II. TRADE POLICY REGIME: FRAMEWORK AND OBJECTIVES

(1) INTRODUCTION

1. Since the previous Trade Policy Review of Japan in 2005, there has been no major change in government ministries and agencies responsible for the planning, implementation, and evaluation of its trade policies. Japan's trade policy priorities include strengthening the multilateral trading system, as embodied in the WTO. Nonetheless, Japan is of the view that regional and bilateral free-trade agreements complement trade liberalization at the multilateral level. After having long eschewed such agreements, Japan's first bilateral free-trade agreement (with Singapore) entered into force in November 2002. During the period under review, two further agreements (with Mexico and Malaysia) entered into force, and one (with the Philippines) was signed; several others are being negotiated.

2. Japan has been a major participant in WTO activities, including negotiations under the Doha Development Agenda (DDA). It has provided financial support to the technical assistance and training activities organized by the WTO, and to developing countries in building physical and institutional infrastructure and promoting the development of human resources. Japan has used the WTO dispute settlement mechanism extensively, having been a party to six disputes, three as a respondent and three as a complainant since 2005.

3. The Government remains committed to the promotion of regulatory reform and transparency. Japan has continued to adopt measures to increase the level of transparency of its trade and trade-related policies, practices, and measures, thereby enhancing the Government's accountability to the public. Since 2002, government ministries and agencies have been conducting evaluations of their policies as stipulated in the Government Policy Evaluations Act (GPEA). In 2005, the Government revised the Basic Guidelines for Implementing Policy Evaluation to strengthen the evaluation system; the revision (and other relevant administrative decisions) stipulated, for example, the introduction of ex-ante regulatory impact analysis. The Revised Administrative Procedure Law, which entered into force in April 2006, requires ministries and agencies to publish draft regulations for comments from the public.

4. Japan grants preferential treatment to products from certain developing and least developed countries under its Generalized System of Preference (GSP) scheme. The current GSP scheme, which is valid until 2011, is extended to 142 countries and 15 territories; 50 least-developed countries (LDCs) qualify for further preferential treatment (i.e. tariff-free and quota-free treatment). The main beneficiaries of Japan's GSP include China, Thailand, Malaysia, Indonesia, and the Philippines.

(2) TRADE POLICY OBJECTIVES

5. Japan's overall trade policy objective has remained largely unchanged since its previous Trade Policy Review; it continues to be to ensure long-term prosperity and growth by promoting business activities in Japan and at an international level. Japan wishes to achieve this objective by further strengthening the multilateral trading system as embodied in the WTO, and has been participating actively in the DDA negotiations. Japan is of the view that the simplicity embodied in the most-favoured-nation principle provides a predictable and fair trade regime for all WTO Members, in particular developing Members, and maintains that the WTO plays an essential role in formulating trade rules and liberalizing trade globally. The authorities state Japan's commitment to the DDA and its intention to make every effort toward reaching agreement in the negotiations. With a strong preference for multilateral trade liberalization, Japan grants at least MFN treatment to all countries...
except Andorra, Republic of Equatorial Guinea, Eritrea, Lebanon, North Korea, and Timor-Leste.\(^1\) Although no data were available from the authorities, regarding the share of Japan's imports subject to applied MFN tariffs in its total imports, it would appear that this share is relatively high; the MFN rate is applied to most imports.

6. Concurrently, Japan has been intensifying its pursuit of bilateral/regional arrangements involving free-trade agreements; according to the authorities, this is not just in areas covered by existing WTO Agreements, but also in areas like trade facilitation, investment, movement of natural persons, competition policy, and improvement of the business environment.\(^2\) The authorities consider that Japan's regional and bilateral trade arrangements complement the multilateral system, and are useful tools for market liberalization and structural reform. Japan's FTA with Mexico entered into force in April 2005, and in December 2005, it signed its third FTA, with Malaysia; this entered into force in July 2006. Japan also signed an FTA with the Philippines in September 2006; the authorities state that the text of an FTA with Thailand was finalized in June 2006. Japan is currently negotiating FTAs with Brunei, Chile, Indonesia, the Republic of Korea, as well as with the ASEAN as a whole and the Gulf Cooperation Council (Bahrain, Kuwait, Oman, Qatar, Saudi Arabia, the United Arab Emirates). It has also been engaging in preliminary discussions or government-involved joint studies on bilateral trade liberalization with Australia, India, Switzerland, and Viet Nam. Japan also supports the "open regionalism" approach of the Asia-Pacific Economic Cooperation (APEC) forum, and participates in various other regional trade fora, such as the Asia-Europe meeting (ASEM), the ASEAN+3, and the East Asian Summit (section (4)(ii)).

(3) **Trade Policy Formulation and Evaluation**

(i) **Trade policy formulation and implementation**

7. There has been no substantial change in Japan's trade-related legal and administrative framework since its previous Review in 2005 (Table II.1). Trade-related issues remain the responsibilities of a number of ministries, including Foreign Affairs (MOFA), and Economy, Trade, and Industry (METI). Other ministries and agencies with responsibility for sectoral issues are also involved in trade policy formulation and implementation.\(^3\) The overall coordination of trade policies, including ensuring policy coherence and consistencies with the WTO Agreements, remains the final responsibility of the Cabinet, with input from advisory councils, such as the Council on Economic and Fiscal Policy. The Council for the Promotion of Regulatory Reform (CPRR), established in April 2004, has been designated as the central body to promote regulatory reform, including facilitating private participation in sectors in which state-owned enterprises are predominant, improving of consumer welfare, and revitalizing the economy. The CPRR is mandated to monitor the implementation of the Three-Year Program for the Promotion of Regulatory Reform, and can require the heads of relevant governmental organizations to submit materials, provide explanations, and extend cooperation to the CPRR. Trade and other policy issues are also debated in various Committees, including standing committees in the Diet and the Japan Investment Council (JIC).\(^4\)

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\(^1\) Japan applies preferential tariff rates to selected products originating in the Republic of Equatorial Guinea, Eritrea, Lebanon, and Timor-Leste.

\(^2\) Japan prefers to call these preferential agreements Economic Partnership Agreements (EPAs) rather than FTAs.

\(^3\) These include the Ministries of: Agriculture, Forestry and Fisheries; Education, Culture, Sports, Science and Technology; Environment; Finance; Health, Labour and Welfare; Justice; Land, Infrastructure and Transport; and Internal Affairs and Communications; and the Cabinet Office.

