



Trade Policy Review Body

TRADE POLICY REVIEW

REPORT BY THE SECRETARIAT

JAPAN

This report, prepared for the thirteenth 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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CONTENTS

SUMMARY	9
1 ECONOMIC ENVIRONMENT	13
1.1 Main Features of the Economy	13
1.2 Recent Economic Developments.....	13
1.2.1 Monetary policy	15
1.2.2 Fiscal policy	16
1.2.3 Structural reforms	16
1.2.4 Balance of payments	16
1.3 Trade Performance	17
1.4 Foreign Direct Investment	20
2 TRADE AND INVESTMENT REGIME	22
2.1 General Framework	22
2.2 Trade Policy Objectives	23
2.3 Trade Agreements and Arrangements.....	24
2.3.1 WTO	24
2.3.2 Regional and preferential agreements.....	24
2.3.3 Other agreements and arrangements.....	25
2.4 Investment Regime	25
3 TRADE POLICIES AND PRACTICES BY MEASURE.....	28
3.1 Measures Directly Affecting Imports	28
3.1.1 Customs procedures and requirements	28
3.1.1.1 Transparency and legal framework	28
3.1.1.2 Fees and formalities	29
3.1.1.3 Release and clearance of goods.....	30
3.1.2 Customs valuation	31
3.1.3 Rules of origin	32
3.1.4 Tariffs	32
3.1.4.1 MFN applied tariff.....	32
3.1.4.2 Bound tariff.....	35
3.1.4.3 Preferential tariff.....	36
3.1.5 Import prohibitions, restrictions, licensing, and quotas	37
3.1.6 Anti-dumping, countervailing, and safeguard measures	38
3.1.6.1 Overview	38
3.1.6.2 Anti-dumping measures	39
3.1.6.3 Countervailing measures	40
3.1.6.4 Safeguard measures.....	41
3.2 Measures Directly Affecting Exports.....	42
3.2.1 Export procedures and requirements	42
3.2.2 Export taxes, charges, and levies	42

3.2.3	Export prohibitions, restrictions, and licensing.....	42
3.2.4	Export support and promotion	44
3.3	Measures Affecting Production and Trade	46
3.3.1	Taxation and tax incentives	46
3.3.1.1	Tax reform.....	46
3.3.1.2	Incentive schemes	47
3.3.2	Subsidies and other assistance programmes	49
3.3.3	Competition policy and price controls.....	50
3.3.3.1	Recent development	50
3.3.3.2	Mergers and acquisitions, and holding companies	50
3.3.3.3	Exemptions	51
3.3.3.4	International arrangements and agreements.....	52
3.3.3.5	Enforcement.....	54
3.3.4	Corporate governance	56
3.3.5	State trading, state-owned enterprises, and privatization.....	56
3.3.6	Standards and other technical requirements	58
3.3.7	Sanitary and phytosanitary measures	63
3.3.8	Labelling and packaging requirements	66
3.3.9	Government procurement	67
3.3.10	Intellectual property rights	73
3.3.10.1	Overview	73
3.3.10.2	Patents.....	78
3.3.10.3	Utility models (UMs)	79
3.3.10.4	Designs	80
3.3.10.5	Trademarks.....	80
3.3.10.6	Geographical indications.....	81
3.3.10.7	Copyright	82
3.3.10.8	Enforcement.....	83
3.3.10.9	International cooperation and harmonization.....	85
3.3.10.10	The 2015 IP strategic programmes.....	85
4	TRADE POLICIES IN SELECTED SECTORS	87
4.1	Agriculture	87
4.1.1	Trade.....	89
4.1.2	Agricultural policies.....	91
4.1.2.1	Legal and institutional framework.....	91
4.1.2.2	Trade policies	92
4.1.2.3	Domestic support.....	93
4.1.2.3.1	General support programmes.....	93
4.1.2.3.2	Rice	94
4.1.2.3.3	Other cereals, sugar beet, starch potatoes, buckwheat, and rapeseed	94

4.1.2.3.4	Fruits and vegetables.....	95
4.1.2.3.5	Tobacco.....	95
4.1.2.3.6	Livestock products.....	95
4.1.2.3.7	Dairy.....	96
4.1.2.4	Support levels.....	97
4.1.2.4.1	WTO notifications.....	97
4.1.2.4.2	OECD indicators.....	97
4.2	Fisheries.....	99
4.2.1	Features.....	99
4.2.2	Policy.....	99
4.2.2.1	Stock management.....	100
4.2.2.2	International agreements.....	100
4.3	Support for fisheries.....	101
4.4	Mining and Energy.....	101
4.4.1	Mining.....	101
4.4.2	Primary energy.....	101
4.4.3	Electricity.....	103
4.5	Manufacturing.....	106
4.6	Services.....	106
4.6.1	Financial services.....	106
4.6.2	Telecommunications.....	110
4.6.3	Audiovisual services.....	112
4.6.3.1	Film industry.....	112
4.6.3.1.1	Economic structure.....	112
4.6.3.1.2	Regulatory framework.....	115
4.6.3.2	Television services.....	116
4.6.3.2.1	Economic structure.....	116
4.6.3.2.2	Regulatory framework.....	118
4.6.3.3	Radio services.....	120
4.6.3.4	Sound recording services.....	121
4.6.4	Health-related services.....	121
4.6.4.1	Medical and dental services.....	123
4.6.4.2	Services provided by midwives, nurses, physiotherapists and paramedical personnel.....	125
4.6.4.3	Hospital and other human health services.....	128
4.6.4.4	Social services.....	129
5	APPENDIX TABLES.....	132

CHARTS

Chart 1.1 Product composition of merchandise trade, 2013 and 2015	19
Chart 1.2 Direction of merchandise trade, 2013 and 2015.....	20
Chart 3.1 Tariff distribution by type of duty, FY2016	33
Chart 3.2 Share of non- <i>ad valorem</i> duties, by HS section, FY2016	34
Chart 3.3 Simple average applied MFN tariff rates, by HS section, FY2014 and FY2016	35
Chart 3.4 Structure of IPR administration and enforcement.....	78
Chart 3.5 IP cases handled by courts, 2006-15	83
Chart 3.6 Amount of damages, 2005-14.....	84
Chart 3.7 Import seizures, 2011-15.....	85
Chart 3.8 Export seizure, 2011-15.....	85
Chart 4.1 Trade in agriculture, 2011-15	89
Chart 4.2 Value of production and support to agriculture, 2011-15.....	98
Chart 4.3 Primary energy supply in Japan.....	101
Chart 4.4 Final energy consumption by sector, 2012	102
Chart 4.5 Electricity market reform roadmap	103
Chart 4.6 Gradual expansion of electricity retail market liberalization	104
Chart 4.7 New entrants in Japan's electricity retail market	105
Chart 4.8 Categorization and licensing of electricity producers before and after the April 2016 reform	105
Chart 4.9 Holding and affiliated company formats.....	106
Chart 4.10 Structure of the film industry in Japan.....	113
Chart 4.11 Market revenue and share attributed to films, 2014.....	114
Chart 4.12 Market revenue attributed to films, 2000-2014	115
Chart 4.13 Television transmission industry, 2014	117
Chart 4.14 Foreign medical personnel in Japan, as of December 2015	122
Chart 4.15 Number of registered foreign personnel with medical status, 2004-June 2014	122
Chart 4.16 Number and origin of registered foreign personnel with medical status, as of June 2014	123
Chart 4.17 Origin of foreign nurses and care-workers under EPAs, as at June 2014	126
Chart 4.18 Number and origin of foreign patients treated in Japan (including their companions), as at June 2014	129

TABLES

Table 1.1 Selected macroeconomic indicators, 2011-15	14
Table 1.2 Balance of payments 2011-15.....	17
Table 1.3 Foreign direct investment, 2011-15	21
Table 2.1 Major trade-related laws and regulations, June 2016	22
Table 2.2 Investment treaties in force, October 2016	27
Table 3.1 Structure of MFN tariffs, FY2012, FY2014 and FY2016	33

Table 3.2 Summary analysis of Japan's preferential tariffs, FY2016	36
Table 3.3 Japan's anti-dumping measures in force, November 2016	39
Table 3.4 Principal legislation affecting exports.....	42
Table 3.5 NEXI insurance activity, FY2011-15	44
Table 3.6 JBIC lending and investments, FY2011-15	45
Table 3.7 JBIC funding sources, FY2010/14	45
Table 3.8 Tax revenue, FY2011/15	46
Table 3.9 Tax incentives for strengthening local business facilities.....	47
Table 3.10 Tax incentives based on the Industrial Competitiveness Enhancement Act	48
Table 3.11 Tax credit for research and development (R&D) expenses	48
Table 3.12 Exemptions from the Anti-Monopoly Act, June 2016	51
Table 3.13 Japan's participation in international arrangements and agreements	52
Table 3.14 List of Japan's RTAs/EPAs which have competition-related provisions	54
Table 3.15 Enforcement of competition policy, 2009/15.....	55
Table 3.16 State trading enterprises notified to the WTO under Article XVII.....	56
Table 3.17 Large state enterprises, FY2015	58
Table 3.18 Main laws on standards and technical regulations.....	59
Table 3.19 JIS established, revised, and withdrawn, April 2015-March 2016	62
Table 3.20 Principal laws on SPS measures.....	64
Table 3.21 Comparison of the three categories of foods with health claims	66
Table 3.22 Japan's government procurement commitments and obligations under various FTAs	67
Table 3.23 Entities covered, thresholds and disciplines/procedures applicable under the GPA and the general voluntary measures	68
Table 3.24 Sector-specific voluntary measures	69
Table 3.25 Foreign participation in Japan's government procurement.....	71
Table 3.26 Awards to foreign suppliers by origin, 2014	71
Table 3.27 Procurement by product and by origin, 2013 and 2014	71
Table 3.28 Procurement by type of service, 2013 and 2014.....	72
Table 3.29 Percentage of Foreign Suppliers' Tenders and Awards, 2014	73
Table 3.30 Implementation of overall-greatest-value evaluation method, 2012-14	73
Table 3.31 Summary of the protection of intellectual property rights, 2016	74
Table 3.32 Patent applications and patents granted, 2007-15.....	79
Table 3.33 Utility model applications and registrations, 2007-15	80
Table 3.34 Design applications and registrations, 2007-15	80
Table 3.35 Trademark applications and registrations, 2007-15	80
Table 3.36 Information on registered GIs	81
Table 3.37 Major distinctions between MAFF's GI system and the JPO's Collective Trademark System.....	82
Table 3.38 List of GIs for alcoholic beverages designated by the Commissioner of the National Tax Agency.....	82
Table 3.39 Statistics on confiscated goods, 2013-15	84

Table 4.1 GDP and employment figures by economic activity, 2011-14	87
Table 4.2 Farm households and average farm size, 2011-15	88
Table 4.3 Total agricultural production and production of selected products, 2011-15	89
Table 4.4 Imports of agricultural products, 2011-15.....	90
Table 4.5 Exports of agricultural products, 2011-15	90
Table 4.6 Imports under the SBS system, FY2011-2015	92
Table 4.7 Payment rates for other cereals, sugar beet, starch potatoes, buckwheat and rapeseed, 2016	94
Table 4.8 Administered prices for calves, beef, and pig meat, FY2016.....	96
Table 4.9 Total producer support estimate and single commodity transfer values for selected commodities, 2011-15.....	98
Table 4.10 Government transfers to fishing, 2007-13.....	101
Table 4.11 Japan's fossil fuel production and imports, 2013	102
Table 4.12 Size of the Japanese film market, 2012-15.....	113
Table 4.13 Economic contribution of film production, film distribution and film exhibition to the Japanese economy, 2014	114
Table 4.14 Economic contribution of the television sector to the Japanese economy, 2014.....	117
Table 4.15 Restrictions on foreign ownership applying to TV broadcasting companies.....	119
Table 4.16 Main economic indicators of the health sector in Japan, 2010-12	121
Table 4.17 Main conditions and procedures under bilateral medical recognition agreements signed by Japan, as of 2015	124
Table 4.18 Conditions to take the national nurses and caretakers exams.....	127
Table 4.19 Foreign nurse and care-worker candidates, 2008-14.....	128
Table 4.20 Main types of senior accommodation in Japan, 2013.....	130

BOXES

Box 3.1 Japan's Authorized Economic Operator Program.....	31
Box 3.2 Agencies in charge of TBT issues	61
Box 3.3 Key agencies responsible for SPS measures	64
Box 4.1 Financial services in Japan: statistical overview, 2013 and 2015.....	107
Box 4.2 Main economic indicators and regulatory features of the telecommunications sector in Japan	110

APPENDIX TABLES

Table A1. 1 Merchandise exports by product group, 2011-15.....	132
Table A1. 2 Merchandise imports by product group, 2011-15	134
Table A1.3 Merchandise exports by destination, 2011-15.....	135
Table A1. 4 Merchandise imports by origin, 2011-15	136
Table A2. 1 WTO dispute settlement cases active 1 January 2015-8 July 2016	137

Table A2. 2 Selected notifications under WTO Agreements (1 January 2015-11 October 2016), or last notification if applicable	138
Table A3. 1 Japan's tariff summary, FY2016.....	140
Table A4. 1 Special safeguard, FY2014/15	142

SUMMARY

1. During the review period, Japan's economic performance remained sluggish in light of, among others, persistently low inflation and an aging and declining population. The series of natural disasters that hit the country in recent years further hampered the economy and put increased pressure on public finances. The authorities have responded with extensive policy measures with a view to boosting business and consumer confidence and consolidating public finances. The Government's three-pillar strategy of monetary easing, fiscal stimulus, and structural reforms (in areas such as agriculture, energy, and healthcare) continues to be the main strategy framework for exiting deflation and revitalizing the country's economy.

2. In 2014, real GDP contracted by 0.03%, reflecting the backlash from the consumption tax rise in the same year. Private consumption fell as purchasing power deteriorated, and business investment declined. Under these circumstances, the authorities decided to abstain from a further consumption tax rise until October 2019. Domestic consumption slightly increased in 2015, leading to an annual GDP growth of 0.5%. However, several downside risks to the growth prospects remain as consumer prices struggle to pick up. Since Japan's previous review, the structure of its economy has remained largely unchanged, with services accounting for the largest share of GDP (72%).

3. The Bank of Japan is at the forefront of the country's efforts to boost private consumption, through quantitative and qualitative monetary easing with a negative interest rate. On the fiscal front, a number of economic plans have been adopted with a view, *inter alia*, to improving the country's public finances including its debt position, and boosting the competitiveness of the economy through large-scale investments. Structural reforms including those aimed at encouraging labour force participation and improving Japan's corporate governance framework are also under way.

4. Japan is the world's fourth-largest exporter and importer of goods and services. Both merchandise imports and exports declined between 2014 and 2015, reflecting, *inter alia*, a weak global demand and falling commodity prices; as the decline was substantially larger in imports than exports, Japan's merchandise trade deficit sharply contracted. Services exports and imports also declined during the same period; as in the case of merchandise trade, services trade deficit declined. Japan's current account surplus substantially increased in 2015, amounting to 3.3% of GDP (up from 0.8% in 2014).

5. In 2015, the stock of inward foreign direct investment (FDI) remained at around 4% of GDP, which continues to be smaller than in other major developed economies. Japan maintains a general policy of attracting FDI. In March 2015, five measures to attract foreign businesses, including enhancing the educational environment for foreign children, were announced.

6. Among Japan's 15 regional trade agreements (RTAs) currently in force, two RTAs, with Australia and Mongolia, entered into force during the review period, and were notified to the WTO, and the Trans-Pacific Partnership was signed. Japan is currently negotiating RTAs with: China and the Republic of Korea, Regional Comprehensive Economic Partnership (RCEP) partners, the European Union, Canada, Colombia, and Turkey. Since Japan's last trade policy review, Turkey is the only country with which Japan has newly entered into negotiations (in December 2014).

7. The institutional framework for general trade policymaking in Japan and its trade policy objectives have remained largely unchanged since its previous review in 2015. Japan has participated in all work of the WTO, negotiating RTAs, and pursuing domestic reforms to improve its competitiveness. Japan deposited its instrument of acceptance of the Trade Facilitation Agreement (TFA) on 1 June 2015. Since 1 January 2015, Japan has not been involved in any dispute settlement cases as a respondent; it has been involved in 6 cases as a complainant.

8. The overall orientation of Japan's trade policies has remained broadly unchanged since its previous review in 2015. Japan has several systems in place to expedite the release and clearance of goods, including an Authorized Economic Operator (AEO) programme; it has mutual recognition arrangements (MRAs) on AEO programmes with some of its trading partners.

9. Japan's overall simple average applied MFN tariff rate increased from 5.8% in FY2014 to 6.1% in FY2016 due to higher average *ad valorem* equivalents of non-*ad valorem* duties. Of the 101 highest tariffs, 95 had non *ad valorem* rates. The simple average applied rate is 16.3% (up from 14.9% in FY2014) for agriculture (WTO definition), and 3.6% for non-agricultural products (down from 3.7% in FY2014). Japan has bound 98.2% of its tariff (159 lines are unbound). The difference between the average bound MFN tariff (6.2%) and the average applied MFN tariff (6.1%) continues to be negligible in FY2016; this reflects a high degree of predictability in the tariff. However, the average bound rate remains considerably higher for agricultural products (16.7%) than for non-agricultural products (3.6%). Japan makes use of tariff quotas; there are 158 tariff lines (1.7%) subject to MFN out-of-quota tariffs, of which 11 are under state trading. The quota allocation method and process remains somewhat intricate; procedures for the allocation of tariff quotas have remained unchanged since 2014.

10. Japan makes relatively little use of trade contingency measures, although the number of anti-dumping measures implemented by Japan has increased (from 2 in 2014 to 6 in 2016). It applied neither countervailing nor safeguard measures during the review period. On 30 September 2016, Japan initiated an anti-dumping investigation on highly polymerized polyethylene terephthalate from China.

11. The Japan Bank for International Cooperation (JBIC) and the Nippon Export and Investment Insurance (NEXI) remain the official export credit agencies of Japan. Most of JBIC's lending activities are for overseas investment loans, which represents more than three quarters of the total operations in value. NEXI provides trade and investment insurance, including insurance products covering different aspects of trade risks as well as investment insurance for Japanese companies.

12. In 2015, Japan took steps to grant tax incentives to innovative basic research activities. Support measures included an increase in the deduction rate, and the expansion of the scope of research and development expenses that qualify under the incentive framework. Japan continues to maintain subsidies and other assistance programmes; a significant share of the programmes is dedicated to regional development efforts for areas recovering from the tsunami and nuclear disaster.

13. Japan's competition policy framework has remained broadly unchanged since its previous review. The main changes included an amendment of the Anti-Monopoly Act (AMA), which entered into force on 1 April 2015; it introduced a new appeal procedure putting a court in charge of reviewing administrative orders. Certain industries or business practices remain exempt from the scope of the AMA. For many years now, civil administrative processes have largely remained the main methods used for enforcement.

14. During the review period, Japan notified state trading entities engaging in tobacco, opium, rice, wheat and barley, and dairy products. According to the Government, its main reasons and purposes for maintaining these entities include sound development concerns, stable provision of staple foods, and medical and scientific concerns. In addition to the notified state trading entities, several companies are wholly and partially owned by public entities. Major commercial state-owned enterprises include those engaging in international airports, telecommunications, postal services, banking, tobacco, and railways, largely unchanged since the previous review.

15. The regulatory regime for SPS and TBT measures has remained largely unchanged during the period under review. As at 31 March 2016, there were 10,542 Japanese Industrial Standards (JIS), 5,759 of which correspond to international standards, and 97% of which have been harmonized with identical or modified international standards. As regards Japan Agricultural Standards (JAS), as at 31 March 2016, there were 201 JAS, 80 of which correspond to international standards and 78% of which have been harmonized with international standards. Japan currently imposes import prohibitions on beef and poultry from various countries to prevent the spread of certain animal diseases, including BSE and avian flu.

16. The main changes in the regulatory framework for Japan's government procurement during the review period included an amendment in May 2016 to the "operational procedures for government procurement". The amendment introduced a "multiple bidding system", where two or more companies can bid on a project if one company cannot supply the full amount of the order

alone. In March 2014, Japan accepted the revised Agreement on Government Procurement (GPA), which entered into force in the country on 6 April 2014. Since early 1990s, Japan has established various "voluntary measures" implying commitments going beyond GPA in terms of thresholds, entities and sectors covered and procedural obligations. The thresholds for voluntary measures are lower than the GPA in only two instances, due to the fact that the revised GPA has "caught up" with voluntary measures as compared to the GPA 1994. According to data provided by the authorities, foreign participation in Japan's government procurement remained around 3% in value in 2014 (the latest year for which data were available).

17. As regards Japan's intellectual property rights framework, the main changes during the review period included: the implementation of stand-alone legislation on geographical indications for foods, beverages, and agricultural and marine products; the strengthening of the protection of trade secrets; and various amendments to the Patent Act, the Trademarks Act, the Design Act, and the Act on International Applications under the Patent Cooperation Treaty (PCT).

18. Agriculture remains an important sector to the domestic economy in some parts of Japan despite the fact that its share of GDP remains small. The agriculture sector remains highly protected with some of the highest import tariffs in the sector and specific market support. Japan has 18 tariff quotas covering 186 tariff lines at the HS 9-digit level; the method of administering the quotas has remained unchanged since Japan's previous review. While the level of support and protection given to agriculture in Japan declined during the review period, it remains high compared to other OECD countries. Market price support is the main component and it, along with other transfers based on outputs and inputs, is considered as potentially one of the most production- and trade-distorting forms of support. Although the average applied MFN tariff on fish and fish products was 6.2% in FY2016 (same as in FY2014), import quotas continue to apply to several fish species.

19. Japan's total energy consumption declined during the period partly due to an increase in energy efficiency and a decline in the overall energy demand. Reform in the electricity sector continued; the institutional framework was reinforced and the producer licensing scheme was reformed and de-segmented so as to allow more competition during the period. For example, the residential/individual consumer segment was further liberalized for competition in 2016. Consumers can retain regulated tariffs until 2020, and full unbundling is stipulated by law for the same year.

20. The services sector, a key component in Japan's economy, is broadly open to competition, except in selected areas such as certain broadcasting and medical services. The main changes during the review period in the regulatory framework for financial services included several amendments to the Banking Act. These amendments have partially relaxed requirements in respect of agency services and intermediary services for foreign banks, and, on the other hand, introduced a series of new and stricter rules regarding licensing standards, information obligations, maintenance of assets in Japan, and supervisory powers in case of bankruptcy or reorganization proceedings, essentially for prudential reasons.

21. The regulatory framework of telecommunication sector in Japan has remained largely unchanged since its previous review. The sector has undergone a few changes concerning measures aimed at promoting mobile virtual operators (MVNOs), consumer protection, and SIM card unlocking.

22. In all segments of Japan's film industry, foreign firms are allowed to operate on a national treatment basis. The TV industry remains dominated by one public and five commercial terrestrial networks. TV and radio broadcasting licences are subject to a relatively complex system of foreign ownership limitations depending of the type of activity (production or transmission), the type of licence (basic or general), and the means of transmission (terrestrial, satellite, or cable). Nonetheless, video-on-demand (VOD)/over-the-top (OTT) TV, a very dynamic segment, is not considered as broadcasting and is fully open.

23. Access to the medical profession in Japan is regulated through qualification and language requirements; there are a few bilateral agreements allowing easier access conditions. Nurse and care-worker examinations are accessible to foreigners; this regime is covered in some RTAs. The establishment of foreign-owned clinics is subject to the same requirements as the opening of

Japanese-owned clinics (i.e. economic needs test and quality requirements). Currently, there is only one foreign-owned clinic operating in Japan. The retirement home market is economically very significant and dynamic in Japan due to an ageing population. To cope with demand, the sector has recently been opened to the private for-profit sector (including foreign investors) notably in the form of real investment trusts combined with management contracts.

1 ECONOMIC ENVIRONMENT

1.1 Main Features of the Economy

1.1. Japan's GDP growth remains sluggish, hampered by a series of domestic and external constraints. To a large extent, persistently low inflation has contributed to Japan's weak output growth. An aging and shrinking population has put pressure on public spending, with increased borrowing by the Government. Furthermore, the 2011 earthquake exacerbated public finances. In response, the national and local governments adopted supplementary budgets for FY2011 and an initial budget for FY2012 amounting to approximately ¥17 trillion (about 3.6% of GDP).

1.2. In 2013, in the context of depressed economic activities, the Government launched a three-pillar ("three-arrow") strategy¹ to exit deflation and revitalize the country's economy, consisting of: a bold monetary policy, a flexible fiscal policy, and structural reforms. The first arrow was launched in early 2013 with the introduction of "quantitative and qualitative easing" (QQE). It was accompanied by the second arrow, which included fiscal packages. The third arrow – the Japan Revitalization Strategy – was announced in June 2013 and revised a year later. The combined effects of fiscal and monetary policy expansion and structural reform were intended to strengthen business investment and private consumption, with a view to overcoming the prolonged deflation and revitalizing the Japanese economy.

1.3. Key reforms under the third arrow include: i) stabilizing the size of the labour force by boosting the participation of women and older people; ii) enhancing Japan's integration into the world economy through trade agreements; and iii) improving the business climate by upgrading corporate governance, enhancing labour flexibility and mobility, promoting venture capital investment and improving policies for small and medium-sized enterprises (SMEs). Several structural reforms have recently been undertaken (Section 3.3).

1.4. The initial results of the first two arrows were encouraging, as they boosted business and consumer confidence. Nominal GDP increased at a faster pace against the background of a pick-up in inflation, reflecting a large depreciation of the yen. However, over recent months, low confidence in economic growth prospects has depressed private consumption and investment. In addition, inflation is slowing down, reflecting weak wage growth and the sharp fall in oil prices despite rising employment and high corporate profits. Headline inflation is also affected by the sharp fall in oil prices. The recent slowdown in global trade has also prevented exports from growing faster.

1.2 Recent Economic Developments

1.5. Japan's GDP growth performance remains subdued. In 2014, the economy contracted by 0.03% on an annual basis due to underperforming private consumption, the main component of the GDP (Table 1.1). Growth accelerated during the first quarter of 2014, as business and consumer confidence improved.² However, following the increase in the consumption tax rate (from 5% to 8%), growth declined in the second and third quarters of 2014, before picking up slightly during the fourth quarter. Private consumption fell due to deteriorating purchasing power, and low consumer confidence. Business investments also declined, and the yen depreciated. However, the weaker yen helped boost exports in 2014. Given these circumstances, the Government has delayed the planned second tax hike (from 8% to 10%) until October 2019.

1.6. In 2015, annual GDP growth remained weak, albeit positive. Weak private consumption continued to be a drag on output growth, as wage growth remained weak despite low unemployment rates. The export growth rate slowed from 8.3% in 2014 to 2.8% in 2015, reflecting weak global demand, while private investments increased by less than 1%.³

1.7. Growth in the first two quarters of 2016 showed a slight rebound (0.5% and 0.2%, respectively) from the contraction of 0.4% in the last quarter of 2015. Relatively stronger

¹ The so-called "Abenomics" – the economic programme rolled out by the Abe Cabinet – which prioritizes policy coordination to meet the challenges facing the Japanese economy.

² OECD online information. Viewed at: <http://www.oecd.org/eco/surveys/Japan-2015-overview.pdf>.

³ Private residential investment declined by 2.5% while private non-residential investment increased by 1.5%.

consumer and government consumption were the main drivers of this improvement. However, according to the IMF, the yen depreciation started to reverse in the second half of 2015 and it appreciated further in early 2016. Safe-haven effects due to global financial market volatility, a narrowing of interest rate differentials with the United States, the markets' perception of the limits to the Bank of Japan's stimulus, and a rising current account surplus are the main driving factors of the ongoing appreciation of the yen.⁴

Table 1.1 Selected macroeconomic indicators, 2011-15

	2011	2012	2013	2014	2015 ^a
National accounts – GDP expenditure approach					
GDP real growth rate, %	-0.5	1.7	1.4	-0.03	0.5
Private consumption	0.3	2.3	1.7	-0.9	-1.2
Government consumption	1.2	1.7	1.9	0.1	1.2
Gross fixed capital formation	1.4	3.4	2.5	1.3	0.0
Exports of goods and services	-0.4	-0.2	1.2	8.3	2.8
Imports of goods and services	5.9	5.3	3.1	7.2	0.3
Share of current GDP, %					
Private consumption	60.3	60.6	61.0	60.7	58.6
Government consumption	20.4	20.4	20.6	20.6	20.4
Gross fixed capital formation	20.6	21.0	21.6	22.0	21.7
Change in private inventories	-0.4	-0.2	-0.4	-0.2	0.3
Exports of goods and services	15.2	14.7	16.2	17.7	17.9
Imports of goods and services	16.0	16.7	19.0	20.9	18.9
Prices and interest rates					
Consumer price (CPI) (average, % change)	-0.3	0.0	0.4	2.7	0.8
GDP deflator (% change)	-1.9	-0.9	-0.6	1.7	2.0
Discount rate (%)	0.3	0.3	0.3	0.3	0.3
Fiscal balance (% of current GDP)					
Revenue	30.8	31.1	32.0	33.0	33.8
Expenditure	40.6	39.8	40.5	40.3	39.7
Balance	-9.8	-8.8	-8.5	-7.3	-5.9
Primary balance	-9.0	-7.9	-7.8	-6.7	-5.4
Excluding social security	-7.6	-6.9	-7.5	-6.2	-5.0
Government debt, gross	229.7	236.6	242.6	246.2	245.8
Saving and investment (% of current GDP)					
National savings (gross)	22.4	21.9	22.0	22.4	24.8
National investment	20.2	20.9	21.1	21.9	21.8
External data (% of current GDP, unless otherwise indicated)					
Current account	2.2	1.0	0.9	0.8	3.3
Merchandise trade balance	-0.1	-0.9	-1.8	-2.1	-0.1
Merchandise exports	13.4	13.0	14.2	15.2	15.1
Merchandise imports	13.4	13.9	16.0	17.4	15.2
Services balance	-0.6	-0.8	-0.7	-0.6	-0.3
Primary income balance	3.1	2.9	3.7	4.0	4.1
Secondary income balance	-0.2	-0.2	-0.2	-0.4	-0.4
Capital account	0.0	0.0	-0.2	0.0	-0.1
Financial account	2.7	0.9	-0.1	1.3	4.2
Direct investment	2.0	2.0	3.0	2.6	3.2
Total reserves, excluding gold (US\$ billion)	1,258.2	1,227.1	1,237.2	1,231.0	1,207.0
<i>Memorandum:</i>					
Current GDP (¥ billion)	471,578.7	475,331.7	479,083.7	486,871.2	499,205.8
Current GDP (US\$ billion)	5,909.0	5,957.3	4,908.9	4,595.5	4,124.2

⁴ IMF online information. Viewed at: <https://www.imf.org/external/pubs/ft/scr/2016/cr16267.pdf>.

	2011	2012	2013	2014	2015 ^a
GPD per capita (US\$)	46,435.0	46,855.9	38,657.0	36,243.8	32,583.2
Exchange rate (average, ¥ per US\$)	79.81	79.79	97.60	105.94	121.04
Unemployment rate	4.6	4.3	4.0	3.6	3.4 ^b

a Estimates.

b Actual.

Note: Annual percentage changes under the national account are based on chain-linked 2005 real figures.

Source: IMF; Cabinet Office online information; Ministry of Finance online information.

1.8. Inflation, measured by the consumer price index (CPI), sharply increased from 0.4% in 2013 to 2.7% in 2014, partly due to the consumption tax hike; it lost momentum in the following year with a 0.8% growth. Headline inflation (excluding the tax hike) declined from 1.2% in 2014 to 0.3% in 2015, as oil prices fell. The year-on-year rate of change in the CPI (excluding fresh food) was slightly negative during the first half of 2016. It stood at -0.4% in October 2016.⁵

1.9. Japan continues to face persistent government deficits due to rising public social spending, coupled with longstanding weak economic growth that has limited government revenues. Social spending has increased significantly in recent years, currently amounting to half of general government spending. Several years of budget deficits have pushed up Japan's gross government debt to over 245% of GDP. However, the interest rate on government debt stands at only 0.9%. The low interest rate reflects, *inter alia*, the current accommodative financing conditions, and confidence in Japan's ability to meet its debt obligations, as the country holds a significant stock of external assets.

1.2.1 Monetary policy

1.10. In January 2016, the Bank of Japan (BOJ) decided to introduce a framework of quantitative and qualitative monetary easing (QQE) with a negative interest rate. This framework extends the QQE that was introduced in April 2013, with a view to achieving the price stability target of 2%.

1.11. Under the framework, the Bank pursues monetary easing by making full use of possible measures on three dimensions:

- Interest-rate: The Bank has applied an interest rate of -0.1% to a part of the current accounts held by financial institutions at the Bank.

- Quantity: The Bank conducts money market operations so that the monetary base increases at an annual pace of about ¥80 trillion.

- Quality: The Bank purchases Japanese government bonds (JGBs) so that their amount outstanding increases at an annual pace of about ¥80 trillion. The Bank also purchases exchange-traded funds (ETFs) and Japan real estate investment trusts (J-REITs) so that their amounts outstanding increase at annual paces of about ¥3.3 trillion (from April 2016) and about ¥90 billion, respectively. As for commercial paper and corporate bonds, the Bank will maintain their amounts outstanding at about ¥2.2 trillion and about ¥3.2 trillion, respectively.⁶

1.12. At its meeting in September 2016, the BOJ decided to introduce a new policy framework consisting of two major components. First, "yield curve control", under which the Bank sets short-term and long-term interest rates as an operating target. Second is an "inflation-overshooting commitment", under which the Bank commits itself to maintaining an increase in the monetary base until the annual rate of increase in the observed CPI exceeds the price stability target of 2% and stays above the target in a stable manner.

⁵ Japan Statistics Bureau's online information. Viewed at: <http://www.stat.go.jp/english/data/cpi/1581.htm>.

⁶ BOJ online information. Viewed at: https://www.boj.or.jp/en/mopo/mpmsche_minu/minu_2016/g160315.pdf.

1.2.2 Fiscal policy

1.13. In 2013, the Government adopted a medium-term fiscal plan which aimed to: i) halve the primary deficit of central and local governments by 2015; ii) achieve a primary surplus by FY2020; and iii) put the debt ratio on a downward trend thereafter. The planned consumption tax hike from 5% to 8% in 2014, and 10% in 2015, was a central element of the fiscal plan.

1.14. A number of measures have been taken to reach a primary surplus by 2020, including the "Plan to Advance Economic and Fiscal Revitalization". Under this plan, the Government aims to achieve both economic revitalization and fiscal consolidation in an integrated manner, involving measures to overcome deflation and revitalize the economy, in addition to expenditure and revenue reforms.⁷

1.15. Additionally, in December 2015, the Government formulated the "Economic and Fiscal Revitalization Action Program". The programme identifies a roadmap and the key performance indicators (KPIs) and clarifies the details and timeline of reform implementation, including 80 main reform items in each expenditure category.

1.16. In August 2016, the Government rolled out a set of economic measures with a total value of ¥28 trillion. The measures include ¥7.5 trillion in new spending, as part of the Government's effort to boost the nation's economy. The programme aims to promote cutting-edge investments, such as upgrading ports to accommodate foreign cruise ships and building food-processing facilities to increase exports of farm products. Funds will also be allocated to, *inter alia*, reconstruction from the 2016 Kumamoto and 2011 Great East Japan earthquakes, safety and security, disaster prevention, childcare facilities for working parents, as well as measures to support small and medium-sized businesses, owners of small businesses, and local communities.

1.2.3 Structural reforms

1.17. During the review period, a number of steps were taken to achieve structural reform. Efforts are under way to increase the minimum wage by 3% annually. A plan to promote the "Dynamic Engagement of All Citizens" was rolled out in 2015. It relies on specific measures, including providing support to childcare in order to boost fertility and labour force participation. Significant progress has been made in corporate governance reform, as the Corporate Governance Code and the amendment of the Companies Act were implemented during the review period (Section 3.3). Furthermore, the Government cut the statutory income tax rate to below 30% in FY2016.

1.2.4 Balance of payments

1.18. Japan's current account remained in surplus during the review period. Its surplus increased further in 2015 to reach US\$135.6 billion, up from US\$36 billion in 2014, as oil prices declined (Table 1.2).

1.19. Exports and imports of goods expanded in 2014 compared to the previous year, but declined in 2015. The decline in imports in 2015 reflects lower prices for oil and other commodities, while weak exports reflect an economic slowdown in Japan's main trade partners. The depreciation of the Japanese yen also contributed to the country's widening surplus, through improved merchandise export competitiveness.

1.20. The primary income balance remained in surplus in 2014 and 2015; the surplus declined somewhat in 2015, as income receipts fell and income payments rose slightly. The surplus largely reflects higher earnings on Japan's direct investment abroad. The secondary income balance was in deficit both in 2014 and 2015.

⁷ Cabinet Office online information. Viewed at: http://www5.cao.go.jp/keizai-shimon/kaigi/cabinet/2015/summary_en.pdf.

Table 1.2 Balance of payments 2011-15

(US\$ billion)

	2011	2012	2013	2014	2015
Current account	129.6	60.1	46.4	36.0	135.6
Goods and services balance	-39.5	-101.2	-125.1	-128.6	-19.1
Goods balance	-4.5	-53.5	-89.6	-99.8	-5.2
Exports	790.0	776.6	694.9	699.2	622.0
Imports	794.4	830.1	784.6	799.0	627.2
Services balance	-35.1	-47.7	-35.5	-28.8	-13.9
Receipts	140.7	137.0	135.4	163.8	162.5
Transportation	41.7	42.9	39.6	39.6	35.5
Travel	11.0	14.6	15.1	18.8	25.0
Payments	175.8	184.7	170.9	192.6	176.4
Transportation	49.5	55.4	47.0	45.9	41.0
Travel	27.3	27.9	21.9	19.3	16.0
Primary income	183.0	175.7	181.6	183.6	170.7
Credit	233.6	229.9	241.5	255.1	242.0
Compensation of employees	0.2	0.2	0.1	0.2	0.2
Investment income	233.4	229.6	241.4	254.9	241.8
Debit	50.6	54.2	59.9	71.5	71.3
Compensation of employees	0.3	0.3	0.2	0.2	0.2
Investment income	50.3	53.9	59.7	70.2	70.3
Secondary income	-13.8	-14.3	-10.1	-19.0	-16.0
Credit	13.1	14.9	15.9	16.6	17.2
Debit	26.9	29.2	26.0	35.5	33.2
Capital account	0.5	-1.0	-7.7	-2.0	-2.3
Credit	7.6	6.0	1.2	0.5	0.2
Debit	7.1	7.0	8.9	2.4	2.5
<i>Balance on current and capital account</i>	130.1	59.1	38.7	34.0	133.4
Financial account	157.6	53.1	-4.2	58.4	174.8
Direct investment	117.7	117.1	145.0	117.8	130.8
Japan's direct investment abroad	116.8	117.6	155.7	136.3	130.7
Direct investment in Japan	-0.9	0.5	10.6	18.4	-0.0
Portfolio investment	-168.4	32.2	-274.7	-40.3	132.7
Financial derivatives	-17.1	7.1	58.2	34.3	17.9
Other investment	48.8	-65.1	28.4	-61.9	-111.7
Reserves assets	176.6	-38.3	38.8	8.5	5.1
Net errors and omissions	27.5	-6.0	-42.9	24.4	41.5

Source: IMF e-library data.

1.3 Trade Performance

1.21. During 2013-15, Japan's ratio of merchandise trade (exports and imports) to GDP averaged 30%. The share of exports of goods and services in GDP, which has been on an upward trend since 2011, stood at 17.9% in 2015, while the share of imports stood at 18.9%.

1.22. Japan is the world's fourth-largest exporter and importer of goods. In services trade, Japan also ranked fourth among world exporters and importers.⁸

1.23. In 2015, manufactures continued to dominate Japan's merchandise exports, accounting for 87.2% of the total, down slightly from 87.6% in 2013 (Chart 1.1). Automotive products, machinery and transport equipment continue to be the main component, representing 58.7% of exports in goods, followed by chemicals (10.1%) and consumer goods (8.9%) (Table A1.1).

⁸ WTO "International Trade Statistics 2015". Viewed at: https://www.wto.org/english/res_e/statis_e/its2015_e/its2015_e.pdf.

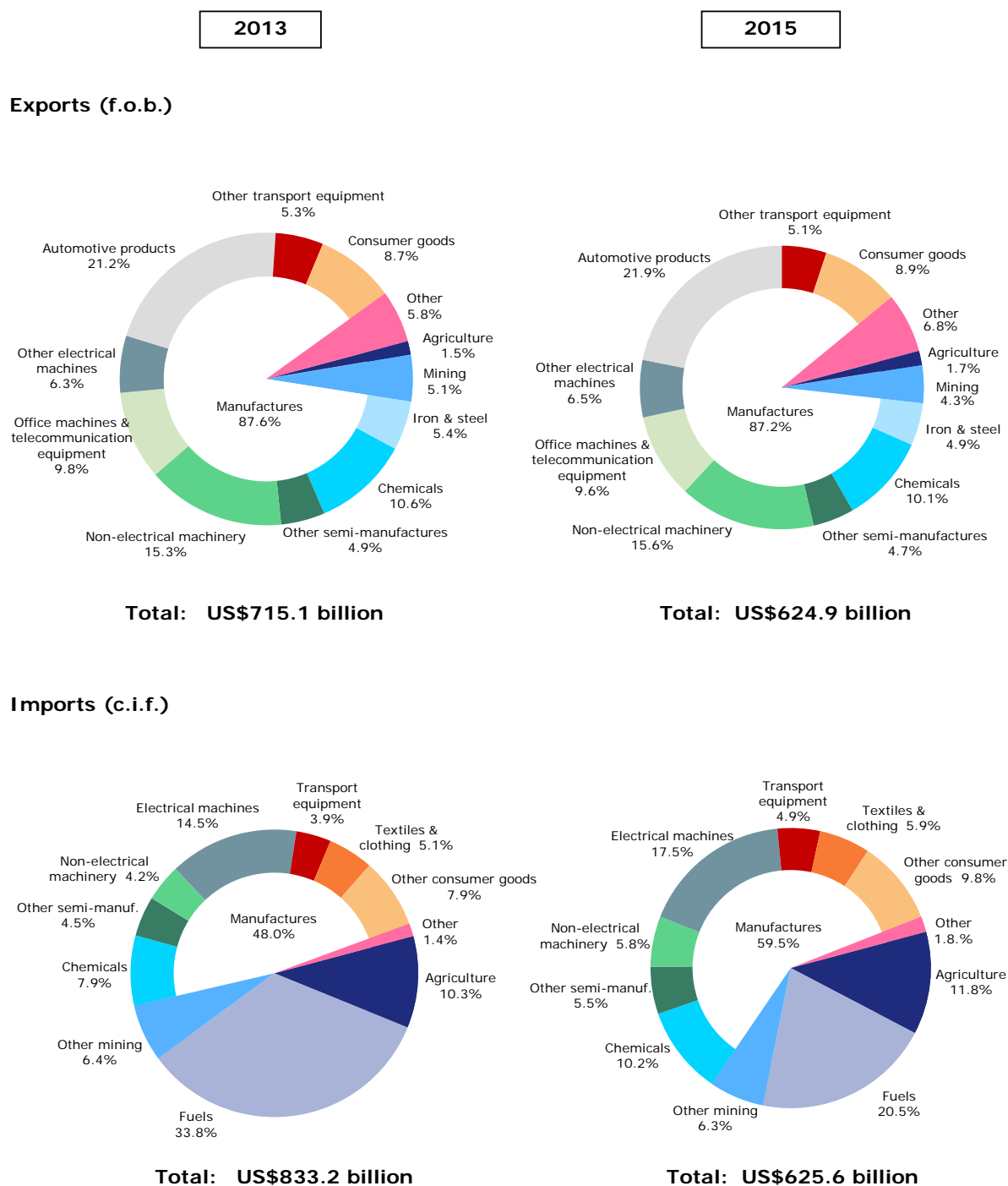
1.24. Due to a severe decline in international commodity prices, the share of imports of fuels significantly decreased to 20.5% in 2015, a fall from 33.8% in 2013. Consequently, the share of primary products in total merchandise imports decreased from 50.5% in 2013 to 38.7% in 2015. In contrast, the share of manufactures increased by 11.5 percentage points from 48% in 2013, this is mostly due to the increase in imports of machinery and transport equipment from 22.7% in 2013 to 28.2% in 2015, and the increase in imports of chemicals from 7.9% in 2013 to 10.2% in 2015 (Table A1.2).

