2011	DS402
Measures Prohibiting the Importation and Marketing of Seal Products	European Union/Norway	05/11/2009	Reports adopted 18/06/2014	DS401
Measures Prohibiting the Importation and Marketing of Seal Products	European Union/Canada	02/11/2009	Reports adopted 18/06/2014	DS400
Measures Affecting Imports of Certain Passenger Vehicle and Light Truck Tyres from China	United States/China	14/09/2009	Reports adopted 05/10/2011	DS399
Measures Related to the Exportation of Various Raw Materials	China/Mexico	21/08/2009	Implementation notified 28/01/2013	DS398
Definitive Anti-Dumping Measures on Certain Iron or Steel Fasteners from China	European Union/China	31/07/2009	Compliance proceedings ongoing 18/12/2013	DS397
Measures Related to the Exportation of Various Raw Materials	China/European Union	23/06/2009	Implementation notified 28/01/2013	DS395
Measures Related to the Exportation of Various Raw Materials	China/United States	22/06/2009	Implementation notified 28/01/2013	DS394
Measures Affecting the Importation of Bovine Meat and Meat Products from Canada	Korea, Republic of/Canada	09/04/2009	Mutually agreed solution 03/07/2012	DS391
Certain Country of Origin Labelling Requirements	United States/Mexico	17/12/2008	Compliance proceedings ongoing 25/09/2013	DS386
Certain Country of Origin Labelling Requirements	United States/Canada	01/12/2008	Compliance proceedings ongoing 25/09/2013	DS384
Anti-Dumping Administrative Reviews and Other Measures Related to Imports of Certain Orange Juice from Brazil	United States/Brazil	27/11/2008	Mutually agreed solution 14/02/2013	DS382

Subject	Respondent/ complainant/ appellant	Request received for consultation	Status (as at 31 Dec. 2014)	WTO document series
Measures Concerning the Importation, Marketing and Sale of Tuna and Tuna Products	United States/Mexico	24/10/2008	Compliance proceedings ongoing 22/01/2014	DS381
Definitive Anti-Dumping and Countervailing Duties on Certain Products from China	United States/China	19/09/2008	Implementation notified 31/08/2012	DS379
Tariff Treatment of Certain Information Technology Products	European Union/Chinese Taipei	12/06/2008	Implementation notified 20/07/2011	DS377
Tariff Treatment of Certain Information Technology Products	European Union/United States	28/05/2008	Implementation notified 20/07/2011	DS375
Certain Measures Prohibiting the Importation and Marketing of Seal Products	European Union/Canada	25/09/2007	Panel established 25/03/2011	DS369
Measures Affecting the Importation of Apples from New Zealand	Australia/New Zealand	31/08/2007	Implementation notified 02/09/2011	DS367
Measures Affecting Trading Rights and Distribution Services for Certain Publications and Audiovisual Entertainment Products	China/United States	10/04/2007	Implementation notified 27/05/2012	DS363
Measures Affecting Trade in Large Civil Aircraft — Second Complaint	United States/European Union	27/06/2005	Compliance proceedings ongoing 23/10/2012	DS353
Final Anti-Dumping Measures on Stainless Steel from Mexico	United States/Mexico	26/05/2006	Mutually agreed solution 08/04/2013	DS344

Source: WTO Secretariat.