\(^4\) The JIC, established by the Cabinet in July 1994 for the purpose of promoting FDI into Japan, is chaired by the Prime Minister.
### Table II.1
Japan's major trade-related laws and regulations, 2006

<table>
<thead>
<tr>
<th>Foreign trade and exchange restrictions</th>
<th>Most recent amendment</th>
</tr>
</thead>
<tbody>
<tr>
<td>Foreign Exchange and Foreign Trade Law (1949 Law No. 228)</td>
<td>2006</td>
</tr>
<tr>
<td>Export and Import Transaction Law (1952 Law No. 299)</td>
<td>1997</td>
</tr>
<tr>
<td>Foreign Exchange Order (1980 Order No. 260)</td>
<td>2006</td>
</tr>
<tr>
<td>Cabinet Order on Inward Direct Investment (1980 Order No. 261)</td>
<td>2006</td>
</tr>
<tr>
<td>Export Trade Control Order (1949 Order No. 378)</td>
<td>1999</td>
</tr>
<tr>
<td>Import Trade Control Order (1949 Order No. 414)</td>
<td>2000</td>
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<tr>
<th>Customs- and tariff-related regulations</th>
<th>Most recent amendment</th>
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<tbody>
<tr>
<td>Customs Law (1954 Law No. 61)</td>
<td>2006</td>
</tr>
<tr>
<td>Customs Tariff Law (1910 Law No. 54)</td>
<td>2006</td>
</tr>
<tr>
<td>Temporary Tariff Measures Law (1960 Law No. 36)</td>
<td>2006</td>
</tr>
<tr>
<td>Cabinet Order Relating to Countervailing Duties (1994 Order No. 415)</td>
<td>2004</td>
</tr>
<tr>
<td>Cabinet Order Relating to Anti-Dumping Duties (1994 Order No. 416)</td>
<td>2004</td>
</tr>
<tr>
<td>Cabinet Order Relating to Emergency Duties (1994 Order No. 417)</td>
<td>2002</td>
</tr>
<tr>
<td>Cabinet Order Relating to Retaliatory Duties (1994 Order No. 418)</td>
<td>2000</td>
</tr>
<tr>
<td>Cabinet Order on Tariff Quotas (1961 Order No. 153)</td>
<td>2006</td>
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<th>Trade promotion</th>
<th>Most recent amendment</th>
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<tr>
<td>International Trade Insurance Law (1993 Law No. 36)</td>
<td>2005</td>
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</tbody>
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<tr>
<th>Services and energy</th>
<th>Most recent amendment</th>
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<tbody>
<tr>
<td>Construction Business Law (1949 Law No. 100)</td>
<td>2006</td>
</tr>
<tr>
<td>Banking Law (1981 Law No. 59)</td>
<td>2006</td>
</tr>
<tr>
<td>Securities and Exchange Law (1948 Law No. 25)</td>
<td>2004</td>
</tr>
<tr>
<td>Law Concerning the Measures by Large-Scale Retail Stores for Preservation of Living Environment (1998 Law No. 91)</td>
<td>2006</td>
</tr>
<tr>
<td>Employee’s Pension Insurance Law (1954 Law No. 115)</td>
<td>2006</td>
</tr>
<tr>
<td>Civil Aeronautics Law (1952 Law No. 231)</td>
<td>1999</td>
</tr>
<tr>
<td>Marine Transportation Law (1949 Law No. 187)</td>
<td>2006</td>
</tr>
<tr>
<td>Special Measures Law Concerning the Handling of Legal Business by Foreign Lawyers (1986 Law No. 66)</td>
<td>2003</td>
</tr>
<tr>
<td>Certified Public Accountants Law (1948 Law No. 103)</td>
<td>2006</td>
</tr>
<tr>
<td>Certified Tax Accountant Law (1951 Law No. 237)</td>
<td>2006</td>
</tr>
<tr>
<td>Law for Improvement of International Tourist Hotels (1949 Law No. 279)</td>
<td>1999</td>
</tr>
<tr>
<td>Travel Agency Law (1952 Law No. 239)</td>
<td>1999</td>
</tr>
<tr>
<td>Electricity Utilities Industry Law (1964 Law No. 170)</td>
<td>2006</td>
</tr>
<tr>
<td>Gas Utility Industry Law (1954 Law No. 51)</td>
<td>2006</td>
</tr>
<tr>
<td>Petroleum Reserve Law (1975 Law No. 96)</td>
<td>2003</td>
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<tr>
<td>Law on the Quality Control of Gasoline and Other Fuels (1976 Law No. 88)</td>
<td>2005</td>
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<tr>
<th>Standards and technical regulations</th>
<th>Most recent amendment</th>
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<tr>
<td>Industrial Standardization Law (1949 Law No. 185)</td>
<td>2005</td>
</tr>
<tr>
<td>Law Concerning Standardization and Proper Labelling of Agricultural and Forestry Products (JAS Law) (1950 Law No. 175)</td>
<td>2005</td>
</tr>
<tr>
<td>Pharmaceutical Affairs Law (1960 Law No. 145)</td>
<td>2006</td>
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<tr>
<td>Food Sanitation Law (1947 Law No. 233)</td>
<td>2006</td>
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<tr>
<td>Quarantine Law (1951 Law No. 201)</td>
<td>2003</td>
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<tr>
<td>Plant Protection Law (1950 Law No. 151)</td>
<td>2005</td>
</tr>
<tr>
<td>Domestic Animal Infectious Diseases Control Law (1951 Law No. 166)</td>
<td>2005</td>
</tr>
<tr>
<td>Building Standard Law (1950 Law No. 201)</td>
<td>2006</td>
</tr>
<tr>
<td>Electrical Appliance and Material Control Law (1961 Law No. 234)</td>
<td>2006</td>
</tr>
<tr>
<td>Consumer Product Safety Law (1973 Law No. 31)</td>
<td>2005</td>
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<tr>
<td>High Pressure Gas Safety Law (1951 Law No. 204)</td>
<td>2006</td>
</tr>
</tbody>
</table>

*Table II.1 (cont’d)*
Road Vehicle Law (1951 Law No. 185) 2006
Rational Use of Energy Law (1979 Law No. 49) 2006
Fire Service Law (1948 Law No.186) 2006