1.25. In 2015, the United States was the largest export market, with a share of 20.2%; followed by China with 17.5% (Chart 1.2). The share of Asia as a whole marginally decreased from 57.2% in 2013 to 56.1% in 2015. The share of the European Union increased slightly from 10% in 2013 to 10.6% in 2015 (Table A1.3).

1.26. China has the largest share in Japan's merchandise imports; in 2015, its share stood at 25.7%, up from 21.7% in 2013. The share of goods imported from Asia significantly increased from 50.9% in 2013 to 57.1% in 2015. Imports from the Middle East, mostly of fossil fuels, decreased significantly from 19.3% in 2013 to 9.1% in 2015, while the share of imports from the United States increased from 8.6% in 2013 to 10.9% in 2015 (Table A1.4). This is mostly due to the fall in oil prices in 2014-2015, and the commencement of shipment of shale oil from the United States to Japan.

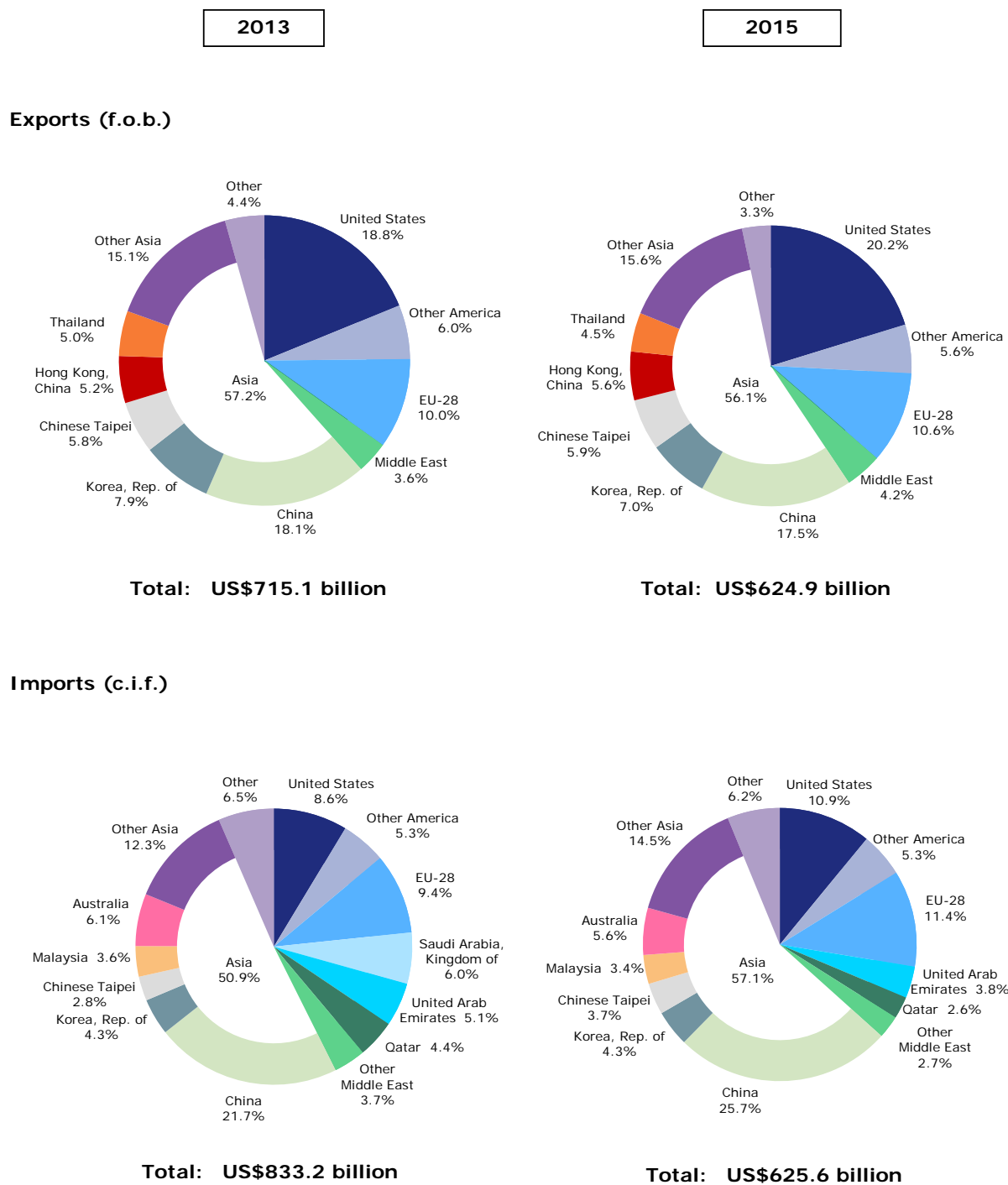
1.27. Japan remains a net importer of services. The deficit in services trade, on a decreasing trend since 2012, narrowed further in 2015. The depreciation of the Japanese yen in 2014-15 has contributed to higher receipts from travel services.

Chart 1.1 Product composition of merchandise trade, 2013 and 2015



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

Chart 1.2 Direction of merchandise trade, 2013 and 2015



Source: UNSD, Comtrade database.

1.4 Foreign Direct Investment

1.28. FDI inward stock in Japan amounted to 4.1% of the GDP in 2015, an increase of 0.4 percentage points in comparison with 2014 (Table 1.3).

Table 1.3 Foreign direct investment, 2011-15

(US\$ million unless otherwise indicated)

	2011	2012	2013	2014	2015
FDI inflows	-1,758	1,732	2,304	2,090	-2,250
FDI inward stock	225,787	205,752	170,710	170,615	170,698
FDI inward stock (% of GDP)	3.8	3.5	3.5	3.7	4.1
FDI outflows	107,599	122,549	135,749	113,629	128,654
FDI outward stock	962,790	1,037,698	1,118,010	1,193,137	1,226,554
FDI outward stock (% of GDP)	16.3	17.4	22.8	26.0	29.7

Source: UNCTAD, World Investment Report (various issues); and Cabinet Office of Japan online information.

1.29. By origin, European affiliates accounted for a 43.9% share of all foreign affiliates in 2015 (a decrease of 0.5 percentage points in comparison with 2014), U.S. affiliates represented 25.9% (a decrease of 0.9 percentage points in comparison with 2014), followed Asian affiliates whose share increased by 1.6 percentage points from 2014 to reach 23.8% in 2015. By individual country, the largest investors in Japan are the United States (¥6.7 trillion), followed by the Netherlands (¥3.1 trillion), France (¥2.8 trillion), and the United Kingdom (¥1.8 trillion). FDI from Asia to Japan mainly comes from Singapore and Hong Kong, China.⁹

1.30. Due to high-profile deals, such as the acquisition of the electronics group Sharp and a concession to operate airports in Kansai, many foreign investors may make substantial inroads into Japan in 2016.¹⁰

1.31. On the other hand, the saturation of the domestic economy has apparently prompted many Japanese enterprises to seek investment opportunities abroad. Japanese FDI outflows amounted to US\$114 billion and US\$129 billion in 2014 and 2015, respectively. Japan was the world's second-largest investor in 2015, after the United States, and followed by China.

⁹ JETRO Invest Japan Report (2015). Viewed at: https://www.jetro.go.jp/ext_images/usa/jetro_invest_japan_report_2015.pdf.

¹⁰ World Investment Report 2016 (2016). UNCTAD online information. Viewed at: http://unctad.org/en/PublicationsLibrary/wir2016_en.pdf.

2 TRADE AND INVESTMENT REGIME

2.1 General Framework

2.1. The institutional framework for general trade policymaking in Japan has remained largely unchanged since Japan's previous review in 2015. Ministries involved in trade policy include the Ministry of Foreign Affairs (MOFA), the Ministry of Economy, Trade and Industry (METI), and several other ministries 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; the Ministry of Health, Labour, and Welfare; and the Ministry of Land, Infrastructure, Transport and Tourism. In addition, several government agencies also participate in certain aspects of trade policy, such as the Bank of Japan.

2.2. As indicated in the previous report, there are several committees in the Diet 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. The main laws and regulations relating to trade are presented in Table 2.1.

Table 2.1 Major trade-related laws and regulations, June 2016

Legislation	Most recent amendment
Foreign trade and exchange restrictions	
Foreign Exchange and Foreign Trade Act (1949 Law No. 228)	2014
Export and Import Transaction Act (1952 Law No. 299)	2014
Foreign Exchange Order (1980 Order No. 260)	2015
Export Trade Control Order (1949 Order No. 378)	2016
Import Trade Control Order (1949 Order No. 414)	2003
Customs- and tariff-related regulations	
Customs Law (1954 Law No. 61)	2016
Customs Tariff Law (1910 Law No. 54)	2016
Temporary Tariff Measures Law (1960 Law No. 36)	2016
Cabinet Order Relating to Countervailing Duties (1994 Order No. 415)	2016
Cabinet Order Relating to Anti-Dumping Duties (1994 Order No. 416)	2016
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)	2016
Act on the provision of information regarding originating goods declared under the Japan–Australia Economic Partnership Agreement (2014 Law No. 112)	2014
Trade promotion	
Trade and Investment Insurance Act (1950 Law No. 67)	2015
Services and energy	
Construction Business Act (1949 Law No. 100)	2014
Banking Law (1981 Law No. 59)	2016
Insurance Business Law (1995 Law No. 105)	2014
Financial Instruments and Exchange Law (1948 Law No. 25)	2015
Telecommunications Business Act (1984 Law No. 86)	2016
Law Concerning the Measures by Large-Scale Retail Stores for Preservation of the Living Environment (1998 Law No. 91)	2000
Civil Aeronautics Act (1952 Law No. 231)	2015
Marine Transportation Act (1949 Law No. 187)	2015
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)	2014
Certified Tax Accountant Law (1951 Law No. 237)	2016
Law for Improvement of International Tourist Hotels (1949 Law No. 279)	2011
Travel Agency Law (1952 Law No. 239)	2011
Electricity Business Act (1964 Law No. 170)	2015
Gas Business Act (1954 Law No. 51)	2015
Oil Stockpiling Act (1975 Law No. 96)	2012
Act on the Quality Control of Gasoline and Other Fuels (1976 Law No. 88)	2008

Legislation	Most recent amendment
Standards and technical regulations, SPS	
Industrial Standardization Act (1949 Law No. 185)	2014
Law Concerning Standardization, etc. of Agricultural and Forestry Products (JAS Law) (1950 Law No. 175)	2013
Act on Securing Quality, Efficacy and Safety of Products including Pharmaceuticals and Medical Devices, (1960 Law No. 145)	2015
Food Sanitation Act (1947 Law No. 233)	2015
Food Labelling Act (2013 Law No. 70)	2014
Quarantine Law (1951 Law No. 201)	2014
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)	2014
Electrical Appliance and Material Safety Law (1961 Law No. 234)	2011
Consumer Product Safety Act (1973 Law No. 31)	2014
High Pressure Gas Safety Act (1951 Law No. 204)	2011
Road Vehicle Law (1951 Law No. 185)	2016
Act on the Rational Use of Energy (1979 Law No. 49)	2014
Fire Service Law (1948 Law No. 186)	2015
Food Safety Basic Act (2003 Law No. 48)	2015
Intellectual property rights	
Patent Act (1959 Law No. 121)	2016
Customs Law (1954 Law No. 61)	2016
Unfair Competition Prevention Act (1993 Law No. 47)	2015
Utility Model Act (1959 Law No. 123)	2015
Design Act (1959 Law No. 125)	2016
Trademark Act (1959 Law No. 127)	2016
Copyright Law (1970 Law No. 48)	2014
Civil Code (1896 Law No. 89)	2013
Agriculture	
Basic Law on Food, Agriculture and Rural Areas (1999 Law No. 106)	2015
Temporary Law for Compensation Price for Producers of Milk for Manufacturing Use (1965 Law No. 112)	2014
Others	
Administrative Procedure Law (1993 Law No. 88)	2015
Act Concerning Prohibition of Private Monopolization and Maintenance of Fair Trade (Anti-Monopoly Act) (1947 Law No. 54)	2013
Act Against Unjustifiable Premiums and Misleading Representations (1962 Law No. 134)	2014

Source: Information provided by the authorities of Japan.

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 Organization (JETRO), the Japan Bank of International Cooperation (JBIC), the Nippon Export and Investment Insurance (NEXI), as well as Japan National Tourism Organization and Japan Oil, Gas and Metals Corporation. A number of agencies, which, alongside government ministries, are responsible for the development and implementation of standards, including the Japanese Industrial Standards Committee, the Pharmaceuticals and Medical Devices Agency, the National Public Safety Commission, and the Consumer Affairs Agency.

2.2 Trade Policy Objectives

2.4. Since its previous review, Japan's trade policy objectives have remained unchanged. It has continued to promote both the multilateral trading system and bilateral and regional trade agreements; Japan considers that those agreements are complementary to, not a substitute for, the multilateral trading system. The authorities state that the WTO should continue to play a central role in promoting economic growth and development, whilst bilateral and regional trade agreements also play an important role.

2.5. The authorities state that, given Japan's interdependence with its economic partners worldwide, its bilateral and regional efforts include not only the liberalization of trade in goods or

services but also cover a wide range of areas, including investment, movement of natural persons, intellectual property and competition policy, as well as cooperation and other "WTO-plus" areas.

2.3 Trade Agreements and Arrangements

2.3.1 WTO

2.6. Japan actively participates in both the WTO's regular work and negotiations. According to the authorities, maintaining and strengthening the multilateral trading system under the WTO has been one of the main pillars of Japan's external economic policy. As one of the major Members of the WTO, Japan is committed to supporting the system.

2.7. Japan is a party to the Plurilateral Agreement on Government Procurement; in March 2014, it accepted the Protocol Amending the WTO Agreement on Government Procurement adopted in March 2012 (Section 3.3.9). Japan is also a party to the Information Technology Agreement (ITA) and has actively participated in the ITA product expansion negotiations (ITA II). Japan deposited an instrument of acceptance with the WTO on 1 June 2015.

2.8. Japan grants MFN or preferential treatment to a country or territory that meets one or more of the following criteria: (1) is a WTO Member; (2) is covered by a provision of the Cabinet Order under Article 5 of the Customs Tariff Law¹; or (3) is a country or territory with whom Japan has a bilateral treaty of commerce and navigation. At present, exceptions to such countries or territories are Andorra, Equatorial Guinea, the State of Eritrea, Lebanon, the Democratic People's Republic of Korea, South Sudan, and the Democratic Republic of Timor-Leste (unchanged since Japan's previous review).

2.9. Since 1 January 2015, Japan has not been involved in any dispute settlement cases as a respondent; it has been involved in 6 cases as a complainant (Table A2.1). Japan has submitted numerous notifications under the different WTO agreements, although notifications in certain areas (e.g. domestic support in agriculture, and volume of food aid) were not submitted during the review period (Table A2.2).² Japan's trade policies have been reviewed by the Trade Policy Review Body (TPRB) twelve times; the last trade policy review of Japan took place on 9 and 11 March 2015.

2.3.2 Regional and preferential agreements

2.10. Japan has signed a total of 16 regional agreements with: Australia, Brunei Darussalam, Chile, India, Indonesia, Malaysia, Mexico, Mongolia, Peru, the Philippines, Singapore, Switzerland, Thailand, and Viet Nam, the ASEAN member countries, and the Trans-Pacific Partnership (TPP) member countries.³ All of these agreements (except for the TPP) have entered into force. Japan initiated the TPP approval process by submitting the agreement to the Diet in March 2016.

2.11. Japan has begun negotiations to conclude a further eight agreements with: China and the Republic of Korea, Regional Comprehensive Economic Partnership (RCEP) partners, the European Union, Canada, Colombia, and Turkey. Since Japan's last trade policy review, Turkey is the only country with which Japan has newly entered into negotiations (in December 2014).

2.12. Japan is an active participant in the APEC and ASEM fora⁴ which held their respective summits (Leaders' Meetings) in November 2015 and in July 2016. Japan has pursued its bilateral dialogue with the United States within the pre-existing institutional framework (the

¹ Article 5 of the Law stipulates that preferential duties can be accorded if specified under a Cabinet Order. For example, such duties are accorded to the Islamic Republic of Iran, the Republic of Iraq, and People's Democratic Republic of Algeria (Cabinet Order (Application of Beneficial Duty)).

² WTO document G/AG/GEN/86/Rev.25, 2 September 2016.

³ Of the 16 agreements, two have been signed since the last trade policy review, namely those with Mongolia (signed in February 2015, entered into force in June 2016) and the TPP (signed in February 2016).

⁴ MOFA online information. Viewed at: <http://www.mofa.go.jp/files/000114630.pdf> and http://www.mofa.go.jp/erp/aec/page3e_000507.html.

Japan-US Economic Partnership for Growth and the Japan–US Framework for a New Economic Partnership) even after the signature of the TPP although at a slower pace.⁵

2.3.3 Other agreements and arrangements

2.13. Japan provides preferential access under the Generalized System of Preferences to 143 countries or territories, including 47 least developed countries, which also qualify for more extensive product coverage under Japan's duty-free and quota-free treatment for LDCs. The most recent change took place in 2016, when Japan graduated the Cook Islands from its list of beneficiaries under the GSP.

2.14. Under the GSP scheme, preferential tariff rates apply to 408 tariff lines at the HS 9-digit level in Chapters 1 to 24 (agriculture and fisheries) and to 3,151 tariff lines in Chapters 25 to 97 (industrial products). 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. The preferential margin varies from one product to another.

2.15. The GSP scheme itself is revised every ten years. The next revision is due in 2021. 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.

2.16. Japan has been a member of the Asia-Pacific Economic Cooperation (APEC) since its foundation in 1989 and a member of the Asia-Europe Meeting (ASEM) since its establishment in 1996.

2.4 Investment Regime

2.17. Japan maintains a general policy of attracting FDI. In March 2015, the authorities announced five measures to attract foreign businesses: overcoming language barriers, facilitating better Internet connectivity, accommodating business jets at local airports, enhancing the educational environment for foreign children, and strengthening services to support foreign enterprises. In addition, the Government declared its intention to make the country a global hub for trade and investment by enhancing innovation and alliances between domestic and overseas enterprises. It aims to attract more than 470 foreign firms to Japan by FY2018, with the Japan External Trade Organization (JETRO) as the central player.⁶

2.18. As noted in Section 1, Japan's inward FDI remains significantly lower than outward FDI and low compared with other developed economies (Section 1.4). Japan is ranked 34th out of 189 economies in the World Bank's *Doing Business* report for 2017.⁷

2.19. To improve the business environment for FDI, the Government continues to implement policies on the reduction of effective corporate tax rates (from 34.62% to 29.74% by 2018); strengthen corporate governance; and promote further integration into the world economy.

2.20. Various pieces of legislation govern investment, including the Foreign Exchange and Foreign Trade Act (FEFTA), the Order on Inward Foreign Direct Investment, the Foreign Exchange Order, and the Act for Promotion of Japan as an Asian Business Center of 2012, primarily through tax breaks, including corporate and income tax breaks.⁸ Since 2014, there have been no major modifications to FEFTA and its related regulations regarding inward FDI.

2.21. The Act on National Strategic Special Zones of 2013 provides for the designation of zones based on the expectation that regulatory reform will lead to increased investment. According to

⁵ MOFA online information. Viewed at: http://www.mofa.go.jp/mofaj/area/usa/keizai/pdfs/p_shipe.pdf and http://www.mofa.go.jp/mofaj/area/usa/keizai/framework/pdfs/fw_statement_e.pdf.

⁶ Government of Japan online information. Viewed at: http://www.japan.go.jp/_userdata/abenomics/pdf/160712_abenomics.pdf.

⁷ World Bank Group online information. Viewed at: <http://www.doingbusiness.org/~media/WBG/DoingBusiness/Documents/Annual-Reports/English/DB17-Report.pdf>.

⁸ WTO document WT/TPR/S/276/Rev.1, 18 June 2013, Section II(3).

the authorities, precise details for each zone are to be decided by consensus between the national government, local authorities, and the private sector.

2.22. There are ten national strategic special zones:

- the Tokyo Zone as an international business and innovation hub, and a multicultural city, and for the exhibition of near-future technologies;
- the Kansai Zone for innovation in medical care, and entrepreneurial support;
- the Niigata City Zone for agricultural reform in large-scale farming;
- the Yabu City Zone for agricultural reform in hilly and mountainous areas;
- the Fukuoka City and Kitakyushu City Zone for employment system reform to promote business creation, and actions to address the declining and aging population;
- the Okinawa Prefecture Zone for international tourism;
- the Senboku City Zone for reform in agriculture and forestry, and for international exchange in the medical field;
- the Sendai City Zone to promote active social participation of women and start-ups;
- the Aichi Prefecture Zone for general reform of education, employment, and agriculture, and for fostering industry leaders; and
- the Hiroshima Prefecture and Imabari City Zone for international exchange and the utilization of big data.

2.23. The authorities continue to aim to double investment by foreign companies in Japan (to ¥35 trillion) by end-FY2020 under the revised Japan Revitalization Strategy of 2014, through several initiatives including: regulatory reform to improve the business climate; support measures for investment; enhancing National Strategic Special Zones; and improving the system for the resolution of labour disputes.

2.24. The Council for Promotion of Foreign Direct Investment, established by the Government in April 2014, has 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 insufficient language skills;
- deficient corporate governance, particularly the lack of focus on improving shareholders' returns;
- relatively high energy and distribution costs, the high costs of meeting Japan's quality and safety standards and, particularly in relation to agricultural raw materials, the high costs of inputs;
- high nominal and effective rates of corporation tax, and the high costs of complying with the tax system, in addition to other administration costs such as those associated with setting up a business.

2.25. On 17 March 2015, the Council adopted the "Five Promises for Attracting Foreign Businesses to Japan" as a guideline for relevant ministries and agencies for the implementation of measures aimed at improving the investment environment in Japan.⁹ The authorities state that Japan continues to: conduct activities focused on identifying and attracting investment projects; carry out institutional reforms; and implement additional measures, such as regulatory reforms that

⁹ Invest Japan online information. Viewed at: http://www.invest-japan.go.jp/promotion/promise_ja.pdf.

contribute to the improvement of the investment environment and support measures aimed to expand investment, taking foreign companies' needs into consideration.

2.26. The FY2015 Subsidy Program for Global Innovation Centers provides subsidies to help cover the costs of establishing global innovation centres, experimental studies, and feasibility studies.¹⁰ Between April and September 2016, 17 projects were selected.

2.27. Japan has bilateral investment treaties with 23 countries/territories and 12 bilateral/regional trade agreements containing investment provisions (Table 2.2). Treaties that have been signed but have not entered into force include those with: Mongolia (signed in 2001), Uruguay (2015), Oman (2015) and Iran (2015).

Table 2.2 Investment treaties in force, October 2016

(Country and year they were signed)

Investment treaties		
Egypt (1977)	Korea, Republic of (2002)	Papua New Guinea (2011)
Sri Lanka (1982)	Viet Nam (2003)	Colombia (2011)
China (1988)	Cambodia (2007)	Iraq (2012)
Turkey (1992)	Lao People's Democratic Republic (2008)	Kuwait, the State of (2012)
Hong Kong, China (1997)	Peru (2008)	China; and Korea, Republic of (2012)
Bangladesh (1998)	Uzbekistan (2008)	Mozambique (2013)
Pakistan (1998)		Myanmar (2013)
Russian Federation (1998)		Kazakhstan (2014)
		Ukraine (2015)
Regional trade agreements with investment provisions		
Singapore	Thailand	Australia
Chile	Philippines	Mongolia
Brunei	Malaysia	
India	Indonesia	
Mexico	Switzerland	

Source: Information provided by the authorities of Japan.

2.28. In addition, by 1 October 2016, Japan had concluded 66 tax conventions, applicable to 100 jurisdictions, including signatories to the Convention on Mutual Administrative Assistance in Tax Matters.¹¹ Since 2015, Japan has signed seven tax treaties, with Belgium, Chile, Germany, India, Panama, Qatar, and Slovenia.¹²

¹⁰ JETRO online information. Viewed at:
https://www.jetro.go.jp/en/invest/incentive_programs/info.html.

¹¹ MOF online information. Viewed at:
http://www.mof.go.jp/english/tax_policy/tax_conventions/international_182.htm.

¹² Treaties with India and Germany concern amendments to the existing treaties.

3 TRADE POLICIES AND PRACTICES BY MEASURE

3.1 Measures Directly Affecting Imports

3.1.1 Customs procedures and requirements

3.1.1.1 Transparency and legal framework

3.1. Japan Customs, under the Ministry of Finance, continues to administer and enforce customs legislation. Customs and tariff policies are formulated by the Customs and Tariff Bureau of the Ministry. Japan has nine regional Customs offices.¹ The main laws and regulations governing customs procedures for imports and exports are the Customs Law No. 61 of 1954, as last amended on 31 March 2016; the Cabinet Order No. 150 of 1954 (Order for Enforcement of the Customs Law), as last amended on 31 March 2016; and the Ordinance of the Ministry of Finance (Ordinance for Enforcement of the Customs Law) No. 31 of 1966, as last amended on 31 March 2016.² Japan's applied rates of duties and taxes imposed on or in connection with importation are published in the Government Gazette. In 2015, customs duties amounted to ¥1.05 trillion, around 2% of the central government revenue (general account).

3.2. Japan Customs issues advance written rulings, at the written request of importers or other interested parties, on: tariff classification, customs valuation, the origin of goods, and relief or exemption from customs duties for goods planned for import. The authorities indicate that an advance ruling is issued in principle within 90 days of request for customs valuation and within 30 days for other requests. The advance ruling issued is binding on the part of Japan Customs at the time of import declaration of the corresponding goods. These rulings can be published on the Customs website with the applicants' consent.

3.3. In case of a breach of the Customs Law, a criminal penalty is imposed, as prescribed in Articles 108-4 to Article 118. Penalties can consist of a fine of up to ¥30 million and/or imprisonment in the case of unauthorized importation or exportation of prohibited goods; importation or exportation of goods without permission; false declaration; and tariff evasion. If a trader violates the provisions of the relevant laws and regulations, the Customs Director can suspend or revoke the permission or approval that the trader has been granted; for example, in the case of the designation of a bonded warehouse, the status of the authorized importer, or the licence of a customs broker.

3.4. Complaints against Japan Customs' decisions may be made to the Director-General of Customs within three 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.³ The number of complaints and appeals against Customs totalled 54 in 2014 and 36 in 2015. The Administrative Appeal Act was revised in 2014 and the appeal process was changed in April 2016.⁴ The Director-General of Customs and the Minister of Finance review administrative appeals against customs authorities.

3.5. Japan has signed agreements and arrangements for the exchange of customs information with 31 countries and regions.⁵ Japan became a signatory of the WCO's Revised Kyoto Convention in 2001 and makes use of international standards in the area of customs and trade facilitation.

3.6. Japan deposited its instrument of acceptance of the Trade Facilitation Agreement (TFA) with the WTO on 1 June 2015. On 6 April 2015, Japan set up a national committee on trade facilitation,

¹ Hakodate, Kobe, Moji, Nagasaki, Nagoya, Okinawa, Osaka, Tokyo and Yokohama.

² Japan Customs online information. Viewed at: http://www.customs.go.jp/english/c-answer_e/imtsukan/1801_e.htm.

³ Articles 89 of the Customs Law.

⁴ The Administrative Appeal Act, as a general law, is applied to matters not covered under other laws.

⁵ Australia; Brunei Darussalam; Canada; Chile; China; the European Union; France; Germany; Hong Kong, China; India; Indonesia; Italy; the Republic of Korea; Macao, China; Malaysia; Mexico; Mongolia; the Netherlands; New Zealand; Norway; Peru; the Philippines; Russian Federation; Singapore; South Africa; Spain; Switzerland; Thailand; the United Kingdom; the United States; and Viet Nam.

known as the Liaison Conference on Trade Facilitation (LCTF), as a forum for information-sharing among relevant ministries and agencies, represented at director-general level.⁶

3.7. As stipulated in Article 1.3 of the TFA, Japan maintains the following enquiry points:

- Customs Counsellors located in each regional Customs headquarter and some branch offices for customs procedures;
 - Quarantine Stations in the Ministry of Health, Labour and Welfare, and three Regional Bureaus of Health and Welfare for quarantine issues;
 - Animal Quarantine Services and Plant Protection Stations in the Ministry of Agriculture, Forestry and Fisheries for animal/plant quarantine issues;
 - the Trade and Economic Cooperation Bureau in the Ministry of Economy, Trade and Industry (METI), and each Regional Bureau of Economy, Trade and Industry for issues related to the Foreign Exchange and Foreign Trade Control Act;
 - the Alcohol Division in METI and each Regional Bureau of Economy, Trade and Industry for issues related to the Alcohol Business Act;
 - the Agency for Natural Resources and Energy in METI for issues related to the Act on the Quality Control of Gasoline and Other Fuels,
 - the divisions in charge of explosive control in each prefecture for issues related to the Explosives Control Act;
 - the divisions in charge of gas control in each prefecture for issues related to the High Pressure Gas Safety Act;
 - the Chemical Substances Control Division in METI and the National Institute of Technology and Evaluation for issues related to the Act on the Evaluation of Chemical Substances and Regulation of their Manufacture, etc.;
 - the Environmental Policy Division in METI for issues related to the Basel Convention;
- and
- the Waste Management and Recycling Department in the Ministry of the Environment and Local Environment Offices in each prefecture for environmental issues.

3.1.1.2 Fees and formalities

3.8. A customs import declaration is needed for importation and must be accompanied by an invoice, bill of lading, insurance certificate, freight account and packing list. Additional documents may be necessary depending on the type of goods.⁷ Imports into Japan are held at customs designated bonded areas (known as *hozei* areas) at the ports of entry. Once the necessary inspection takes place and customs duties and taxes are paid, a Notice of Import Permit, an electronic document, is issued by Customs.

3.9. There are no fees or charges required by Customs for an import declaration. Japan Customs charges fees for services rendered such as issuing certificates; granting permits for goods examination outside of designated areas; granting permits for Customs Warehouses or Customs Display Areas; and granting permits for Customs Manufacturing Warehouses.⁸ There are no special

⁶ The relevant ministries include the ministries of: foreign affairs; finance; health, labour and welfare; agriculture, forestry and fisheries; and trade, economy and industry.

⁷ Certificates of origin (where a preferential rate is applicable); statement on reduction of or exemption from customs duty and excise tax (when such reduction or exemption is applicable to the goods); and documents required under Japan's generalized system of preferences (GSP).

⁸ Japan Customs online information. Viewed at: <http://www.customs.go.jp/english/exp-imp/customsfee.htm>.

registration requirements for importers and the use of a customs broker is optional. The authorities indicate that, with the exception of some documents, photocopies are accepted.

3.10. In the case of exports, an export declaration must be accompanied by supporting documents such as invoices, permits, approvals or licences. Upon the arrival of the goods to the *hozei* area, exporters receive an export permit after the necessary physical examination of the goods. Exporters are also able to file an export declaration before the goods are brought into the *hozei* area.

3.11. Japan's Single Window is managed by an independent agency under a private-public partnership (PPP) arrangement. Nippon Automated Cargo and Port Consolidated System (NACCS)⁹ is a system for online processing of procedures with Customs and other relevant administrative authorities or related private-sector services for arriving/departing ships and aircraft or import/export cargo.¹⁰ Currently, seven customs offices are linked to the Single Window. Documents for clearance are accepted in electronic form through NACCS, with some exceptions.

3.1.1.3 Release and clearance of goods

3.12. Since Japan's last review in 2015, there has been little change to customs clearance procedures and requirements. In the World Bank's Trading Across Borders 2017 Index, Japan's ranking was 49th (out of 190 economies), compared with 52nd (out of 189 economies) in 2016.¹¹

3.13. Japan has several systems in place to expedite the release and clearance of goods. An Authorized Economic Operator (AEO) programme has been developed in close cooperation with the business sector, with the aim of ensuring security while facilitating legitimate trade (Box 3.1).

3.14. Pre-arrival examination allows importers to submit documents to Customs before the cargo's arrival in Japan, so that they can be notified in advance as to whether Customs' inspection of the cargo will be required. A pre-arrival declaration form must be submitted to the customs office that controls the *hozei* area where the cargo is expected to be brought in. In addition, cargo can be released immediately upon its arrival if the importer uses NACCS for the declaration and Customs finds that no inspection is required. Inspection of a shipment under pre-arrival is conducted before the cargo is transferred into a *hozei* area.

3.15. The before permission (BP) release system allows imported goods to be released before permission for their importation has been obtained, subject to the payment of a guarantee equivalent to the expected duties on the goods. Situations in which traders may use this system include: where the imported goods need to be released quickly because they are valuable or perishable; where the goods are intended for an exhibition; and where the submission of the certificate of origin is delayed due to the application of the preferential tariff rate. All traders can use this system, which is beneficial especially for the release of perishable goods.

3.16. Based on its risk management system, Japan Customs has been using post-clearance audit (PCA) for many years. The increased use of PCA has allowed the reduction of control activities at the border and at the time of arrival of goods to only those necessary to determine the admissibility of the goods. Japan Customs conducted PCA for 3,545 importers from July 2014 to June 2015.¹²

⁹ Nippon Automated Cargo and Port Consolidated System Inc. online information. Viewed at: <http://www.naccs.jp/e/aboutnaccs/aboutnaccs.html>.

¹⁰ Based on the Act for partial Revision of the Act on Special Provisions for Customs Procedure by Means of Electronic Data Processing System (Act No. 46 of 2008).

¹¹ Time to import includes: documentary compliance (3.4 hours) and border compliance (39.6 hours); the cost to import includes: documentary compliance (US\$100) and border compliance (US\$299.2). Doing Business 2016 online information. Viewed at: <http://www.doingbusiness.org/~media/WBG/DoingBusiness/Documents/Annual-Reports/English/DB17-Report.pdf>.

¹² UNECE online information. Viewed at: <http://tfiq.unece.org/contents/post-clearance-audit.htm>.

Box 3.1 Japan's Authorized Economic Operator Program

- Japan Customs introduced its authorized economic operator (AEO) programme in March 2006 and subsequently developed it to simplify customs procedures and facilitate legitimate trade. 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 submit import and duty/tax payment declarations separately; this allows goods to be released before submitting the duty/tax payment declaration; import declarations may be submitted in advance of cargo arrivals.
- The legal framework for Japan's AEO programme includes: the Customs Law, which stipulates the benefits, requirements for authorization (reasons for disqualification), and revocation of approvals; the Cabinet Order (Order for Enforcement of the Customs Law), which covers the procedures for customs clearance and benefits and application procedures for authorization; and the Ordinance of the Ministry of Finance (Ordinance for Enforcement of the Customs Law), which stipulates details for the implementation of the specific procedures and the compliance programme. In accordance with the March 2016 amendment to the customs-related laws, importers/exporters and customs brokers are allowed to submit import/export declarations to any regional customs office; customs brokers are allowed to operate throughout the nation (i.e. their operation is no longer limited to within the boundary of the regional customs office at which they were registered). These changes are to be implemented in 2017.
- The Customs and Tariff Bureau (CTB), Ministry of Finance is responsible for the policy and planning function of the AEO programme. It also develops internal guidelines for proper implementation and operation at regional customs offices. Mutual recognition and international issues relating to the AEO programme also fall under the CTB's responsibility. All nine regional Customs headquarters nationwide have AEO specialists that are responsible for application authorization processes and post audit and have authority to authorize eligible applicants. A national AEO centre has been established in Tokyo Customs to oversee the operations of the other regional customs offices in order to ensure consistency of implementation of the AEO programme.
- The eligibility requirements to become an AEO reflect the standards included in the "SAFE Framework" adopted by the WCO.¹³ The main eligibility criteria for an AEO are: appropriate compliance records; ability to use the e-system (NACCS) for customs procedures; ability to conduct related operations properly (including financial integrity); and the establishment of a compliance programme (including security standards).
- As at 30 September 2016, the total number of AEOs was 600 (compared with 523 on 1 April 2014). Following progressive improvements in Japan's AEO scheme, the release time for AEO import cargos has been reduced significantly. According to the latest time-release study conducted in June 2015 on maritime cargos, the release time was less than one minute for AEO import cargos as against 2.4 hours (144 minutes) for non-AEO import cargos. On air cargos, less than one minute was needed for AEO import cargos compared to 0.3 hours (18 minutes) for non-AEO import cargos.
- Japan has mutual recognition arrangements (MRAs) on AEO programmes with: Canada; the European Union; Hong Kong, China; the Republic of Korea; Malaysia; New Zealand; Singapore; and the United States. Under the MRAs, Japan Customs takes into account the status of the members of the other AEO programmes when conducting its own risk assessment. Japan is in consultations with China, the Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu (Chinese Taipei), and Switzerland on the possibility of having MRAs on AEOs.

Source: Information provided by the authorities, and Japan Customs online information. Viewed at: <http://www.customs.go.jp/english/aeo/pamphlet.pdf>.

3.1.2 Customs valuation

3.17. Japan's customs valuation regime has not changed during the review period. All importers must file a customs declaration once goods have entered into a *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 using 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).

3.18. 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

¹³ SAFE Framework of Standards, World Customs Organization online information. Viewed at: http://www.wcoomd.org/en/topics/facilitation/instrument-and-tools/tools/~/_media/2B9F7D493314432BA42BC8498D3B73CB.ashx.

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. The authorities indicate that in 2015 there were seven complaints, one appeal, and one lawsuit was filed.

3.1.3 Rules of origin

3.19. Japan has notified the WTO that it has non-preferential rules of origin.¹⁴ 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.¹⁵ 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).

3.20. Japan also applies 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, issued by authorized institutions in the exporting country¹⁶, are required in order to prove that the product being imported is "wholly obtained" or "substantially transformed" (e.g. change of tariff classification at the HS 4-digit level 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.

3.1.4 Tariffs

3.1.4.1 MFN applied tariff

3.21. 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).

3.22. The structure of Japan's MFN applied tariff has remained largely unchanged over the past few years. In FY2016, Japan's tariff schedule comprised 9,071 lines (down from 9,151 in FY2014) at the HS 9-digit level (Table 3.1).¹⁷ Of all tariff lines, 93.2% involve *ad valorem* rates (including duty-free lines which represent 40.1% of all lines). The remaining 6.8% (i.e. 619 lines) are non-*ad valorem*: specific rates are applied to 2.7% of the lines; 3.2% have alternate rates; 0.6% have compound rates; and other types of tariff (differential duties and sliding duties) apply to 0.4% of tariff lines (Chart 3.1).¹⁸

¹⁴ WTO documents G/RO/N/1, 9 May 1995 and G/RO/N/1/Add.1, 22 June 1995.

¹⁵ The MFN rules of origin are also used to determine the country of origin for some trade remedy measures and import trade statistics.

¹⁶ Under the EPAs with Mexico, Peru, and Switzerland certificates may also be issued by approved exporters. Under the EPA with Australia, certificates may also be issued by importers, exporters, or producers.

¹⁷ Excluding in-quota lines. The Japanese tariff schedule has three distinct sets of rates: statutory rates (including 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 higher general rate; the lower of the statutory and WTO bound rates is 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.

¹⁸ 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 in relation to the difference between the standard import price, set by the authorities, and the 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.

Table 3.1 Structure of MFN tariffs, FY2012, FY2014 and FY2016

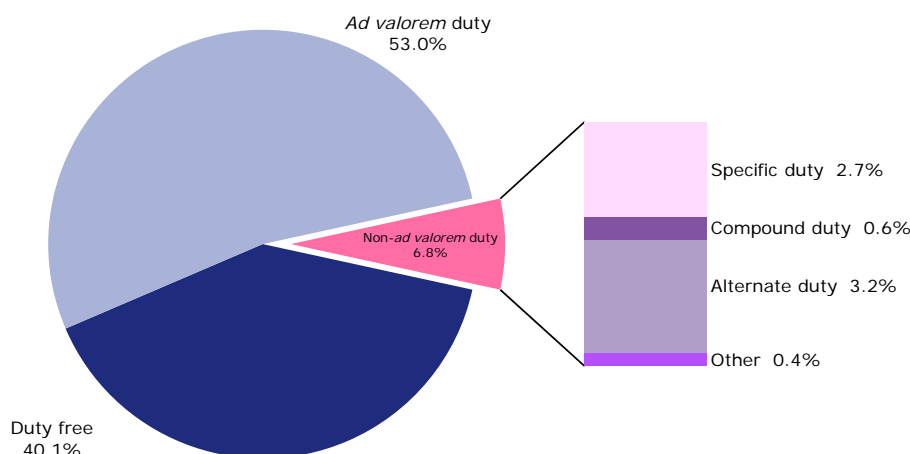
(% , unless otherwise indicated)

	MFN applied			Final bound ^a
	FY2012	FY2014	FY2016	
Bound tariff lines (% of all tariff lines)	98.3	98.3	98.2	98.2
Simple average rate	6.3	5.8	6.1	6.2
WTO agricultural products	17.5	14.9	16.3	16.7
WTO non-agricultural products	3.7	3.7	3.6	3.6
Duty-free tariff lines (% of all tariff lines)	40.5	40.4	40.1	38.4
Simple average rate of dutiable lines only	10.7	9.9	10.2	10.2
Domestic tariff "peaks" (% of all tariff lines) ^b	6.6	6.6	6.7	6.7
International tariff "peaks" (% of all tariff lines) ^c	7.6	7.4	7.6	7.6
Overall standard deviation of tariff rates	20.5	14.3	16.7	16.9
Coefficient of variation of tariff rates	3.2	2.4	2.8	2.7
Tariff quotas (% of all tariff lines)	1.8	1.8	1.7	1.7
Non- <i>ad valorem</i> tariffs (% of all tariff lines)	6.7	6.7	6.8	6.3
Non- <i>ad valorem</i> tariffs with no AVEs (% of all tariff lines)	1.5	1.8	1.6	1.5
Nuisance applied rates (% of all tariff lines) ^d	1.5	1.5	1.5	1.3
Number of lines	9,168	9,151	9,071	8,912
<i>Ad valorem</i> rates	8,553	8,538	8,452	8,338
Duty-free lines	3,714	3,698	3,641	3,482
Non- <i>ad valorem</i> rates	615	613	619	574
Specific	236	236	242	224
Compound	57	57	57	58
Alternate	290	288	288	289
Other	32	32	32	3

- a Final bound rates are based on the FY2016 tariff schedule. 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%.