**Table A2. 2 Selected notifications under WTO Agreements (1 January 2012-7 October 2014)**

WTO Agreement	Description of requirement	Document symbol and date of most recent notification
<b>Agriculture</b>		
Article 18.2	Domestic support (DS:1)	G/AG/N/JPN/191, 31/03/2014
Article 18.2	Domestic support (DS:2)	G/AG/N/JPN/192, 02/04/2014
Article 18.2	Information on tariff quotas administration (MA:1)	
Article 18.2	Volume of imports under tariff quotas (MA:2)	G/AG/N/JPN/196, 01/10/2014
Article 5.7	Volume-based special safeguard (MA:3)	G/AG/N/JPN/197, 06/10/2014
Article 5.7	Price-based special safeguard (MA:4)	G/AG/N/JPN/195, 28/07/2014
Articles 5.7 and 18.2	Special safeguard (MA:5)	G/AG/N/JPN/193, 24/04/2014
Articles 10 and 18.2	Export subsidies (outlays and quantities) (ES:1)	G/AG/N/JPN/194, 25/04/2014
Article 10	Volume of food aid in the context of export subsidy commitments (ES:3)	G/AG/N/JPN/188, 16/07/2013
Article 16.2	Measures concerning the possible negative effects of the reform programme on least developed and net food importing developing countries (NF:1)	G/AG/N/JPN/180, 20/11/2012
<b>Anti-dumping</b>		
Article 16.4	Anti-dumping actions taken	G/ADP/N/259/JPN, 22/07/2014
Article 16.5	Domestic procedures and authorities competent to initiate and conduct investigation	G/ADP/N/14/Add.29 (G/SCM/N/18/Add.29), 22/04/2010
Article 18.5	Laws and regulations (and changes)	G/ADP/N/1/JPN/2/Suppl.7 G/SCM/N/1/JPN/2/Suppl.7, 29/08/2011
<b>GATT 1994 (Article VII: Customs Valuation)</b>		
Article 22.2	Amendments	G/VAL/N/1/JPN/2, 20/09/2013
	Checklist of issues	G/VAL/N/2/JPN/2, 18/09/2013
<b>GATT 1994 (Article XVII:4(a) Understanding on the Interpretation of Article XVII)</b>		
	Notification of products traded by state enterprises	G/STR/N/15/JPN, 11/07/2014
	State trading activities	
<b>Government Procurement</b>		
Article XIX:5	Statistics on government procurement	GPA/108/Add.4, 23/02/2012
Article XXIV:5(b)	Notification of national implementing legislation	GPA/W/314/Add.5, 06/02/2012
	Laws and regulations (and changes)	GPA/117, 22/04/2013
Article XXIV:6	Modifications to Appendix I	GPA/MOD/JPN/52, 22/06/2010
		GPA/W/309/Add.5, 11/02/2010
Article XXIV:6(a)	Modifications to Annex 3 of Appendix I	GPA/MOD/JPN/67, 09/03/2012
	Modifications to Annex 1 of Appendix I	GPA/MOD/JPN/66, 14/02/2012
Revised GPA	Thresholds	GPA/W/328, 22/04/2014
<b>Import Licensing Procedures</b>		
Articles 1.4(a) and 8.2(b)	Laws and regulations relevant to import licensing	No notification
Article 5.3	Notification of licensing procedures and changes	No notification
Article 7.3	Questionnaire; rules and information concerning procedures for the submission of applications	G/LIC/N/3/JPN/13, 03/10/2014
<b>Subsidies and Countervailing Measures</b>		
Article 32.6	Laws and regulations	G/ADP/N/1/JPN/2/Suppl.7, (G/SCM/N/1/JPN/2/Suppl.7), 29/08/2011
Article 25.11	Countervailing duty actions taken	G/SCM/N/235/Add.1, 24/04/2012
Article 25.1	Subsidies programmes	G/SCM/N/253/JPN, 08/07/2013
		G/SCM/N/253/JPN/Suppl.1, 17/03/2014
Article 25.12	Notification of domestic procedures and authorities competent to initiate and conduct investigations	No notification
<b>Safeguards</b>		
Article 12.6	Laws and regulations	G/SG/Q1/JPN/8, 22/04/2010
Article 12.5	Notification of termination of safeguard investigation	No notification
<b>Sanitary and Phytosanitary Measures</b>		
Article 6, Annex B	Notification of emergency measures (since 01/01/2012)	G/SPS/N/JPN/358, 28/07/2014
		G/SPS/N/JPN/352, 25/06/2014
Article 5, Annex B	Notification of sanitary and phytosanitary measures	2012 – 22 notifications 2013 – 18 2014 – 38
<b>Technical Barriers to Trade</b>		
Article 15.2	Laws and regulations on the implementation and administration of the TBT Agreement	G/TBT/2/Add.10, 11/06/1996
Article 2.10	Urgent technical regulations	G/TBT/N/JPN/468, 25/09/2014
		G/TBT/N/JPN/462, 18/08/2014
		G/TBT/N/JPN/461, 28/08/2014
Article 2.9	Technical regulations	2012 – 33 notifications 2013 – 38 notifications, 1 corrigendum 2014 – 16 notifications
Article 5.6	Conformity assessment procedures	G/TBT/N/JPN/405, 01/08/2012
Article 5.7	Urgent conformity assessment procedures	None
<b>TRIMs</b>		
Article 5.1	Investment measures	None