**Intellectual property rights**
Patent Law (1959 Law No. 121) 2006
Customs Tariff Law (1910 Law No. 54) 2006
Act Against Unjustifiable Premiums and Misleading Representations (1962 Law No. 134) 2005
Unfair Competition Prevention Law (1934 Law No. 47) 2006
Utility Model Law (1959 Law No. 123) 2006
Design Law (1959 Law No. 125) 2006
Trademark Law (1959 Law No. 127) 2006
Copyright Law (1970 Law No. 48) 2005
Civil Code (1896 Law No. 89) 2006
Penal Code (1907 Law No. 45) 2006

**Agriculture**
Basic Law on Food, Agriculture and Rural Areas (1999 Law No. 106) 2006
Temporary Law for Compensation Price of Milk for Manufacturing Use (1965 Law No. 112) 2002
Raw Silk Import Coordination Law (1951 Law No. 310) 2002

**Others**
Law Concerning the Organization of Small and Medium Enterprises Organizations (1957 Law No. 185) 2006
Administrative Procedure Law (1993 Law No. 88) 2005
Act Concerning Prohibition of Private Monopolization and Maintenance of Fair Trade (Anti-Monopoly Act) (1947 Law No. 54) 1999

Source: Information provided by the Japanese authorities.

### (ii) Trade policy evaluation

8. With a view to improving transparency and thus public accountability, the Government Policy Evaluations Act (GPEA), enacted, in April 2002, requires the Cabinet Office and ministries to evaluate their own policies before and after implementation and to publish the results of their evaluations. Based on the GPEA, the Basic Guidelines for Implementing Policy Evaluation was adopted by the Cabinet in December 2001. As well as these self-evaluations, the GPEA obliges the Ministry of Internal Affairs and Communications (MIC)⁵ to undertake independent assessments of the policies implemented by other ministries (Chart II.1). Furthermore, the Commission on Policy Evaluation and Evaluation of Incorporated Administrative Agencies, which consists of independent experts, was established to study and deliberate on basic matters concerning policy evaluations. The authorities state that the results of these self-evaluations are reflected in the annual budget formulation process; the Ministry of Finance conducts its own policy evaluation on selected projects in order to reflect its results in the annual budget formulation.

9. In 2005, the Government conducted a review of its policy evaluation; as a result, the Basic Guidelines for Implementing Policy Evaluation was revised and entered into force in December 2005. The revised Guidelines and/or other relevant administrative decisions stipulate, *inter alia*, that: mandatory ex-ante evaluations of regulations, including regulatory impact analysis (introduced on a trial basis since October 2004), must be conducted for "important policies"; important policies adopted by the Cabinet should be evaluated in a "timely and appropriate manner"; for selected policies involving more than one ministry, the MIC should conduct evaluations; and the results of evaluations are to be incorporated into future policy planning and budget requests. According to the authorities, some of these policy evaluations involve the analysis of cost-effectiveness.

⁵ On 10 September 2004, the English name of the Ministry of Public Management, Home Affairs, Posts and Telecommunication (MPHPT) was changed to the Ministry of Internal Affairs and Communications (MIC).
Chart II.1
Policy evaluation system in Japan, 2006

Source: Information provided by the Japanese authorities.

10. The Revised Administrative Procedure Law, which includes the legislation on the "public comment" procedure, was adopted by the Diet on 22 June 2005 and entered into force on 1 April 2006. The revised law stipulates that ministries and agencies must publish draft regulations (including draft cabinet orders or ministerial orders) and receive comments from the public; they must allow, in principle, at least 30 days to receive comments from the date of publication of the draft. If the authorities decide that comments are required within less than 30 days of publication, they must publish the reason for their decision.

(4) Trade Agreements and Arrangements

(i) WTO

(a) Participation in the WTO

11. As a strong supporter of the multilateral trading system, Japan has been participating actively in the WTO, including in the Doha Development Agenda (DDA). In its statement at the Hong Kong Ministerial Conference in December 2005, Japan offered to contribute US$10 billion to developing
countries, especially the LDCs, for building infrastructure for trade, production, and distribution and to provide duty-free and quota-free market access for "essentially all" LDC products. Japan also offered to conduct exchanges of 10,000 experts and trainees with those Members.\(^7\) In July 2006, the Government donated ¥50 million to the Doha Development Agenda Global Trust Fund in order to finance technical assistance and training activities organized by the WTO in 2006.

12. Like all members of the WTO, Japan is required to notify its laws and measures under various WTO Agreements (Table AII.1).

(b) Disputes

13. Since 2005, Japan has been involved in three disputes as a respondent and three cases as a complainant (Table AII.2). In addition, Japan participated as a third party in nine dispute cases.\(^8\)

(ii) Regional agreements

(a) APEC (Asia-Pacific Economic Cooperation)

14. In 2005, 66.1% of Japan's merchandise imports were from APEC members, and 76.3% of its merchandise exports were to APEC. In keeping with its policy of supporting multilateral trade and investment liberalization, Japan is a strong supporter of APEC's "open regionalism" goals. Like other members, Japan submits an annual Individual Action Plan (IAP) that provides a roadmap of its intended actions in various policy areas with a view to realizing APEC's liberalization goals. At the Twelfth APEC Leaders' Meeting, held in Santiago in November 2004, Ministers, \textit{inter alia}, reaffirmed the primacy of the rules-based multilateral trading system; they also agreed to redouble their efforts to provide technical assistance and capacity building in a "more strategic manner". At the Thirteenth Leaders' Meeting, held in Busan, Ministers declared, \textit{inter alia}, their support for the DDA negotiations to proceed expeditiously with a view to achieving an ambitious and balanced overall outcome.

15. Japan, in cooperation with other APEC members, organized an APEC Seminar on WTO Trade Facilitation in November 2004 in Bangkok and an APEC/WTO Roundtable on Trade Facilitation in Geneva in February 2005. Japan hosted the APEC High Level Conference on Structural Reform in September 2004 in Tokyo with a view to implementing the APEC Structural Reform Action Plan, which was adopted in 2003 as the guiding programme for the promotion of structural reform among the APEC members. Japan also took an initiative by proposing the "Leaders Agenda to Implement Structural Reform" (LAISR), adopted in 2004, which identified the following as priority areas: regulatory reform, strengthening legal infrastructure, competition policy, corporate governance and public sector management. In 2005, Japan took the initiative in addressing structural reform issues across APEC by contributing to the formulation of the APEC five-year work plan on the LAISR, to be completed by 2010 (the target year of the Bogor goals for the industrialized members).\(^9\) Japan, the Republic of Korea, and the United States jointly proposed the "APEC Anti-Counterfeiting and Piracy Initiative", which was adopted at the Meeting of APEC Ministers Responsible for Trade held in June 2005.\(^10\)

\(^7\) WTO document WT/MIN(05)/ST/13, 14 December 2005.