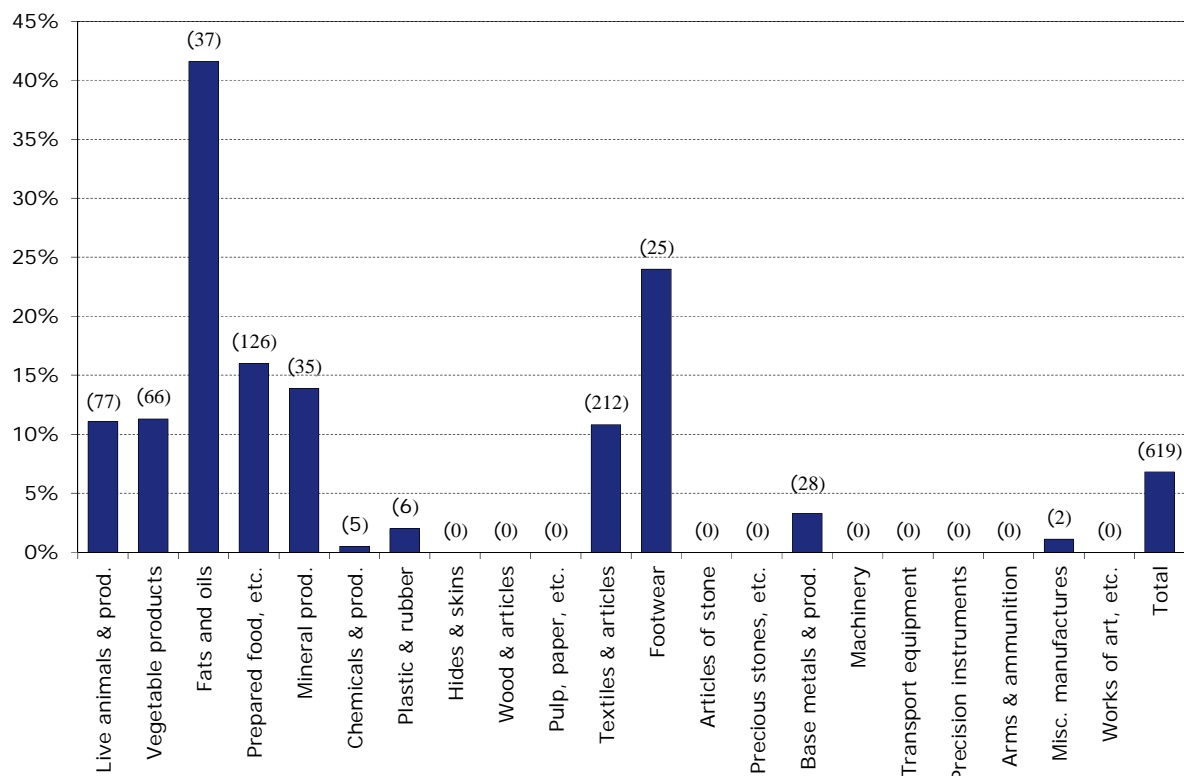
Note: All tariff calculations exclude in-quota lines. Including AVEs, as available, provided by the authorities of Japan. In case of unavailability, the *ad valorem* part is used for compound and alternate rates. All three years are based on HS12 nomenclature.

Source: WTO calculations, based on data provided by the authorities of Japan.

Chart 3.1 Tariff distribution by type of duty, FY2016

Source: WTO Secretariat calculations, based on data provided by the authorities.

3.23. 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).

Chart 3.2 Share of non-*ad valorem* duties, by HS section, FY2016

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.

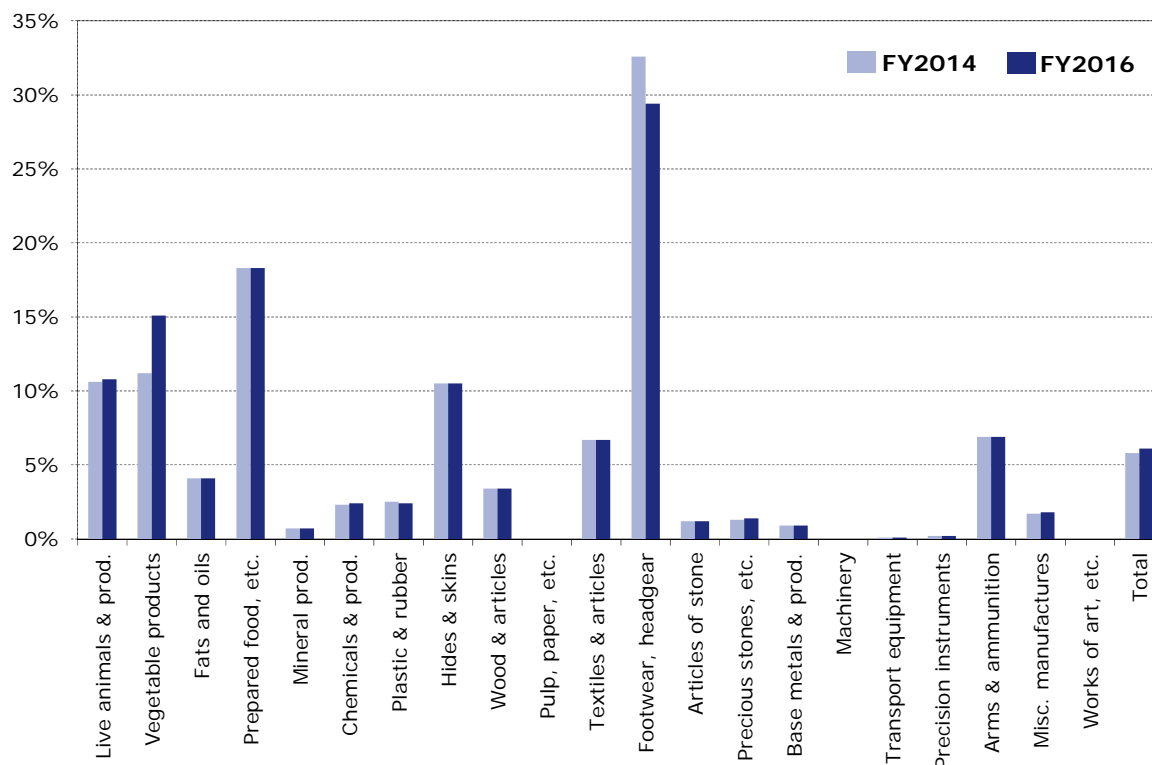
Source: WTO Secretariat estimates, based on data provided by the Japanese authorities.

3.24. In FY2016, Japan's overall simple average applied MFN tariff rate was 6.1% (up from 5.8% in FY2014) (Table A3.1). This increase is due to higher average *ad valorem* equivalents (AVEs) of non-*ad valorem* duties. The authorities provided data for 476 out of 619 AVEs based on import data for 2014.¹⁹ Consequently, the tariff analysis is based on 99.1% of the 9,071 tariff lines. The simple average rate for all the AVEs supplied is 32.7%²⁰; however, the highest rate is 389% for certain cow peas. Of the 101 highest tariffs, 95 had non-*ad valorem* rates.

3.25. Import duties on agricultural products are higher than duties on non-agricultural products: the simple average for agriculture (WTO definition) is 16.3% (14.9% in FY2014), compared with 3.6% for non-agricultural products (3.7% in FY2014). 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).

¹⁹ For 35 out of 288 alternate rates no AVE was provided (the *ad valorem* part was used in the tariff analysis). For 23 out of 57 compound rates no AVE was provided (the *ad valorem* part was used). For 69 out of 242 specific rates and 16 out of 32 "other duties" rates no AVE was provided.

²⁰ In comparison, the simple average of the AVEs at the time of Japan's last review was 29.7%, which was based on 2012 imports.

Chart 3.3 Simple average applied MFN tariff rates, by HS section, FY2014 and FY2016

Note: Excluding in-quota rates. 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 provided by the Japanese authorities.

3.26. There are 158 tariff lines (1.7%) subject to MFN out-of-quota tariffs, of which 11 are under state trading. The out-of-quota rates for 38 tariff lines are *ad valorem*. The average rates differ considerably: in-quota rates average 18.4%, while out-of-quota rates average 76.3%. The quota allocation method and process remains somewhat intricate (Section 4.1).²¹ Since 2014, procedures for the allocation of tariff quotas have remained unchanged.

3.1.4.2 Bound tariff

3.27. Japan has bound 98.2% of lines (159 lines are unbound); unbound lines relate mainly to fisheries (fish, crustaceans, and seaweed), petroleum oils, and wood and articles thereof. *Ad valorem* rates account for 8,338 bound lines (93.6%), of which 3,482 lines are duty free. The difference between the average bound MFN tariff (6.2%) and the average applied MFN tariff (6.1%) in FY2016 was negligible, which reflects a high degree of predictability in the tariff.²² The average bound rate (WTO definition) is considerably higher for agricultural products (16.7%) than for non-agricultural products (3.6%).

²¹ For details of the quota allocation method, see WTO (2001).

²² 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 in FY2016.

3.1.4.3 Preferential tariff

3.28. Japan offers preferential tariff rates to 138 developing countries and 5 territories under the GSP; least developed countries (47 in 2016) receive additional preferences.²³ China remains the largest beneficiary of preferential access to the Japanese market; it accounts for over two thirds of all preferential imports under the GSP scheme.²⁴ Japan also grants preferential access under its RTAs/EPAs for imports from ASEAN, Australia, Brunei Darussalam, Chile, India, Indonesia, Malaysia, Mexico, Mongolia, Peru, Philippines, Singapore, Switzerland, Thailand, and Viet Nam as at 1 December 2016 (Section 2.3.2).

3.29. 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 5.0%, while agriculture is subject to rates from 1.7% to 15.3% (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, FY2016

	Total		WTO agriculture		WTO non-agriculture	
	Average (%)	Duty-free rates (%)	Average (%)	Duty-free rates (%)	Average (%)	Duty-free rates (%)
MFN	6.1	40.1	16.3	25.5	3.6	43.7
GSP	5.0	58.0	15.3	34.2	2.6	63.8
LDC	0.5	97.9	1.7	96.6	0.2	98.2
Economic Partnership Agreements						
Singapore	3.3	83.3	12.9	48.8	1.0	91.8
Mexico	3.0	85.8	14.4	42.1	0.3	96.6
Malaysia	2.8	87.1	12.6	56.0	0.5	94.8
Chile	3.0	83.0	13.2	48.8	0.5	91.4
Thailand	2.8	85.1	12.6	49.6	0.5	93.8
Indonesia	3.0	84.5	13.4	48.8	0.5	93.2
Brunei	3.4	83.1	13.5	48.1	1.0	91.7
ASEAN	3.0	81.9	13.1	43.5	0.5	91.4
Philippines	2.7	85.1	12.4	51.5	0.4	93.4
Switzerland	3.1	81.1	13.3	43.7	0.6	90.3
Viet Nam	3.0	83.0	13.3	44.9	0.5	92.3
India	3.3	78.1	14.0	40.4	0.8	87.4
Peru	3.1	82.4	13.7	42.9	0.5	89.7
Australia	3.4	77.1	14.0	43.1	0.9	85.5
Mongolia ^a	3.8	79.2	15.2	40.9	1.2	88.6
Memorandum^b						
Singapore	2.9	84.0	12.7	49.2	0.5	92.6
Malaysia	2.8	87.2	12.5	56.1	0.5	94.8
Thailand	2.8	85.1	12.5	49.7	0.5	93.8

²³ Japan Customs online information (in Japanese). Viewed at http://www.customs.go.jp/tetsuzuki/c-answer/imtsukan/1504_jr.htm.

²⁴ Other major beneficiaries of Japan's GSP scheme in FY 2014 include: Bangladesh (7.0% of total imports under preferential treatment), Myanmar (6.0%), and Cambodia (4.7%).

	Total		WTO agriculture		WTO non-agriculture	
	Average (%)	Duty-free rates (%)	Average (%)	Duty-free rates (%)	Average (%)	Duty-free rates (%)
Indonesia	2.9	85.0	13.0	48.9	0.5	93.9
Brunei	2.9	83.9	13.0	48.3	0.5	92.7
Philippines	2.7	85.7	12.4	51.5	0.4	94.2
Viet Nam	2.9	83.3	12.9	45.4	0.5	92.6

a Entry into force 7 June 2016.

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

Note: Calculations exclude in-quota lines. Including AVEs, as available, provided by the authorities of Japan. In case of unavailability, the *ad valorem* part is used for compound and alternate rates.

Source: WTO Secretariat calculations, based on information provided by the authorities; and Japan Customs online information. Viewed at: <http://www.customs.go.jp/kyotsu/kokusai/gaiyou.htm>.

3.1.5 Import prohibitions, restrictions, licensing, and quotas

3.30. Imports of certain goods are prohibited under Article 69-11 of Japan's Customs Law. 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 requirements for reasons of national security, safeguarding consumer health and well-being, and preserving domestic plant and animal life and the environment. Japan's Foreign Exchange and Foreign Trade Act governs import licensing procedures.²⁵ In addition, some commodities, including certain fish, are subject to import quotas, unchanged since Japan's previous review.

3.31. At present, products that require import approval or are prohibited include: certain marine products, certain medicines and chemical products, propellant powders, nuclear goods, weapons, wild animals and plants, substances that deplete the ozone layer, specified hazardous wastes, certain chemical weapons production materials, alcohol, rough diamonds, cultural property illegally removed from Iraq, all goods from the Democratic People's Republic of Korea, and weapons and other items from the Libyan Arab Jamahiriya and Eritrea, and Charcoal from Somalia, and chemical weapons and other items related to chemical weapons programme and cultural property illegally moved from Syrian Arab Republic, as per United Nations Security Council Resolution.²⁶ Licences to import are issued free of cost. Japan amended the Customs Law in March 2015; the amendment added the products designated under Article 2, paragraph 15 of the Law on Securing Quality, Efficacy and Safety of Products including Pharmaceuticals and Medical Devices to the list of items subject to import prohibition. In a 2016 amendment of the Customs Law, Japan added goods produced through the use of unlawfully obtained trade secrets (as stipulated by the Unfair Competition Prevention Act) to the list of items subject to import prohibition.

3.32. In 2014, Japan added to the list of items subject to import prohibition some substances as "narcotics" (defined under the Narcotics and Psychotropic Control Law); as a result, the import of these substances without a licence is prohibited. In the same year, Japan also added some psychoactive substances to the list of items subject to import prohibition as "designated substances" (defined under the Law on Securing Quality, Efficacy and Safety of Products including Pharmaceuticals and Medical Devices); the import of these substances without a specific reason is prohibited by law.

3.33. In 2014, Japan amended the Foreign Exchange and Foreign Trade Act. The amendment added "chemical weapons and other items from Syria" (on 24 January 2014) and "cultural property illegally removed from Syria" (on 18 September 2015) to the list of products subject to import licensing requirements and removed "weapons and other items related to nuclear programmes or ballistic missile programmes from Iran" (on 22 January 2016) from the list, in response to the UN Security Council Resolution. It also added "specified mercury" and "specified mercury-added products" to the list of products subject to import licensing requirements (not yet in force) to ensure the implementation of the Minamata Convention on Mercury. In addition, in

²⁵ This is described in Chart III.3 in WTO (2013).

²⁶ WTO document G/LIC/N/3/JPN/15, 5 October 2016.

2015, Japan: modified technological specifications for certain ceramics subject to import licensing requirements, and for aromatic polyamide fibres; added certain gas turbines to the list of products subject to import licensing requirements; modified technical specifications of titanium boride and semi-finished ceramic products, signal generators and vessels such as surface-effect vehicles; and added devices that are necessary for the control of spacecraft and are installed on the ground to the list of products subject to import licensing requirements.

3.34. 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.

3.35. The Ministry of Economy, Trade and Industry (METI) is responsible for administering the import quota system. Eligible importers are issued with an import quota allocation certificate. 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 the remaining unallocated quota, quotas are allocated by lottery.

3.36. Unused import quota allocation entitlements are non-transferable and cannot be carried over to the next period. Additionally, the Government does not reissue certificates for unused quotas.

3.37. 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 the relevant minister. The system is used, *inter alia*, for goods where fraudulent declarations have been found in the past or for goods deemed to be at high risk for fraud. These include: vaccines of microbial origin for experimental use; specified foreign cultural property; tuna; swordfish; whales; poppy and hemp seeds; certain substances listed in the Montreal Protocol; radioisotopes; diamonds; and various other chemicals.

3.1.6 Anti-dumping, countervailing, and safeguard measures

3.1.6.1 Overview

3.38. During the period under review, Japan imposed three anti-dumping measures (i.e. those concerning toluenediisocyanate originating in China²⁷ and potassium hydroxide originating in China and the Republic of Korea)²⁸ (Table 3.3). Currently, there are six anti-dumping measures in force in Japan. Japan initiated an investigation on highly polymerized polyethylene terephthalate from China on 30 September 2016.²⁹ Japan did not apply any countervailing or safeguard measures during the review period, nor did it initiate any countervailing or safeguard investigations.

²⁷ Japanese Government online information (in Japanese). Viewed at: <http://law.e-gov.go.jp/htmldata/H26/H26SE415.html>.

²⁸ Japanese Government online information (in Japanese). Viewed at: <http://law.e-gov.go.jp/htmldata/H28/H28SE196.html>, and Japan Customs online information (in Japanese). Viewed at: http://www.customs.go.jp/tokusyu/kazeikamotsu_hutou.htm.

²⁹ METI online information (in Japanese). Viewed at: http://www.meti.go.jp/policy/external_economy/trade_control/boekikanri/trade-remedy/pet.html.

Table 3.3 Japan's anti-dumping measures in force, November 2016

Country/Customs territory	Product, investigation ID number	Date of original imposition; publication reference	Date(s) of extension; publication reference(s)
China	Electrolytic manganese dioxide 27042007-2	01.09.2008; Gazette, 29.08.2008	06.03.2014; Gazette, 05.03.2014
	Toluenediisocyanate 14022014-1	25.04.2015; Gazette, 17.04.2015	
	Potassium hydroxide 26052015-1	09.08.2016; Gazette, 03.08.2016	
Republic of Korea	Potassium hydroxide 26052015-2	09.08.2016; Gazette, 03.08.2016	
South Africa	Electrolytic manganese dioxide 27042007-3	01.09.2008; Gazette, 29.08.2008	06.03.2014; Gazette, 05.03.2014
Spain	Electrolytic manganese dioxide 27042007-4	01.09.2008; Gazette, 29.08.2008	06.03.2014; Gazette, 05.03.2014

Source: Information provided by the authorities of Japan.

3.39. Japan's legislative and institutional framework regarding anti-dumping, countervailing, and safeguard measures has remained largely 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.³⁰

3.40. Trade remedies investigations are carried out by the Ministry of Finance (MOF) through its Office of Trade Remedy Affairs, the Ministry of Economy, Trade and Industry (METI) through its Office for Trade Remedy Investigations, and the Ministry in charge of the relevant industry.³¹ According to the authorities, the Ministry of Finance establishes an investigating team composed of officials from the offices of MOF and METI and from the Ministry in charge of the relevant industry. The Japanese Investigation Authority (JIA) consists of the MOF's Office of Trade Remedy Affairs and the METI's Office for Trade Remedy Investigations. According to the authorities, the independence of investigations is assured as access to the confidential information is limited.

3.41. Revisions of the Cabinet Order Relating to Anti-Dumping Duties and the Cabinet Order Relating to Countervailing Duties were promulgated on 8 April 2016 and entered into force on 1 May 2016. Requirements for associations wishing to file an application on behalf of a domestic industry seeking the imposition of an anti-dumping duty or countervailing duty were relaxed. Previously, associations were only eligible to file an application if the majority of their members were domestic producers of the like products. After the revisions, associations that have at least two domestic producers of the like products as members are eligible to file an application.³²

3.1.6.2 Anti-dumping measures

3.42. An anti-dumping investigation is initiated in accordance with the Customs Tariff Law³³ and the Cabinet Order Relating to Anti-Dumping Duties.³⁴ A Japanese industry may submit an application for investigation to the Minister of Finance.³⁵ Article 8(5) of the Law stipulates that an investigation may be initiated when the Government considers it necessary, when an application

³⁰ WTO documents G/ADP/N/1/JPN/2/Suppl.6; G/SCM/N/1/JPN/2/Suppl.6; G/SG/N/1/JPN/2/Suppl.2, 17 August 2009 (separately defined as AD Guideline, CVD Guideline and SG Guideline).

³¹ 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.

³² METI online information. Viewed at: http://www.meti.go.jp/english/press/2016/0405_06.html.

³³ WTO document G/ADP/N/1/JPN/2, 30 June 1995.

³⁴ Ministry of Justice online information (in Japanese). Viewed at: <http://law.e-gov.go.jp/htmldata/H06/H06SE416.html> (in Japanese).

³⁵ Article 8(4) of the Customs Tariff Law stipulates that "a person who has an interest in the domestic industry under the provisions of paragraph one of this Article as prescribed in the relevant Cabinet Order" may submit a request to initiate an AD investigation to the Minister of Finance.

for investigation has been submitted or when there is sufficient evidence.³⁶ According to the authorities, the Minister of Finance, the Minister in charge of the relevant industry and the Minister of Economy, Trade and Industry must jointly make a decision to initiate an investigation. The decision is made public as a public notice in the Official Gazette by the Minister of Finance. According to the authorities, an investigation is conducted based on the Anti-Dumping Agreement and related laws and regulations. The final decision to impose an anti-dumping duty is issued as a Cabinet Order.

3.43. If a preliminary determination is made, it must be notified to the interested parties and a public notice must be made.³⁷ According to the authorities, preliminary determinations are not mandatory.

3.44. According to the authorities, provisional measures may be applied if the affirmative preliminary determinations are made.³⁸ Such measures may be imposed no earlier than 60 days from the initiation of the investigation. The authorities indicate that provisional measures may be applied, in principle, for up to four months; upon requests of exporters representing a significant percentage of the trade involved, such measures may be imposed for more than four months.³⁹

3.45. Exporters may offer an undertaking to revise prices or to cease exports so that the injurious effect of the dumping on the domestic industry is eliminated.⁴⁰

3.46. Anti-dumping duties can be imposed for a period not exceeding five years.⁴¹ The measure may be extended thereafter following a review. A domestic industry may file an application for a review no later than one year prior to the expiry date. The Government initiates an investigation upon the filing of an application or with sufficient evidence of continuation or recurrence of dumping and injury after the expiry of the measure. If it is found that the expiry of the duty would be likely to lead to continuation or recurrence of dumping and injury, the Government may extend the measure. Each extension of the measure may not be longer than five years.⁴²

3.1.6.3 Countervailing measures

3.47. The Customs Tariff Law⁴³ and the Cabinet Order Relating to Countervailing Duties⁴⁴ comprise the legal framework for the application of countervailing measures in Japan.

3.48. As in the case of anti-dumping measures, a Japanese industry may submit an application to the Minister of Finance.⁴⁵ Article 7(6) of the Law stipulates that an investigation may be initiated when the Government considers it necessary, when an application has been submitted or when there is sufficient evidence with regard, *inter alia*, to the importation of the subsidized product and the material injury to the domestic industry caused by such importation. According to the authorities, the Minister of Finance, the Minister in charge of the relevant industry and the Minister of Economy, Trade and Industry must jointly make a decision to initiate an investigation. The

³⁶ Article 8(5) of the Customs Tariff Law. The scope of domestic industry is defined in Article 4(1) of the Cabinet Order Relating to Anti-Dumping Duties.

³⁷ Article 13-2 of the Cabinet Order Relating to Anti-Dumping Duties.

³⁸ Article 8(9) of the Customs Tariff Law stipulates that such measures may be applied if the importation of the products concerned has resulted in material injury to the domestic industry, and it is found necessary to protect the industry from such injury.

³⁹ Article 17 of the Cabinet Order Relating to Anti-Dumping Duties. While the Order stipulates that provisional measures can be applied for up to nine months if the rate of final anti-dumping duty in consideration is less than the dumping margin and exporters that export around 50% or more of the like product demand that provisional measures are imposed for more than four months, the authorities state that such circumstances have never happened.

⁴⁰ Article 8(7) of the Customs Tariff Law.

⁴¹ Article 8(1) of the Customs Tariff Law.

⁴² Article 8(30) of the Customs Tariff Law.

⁴³ WTO document G/ADP/N/1/JPN/2, 30 June 1995.

⁴⁴ Ministry of Justice online information (in Japanese). Viewed at: <http://law.e-gov.go.jp/htmlldata/H06/H06SE415.html>.

⁴⁵ Article 7(5) of the Customs Tariff Law stipulates that "a person who has an interest in the domestic industry under the provisions of paragraph one of this Article as prescribed in the relevant Cabinet Order" may submit a request to initiate a countervailing investigation to the Minister of Finance.

decision is made public as a public notice in the Official Gazette by the Ministry of Finance. The final decision to impose a countervailing duty must be made within approximately one year.⁴⁶

3.49. As in the case of anti-dumping duties, countervailing duties can be imposed for a period not exceeding five years, and each extension may not exceed five years.

3.1.6.4 Safeguard measures

3.50. The Customs Tariff Law⁴⁷, the Cabinet Order Relating to Emergency Duties⁴⁸, the Import Trade Control Order⁴⁹ and the Regulations to Govern Emergency Measures comprise the legal framework for the application of the safeguard measures in Japan.⁵⁰

3.51. Unlike in the case of anti-dumping or countervailing measures, for safeguard measures, the Customs Tariff Law has no provisions on the private sector's submission of a request as one of the prerequisites to initiate a safeguard investigation; the Government may initiate an investigation when there is sufficient evidence of an increase of particular imports and of serious injury caused by such imports to a domestic industry that produces the like (or directly competing) products.⁵¹ According to the authorities, the final decision to impose an emergency duty is issued as a Cabinet Order.

3.52. If imports of a particular product increase and cause (or threaten to cause) serious injury on the domestic industry that produces the like (or directly competing) products as a result of a decline in the price in a foreign country (or of unforeseen developments of circumstances), the Government may impose an emergency duty upon all specified products to be imported during the specified period, or upon such a product to be imported exceeding a certain level of quantity or value in addition to ordinary customs duty.⁵²

3.53. The period of application of an emergency duty must not exceed four years. If the period of application exceeds one year, the measure must be progressively liberalized at regular intervals.⁵³ If it is deemed that the serious injury to a domestic industry caused by increased imports of the specified product continues to exist after the expiration of the application period of the measure, and the domestic industry is adjusting, the period may be extended. The total period must not exceed eight years. The measure applied during the extended period must not be more restrictive against import than the measure applied during the period prior to the extension.⁵⁴

3.54. Even prior to completion of the investigation, the Government may decide to apply an emergency duty, specifying a product and period of time that must not exceed 200 days, if it is deemed urgently necessary in the interest of the national economy.⁵⁵

3.55. The emergency duty must be equivalent to or less than the amount corresponding to the difference between the customs value of the product concerned and the wholesale price in Japan of a like or similar product minus the amount of customs duty chargeable at an applicable rate prescribed in the Customs Tariff Law. The Government may also withdraw or modify tariff concessions on the specified product that Japan has granted under the Marrakesh Protocol to the GATT 1994 (or any other treaties concluded under the framework of the 1994 GATT), within the limit of the rate of duty prescribed in the Law, and may impose upon such imported product customs duty chargeable at the applicable rate prescribed in the Law, or customs duty chargeable at the modified rate.

⁴⁶ Article 7(31) of the Customs Tariff Law and 5(5) of CVD Guideline.

⁴⁷ WTO document G/ADP/N/1/JPN/2, 30 June 1995.

⁴⁸ Ministry of Justice online information (in Japanese). Viewed at: <http://law.e-gov.go.jp/htmldata/H06/H06SE417.html>.

⁴⁹ Ministry of Justice online information (in Japanese). Viewed at: <http://law.e-gov.go.jp/htmldata/S24/S24SE414.html>.

⁵⁰ METI online information (in Japanese). Viewed at: http://www.meti.go.jp/policy/external_economy/trade_control/boekikanri/download/trade-remedy/sq_kokuji02.03.29.pdf.

⁵¹ Article 9(6) of the Customs Tariff Law.

⁵² Article 9(1) of the Customs Tariff Law.

⁵³ Article 9(2) of the Customs Tariff Law.

⁵⁴ Article 9(10) of the Customs Tariff Law.

⁵⁵ Article 9 (8) of the Customs Tariff Law.

3.56. When safeguard measures are applied, tariff concessions may be modified on other products in accordance with Article 9(3) of the Customs Tariff Law.

3.2 Measures Directly Affecting Exports

3.2.1 Export procedures and requirements

3.57. 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 considerations as well as for the purposes of gathering statistics. The documents required include the export declaration form (Customs form C-5010), invoices, and other documents as required by specific laws and regulations.⁵⁶

3.58. The principal legislation affecting exports is set out in Table 3.4. 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 3.4 Principal legislation affecting exports

Legislation	First passed	Last amended	Purpose
Customs Law	1954	2016	Is the principal piece of legislation covering customs procedures and documentation
Foreign Exchange and Foreign Trade Act	1949	2014	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	2014	Provides the 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	2004	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	2016	Sets out the products to which export controls apply
Foreign Exchange Order	1980	2015	Sets out the technologies (including software) to which export controls apply

Source: Information provided by the authorities of Japan.

3.2.2 Export taxes, charges, and levies

3.59. 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

3.60. Under the Customs Law, export prohibitions apply to a limited range of products including: 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).

3.61. Since its previous review, the list of products subject to export licence in Japan has been modified mainly to reflect agreements by international export control groups. Since 15 September 2014, the following products have been added to the list: components designed for detonators, neutron generator systems utilizing electrostatic acceleration to induce a deuterium-deuterium nuclear reaction, rhenium, alloys of rhenium and alloys of rhenium and tungsten, high explosive containment vessels, components designed for fermenters, sampling oscilloscopes, IP network communications surveillance systems or equipment, and specially designed components therefor;

⁵⁶ Japan Customs online information. Viewed at: <http://www.customs.go.jp/english/summary/export.htm>.

and the following products have been deleted: digital video magnetic tape recorders, digital instrumentation magnetic tape data recorders and equipment designed to convert digital video magnetic tape recorders for use as digital instrumentation data recorders; components designed for inertial measurement equipment or systems. Since 1 October 2015, the following products have been added to the list: gas turbines designed for propellant control systems, and certain terrestrial equipment designed to control or monitor spacecraft (including sensing and actuation to determine and control the position and orientation of a spacecraft). Since 31 July 2015, Japan has added the items regulated under the Minamata Convention on Mercury to the list of products regulated under the Export Control Order with a view to ensuring the implementation of the regulation on the date on which the Convention enters into force; at the time of writing this report, the convention was not in force in Japan.⁵⁷

3.62. In addition, the Foreign Exchange and Foreign Trade Act provides the legal basis for applying export controls, while product lists and detailed operational guidelines are found in secondary legislation, including Cabinet Orders and Ministerial Orders. The main Orders under the Act are the Export Trade Control Order of 1949 (last amended in 2016) which sets out the goods and their destinations for which the permission or approval of METI is required for export, and the Foreign Exchange Order of 1980 (last amended in 2015) which sets out the technologies and destinations for which 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.⁵⁸

3.63. Japan maintains export controls for security, conservation, and humanitarian reasons. 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 (such as CITES and the Chemical Weapons Convention) or its 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) and include a "catch-all" category for products or technologies that could be used in weapons of mass destruction.⁵⁹ 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. Japan has no export quotas.

3.64. The Export Trade Control Order also includes exports of several agricultural, fishing, and forestry-related products to all regions where METI approval is required.⁶⁰ In these cases, METI is obliged to obtain the consent of the MAFF before granting a licence.⁶¹

3.65. 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.

3.66. To obtain an export licence, the exporter must apply to METI using the relevant 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. Japan permits 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

⁵⁷ As at 3 October 2016, 32 countries have ratified the Convention. UNEP online information. Viewed at: <http://www.mercuryconvention.org/Convention/tabid/3426/Default.aspx>.

⁵⁸ METI online information. Viewed at: http://www.meti.go.jp/english/policy/external_economy/trade_control/index.html.

⁵⁹ CISTEC (2015), Overview of Japan's Export Controls (Fourth Edition), p. 14.

⁶⁰ 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).

⁶¹ Article 2 item 2 of the Export Trade Control Order.

the end-user, although, for the "catch-all" category of products, a licence is not required for exports to 27 countries.⁶²

3.67. 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.

3.68. 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.⁶³

3.2.4 Export support and promotion

3.69. Japan notified the Committee on Agriculture that it had not provided any export subsidies for FY1995-FY2015.⁶⁴

3.70. The Japan Bank for International Cooperation (JBIC) and the Nippon Export and Investment Insurance (NEXI) are the official export credit agencies of Japan.⁶⁵ According to the authorities, provision of these credits is based on the terms and conditions of the OECD Arrangement on Officially Supported Export Credits.⁶⁶ In order to promote exports of agricultural, forestry, and fishery products, the Ministry of Agriculture, Forestry and Fisheries has taken the following measures mainly for small and medium-sized enterprises: overseas promotion of Japanese foods and agricultural products; overseas market research; support for presentations given at exhibitions overseas; provision of business meeting opportunities in Japan and overseas; and offering training seminars in Japan and overseas.⁶⁷

3.71. NEXI is 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; export credit insurance represents around 79% of the total underwritten amount in 2015 (Table 3.5). In July 2015, the Act of Amendments of the Trade Investment Insurance Act was adopted by the Diet to transform NEXI from an independent administrative institution into a special stock corporation; the Act is to enter into force in April 2017.

Table 3.5 NEXI insurance activity, FY2011-15

(¥ million)

	2011	2012	2013	2014	2015
Premium income	33,378	38,797	31,994	73,679	51,469
<i>of which</i>					
Export credit insurance	14,073	11,943	13,315	15,188	13,858
One year or less	5,462	5,025	5,612	6,247	5,081
More than one year	8,611	6,918	7,703	8,941	8,777
Overseas investment insurance	3,177	3,718	4,471	5,035	5,802
Overseas untied loan insurance	10,065	17,924	6,078	38,514	15,231
Reinsurance	1,528	3,207	3,771	7,840	3,038
Claims paid	8,359	4,416	12,234	3,102	22,395
<i>of which</i>					
Export credit insurance	7,157	3,079	9,675	2,709	21,926

⁶² Argentina, Australia, Austria, Belgium, Bulgaria, Canada, Czech Republic, Denmark, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Republic of Korea, Luxembourg, Netherlands, New Zealand, Norway, Poland, Portugal, Spain, Sweden, Switzerland, United Kingdom, and the United States.

⁶³ CISTEC (2012), pp. 25-26.

⁶⁴ WTO documents G/AG/N/JPN/212, 23 May 2016; G/AG/N/JPN/201, 29 April 2015; G/AG/N/JPN/194, 25 April 2014; G/AG/N/JPN/185, 25 April 2013; G/AG/N/JPN/176, 5 January 2012; etc.

⁶⁵ OECD online information. Viewed at: <http://www.oecd.org/tad/xcred/eca.htm>.

⁶⁶ WTO document WT/TPR/S/276/Rev.1, Chapter 3, para. 86, 6 May 2015.

⁶⁷ Prime Minister of Japan and His Cabinet online information (in Japanese). Viewed at: <http://www.kantei.go.jp/jp/singi/nousui/pdf/nousui1.pdf>.

	2011	2012	2013	2014	2015
Overseas investment insurance	0	0	0	0	0
Overseas untied loan insurance	0	0	0	0	0
Reinsurance	0	0	436	285	245
Underwritten amount	8,537,772	8,300,064	8,517,171	10,164,974	7,832,488
<i>of which</i>					
Export credit insurance	7,110,487	6,151,894	6,849,345	6,965,265	6,169,724
One year or less	3,321,146	3,451,195	3,855,361	3,855,510	3,217,940
More than one year	3,789,341	2,700,699	2,993,984	3,109,755	2,951,783
Overseas investment insurance	440,367	530,106	611,679	471,487	571,993
Overseas untied loan insurance	549,068	1,369,370	706,030	2,173,094	437,326
Reinsurance	51,834	83,311	108,365	207,007	94,008

Source: NEXI Annual Report 2015.

3.72. JBIC is established under the Japan Bank for International Cooperation Act of 2011. Most of JBIC's lending activities are for overseas investment loans – which represented more than three quarters of the total operations of ¥2,397.4 billion in FY2015 (Table 3.6). Standard forms of export credit extended by JBIC include buyer's credits and bank-to-bank loans.⁶⁸ In FY2014, the total commitments for export loans stood at about ¥406.4 billion and, in FY2015, at about ¥141.0 billion.⁶⁹ JBIC's lending activities concern, *inter alia*, projects that will deliver raw materials to Japan, projects involving Japanese companies, as well as projects abroad using exports from Japan.

Table 3.6 JBIC lending and investments, FY2011-15

(¥ billion)

	2011	2012	2013	2014	2015
Export loans	207.9	126.6	126.2	406.4	141.0
Import loans	172.6	304.3	56.2	0	252.3
Investments	962.0	3,138.5	1,671.0	2,451.0	1,858.2
Untied loans	23.2	293.7	46.0	46.7	24.8
Equity participation	1.5	74.3	97.4	32.9	14.4
Guarantees	228.5	303.2	209.1	312.3	106.7
Total	1,595.9	4,240.9	2,206.1	3,249.4	2,397.4

Source: JBIC Report on FY2015 JBIC Operations. Viewed at: http://www.jbic.go.jp/wp-content/uploads/press_en/2016/06/48845/2016betten3.pdf.

3.73. JBIC's funding comes from different sources, but is 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 3.7).⁷⁰

Table 3.7 JBIC funding sources, FY2010/14

(¥ billion)

	2010	2011	2012	2013	2014
Capital contribution from FILP industrial investment	35.5	200.0	69.0	0.0	31.0
Borrowing from FILP fiscal loan	690.9	201.0	400.0	555.1	239.7
Borrowing from FEFSA	323.5	230.4	1,744.9	1,581.3	1,273.2
Government-guaranteed foreign bonds	463.3	423.2	205.3	658.6	374.8
FILP agency bonds	50.0	50.0	0.0	0.0	10.0
Other (including repayments)	-244.4	-6.9	180.6	-345.9	349.8

Source: JBIC Report on FY2015 JBIC Operations. Viewed at: http://www.jbic.go.jp/wp-content/uploads/page/2015/12/45003/2015E_00_full.pdf.

3.74. 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 is an incorporated administrative agency under the

⁶⁸ JBIC Annual Report 2015, p. 60.

⁶⁹ JBIC online information. Viewed at: http://www.jbic.go.jp/wp-content/uploads/press_en/2016/06/48845/2016betten2.pdf.

⁷⁰ MOF FILP Report 2015. Viewed at: http://www.mof.go.jp/english/filp/filp_report/zaito2013/index.html.

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 Taxation and tax incentives

3.75. Total tax revenue in Japan in FY2015 was ¥56,285 billion, with the biggest contributions from income tax, consumption tax, and corporation tax (Table 3.8). Revenue from customs duty accounted for less than 2% of the total in FY2015.

Table 3.8 Tax revenue, FY2011/15

(¥ million)

	FY2011	FY2012	FY2013	FY2014	FY2015
Income tax	13,476,192	13,992,487	15,530,813	16,790,227	17,807,137
Corporation tax	9,351,426	9,758,311	10,493,718	11,031,608	10,827,403
Inheritance tax	1,474,381	1,503,946	1,574,336	1,882,858	1,968,440
Consumption tax	10,194,597	10,350,429	10,829,301	16,028,958	17,426,292
Liquor tax	1,369,318	1,349,638	1,370,852	1,327,564	1,338,006
Tobacco tax	1,031,547	1,017,942	1,037,548	918,706	953,553
Gasoline tax	2,648,399	2,621,915	2,574,263	2,486,350	2,464,555
Liquefied petroleum gas tax	11,301	10,713	10,265	9,677	9,201
Aviation fuel tax	46,247	49,360	52,188	52,090	51,312
Petroleum and coal tax	519,103	566,946	599,473	630,715	630,446
Promotion of power resources development tax	331,379	328,049	328,292	321,069	315,908
Motor vehicle tonnage tax	447,754	396,894	381,356	372,773	384,930
Customs duty	874,227	897,230	1,034,379	1,073,104	1,048,742
Tonnage tax	9,681	9,829	9,972	9,989	9,914
Other	177	42	122	20	16
Stamp revenue	1,046,873	1,077,676	1,126,069	1,034,992	1,049,547
Total for general account	42,832,602	43,931,407	46,952,947	53,970,700	56,285,403

Source: Ministry of Finance online information. Viewed at: https://www.mof.go.jp/english/tax_policy/account/h2011e.pdf (paths /h2011e.pdf to /h2015e.pdf).

3.76. Direct taxes include individual income tax and corporation tax. Indirect taxes, including consumption tax (VAT) and excise taxes (applied, *inter alia*, to liquor, tobacco, gasoline, and automobiles), account for the remainder of total tax revenue. The highest individual income tax rate (including local taxes) is 50%, and the highest corporation tax rate (including local taxes) is 32.11% (FY2015). All income earned in Japan is taxable, for both residents and non-residents, and the corporation tax rate is the same for foreign and domestic corporations. Consumption tax is levied at a rate of 8% on goods and services transactions.