WTO Agreement	Description of requirement	Document symbol and date of most recent notification
<b>TRIPS</b>		
Article 63.2	Design Act, updated text	IP/N/1/JPN/D/5, 24/06/2013
	Trademark Act, updated text	IP/N/1/JPN/T/5, 24/06/2013
	Patent Act, updated text	IP/N/1/JPN/P/9, 24/06/2013
	Laws and regulations	IP/N/1/JPN/12, 12/06/2013
	Other laws and regulations	IP/N/1/JPN/11, 03/05/2012
	Unfair Competition Prevention Act	IP/N/1/JPN/U/1, 29/02/2012
Article 69	Japanese Unfair Competition Prevention Act, updated text	IP/N/1/JPN/10, 24/02/2012
	Contact points	IP/N/7/Rev.3, 17/02/2010
<b>General Agreement on Trade in Services (GATS)</b>		
Article III:3	Changes to laws and regulations affecting services	S/C/N/659, 05/11/2012
		S/C/N/660, 05/11/2012
<b>Regional Trade Agreements</b>		
	Notification of regional trade agreement	WT/REG309/N/1, 24/02/2012
	Notification of changes affecting the implementation of a regional trade agreement	

Source: WTO documents.

Table A3. 1 Japan's tariff summary, FY2014

	Number of lines	Average (%)	Range (%)	Standard deviation	Duty free (%)	Non-ad valorem rates (%)
<b>Total</b>	<b>9,151</b>	<b>5.8</b>	<b>0-298.6</b>	<b>14.3</b>	<b>40.4</b>	<b>6.7</b>
<b>HS 01-24</b>	2,183	13.3	0-298.6	23.8	18.9	14.0
<b>HS 25-97</b>	6,968	3.5	0-202.3	8.5	47.1	4.4
<b>By WTO category</b>						
WTO agricultural products	1,809	14.9	0-298.69	26.5	25.9	17.4
Animals and products thereof	232	10.1	0-50	13.1	37.1	14.2
Dairy products	64	55.4	9.7-225.6	50.8	0.0	70.3
Fruit, vegetables, and plants	495	10.9	0-237.2	18.9	15.2	3.0
Coffee and tea	62	19.1	0-92.6	15.7	11.3	9.7
Cereals and preparations	348	25.0	0-298.6	37.3	9.8	27.3
Oils seeds, fats, oil and their products	133	2.9	0-29.8	4.2	42.9	30.1
Sugars and confectionary	49	34.9	0-114.2	28.7	6.1	59.2
Beverages, spirits and tobacco	145	17.4	0-69.6	13.2	21.4	24.8
Cotton	5	0.0	0-0	0.0	100.0	0.0
Other agricultural products, n.e.s.	276	5.3	0-246	20.4	61.6	5.4
WTO non-agricultural products	7,342	3.7	0-202.3	7.9	44.0	4.1
Fish and fishery products	499	6.2	0-15	3.7	4.4	0.2
Minerals and metals	1,259	0.9	0-11.7	1.6	72.4	2.4
Chemicals and photographic supplies	1,180	2.5	0-6.5	1.8	30.8	0.1
Wood, pulp, paper and furniture	454	1.8	0-10	2.7	65.9	0.0
Textiles	1,478	5.6	0-25	2.5	4.5	14.0
Clothing	509	9.2	0-13.4	2.0	0.8	0.0
Leather, rubber, footwear and travel goods	318	16.1	0-202.3	31.7	39.3	7.9
Non-electric machinery	602	0.0	0-0	0.0	100.0	0.0
Electric machinery	314	0.1	0-4.8	0.6	97.8	0.0
Transport equipment	134	0.0	0-0	0.0	100.0	0.0
Non-agricultural products, n.e.s.	505	1.3	0-8.4	2.3	72.5	0.4
Petroleum	90	1.6	0-7.9	1.9	32.2	36.7
<b>By ISIC sector</b>						
ISIC 1 - Agriculture, hunting and fishing	671	5.0	0-246	14.8	45.6	5.1
ISIC 2 - Mining	113	0.1	0-4.1	0.8	96.5	0.9
ISIC 3 - Manufacturing	8,367	6.0	0-298.6	14.3	39.2	6.9
Manufacturing excluding food processing	6,769	3.6	0-202.3	8.5	45.7	4.5
<b>By stage of processing</b>						
First stage of processing	1,168	5.4	0-298.6	20.4	51.2	5.0
Semi-processed products	3,410	4.7	0-155	7.4	27.0	8.4
Fully processed products	4,573	6.8	0-280.9	16.2	47.6	5.9
<b>By HS section</b>						
01 Live animals and products	710	10.6	0-225.6	21.7	17.6	10.8
02 Vegetable products	586	11.2	0-298.6	29.8	31.4	11.3
03 Fats and oils	91	4.1	0-29.8	4.5	26.4	40.7
04 Prepared food, beverages and tobacco	796	18.3	0-280.9	20.9	10.1	15.8
05 Mineral products	255	0.7	0-7.9	1.4	68.2	13.7
06 Chemicals and products thereof	1,079	2.3	0-28.7	2.3	36.5	0.4
07 Plastics, rubber, and articles thereof	296	2.5	0-6.5	1.9	34.8	0.0
08 Raw hides and skins, leather, and its products	193	10.5	0-30	10.8	33.7	0.0
09 Wood and articles of wood	265	3.4	0-10	3.0	35.8	0.0
10 Pulp of wood, paper and paperboard	166	0.0	0-0	0.0	100.0	0.0
11 Textiles and textile articles	1,971	6.7	0-126.4	5.5	4.4	10.8
12 Footwear, headgear, etc.	105	32.6	0-202.3	49.0	5.7	23.8
13 Articles of stone, plaster, cement	163	1.2	0-8	1.7	60.7	0.0
14 Precious stones and metals, pearls	79	1.3	0-10	2.3	72.2	0.0
15 Base metals and articles thereof	844	0.9	0-11.7	1.6	71.9	3.3
16 Machinery, electrical equipment, etc.	918	0.0	0-4.8	0.3	99.2	0.0
17 Transport equipment	145	0.1	0-8.4	0.7	99.3	0.0
18 Precision equipment	271	0.2	0-16	1.5	96.7	0.0
19 Arms and ammunition	22	6.9	5.4-8.4	1.5	0.0	0.0
20 Miscellaneous manufactured articles	189	1.7	0-8.1	2.1	57.7	1.1
21 Works of art, etc.	7	0.0	0-0	0.0	100.0	0.0