\(^8\) Cases in which requests for consultations were made and panels were established between January 2005 and August 2006.

(b) ASEM (Asia-Europe Meeting)

16. The fifth ASEM Leaders meeting was held in Hanoi in October 2004. The meeting adopted the "Hanoi Declaration on Closer ASEM Economic Partnership", which calls for actions to pursue closer trade and other economic cooperation between Asia and Europe. Between September 2002 and October 2004, Japan acted as joint Asian ASEM Economic Co-ordinator, with Viet Nam, and participated actively in the fifth Leaders meeting. In May 2005, Japan hosted the seventh Foreign Ministers' Meeting (in Kyoto), in which ministers stressed the importance of political will to conclude the Doha Development Agenda negotiations.

17. ASEM leaders adopted the ASEM Trade Facilitation Action Plan (TFAP) at the London Summit in April 1998 to reduce non-tariff barriers and to promote trade opportunities between Asia and Europe. For the period 2005-06, TFAP has four priority areas, i.e. customs procedures, standards and conformity assessment, intellectual property rights and e-commerce. Since its previous Trade Policy Review, Japan has been involved in various trade-related activities under TFAP, such as participation in the following meetings: ASEM Seminar on the Protection and Enforcement of Well-Known Marks in Singapore (February, 2004); the 10th ASEM Meeting on Standards and Conformity Assessment in Brussels (April, 2004); ASEM Seminar on Best Regulatory Practice and the 11th ASEM Meeting on Standards and Conformity Assessment in Tokyo (February, 2005); the 4th ASEM Conference on E-commerce in London (February, 2005); the 8th Meeting of the ASEM Customs Procedure Working Group in Singapore (April, 2005); the 8th Meeting of the ASEM Customs Enforcement Working Group in Brussels (May, 2005); the 6th Customs DG-Commissioner Meeting in Scotland (June 2005); the 9th Customs Enforcement Working Group (EWG) Meeting in the Republic of Korea (April 2006); and the Seminar on Geographical Indications in Thailand (June 2006).

(c) Japan and ASEAN (Association of South-East Asian Nations)

18. Although not a member of the ASEAN, Japan along with China and the Republic of Korea holds regular meetings with ASEAN under the ASEAN+3 framework of cooperation. High level meetings are held annually; the eighth and ninth ASEAN+3 summits were held in November 2004 and December 2005. An East Asian Summit meeting was also held in December 2005.

19. On October 2003, Japan and the ASEAN signed a "Framework for a Japan–ASEAN Comprehensive Economic Partnership (CEP)". In this connection, an ASEAN–Japan Committee on Comprehensive Economic Partnership was established in November 2003 to implement the work set out in the Framework. Japan and ASEAN started negotiations on a Japan–ASEAN CEP in April 2005; the agreement is to encompass the liberalization and facilitation of trade in goods and services, and investment. In the Joint Announcement by the Leaders of ASEAN and Japan, at the Summit Meeting in Kuala Lumpur in December 2005, they refer to their commitment to make every effort to conclude the negotiations on the Japan–ASEAN CEP agreement within two years. The fifth round of negotiations was held in July/August 2006.

(d) Japan and the GCC (Gulf Cooperation Council)

20. In May 2006, Japan and the member states of the GCC (Bahrain, Oman, Qatar, Saudi Arabia, the United Arab Emirates, and Kuwait) held a preparatory meeting to launch negotiations on a free-trade agreement. The first round of negotiations was held in September 2006.

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10 The initiative proposes work in four area of anti-counterfeiting and piracy: reducing trade in counterfeit and pirated goods; reducing online piracy; increasing cooperation to stop piracy and counterfeiting; and increasing capacity building to strengthen anti-counterfeit and piracy enforcement.
(e) Others

21. It would appear that, since its previous Review, there has been little progress in Japan's trilateral cooperation with China and the Republic of Korea in trade and investment, information and communication technology industries, environmental protection, and financial cooperation.

22. Japan participates in a number of regional initiatives, including cooperation in metrology and measurement standards through the Asia Pacific Metrology Programme and the Asia Pacific Legal Metrology Forum; it also participates in the Asia Pacific Laboratory Accreditation Cooperation (APLAC) with a view to cooperating in the harmonization of laboratory accreditation practices.

(iii) Other agreements and arrangements

(a) Japan–U.S. bilateral relationship

23. Japan and the United States have continued their dialogue under the Japan–U.S. Economic Partnership for Growth, which was established in June 2001. The partnership aims to "promote sustainable growth by addressing issues such as sound macroeconomic policies, structural and regulatory reform, financial and corporate restructuring, foreign direct investment and open markets". The partnership also provides a framework for cooperation and engagement on bilateral, regional, and global economic and trade issues.

24. The partnership provides various fora for trade cooperation: the U.S.–Japan Subcabinet Economic Dialogue; the Private Sector/Government Commission; the Regulatory Reform and Competition Policy Initiative; the Investment Initiative; the Trade Forum; and the Financial Dialogue. The U.S.–Japan "Regulatory Reform and Competition Policy Initiative" has provided opportunities for officials of the two countries to discuss reforms in key areas, including telecommunications, information technology, medical devices and pharmaceuticals, financial services, competition policy, transparency and other government practices, privatization, commercial law revision, distribution, consular affairs, trade and investment-related measures, and legal services and other legal affairs. The latest report describing each party's recommendations for regulatory reform in the other party was issued on 29 June 2006. Under the Investment Initiative, Japan and the United States have addressed cross-border mergers and acquisitions, education, medical services, labour legislation, visa issues, and other investment-related issues. Progress under this initiative is reported annually to the leaders of the two countries.

(b) Japan–EC bilateral relationship

25. Since its previous Review, Japan has continued to pursue bilateral cooperation with the European Communities. At the Fourteenth Summit held in May 2005 and at the Fifteenth Summit held in April 2006, Japan and the European Communities reached an agreement "in substance" on the Customs Cooperation Agreement, which aims to facilitate mutual assistance in customs matters and trade.