3.3.1.1 Tax reform

3.77. During the review period, the Ministry of Finance pursued its tax reform agenda with a view to, *inter alia*, ensuring economic revitalization, fiscal consolidation, and reconstruction from the Great East Japan Earthquake. Several measures were taken on direct and indirect taxation.⁷¹

3.78. The effective corporation tax rate was reduced from 32.11% in FY2015 to 29.97% in FY2016, and it is set to further decrease to 29.74% in FY2018.⁷² Specific measures were also taken to broaden the tax base in order to compensate for the ensuing loss. These included the revision of several deduction and depreciation schemes.

⁷¹ Ministry of Finance online information. Viewed at: http://www.mof.go.jp/english/tax_policy/tax_reform/fy2016/tax2016a.pdf.

⁷² Japan External Trade Organization (JETRO) online information. Viewed at: https://www.jetro.go.jp/en/invest/setting_up/laws/section3/page3.html.

3.79. In April 2014, the Government raised the consumption tax rate to 8%. A second tax hike (from 8% to 10%) was planned for 2015, before being postponed to 2017. In September 2016, a revised Bill was submitted to the Diet to further postpone the consumption tax hike until 1 October 2019. In line with the consumption tax increase, a reduced tax rate of 8% is to be introduced for: drinks and foods excluding alcohol and those served at restaurants; and newspapers subscription fees. In addition, as for the refund of consumption tax to foreign travellers, the lower purchase amount limit for tax exemption for general commodities has been reduced since 1 May 2016 from ¥10,000 to ¥5,000 per store per day.

3.80. As regards individual income taxation, a deduction system was introduced for private donations made to the student support programmes of national university corporations, in the context of the educational reform. Furthermore, a deduction system was introduced for expenses associated with the renovation of houses to accommodate three generations, with a view to supporting child rearing through cooperation between generations.⁷³

3.3.1.2 Incentive schemes

3.81. During the review period, the Government continued to grant tax-based incentives to encourage investment in specific geographical areas, and to promote the competitiveness of enterprises, and research and development. Local governments also provide an extensive list of incentives to foreign-affiliated companies.⁷⁴

3.82. Tax incentives are in place for companies that relocate their headquarters from Tokyo's 23 wards to other regions, or that enhance and expand the operations of their headquarters in those regions (Table 3.9).

Table 3.9 Tax incentives for strengthening local business facilities

	Incentives for enhancing/expanding headquarters of companies in local regions	Incentives for relocation from Tokyo's 23 wards to other regions
Employment promotion taxation	<p>1. Tax credit of ¥500,000 per new employee if the requirement is met. In addition to the tax credit of ¥400,000 from the existing tax system, ¥100,000 is added to the amount under the special provision.</p> <p>2. Tax credit of ¥200,000 per new employee is applicable even if the increase in the number of employees of a corporation as a whole is less than 10% from the previous term</p>	<p>1. Tax credit of up to ¥800,000 per new employee. In addition to the tax credit of ¥500,000 for expansion, ¥300,000 is added to the amount.</p> <p>2. In the above case, tax credit of ¥300,000 continues for up to three years if the employment is maintained.</p> <p>3. The above provision 2 is applicable to employees relocated from Tokyo to local regions, even if there is no increase in the overall employment of the company.</p>
Tax credit for office acquisition	15% for special depreciation or 4% for tax credit (for two years)	25% for special depreciation or 7% for tax credit (for two years)
Compensation for decreased local tax revenue	Partial compensation for decreased tax revenue of local governments through local tax grants when these governments take tax reduction measures related to property tax and real estate acquisition tax	Partial compensation for decreased tax revenue of local governments through local tax grants when these governments take tax reduction measures related to property tax, real estate acquisition tax and business tax

Source: JETRO online information. Viewed at: https://www.jetro.go.jp/en/invest/incentive_programs.

3.83. Under the Industrial Competitiveness Enhancement Act, enacted on 4 December 2013, incentives are provided to boost investments in highly productive equipment; these incentives are to be abolished at the end of March 2017 (Table 3.10). The Act aims to implement the measures included in the Japan Revitalization Strategy, which was approved by the Cabinet on 14 June 2013 for the purpose of revitalizing the Japanese economy and enhancing the industrial competitiveness of enterprises doing business in Japan (Section 1).

⁷³ MOF online information. Viewed at: http://www.mof.go.jp/english/tax_policy/tax_reform/fy2016/tax2016a.pdf.

⁷⁴ JETRO Online information. Viewed at: https://www.jetro.go.jp/ext_images/_Invest/pdf/support/1608_en_local_gov.pdf.

Table 3.10 Tax incentives based on the Industrial Competitiveness Enhancement Act

Title	Overview	Applicable facilities	Tax incentives	Applicable period	Competent authorities
Tax incentives to promote capital investment to improve production efficiency	Tax incentives for corporations to promote capital investment in cutting-edge facilities to improve production efficiency	"Cutting-edge facilities" and "facilities contributing to improving production lines and operations"	1. Immediate depreciation of assets or tax credit of up to 5% 2. Special depreciation of 50% of assets or tax credit of 4%	1. From 20 January 2014 until the end of March 2016 2. From 1 April 2016 until the end of March 2017	Hotline for consultation regarding productivity improvement tax (METI)

Source: Japan External Trade Organization (JETRO). Viewed at: https://www.jetro.go.jp/en/invest/incentive_programs/.

3.84. In 2015, the tax credit system for R&D was revised to encourage certain types of expenses ("special R&D") on innovative basic research. This involved an increase in the deduction rate, and further expansion of the scope of such expenses. For example, from April 2015, a 30% credit (previously 12%) is provided for joint R&D with a university or public research institution, or where the R&D is contracted to such entities. Royalty payments made to SMEs also qualify for this special tax credit (Table 3.11).

Table 3.11 Tax credit for research and development (R&D) expenses

Category	Before amendments	After amendments
Permanent incentive (gross R&D cost base)	A credit against national corporate tax is allowed. Credit amount: 8% to 10% of the gross R&D cost (rate depends upon the R&D costs, including special R&D costs). Limitation of credit: 30% of corporate tax before credit. Carry over: Excess R&D cost may be carried over for one year.	Limitation of credit: Reduced to 25% of corporate tax before credit. Carry over: Carry over is no longer applicable.
Special R&D cost based credit	Joint R&D with or contracted R&D by university or public research institution. Credit amount: 12% of the gross special R&D cost.	Scope of special R&D cost: Royalty payments to SMEs shall be included in special R&D cost. Credit amount: Increased to 30% of the gross special R&D cost for the joint R&D with university or public research institution (20% for the joint R&D with other non-public corporations). A credit against local inhabitant's tax is also allowed for SMEs. Limitation of credit: 5% of corporate tax before credit (separately from other gross R&D cost credit).
Gross R&D cost based credit for an SME	A credit against national corporate tax and local inhabitant's tax is allowed. Credit amount: 12% of the gross R&D cost. Limitation of credit: 30% of corporate tax before credit. Carry over: Excess R&D cost may be carried over for one year.	Limitation of credit: Reduced to 25% of corporate tax before credit. Carry over: Carry over is no longer applicable.

Category	Before amendments	After amendments
Temporary incentive (incremental R&D cost base)	<p>A credit against national corporate tax is allowed for a tax year commencing from 1 April 2013 to 31 March 2017.</p> <p>Credit amount: A credit against national corporate tax is allowed for the higher of (i) and (ii) but subject to the limitation of 10% of tax liability before the credit.</p> <p>i. 5% to 30% of incremental R&D costs or ii. R&D costs in excess of 10% of the average sales, times the "tax credit ratio" (ratio is a mechanical calculation that increases the credit depending upon the relationship between the amount of R&D costs and average annual sales).</p> <p>Limitation of credit: 10% of corporate tax before credit.</p>	Same as before amendments

Source: Information provided by the authorities of Japan.

3.3.2 Subsidies and other assistance programmes

3.85. In its latest 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, Japan indicated 66 subsidy schemes provided by central and local governments to industry, agriculture and fisheries, and finance for the period 2011-13.⁷⁵ In most cases, subsidies take the form of grants. Interest subsidies and loans are also used to subsidize some economic activities.

3.86. Since 2011, the Government Subsidy Programme for New Business Establishment in the Areas Recovering from Tsunami and Nuclear Disaster towards Employment Creation has been aiming to establish new factories (manufacturing), distribution facilities, research laboratories, call centres, data centres and facilities, so as to reinvigorate the regional economy and create jobs in the areas affected by the tsunami and Tohoku Earthquake. The sixth round of the programme was initiated in May 2016, with the publication of relevant guidelines setting the eligibility criteria and the extent of subsidized costs.⁷⁶ Rates of subsidy depend on the size of the investing company. A subsidy of up to 1/3 of the investment is offered for big businesses and of up to 1/2 for SMEs. The maximum amount of subsidy stands at ¥3 billion; or ¥5 billion for projects which are highly valued on the basis of the assessment by the third party committee set up for this incentive.⁷⁷

3.87. The Subsidy Programme for Global Innovation Centers, formerly known as the Subsidy Programme for Projects Promoting Foreign Direct Investment, Site Location and Regional Development in Japan (Project of site location for global companies), is intended to support the establishment of high-value-added business sites, such as R&D sites, and experimental studies and feasibility studies in Japan. Expenditures under the programme amounted to ¥1 billion in FY2016 (provisional basis).

3.88. For the purpose of regional development, the Government maintains other specific programmes under the supervision of the Japan External Trade Organization (JETRO) at the METI.⁷⁸

⁷⁵ WTO document G/SCM/N/284/JPN, 30 June 2015.

⁷⁶ JETRO online information. Viewed at:

[https://www.jetro.go.jp/ext_images/ Invest/pdf/мети/Guidelines_for_Subsidy_Application_0601Final.pdf](https://www.jetro.go.jp/ext_images/Invest/pdf/мети/Guidelines_for_Subsidy_Application_0601Final.pdf).

⁷⁷ Funding under this programme amounted to ¥318 million in FY2013, ¥10,262 million in FY2014, and ¥2,747 million in FY2015.

⁷⁸ JETRO is a government-related organization that works to promote mutual trade and investment between Japan and the rest of the world.

3.3.3 Competition policy and price controls

3.3.3.1 Recent development

3.89. The Anti-Monopoly Act (AMA) continues to govern Japan's competition policy framework. Its overarching objective is to promote, *inter alia*, fair and free competition, stimulate the creative initiative of entrepreneurs, and encourage business activities for enhanced economic development and consumer welfare.⁷⁹ The Japan Fair Trade Commission (JFTC) remains its implementing agency.

3.90. The main regulatory change during the review period was the entry into force of the AMA's 2013 Amendment on 1 April 2015. It introduced a new appeal procedure, under which the Tokyo District Court is in charge of reviewing administrative orders issued by the JFTC. Under the former system, the JFTC had the power to carry out the review of its own administrative orders.

3.91. In addition, the amendment has introduced an improved hearing procedure. Before issuing an administrative order, the JFTC will now be required to hold a hearing presided by a hearing officer, whose role is to ensure that the proposed administrative order is duly explained to the concerned parties to secure the opportunity for opinions to be stated.

3.92. According to the authorities, a bill was submitted to the Diet on 8 March 2016 to amend the AMA in order to align its enforcement procedures with common rules under the Trans-Pacific Partnership (TPP) competition chapter. The TPP, which has not yet entered into force, calls on members to allow competition authorities to resolve alleged violations by mutual agreement with the companies concerned. This rule is expected to reduce the risk of enforcement-related business delays for companies operating within the TPP countries.

3.93. The main prohibitions under the AMA have remained unchanged during the review period; they concern unreasonable restraint of trade, private monopolization, unfair trade practices, and business combination.

3.3.3.2 Mergers and acquisitions, and holding companies

3.94. The AMA prohibits mergers and acquisitions under certain conditions.

3.95. No corporation is allowed to enter a merger if: the effect of the merger is deemed to substantially restrain competition in a particular field of trade; or if unfair trade practices (such as dealing on exclusive or restrictive terms, abuse of dominant position, or deceptive customer inducement) have been employed in the course of the merger. The same applies to other business combination acts such as the acquisition of businesses, acquisition of shares, integration by means of a holding company, and cross directorship.

3.96. The principles underlying the determination of whether the effect of a business combination may substantially restrain competition in any particular field of trade have been clarified by the JFTC in the Guidelines to Application of the Anti-Monopoly Act Concerning Review of Business Combination, taking into account its experience in reviews to date. The most recent version of this manual was published in 2011.⁸⁰ The JFTC has also released summaries of the reviews of certain cases in which notifications or other submissions were accepted or where prior consultation was held, as a reference for business operators with a business combination plan.

3.97. Restrictions are in place regarding companies that cause an "excessive" concentration of economic power in Japan. 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.

⁷⁹ Japan Fair Trade Commission (JFTC) online information. Viewed at: http://www.jftc.go.jp/en/cprc/discussionpapers/53_e_abstract.files/CPDP-53-E.pdf.

⁸⁰ Japan Fair Trade Commission (JFTC) online information. Viewed at: http://www.jftc.go.jp/en/legislation_gls/imonopoly_guidelines.html.

3.98. In FY2014, 289 notifications and 103 business reports were submitted to the JFTC. In FY2015, 295 notifications and 104 business reports were submitted. The JFTC has never issued a cease and desist order in business combination cases.

3.3.3.3 Exemptions

3.99. Certain industries or business practices are exempt from the scope of the AMA. Competition in these industries may be covered by other pieces of legislation and governed by different institutions (Table 3.12). According to the authorities, some business acts prescribe exemption clauses from the AMA in terms of certain cartels. Such business acts require that the minister in charge obtains consent from or holds a consultation with the JFTC before granting exemption or notifies the JFTC of exemption after granting it.

Table 3.12 Exemptions from the Anti-Monopoly Act, June 2016

Relevant ministries and agencies	Legislation	System
1. Exemptions under the AMA (1 law, 3 systems)		
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
2. Exemptions under various individual laws (15 laws, 19 systems)		
Financial Services Agency	Insurance Business Act	Insurance cartels
	Act on Non-Life Insurance Rating Organization of Japan	Certain conduct by non-life insurance rating bodies
Ministry of Justice	Corporate Reorganization Act	Reorganization company's acquisition of its shares
Ministry of Finance	Act Concerning Liquor Business Associations and Measures for Securing Revenue from Liquor Tax	Rationalization cartels
Ministry of Education, Culture, Sports, Science and Technology	Copyright Law	Cartels on fees for secondary use of commercial phonograms
Ministry of Health, Labour, and Welfare	Act on Coordination and Improvement of Environmental Health Industry	Cartels to prevent excessive competition
Ministry of Agriculture, Forestry and Fisheries of Japan	Agricultural Cooperative Act	Certain conduct by agricultural cooperatives, federations of agricultural cooperatives, central unions of agricultural cooperatives and agricultural producers' cooperative corporations
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 business activities
	Small and Medium-Sized Enterprise Cooperatives Act	Certain conduct by 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)
	Coastal Shipping Association Act	Maritime transportation cartels (coastal service); Joint shipping businesses

Source: Information provided by the authorities of Japan.

3.3.3.4 International arrangements and agreements

3.100. The JFTC is actively involved in multilateral frameworks such as the International Competition Network (ICN), and those under the Organization for Economic Co-operation and Development (OECD), Asia-Pacific Economic Cooperation (APEC), and the United Nations Conference on Trade and Development (UNCTAD).

3.101. In addition, the JFTC cooperates closely with foreign competition authorities through different types of agreements, including interagency memoranda of understanding (MoU) and administrative agreements to conduct joint enforcement activities (Tables 3.13)

Table 3.13 Japan's participation in international arrangements and agreements

A. Administrative agreements

Title	Partner	Date of entry into force	Main Contents
Agreement between the Government of Japan and the Government of Canada concerning Cooperation on Anticompetitive Activities	The Government of Canada	6 October 2005	<ul style="list-style-type: none"> - Notification - Cooperation - Coordination - Request for enforcement activities - Consideration of important interests of the other party
Agreement between the Government of Japan and the European Community concerning Cooperation on Anticompetitive Activities	The European Communities	9 August 2003	<ul style="list-style-type: none"> - Notification - Cooperation - Coordination - Request for enforcement activities - Consideration of important interests of the other party
Agreement between the Government of Japan and the Government of the United States of America concerning Cooperation on Anticompetitive Activities	The Government of The United States of America	8 October 1999	<ul style="list-style-type: none"> - Notification - Cooperation - Coordination - Request for enforcement activities - Consideration of important interests of the other party

B. Inter-agency cooperation memoranda

Title	Partner	Date of entry into force	Main Contents
Memorandum on Cooperation between the Fair Trade Commission of Japan and the Competition Authority of Kenya	The Competition Authority of Kenya	9 June 2016	<ul style="list-style-type: none"> - Exchange of information - Exchange of experiences on the enforcement of their competition laws, if appropriate

Title	Partner	Date of entry into force	Main Contents
Memorandum on Anti-Monopoly Cooperation between the Fair Trade Commission of Japan and the Ministry of Commerce of the People's Republic of China	The Ministry of Commerce of the People's Republic of China	11 April 2016	<ul style="list-style-type: none"> - Exchange of information - Technical cooperation - Sharing competition law enforcement experience, if appropriate - Exchanging views on international cooperation over multilateral competition law and policy issues
Memorandum on Anti-Monopoly Cooperation between the Fair Trade Commission of Japan and the National Development and Reform Commission of the People's Republic of China	The National Development and Reform Commission of the People's Republic of China	13 October 2015	<ul style="list-style-type: none"> - Annual consultation - Communication - Technical cooperation - Notification
Cooperation Arrangement between the Fair Trade Commission of Japan and the Australian Competition and Consumer Commission	The Australian Competition and Consumer Commission	29 April 2015	<ul style="list-style-type: none"> - Notification - Cooperation and information exchange in enforcement activities - Coordination of enforcement activities - Request of consultation - Avoidance of conflicts over enforcement activities - Consultations
Memorandum on Cooperation between the Fair Trade Commission of Japan and the Fair Trade Commission of the Republic of Korea	The Fair Trade Commission of the Republic of Korea	25 July 2014	<ul style="list-style-type: none"> - Notification - Cooperation in enforcement activities - Coordination of enforcement activities - Request for enforcement activities - Avoidance of conflicts over enforcement activities - Annual consultation
Memorandum on Cooperation between the Fair Trade Commission of Japan and the Administrative Council for Economic Defence of the Federative Republic of Brazil	The Administrative Council for Economic Defence of the Federative Republic of Brazil	24 April 2014	<ul style="list-style-type: none"> - Notification - Cooperation in enforcement activities - Coordination of enforcement activities - Request for enforcement activities - Avoidance of conflicts over enforcement activities
Memorandum on Cooperation between the Fair Trade Commission of Japan and the Department of Justice of the Republic of the Philippines	The Department of Justice of the Republic of the Philippines	28 August 2013	<ul style="list-style-type: none"> - Notification - Exchange of information - Technical cooperation
Cooperation Arrangement between the Fair Trade Commission of Japan and the Competition Authority of the Socialist Republic of Vietnam	The Competition Authority of the Socialist Republic of Vietnam	28 August 2013	<ul style="list-style-type: none"> - Notification - Exchange of information - Coordination of enforcement activities - Technical cooperation

C. Other type of memoranda

Title	Partner	Date of entry into force	Main Contents
Memorandum of Understanding between the Interchange Association and the Association of East Asian Relations Regarding the Application of Competition Laws	The Association of East Asian Relations	26 November 2015	<ul style="list-style-type: none"> - Notification - Cooperation in enforcement activities - Coordination of enforcement activities - Call for appropriate enforcement activities - Avoidance of conflicts - Annual consultations

Source: Information provided by the authorities of Japan.

3.102. Most of Japan's trade agreements have a competition-related chapter (Table 3.14). In general, it enables each party to take appropriate measures against anticompetitive activities in accordance with its laws and regulations, and to cooperate in controlling anticompetitive 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.

Table 3.14 List of Japan's RTAs/EPAs which have competition-related provisions

Partner	Signature	Entry into force
Singapore	January 2002	November 2002
Mexico	September 2004	April 2005
Malaysia	December 2005	July 2006
The Philippines	September 2006	December 2008
Chile	March 2007	September 2007
Thailand	April 2007	November 2007
Indonesia	August 2007	July 2008
ASEAN	April 2008 ^a	Partial effectuation ^b
Viet Nam	December 2008	October 2009
Switzerland	February 2009	September 2009
India	February 2011	August 2011
Peru	May 2011	March 2012
Australia	July 2014	January 2015
Mongolia	February 2015	June 2016
Trans-Pacific Partnership	February 2016	Has not entered into force yet

a Completion of the signing. Japan signed in March 2008.

b Entered into force in December 2008 with Singapore, Laos, Viet Nam and Myanmar, in January 2009 with Brunei Darussalam, in February 2009 with Malaysia, in June 2009 with Thailand, in December 2009 with Cambodia and in July 2010 with the Philippines. Not yet in force with Indonesia.

Source: Information provided by the authorities of Japan.

3.3.3.5 Enforcement

3.103. Japan maintains both a criminal enforcement system (criminal fines and imprisonment), and an enforcement route by way of a civil administrative process (cease and desist orders and surcharge payment orders). In addition, private damage actions may be brought by those affected by specific violations.

3.104. The JFTC has the exclusive authority to impose administrative orders. With respect to criminal sanctions, the JFTC only has the authority to file criminal accusations with the Public Prosecutor's Office. An investigation on possible violations of the AMA may be initiated as a result of: a report from the general public, detection by the JFTC itself, notification by the Small and Medium Enterprise Agency, or a report by leniency applicants.

3.105. The surcharge imposed by the JFTC is calculated by applying certain rates to the sales of the relevant product over the period of the violation, up to a maximum of three years. They vary depending on the type and size of the firm. Criminal accusations may result in a fine of up to ¥500 million for firms, or imprisonment of up to five years and a fine of up to ¥5 million for individuals. For many years now, civil administrative processes have largely remained the main

methods used for enforcement. In 2015, cease and desist orders were issued in 9 cases, down from 10 in 2014, following the downward trend since 2011. Cartel cases continue to account for the majority of litigations (Table 3.15).

Table 3.15 Enforcement of competition policy, 2009/15

Details	Fiscal year						
	2009	2010	2011	2012	2013	2014	2015
(A) Cease and desist orders							
Number of cases	26	12	22	20	18	10	9
Private monopolization	0	0	0	0	0	1	0
Cartels	22	10	17	20	17	7	7
Price-fixing cartels	5	6	5	1	8	5	2
Bid-rigging	17	4	12	19	9	2	5
Unfair trade practices	4	2	5	0	1	2	0
Commenced hearings	12	8	40	22	12	72	1
(B) Surcharge payment orders							
Number of addressees	85	152	280	108	176	128	31
Surcharge amount (in ¥ billion)	36.1	72.1	44.3	25.1	30.2	17.1	8.5
Commenced hearings	13	22	45	25	13	70	0
(C) Recently processed investigation cases							
Cases investigated							
Carry-overs from the previous fiscal year	19	22	23	9	13	10	11
New cases begun during the current fiscal year	133	143	157	266	137	118	127
Total	152	165	180	275	150	128	138
Cases processed							
Legal measures							
Cease and desist orders	26	12	22	20	18	10	9
Surcharge payment orders ^a	0	0	0	0	0	0	0
Sub-total	26	12	22	20	18	10	9
Others							
Warnings	9	3	2	6	1	1	6
Cautions	69	95	138	208	114	102	106
Discontinued cases ^b	26	32	9	28	7	4	2
Subtotal	104	130	149	242	122	107	114
Total	130	142	171	262	140	117	123
Carry-overs to the next fiscal year	22	23	9	13	10	11	15
Criminal accusations	0	0	0	1	1	0	1

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

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

Source: Information provided by the authorities of Japan.

3.106. Since 2015, appeals against the JFTC's decisions have been considered by the Tokyo District Court in the first instance, rather than the JFTC. The court will no longer be bound by the JFTC's factual findings, and parties will be permitted to submit new evidence.

3.107. The JFTC also maintains a leniency system. Since its inception in 2006, over 800 leniency applications have been filed. Under the system, a total of five firms may obtain leniency from administrative fines on a given product. The first firm to apply for leniency before the JFTC investigation begins is entitled to receive full immunity, and the second applicant receives a 50% reduction to the surcharge. The following three remaining applicants will receive a 30% reduction. Leniency only applies to administrative sanctions, not to criminal or civil claims.

3.3.4 Corporate governance

3.108. Excessive cash holding by Japanese companies has been depicted as one of the credible reasons behind the country's low GDP growth, as it prevents them from increasing wages and investment, thus holding back both aggregate demand and potential growth. According to the IMF, comprehensive corporate governance would encourage higher investment and nominal wages, and help Japan exit from deflation and eventually revive GDP growth.⁸¹

3.109. Echoing this consideration, corporate governance has become a core element of Japan's structural reform programme under the nation's long-term growth strategy. It aims to encourage companies to allocate capital in a more efficient manner, through enhanced board transparency, director accountability, and greater voice to shareholders over critical board decisions. The stewardship code was published in 2014; while the corporate governance code was published in March 2015 before entering into force in June 2015, for companies listed on the Tokyo Stock Exchange. As of September 2016, the code was adopted by 213 companies consisting of 7 trust banks 151 investment managers, 26 pension funds, 22 insurance companies, and 7 others including certain service providers.

3.110. The aim of the stewardship code is to improve dialogue between institutional investors and companies. It urges them to review their activities against a number of standards. Investors are required to clarify and disclose, *inter alia*, their strategy to fulfil stewardship responsibilities, and manage conflicts of interests arising from stewardship responsibilities.

3.111. The corporate governance code aims at creating increased transparency and fairness in decision making by companies, by further involving shareholders in critical board decisions. Its basic principles include: securing rights and equal treatment of shareholders; promoting cooperation between corporates and their employees, customers, business partners and local communities; as well as ensuring appropriate information disclosure and transparency. A 2016 piece of research by the Cabinet Office indicates that companies making efforts to strengthen corporate governance in Japan tend to have higher return on equity.⁸²

3.3.5 State trading, state-owned enterprises, and privatization

3.112. In 2016, Japan notified the Agriculture and Livestock Industries Corporation (ALIC), the Ministry of Agriculture, Forestry and Fisheries (MAFF), the Ministry of Health, Labour and Welfare, and Japan Tobacco Inc. as state trading enterprises (STEs), pursuant to the provisions of Article XVII: 4(a) of the GATT 1994 and paragraph 1 of the understanding on the interpretation of Article XVII (Table 3.16).⁸³

Table 3.16 State trading enterprises notified to the WTO under Article XVII

Agency	Nature of exclusive rights	Trade-related activities
Japan Tobacco Inc.	JT has a monopoly on manufacturing tobacco. Therefore, the importation of leaf tobacco for the manufacture of tobacco in Japan is dependent on purchase by JT.	JT purchases all the leaf tobacco produced by domestic tobacco cultivators who enter into a contracted purchase agreement with JT. JT exports tobacco products and tobacco refuse on the basis of commercial consideration.
Ministry of Health, Labour and Welfare (MHLW)	MHLW has an exclusive right to import and export opium. It determines the price for purchase of the opium from opium poppy cultivators, after consulting with the Ministry of Finance, on the basis of factors such as the condition of production by opium poppy cultivators, import price of opium and other economic conditions. MHLW also purchases all the opium gathered by opium poppy cultivators or research cultivators.	MHLW imports opium from India. It supplies 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. There are no exports.

⁸¹ IMF online information. Viewed at: <https://www.imf.org/external/pubs/ft/wp/2014/wp14140.pdf>.

⁸² Online information. Viewed at: <http://www5.cao.go.jp/keizai3/2016/0802wp-keizai/3syo2016.pdf>.

⁸³ WTO document G/STR/N/16/JPN, 5 July 2016.

Agency	Nature of exclusive rights	Trade-related activities
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. This law does not restrict the importation or exportation of rice, wheat and barley by the private sector.	Almost all imports of rice, wheat, and barley are carried out by MAFF. MAFF does conduct commercial export of rice, wheat, and barley. Most of the wheat and barley consumed in Japan is imported.
Agriculture and Livestock Industries Corporation (ALIC)	ALIC, as a state-trading enterprise, is authorized to take measures to stabilize supply/demand situations and prices for milk products. It imports designated dairy products under state trading to prevent market disruptions, and collects mark-ups of such import. ALIC also collects part of out-of-quota tariffs of designated dairy products; private traders can freely import outside state trading by paying out-of-quota tariffs.	ALIC's role as an importer of dairy products continued to decline in the period 2013-15, however, it still imported around 10% of whey per year, and around 33% of SMP per year during this period. It also imports butter (Section 4.1.2.3.7). ALIC did not export or buy any domestic production.

Source: WTO document G/STR/N/16/JPN, 5 July 2016, and information provided by the authorities of Japan.

3.113. According to the authorities, the purposes of operating STEs include sound development concerns for some industries, stable provision of staple foods, and medical and scientific concerns.⁸⁴

3.114. The proportion of products affected by STEs' activities in Japan's international trade is significant. Over the last three years, the MAFF accounted for some 99% of imports of rice, wheat, and barley.

3.115. Public entities continue to wholly or partially own several companies in Japan. Many of them are engaged in the delivery of goods and services that the authorities believe would not be adequately provided by the private sector alone. The State maintains ownership on a significant number of Japan's major large companies in financial services, telecommunications, some international airports, petroleum, tobacco, and railways.

3.116. The authorities state that there are a total of 234 entities with government capitalization. The total amount of capitalization stood at ¥80.1 trillion as of 31 March 2015.

3.117. In 2014, based on the OECD definition of state owned enterprises (SOEs), Japan identified 26 SOEs: 2 minority-owned listed enterprises, 8 majority-owned non-listed enterprises, and 16 statutory corporations or quasi-corporations.⁸⁵

3.118. Incorporated administrative agencies (IAAs) are public-sector corporations with a separate legal personality, established by the Act on General Rules for Incorporated Administrative Agencies (1999) to perform services of general public interest. There are currently 88 IAAs in operation in Japan.⁸⁶

3.119. Japan also maintained "large" commercial entities (i.e. with an operating revenue greater than ¥100 billion) wholly or partially-owned, or controlled by the State or other public authorities (Table 3.17). Although they are not listed as "large" commercial entities, companies such as Tokyo Metro Co. Ltd, Japan Petroleum Exploration Co. Ltd (JAPEX), INPEX, and Japan Railway Construction, Transport and Technology Agency (JRRT) have operating revenues exceeding ¥100 billion.

⁸⁴ WTO document G/STR/N/16/JPN, 5 July 2016.

⁸⁵ WTO document WT/TPR/S/310, 11 March 2015.

⁸⁶ Cabinet Secretariat online information. Viewed at: http://www.cas.go.jp/jp/gaiyou/jimu/jinjikyoku/files/17_2015iaa.pdf.

Table 3.17 Large state enterprises, FY2015

(¥ billion)

Name/operation	Total asset value	Total operating revenue	Total operating profit before/after tax	State/public authority holding
New Kansai International Airport Company Ltd Established in 2012 for the operation of Kansai International Airport and Itami Airport	2,166	3,185	45/35	100% shares
Narita International Airport Corporation Ltd Established in 2004 for the operation of Narita International Airport	854	218	37/24	100% shares
Nippon Telegraph and Telephone Corporation 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 as to conduct research relating to telecommunications technologies.	7,052	521	670/666	35.2% shares (36.2% voting shares)
Japan Post Holdings Co. Ltd Owns all the shares issued by Japan Post Co. Ltd	291,947	—	671/434	80.5% shares
Japan Finance Corporation	22,324	613	51 (excluded from tax)	100% shares
Japan Tobacco Inc. JT is mainly engaged in the manufacture and sale of tobacco products, prescription drugs and processed foods	4,558	2,253	565	33.4% shares
Tokyo Metro Co. Ltd. Established in 2004 for operating and managing railway business in Tokyo area	1,371	408	90/58	Government of Japan (53.4%), Tokyo Metropolitan Government (46.6%)

Source: Information provided by the authorities of Japan.

3.120. In December 2014, Japan Environmental Safety Corporation was reorganized into Japan Environmental Storage & Safety Corporation. The authorities state that Kyushu Japan Railway Company achieved complete privatization, i.e. selling all stocks held by the JRJT, in October 2016 through an initial public offering (IPO).

3.121. Japan maintains efforts for further privatization and rationalization of government-run businesses. Under the Privatization Programme, in November 2015, the Government conducted an IPO for Japan Post Holdings Co. and its financial subsidiaries. The IPO marks the final stage of the privatization of Japan Post.

3.3.6 Standards and other technical requirements

3.122. The main laws on standards and technical regulations in Japan, together with the agency responsible, are described in Table 3.18. The main changes in these basic laws since the last review include the entry into force of the Food Labelling Act, which merged some food labelling provisions that had previously been scattered across three separate laws (the Food Sanitation Act, the Law Concerning Standardization and Proper Labeling of Agricultural and Forestry Products

(JAS Act), and the Health Promotion Act) into one single act.⁸⁷ The Act entered into force on 1 April 2015. As a consequence, the JAS law, deprived of its food labelling provisions, has been renamed the Law concerning Standardization of Agricultural and Forestry Products by an amendment. The main changes also include the amendment in 2015 of the 1960 Law on Securing Quality, Efficacy and Safety of Products including Pharmaceuticals and Medical Devices, which transferred the authority to issue licences to specially controlled medical device sellers from prefectures to designated cities and specified districts. The Building Standard Law was amended in 2014, including the revision of standards concerning wooden buildings, and a review of the conformity assessment system for structural calculation and the system for smooth introduction of new technologies.

Table 3.18 Main laws on standards and technical regulations

Legislation/Agency	First passed	Last amended	Purpose
Industrial Standardization Act METI	1949	2014	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	2014	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.
Act on Securing Quality, Efficacy and Safety of Products including Pharmaceuticals and Medical Devices Ministry of Health, Labour and Welfare (MHLW)	1960	2015	Regulating the manufacture, import and sale of pharmaceuticals, and medical devices, regenerative and cellular therapy products, gene therapy products and cosmetics.
Law Concerning Standardization, etc. of Agricultural and Forestry Products MAFF	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, 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 Materials Safety Law 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 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.
Food Labelling Act Consumer Affairs Agency	2013	2014	The purpose of this Act is to ensure a unified food labelling system by establishing standards and specifying other necessary information regarding labelling of food that is intended for sale.

Source: Information provided by the authorities of Japan.

⁸⁷ The Act was promulgated on 28 June 2013.

3.123. Other recent changes to technical regulations include:

- The establishment of technical regulations under the Act on the Rational Use of Energy for (i) sash, frames and glazing on 30 November 2014, (ii) commercial vehicles on 10 July 2015, and (iii) electric refrigerators and electric freezers on 1 March 2016. New energy efficiency standards will be established for freezing/refrigerating showcases, and a new fuel efficiency test will be added for passenger commercial vehicles in FY2016; these standards will include the energy consumption efficiency measurement method, standard method and labelling requirement⁸⁸;
- The amendment on 31 March 2015 of the Textile Goods Quality Labeling Regulations based on the Household Goods Quality Labeling Act to adopt a new technical regulation on textile labelling regarding care instructions for home washing, etc.⁸⁹ in line with the relevant ISO standard. These Regulations are to enter into force on 1 December 2016⁹⁰;
- The revision on 30 October 2015 of the Indicating Standards Concerning Geographical Indications for Liquor, which includes clarification of the requirements for designation and the establishment of a collective labelling method⁹¹;
- The establishment on 30 October 2015 of new Labeling Standards for Manufacturing Process and Quality of Wine, including rules with respect to information about wine such as ingredients, harvesting area of grapes, and name of the type of grapes and space for collective labelling and for indication of the country of origin⁹²;
- The prohibition of importation of narcotic substances without a licence and the prohibition of importation of several new psychoactive substances without specific reasons⁹³;
- The newly established requirement of a label on a container or package when the substances are transferred or provided for designated chemical substances⁹⁴;
- Several revisions of the JAS for Organic Plants (December 2015 and February 2016) and of the JAS for Organic Processed Foods of Organic Plants (March 2015 and February 2016)⁹⁵; and
- The revision of regulations concerning fuel systems of motor vehicles with highly compressed gas fuel to avoid explosion of hydrogen receptacle; these amendments entered into force on 23 February 2016.⁹⁶

3.124. By 1 July 2016, Japan had made a total of 804 notifications of new technical regulations and conformity assessment procedures (including addenda, corrigenda and revisions), 64 of which were made after 1 October 2014.

3.125. In March 2015, the Russian Federation raised concerns regarding Japan's Wood Use Points Programme (which ended in 2014); the issue was not raised further in subsequent meetings. Between 1995 and 1 June 2016, a total of 12 specific trade concerns were raised against measures maintained by Japan. At the same time, Japan has used the TBT Committee to raise 72 specific trade concerns in areas such as food labelling, electronic appliances, cosmetics, motor vehicles and steel products.

⁸⁸ WTO documents G/TBT/N/JPN/466, 16 September 2014; G/TBT/N/JPN/475, 19 December 2012; G/TBT/N/JPN/509, 3 December 2015; G/TBT/N/JPN/512, 4 January 2016; and G/TBT/N/JPN/514, 22 January 2016.

⁸⁹ Viewed at: http://www.japaneselawtranslation.go.jp/common/data/notice/062503_checked_2015-09-08-14-28-07.htm.

⁹⁰ WTO document G/TBT/N/JPN/476, 6 January 2015.

⁹¹ WTO document G/TBT/N/JPN/495, 15 July 2015.

⁹² WTO document G/TBT/N/JPN/496, 29 July 2015.

⁹³ WTO documents G/TBT/N/JPN/456, 5 May 2014; and G/TBT/N/JPN/524, 19 April 2016.

⁹⁴ WTO document G/TBT/N/JPN/510, 15 December 2015.

⁹⁵ WTO document G/TBT/N/JPN/489, 2 June 2015.

⁹⁶ WTO document G/TBT/N/JPN/505, 25 November 2015.

3.126. Japan's main agencies responsible for standards, technical requirements, and conformity assessment are listed in Box 3.2. For WTO matters, the TBT enquiry point is the International Trade Division of the MOFA.

Box 3.2 Agencies in charge of TBT issues

Ministry of Economy, Trade and Industry (METI)
Japanese Industrial Standards Committee (JISC) 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
Japan Accreditation System for Product Certification Bodies of JIS Mark (JASC)
National Institute of Advanced Industrial Science and Technology (AIST)
National Metrology Institute of Japan (NMIJ)
National Institute of Technology and Evaluation (NITE)
International Accreditation Japan (IA Japan)
Specified Measurement Laboratory Accreditation Program (MLAP) Accreditation of laboratories for micro-existent substances (e.g. dioxins)
Japan Calibration Service System (JCSS)
Japan National Laboratory Accreditation System (JNLA)
Ministry of Internal Affairs and Communication (MIC)
Telecommunication Technology Committee (TTC)
Japan Cable Television Engineering Association (JCTEA)
Ministry of Agriculture, Forestry and Fisheries (MAFF) Responsible for adopting standards for foodstuffs, and agricultural and forestry products under the accompanying JAS system
Ministry of Foreign Affairs (MOFA) Notification authority for the TBT Agreement
Ministry of Health, Labour and Welfare (MHLW)
Pharmaceuticals and Medical Devices Agency (PMDA) 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
Consumer Affairs Agency (CAA)
Ministry of Environment (MOE)

Source: Information provided by the authorities of Japan.

3.127. As at 31 March 2016, there were 10,542 Japanese Industrial Standards (JIS), and the number of JIS with corresponding international standards was 5,759. To ensure compliance with the TBT Agreement, Japan has been aligning JIS to international standards if corresponding international standards exist. As at 31 March 2016, the proportion of those JIS which are harmonized with (identical (IDT) or modified (MOD) according to the definition of ISO/IEC Guide 21-1) international standards (ISO and IEC standards) was 97%.

3.128. In addition, the Pharmaceutical Affairs Law was revised to create a Quality Management System (QMS) audit; the revision entered into force on 25 November 2014. Under this new regulatory framework, the QMS standard for medical devices has been harmonized with the international standard ISO13485.

3.129. Between April 2015 and March 2016, 357 Japan Industrial Standards (JIS) items were revised, 234 were withdrawn, and 177 were newly established (Table 3.19).

3.130. Regarding Japan Agricultural Standards (JAS), two JAS (the JAS for Organic Plants and the JAS for Organic Processed Foods of Organic Plants) are technical regulations, whereas all other JAS are standards but not technical regulations. The JAS for Organic Plants was revised in December 2015 and in February 2016, while the JAS for Organic Processed Foods of Organic Plants was revised in March 2015 and in February 2016. 58 other JAS have been revised since 2014 and three JAS have been withdrawn. At the end of March 2016, the total number of JAS in force was 201 and the number of JAS corresponding with international standards was 80; the proportion of JAS harmonized with international standards was 78%.

3.131. The authorities indicate that when corresponding international standards do not exist, domestic standards or technical regulations are needed.⁹⁷

Table 3.19 JIS established, revised, and withdrawn, April 2015-March 2016

JIS Divisions		Number of JIS newly established	Number of JIS revised	Number of JIS withdrawn	JIS in force at the end of March 2016
A	Civil engineering and architecture	5	22	3	583
B	Mechanical engineering	19	50	7	1,697
C	Electronic and electrical engineering	45	62	15	1,707
D	Automotive engineering	2	8	3	371
E	Railway engineering	1	2	0	153
F	Shipbuilding	3	2	0	393
G	Ferrous materials and metallurgy	5	33	1	452
H	Nonferrous materials and metallurgy	3	12	0	414
K	Chemical engineering	39	55	15	1,761
L	Textile engineering	2	2	0	228
M	Mining	2	5	0	169
P	Pulp and paper	0	2	0	77
Q	Management system	4	5	0	91
R	Ceramics	3	5	0	378
S	Domestic wares	3	7	2	192
T	Medical equipment and safety appliances	20	46	13	548
W	Aircraft and aviation	0	0	89	8
X	Information processing	2	11	78	456
Z	Miscellaneous	19	28	8	864
Total		177	357	234	10,542

Source: Information provided by the authorities of Japan.

3.132. Approximately 7,814 domestic and 905 foreign factories in 21 countries and economies are certified to affix JIS marks (JIS Mark Scheme). The JIS Mark scheme is voluntary, while some regulations refer to JIS as an option to fulfil relevant technical requirements. 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 2015, 24 organizations were accredited as JIS mark certification bodies.

3.133. Compliance with the JAS is not necessary for imports into Japan except for 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.⁹⁸ Foreign producers or manufacturers that are certified by RCBs and ROCBs may conduct their own grading and affix the JAS marks to their products. As at March 2016, there were 23 ROCBs and 92 domestic RCBs; furthermore, there were around 3,000 foreign certified operators and around 7,000 domestic certified operators.