Note: Excluding in-quota lines and including AVEs, as available, provided by the Japanese authorities. In case of unavailability, the *ad valorem* part is used for compound and alternate rates.

Source: WTO Secretariat calculations, based on data from Japan Customs. Viewed at: [http://www.customs.go.jp/english/tariff/2014\\_4/index.htm](http://www.customs.go.jp/english/tariff/2014_4/index.htm).

**Table A3. 2 Incorporated administrative agencies by government office****Cabinet Office (2)**

National Archives of Japan  
Northern Territories Issue Association

**Consumer Affairs Agency (1)**

National Consumer Affairs Center of Japan

**Ministry of Internal Affairs and Communications (3)**

National Institute of Information and Communications Technology  
National Statistics Center  
Management Organization for Postal Savings and Postal Life Insurance

**Ministry of Foreign Affairs (2)**

Japan International Cooperation Agency  
The Japan Foundation

**Ministry of Finance (3)**

National Research Institute of Brewing  
Japan Mint  
National Printing Bureau

**Ministry of Education, Culture, Sports, Science and Technology (23)**

National Institute of Special Needs Education  
National Center for University Entrance Examinations  
National Institution For Youth Education  
National Women's Education Center of Japan  
National Museum of Nature and Science  
National Institute for Materials Science  
National Research Institute for Earth Science and Disaster Prevention  
National Institute of Radiological Sciences  
National Museum of Art  
National Institutes for Cultural Heritage  
National Center for Teachers' Development  
Japan Science and Technology Agency  
Japan Society for the Promotion of Science  
RIKEN  
Japan Aerospace Exploration Agency  
Japan Sport Council  
Japan Arts Council  
Japan Student Services Organization  
Japan Agency for Marine-Earth Science and Technology, Japan  
Institute of National Colleges of Technology  
National Institution for Academic Degrees and University Evaluation  
Center for National University Finance and Management  
Japan Atomic Energy Agency

**Ministry of Health, Labour and Welfare (19)**

National Institute of Health and Nutrition  
National Institute of Occupational Safety and Health  
Organization Workers' Retirement Allowance Mutual Aid  
Japan Organization for Employment of the Elderly, Persons with Disabilities and Job Seekers  
Welfare and Medical Service Agency  
National Center for Persons with Severe Intellectual Disabilities, Nozominosono  
The Japan Institute for Labour Policy and Training  
Japan Labour Health and Welfare Organization  
National Hospital Organization  
Pharmaceuticals and Medical Devices Agency  
National Institute of Biomedical Innovation  
Japan Community Health Care Organization  
Government Pension Investment Fund  
National Cancer Center  
National Cerebral and Cardiovascular Center  
National Center for Neurology and Psychiatry  
National Center for Global Health and Medicine  
National Center for Child Health and Development  
National Center for Geriatrics and Gerontology