(c) Japan–Singapore Agreement for an Economic Partnership

11 Under Japan's three bilateral FTAs (with Singapore, Mexico, and Malaysia), an emergency tariff increase may be imposed on items subject to tariff concessions in accordance with each agreement, as long as the resulting tariff rate does not exceed the lesser of: the applied MFN rate in effect at the time the measure is taken, or the applied MFN rate in effect on the day immediately preceding the date of entry into force of each agreement.
26. The Agreement between Japan and the Republic of Singapore for a New-Age Economic Partnership (JSEPA) entered into force on 30 November 2002. The overall simple average applied preferential tariff under the JSEPA in FY 2006 is 4.4%. Japan's average applied MFN tariff in FY 2006 is 6.5%. According to the authorities, the JSEPA eliminates tariffs on over 98% of the total value of bilateral trade (based on data in 2000). Nonetheless, the JSEPA excludes 24% of Japan's tariff lines from tariff elimination, partly because it is believed that tariff elimination on these tariffs would not lead to significant trade expansion. Excluded tariff lines included many covering agriculture, leather, leather products, and footwear. In April 2006, the two countries agreed to start negotiations for a partial review of the JSEPA.

27. In 2005, exports from Japan to Singapore increased by 2.5% (Japan's total exports increased by 5.2%), while Japan's imports from Singapore increased by 6.4% (Japan's total imports increased by 13.3%); thus, Japan's bilateral trade with Singapore both grew slower than Japan's overall trade in 2005.

(d) Japan–Mexico Agreement for an Economic Partnership

28. The Agreement between Japan and the United Mexican States for the Strengthening of Economic Partnership (JUMSEPA) entered into force on 1 April 2005. The overall simple average applied preferential tariff is 4.2%. Many agricultural products and some industrial products have been excluded from the agreement. According to the authorities, the JUMSEPA eliminates tariffs on some 96% of the total value of bilateral trade, based on 2002 data.

29. Data provided by the authorities indicate that in the nine months following the entry into force of the Japan-Mexico EPA, total exports from Japan to Mexico increased by 37.8% compared with the same period of 2004. Strong growth was observed particularly in exports of automobiles and auto parts. Total exports from Mexico to Japan increased by 23.4% in the same period. In 2005, exports from Japan to Mexico increased by 33.5%, while Japan's imports from Mexico increased by 16.8%; thus, in contrast to the situation regarding Singapore, Japan's bilateral trade with Mexico grew faster than Japan's overall trade in 2005.

(e) Japan–Malaysia Agreement for an Economic Partnership

30. Japan signed an FTA with Malaysia on 13 December 2005; the Agreement between the Government of Japan and the Government of Malaysia for an Economic Partnership (JMEPA) entered into force on 13 July 2006. The overall simple average applied preferential tariff is 3.7%. Many agricultural products and some industrial products have been excluded from the agreement.

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12 WTO document WT/REG140/6, 8 December 2004. Under the JSEPA, applied tariff rates for 77.9% of total tariff lines are either zero or lower than the corresponding applied MFN rates; duty-free tariff lines account for 77.8% of total lines.
13 According to the authorities, duties have been eliminated for about 21% of Japan's tariff lines in agriculture (WTO document WT/REG140/7, 7 February 2006).
14 WTO document WT/REG198/N/1, 22 April 2005.
15 Excluded items include: dairy products, apples, rice, rice products, wheat, plywood, bluefin tuna, leather, leather products, and footwear. Under the JUMSEPA, applied tariff rates for 86.4% of total tariff lines are either zero or lower than the corresponding applied MFN rates; duty-free tariff lines account for 78.7% of all the total lines.
16 WTO document WT/REG216/N/1, 13 July 2006.
17 Excluded items include: dairy products, pineapples, rice, rice products, wheat, meat and meat products, wood and wood products, fish and fish products, leather, leather products, and footwear. Under the JMEPA, applied tariff rates for 89.9% of total tariff lines are either zero or lower than the corresponding applied MFN rates; duty-free tariff lines account for 82.7% of all lines.
According to the authorities, the JMEPA eliminates tariffs on some 97% of the total value of bilateral trade, based on 2004 data.

(f) Japan–Philippines Agreement for an Economic Partnership

31. In October 2002, Japan and the Philippines agreed to establish a working group to study the possibility of forming a "Japan–Philippines Economic Partnership Agreement" (JPEPA); the agreement was envisaged to cover trade in goods and services, investment, technical cooperation, and capacity building between the two countries. In February 2004, the two governments began formal negotiations. On 29 November 2004, they announced that agreement "in principle" had been reached on all major elements of the JPEPA. Japan and the Philippines signed the JPEPA on 9 September 2006.

(g) Japan–Thailand bilateral relationship

32. Japan and Thailand held working group meetings between September 2002 and May 2003 and three task force meetings between July and November 2003 concerning the possible formulation of a "Japan–Thailand Economic Partnership Agreement (JTEPA)". The agreement was expected to cover trade in goods and services, investment, and cooperation in various areas, such as information and communication technology. The first formal negotiations for the formulation of a JTEPA began in February 2004. On 1 September 2005, it was announced that agreement in principle had been reached on all major elements of the JTEPA. The text of the agreement was finalized in June 2006.

(h) Japan–Korea bilateral relationship

33. In March 2002, Japan and the Republic of Korea agreed to launch a joint study group to explore the possibility of establishing a "Japan–Korea Free Trade Agreement". A report by the group was published in October 2003; it contained a study on possible bilateral arrangement in various areas, including liberalization and facilitation of trade. In October 2003, the two countries decided to start negotiations for a comprehensive FTA with a target of finishing the substance of the negotiations in 2005. The first round of negotiations was held in December 2003 and five further rounds were held in 2004; there have been no negotiations since the end of the sixth round, in November 2004. According to the Japanese authorities, they are open to resuming negotiations.