⁹⁷ For example, *tatami* (traditional floor coverings), *futon* (Japanese mattresses), shoe dryers, *kaïro* (pocket warmers), and *kotatsu* (Japanese low tables with heat source) require domestic standards.

⁹⁸ For further details see WTO document WT/TPR/S/243/Rev.1, 2 May 2011.

3.134. Since the last review there have been no regulatory reforms concerning conformity assessment, acceptance of foreign test results and foreign certification, or the number of designated inspection bodies in the Consumer Product Safety Act and Electrical Appliance and Material Safety Law.

3.135. 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 Law and the Consumer Product Safety Act). Regarding the Consumer Product Safety Act, there is only one foreign registered conformity assessment body and seven domestic registered conformity assessment bodies as of March 2016. Regarding the Electrical Appliance and Material Safety Law, the number of foreign registered conformity assessment bodies as of March 2016 is six and the number of domestic registered conformity assessment bodies is five.

3.136. 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.⁹⁹

3.137. The METI has designated 24 inspection bodies (as in 2016), of which 7 are foreign. The designated inspection bodies include: 8 bodies under the Consumer Product Safety Act, 12 under the Electrical Appliance and Material Safety Law, 2 under the Law Concerning the Securing of Safety and Optimization of Transaction of Liquefied Petroleum Gas, and 2 under the Gas Utility Industry Law.

3.138. Japan is a member of ISO, the 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.

3.3.7 Sanitary and phytosanitary measures

3.139. The main laws to implement the SPS Agreement in Japan, together with the agencies responsible, are listed in Table 3.20. Box 3.3 details the key agencies responsible for SPS matters.

3.140. The MAFF, the MHLW, and the Food Safety Commission continue to be responsible for Japan's SPS measures. 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. The procedure for establishing SPS measures also remained unchanged during the review period.

3.141. Japan had made 508 notifications SPS Committee by August 2016, 97 since 1 January 2015 (including addenda, corrigenda, and revisions). Since its last review, no Members have raised concerns about measures maintained by Japan in the SPS Committee. Japan has raised its concerns about one measure maintained by Chinese Taipei related to its import restrictions in response to the nuclear power plant accident in Japan in 2011.¹⁰⁰

3.142. According to the authorities, SPS measures applied by Japan are based on the relevant international standards.¹⁰¹

3.143. Since the previous review, the most notable changes to SPS laws are the following: (1) in April 2015, some labelling provisions previously stipulated in the Food Sanitation Act were brought into a new Food Labeling Act, which provides that food producers must provide detailed information regarding product ingredients, and also revised relevant labelling standards; (2) in 2013, the Law on Domestic Animal Infectious Diseases Control was amended with a view to strengthening border controls (e.g. requesting travellers entering Japan to disinfect shoes) in order to prevent the outbreak and spread of infectious diseases such as avian flu.

⁹⁹ Based on the Chemical Substances Control Law.

¹⁰⁰ WTO SPS Information Management System. Viewed at: <http://spsims.wto.org>.

¹⁰¹ 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.

Table 3.20 Principal laws on SPS measures

Legislation/Agency	First passed	Last amended	Purpose
Food Sanitation Act MHLW, Consumer Affairs Agency	1947	2015	Applies to food and additives, and containers and packaging. The Act provides for the setting and application of standards on food and food additives as well as inspections of establishments by the Ministry of Health, Labour and Welfare.
Food Safety Basic Act Consumer Affairs Agency, Food Safety Commission	2003	2015	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 Concerning Safety Assurance and Quality Improvement of Feed MAFF	1953	2014	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, and 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: Information provided by the authorities of Japan.

Box 3.3 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 Environmental Health and Food Safety, Pharmaceutical Safety and Environmental Health 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: Information provided by the authorities of Japan.

3.144. New or revised SPS measures adopted or proposed since Japan's last review include the proposed revision of the regulations under the Plant Protection Act containing amendments to: the quarantine and non-quarantine pest lists; the list of plants subject to field inspection in exporting countries; the list of import prohibited plants; and to the list of plants subject to specific phytosanitary measures to be carried out in exporting countries.¹⁰² On 1 July 2014, Japan brought into force additional requirements on Porcine Endemic Diarrhoea (PED) for imported live swine

¹⁰² WTO documents G/SPS/N/JPN/438, 16 December 2015; and G/SPS/N/JPN/438/Corr.1, 5 February 2016.

animals, and on 11 July 2014, additional requirements for swine blood meal from countries where PED was endemic.¹⁰³

3.145. Standards on the following agricultural chemical residues and feed additives have been established or revised: glufosinate (established on 8 January 2014)¹⁰⁴, pendimethalin (11 June 2014)¹⁰⁵, sodium nitrite, melamine (20 August 2014)¹⁰⁶, dicamba (27 July 2015)¹⁰⁷, monensin sodium, avilamycin (7 December 2015), alachlor (18 December 2015)¹⁰⁸, fenthion (18 December 2015)¹⁰⁹, aldicarb (18 December 2015)¹¹⁰, imazapic (18 December 2015)¹¹¹, imazapyr (18 December 2015)¹¹², and 25-hydroxycholecalciferol (23 March 2016)¹¹³.

3.146. The Ministerial Ordinance of the Act on the Protection of Fishery Resources was revised on 27 January 2016, as were the Aquatic Quarantine Measures notably regarding the diseases and aquatic animal species subject to import quarantine and a detention period.¹¹⁴

3.147. Regarding food safety measures, in Japan more than 800 pesticides have residue standards and at least 800 food additives are approved for use. According to the authorities, it is very difficult to confirm whether all of 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.

3.148. Since its last review, there has been no change to Japan's food import bans. It currently imposes import prohibitions on beef and poultry to prevent the spread of BSE and avian flu. Japan has allowed beef imports from Brazil, Canada, Denmark, France, Ireland, Italy, Lichtenstein, the Netherlands, Norway, Poland, Sweden, Switzerland, and the United States under certain conditions based on scientific review by the Food Safety Commission.

3.149. 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. As at March 2016, 4,021 foreign testing laboratories were registered in Japan under the Food Sanitation Act.

3.150. The following EPAs signed by Japan contain chapters or provisions regarding standards and technical regulations, conformity assessment, and SPS: Japan–Australia, Japan–Chile, Japan–India, Japan–Malaysia, Japan–Mexico (provisions), Japan–Mongolia, Japan–Peru, Japan–Switzerland, Japan–Viet Nam, as well as Japan–ASEAN and TPP.

3.151. 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: the Director of the Plant Quarantine Office, Plant Protection Division, Food Safety and Consumer Affairs Bureau, the MAFF (in relation to IPPC); the Director of the Animal Health Division, Food Safety and Consumer Affairs Bureau, the MAFF (in relation to OIE); and the Director of the Office for Resources, Policy Division, Science and Technology Policy Bureau, the Ministry of Education, Culture, Sports, Science and Technology (in relation to Codex).

¹⁰³ WTO documents G/SPS/N/JPN/352, 25 June 2014; G/SPS/N/JPN/358, 28 July 2014; and G/SPS/N/JPN/358/Add.1, 18 September 2015.

¹⁰⁴ WTO document G/SPS/N/JPN/321, 16 July 2013.

¹⁰⁵ WTO document G/SPS/N/JPN/330, 20 November 2014.

¹⁰⁶ WTO document G/SPS/N/JPN/337, 2 April 2014.

¹⁰⁷ WTO document G/SPS/N/JPN/345, 5 May 2014.

¹⁰⁸ WTO document G/SPS/N/JPN/366, 21 October 2014.

¹⁰⁹ WTO document G/SPS/N/JPN/367, 20 October 2014.

¹¹⁰ WTO document G/SPS/N/JPN/368, 20 October 2014.

¹¹¹ WTO document G/SPS/N/JPN/425, 13 July 2015.

¹¹² WTO document G/SPS/N/JPN/426, 13 July 2015.

¹¹³ WTO document G/SPS/N/JPN/427, 29 July 2015.

¹¹⁴ WTO document G/SPS/N/JPN/429, 9 October 2015.

3.3.8 Labelling and packaging requirements

3.152. During the period under review, there were no changes concerning non-food labelling requirements under the Consumer Product Safety Act and Electrical Appliance and Material Safety Law. With regard to the Industrial Safety and Health Measures, some chemical substances have been newly designated as substances that are required to have a label on the container or package when the substances are transferred or provided.¹¹⁵ The Textile Goods Quality Labeling Regulations were amended to adopt a new standard on textile care instructions for home washing, etc. in line with the relevant ISO standard. These Regulations are to enter into force on 1 December 2016.

3.153. With regard to food labelling, as mentioned above, some food labelling provisions which had previously been scattered across three separate laws have been gathered into a single new Food Labeling Act, promulgated on 28 June 2013. To implement the Act, a Food Labeling Standard establishing specific labelling requirements was defined. The Act and Standard entered into force on 1 April 2015.

3.154. The main changes to food labelling requirements during the period under review concern food allergen labelling, mandatory nutrient declaration, and the Food with Function Claims (FFC) labelling system. Under the new food allergen labelling requirement, which entered into force on 1 April 2015, the name of the food allergen must be indicated in parentheses immediately after the name of the food ingredient containing it, except when all names of allergens appear in parentheses collectively at the end of the ingredient list. As regards mandatory nutrient declaration, under the previous standard (the Nutrition Labeling Standard), nutrition declaration was voluntary for pre-packaged processed foods. The new Food Labeling Standard requires mandatory declaration of energy value, the amounts of protein, fat, carbohydrates and sodium (expressed in salt equivalent) for pre-packaged processed foods and food additives to be offered as such to the consumer. Certain foods may be exempted, for example, on the basis of nutritional or dietary insignificance or small packaging or others. The declaration of saturated fatty acids, cholesterol, available carbohydrates (i.e. dietary carbohydrates excluding dietary fibre), sugars, dietary fibre, vitamins and minerals is voluntary.

3.155. 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 33 kinds of designated processed food, mainly made of soybeans or corn; papaya and processed foods containing papaya as a main ingredient are recent additions. The MHLW does not permit imports of GM foods that do not meet its safety requirements.

3.156. As regards food with health claims, a new standard, which entered into force on 1 April 2015, has established a third category, that of "Foods with Functional Claims" (FFC) alongside the two pre-existing categories ("Foods with Nutrient Functions Claims" (FNFC) and "Food for Specified Health Uses"(FOSHU)). Table 3.21 describes the main differences between these three categories.

Table 3.21 Comparison of the three categories of foods with health claims

	Object	Proof of effectiveness	Notification	Approval
FNFC	Nutritional supplement	None	No	No
FOSHU	Enhance health	To be demonstrated by the Government	Yes	Yes
FFC	Enhance health	To be demonstrated by the producers themselves	Yes	No

Source: Information provided by the authorities of Japan.

¹¹⁵ WTO document G/TBT/N/JPN/487, 18 May 2015.

3.157. Two new labelling standards regarding liquors were established by the Ministry of Finance in order to protect the consumer's interest: the Indication Standards Concerning Geographical Indications for Liquor (fully revised on 30 October 2015), and the Labeling Standards for Manufacturing Process and Quality of Wine, etc. (entered into force on 30 October 2015).

3.3.9 Government procurement

3.158. According to the OECD, government procurement represents 38.3% of government expenditures and 16.2% of the GDP of Japan.¹¹⁶

3.159. The basic rules on government procurement in Japan are contained in: the Accounts Law of 1947, the Local Autonomy Law of 1947, the Cabinet Order Concerning the Budget, Auditing and Accounting of 1947, the Special Provisions for the Cabinet Order concerning the Budget, Auditing and Accounting of 1946, and the Regulations on the Management of Contract Administration (Ministry of Finance Ordinance No. 52 of 1962).

3.160. Japan is a party to the WTO Agreement on Government Procurement (GPA). In March 2014, it accepted the revised GPA, which entered into force in Japan on 6 April 2014. Japan implemented the protocol domestically through the amended Cabinet Order Stipulating Procedures for Government Procurement of Products or Specified Services, the Cabinet Order Stipulating Procedures for Government Procurement of Products or Specified Services in Local Governments Entities and the Ministerial Ordinance Stipulating Special Procedures for Government Procurement of Products or Specified Services.

3.161. The main changes during the review period include the amendment in May 2016 of the "operational procedures for government procurement" (Order No. 372 of 2006) which introduces the "multiple bidding system", where two or more companies can bid in a project if one company cannot supply the full amount of the order alone.

3.162. Japan has made four notifications to the Government Procurement Committee since 2014, namely a notification on the partial revision of the Basic Policy concerning the Promotion of Contracts Considering Reduction of Emissions of Greenhouse Gases and Others by the State and Other Entities¹¹⁷, and three notifications on successive revisions to the Basic Policy for the Promotion of the Procurement of Eco-Friendly Goods and Services under the Law concerning the Promotion of the Procurement of Eco-Friendly Goods and Services by the State and Other Entities.¹¹⁸

3.163. All Economic Partnership Agreements signed by Japan, except those with ASEAN and with Malaysia, have government procurement provisions (Table 3.22).¹¹⁹ The TPP also contains a government procurement chapter. Japan's GP commitments under the TPP are roughly the same as its WTO GPA commitments.

Table 3.22 Japan's government procurement commitments and obligations under various FTAs

Agreements concerned	Japan's commitments and obligations
Japan–Singapore	Both parties refer to or incorporate their GPA commitments (1994 version)
Japan–Switzerland	
Japan–Brunei Darussalam	The agreements set out liberalization as the general objective and do not contain any procedural rules or commitments
Japan–India	
Japan–Indonesia	
Japan–Philippines	
Japan–Thailand	
Japan–Viet Nam	
Japan–Mongolia	
Japan–Chile		Japan refers to its GPA commitments

¹¹⁶ OECD, Government at a Glance 2015 – Country Fact Sheet: Japan. Viewed at: <https://www.oecd.org/gov/Japan.pdf>.

¹¹⁷ WTO document GPA/99/add.4, 15 April 2014.

¹¹⁸ WTO documents GPA/37/add.11, 15 April 2014; GPA/37/add.12, 9 April 2015; and GPA/37/add.13, 13 July 2016.

¹¹⁹ Singapore and Switzerland are the only partners that are parties to the GPA.

Agreements concerned	Japan's commitments and obligations
Japan–Mexico	The scope of Japan's commitments in the FTA is inferior to that of Japan in the GPA
Japan–Peru Japan–Australia	Japan's commitments are roughly the same as in GPA

Source: "The Relationship between Services Trade and Government Procurement Commitments: Insights from Relevant WTO Agreements and Recent RTAs" by Robert D. Anderson, Claudia Locatelli, Anna Caroline Müller and Philippe Pelletier, WTO working paper¹²⁰, October 2013, p. 41, and information provided by the authorities of Japan.

3.164. In addition, following a series of bilateral negotiations with the United States in the eighties and in the nineties, Japan has established various (general and sector-specific) so-called "voluntary measures" implying commitments going beyond the WTO Government Procurement Agreement in terms of thresholds, entities and sectors covered and procedural obligations. The procedures applicable to the general voluntary measures, which were initially contained in a November 1991 Understanding on Government Procurement, now appear in the 31 March 2014 Operational Procedures for Government Procurement.

3.165. Table 3.23 compares the entities covered, the thresholds and the disciplines/procedures applicable under the GPA and the general voluntary measures, while Table 3.24 describes the specific, sectoral voluntary measures in terms of thresholds, entities and disciplines.

Table 3.23 Entities covered, thresholds and disciplines/procedures applicable under the GPA and the general voluntary measures

(SDR 10,000 /¥10,000)

	Number of entities	GPA		General voluntary measure (GVM)		Procedures introduced by GVM
		SDR	Yen	SDR	Yen	
Central government entities	25					(1) Disclosure of procurement schedules of large-scale (over 100 SDR) goods and services in official gazettes early in a fiscal year; (2) Bidding period extended to 50 days; (3) Suppliers are invited (a) to submit materials (b) to comment on proposed specifications in a bidding; (4) Disclosure of designated suppliers
1. Goods		10	1,600	10	1,600	
2. Construction services		450	74,000	*	*	
3. Architectural, engineering and other technical services		45	7,400	*	*	
4. Other services		10	1,600	10	1,600	
Sub-central government entities	66					
1. Goods		20	3,300	*	*	
2. Construction Services		1,500	247,000	*	*	

¹²⁰ Viewed at: https://www.wto.org/english/res_e/reser_e/ersd201421_e.pdf.

	Number of entities	GPA		General voluntary measure (GVM)		Procedures introduced by GVM
		SDR	Yen	SDR	Yen	
3. Architectural, engineering and other technical services		150	24,000	*	*	
4. Other services		20	3,300	*	*	
All other entities	125					
1. Goods		13	2,100	10	1,600	
2. Construction services for Japan Post in Group A		1,500	247,000	*	*	
3. Construction services for Japan Post and entities in Group B		450	74,000	*	*	
4. Architectural, engineering and other technical services		45	7,400	*	*	
5. Other services		13	2,100	10	1,600	

* Indicates the goods or services to which the Japanese voluntary measures are not applied (the Agreement on Government Procurement applies).

Source: MOFA online information. Viewed at: <http://www.mofa.go.jp/files/000037391.pdf>; and 2014 Operational Guideline on Procedures for Government Procurement Attachment 1.

3.166. As shown in Table 3.23, the thresholds for voluntary measures are lower than the GPA in only two instances, due to the fact that the 2014 revised GPA has "caught up" with voluntary measures as compared to the GPA 1994, which was signed on 15 April 1994 and entered into force on 1 January 1996. The remaining value added of voluntary measures is essentially of a procedural nature: the period for receiving tenders is extended to no less than 50 days from the date of issuance of the Notice of Procurement, unless special circumstances exist, while in the revised GPA, this period is 40 days.¹²¹

Table 3.24 Sector-specific voluntary measures

Specific voluntary measures	Entities covered	Thresholds	GPA+ Procedures
Supercomputers over 50 tflops (2014 Operational Guideline Attachment 2; procedures to Introduce Supercomputers)	151 (The entities covered by GPA Annexes 1 and 3)	0 (Any lease or sales of supercomputers is subject to voluntary measures)	n.a.
Non-R&D satellites (2014 Operational Guideline Attachment 3; Procedures for the Procurement of Non-R&D Satellites)	25 (The central government entities) + the entities that purchase or lease non-R&D satellites on behalf of the central government,	0 (Any lease or sales of non-R&D satellites is subject to voluntary measures)	Potential suppliers of non-R&D satellites and the U.S. government can object to the classification of R&D/non-R&D satellites, established by the Japanese Government.

¹²¹ Prime Minister's Office online information. Viewed at: <http://japan.kantei.go.jp/procurement/2014/ch/4-1FY2014attach1-1.pdf>.

Specific voluntary measures	Entities covered	Thresholds	GPA+ Procedures
	and entities under direct/indirect supervision of the central government		
Computer products and services (2014 Operational Guideline Attachment 4; Measures on Japanese Public Sector Procurements of Computer Products and Services)	157 entities (i.e. the 151 entities covered by GPA Annexes 1 and 3 + Japan Aerospace Exploration Agency, Shoko Chukin bank, Kansai airport, Nippon Foundation, NHK, and Japan's workers housing association)	100,000 SDR	n.a.
Telecommunications sector (2014 Operational Guideline Attachment 5; Measures on Japanese Public Sector Procurement of Telecommunications Products and Services)	148 entities (i.e. the 151 entities covered by the GPA Annexes 1 and 3 minus NTT, NTT east, and NTT west)	100,000 SDR	n.a.
Medical technology sector (2014 Operational Guideline Attachment 6; Measures on Japanese procedures to Introduce Supercomputers)	105 (selected from the 151 entities covered by the GPA Annexes 1 and 3)	100,000 SDR	n.a.
Construction services sector (1987 Measures to Ensure Entry Opportunity for Foreign Enterprises to Large-Scale Public Construction Projects, 1991 Additional Measures to 1987 Measures, 1994 Action Plan on Improvement of Bidding and Contracting Procedures in Public Construction Projects, 1996 Guideline of the Action Plan, 2000 Act on Promotion of Proper Bidding and Contracting in Public Construction Projects, and 2005 Act on Ensuring Quality of Public Construction Projects)	151 entities (The entities covered by the GPA Annexes 1 and 3)	Central government entities (Annex 1) (1) Construction 4,500,000 SDR (2) design and consulting services 450,000 SDR Other entities (Annex 3) (1) Construction 15,000,000 SDR (2) design and consulting services 450,000 SDR	n.a.

n.a. Not applicable.

Source: information provided by the authorities of Japan.

3.167. There have been no modifications to the open tendering rules or their exceptions since 2014. 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 do not allow competition, or competition is not possible or is 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.

3.168. Foreign participation in Japan's government procurement is described in Tables 3.25 and 3.26.

Table 3.25 Foreign participation in Japan's government procurement

(%)

Year	Relative foreign share of procurement value	Relative foreign share of number of contracts awarded
2013	3.0	2.9
2014	3.1	5.1

Source: Prime Minister's Office online information (in Japanese). Viewed at: <http://www.kantei.go.jp/jp/kanbou/27tyoutatu/dai2/dai2honbun.pdf>.

Table 3.26 Awards to foreign suppliers by origin, 2014

	Number	Value (¥ billion)
United States	219	30.8
European Union	228	23.6
Others	342	9.4
Total	789	63.8

Source: Prime Minister's Office online information (in Japanese). Viewed at: <http://www.kantei.go.jp/jp/kanbou/27tyoutatu/dai2/dai2honbun.pdf>.

3.169. Tables 3.27 and 3.28 detail foreign participation in Japan's government procurement in value terms by type of product and service in 2013 and 2014 (the latest year for which data were available).

Table 3.27 Procurement by product and by origin, 2013 and 2014

No.	Products	2013		2014	
		Total value (¥100 million)	Foreign share (%)	Total value (¥100 million)	Foreign share (%)
1	Products from agriculture, and from agricultural and food processing	21.7	46.6	17.6	49.1
2	Mineral products	382.0	21.3	673.5	11.5
3	Products of the chemical and allied industries	30.3	10.3	40.8	2.0
4	Medicinal and pharmaceutical products	249.5	31.3	482.0	21.2
5	Artificial resins; rubber, raw hides and skins; leather; and articles thereof	13.2	0.2	45.4	0.0
6	Wood and articles of wood; paper making material; paper and paperboard and articles thereof	190.2	0.1	182.9	0.1
7	Textiles and textile articles; thread for spinning and weaving; and articles thereof	78.3	3.1	84.9	2.5
8	Articles of stone, of cement and similar materials; ceramic products; glass and glassware; and articles thereof	6.1	0.0	1.9	0.0
9	Iron and steel and articles thereof	207.8	0.1	128.8	1.2
10	Non-ferrous metals and articles thereof	56.4	8.2	48.7	4.6
11	Power generating machinery and equipment	157.9	1.2	83.3	0.0
12	Machinery specialized for particular industries	169.6	2.1	23.9	7.0
13	General industrial machinery and equipment	163.0	4.1	191.5	0.8
14	Office machines and automatic data processing equipment	2,257.9	4.2	2,292.1	2.0
15	Telecommunications and sound recording and reproducing apparatus and equipment	854.0	4.5	458.7	2.8
16	Electrical machinery, apparatus and appliances, and electrical parts thereof	291.5	4.2	214.1	4.4
17	Road vehicles	410.1	1.9	464.6	1.0
18	Railway vehicles and associated equipment	37.3	31.6	136.4	45.9
19	Aircraft and associated equipment	142.5	53.9	48.5	90.6
20	Ships, boats and floating structures	76.2	3.1	118.6	14.4
21	Sanitary, plumbing, and heating equipment	7.9	0.0	1.9	0.0
22	Medical, dental, surgical and veterinary equipment	943.1	42.9	655.7	43.1
23	Furniture and parts thereof	72.1	0.9	104.4	0.0

No.	Products	2013		2014	
		Total value (¥100 million)	Foreign share (%)	Total value (¥100 million)	Foreign share (%)
24	Scientific and controlling instruments and apparatus	2,839.6	20.8	2,190.9	39.4
25	Photographic apparatus and equipment, optical goods, and clocks	39.3	1.3	28.7	18.2
26	Miscellaneous articles	1,247.6	6.8	2,066.1	3.8
	Total	10,944.8	13.9	10,786.0	15.1

Source: Prime Minister's Office online information (in Japanese). Viewed at:
<http://www.kantei.go.jp/jp/kanbou/26tyoutatu/dai2/dai2honbun.pdf> and
<http://www.kantei.go.jp/jp/kanbou/27tyoutatu/dai2/dai2honbun.pdf>.

Table 3.28 Procurement by type of service, 2013 and 2014

Type of service	2013		2014	
	Total value (¥100 million)	Foreign share (%)	Total value (¥100 million)	Foreign share (%)
Total	9,625.3	1.4	9,540.2	1.4
Maintenance and repair of motor vehicles	4.2	12.9	19.9	0.0
Maintenance and repair of motorcycles and snowmobiles	0.0	0.0	0.0	n.a.
Other land transport services (except mail transportation)	94.8	0.0	111.6	0.0
Rental services of sea-going vessels with operator	6.0	0.0	1.1	33.0
Rental services of non-sea-going vessels with operator	0.7	0.0	0.0	n.a.
Air transport (except mail transportation)	18.6	14.3	36.8	7.6
Freight transport agencies	14.5	0.0	20.2	0.0
Courier services	3.3	11.4	1.7	11.4
Telecommunication services	173.3	13.5	60.3	0.0
Computer and related services	7,276.4	1.3	7,107.7	4.4
Market research and public opinion polling	156.9	0.1	43.2	1.7
Advertising services	367.1	0.0	482.5	0.0
Armoured car services	3.8	0.0	194.6	0.0
Building cleaning services	428.9	0.0	671.7	0.0
Publishing and printing services	166.9	0.1	166.0	0.1
Repair services incidental to metal products, machinery and equipment	146.7	8.2	167.7	2.5
Sewage and refuse disposal, sanitation and other environmental protection	92.2	0.0	289.6	0.0
Other	671.0	0.2	165.6	0.0

n.a. Not applicable.

Source: Prime Minister's Office online information (in Japanese). Viewed at:
<http://www.kantei.go.jp/jp/kanbou/26tyoutatu/dai2/dai2honbun.pdf> and
<http://www.kantei.go.jp/jp/kanbou/27tyoutatu/dai2/dai2honbun.pdf>.

3.170. The ratio of open tendering contracts to single tendering contracts varies significantly according to whether the items procured were goods or services. In 2014, about 90% of the number and 89% of the total value of goods procurement were contracted through open tendering procedures. Meanwhile, in terms of service, about 63% of the number and 54% of the total value of procurement were contracted through open tendering procedures. For procurement awarded to foreign suppliers, the picture is notably different. In 2014, the percentage of foreign suppliers' tenders and awards were still low in open tendering procedures (Table 3.29). Meanwhile, the percentage of foreign suppliers' awards was higher than that of tenders.

Table 3.29 Percentage of Foreign Suppliers' Tenders and Awards, 2014

(%)

	Percentage of tenders (previous year)	Percentage of awards or percentage of contracts (previous year)
Open tendering procedures	0.7 (1.0)	1.1 (1.8)
Single tendering procedures	..	6.5 (5.3)

.. Not available.

Source: Prime Minister's Office online information (in Japanese). Viewed at:
<http://www.kantei.go.jp/jp/kanbou/27tyoutatu/dai2/dai2honbun.pdf>.

3.171. The voluntary measures (Procedures for Government Procurement of Products) encourage the adoption of the overall-greatest-value evaluation method (OGV) where the lowest-price-award method is deemed inadequate. In addition, in the areas of computer products and services, telecommunication products and services, and medical technology products and services, when large procurement is conducted, it is obligatory under the voluntary measures to apply the OGV. In 2014, the OGV was adopted in 992 procurements (compared with 1,068 in 2013), representing about 6.4% of the total number of procurements (6.0% in 2013) (Table 3.30). Of these contracts, 92 were awarded to foreign products and services (160 in 2013).

Table 3.30 Implementation of overall-greatest-value evaluation method, 2012-14

		Number of contracts		
		2012	2013	2014
Contracts on a domestic/foreign basis	Domestic products and services	769	908	900
	Foreign products and services	114	160	92
Total		883	1,068	992

Source: Prime Minister's Office online information (in Japanese). Viewed at:
<http://www.kantei.go.jp/jp/kanbou/27tyoutatu/dai2/dai2honbun.pdf>.

3.172. Most cases of proven infringement of Japan's Anti-Monopoly Act (AMA) continue to involve bid-rigging related to public works (Section 3.3.3). The Act for Promoting Proper Tendering and Contracting for Public Works defines major policy instruments for preventing bid-rigging and other improper actions.

3.173. Two complaints were filed regarding the functioning of the bid challenge mechanism during the period under review. The first was a case concerning procurement of a mobile payment terminal filed in July 2014. The second was a case concerning procurement of demolition work for a national stadium filed in August 2014. The Government Procurement Review Board found that both of these procurements had violated the Revised Agreement on Government Procurement (WTO), and proposed for both cases "the cancellation of the contract and the implementation of the procurement process again from the start". The Government of Japan is not aware of any particular cases with regard to complaints about procurements made by sub-central government entities from 2014 to 2015.

3.3.10 Intellectual property rights

3.3.10.1 Overview

3.174. The legal framework for the protection of intellectual property rights in Japan has undergone various changes during the review period. With regard to geographical indications (GIs), the Act on Protection of the Names of Specific Agricultural, Forestry, and Fishery Products and Foodstuffs entered into force in 2015. The Act on the Partial Revision of the Patent Act and Other Acts, which entered into force on 1 April 2016, introduced amendments to the Patent Act, the Trademark Act, the Design Act, and the Act on International Applications under the Patent Cooperation Treaty (PCT). The Act, *inter alia*: (i) reviews the employee invention system by clarifying the elements to be considered for the "appropriate remuneration" of employees;

(ii) revises the fee schedule for patents, trademarks and international searches concerning international applications; and (iii) establishes provisions regarding the Patent Law Treaty and the Singapore Treaty on the Law of Trademarks to allow Japan's accession to these treaties.¹²²

3.175. The Unfair Competition Prevention Act was amended to provide further protection to trade secrets. Under the amended act, the scope of acts subject to criminal penalties, as well as civil remedies, has been expanded to include the sale, import and export of products manufactured with the wrongful use of a trade secret. Furthermore, any party which, for the purposes of acquiring a wrongful gain or causing damage to a trade secret owner, subsequently acquires a trade secret knowing that it has been disclosed unlawfully could be penalized for trade secret misappropriation.¹²³

3.176. The substantive IP laws continue to provide protection to the main types of IPRs (Table 3.31).

Table 3.31 Summary of the protection of intellectual property rights, 2016

Main legislation	Coverage	Duration	Selected exclusions and limitations
<u>Patents</u> Patent Act (Last amended in 2016)	Any invention of a product/method that is industrially applicable, novel compared with the prior art base and characterized by the highly advanced creation of technical ideas utilizing the laws of nature	20 years from the filing date of the patent application (Duration of a patent for agricultural chemicals and medicine can be extended to a maximum of 25 years upon request)	Non-patentable inventions: (1) An invention that was publicly known in Japan or a foreign country, prior to the filing of the patent application (2) An invention that was publicly worked in Japan or a foreign country, prior to the filing of the patent application (3) An invention that was described in a distributed publication or made publicly available through an electric telecommunication line in Japan or a foreign country, prior to the filing of the patent application (4) An invention that a person ordinarily skilled in the art would have been able to easily make, based on an invention mentioned in (1) to (3), prior to the filing of the patent application (5) An invention that is claimed in a patent application that is identical to the one claimed in a patent application filed earlier by another person (6) An invention that is liable to injure public order, morality or public health
<u>Utility Models</u> Utility Model Act (Last amended in 2015)	Any creation of a device that is related to the shape or structure of an article or combination of articles and is industrially applicable	10 years from the filing date of the application	Non-registrable devices: (1) A device that was publicly known in Japan or a foreign country, prior to the filing of the application (2) A device that was publicly worked in Japan or a foreign country, prior to the filing of the application (3) A device that was described in a distributed publication or made publicly available through an

¹²² WIPO online information. Viewed at: <http://www.wipo.int/wipolex/en/details.jsp?id=16075>.

¹²³ Further explanation available at WIPO online information. Viewed at: http://www.wipo.int/wipolex/en/text.jsp?file_id=401411.

Main legislation	Coverage	Duration	Selected exclusions and limitations
			<p>electric telecommunication line in Japan or a foreign country, prior to the filing of the application</p> <p>(4) A device that a person ordinarily skilled in the art would have been able to easily make, based on a device mentioned in (1) to (3), prior to the filing of the application</p> <p>(5) A device that is identical to a device or invention disclosed in a utility model/patent application filed by another person, prior to the date of filing of the application</p> <p>(6) Methods of production</p> <p>(7) Materials</p> <p>(8) A device that is liable to injure public order or morality</p>
<p><u>Trademarks</u></p> <p>Trademark Act (Last amended in 2016)</p>	<p>Any character, figure, sign, three-dimensional shape, sound, colour or any combination of them used by a business entity in connection with its goods or services</p>	<p>10 years from the date of registration</p>	<p>Non-registrable trademarks:</p> <p>(1) A trademark that is identical, or similar, to another person's trademark</p> <p>(2) A trademark by which consumers cannot distinguish goods or services pertaining to a business of a particular person from another</p> <p>(3) A trademark that is likely to cause damage to the public (e.g. a trademark that resembles flags of nations)</p> <p>(4) A trademark that contains the portrait or name of another person without permission</p> <p>The acquisition or holding of a right to use a domain name on the Internet that is identical or similar to another person's specific indication of goods or services pertaining to a person's business (e.g. a name, trade name, trademark, mark) is prohibited under the Unfair Competition Prevention Act</p>
<p><u>Industrial design</u></p> <p>Design Act (Last amended in 2016)</p>	<p>Any design that is industrially applicable; shapes, patterns, colours, or any combination of an article (including a part of an article), which creates an aesthetic impression through the eye.</p> <p>A design in a graphic image on a screen that is provided for use in the operation of the article and is displayed on the article itself or another article that is used with the article in an integrated manner is covered.</p>	<p>20 years from the date of registration</p>	<p>Non-registrable designs:</p> <p>(1) A design that was publicly known in Japan or a foreign country, prior to the filing of the application for a design registration</p> <p>(2) A design that was described in a distributed publication or made publicly available through an electric telecommunication line in Japan or a foreign country, prior to the filing of the application</p> <p>(3) A design similar to those mentioned in (1) and (2)</p> <p>(4) A design that a person ordinarily skilled in the art would have been able to easily create based on shapes, patterns or colours, or any combination publicly known in Japan or a foreign country, prior to the filing of the application</p> <p>(5) A design that is liable to injure public order or morality</p>

Main legislation	Coverage	Duration	Selected exclusions and limitations
			<p>(6) A design that is liable to create confusion with an article pertaining to another person's business</p> <p>(7) A design solely consisting of a shape that is indispensable for securing functions of the article</p> <p>(8) A design that is identical, or similar, to another person's design whose application has already been filed</p> <p>An applicant for a design registration may request that the design be kept in secret for a certain period (not exceeding three years from the date of the registration)</p>
<u>Copyrights and related rights</u>			
Copyright Law (Last amended in 2014)	<p>Any work: a production in the literary, academic, artistic or musical domain, in which thoughts or sentiments are creatively expressed and which falls within the scope of one of the followings:</p> <p>(1) a work by a Japanese national,</p> <p>(2) a work that is first published in Japan, or</p> <p>(3) a work that Japan has the obligation to protect pursuant to an international treaty</p> <p>Any performance: acting dramatically, dancing, giving a musical performance, singing, giving a speech, giving a recitation, or by any other means for acting of a work</p> <p>Any phonogram: the fixation of sounds on a material object such as a phonograph disc or recording tape</p> <p>Any broadcasting/ cablecasting: the transmission to the public of wireless/wired communications with the objective of allowing the public to simultaneously receive transmissions of the same contents</p>	<p>A work: author's life and 50 years from the beginning of the calendar year after the year in which the author dies</p> <p>A performance: 50 years from the beginning of the calendar year after the year in which the performance takes place</p> <p>A phonogram: 50 years from the beginning of the calendar year after the year in which the phonogram is published</p> <p>A broadcasting/ cablecasting: 50 years from the beginning of the calendar year after the year in which the broadcasting/cablecasting takes place</p> <p>An anonymous or pseudonymous work: 50 years after the work is made public</p> <p>A work whose authorship is attributed to a corporation or other organization: 50 years after the work is made public</p> <p>A cinematographic work: 70 years after the work is made public</p>	<p>A copyright in a work is not infringed by, <i>inter alia</i>: copying a work(except a cinematograph) for personal or family use; incidental copying of a work while taking pictures, videos or recording sounds; exceptions and limitations on a work in experiments for the development and practical implications of technologies; copying for educational purposes; copying of a work by librarians; reproducing a work in Braille indicating the sources; reproducing a visual work by changing it into writing for the welfare of persons with hearing impairments; fair dealing with a work for the purposes of news reporting; reproducing a work for judicial proceedings indicating the sources; reproducing a work by a legislative or administrative organ indicating the sources; exceptions and limitations on a work for non-commercial purposes without charging fees; quoting from a work indicating the sources; exceptions and limitations on a work in the delivery of a political speech indicating the sources; conducting necessary modification of a work of computer programming by an owner of a copy of the work</p>

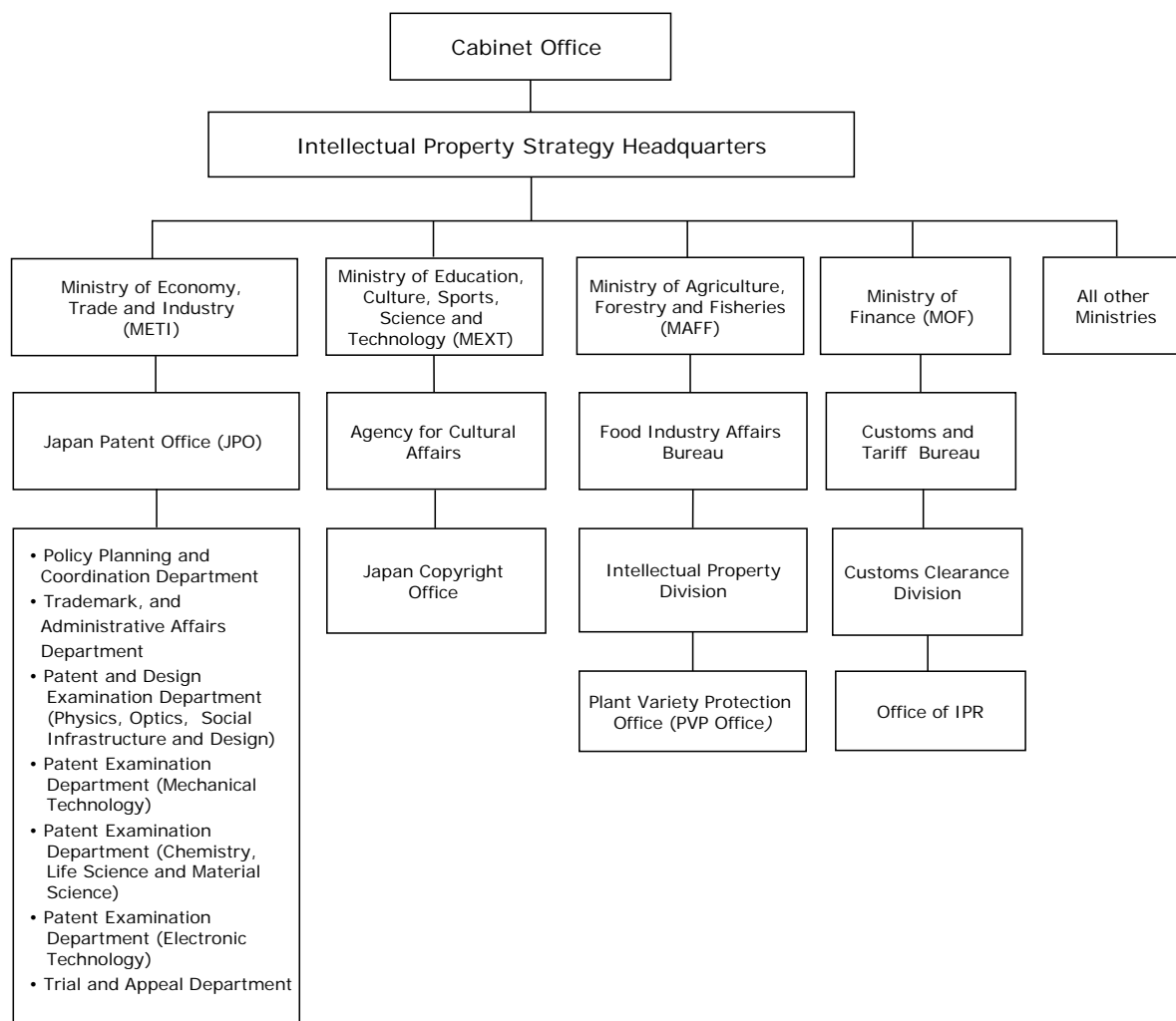
Main legislation	Coverage	Duration	Selected exclusions and limitations
<u>Geographical indications</u>			
Act on Protection of the Names of Specific Agricultural, Forestry and Fishery Products and Foodstuffs (Entered into force in 2015)	Geographical indication (GI): Any name of an agricultural, forestry or fishery product that is the combination of a name of the place of production and a common name of a product (e.g. Kobe Beef), whose reputation for the good quality is attributed to the name of the place of production	Registrations of GIs are effective as long as GIs meet the prescribed requirements	Registrations of GIs become invalid when associations of farmers and processors that registered GIs dissolve, or they abolish production control systems registered accompanied with GIs, by which they maintain the quality of their products
<u>New Plant Varieties</u>			
Plant Variety Protection and Seed Act (Last amended in 2015)	Any agricultural, forestry or aquatic plants meeting the following requirements: (1) the variety is clearly distinguishable from any other variety; (2) all of the plants of the variety at the same propagation stage are sufficiently similar; and (3) all of the expressions of the characteristics of the variety remain unchanged after repeated propagation	Duration of breeder's rights of plants (except perennial plants) is 25 years, while that of perennial plants is 30 years from the date of variety registrations	A variety may not be registered when the propagating material or harvested material of the variety has been transferred in Japan earlier than one year before the date of application for variety registration in the course of business A variety may not be registered if its name is identical or similar to a registered trademark of it or similar varieties A variety may not be registered if its name is identical or similar to a registered trademark of services relating to it or similar varieties.
<u>Trade Secrets</u>			
Unfair Competition Prevention Act (Last amended in 2015)	A trade secret: a production method, sales method, or any other technical or operational information useful for business activities that is controlled as a secret and is not publicly known		
Act on the Circuit Layout of Semiconductor Integrated Circuits (Last amended in 2014)	Any layout-design of circuitry elements and the lead wires connecting such elements in semiconductor integrated circuits	10 years from the date of registration	A layout-design that was exploited by a creator or another person with authorization in the course of trade more than two years prior to the application for registration cannot be registered Any act of transferring, leasing or displaying semiconductor integrated circuits in the course of trade by a person who was unaware, without any fault, that it was manufactured imitating a registered layout-design is not deemed to be a conduct of infringement of the creator's right

Source: WTO document WT/TPR/S/211, 20 February 2009, and information provided by the authorities of Japan.