**Ministry of Agriculture, Forestry and Fisheries (13)**

Food and Agricultural Materials Inspection Center  
National Center for Seeds and Seedlings  
National Livestock Breeding Center  
Agriculture and Livestock Industries Corporation (notified to WTO as a state trading enterprise)  
National Fisheries University  
Farmers Pension Fund

Agriculture, Forestry and Fisheries Credit Foundations  
National Agriculture and Food Research Organization  
National Institute of Agrobiological Sciences  
National Institute for Agro-Environmental Sciences  
Japan International Research Center for Agricultural Sciences  
Forestry and Forest Products Research Institute  
Fisheries Research Agency

**Ministry of Economy, Trade and Industry (10)**

Research Institute of Economy, Trade and Industry  
National Center for Industrial Property Information and Training  
Nippon Export and Investment Insurance  
National Institute of Advanced Industrial Science and Technology  
National Institute of Technology and Evaluation  
Japan External Trade Organization  
New Energy and Industrial Technology Development Organization  
Information-Technology Promotion Agency, Japan  
Japan Oil, Gas and Metals National Corporation  
Organization for Small and Medium Enterprises and Regional Innovation, Japan

**Ministry of Land, Infrastructure, Transport and Tourism (19)**

Public Works Research Institute  
Building Research Institute  
National Traffic Safety and Environment Laboratory  
National Maritime Research Institute  
Port and Airport Research Institute  
Electronic Navigation Research Institute  
National Institute for Sea Training  
Marine Technical Education Agency  
Civil Aviation College  
National Agency of Vehicle Inspection  
Japan Railway Construction, Transport and Technology Agency  
Japan National Tourism Organization  
Japan Water Agency  
National Agency for Automotive Safety and Victims' Aid  
Organization for Environment Improvement around International Airport  
Urban Renaissance Agency  
Fund for the Promotion and Development of the Amami Islands  
Japan Expressway Holding and Debt Repayment Agency  
Japan Housing Finance Agency

**Ministry of the Environment (2)**

National Institute for Environmental Studies  
Environmental Restoration and Conservation Agency

**Ministry of Defense (1)**

Labor Management Organization for USFJ Employees

Source: Japanese authorities; and Ministry of Internal Affairs and Communications (2013), *List of Incorporated Administrative Agencies (as at December 1, 2013)*. Viewed at:  
[http://www.soumu.go.jp/main\\_sosiki/gyoukan/kanri/pdf/18\\_iaa.pdf](http://www.soumu.go.jp/main_sosiki/gyoukan/kanri/pdf/18_iaa.pdf) .