(i) Japan's bilateral relationships with Indonesia, Chile, Brunei, and Viet Nam

34. In June 2005, the leaders of Japan and Indonesia agreed to launch negotiations on a bilateral free-trade agreement; the fifth round of negotiations was held in August 2006. In November 2005, the leaders of Japan and Chile agreed to launch FTA negotiations; the fourth round of negotiations was held in August/September 2006. In May 2006, Foreign Ministers of Japan and Brunei agreed to launch FTA negotiations; the second round of negotiations was held in August 2006. In December 2005, the leaders of Japan and Viet Nam agreed to launch the Joint Study Group with a view to starting negotiations for a bilateral free-trade agreement; the first Joint Study Group meeting was held in February 2006.

(j) Other bilateral arrangements

preventing disputes between the two countries, and further strengthening mutually complementary economic relations. In these consultations, the two countries exchanged opinions on issues including IPR, China's commitment under the WTO rules, agriculture and quarantine, and other trade-related issues, as well as Japan-China cooperation within the international economy. There have been nine such consultations, including four meetings at deputy-minister level and five meetings at deputy director-general level.

36. The Prime Ministers of Japan and India agreed to launch the Joint Study Group aimed at exploring ways to strengthen Japan-India economic relations, including the possibility of concluding a free-trade agreement. The fourth meeting of the study group was held in June 2006.

37. The Prime Ministers of Japan and Australia signed an Australia–Japan Trade and Economic Framework in July 2003 to explore options for deeper bilateral economic linkages. The Framework is aimed at working towards the liberalization of trade and investment, through various avenues, including a joint study to examine the costs and benefits of the balanced and comprehensive liberalization of trade in goods and services and investment between the two countries. In April 2005, the two countries' leaders decided to launch a new joint governmental study to examine various policy options to enhance their economic relationship, including the feasibility of a bilateral free-trade agreement. The fourth joint study meeting was held in July 2006.

38. In April 2005, the leaders of Japan and Switzerland agreed to launch a joint governmental study on how to strengthen economic relations between the two countries. The first joint study meeting was held in October 2005; the fourth meeting was held in August 2006.

39. In November 2005, the Prime Ministers of Japan and Canada signed the Japan–Canada Economic Framework, which aims to reinforce economic ties through cooperation in 15 priority areas, and joint study on the costs and benefits of further promotion of bilateral trade and other forms of bilateral cooperation.¹⁹

40. Japan has concluded bilateral agreements on social security with its trading partners. These agreements, inter alia, aim to avoid the double payment into two social security systems by people working both in Japan and another country in order to receive a pension. An agreement between Japan and the Republic of Korea entered into force on 1 April 2005, and an agreement between Japan and the United States entered into force on 1 October 2005. Agreements on social security between Japan and France and between Japan and Belgium were signed in February 2005 and adopted by the Diet in July 2005; an agreement between Japan and Canada was signed in February 2006 and adopted by the Diet in May 2006. Japan is currently negotiating bilateral social security agreements with Australia and the Netherlands.²⁰

¹⁹ The 15 priority areas are: social security agreement, cooperation on anti-competitive activities, food safety cooperation, customs cooperation, trade facilitation, transportation, investment, science and technology, information and communication technology, electric commerce, e-government, energy and natural resources, climate change, tax convention, and tourism promotion.

²⁰ A bilateral agreement on social security between Japan and Germany entered into force in February 2000, and an agreement between Japan and the United Kingdom entered into force in February 2001.
41. Japan signed a new tax treaty with the United Kingdom on 2 February 2006. In addition, it signed a protocol amending the current bilateral tax treaty with India on 24 February 2006. The treaty with India entered into force on 28 June 2006 and the treaty with the United Kingdom on 12 October 2006. "Tax sparing" provisions in the treaty with India were removed by the amendment.

42. Japan and Canada concluded a bilateral agreement on cooperation on competition policy in September 2005 (Chapter III(4)(vi)).

43. Japan currently has 11 bilateral investment treaties with its trading partners (section (5)(i) below).

(iv) Preferential treatment

44. Japan's Generalized System of Preferences (GSP) scheme grants preferential tariff treatment to certain developing countries under the Temporary Tariff Measures Law. The Government has the authority to unilaterally designate, withdraw, suspend, and limit beneficiaries or products that receive preferential treatment under the GSP scheme. In 2001, Japan extended its GSP scheme to 31 March 2011 and introduced various measures, such as expanding the product coverage of tariff-free and quota-free treatment for goods originating in LDCs. As a result, all textile and clothing products from LDCs enter Japan duty-free and quota-free.

45. The current GSP scheme grants preferential tariff treatment to 142 developing countries and 15 territories for 338 agricultural and fishery products at the HS nine-digit level. The preferences are granted on almost all industrial products, with the exception of 100 items. Preferences on 155 items are granted only to LDCs.

46. The depth of tariff cuts varies according to the product; tariffs on industrial products are zero except for sensitive industrial products (1,192 items at the HS nine-digit level in 78 product groups) to which various preferential rates (0%, 20%, 40%, 60%, 80% of MFN rates) apply up to specified ceilings. The ceilings are open for utilization by all beneficiaries. However, preferential treatment is suspended on a monthly basis when ceilings are reached. If preferential imports from one beneficiary exceed one-fifth of the total value or volume of the overall ceiling, the preferential treatment for that beneficiary is suspended. Preferential treatment under the GSP scheme is granted on the condition that goods fulfill Japan's GSP rules of origin. The administration of ceilings and maximum country volumes are managed on a first-come, first-served basis.

47. About 500 items at the HS nine-digit level involving agricultural and fishery products originating in 50 LDCs are eligible for duty-free and quota-free treatment (i.e. duty-free treatment

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21 Japan also has tax treaties with Armenia, Australia, Austria, Azerbaijan, Bangladesh, Belarus, Belgium, Brazil, Bulgaria, Canada, China, Czech Republic, Denmark, Egypt, Fiji, Finland, France, Georgia, Germany, Hungary, India, Indonesia, Ireland, Israel, Italy, Republic of Korea, Kyrgyz Republic, Luxembourg, Malaysia, Mexico, Moldova, the Netherlands, New Zealand, Norway, Pakistan, the Philippines, Poland, Romania, Russia, Singapore, Slovak Republic, South Africa, Spain, Sri Lanka, Sweden, Switzerland, Tajikistan, Thailand, Turkey, Turkmenistan, Ukraine, the United States, Uzbekistan, Viet Nam, and Zambia.