3.177. The institutional framework remained broadly unchanged. The 2002 Basic Law on Intellectual Property (the Basic Law) sets the roles of the institutions involved in Japan's IP regime. The Intellectual Property Strategy Headquarters (the Headquarters) which was established

in the Cabinet Secretariat in March 2003 is in charge of, *inter alia*, coordinating the work of various governmental authorities responsible for the administration and enforcement of IPRs (Chart 3.4).

Chart 3.4 Structure of IPR administration and enforcement



Source: Information provided by the authorities of Japan.

3.178. The Basic Law also serves as the legal basis for Japan's strategic IP policy. It provides a mandate to the State to take measures to: promote R&D activities in the high value-added areas; promote the transfer of technology from universities to business sectors; improve IP acquisition procedures and legal proceedings to support business activities; strengthen IP enforcement; establish harmonized international IP systems; provide effective and appropriate protection for innovation in new technological areas; research and analyse domestic and international trends of IP protection; and promote IP education and develop IP human resources.

3.3.10.2 Patents

3.179. During the review period, Japan's patent regime was revised through different provisions of the Act on the Partial Revision of the Patent Act and Other Acts. Under the Act, an invention by an employee belongs to its employer, when the right becomes effective, if any provision in any agreement, employment regulation or any other contract stipulates in advance that the right to obtain a patent for any invention made by the employee will be vested in the employer. The employee has the right to receive "reasonable remuneration or other economic profits", and the METI has defined guidelines for procedures to determine the details of "reasonable remuneration or other economic profits".

3.180. According to the authorities, Japan has been considering measures necessary to implement the TPP Agreement. Specifically, it has been considering the possibility of i) extending the 6-month period of exception to lack of novelty of inventions to 1 year, for inventions that lost novelty by publication at an applicant's will prior to filing an application; ii) introducing a system allowing the extension of the term of a patent right in cases where the establishment of the patent right is registered after 5 years from the filing date of an application, or 3 years from the filing date of a request for examination, whichever is later.

3.181. The process to follow for patent application and registration, under the Patent Act, has not changed since the previous review. The Japan Patent Office (JPO) receives applications from domestic and international applicants on the basis of the Paris Convention or the Patent Cooperation Treaty (PCT). It has issued guidelines on the practices and procedures to be followed in examining and processing patent applications and registrations.¹²⁴

3.182. In 2013, the JPO achieved its goal of shortening the period from filing a request for examination to issuing a first action (FA pendency) to 11 months or less. According to the authorities, the JPO is in the process of moving toward its next decade goal, which is further shortening "total pendency" and "FA pendency" to 14 months or less on average and 10 months or less on average, respectively.

3.183. Although the numbers of patent applications by filing year have been gradually decreasing over recent years, the number of patent registrations and requests for examination by filing year has remained almost unchanged over the past several years, and therefore, the patent registration rate (the ratio of the number of patent registrations to the number of patent applications) tends to be increasing. According to the authorities, this shows that applicants have become more strictly selective in filing applications, further indicating that companies' IP strategies have been shifting from quantity to quality. In addition, the number of patent applications filed with the JPO by foreign applicants slightly decreased to 59,882 in 2015, compared with 60,030 in 2014 (Table 3.32). In 2015, applications by foreigners were dominated by the United States, the European Union, the Republic of Korea, and China.¹²⁵

Table 3.32 Patent applications and patents granted, 2007-15

	2007	2008	2009	2010	2011	2012	2013	2014	2015
Patent applications to JPO by origin									
Japan	333,498	330,110	295,315	290,081	287,580	287,013	271,731	265,959	258,839
Other	62,793	60,892	53,281	54,517	55,030	55,783	56,705	60,030	59,882
Patent applications originating from Japan to all patent offices									
Total applications of Japanese origin	507,508	509,093	2,666	467,249	475,051	48,760	470,615	464,274	..
Patents granted by JPO by origin									
Japan	145,040	151,765	164,459	187,237	197,594	224,917	225,571	177,750	146,749
Other	19,914	25,185	28,890	35,456	40,729	49,874	51,508	49,392	42,609

.. Not available.

Source: Information provided by the authorities of Japan.

3.184. Parallel imports are allowed in Japan in accordance with the principle of "international exhaustion". Compulsory licences may be granted after at least three consecutive years if a patent is not worked, if it is thought to be necessary for the public welfare, or if the patent is needed to be worked for another patent and its owner is unwilling to allow its use. However, as of August 2016, Japan has never granted any compulsory licences.¹²⁶

3.3.10.3 Utility models (UMs)

3.185. Under the responsibility of the JPO, the registration system for UMs is nearly the same as for patents, with the exception of examination of novelty and inventive step. The number of UM applications continued to decrease until 2013, following a long-term trend which began in 2005, when a new system was adopted to make the regime more attractive (Table 3.33).

¹²⁴ JPO online information. Viewed at: http://www.jpo.go.jp/tetuzuki_e/t_tokkyo_e/1312-002_e.htm.

¹²⁵ Online information. Viewed at: http://www.jpo.go.jp/shiryoku/toushin/nenji/nenpou2016_index.htm.

¹²⁶ Online information. Viewed at: <http://www.wipo.int/scp/en/exceptions/replies/japan.html>.

Table 3.33 Utility model applications and registrations, 2007-15

	2007	2008	2009	2010	2011	2012	2013	2014	2015
UM applications to JPO by origin									
Japan	8,399	7,717	7,799	6,889	6,305	6,292	5,965	5,429	5,213
Other	1,916	1,735	1,708	1,790	1,679	1,820	1,657	1,666	1,647
UM registrations granted by JPO by origin									
Japan	8,160	7,187	7,361	6,756	5,998	6,221	5,738	5,322	5,098
Other	1,920	1,730	1,658	1,816	1,597	1,833	1,625	1,695	1,597

Source: Information provided by the authorities of Japan.

3.3.10.4 Designs

3.186. In May 2015, Japan acceded to the Geneva Act of the Hague Agreement Concerning the International Registration of Industrial Designs. Under the Act, by filing a single international application directly or via the JPO to the International Bureau of the WIPO, an applicant can in effect simultaneously file in multiple contracting parties. The new system will result in cost saving for applicants, compared to filing multiple separate applications in different jurisdictions.

3.187. The number of design applications has fluctuated in recent years, with a downward trend since 2005 (Table 3.34). Although the lacklustre economic context may have played a role, the JPO has also pointed out the fact that more applications are being filed with foreign offices in line with Japanese companies expanding their business operations overseas.

Table 3.34 Design applications and registrations, 2007-15

	2007	2008	2009	2010	2011	2012	2013	2014	2015
Design applications to JPO by origin									
Japan	32,202	29,621	27,674	28,083	26,658	27,934	26,407	24,868	24,804
Other	4,342	3,948	3,201	3,673	4,147	4,457	4,718	4,870	5,099
Design registrations granted by JPO by origin									
Japan	25,228	25,986	25,819	24,458	23,042	24,610	24,272	23,092	21,950
Other	3,061	3,396	2,993	2,980	3,232	3,739	4,016	4,214	4,347

Source: Information provided by the authorities of Japan.

3.3.10.5 Trademarks

3.188. The procedure for registration of trademarks did not change during the review period. Applications are filed with the JPO for registration. Protection under the Trademark Act is only available for registered trademarks. A decision resulting from an examination is recorded in the trademark register if annual registration fees are paid six months before the expiration of the term.

3.189. In Japan, trademarks may include characters, figures, symbols, three-dimensional shapes and a combination thereof. Since April 2015, motion marks, hologram marks, colour *per se* marks, sound marks, and position marks can be registered as trademarks.¹²⁷

3.190. The number of trademark applications increased from 124,442 in 2014 to 147,283 in 2015 (Table 3.35).

Table 3.35 Trademark applications and registrations, 2007-15

	2007	2008	2009	2010	2011	2012	2013	2014	2015
Trademark applications by origin									
Japan	118,155	95,674	90,474	92,163	84,673	95,548	92,495	100,053	117,960
Other	25,066	23,511	20,367	21,356	23,387	23,462	25,179	24,389	29,323
Trademark registrations by origin									
Japan	79,836	82,469	88,449	79,338	70,800	77,129	82,736	79,562	75,965
Other	16,695	17,774	20,268	18,442	18,479	19,231	20,663	20,334	22,120

Source: Information provided by the authorities of Japan.

¹²⁷ In 2014, Japan's Trademark Act was revised to expand the scope of protection by adding non-traditional trademarks such as "colour" and "sound". The Amendment came into force in 2015.

3.3.10.6 Geographical indications

3.191. The new law for protecting geographical indications (Act on Protection of the Names of Specific Agricultural, Forestry and Fishery Products and Foodstuffs) was prepared by the Ministry of Agriculture, Forestry and Fisheries, and came into force in June 2015. It applies only to geographical indications of foods, beverages, and agricultural and marine products.

3.192. Under the new system, in order to protect a geographical indication, a producers group may file an application, which includes product specification of the geographical indication and quality control plan, to the Ministry of Agriculture, Forestry and Fisheries. The Minister of Agriculture, Forestry and Fisheries must make a public notice of the application for three months for possible opposition.

3.193. The GI name must be linked with the location where the product is produced and a given quality, reputation or other characteristic of the product must be essentially attributable to its geographical origin. It also requires that a product be continuously produced throughout a certain period of time in a particular region.

3.194. As of October 2016, 21 products were registered under the new law (Table 3.36).

Table 3.36 Information on registered GIs

Registration No.	Name	Category of products	Date
1	<i>Aomori Cassis</i>	Class 3: Fruit (Blackcurrant)	22/12/2015
2	<i>Tajima Gyu/Tajima Beef</i>	Class 6: Fresh meat (Beef)	22/12/2015
3	<i>Kobe Beef</i>	Class 6: Fresh meat (Beef)	22/12/2015
4	<i>Yubari Melon</i>	Class 2: Vegetables (Melon)	22/12/2015
5	Traditional Authentic YAME GYOKURO <i>Yame Dentou</i> <i>Hongyokuro</i>	Class 32: Drinks and other products except for alcoholic beverages (Tea Leaves)	22/12/2015
6	<i>Edosaki Kabocha</i>	Class 2: Vegetables (Squash)	22/12/2015
7	<i>Kagoshima no Tsubozukuri Kurozu</i>	Class 27: Seasonings and soups (Black Vinegar)	22/12/2015
8	Kumamoto Rush <i>Kumamoto kensen Igusa</i>	Class 4: Other agriculture products (include industrial crops) (Rush)	2/2/2016
9	Kumamoto Rush Mats <i>Kumamoto kensen Igusa Tatami omote</i>	Class 41: Tatami facings (Rush Tatami Facing)	2/2/2016
10	Iyo Raw Silk <i>Iyo Kiito</i>	Class 42: Raw silk (Raw Silk of Domesticated Silkworms)	2/2/2016
11	<i>Tottori Sakyu Rakkyou/Fukube Sakyu Rakkyou</i>	Class 2: Vegetables (Raw Shallots)	10/3/2016
12	<i>Miwa Somen</i>	Class 15: Cereal preparations (Uncooked Somen Noodles)	29/3/2016
13	ICHIDA GAKI <i>Ichida Gaki</i>	Class 18: Processed fruits (Dried Japanese Persimmon)	12/7/2016
14	<i>Yoshikawa Nasu</i>	Class 2: Vegetables (Eggplant)	12/7/2016
15	<i>Yatabe Negi</i>	Class 2: Vegetables (Welsh Onion)	7/9/2016
16	<i>Yamauchi Kabura</i>	Class 2: Vegetables (Turnip)	7/9/2016
17	<i>Kaga Maruimo</i>	Class 2: Vegetables (Japanese yam)	7/9/2016
18	<i>Mishima Bareisho</i>	Class 2: Vegetables (Potato)	12/10/2016
19	<i>Shimonoseki Fuku</i>	Class 10: Fishes (Puffer fishes and filefishes)	12/10/2016
20	<i>Noto-Shika Korogaki</i>	Class 18: Processed fruits (Dried Japanese Persimmon)	12/10/2016
21	<i>Tokachi Kawanishi Nagaimo</i>	Class 2: Vegetables (Japanese yam)	12/10/2016

Note: Names in italics are provided for reference.

Source: Information provided by the authorities of Japan.

3.195. Prior to the enactment of this law, Japan had no system to directly protect geographical indications of foodstuffs and agricultural, forestry and fishery products. Although, since 2006, the "Regional Collective Trademark System" has granted protection to a combined trademark composed of a place name and a product or service name, as long as it meets several requirements under the current trademark law. There are several differences between the new system of GI protection and the Collective Trademark System (Table 3.37).

Table 3.37 Major distinctions between MAFF's GI system and the JPO's Collective Trademark System

	MAFF's GI system	JPO's Collective Trademark System
Applicant	Producer groups, processor groups or local branding associations Formal legal status is not required	Cooperative associations, NPOs or commerce and industry associations
Name	A product name with a place name, or without a place name if consumers generally understand the product to be tied to a particular region	Pairing a place name and product name is required
Familiarity	n.a.	A name must be well-known as a trademark among consumers
Quality standard	A quality standard must be established and announced officially	n.a.
Quality control	A registered producer group must practice quality control based on quality control plan	n.a.
Enforcing entity (against unauthorized use, etc.)	MAFF	Proprietor of the trademark
Production history	Must be "traditional" (approximately 25 years)	n.a.
Length of protection	Indefinite	10 years (renewable)

n.a. Not applicable.

Source: USDA Foreign Agricultural Service, *Japan to implement GI system on 1 June 2015*; and information provided by the authorities of Japan.

3.196. Registration of GIs for alcoholic beverages is under the responsibility of the Commissioner of the National Tax Agency. The Agency designates GIs in accordance with the Indicating Standards Concerning Geographical Indications for Liquor under the Act Concerning Liquor Business Associations and Measures for Securing Revenue from Liquor Tax. Table 3.38 provides the list of current GIs for alcoholic beverages in Japan.

Table 3.38 List of GIs for alcoholic beverages designated by the Commissioner of the National Tax Agency

Name	Geographical scope of origin of the product	Wine/Spirits/Sake
<i>Yamanashi</i>	Yamanashi Prefecture	Wine
<i>Iki</i>	Iki-city, Nagasaki Prefecture	Spirits
<i>Kuma</i>	Kuma-gun, Hitoyoshi-city Kumamoto Prefecture,	Spirits
<i>Ryukyu</i>	Okinawa Prefecture	Spirits
<i>Satsuma</i>	Kagoshima Prefecture (except Amami-city and Ooshima-gun)	Spirits
<i>Hakusan</i>	Hakusan-city, Ishikawa Prefecture	Sake
<i>Nihonshu/Japanese sake</i>	Japan	Sake

Source: Information provided by the authorities of Japan.

3.3.10.7 Copyright

3.197. The 2012 amendment of the Copyright Law, which imposes criminal penalties for illegally downloading copyrighted materials, entered into force in 2013.

3.198. Various amendments were made to the Copyright Law in 2014. These include the amendment to implement the Beijing Treaty on Audiovisual Performances. In addition, revisions were made to the Act to clarify that not only books published on paper but also electronic books are covered by the right of publication. These amendments entered into force in 2015.

Registrations are not required to obtain copyright in Japan. Therefore, no accurate data is available on the number of copyrights created in Japan.

3.199. The Agency for Cultural Affairs, a government office, is responsible for copyright registration, except for computer programs, whose registration is conducted by the Software Information Center.

3.3.10.8 Enforcement

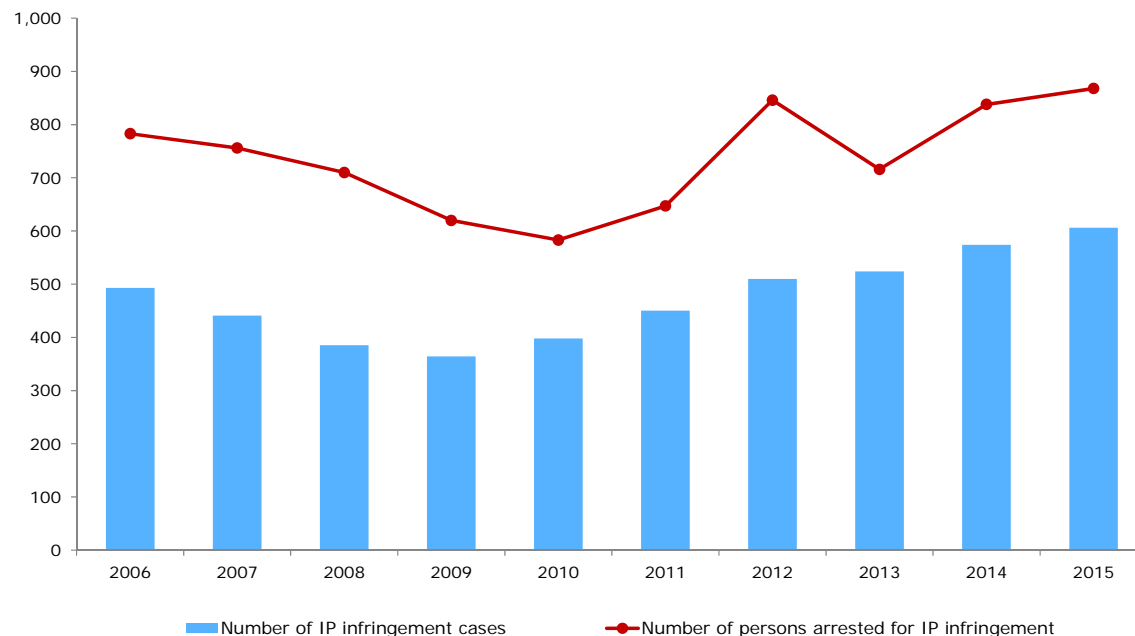
3.200. Japan has notified its checklist of issues on enforcement of intellectual property rights since 1997.¹²⁸

3.201. District courts have jurisdiction over IPR infringements at first instance. Regarding patent-related cases, Osaka District Court and Tokyo District Court have exclusive power at first instance. As the court of second instance, the Intellectual Property High Court reviews decisions made by district courts; and the Supreme Court is the jurisdiction of final instance.

3.202. Under the METI, the Office for Intellectual Property Right Protection is in charge of providing consultation services to industries that face IP infringement abroad. According to its 2016 annual report, the office has received 10,544 consultations and requests for information from various industries since its establishment in 2004. The requests concerned mainly trademark infringement in China.

3.203. The number of IPR infringement cases handled by domestic courts has remained on an upward trend since 2009. Over 600 cases were dealt with by enforcement institutions in 2015, in which over 800 individuals were arrested (Chart 3.5). Efforts to combat counterfeiting and piracy also included confiscation of IPR-infringing goods. However, according to the National Police Agency online information the number of confiscated goods decreased dramatically from 429,934 in 2014 to 175,488 in 2015 (Table 3.39).

Chart 3.5 IP cases handled by courts, 2006-15



Source: The National Police Agency online information (in Japanese). Viewed at: <http://www.npa.go.jp/safetylife/seikeikan/niseburando.pdf>.

¹²⁸ WTO document IP/N/6/JPN/1, 18 February 1997.

Table 3.39 Statistics on confiscated goods, 2013-15

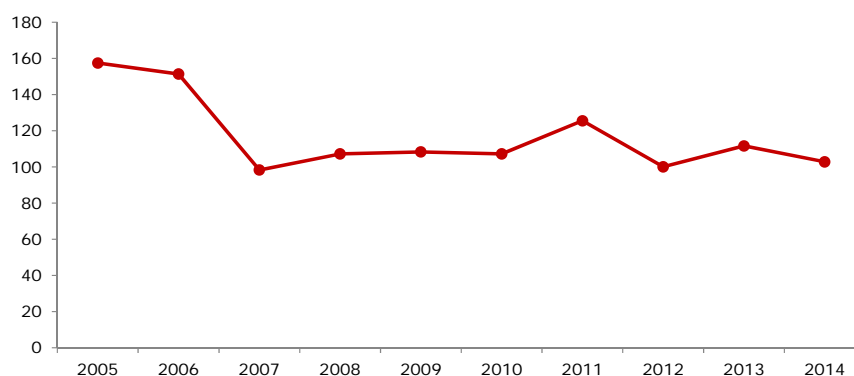
Type	2013	2014	2015
Fake brand-name products	104,776	118,464	84,411
Videos/DVDs	576,075	290,659	82,770
Computer software	3,278	1,592	448
Music CDs/Music tapes	5,837	16,127	181
Products featuring characters	13,482	3,092	7,678
Total	703,448	429,934	175,488

Source: The National Police Agency online information (in Japanese). Viewed at: <http://www.npa.go.jp/safetylife/seikeikan/niseburando.pdf>.

3.204. Counterfeiting and piracy continue to cause noticeable economic losses to Japanese companies. Although the amount of damages has been on a declining trend since 2006, it remains high, as it stood at above ¥100 billion in 2014 (Chart 3.6).

Chart 3.6 Amount of damages, 2005-14

(¥ billion)



Source: JPO's survey report.

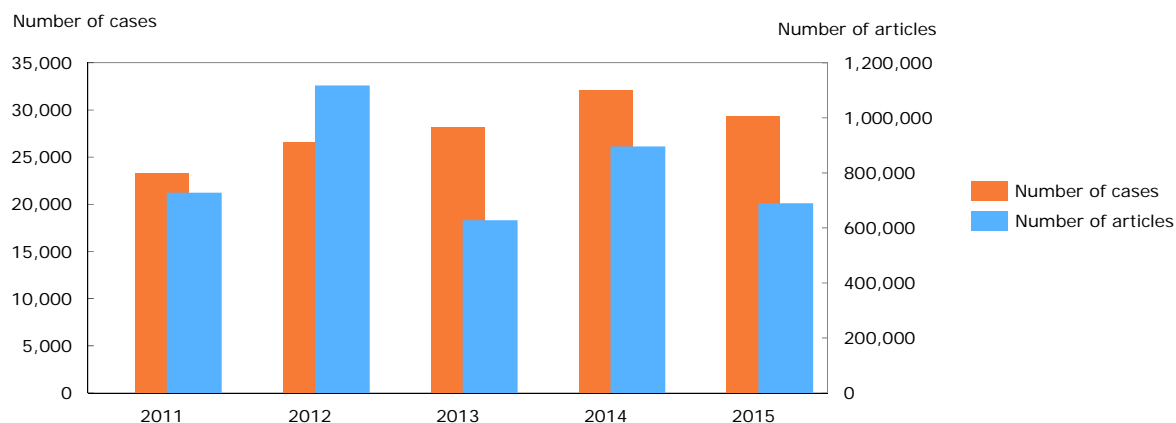
3.205. Every fiscal year since 1996, the JPO conducts a survey on the conditions of Japanese enterprises that suffer actual losses caused by counterfeiting. The exercise supplies data to guide anti-counterfeit and anti-piracy measures by policymakers and companies, as well as to raise consumer awareness regarding IPRs infringements.

3.206. In its 2015 Survey Report on Losses Caused by Counterfeiting, the JPO indicated that of the 896 companies that were surveyed, 21.9% suffered losses due to counterfeiting.

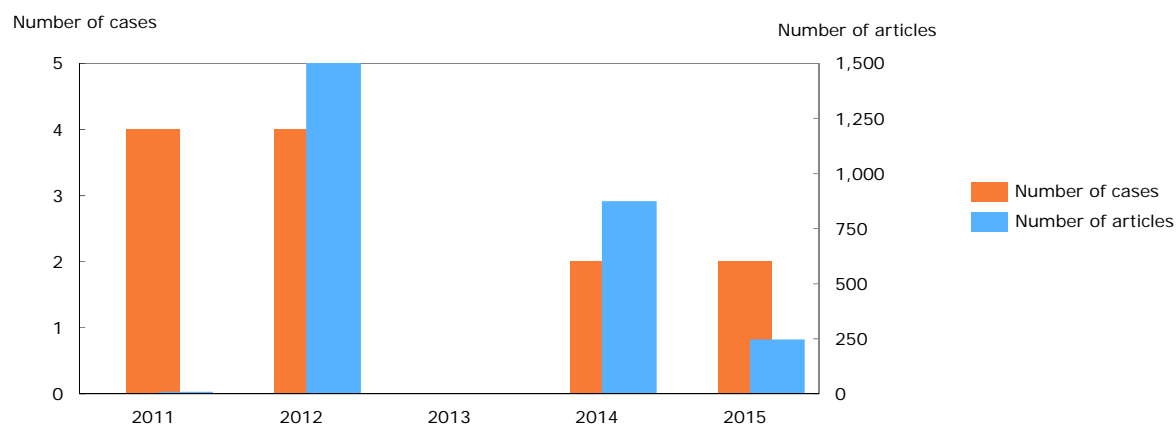
3.207. Japan Customs is responsible for border enforcement on importation, exportation and transit of infringing goods. Right holders may lodge an application with customs to suspend the release of goods suspected of infringing IPRs. Both right holders and importers are provided with opportunities to submit their opinions and evidence to customs within 10 working days (3 working days for perishable items) of the day following the date of the letter of notification.

3.208. The scope of enforcement by customs covers: trademarks, copyright and related rights, patents, industrial designs, utility models and plant breeders' rights, as well as on the grounds of violation of unfair competition law. Although the majority of suspension cases are brought by right holders, Japan Customs is empowered to act *ex officio* when there is *prima facie* evidence of infringement. In such cases, the customs official is responsible for determining whether there is such an infringement.

3.209. In general, customs authorities confiscate goods identified as infringing IPRs. The number of enforcement cases in relation to imports remained on an upward trend from 2011 to 2014, when the number of cases hit a record of 32,060, before dropping to 29,274 in 2015 (Chart 3.7). Seizures of exports remain marginal, due to strict domestic enforcement; there were no cases handled in relation to exports in 2013 (Chart 3.8).

Chart 3.7 Import seizures, 2011-15

Source: Japan Customs, *2015 Seizure Statistics of IPR Border Enforcement*.

Chart 3.8 Export seizure, 2011-15

Source: Japan Customs, *2015 Seizure Statistics of IPR Border Enforcement*.

3.3.10.9 International cooperation and harmonization

3.210. Japan is a signatory to several bilateral and multilateral frameworks on IP issues. It has signed the main international treaties and agreements, including some of those administered by the World Intellectual Property Organization (WIPO).¹²⁹ Most of Japan's RTAs have an IP section, the main purpose of which is to secure adequate, effective, non-discriminatory, and transparent IP protection and enforcement in trade.

3.211. During the review period, Japan continued to expand its participation in international IP frameworks. In September 2014, the Locarno Agreement Establishing an International Classification for Industrial Designs came into force in Japan, and in May 2015, the Geneva Act of the Hague Agreement Concerning the International Registration of Industrial Designs came into force. The Patent Law Treaty (PLT) and the Singapore Treaty on the Law of Trademarks (STLT) came into force on 11 June 2016 in Japan.

3.3.10.10 The 2015 IP strategic programmes

3.212. Pursuant to the objectives and mandates set out in the Basic Law, the Headquarters issues IP strategic programmes on an annual basis. Since its inception in 2003, the programmes have led to a number of achievements, including new legislation, and revisions of existing legislation (patent law, copyright law, etc.), IP infrastructure, and institutions. The main improvements include the establishment of the Intellectual Property High Court in April 2005, the establishment

¹²⁹ Since it joined WIPO in 1975, Japan has acceded to 15 international intellectual property treaties administered by WIPO; it is currently a member of seven committees.

of technology licence offices at universities, the restructuring of education systems for IP professional training, and an increase in the number of patent examiners and patent attorneys, the review of employee invention provisions, and the strengthening of trade secret protection.

3.213. The 2015 Strategic Programme identifies, *inter alia*, three pillars to develop high technology in Japan and enrich the IP culture among businesses: (i) promotion of local utilization of intellectual property; (ii) activation of the intellectual property dispute resolution system; and (iii) overseas expansion of content (such as manga, animation, and dramas) and their peripheral industries.¹³⁰

3.214. Despite the vital importance of SMEs in Japan's economy, in 2014, they made up only 13% of patent applications. As a consequence, the authorities have put various mechanisms in place to promote SMEs' use of intellectual property, and enhance their collaboration with large enterprises/universities. Specific counters have also been established throughout the country to respond to SMEs' various management issues.

3.215. The IP dispute resolution system is set to undergo some significant changes under the 2015 strategic plan. These will include: enhancing the validity of rights from the time they are granted through dispute settlement; improving evidence collection procedures to reduce the burden of proof on right holders; reforming the compensation for damages to reflect the actual status of business. Specific measures are also being taken to improve SMEs full access to a fairer dispute settlement system.

3.216. Japan has a vast content industry. It includes mainly anime/manga, movies, music, games, and broadcast programmes. However its related exports remained limited.¹³¹ The strategic programme seeks to tap the potential of the industry, through various export promotion measures.

¹³⁰ For more details regarding the 2015 IP strategic programme, see at the Cabinet's online information. Viewed at: http://www.kantei.go.jp/jp/singi/titeki2/kettei/chizaikeikaku_2015gaiyou_e.pdf.

¹³¹ Japan's domestic content industry generated some ¥12,000 billion in 2013; while the value of its related exports stood at only ¥1,441.6 billion.

4 TRADE POLICIES IN SELECTED SECTORS

4.1 Agriculture

4.1. In 2014 (the most recent year for which data are available), agriculture (including forestry and fishing) contributed around 1.2% of GDP, and 4.6% of total employment (Table 4.1). 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 GDP and employment figures by economic activity, 2011-14

	2011	2012	2013	2014
Share of economic activity in current GDP, at factor cost (%)				
Agriculture, forestry, and fishing	1.2	1.2	1.2	1.2
Mining	0.1	0.1	0.1	0.1
Manufacturing	18.6	18.6	18.6	18.7
Food products and beverages	2.7	2.7	2.7	2.7
Electrical machinery, equipment and supplies	2.7	2.3	2.4	2.6
Transport equipment	2.2	2.5	2.4	2.5
Construction	5.6	5.7	6.0	6.1
Electricity, gas and water supply	1.8	1.7	1.7	2.0
Electricity supply	0.8	0.7	0.8	1.0
Gas and water supply	1.0	1.0	1.0	1.0
Services	72.7	72.8	72.4	72.0
Wholesale and retail trade	14.3	14.4	14.4	14.2
Wholesale trade	8.4	8.4	8.3	8.1
Retail trade	5.9	6.0	6.1	6.1
Finance and insurance	4.8	4.6	4.5	4.4
Real estate	12.1	12.0	11.8	11.7
Renting of dwellings	10.6	10.5	10.4	10.2
Other real estate	1.5	1.5	1.5	1.5
Transport	4.9	5.0	4.9	5.1
Information and communications	5.5	5.5	5.5	5.5
Business activities	7.0	6.9	7.1	7.1
Community and social services	6.2	6.5	6.5	6.4
Personal services	6.3	6.4	6.3	6.3
Government services	9.4	9.2	9.1	9.1
Producers of private non-profit services to households	2.3	2.4	2.3	2.3
Share of employment by economic activity (%)				
Agriculture, forestry, and fishing	4.9	4.8	4.7	4.6
Mining	0.1	0.1	0.0	0.0
Manufacturing	15.7	15.5	15.1	15.0
Food products and beverages	2.2	2.2	2.2	2.1
Electrical machinery, equipment and supplies	2.3	2.2	2.1	2.0
Machinery	2.0	2.0	2.0	1.9
Transport equipment	2.0	2.0	1.9	1.9
Construction	8.0	8.1	8.0	8.0
Electricity, gas and water supply	0.8	0.8	0.8	0.8
Services	70.6	70.8	71.5	71.6
Wholesale and retail trade	18.1	17.9	18.0	17.9
Finance and insurance	2.8	2.9	2.8	2.6
Real estate	1.7	1.7	1.6	1.6
Transport	5.5	5.4	5.4	5.3
Information and communications	2.9	2.9	2.8	3.0

	2011	2012	2013	2014
Government services	6.1	6.1	6.0	6.0
Producers of private non-profit services to households	2.6	2.7	2.8	2.8
Other services	30.8	31.2	32.1	32.4

Source: Cabinet Office online information. Viewed at: <http://www.cao.go.jp/index-e.html>.

4.2. Farms remain small, and holdings are often fragmented (Table 4.2). In 2015, there were about 2.2 million farm households, of which 1.3 million were classified as commercial farm households (defined as farms of at least 0.3 ha or with annual sales of at least ¥500,000). Commercial farm households may be classified as: either part-time or full-time; or as a business, semi-business, or side-business (Table 4.2). Even commercial farm households are usually small in size; in 2015 the average size was 2.2 ha.

Table 4.2 Farm households and average farm size, 2011-15

	Unit	2011	2012	2013	2014	2015
Farm households	'000	..	..	..	..	2,155
<i>Of which</i>						
Commercial farm households	'000	1,561	1,504	1,455	1,412	1,330
<i>Of which</i>						
Full-time	'000	439	423	415	406	443
Part-time	'000	1,122	1,081	1,040	1,006	887
Commercial farm households	'000	1,561	1,504	1,455	1,412	1,330
<i>Of which</i>						
Business farms	'000	356	344	325	304	294
Semi-business	'000	363	344	333	310	257
Side-business	'000	843	817	798	798	779
Ha cultivated land/household						
Commercial farm households	Ha	2.02	2.07	2.12	2.17	2.20
Business farm households	Ha	5.05	5.18	5.38	5.63	5.57

.. Not available.

Note: Definitions:

Farm household: operates a farm of at least 10 ares of cultivated land or with sales of agricultural products of at least ¥150,000 in the previous year.

Commercial farm household: cultivated land under management of at least 30 ares or with sales of agricultural products of at least ¥500,000 in the previous year.

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

Part-time farm household: at least one household member engaged in jobs other than farming.

Business farm household: commercial farm household where agricultural income exceeds 50% of the household income, and with at least one family member (under 65 years old) engaged in own farming for at least 60 days per year.

Semi-business farm household: commercial farm household for which non-agricultural income forms the majority of the household income, and with at least one family member (under 65 years old) engaged in own farming for at least 60 days per year.

Side-business farm household: farm household with no members (under 65 years old) engaged in own farming for more than 60 days per year.

Source: The Census of Agriculture and Forestry and Report of Survey on Movement Entities of Agricultural Structure.

4.3. Total agricultural output (the sum of the value of crops, livestock and processed 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 total output is less than that of vegetables or livestock (Table 4.3). Rice accounts for about a quarter of total agricultural output, with nearly half of commercial farm households specialized in rice production and well over half of cultivated land under rice production.

Table 4.3 Total agricultural production and production of selected products, 2011-15

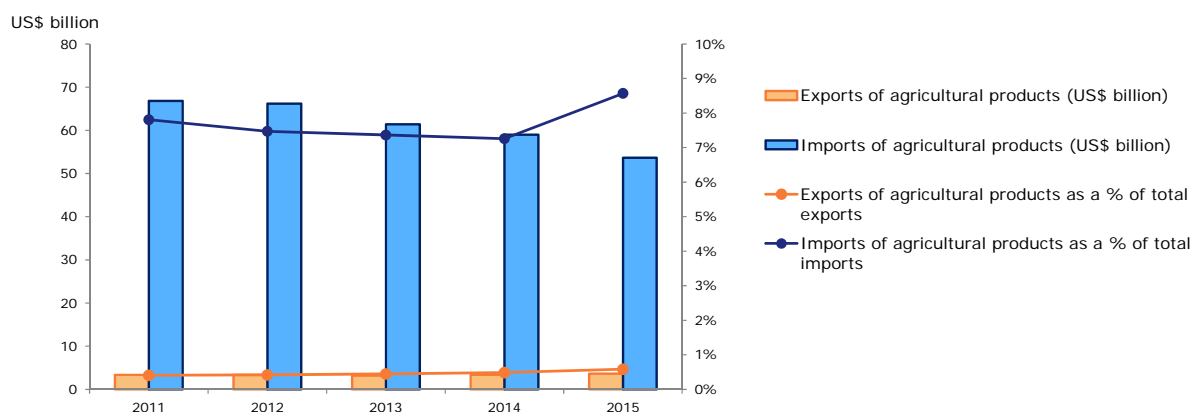
	Total agricultural output	Crops	Rice		Vegetables		Wheat		Soya beans	
	(¥ bn)		(¥ bn)	('000 tonnes)	(¥ bn)	('000 tonnes)	(¥ bn)	('000 tonnes)	(¥ bn)	('000 tonnes)
2011	8,246	5,639	1,850	8,402	2,134	13,513	..	746	..	219
2012	8,525	5,879	2,029	8,523	2,190	13,799	..	858	..	236
2013	8,467	5,703	1,781	8,607	2,253	13,551	..	812	..	200
2014	8,364	5,363	1,434	8,439	2,242	13,764	..	852	..	232
2015	..	..	..	7,989	..	..	..	1,004	..	242
	Livestock and its product	Beef cattle	Beef	Raw milk		Pigs	Pig meat	Hen eggs		
	(¥ bn)			(¥ bn)	('000 tonnes)			(¥ bn)	('000 tonnes)	(¥ bn)	('000 tonnes)
2011	2,551	463	500	658	7,474	536	1,267	451	2,483	
2012	2,588	503	519	687	7,630	537	1,297	420	2,507	
2013	2,709	519	508	682	7,508	575	1,309	464	2,522	
2014	2,945	594	502	697	7,334	633	1,264	511	2,502	
2015	..	..	481	..	7,379	..	1,254	..	2,521	

.. Not available.

Source: Statistical Year Books and data provided by the authorities of Japan.

4.1.1 Trade

4.4. Japan has a deficit in trade in agricultural goods with imports of over US\$53.7 billion and exports of US\$3.6 billion in 2015.¹ In current U.S. dollar value terms, imports have decreased over the past five years, while exports have been stable (Chart 4.1).

Chart 4.1 Trade in agriculture, 2011-15

Note: Data based on WTO agriculture definition.

Source: WTO calculations, based on UNSD Comtrade database.

4.5. Imports of agricultural products are widely spread across many different tariff lines with the top ten products representing around 40% of total agricultural imports. 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).

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

¹ For the purposes of this Section of the Trade Policy Review 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.

Table 4.4 Imports of agricultural products, 2011-15

HS2002 - Products		2011	2012	2013	2014	2015
Total	US\$ million	66,818	66,174	61,380	58,960	53,666
0203 - Meat of swine, fresh, chilled or frozen	'000 tonnes	793	779	738	829	791
	US\$ million	5,225	5,122	3,996	4,315	3,513
1005 - Maize	'000 tonnes	15,285	14,895	14,401	15,035	14,707
	US\$ million	5,355	5,127	4,750	3,862	3,236
2402 - Cigars, ... and cigarettes	'000 tonnes	90	83	80	74	75
	US\$ million	5,777	5,367	4,103	3,364	3,078
1602 - Other prepared or preserved meat, meat offal or blood	'000 tonnes	612	656	654	620	605
	US\$ million	2,855	3,126	2,960	2,824	2,629
1201 - Soya beans	'000 tonnes	2,831	2,727	2,762	2,828	3,243
	US\$ million	1,812	1,811	1,883	1,833	1,703
1001 - Wheat and meslin	'000 tonnes	6,214	5,970	6,200	5,759	5,531
	US\$ million	2,710	2,156	2,278	1,971	1,652
0901 - Coffee	'000 tonnes	423	387	464	417	442
	US\$ million	2,059	1,700	1,586	1,442	1,581
0201 - Meat of bovine animals, fresh or chilled	'000 tonnes	213	212	212	219	205
	US\$ million	1,454	1,515	1,455	1,597	1,507
2204 - Wine of fresh grapes	'000 tonnes	215	..	463	279	289
	US\$ million	1,331	1,575	1,582	1,642	1,490
0202 - Meat of bovine animals, frozen	'000 tonnes	304	302	322	299	289
	US\$ million	1,190	1,245	1,275	1,296	1,277

.. Not available.

Source: UNSD Comtrade.

Table 4.5 Exports of agricultural products, 2011-15

HS2002 - Products		2011	2012	2013	2014	2015
Total	US\$ million	3,343	3,341	3,196	3,356	3,641
2106 - Food preparations n.e.s.	'000 tonnes	22	22	22	26	29
	US\$ million	376	363	336	346	419
2103 - Sauces and preparations	'000 tonnes	70	69	74	82	92
	US\$ million	326	317	289	290	293
1905 - Bread, pastry, ... other bakers' wares	'000 tonnes	16	18	22	26	30
	US\$ million	180	208	218	252	281
2402 - Cigars, ... and cigarettes	'000 tonnes	16	14	13	10	11
	US\$ million	323	300	228	182	194
2202 - Waters with added sugar	'000 tonnes	43	..	132	72	81
	US\$ million	128	151	127	150	163
2208 - Alcohol of strength less than 80% vol.	'000 tonnes	8	..	..	13	15
	US\$ million	72	84	88	101	130
1209 - Seeds, fruit, spores, for sowing	'000 tonnes	1	1	1	1	1
	US\$ million	137	117	119	121	125
2206 - Other fermented beverages	'000 tonnes	16	..	77	18	20
	US\$ million	116	117	112	113	120

HS2002 - Products		2011	2012	2013	2014	2015
4103 - Other raw hides and skins	'000 tonnes	69	70	71	68	66
	US\$ million	113	122	125	110	74
602 - Other live plants, cuttings, and slips	'000 tonnes	..	..	..	24	..
	US\$ million	87	105	100	79	65

.. Not available.

Source: UNSD Comtrade.

4.1.2 Agricultural policies

4.1.2.1 Legal and institutional framework

4.7. 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.²

4.8. The Headquarters on Creating Dynamism through Agriculture, Forestry and Fishery Industries and Local Communities, established in 2013, is chaired by the Prime Minister and includes government Ministers. In May 2016, the Headquarters approved a strategy to increase exports of agricultural, forestry and fisheries products and food.³

4.9. Japan's agricultural policy is set out in the Food, Agriculture and Rural Areas Basic Plan which is reviewed roughly every five years. The current Plan, adopted in March 2015, sets out the objectives of doubling incomes in agriculture and rural areas over the next ten years by increasing domestic and export demand, improving value chains, reducing costs, promoting structural reform, and improving productivity.⁴ Agricultural policy continues to emphasize self-sufficiency, and the new Basic Plan sets self-sufficiency targets for FY2025 of 45% on a calorie basis and 73% on a production value basis, as well as a self-sufficiency target for feeds of 40% for FY2025.