Table A4. 1 Special safeguard, FY2011 to 2013

HS	Description	Type of SSG	Date or period of application
<b>FY2011</b>			
040110190	Milk and cream, not concentrated nor containing added sugar or other sweetening matter, of a fat content, by weight, not exceeding 1%: sterilized, frozen or treated appropriate to preserve	Volume	01/12/11 to 31/03/12
040120190	Milk and cream, not concentrated nor containing added sugar or other sweetening matter, of a fat content, by weight, exceeding 1% but not exceeding 6%: sterilized, frozen or preserved	Volume	01/12/11 to 31/03/12
040140190 040150119 040150129	Milk and cream, not concentrated nor containing added sugar or other sweetening matter, of a fat content, by weight, exceeding 6%: Sterilized, frozen or preserved; other cream of a fat content, by weight, of 13% or more (other than sterilized, frozen or preserved)	Volume	01/11/11 to 31/03/12
040221119	Milk powder, not containing added sugar or other sweetening matter, of a fat content, by weight, exceeding 5% but not exceeding 30%	Price	15/04/11
040299129 040299290	Condensed milk	Volume	01/01/12 to 31/03/12
040310190	Yogurt, frozen, preserved or containing added sugar or other sweetening matter, flavouring, fruits or nuts (excluding frozen yogurt)	Volume	01/07/11 to 31/03/12
040390113 040390118 040390123 040390128 040390133 040390138	Buttermilk, curdled milk and cream, kephir and other fermented or acidified milk and cream, sterilized, frozen, preserved, concentrated or containing added sugar or other sweetening matter, flavouring, fruits or nuts	Volume	01/08/11 to 31/03/12
110100200	Wheat or meslin flour	Price	04/04/11, 02/05/11
110290390	Rice flour	Price	29/09/11
110819099	Other starches (excluding sago starches)	Price	13/02/12
110820090	Inulin	Price	12/05/11, 17/01/12, 15/02/12
190120139	Mostly containing wheat and triticale preparation	Price	07/10/11
190190132	Food preparations of goods of heading 04.01 to 04.04, containing not less than 30% natural milk constituents, of the articles in dry weight, excluding whipped cream in pressurized containers, containing not more than 30% milk fat by weight	Price	28/11/11
190190179	Food preparations of flour, meal, or starch, containing groats, meal, pellets or starch of rice, wheat, triticale, barley, which total weight is more than 85% of the articles, mostly containing starch (excluding wheat starch)	Price	19/04/11, 09/06/11, 10/11/11, 05/01/12
<b>FY2012</b>			
040390113 040390118 040390123 040390128 040390133 040390138	Buttermilk, curdled milk and cream, kephir and other fermented or acidified milk and cream, sterilized, frozen, preserved, concentrated or containing added sugar or other sweetening matter, flavouring, fruits or nuts	Volume	01/10/12 to 31/03/13
040510129 040510229 040520090 040590190 040590229	Butter and other fats and oils derived from milk; dairy spreads	Volume	01/01/13 to 31/03/13
040510129	Butter of a fat content, by weight, not exceeding 85%	Price	14/11/12
110100200	Wheat or meslin flour	Price	13/12/12, 20/12/12, 21/01/13
110290390	Rice flour	Price	23/08/12, 07/01/13
110811090	Wheat starch	Price	27/12/12
110814090	Manioc (cassava) starch	Price	15/11/12
110819099	Other starches (excluding sago starches)	Price	29/06/12
110820090	Inulin	Price	27/07/12
121299190	Tubers of konnyaku (amorphophalus), whether or not cut, dried or powdered	Volume	01/12/12 to 31/03/13
190120139	Mostly containing wheat and triticale preparation	Price	18/07/12
190190132	Food preparations of goods of heading 04.01 to 04.04, containing not less than 30% natural milk constituents, of the articles in dry weight, excluding whipped cream in pressurized containers, containing not more than 30% milk fat by weight	Price	17/10/12
190190179	Food preparations of flour, meal, or starch, containing groats, meal, pellets or starch of rice, wheat, triticale, barley, which total weight is more than 85% of the articles, mostly containing starch (excluding wheat starch)	Price	30/07/12, 31/08/12, 26/10/12, 06/12/12, 21/02/13, 04/03/13
190490130	Cereals, other than maize (corn), in grain form, pre-cooked or otherwise prepared, of rice, containing more than 30% by weight of rice	Price	16/10/12
190490290	Cereals, other than maize (corn), in grain form, pre-cooked or otherwise prepared, of wheat or triticale	Price	16/10/12
<b>FY2013</b>			
040221119	Milk powder, not containing added sugar or other sweetening matter of a fat content, by weight, exceeding 5% but not exceeding 30%	Price	22/05/13
040310190	Yogurt, frozen, preserved or containing added sugar or other sweetening	Price	17/03/14



HS	Description	Type of SSG	Date or period of application
	matter, flavouring, fruits or nuts (excluding frozen yogurt)		
040590190	Other fats and oils derived from milk of a fat content, by weight, not exceeding 85%	Price	26/06/13
071310229	Peas ( <i>pisum sativum</i> )	Price	07/01/14
110100200	Wheat or meslin flour	Price	24/10/13, 05/02/14
110429119	Other worked grains (for example, hulled, pearled, sliced or kibbled), of wheat	Price	24/10/13
110811090	Wheat starch	Price	15/05/13
110819099	Other starches (excluding Sago starches)	Price	27/08/3013, 30/09/13
110820090	Inulin	Volume	01/03/14 to 31/03/14
110820090	Inulin	Price	15/04/13, 20/02/14
190190179	Food preparations of flour, meal, or starch, containing groats, meal, pellets or starch of rice, wheat, triticale, barley, which total weight is more than 85% of the articles mostly containing starch (excluding wheat starch)	Price	27/05/13, 31/07/13, 30/09/13, 08/10/13, 21/11/13, 21/01/14
210690119	Food preparations containing by weight not less than 30% natural milk constituents on the dry matter	Price	31/05/13

Source: WTO notifications G/AG/N/JPN/193 of 24 April 2014, JPN/186 of 26 April 2013, and JPN/175 of 25 April 2012.