22 "Tax sparing" is a means by which the tax system of a capital-exporting country can be made to accommodate the tax incentives of developing countries. More specifically, in this case, Japan "spares" the tax that it would normally impose on the untaxed (or low-taxed) income earned by its investors in India by granting them foreign tax credits equal to, or possibly greater than, the tax they would otherwise have paid in India (in the absence of the incentives).

without a ceiling). In December 2005, Japan announced in its "Development Initiative for Trade" that it would provide duty-free and quota-free market access for "essentially all products" originating from all LDCs.\(^{24}\) Japan expressed its commitment to implement its improved duty-free and quota-free treatment for the LDCs as early as FY2007 regardless of the progress of the DDA negotiations.\(^{25}\)

48. In 2006, Japan removed Bahrain from its GSP list, and designated three LDCs, i.e. Comoros, Djibouti, and Timor-Leste, as new beneficiaries. China remains the main beneficiary of GSP treatment (Table II.2).

Table II.2
GSP shares for the ten largest beneficiaries, FY 2004
(¥ million)

<table>
<thead>
<tr>
<th>Beneficiaries</th>
<th>Import value of preferential treatment</th>
<th>Share (%)</th>
</tr>
</thead>
<tbody>
<tr>
<td>China</td>
<td>1,118,119</td>
<td>58.9</td>
</tr>
<tr>
<td>Thailand</td>
<td>149,590</td>
<td>7.9</td>
</tr>
<tr>
<td>Malaysia</td>
<td>137,020</td>
<td>7.2</td>
</tr>
<tr>
<td>Indonesia</td>
<td>118,894</td>
<td>6.3</td>
</tr>
<tr>
<td>Philippines</td>
<td>104,610</td>
<td>5.5</td>
</tr>
<tr>
<td>Viet Nam</td>
<td>38,223</td>
<td>2.0</td>
</tr>
<tr>
<td>India</td>
<td>31,107</td>
<td>1.6</td>
</tr>
<tr>
<td>Brazil</td>
<td>27,036</td>
<td>1.4</td>
</tr>
<tr>
<td>South Africa</td>
<td>24,536</td>
<td>1.3</td>
</tr>
<tr>
<td>Chile</td>
<td>19,942</td>
<td>1.1</td>
</tr>
<tr>
<td>World</td>
<td>1,898,818</td>
<td>100.0</td>
</tr>
</tbody>
</table>

*Source:* Information provided by the Japanese authorities.

(5) FOREIGN INVESTMENT REGIME

49. In FY 2004 foreign affiliated firms accounted for 2.3% of total sales in Japan (2.4% in FY 2003), and 1.0% of employment (1.0% in FY 2003).\(^{26}\) Inward FDI in Japan remains substantially lower than outward FDI, and is relatively low compared with that in other large economies (Chapter I(4)(iv)). Against this background, Japan has continued to take measures to make itself an attractive investment destination for foreign firms, with a view to doubling cumulative inward FDI between 2001 and 2006.\(^{27}\)

50. The authorities consider that FDI brings benefits to Japan by, for example: creating new management resources such as personnel, capital, and sales networks and bringing in new technologies;\(^{28}\) creating employment opportunities; and increasing benefits to consumers by providing wider choices and better quality of goods and services resulting from intensified competition introduced by FDI.

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\(^{28}\) According to the METI's "Survey of Trends in Business Activities of Foreign Affairs", the profit rate on sales in FY 2004 was 5.2% for foreign affiliated companies compared with 4.1% for all companies under the survey.
(i) Regulatory regime

51. Since Japan's previous Trade Policy Review, there has been no change in the regulatory regime on inward and outward FDI, which is governed mainly by the Foreign Exchange and Foreign Trade Law, together with relevant cabinet and ministerial ordinances. Inward FDI generally requires ex post facto reporting, to the Minister of Finance and the Minister in charge of the industry involved, within 15 days of executing a foreign investment in Japan. Prior notification is required, in principle, for inward FDI in industries recognized in the OECD Code of Liberalization of Capital Movements, such as agriculture, forestry and fisheries, petroleum, leather and leather products, and air and maritime transport; in addition, some other sectors require prior notification on the grounds of public order and national security (Table AII.3). Besides the notification requirements, various other laws stipulate specific restrictions on inward FDI in certain sectors, such as real estate, fisheries, financial services, telecommunications, and transport. According to the authorities, no notified inward FDI project has been rejected by the Government in recent years.

52. The provisions of bilateral investment treaties (BITs) also regulate investment policy. In December 2004, an additional bilateral investment treaty, with Viet Nam, entered into force, bringing Japan's total of BITs to eleven.

(ii) Investment promotion measures

53. No new tax measures aimed specifically at FDI promotion (excluding revisions of tax treaties) were introduced in 2004 and 2005. According to the authorities, no estimates are available for tax revenue forgone through measures to promote FDI, partly because certain tax measures with other objectives may also contribute to increasing FDI.

54. In May 2006, the Law on Extraordinary Measures for Promotion of Imports and Facilitation of Foreign Direct Investment in Japan (and its related ordinances and other relevant legislation), which stipulated measures for investment promotion including technical and financial support (such as low-interest loans and loan guarantees) was abolished. Nonetheless, the general framework of Japan's investment promotion measures appears to have remained unchanged except for certain tax measures related to foreign access zones (Table II.3). According to the authorities, these investment promotion measures apply equally to domestic and foreign companies registered in Japan.

Table II.3

Measures to promote foreign direct investment into Japan, FY 2006

<table>
<thead>
<tr>
<th>I. Loan guarantees through the Industrial Structural Improvement Fund (ISIF)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Relaxation of conditions for obtaining certification as a Designated Inward Investor: a company that has been operating for less than eight years (currently five years) is eligible for certification.</td>
</tr>
<tr>
<td>Relaxation of conditions for obtaining loan guarantees from ISIF: currently, in order to obtain loan guarantees, as a rule, ISIF requires the backing of a capitalized enterprise and a legal representative of the borrower as a backer of guarantees. The condition of requiring a guarantee backer is abolished when the backing of a capitalized enterprise can be obtained.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>II. Provision of low-interest financing from the Development Bank of Japan, etc.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Expanding eligible projects:</td>
</tr>
</tbody>
</table>

29 Among the most important ordinances are the Foreign Exchange Order and the Order of Inward Foreign Direct Investment.
30 These include aircraft, arms, explosives, nuclear power, electric utilities, gas utilities, water, heat generation, rail transport, passenger transport, telecommunications (accompanying certain network facilities), television and cable television, and broadcasting sectors.
31 See WTO (2001) for details of the specific restrictions.
32 Japan also has BITs with Bangladesh; China; Egypt; Hong Kong, China; the Republic of Korea, Russia; Sri Lanka; Turkey; Mongolia; and Pakistan.
limitation that required establishment in one of six industrial high-tech fields has been eliminated. Projects establishing facilities (including land) for lease by foreign companies and foreign affiliates with one third foreign ownership or more, or any company establishing office buildings in which the main tenants are non-Japanese businesses are eligible.