4.10. There are many laws affecting farming generally and specific types of farming. Some of the principal laws include: (1) the Basic Law on Food, Agriculture and Rural Areas (last amended in 2015), which obliges the Government to establish a basic plan for food, agriculture, and rural areas setting out national policies and objectives; (2) the Agricultural Co-operatives Act (last amended in 2016), which provides exemptions from competition laws for agricultural co-operatives and sets out services they may provide to their members, such as supplying farm inputs, purchasing outputs, insurance, welfare, lending and savings, and educational facilities; (3) the Agricultural Land Act (last amended in 2015), 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 prefecture⁵; and the Act on Dairy and Beef Cattle Production Promotion (last amended in 2011).

4.11. 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.

4.12. Programmes to encourage production limitation apply to rice. These programmes 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

² MAFF online information. Viewed at: <http://www.maff.go.jp/j/policy/index.html> (in Japanese).

³ MAFF online information. Viewed at: <http://www.kantei.go.jp/jp/singi/nousui/pdf/nousui1.pdf> (in Japanese).

⁴ 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 (in Japanese).

⁵ The 2015 amendment relaxed conditions for a company to possess agricultural lands as follows: (1) at least one officer or important employee engages in farming, and (2) the number of voting rights possessed by non-agricultural sectors is less than half.

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, fruits, vegetables and some other products which partially or fully compensate for differences between sales and target prices or historical average prices. According to the authorities, the price stabilization policy on pork is not implemented at present. In addition, the Government subsidizes the Agricultural Insurance Scheme and provides reinsurance to local insurance funds.

4.1.2.2 Trade policies

4.13. Since Japan's previous review, there has been little change to market access measures (tariffs, the special safeguard, and tariff quotas). The relatively high tariffs have helped to maintain higher domestic than world prices.

4.14. In general, tariffs on agricultural products (WTO definition), with an average of 16.3%, are higher than tariffs on non-agricultural products, with an average of 3.6%. Furthermore, the standard deviation of 33.4 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 about 390%. In addition, 17.5% of agricultural tariff lines are non-*ad valorem* (Section 3.1.4).

4.15. Japan reserved the right to use the special agricultural safeguard (SSG) on 121 tariff lines. During the two years FY2014 and FY2015, Japan 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).

4.16. According to its most recent notification on imports under tariff quotas (for FY2014) to the WTO Committee on Agriculture, Japan has 18 tariff quotas covering 186 tariff lines at the HS 9-digit level.⁶ 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 FY2014, 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%.

4.17. The method of administering the quotas has remained unchanged since Japan's previous review. It 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.⁷

4.18. 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 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, FY2011-2015

('000 tonnes)

	2011	2012	2013	2014	2015
Rice	100	100	61	12	29
Wheat	830	1,183	1,083	684	..

.. Not available.

Source: Data provided by the authorities of Japan.

⁶ WTO document G/AG/N/JPN/210, 7 March 2016.

⁷ WTO (2015), *Trade Policy Review – Japan*.

4.19. Japan did not reserve the right to use export subsidies and has notified the WTO Committee on Agriculture that it has not used any.⁸ Export insurances from NEXI are available for agricultural products in the same way as exports of other goods.

4.20. According to the authorities, Japan makes an annual commitment of food assistance and provides funds for purchasing products. Recipient countries purchased 162,546 tonnes of rice and 99,612 tonnes of other products using these funds in FY2013.

4.21. In May 2016, MAFF developed the Strategy to Promote Agriculture, Forestry, Fisheries Products and Foods. In June 2016, the Cabinet adopted the Japan Revitalization Strategy 2016, which sets the export target for major agriculture, forestry, and fisheries products and foods at more than ¥1 trillion by 2020.⁹

4.1.2.3 Domestic support

4.22. Since its previous review, there have not been major changes to Japan's domestic support measures. Administered prices 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; according to the authorities, production in excess of limits sometimes takes place (Sections 4.1.2.3.2 and 4.1.2.3.7).

4.1.2.3.1 General support programmes

4.23. 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.

4.24. Legislation to establish a regional government-supported institution in each prefecture to promote farmland consolidation was promulgated in December 2013 and entered into force in March 2014. Under the legislation, the prefectural institutions rent farmland, improve infrastructure (if necessary), and lease the land to core farmers. They had a total budget of ¥15.4 billion in 2016. Farmers that increase farm size continue to be eligible to receive payments of up to ¥10,000 for each additional 0.1 ha, and payments of up to ¥700,000 per household are available for the purpose of leasing land to farmers.¹⁰

4.25. The Agricultural Disaster Compensation Act continues to serve as the legal basis for the Agricultural Disaster Compensation Programme that provides 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.¹¹

4.26. With a view to maintaining and demonstrating the multi-functional roles of agriculture and rural areas, the Act on Multi-Functionality of Agriculture was promulgated in June 2014 and entered into force in April 2015. The law aims to reform direct payments and establishes three programmes that aim to: (1) promote environmentally friendly farming practices and activities; (2) provide assistance to farmers in hilly and mountainous areas; and (3) maintain and enhance multi-functionality.

⁸ For examples see WTO documents G/AG/N/JPN/212, 23 May 2016; G/AG/N/JPN/201, 29 April 2015; G/AG/N/JPN/194, 25 April 2014; G/AG/N/JPN/185, 25 April 2013; G/AG/N/JPN/176, 1 May 2012; and G/AG/N/JPN/164, 3 May 2011.

⁹ The Cabinet online information. Viewed at:
http://www.kantei.go.jp/jp/singi/keizaisaisei/pdf/2016saikou_torikumi.pdf.

¹⁰ WTO (2015).

¹¹ MAFF online information (in Japanese). Viewed at:
http://www.maff.go.jp/j/keiei/hoken/saigai_hosyo/.

4.27. Under the direct payment programme for environmentally friendly farming, a total area of 74,180 ha was estimated to receive an average payment of ¥56,792 per ha in FY2015.¹²

4.28. Under the direct payment programme for farmers in hilly and mountainous areas, payment rates depend on the slope of the land and the type of production, ranging from ¥21,000 per 0.1 ha for paddy fields in high inclination areas to ¥300 per 0.1 ha for pasture. In FY2015, the scheme covered 653,815 ha and 586,656 participants, amounting to a total of ¥51,405 million.¹³

4.1.2.3.2 Rice

4.29. The Government's current policy on rice is based on the 2003 Basic Reform Policy on Rice, as amended in 2006. 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, since some land may be diverted to other uses or taken out of production entirely. A direct payment scheme has been available under the direct payments for rice programme since 2011 for farmers that participated in the production adjustment programme.¹⁴

4.30. The Government adopted a plan set out in December 2013 to phase out production quotas for rice by 2018 by way of providing detailed information, *inter alia*, on rice supply and demand so that farmers can adjust rice production without relying on government quota allocation, with the objective of giving farmers greater production flexibility. As part of reform, the direct payments for rice programme was halved (from JPY 15,000 per 0.1 ha to JPY 7,500 per 0.1 ha) on 1 April 2014 and is to be abolished in the 2018 crop year. In FY2014, support for the introduction of high yielding rice varieties was introduced to the direct payment programme. In the 2015 crop year, the Government began providing farmers with rice production targets within a certain range to encourage independent decision-making on production.

4.1.2.3.3 Other cereals, sugar beet, starch potatoes, buckwheat, and rapeseed

4.31. Under the Act on Farming Income Stabilization, core farmers producing wheat, barley, soya beans, sugar beet, and starch potatoes as well as buckwheat and rapeseed (since the 2015 crop year) are eligible for payments based on area planted in the current year and payments based on the quantity and quality of annual output (Table 4.7).¹⁵

Table 4.7 Payment rates for other cereals, sugar beet, starch potatoes, buckwheat and rapeseed, 2016

(¥ per unit)

Product	Payment rate	Per unit
Quantity-based payment		
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
Buckwheat	13,030	45 kg

¹² MAFF online information. Viewed at:

http://www.maff.go.jp/j/seisan/kankyo/kakyou_chokubarai/pdf/28_choku.pdf, and
http://www.maff.go.jp/j/seisan/kankyo/kakyou_chokubarai/pdf/h27_torikumi.pdf.

¹³ MAFF online information. Viewed at:

http://www.maff.go.jp/j/seisan/kankyo/kakyou_chokubarai/pdf/28_nihon.pdf.

¹⁴ WTO (2015).

¹⁵ 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%.

Product	Payment rate	Per unit
Rapeseed	9,640	60 kg
Area-based payment	20,000	10 are

Note: The area-based payment rate for buckwheat is ¥13,000 per 10 are.

Source: Data provided by the authorities of Japan.

4.1.2.3.4 Fruits and vegetables

4.32. The Basic Policy for Fruit Industry Promotion of 2010 was revised in 2015. The objectives of the Basic Policy include an emphasis on increasing domestic production, consumption, and processing of domestically produced fruits.¹⁶ Under the revised Policy, financial assistance is to be increased for converting production to more valuable fruits (defined as profitable fruits or highly valued varieties) and for on-farm improvements. The budget allocated to this assistance was ¥5.6 billion in FY2016. Assistance to farmers that convert their production to more valuable fruits (e.g. from less valuable oranges to more valuable peaches/oranges/mangoes) is to be raised by ¥10,000 to ¥230,000 per 10 are, while assistance to farmers that convert their production to more valuable deciduous fruit tree (e.g. apples) is to be increased to ¥170,000 per 10 are.¹⁷ Under the 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 the past six years and the average of annual market prices.

4.33. 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 for a four-year period after replanting when incomes decline while the new fruit plants mature. Between 2009 and 2014, 5,530 ha under fruit production were converted to more valuable varieties, which is equivalent to 2.2% of the total area of fruit farms.¹⁸

4.1.2.3.5 Tobacco

4.34. The state trading enterprise, Japan Tobacco, which is part-owned by the Government (Section 3.3.3) continues to be required to enter into purchase contracts with tobacco growers under the Tobacco Business Act. Since Japan's previous review, there have been no changes to the Tobacco Business Act. These contracts specify the area to be planted, the specific varieties of leaf tobacco and the prices by variety and grade. For 2017, the total area is set at 7,901 ha (down 3.6% on 2016) and grower prices are set at ¥1877.6 per kg (unchanged since 2016).¹⁹

4.35. Importers, wholesalers, and retailers of cigarettes are required to register with the Minister of Finance who must approve final retail prices. Although tobacco products are subject to excise duties, some brands, all owned by Japan Tobacco, are subject to lower rates.²⁰

4.1.2.3.6 Livestock products

4.36. 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.

4.37. Administered prices apply to pig meat, beef, and calves (Table 4.8). For calves, the Agriculture and Livestock Industries Corporation (ALIC) implements a deficiency payment system

¹⁶ MAFF online information (in Japanese). Viewed at: <http://www.maff.go.jp/j/seisan/ryutu/fruits/pdf/point.pdf>.

¹⁷ MAFF online information (in Japanese). Viewed at: <http://www.maff.go.jp/j/seisan/ryutu/fruits/attach/pdf/index-1.pdf>.

¹⁸ MAFF online information. Viewed at: <http://www.maff.go.jp/j/seisan/ryutu/fruits/pdf/20160706.pdf>.

¹⁹ Japan Tobacco Inc. online information. Viewed at: https://www.jti.co.jp/investors/library/press_releases/2016/1109_01.html.

²⁰ The reduced rate of tobacco tax applies to a limited number of brands of 3rd grade cigarettes, all owned by Japan Tobacco. MOF online information. Viewed at: http://www.mof.go.jp/tax_policy/summary/consumption/127.htm.

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. 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.

Table 4.8 Administered prices for calves, beef, and pig meat, FY2016

(¥)

Product	Guaranteed price	Target rationalization price
Japanese black calves	337,000 per calf	280,000
Japanese brown calves	307,000 per calf	257,000
Dairy breeds	133,000 per calf	90,000
Cross breeds	205,000 per calf	147,000
	Upper stabilization price	Standard stabilization price
Beef	1,155,000 per tonne	890,000
Pig meat	600,000 per tonne	445,000

Source: Data provided by the authorities of Japan.

4.38. 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 (¥189/kg in FY2016) and the average trading price, multiplied by the quantity of eggs sold.²¹

4.39. The Feed Price Stabilization Programme operates to help to ease the influence of sudden surges in compound feed prices upon farmers. Farmers pay ¥600 per tonne of compound feed into the fund operated by the compound feed industry. The fund is supplemented with the other fund founded by the Government and the compound feed industry.²²

4.1.2.3.7 Dairy

4.40. Dairy producers benefit from a number of support programmes in addition to the administered prices for dairy calves destined for beef production (Table 4.8).

4.41. The Japan Dairy Council (JDC)²³ continues to operate 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; 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 that 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.²⁴ For milk destined for cheese production producers are eligible for a subsidy of ¥15.5 per kg of milk (FY2015). Under this scheme, ¥6.67 billion was paid to dairy farmers producing liquid milk for cheese production in FY2015.²⁵

4.42. In 2014, there was a shortage of butter supply in the Japanese market; the Government decided to import 10,000 tonnes of butter in addition to 3,000 tonnes of butter under Japan's

²¹ Japan Poultry Association online information. Viewed at: <http://www.jpa.or.jp/stability/monthly.html>.

²² MAFF online information. Viewed at: http://www.maff.go.jp/j/chikusan/sinko/lin/l_siryohaigou/pdf/131224_1-minaoshi.pdf.

²³ 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>.

²⁴ JDC online information. Viewed at: <http://www.dairy.co.jp/eng/eng08.html>.

²⁵ ALIC online information. Viewed at: http://www.alic.go.jp/r-keiei/raku03_000020.html.

Current Access commitment, under which ALIC was to import 137,000 tonnes (milk equivalent basis) of dairy products including butter.²⁶

4.1.2.4 Support levels

4.1.2.4.1 WTO notifications

4.43. As at the time of the previous review, the most recent notification from Japan to the WTO Committee on Agriculture concerning domestic support covers FY2010 to FY2012. The authorities indicate that Japan is preparing for the submission of a DS1 notification for FY2013, which will probably take place in the first half of 2017.

4.1.2.4.2 OECD indicators

4.44. According to the OECD review of agricultural policies, the value of transfers to agricultural producers is measured using the producer support estimate (PSE) and associated indicators. 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."²⁷ 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.²⁸

4.45. Both the PSE and the total support estimate (TSE) decreased in 2015 (Chart 4.2). PSE accounts for 48% of gross farm receipts in 2013-15, which is almost three times the OECD average (Table 4.9).²⁹ Furthermore, measures such as high tariffs on some products have resulted in substantially higher farm prices in 2013-15, 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.

4.46. 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 they represent around 40% of gross farm receipts (which includes the value of farm production plus non-market-price support payments) in 2013-15.

4.47. 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 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.³⁰ Market price support is the main component and it, along with other transfers based on output and inputs, is

²⁶ MAFF online information (in Japanese). Viewed at: <http://www.maff.go.jp/j/chikusan/gyunyu/pdf/0304.pdf>. In Japan, butter is imported by the Agriculture and Livestock Industries Corporation (ALIC), a state trading company engaging in trade of agricultural and livestock products established by a law in 2003, as well as by private businesses. Private businesses can import butter subject to in-quota tariff rates (where tariff quota are available) and out-of-quota rates. Imports by the ALIC accounted for 95% of the total amount of imports of butter in 2015. Tariff quotas equivalent to about 580 tonnes per year were allocated for several years to a limited number of private businesses such as processed milk producers in a prefecture and a few international airline companies. MAFF online information. Viewed at: <http://www.maff.go.jp/j/chikusan/gyunyu/butter.html>.

²⁷ 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.

²⁸ OECD, *Agricultural Policy Monitoring and Evaluation 2016*, p. 11.

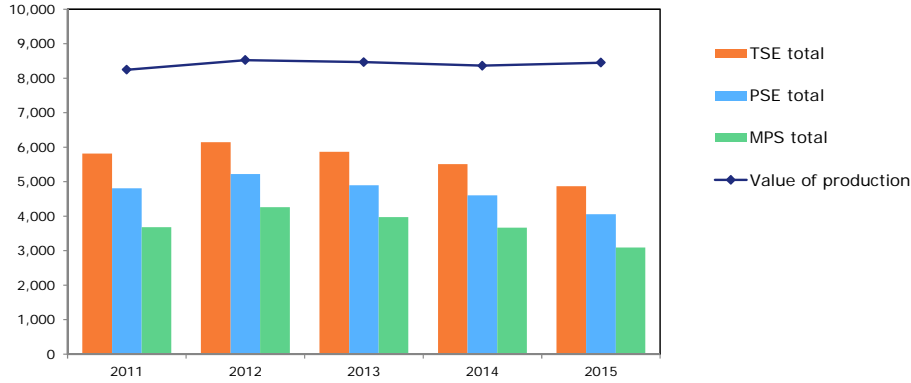
²⁹ OECD, *Agricultural Policy Monitoring and Evaluation 2016*, p. 96.

³⁰ OECD, *Agricultural Policy Monitoring and Evaluation 2016*, p. 98.

categorized by the OECD as one of the potentially most production- and trade-distorting forms of support.³¹

Chart 4.2 Value of production and support to agriculture, 2011-15

(¥ billion)



Source: OECD Producer and Consumer Support Estimates database.

Table 4.9 Total producer support estimate and single commodity transfer values for selected commodities, 2011-15

	2011	2012	2013	2014	2015
Producer support estimate					
¥ billion	4,811	5,224	4,902	4,603	4,055
% gross farm receipts	51	55	52	50	43
Single commodity transfers					
Total	4,238	4,647	4,320	3,982	3,403
Rice					
SCT (¥ billion)	1,439	1,595	1,553	1,254	853
% of gross receipts	75	78	74	70	56
Wheat					
SCT (¥ billion)	37	37	37	38	39
% of gross receipts	52	44	49	49	46
Soya beans					
SCT (¥ billion)	25	24	23	24	24
% of gross receipts	47	50	52	38	42
Milk					
SCT (¥ billion)	367	447	303	358	390
% of gross receipts	54	65	44	51	54
Beef					
SCT (¥ billion)	179	175	153	170	151
% of gross receipts	36	34	30	30	30
Pork					
SCT (¥ billion)	342	361	330	334	331
% of gross receipts	66	68	60	55	61
Poultry meat					
SCT (¥ billion)	27	28	29	32	29
% of gross receipts	10	10	10	10	10
Eggs					
SCT (¥ billion)	68	64	72	73	65
% of gross receipts	15	15	15	14	14
Selected fruits and vegetables^a					
SCT (¥ billion)	431	423	395	345	387
% of gross receipts	40	39	35	31	35

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>; and WTO Secretariat estimates based on OECD data for selected fruits and vegetables.

³¹ OECD (2014), *Agricultural Policy Monitoring and Evaluation 2014*, p.13.

4.2 Fisheries

4.2.1 Features

4.48. In 2014, the contribution of fisheries to GDP was less than 0.2% and its contribution to employment was less than 0.3%. However, it remains economically important for many coastal communities and socially and culturally for the whole country. 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 2013.³² 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.

4.2.2 Policy

4.49. 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 (at 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.³³

4.50. The main laws concerning the fisheries sector include: the Fisheries Law (last amended in 2016), the Basic Law on the Fisheries Policy of 2001 (last amended in 2014), the Fisheries Cooperative Association Law (last amended in 2016), the Law to Ensure Sustainable Aquaculture Production of 1999 (last amended in 2014), the Act on the Exercise of the Sovereign Right for Fishery, etc. in the Exclusive Economic Zone of 1996 (last amended in 2014), the Act on Preservation and Control of Living Marine Resources of 1996 (last amended in 2007), and the Act on the Protection of Fishery Resources of 1951 (last amended in 2015).³⁴ The authorities state that amendments of these laws during the review period did not involve any changes in their substance. In June 2014, the Inland Water Fishery Promotion Act entered into force. The Act aims to restore inland water fishery resources (e.g. the Japanese eel). Under the Act, enterprises engaging in eel aquaculture must obtain a permit from the Ministry of Agriculture, Forestry and Fisheries as of June 2015.

4.51. Policy for the fisheries sector is set out in the 2012 Basic Plan for Fisheries, unchanged since Japan's previous review. It sets out several 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 food safety, quality, and promotion; and the improved safety and livelihood of fishing communities.

4.52. The average applied MFN tariff 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, unchanged since Japan's previous review. 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 management organizations (RFMOs) such as the International Commission for the Conservation of Atlantic Tunas (ICCAT) and the Commission for the Conservation of Southern Bluefin Tuna (CCSBT).

- Import quotas apply to several other species, including herring, cod, mackerel, sardines, and saury. According to the authorities, these measures complement its management of

³² For the purposes of this Section of the Trade Policy Review report, fish and fisheries products are taken to include HS2002 Headings 020840, 03, 051191, 1504, 1603, 1604, 1605, and 230120.

³³ Other relevant organizations include the Fisheries Cooperative Associations and the Fisheries Research Agency (WTO, 2015).

³⁴ See WTO (2015) for the details of these laws.

coastal fisheries resources, including total allowable catches (TACs) which apply to some of these species.³⁵

4.2.2.1 Stock management

4.53. Management of resources is based on several measures, including fishing rights and permits, as well as voluntary resource management supported by the Government.

4.54. Prefectural governors may grant fishery rights for coastal fishing as well as permits for small- to medium-scale fishing based on prefectural regulations; MAFF may grant permits for large-scale off-shore and distant-water fishing as well as specified fishing methods for certain species.³⁶ In accordance with the Act on Promotion of Inland Water Fisheries enacted in June 2014, inland water aquaculture enterprises may, where necessary, become subject to permit systems to ensure sustainable use of fisheries resources. Pursuant to the Act, eel aquaculture enterprises have been subject to a permit system since June 2015 in order to manage eel resources, and an upper limit on the number of juvenile eels (glass eels) per pond was established to limit production.

4.55. TACs 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.³⁷ The authorities state that, based on a report issued in July 2014 by an ad hoc Task Force on Fisheries Resource Management, an expert meeting established by the Fisheries Agency, the TACs have been set as equivalent to the allowable biological catches as a general rule since the fishing season of 2015. 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.

4.56. Fishery organizations must prepare and implement resource-management plans in line with the guidelines developed by the central government or prefectural authorities. As at end-March 2016, 1,868 resource-management plans had been prepared.

4.57. 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.

4.2.2.2 International agreements

4.58. Japan is a member of a number of international and regional fishery organizations³⁸ 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).

³⁵ Information provided by the authorities of Japan; and JETRO (2011), pp. 1-2.

³⁶ WTO (2015).

³⁷ TACs are set for saury, Alaska pollack, horse mackerel, sardine, mackerel, Japanese common squid, and snow crab.

³⁸ 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). Japan joined the South Indian Ocean Fisheries Agreement (SIOFA) in June 2014. The Convention of the North Pacific Fisheries Commission (NPFC), which Japan joined in July 2013, became effective in July 2015.

4.3 Support for fisheries

4.59. Data issued by the OECD indicate that general services account for the most significant portion of government financial transfers (Table 4.10). The framework of Japan's support measures for fisheries has remained largely unchanged since its previous review.

Table 4.10 Government transfers to fishing, 2007-13

(¥ billion)

	2007	2008	2009	2010	2011	2012	2013
Marine capture fisheries	214.4	207.7	201.4	149.0	153.0	143.7	141.7
Decommissioning of vessels and licences	1.5	1.4	1.6	1.2	0.5	0.4	0.1
Disaster relief payments	..	..	..	..	..	..	..
Cost-reducing transfers	0.4	0.3	0.3	2.4	1.1	2.1	3.7
General services	212.6	206.0	199.5	145.3	151.4	141.1	138.0
Aquaculture	1.4	1.3	1.1	0.9	0.9	0.7	0.7
Cost-reducing transfers	..	..	..	0.2	0.1	0.1	0.1
General services	1.4	1.3	1.1	0.8	0.9	0.6	0.6
Marketing and processing	2.0	2.2	3.0	1.6	0.6	0.5	1.1
General services	2.0	2.2	3.0	1.6	0.6	0.5	1.1
Total	217.9	211.3	205.5	151.5	154.6	144.8	143.5

.. Not available.

Source: OECD (2015), *OECD Review of Fisheries: Country Statistics 2015*, OECD Publishing. Viewed at: http://www.oecd-ilibrary.org/agriculture-and-food/oecd-review-of-fisheries-country-statistics_rev_fish_stat.

4.4 Mining and Energy

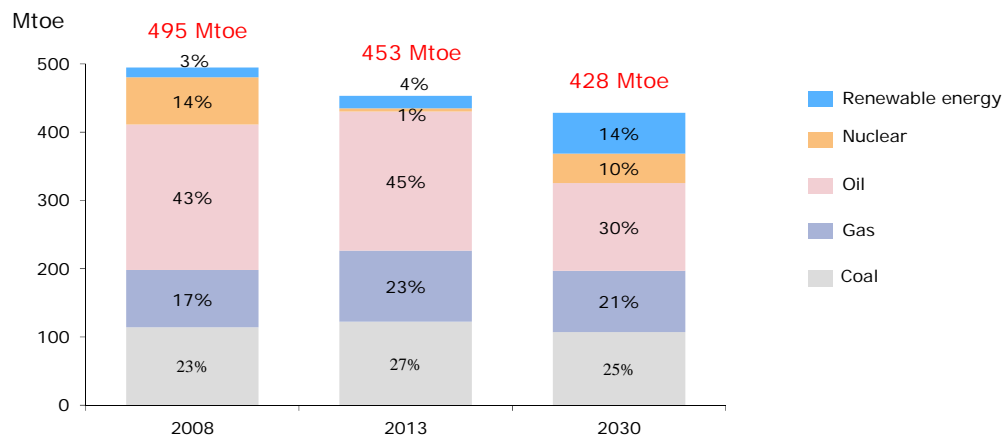
4.4.1 Mining

4.60. Mining accounts for a very small share of Japan's economy: 0.1% of GDP and 0.0% of employment in 2014.

4.4.2 Primary energy

4.61. Chart 4.3 describes the composition of primary energy supply in Japan for 2008 and 2013 as well as the targets set by the new (2014-15) Japan energy policy for 2030 (see below for a more detailed description of this policy). The share of nuclear energy in Japan's primary energy supply has crumbled from 14% to 1% from 2008 to 2013 following the closure of nuclear power plants after the Fukushima accident in 2011. This has been compensated by an increase of the share of oil, coal and gas. The total energy consumption declined during the same period partly due to the increase in energy efficiency and partly because of the post financial crisis recession.

Chart 4.3 Primary energy supply in Japan



Source: International Energy Agency online information. Viewed at: <https://www.iea.org/countries/membercountries/japan/energyoverview>.

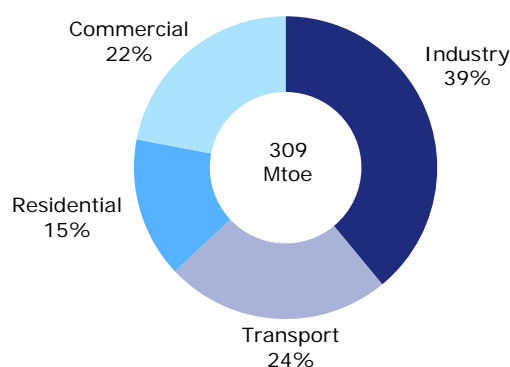
4.62. As illustrated by Table 4.11 and Chart 4.4, Japan is highly dependent on imports for all its fossil fuels; this has a bearing on its long-term strategy on energy mix. This strategy is detailed in the 4th Strategic Energy Plan of Japan³⁹, published in April 2014 under the framework of the Basic Law on Energy Policy of 2002 (Act No. 71), the first such plan after the Fukushima accident and the Great East Japan Earthquake in 2011. It establishes four basic principles, known as the 3E+S, namely stable supply (energy security), cost reduction (economic efficiency), environment, and safety. Its aim is to build a multi-layered and diversified flexible energy demand/supply structure. It was complemented in July 2015 by another document issued by the Government, the Long-Term Energy Supply and Demand Outlook.⁴⁰ Table 4.11 is based on the total primary energy supply targets/forecasts for 2030 established by this document: a market share of 10-11% for nuclear energy, slightly inferior to that prior to the nuclear accident; a slight decline of coal and gas; a considerable decrease of oil (from 45% to 30%); and a considerable increase of renewable energies (from 2% to 13 to 14%). In absolute terms and based on a hypothesis of yearly growth of 1.7%, the total primary energy supply is expected to decrease slightly. On the demand side the relative share of electricity versus primary energies is expected to increase slightly from 25% to 28.5%, while the total demand for energy is projected to decrease by about 10%.

Table 4.11 Japan's fossil fuel production and imports, 2013

Fossil fuel production and import dependency		Main imports
Crude oil production	0.2 Mt	
Crude oil net imports	170.2 Mt	Saudi Arabia (33%), Emirates (24%), Qatar (8%)
Oil products production	171.4 Mt	
Oil products net imports	180.1 Mt	Korea (16%), United States (13%), Qatar (11%)
Gas production	3.3 bcm	
Gas net imports	119.9 bcm	Australia (21%), Qatar (18%), Malaysia (17%)
Coal production	0.0 Mt	
Coal net imports	195.6 Mt	Australia (67%), Indonesia (17%), Russian Federation (7%)
Energy self sufficiency	6%	

Source: International Energy Agency online information. Viewed at: <https://www.iea.org/countries/membercountries/japan/energyoverview>.

Chart 4.4 Final energy consumption by sector, 2012



Source: International Energy Agency online information. Viewed at: <https://www.iea.org/countries/membercountries/japan/energyoverview>.

4.63. Importation, refining and distribution of oil products are activities fully privatized and opened to foreign capital. The number of filling station and refineries is declining over time. There is no maritime pipeline linking Japan to its neighbours; all oil (and gas) is entirely imported by sea.

4.64. The use of natural gas has significantly increased since 2011 (post-Fukushima) as its share in power generation increased from 27% in 2008 to 41% in 2012. Most of this gas is imported as LNG. The majority of natural gas is imported by seven electricity companies for power generation (65% of the total imports in 2011) while city gas companies import the remainder with one third

³⁹ METI online information. Viewed at: http://www.enecho.meti.go.jp/en/category/others/basic_plan/pdf/4th_strategic_energy_plan.pdf.

⁴⁰ METI online information. Viewed at: http://www.meti.go.jp/english/press/2015/pdf/0716_01a.pdf.

of their sales to individual consumers and more than half to the industry. The city gas industry is fragmented into many vertically integrated regional companies, the four largest having nevertheless a combined market share of 71%. The pipeline network for gas is domestic and essentially composed of low pressure grids for local distribution. There is no single operator of the national transmission system since most pipelines are not interconnected. Each industry (mainly electric utilities and city gas companies) owns and operates its gas pipeline. Third party access to trunk pipelines and distribution networks was introduced in 2004 and is to be negotiated individually by the parties concerned.

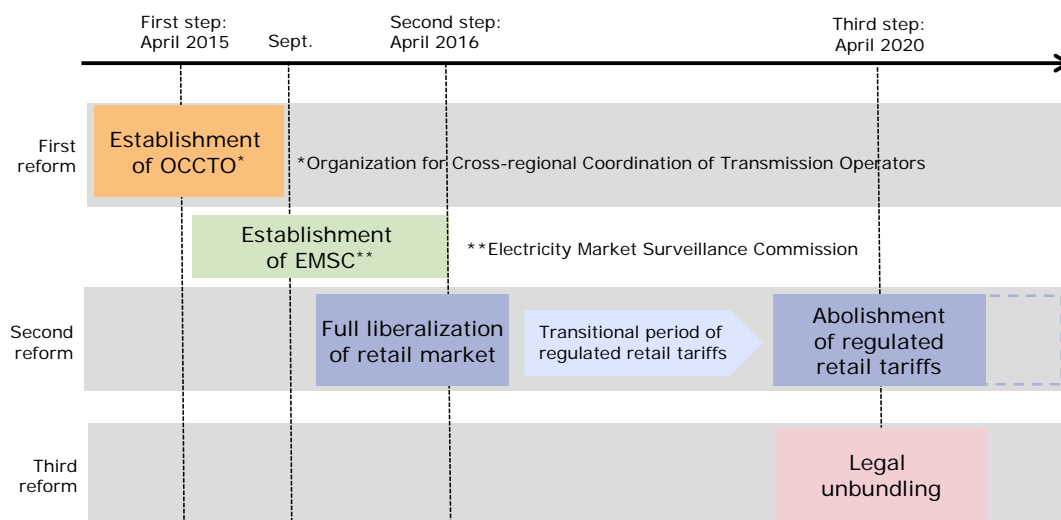
4.65. Japan has 31 LNG terminals and plans to build more of them. Those terminals are owned and operated by electricity utilities and city gas companies as well as other entities such as steel companies and local governments.

4.66. Under the provisions of the Foreign Exchange and Foreign Trade Act, foreign entities wishing to invest in electric and gas utilities must notify their intention to the competent authorities, including the METI. The authorities state that permission may be denied on grounds of, *inter alia*, public order.⁴¹

4.4.3 Electricity

4.67. Since its previous review, Japan has continued the liberalization process of the electricity market undertaken since the nineties in accordance with the schedule (Chart 4.5).

Chart 4.5 Electricity market reform roadmap



Source: METI online information.

4.68. On the institutional side, two new bodies were established during the review period. The Organization for Cross-regional Coordination of Transmission Operators (OCCTO) was established in April 2015, under the 2013 amendment to the Electricity Business Act. OCCTO replaces a previous body, the Electric Power System Council of Japan (ESCJ), which was dissolved in March 2015. Its main function is to facilitate power interchanges between regions so as to balance regional surpluses and deficits in electric supplies. OCCTO's has the power to prescribe to utilities to increase power generation and interchanges when needed, to review utilities' power supply and demand plans and to construct transmission lines between regions in response to an increase in demand, construction that will be paid for by the power generation companies. OCCTO is supervised by the Agency for Natural Resources and Energy of the METI.

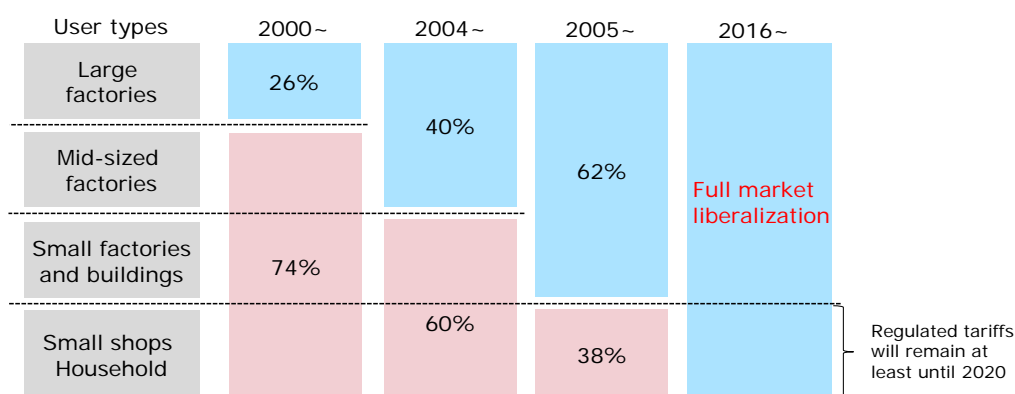
⁴¹ The Minister of Finance and the minister in charge of the industry involved may order the suspension of a proposed investment if they consider it may "endanger national security, disturb the maintenance of public order, or hamper the protection of public safety", or "adversely and seriously affect the smooth management of the Japanese economy". They may also recommend that the parties concerned alter their investment plans.

4.69. The volume traded on the Japan Electric Power Exchange (JEPX) is approximately 80,000 GWh monthly i.e. about 2% of total electricity sales. This volume has gradually increased (from less than 1%) since the major electric power companies started so-called "voluntary actions" in 2013. These actions include selling surplus electricity to the day-ahead and intraday markets in JEPX.

4.70. An Electricity Market Surveillance Commission was established in September 2015, under the 2013 amendment to the Electricity Business Act. It is composed of five experts designated by the METI and has the authority to monitor the market and, in particular, the fairness of electricity trading and the neutrality of the network, and to make recommendations to the ministry in charge, i.e. the METI. It also monitors the transactions in JEPX, including whether the incumbents are implementing what they pledged in the "voluntary actions". For the fiscal year 2106, the Commission has a budget of some US\$5 million and a secretariat of more than 100 staff members.

4.71. Following a so-called "phase 2" amendment to the Electricity Business Act that entered into force in June 2014, the residential/individual consumer sector was opened to competition on 1 April 2016. However, consumers can retain regulated tariffs at least until 2020, if they so wish (Chart 4.6).

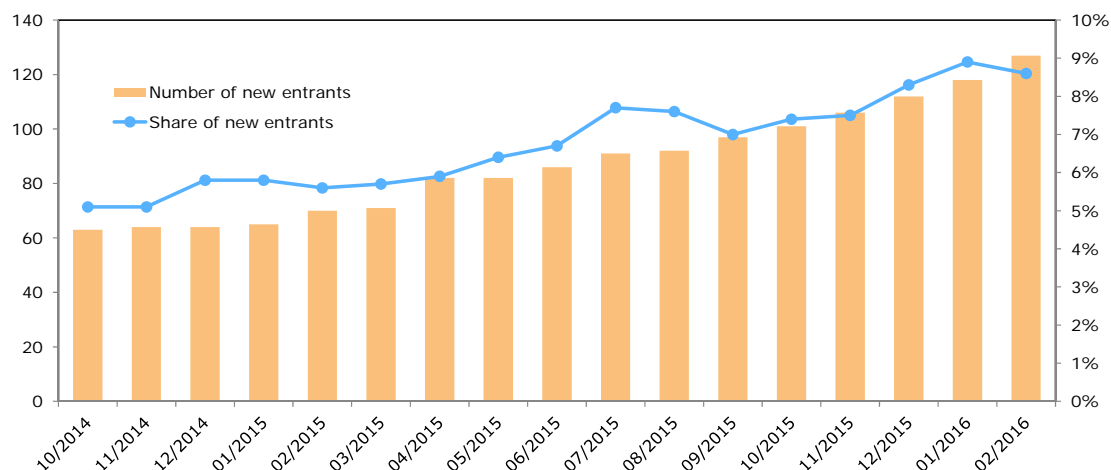
Chart 4.6 Gradual expansion of electricity retail market liberalization



Source: Information provided by the authorities of Japan.

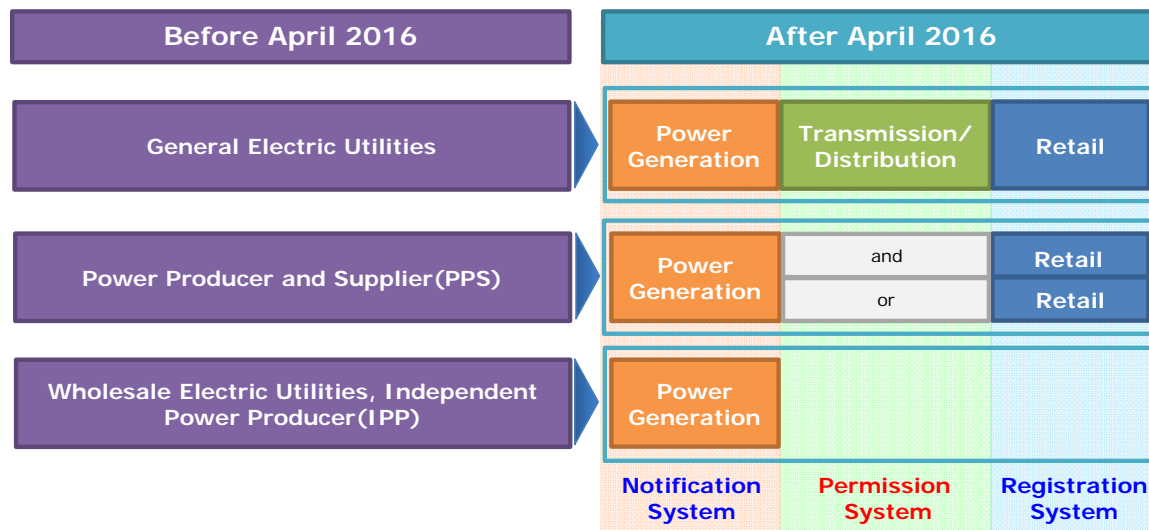
4.72. While the market share of new entrants stagnated at around 2% beginning in the nineties (after the beginning of the market reform), it recently surged, reaching around 9% (Chart 4.7).⁴²

⁴² This share is highly variable depending of the region concerned and its growth comes mainly from the area of Tokyo and from the Kansai.

Chart 4.7 New entrants in Japan's electricity retail market

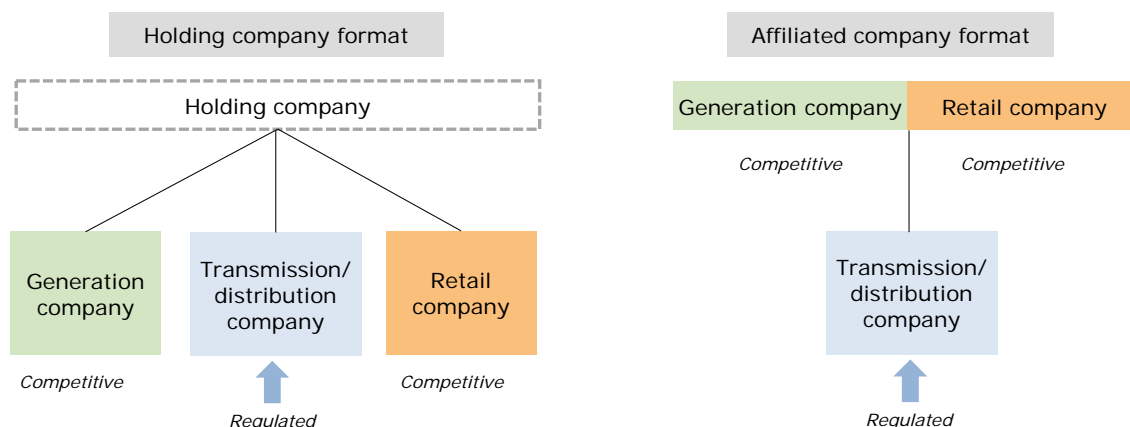
Source: Information provided by the authorities of Japan.