Creating new loan programmes:

- loan programme for promoting market entry of foreign-affiliated firms: in addition to the capital investment finance, the new programme will finance related working capital needs (e.g. rent for facilities, property tax, insurance premium);
- loan programme for facilitating international cooperation between enterprises: if the foreign share in the company exceeds one third of total equity as a result of M&A, the company can obtain JDB loans for capital investment afterward. Corporate alliances involving transfer of operations are also eligible for this loan programme;
- loan programme for supporting environment-friendly management systems: if the foreign companies pass the bank's evaluating process, they can obtain a low-interest loan and the bank guarantees the company's bonds in order to support the projects.

III. Import promotion measures

Loan guarantees and exceptional measures provided by the Small Business Credit Insurance for FAZ-related businesses: businesses undertaking activities to promote distribution of imported cargo (wholesalers, manufacturers, transporters or retailers dealing with imported goods) within specified zones for congregation in FAZ areas designated by the local governments of approved FAZ areas can make use of following loan guarantees and exceptional measures related to credit insurance:

- loan guarantees through the (ISIF): loan guarantees are provided by the Industrial Structure Improvement Fund to aid in borrowing necessary funds, including operation funds;
- exceptional measures provided by Small Business Credit Insurance: Exceptional measures are provided by Small Business Credit Insurance to small and medium-sized companies.

Special financing measures for FAZ-related businesses: with regard to the DBJ financing programme for import facilities enhancement and the low-interest loans provided by the Japan Finance Corporation for Small Business to facilitate import sales, import-related businesses within the FAZ areas are able to receive loans with special conditions:

- DBJ (Financing Programme for Import Facilities Enhancement): companies are eligible for this programme regardless of the share of imported goods among their handling. Also, manufacturers and others are able to receive loans not only when they invest in Japan for the first time, but for second and subsequent investments;
- Japan Finance Corporation for Small Business (Loans to Facilitate Import Sales): wholesalers or retailers selling imported goods through their own offices in the FAZ facilities or contacts with businesses in the FAZ facilities are able to receive up to ¥400 million.

IV. Measures for small and medium-sized enterprises

Training for administrative managers of foreign-affiliated firms: Institute of the Japan Small Business Corporation offers training programmes on personnel management and business practices in Japan, etc. for administrative managers etc; of small and medium-sized foreign-affiliated firms. The participants are subsidized on two thirds of the training fee.

V. Venture support measures

Loan guarantees for loans using collateral of intellectual property rights for venture enterprises: the ISIF provides loan guarantees for up to 80% (usually 70%) of business funds, and does not require a guarantee backer of a capitalized enterprise if the collateral of the loan is intellectual property rights.

Investment for venture enterprises: in addition to a company that has been operating or has submitted an application for a patent less than five years earlier (currently three years), a company that establishes know-how in five years is able to take investments from the New Business Investment Company Limited.

Introducing a stock option system: the Government of Japan expands the term of exercise for the company's executives or employees to accept new stock shares of the company at a lower price, from six months to within ten years, based on the resolution of a general meeting of stockholders.

Source: Information provided by the Japanese authorities.

55. The Government has also continued to implement 74 measures under five categories to promote FDI and eliminate impediments to inward FDI, as decided by the Japan Investment Council (JIC) on 27 March 2003. The five categories are: (1) disseminating information on investment opportunities in Japan; (2) reviewing administration procedures with a view to making them clearer, simpler, and faster by, for example, creating a one-stop service for investment-related information; (3) creating a favourable employment and living environment (e.g. improving immigration procedures); (4) improving the business environment (e.g. improving corporate governance, facilitating cross-border mergers and acquisitions, facilitating new business start-ups by providing tax incentives for investment in information technology and research and development); and

The Japan Investment Council is a ministerial-level council established in July 1994.

Half of the capital gains obtained by the sale of stocks of qualified ventures are to be taxed. The amount of investment in qualified ventures is deductible from the amount of capital gains of stocks in the same taxable year. The Government is also studying ways to revise tax treatment of mergers and acquisitions, and
(5) assisting local governments in attracting foreign investment by, for example, facilitating the use of the special zones for structural reform. Since July 2005, the Government has added 13 additional measures, including: cooperation between Japanese and foreign tax authorities to eliminate international double taxation; and recognition in the Japanese educational system of certain academic credits obtained in a branch of foreign universities established in Japan. On 9 March 2006, the JIC decided to set up a new goal of doubling the share of FDI in GDP by 2010. With a view to achieving this target, the JIC launched a new programme (Program for the Acceleration of Foreign Direct Investment in Japan) in June 2006. The programme focuses on three key issues: attracting FDI not only in the Tokyo Metropolitan areas but throughout Japan; improving further the investment environment to sustain Japan's globally competitive edge; and actively promoting and providing information regarding Japan's efforts to attract FDI.

56. Through the "Project to Promote Foreign Direct Investment in Selected Areas", the Government supports activities conducted by selected regional governments; such support measures include planning of strategies to attract FDI, public relations, inviting potential investors, and helping the start-up process of selected companies. In FY 2004, four regions were selected to be eligible for such support measures; by FY 2006, 14 regions had been selected.

57. In November 2004, the leaders of China, Japan, and the Republic of Korea decided to conduct consultations to explore a possible trilateral legal framework on investment. With a view to implementing such a decision, the Tripartite Governmental Consultation Mechanism was established in May 2005. To date, there have been five meetings under the mechanism to discuss the scope and modality of the possible trilateral investment agreement.

58. Japan's bilateral "economic partnership agreements" (involving free-trade agreements) with Singapore, Mexico, and Malaysia include provisions on investment. Articles on national treatment and prohibition of performance requirements are included in the agreements; these articles are applied to investors and investments as defined in the agreements, with exceptions specified in the annexes.

plans to submit a bill to the Diet in 2005.