4.73. The second phase of the reform also introduces a new licensing scheme for electricity producers. Pre-existing categories of producers have been reshuffled. There are now three types of business categories: generation only (which requires notification), transmission and distribution (which requires licensing), and retail (which requires registration). This will allow the producers belonging, for example, to the former category of power producers and suppliers (PPS) to extend their activities to retail, which is geared at increasing competition.

Chart 4.8 Categorization and licensing of electricity producers before and after the April 2016 reform

Source: Information provided by the authorities.

4.74. A third amendment (phase 3) of the Electricity Business Act enacted in June 2015 establishes the principles of the next step of the reform which is the legal unbundling of transmission and distribution activities from generation activities upstream, on the one hand, and from retail activities downstream, on the other hand, by 2020. Electricity producers will have the choice between two possible legal forms, the holding company or the affiliated company (Chart 4.9). In all instances the transmission/distribution segment will remain regulated so as to ensure neutrality and transparency. By 2020, the regulation of tariffs is to be removed, pending the review of the competition situation.

Chart 4.9 Holding and affiliated company formats

Source: Information provided by the authorities of Japan.

4.75. This liberalization has not yet been translated into lower prices, due to the constraints created by the closing down of all nuclear plants in the aftermath of the Fukushima accident. Only two nuclear power plants have so far received the authorization of the safety regulator to re-open and only one has done so due to judicial recourses pending on the second authorization. This loss has been partly compensated by expensive imports of oil, gas and coal and the reactivation of thermal power plants. On average, tariffs for individual consumers have been raised by approximately 25% since the accident and there is no compensation scheme financed by the State for individual consumers. For energy intensive consuming industries, an exemption of 80% of the so called "feed-in tariff" has been put into place, for an effective cost for the Government of ¥45 billion annually.

4.76. These new circumstances have added new objectives to the electricity reform, notably to secure stable supply of electricity by facilitating even more power interchanged between regions, to hold down tariffs as much as possible and to give due regard to the energy mix especially regarding nuclear and renewables. The targets for 2030 for the respective shares of nuclear and renewables in the electricity mix have already been established in the Long-Term Energy Supply and Demand Outlook, mentioned above. These targets are the following: for nuclear from 1% presently to 20-22% and for renewables from 13% of the total presently to 22-24% (of which solar 7%, biomass 3.7-4.6%, geothermal 0.8.-1.1% and hydro 8.8-9.2%). In the meantime power demand is expected to increase slightly (from 966.6 billion kWh to 980.8 billion kWh).

4.77. In addition this electricity policy will be affected by the results of COP21 and the Paris treaty. Japan is currently redrafting a Green House Gas emission plan which will contain new reduction targets.

4.5 Manufacturing

4.78. In 2014, manufacturing accounted for 18.7% of GDP and 15.0% of employment in Japan.

4.6 Services

4.6.1 Financial services

4.79. Box 4.1 describes the main economic indicators of the financial services sector in Japan.

Box 4.1 Financial services in Japan: statistical overview, 2013 and 2015**General**Size of financial services compared with GDP:

2011: 4.8%
2014: 4.4%

Share of financial services in total employment:

2011: 2.8%
2014: 2.6%

Net financial services exports:

2015: ¥7,258 million (of which insurance and pension services: ¥5,734 million)

Net financial services imports:

2015: ¥12,457 million (of which insurance and pension services: ¥1,910 million)

Capital stock of financial services providers abroad:

2013: ¥11,137.3 billion (1.4% of capital stock abroad for banks, 11.8% of capital stock abroad for insurance)
2015: ¥10,433.0 billion (1.4% of capital stock abroad for banks, 8.8% of capital stock abroad for insurance)

Significance of the financial services arm of the Japan Post:

JP Bank and JP Insurance in the Japan Post Group are deemed to be significant players in the financial services sector. The Financial Services Agency supervises them in exactly the same way it supervises other financial institutions.

Banking services:Number of banks and recent consolidation: There has been no consolidation since 2013.

2013: 196 banks (of which, foreign controlled banks: 5, branches of foreign banks: 59)
2015: 195 banks (of which, foreign controlled banks: 4, branches of foreign banks: 54)

Concentration/share of the various types of banks in the total balance sheet for banks :

(¥100 million)

2013: Total balance sheet 9,123,472 (foreign controlled banks 51,000, branches of foreign banks 325,048)
2015: Total balance sheet 10,165,870 (foreign controlled banks 56,041, branches of foreign banks 471,876)

Lending activities (credit volumes, 2015)

2015: ¥523,001.6 billion

Securities activities: (securities holding in bank accounts, 2015)

2015: ¥26,863.1 billion

Insurance:Number of insurance companies

2013: 97

2015: 94 (life: 42 (of which branches of foreign insurance companies 3), non-life: 52 (of which branches of foreign insurance companies 22))

Recent consolidation

- September 2014: Sompo Japan Nipponkoa (merger of Sompo Japan and Nipponkoa)
- October 2014: Tokio Marine & Nichido Life Insurance Co., Ltd. (merger of Tokio Marine & Nichido Life Insurance Co. Ltd. and Tokio Marine & Nichido Financial Life Insurance Co.)
- October 2014: Axa Life (merger of Axa Japan Holdings and Axa Life)
- July 2015: Orix Life (merger of Orix Life and Hartford Life)

Total balance sheet of the insurance sector

2015: ¥ bn 398,834 (of which life insurance: 92.1%, non-life 7.9%)

Concentration: (cumulative market share of the top 5 companies, 2015)

Life insurance (%)

JP Insurance: 23.1

Nippon Life Insurance Company: 17.0

Dai-ichi Life Insurance Company : 10.0

Meiji Yasuda Insurance Company: 9.9

Sumitomo Life Insurance Company: 7.5

Non-life insurance (%)

Tokio Marine & Nichido Fire Insurance Co. Ltd: 28.7

Sompo Japan Nipponkoa Insurance Inc.: 23.2

Mitsui Sumitomo Insurance Company Ltd: 21.5

Aioi Nissay Dowa Insurance Co. Ltd: 11.0

Fuji Kasai Insurance Co., Ltd: 2.7

Pensions funds:

Number of pension funds: Total of corporate pension funds

2013: 19,176

2015: 18,953

Total assets:

2013: ¥96.7 trillion

2015: ¥96.6 trillion

Stock exchange and securities:

Capitalization of the companies listed

2013: ¥4,584,843 hundred million (87.1% of GDP)

2015: ¥5,718,329 hundred million (119.3% of GDP)

Gross value of publicly issued bonds

2013: 1,079 (domestic borrowers 1,070, foreign borrowers 9),

2015: 1,129 (domestic borrowers 1,118, foreign borrowers 11).

Securities turnover on the Stock Exchange (secondary market, 2015):

(¥ hundred million).

2013: 7,517,141 (of which, domestic shares 6,401,938; foreign shares 347; domestic bonds 0; foreign bonds 0; structured products and options 102,288; investment funds 1,012,568)

2015: 8,222,728 (domestic shares 6,965,095; foreign shares 29,518; domestic bonds 0; foreign bonds 0; structured products and options 6,796,204; investment funds 118,937,598)

Source: Information provided by the authorities of Japan.

4.80. The regulatory framework of financial services in Japan has been described in detail in previous TPR reports⁴³ and has undergone a few changes since the last review.

4.81. Regarding banking, the 1947 Banking Act and its subordinated legislation were amended in June 2013, with entry into force of the amendments in April 2014. Some of the amendments deal with the regime applicable to domestic banks or to all banks, while others are specific to foreign banks.

4.82. Regarding the regime generally applicable, the first such amendment was the creation of an exception to the so-called "5% rule" on voting rights. Previously, banks were forbidden to have more than 5% of the voting rights of a company in total. The amendment allows some exceptions for business reconstruction and revitalization of the regional economy (Banking Act, Article 16.3).

4.83. The second amendment relates to the tightening of large exposure limits. Pursuant to the Basel core principles and following the Financial Sector Assessment Plan (FSAP) of the IMF, the granting of credit in large amounts has been limited in three ways. Firstly, the scope of assets subject to the exposure rules has been extended, in addition to loans and guarantees to undrawn amounts in commitment line transactions, interbank transaction amounts (including call loans amounts) and deposit, amounts due to other financial institutions, publicly offered bonds, trading accounts balances in banks and amounts equivalent to credit risks in derivative transactions. Secondly, the scope of aggregation, i.e the perimeter of controlled and affiliated companies to calculate the overall exposure of a consolidated company has been enlarged. Thirdly, the calculation method for exposure has been modified so as to include balance items such as undrawn amounts in commitment line transactions and amounts equivalent to credit risk in derivative transactions (Banking Act, Article 13).

4.84. The amendment to the Banking Act also permits domestic banks to indirectly hold companies that were previously not eligible for acquisition, for a period of five years in cases where such indirect holding occurs as a result of the acquisition by the domestic banks of foreign financial institutions such as foreign banks, foreign insurance companies and foreign securities companies (Banking Act, Article 16-2 (4) to (6)).

4.85. The amendment to the Banking Act concerning the regime of foreign banks includes partial relaxation of requirements in respect of agency services and intermediary services in that when a

⁴³ WTO documents WT/TPR/S/276, 15 January 2013; and WT/TPR/S/310/Rev.1, 6 May 2015.

Japanese bank conducts business as an agent or intermediary of a foreign bank only outside of Japan, capital ties are no longer required between the agent or intermediary bank in Japan and the foreign bank.

4.86. The amendment also involves a series of new and stricter rules regarding licensing standards, information obligations, maintenance of assets in Japan and supervisory powers in case of bankruptcy or reorganization proceedings.

4.87. The licensing standards have been clarified and complemented by the amendment so as to require that: (1) the amount of assets be at least the equivalent to the stated capital of the foreign bank branch (¥2 billion) and sufficient for the sound and efficient performance of the business proposed in the licence application; (2) the foreign bank records a profit in at least one of the three years following the commencement of its business; (3) its officers and employees have sufficient knowledge and experience; and (4) the methods of business of the foreign bank branch are appropriate for the protection of depositors and the maintenance of the stability of the financial system. Furthermore, the supervisory guidelines of the FSA have been complemented with new rules regarding fund transfers within the foreign bank group, including transfers to and from its head offices and branch accounts, the foreign branches' assets in Japan, the deposit types provided by foreign bank branches and the way for the foreign bank branches to treat deposits in Japan. These elements will apply not only to the licensing criteria but also to the daily monitoring of foreign bank branches.

4.88. Existing foreign bank branches that were active in Japan before the entry into force of the amended law were not evaluated by the new licensing standards, and no re-licensing scheme exist. However, the new licensing standards have been incorporated into supervision criteria; thus, "existing" foreign bank branches are evaluated and supervised by the new licensing standards.

4.89. The amendments have also imposed new information obligations on foreign banks towards their Japanese clients. Foreign bank branches must indicate to depositors that the deposit insurance system in Japan does not cover their deposits. In addition, they must explain to their customers that a foreign bank branch's solvency means the solvency of the entire foreign bank entity, that the relevant supervisory authorities of the foreign bank branch shall bear primary responsibility for supervision of the solvency and that, even if a refund may be paid through the insolvency procedure in the home country in case of failure of the foreign bank, the possibility exists that the deposits may not be refunded quickly. Finally the foreign bank branch must indicate the details of the coverage by the deposit insurance system of the home country if deposits in Japan are covered by this system.

4.90. The third main change in the regime of foreign banks concerns the maintenance of assets in Japan. Foreign bank branches are now required to maintain assets equivalent to the amount of minimum capital of domestic banks (¥2 billion) at all times in Japan in certain forms, such as loans to the bank of Japan, cash, Japanese government bonds and Japanese local government bonds, with a phasing-in period that lapsed on 31 March 2016. The penalty for the violation of these rules, or of FSA orders requiring foreign banks to maintain a certain proportion of their assets in Japan, has been raised from ¥1 million to ¥3 million plus one year of imprisonment for individual persons and ¥200 million for the relevant foreign bank branch.

4.91. In addition, the Act on Special Measures for Reorganization was extended in 2013 to foreign bank branches, and grants the supervisory authority the right to file a petition for commencement of bankruptcy or reorganization proceedings or the right to file a petition for a temporary restraining order.

4.92. Regarding insurance services, the Insurance Business Act was amended in May 2014 so as to ensure that insurance intermediaries provide information to customers and understand their intentions during insurance solicitation, including health insurance solicitation (Articles 295.2 and 294⁴⁴). In addition, a Cabinet Office Ordinance was amended to ease the requirements to provide insurance services for infertility treatment (Cabinet Office Ordinance, Amended March 2016⁴⁵).

⁴⁴ It has not yet entered into force.

⁴⁵ It has not yet entered into force.

4.93. Regarding securities and stock exchanges, the Financial Instruments and Exchange Act was amended in June 2013 – with entry into force of the amendment in December 2014 – to strengthen penalties regarding insider trading. Under the amended act, criminal penalties are to be imposed for leaking inside information or for inducing someone to trade on such nondisclosed information. Fines to be paid for violations committed by asset managers on their client accounts were also raised to "the overall management fees for three months" although fines were previously calculated by multiplying "management fees for one month" by "the ratio of the value of the relevant stocks to the total assets under management". The Act was also amended in May 2014 – with entry into force of the amendment in May 2015 – to promote the use of "investment-type" crowdfunding by easing the requirements for operators of "investment-type" crowdfunding services to register as a "financial instruments business operator". Registration as a "financial instruments business operator" is required for operators of investment-type crowdfunding services to provide services that include solicitation of stock on behalf of a fund collector. The Act was further amended in May 2015 – with entry into force of the amendment in March 2016 – to require additional attachments to the notification forms for "specially permitted investment management business operators". Conditions for disqualification were also introduced. For example, an operator is disqualified from registering as a specially permitted investment management business operator if five years have not yet passed since the operator was ordered to dissolve the business.

4.6.2 Telecommunications

4.94. Box 4.2 describes the main economic indicators as well as the main regulatory features of the telecommunications sector in Japan.

Box 4.2 Main economic indicators and regulatory features of the telecommunications sector in Japan

Economic data

Penetration rates (2016):

Total telephone subscribers:

177.1% (including fixed and mobile phone subscribers)

Mobile phone users (% total telecom subscribers):

115.2%

Mobile phone subscribers (% total telecom subscribers):

74.3%

Internet users (per 100 inhab.): (i.e. the percentage of households in which one or more person uses the internet)

84.6%

Broadband internet subscribers (per 100 households which use the internet from computers at home, tablets, and other devices):

97.6 %

Fixed Internet subscribers: 38,238,420 (June 2016)

Main actors:

Number of companies providing telecom services:

307 carriers (owning networks and circuits) are registered with the Minister; and 17,168 carriers (without networks) have submitted notifications (up to 1 March 2016).

Names and market shares of the leading companies for fixed telecom services:

NTT East and NTT West (combined market share for fixed telecom service 53.8%), KDDI (10%), K-Opticom (10%) (December 2015).

Name and market shares of the leading companies for mobile telephones services:

NTT DoCoMo (43.3%), KDDI group (including Okinawa Cellular, 28.9%), SoftBank group (27.8%) (December 2015).

Name and market share of the broadband internet services:

NTT group (27.1%), pure ISP providers (e.g. Asahi Net, Yahoo BB, OCN, So-net, @nifty, Biglobe) (24.6%), KDDI group (19.0%) (March 2015).

Foreign ownership participation in telecom companies: Except for the Nippon Telegraph and Telephone Corporation (NTT), there are no restrictions for Japan's telecommunications carriers. Foreign ownership shares of listed telecom companies are not available, except for NTT, where it stood at 30.8% as at December 2015.

State ownership: NTT 33.3%.

Establishment of new companies, mergers or closures since the last review: none.

Registered telecommunications carriers decreased in number by 11, notified telecommunications carriers increased in number by 975 (4 newly registered, 1,566 newly notified) (1 March 2016).

Regulatory framework

Interconnection and competition issues:

Fixed interconnection regime:

A telecommunication carrier that installs Category I designated telecommunications facilities (i.e. a carrier having more than a 50% share of subscriber lines in the prefecture) has the obligation to define and publish the Interconnection Agreement, and the Interconnection Accounting Rules based on the Interconnection Accounting Regime. Designated facilities are defined as facilities for subscriber lines and any associated facility necessary to connect to the other operator with the aim of improving customer convenience and contributing to the general and adequate progress of telecommunications.

Mobile interconnection regime: see details of the recent reform below

Number of complaints filed or resolutions effected of interconnection disputes among operators:

None since 2015

Other regulatory aspects:

Facility sharing: No change since 2015.

Local loop unbundling: No change since 2015.

Number portability: System is already introduced (Article 4, Rules for Interconnection Charges, Regulations for Article 20, Telecommunications Numbers). No change since 2015.

Spectrum management: There has been no change in the framework of regulation since 2015.

Transparency: No change since 2015.

Accounting rates: No change since 2015.

Licensing: No change since 2015.

Universal service (beneficiaries, contributors, services covered, level, expenditures, method of calculation and management)

Beneficiaries:

Telecommunications carriers that provide basic telecommunications services, including universal services, 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 (to the numbers 110, 118, 119).

Expenditure (approved in 2015):

total compensation for NTT East and NTT West – ¥6.8 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 are compensated

- optical-IP telephones equivalent to analogue fixed telephones: excluded from compensation.

Management:

The 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.

Source: Information provided by the authorities of Japan.

4.95. The regulatory framework of telecommunication services in Japan has been described in detail in previous TPR reports ⁴⁶; since Japan's previous review, it has undergone a few changes concerning: the mobile interconnection regime, consumer information and protection, SIM card unlocking and the duration of mobile contracts.

4.96. Regarding the mobile interconnection regime, based on the Japan Revitalization Strategy (Cabinet decision in June 2013) and the report by the Information and Communications Council (December 2014), the Telecom Business Act was amended in May 2015 (with entry into force of the amendments in May 2016) so as to promote fair competition and encourage the entry of new mobile virtual network operators (MVNO). The amendments impose an unbundling obligation on mobile network operators, which under the previous MIC guidelines could decide to what extent they would interconnect and which expenses would be charged at production costs. Under the new regime, MIC Ordinance No. 31 of 29 March 2016 precisely defines the interconnection obligations as well as the calculation method and procedures for interconnection fees to be paid by MVNOs, which are based on reasonable costs under efficient management plus reasonable profit.

4.97. Regarding the protection of consumers and the provision of information, the Telecommunication Business Act was amended in May 2015 so as to oblige telecommunication operators to deliver a document clarifying the details of the contract regarding designated telecom services, to prohibit operators and sales agencies from misrepresentation and failing to disclose facts that would affect the decision of the user, and to prohibit operators and sales agencies from continuing to solicit a customer to conclude a contract after the customer has clearly manifested his unwillingness to do so.

4.98. Regarding SIM locking, using its powers under the Telecommunication Business Act to issue "improvement orders" so as to remedy the negative impact of telecom operators' measures on users, the MIC issued "guidelines for SIM unlock" in May 2015 after discussions with the operators. Based on these guidelines, all major operators (NTT-DoCoMo, KDDI and Softbank) agreed to implement free SIM unlocking after six months for all mobile handsets bought after 1 May 2015.

4.99. Regarding the standard duration of mobile contracts, which is currently two years, there are ongoing discussions with the industry with the aim of shortening this duration through similar guidelines.

4.6.3 Audiovisual services

4.6.3.1 Film industry

4.6.3.1.1 Economic structure

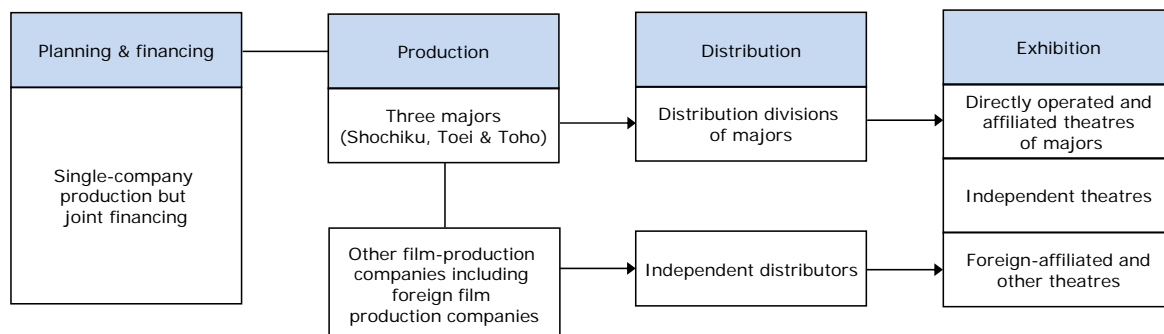
4.100. Foreign operators can legally operate in all segments of Japan's film industry⁴⁷ sector and are effectively present in all of its segments (Chart 4.10). Foreign affiliates have ventured into the production of Japanese domestic films.

⁴⁶ WTO documents WT/TPR/S/276, 15 January 2013 and WT/TPR/S310/Rev.1, 6 May 2015.

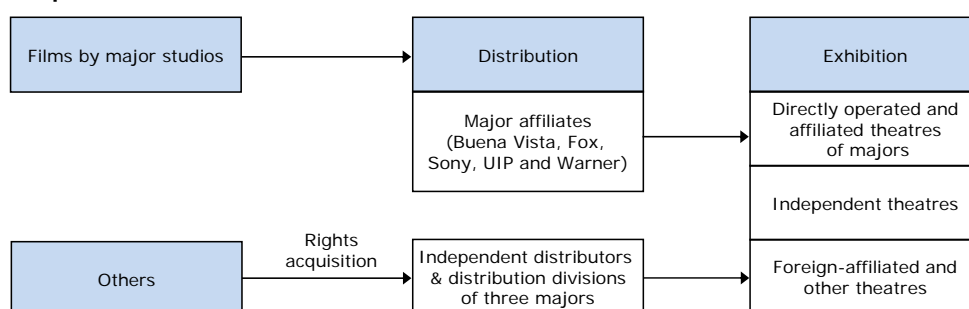
⁴⁷ Under this heading one can group film production, film distribution (which are both grouped in one single CPC provisional item) and film exploitation/projection in movies theatres.

Chart 4.10 Structure of the film industry in Japan

Japanese films



Imported films



Source: JETRO, Japan Economic Monthly, May 2005, and data provided by the WTO.

4.101. Table 4.12 describes the size of the market for both domestic and imported films over the last three years that are statistically available. In terms of box office, Japan is the third-largest single market in the world after the United States and China.⁴⁸ It is a mature market that has to a large extent exhausted its potential of growth and is subject to fluctuations, despite its historical peak in 2010. Independent films and independent theatres are losing ground to commercial films produced by the local majors with the financial support of TV broadcasters, and to multiplexes chains. Attempts are being made to diversify the content shown in cinemas beyond films e.g. live sport events or concerts based on point-to-point digital transmission (so-called ODS, other digital stuff/online digital source).

Table 4.12 Size of the Japanese film market, 2012-15

	2012	2013	2014	2015
Total number of movie screens (number of cinema complexes)	3,290 (2,765)	3,318 (2,831)	3,364 (2,911)	3,437 (2,996)
Number of films released				
Japanese films	554	591	615	581
Imported films	429	526	569	555
Total	983	1,117	1,184	1,136
Number of admissions (thousand)	155,159	155,888	161,116	166,630
Average admission fee (¥)	1,258	1,246	1,285	1,303
Box office gross receipts				
Japanese films (¥ million)	128,181	117,685	120,715	120,367
Imported films (¥ million)	67,009	76,552	86,319	96,752
Total (¥ million)	195,190	194,237	207,034	217,119
Share (%)				
Japanese films	65.7	60.6	58.3	55.4
Imported films	34.3	39.4	41.7	44.6

Source: Motion Picture Producers Association of Japan online information (in Japanese). Viewed at: <http://eiren.org/toukei/data.html>.

⁴⁸ Motion Picture Association of America online information. Viewed at: http://www.mpa.org/wp-content/uploads/2016/04/MPAA-Theatrical-Market-Statistics-2015_Final.pdf.

4.102. Table 4.13 describes the economic contribution of film production, film distribution and film exhibition to the Japanese economy in 2014 in terms of gross output, value added, labour income, tax revenue and employment. As the revenue streams of films producers show (Charts 4.11 and 4.12), the first such stream is still film exhibition, but it accounts only for about 30% of the revenues. Physical rental and sales of DVD are a close second, although they are bound to diminish in the near future in favour of dematerialized channels of secondary distribution. The relative importance of video distribution through mobile handsets is a specificity of the Japanese market.

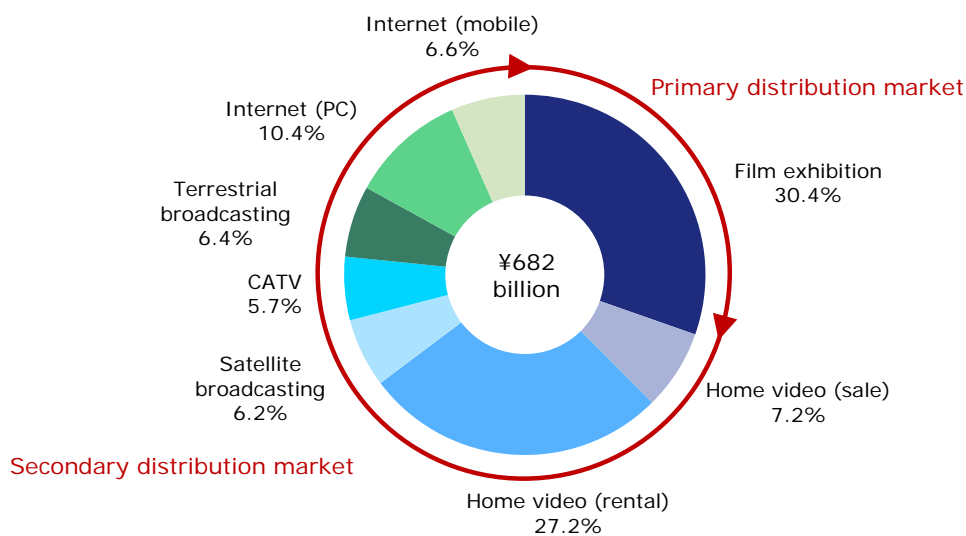
Table 4.13 Economic contribution of film production, film distribution and film exhibition to the Japanese economy, 2014

(¥ billion, unless otherwise specified)

Sector	Gross output		Value added		Labour income		Tax revenue		Employment	
	Direct	Total	Direct	Total	Direct	Total	Direct	Total	Direct	Total
Film production	113.5	229.8	51.4	115.8	25.4	56.6	7.5	18.4	8,852 persons	21,661 persons
Film distribution	115.0	232.7	52.1	117.3	25.8	57.3	7.6	18.7	1,360 persons	3,326 persons
Film exhibition	207.0	441.7	77.0	205.9	41.2	102.7	13.0	34.2	12,904 persons	25,686 persons
Total	435.5	904.2	180.5	439.0	92.4	216.6	28.1	71.3	23,116 persons	50,673 persons

Source: Mitsubishi Research Institute, Inc. (2015), *Economic Contribution of the Japanese Film and Television Industry* p. 18. Viewed at: http://www.jimca.co.jp/research_statistics/index.html.

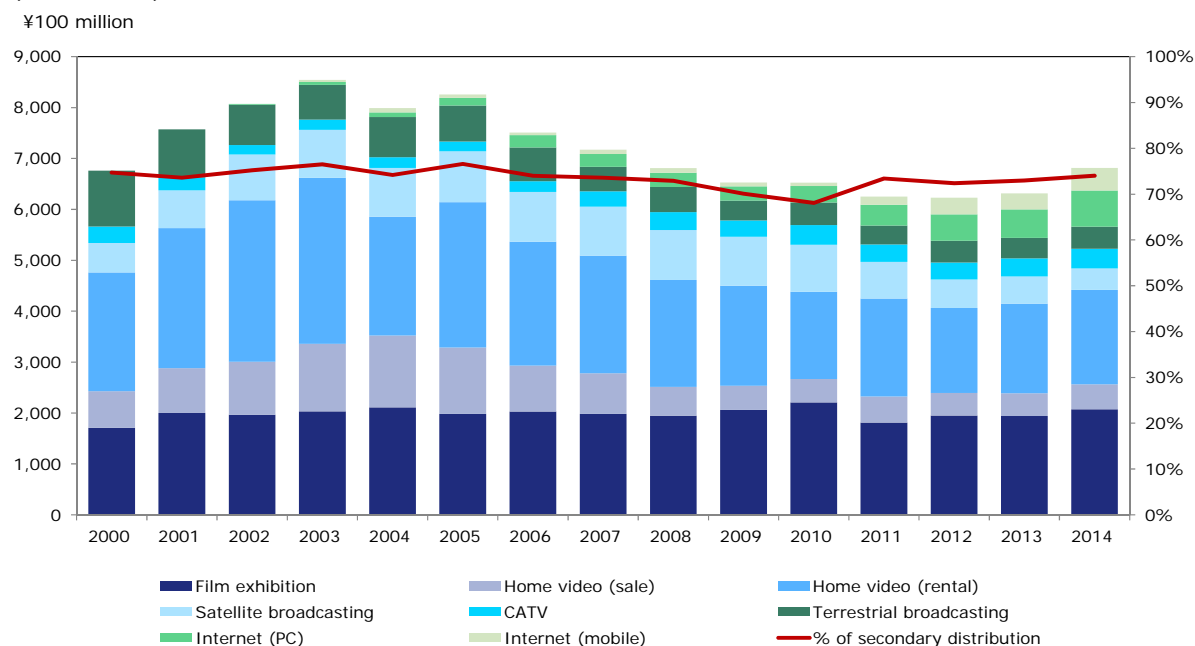
Chart 4.11 Market revenue and share attributed to films, 2014



Source: Mitsubishi Research Institute, Inc. (2015) *Economic contribution of the Japanese Film and Television Industry*, P.18. Viewed at: http://www.jimca.co.jp/research_statistics/index.html.

Chart 4.12 Market revenue attributed to films, 2000-2014

(¥100 million)



Source: Mitsubishi Research Institute, Inc. (2015) *Economic contribution of the Japanese Film and Television Industry*, P.18. Viewed at: http://www.jimca.co.jp/research_statistics/index.html.

4.6.3.1.2 Regulatory framework

4.103. Regarding motion picture and video tape production and distribution⁴⁹, Japan has undertaken full GATS commitments for modes 1, 2 and 3 under market access, full commitments for mode 1 and 2 under national treatment, and "none except as indicated in the horizontal commitments" for mode 3 under national treatment, which cross-refers to the horizontal limitation "unbound for research and development subsidies". This binding is on a status quo basis as it reflects the applied regime of this sector in Japan.

4.104. Japan has not listed, unlike many other WTO members, a GATS MFN exemption for co-production agreements, as Japan has not signed any co-production agreements so far except for one with Canada⁵⁰ and one signed between Japan's designated body Unijapan and the French *Centre National du Cinéma*.⁵¹

4.105. Japan has indicated that it considered the provision of motion picture projection services under mode 1 technically unfeasible ("unbound*") for both market access and national treatment. There are however no legal limitations to the provision of cross-border point-to-point digital

⁴⁹ Item 9611 of the CPC provisional classification, "Motion picture and video production and distribution services", is defined as the combination of promotion and advertising services (CPC 96111), of motion picture and video-tape production services (CPC 96112, i.e. production services of theatrical and non-theatrical motion pictures, whether on film or on video tape, for direct projection in theatres, for broadcasting on television, or for sale or rental to others; the products may be full-length and short theatrical films for public entertainment, for advertising, education, training and news information as well as religious pictures, animated cartoons of any kind, etc.), motion picture or video tape distribution services (CPC 96113, i.e. distribution services of motion pictures and video tapes; this involves the sale or rental of movies or tapes to other industries for public entertainment, television broadcasting, or sale or rental to others) and other services in connection with motion picture and video tape production and distribution (CPC item 96114, i.e. film dubbing, film title printing, editing, cutting, etc.).

⁵⁰ The 1994 Common Statement of Policy on Film, Television and Video Coproduction Between Canada and Japan, amended in 1995. Viewed at: <http://www.telefilm.ca/document/en/04/traites/japan.pdf> (for the original text), and http://www.telefilm.ca/document/en/04/traites/Amendment_Japan.pdf (for the amendment).

⁵¹ Japan-France cinematographic cooperation memorandum, May 2005. Viewed at: <http://unijapan.org/english/pdf/BusinessReport2004.pdf>.

transmission to cinemas. Japan has also undertaken full commitments in mode 2 for market and national treatment as well as for mode 3 under market access. Mode 3 for national treatment commitments cross-refer to the horizontal limitation "unbound for subsidies for research and development".

4.106. Liberalization under certain FTAs to which Japan is party goes beyond its GATS regime where positively-listed commitments contain partially improved (agreement with Singapore) or full commitments (agreements with Brunei Darussalam, India, Indonesia Malaysia, Mongolia, Philippines, Thailand and Viet Nam⁵²), while negatively-listed commitments under certain FTAs (with Australia, Chile, Mexico, Peru and Switzerland) do not contain any reservations regarding the film sector for either production distribution or projection.

4.107. Public assistance to the sector, including by local governments, is relatively limited. There are no tax incentives for film production, and subsidies by local film commissions are minimal, except to a certain extent for those provided by the Okinawa film commission.⁵³

4.108. As to the Government's financial assistance to the sector, the Ministry of Economy, Trade and Industry (METI), which focuses on the promotion of the content industry, has two different budget allotments to support the industry. The first, amounting to ¥650 million in 2015, aims to boost the content industry. This budget contributes to promoting expansion to foreign markets and co-production in the content industry and helping young producers study abroad. The second budgetary allotment is dedicated to the "Cool Japan Fund", whose capital is ¥52,300 million, 79.5% of which is from the Government and the remainder from banks and the private sector, and of which ¥7,500 million is lent to SDI media Group Inc., which is the world leading provider of media localization services (e.g. dubbing and subtitling). It would appear that the Agency for Cultural Affairs has budget allotments for the sector, such as those aimed at promoting Japanese films⁵⁴; according to the authorities, however, the Agency does not have preferential measures or subsidies for production or distribution of films in terms of promoting growth in the Japanese film industry.

4.109. Furthermore, Unijapan is in charge of the promotion of Japanese cinema abroad (including subsidizing subtitles and participation in foreign film festivals), organization of the Tokyo International Film Festival (TIFF), the TIFFCOM market place for films and TV in Asia, and issuance of the certificate that determines eligibility for the Bunka Cho coproduction subsidy scheme⁵⁵. Unijapan is a non-profit organization established by the cinema industry in 1957 under the auspices of the Ministry of Foreign Affairs and the METI. In 2016, 45 % of its ¥1,274 million budget (i.e. ¥577 million) was provided by the Bunka Cho (¥193 million) and the METI (¥384.5 million). The remaining 55% of the budget was provided by the private sector (¥527 million), the Japan Foundation (¥140 million), and the Tokyo Metropolitan Government (¥30 million).

4.110. There are no compulsory quotas for film production or investment imposed on TV broadcasters. TV broadcasters play a large role in the financing of the production of domestic films; they do so on a voluntary basis.

4.6.3.2 Television services

4.6.3.2.1 Economic structure

4.111. The TV industry in Japan can be divided into several broadcasting segments, namely terrestrial TV, satellite TV, cable TV and on demand/streaming/Internet protocol TV. TV production

⁵² For four of these agreements (those with Malaysia, Mongolia, the Philippines and Thailand) full commitments are made on a standstill basis, the unusual possibility of listing standstill commitments being one of the original elements of recent positively listed Japanese FTAs.

⁵³ Up to ¥15 million per project. For a detailed description of the film commissions system in Japan, see Japan Film Commission (2015), *Guide to filming in Japan*. Viewed at: http://www.japanfc.org/en/pdf/jfc_handbook_e.pdf (in particular, page 45 for the incentives provided).

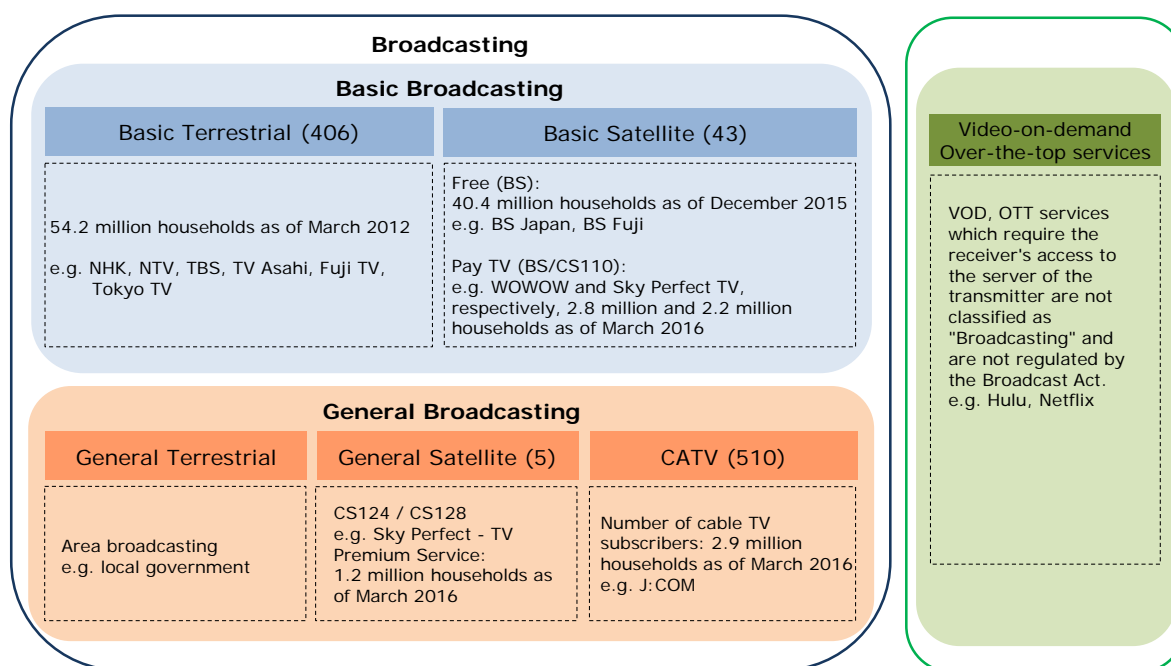
⁵⁴ Agency for Cultural Affairs online information (in Japanese). Viewed at: http://www.bunka.go.jp/seisaku/bunka_gyosei/yosan/pdf/h28_yosan.pdf.

⁵⁵ Unijapan online information. Viewed at: <http://www.unijapan.org/english/production/certificate.html> (For a detailed description of the conditions required to obtain the certificate).

and TV distribution have been, to a large extent, vertically integrated with broadcasting, for historical and regulatory reasons, although recent changes to the regulatory framework have allowed their unbundling (see below).

4.112. Chart 4.13 describes these segments, as well as their free and paying sub-segments, number of viewers and corresponding licensing regime, which will be described below in the regulatory section.

Chart 4.13 Television transmission industry, 2014



() = Number of companies.

Source: Information provided by the authorities.

4.113. Table 4.14 describes the economic contribution of each of these broadcasting segments as well of TV production and TV distribution to the Japanese economy in 2014 in terms of gross output, value added, labour income, tax revenue, and employment.

Table 4.14 Economic contribution of the television sector to the Japanese economy, 2014

(in ¥ billion unless otherwise specified)

Sector	Gross output		Value added		Labour income		Tax revenue		Employment	
	Direct	Total	Direct	Total	Direct	Total	Direct	Total	Direct	Total
TV production	390.1	789.5	176.8	398.0	87.4	194.4	25.9	63.3	14,270 persons	34,913 persons
TV distribution	328.9	665.6	149.1	335.5	73.7	163.9	21.8	53.4	14,270 persons	34,913 persons
Public terrestrial broadcasting	674.8	1,341.6	380.6	743.5	169.5	352.4	61.8	122.1	11,794 persons	46,047 persons
Private terrestrial broadcasting	2,208.3	5,092.8	837.4	2,325.1	347.7	1,070.8	160	408.6	46,918 persons	173,177 persons
CATV broadcasting	497.5	960	297.3	541.9	120.1	241.6	47.2	88.4	18,215 persons	39,400 persons
Satellite broadcasting	366.1	788.7	164.1	382.8	19.5	126.4	44.5	80.4	1,625 persons	20,459 persons
Online service	161.4	326.6	75.4	169.2	42.2	88.1	13.6	29.8	4,098 persons	11,793 persons
Total	4,627.1	9,964.8	2,080.7	4,896.0	860.1	2,237.6	374.8	846	111,190 persons	360,702 persons

Source: Mitsubishi Research Institute, Inc., (2015), *Economic Contribution of the Japanese Film and Television Industry*, p.18. Viewed at: http://www.jimca.co.jp/research_statistics/index.html.

4.6.3.2.2 Regulatory framework

4.114. Japan has not undertaken any GATS commitments for the three five digit CPC items covering television services, namely CPC 96132 "television services"⁵⁶, CPC 96133 "combined programme making and broadcasting services"⁵⁷, and CPC 75241 "television broadcast transmission services".⁵⁸

4.115. Except in the case of an agreement with Viet Nam, which, like Japan's GATS commitments, contains no commitment regarding television, the regime contained in Japan's FTAs is slightly more liberal than in GATS for positive listing with the addition of a full commitment in mode 2 for the three television items. The three other modes remain unbound for agreements with Brunei Darussalam, India, Indonesia, Malaysia, Mongolia, the Philippines, Singapore and Thailand. In addition, for agreements with positively-listed commitments that also have an investment chapter (Brunei Darussalam, Indonesia, Malaysia, Mongolia, Philippines and Singapore), there is an investment reservation for future measures in broadcasting, whose scope in terms of obligation varies depending of the agreement (e.g. national treatment only for Malaysia and Brunei Darussalam, national treatment and prohibition of performance requirements for Singapore, the Philippines, Indonesia and Mongolia). Broadcasting is defined in this reservation by reference to Japanese law and hence encompasses production, distribution and radio transmission services.

4.116. The regime negatively listed in some of Japan's FTAs (with Switzerland, Chile, Peru, Mexico and Australia) is more liberal, since it contains only a reservation for future measures for broadcasting.⁵⁹ There again broadcasting is defined by reference to Japanese law.

4.117. In terms of the regime applied, the Broadcasting Act of 1950 and the Radio Act of 1950 were last amended in November 2010 so as to create a streamlined regime for broadcasting "approvals" (i.e. licences). The new regime distinguishes two categories of approvals. The first is "the basic broadcasting approvals" covering terrestrial broadcasting and broadcasting through the so-called BS satellites (i.e. geo-stationary broadcasting and communication satellites over 110 degrees east), and the second is the "general broadcasting approvals" covering broadcasting through other satellites, and cable TV. Both types of approval are granted by the Ministry of Internal Affairs and Communications (MIC). Radio waves for broadcasting (and telecommunications) are allocated by the authorities in accordance with the provisions of the Radio Act; while the authorities have considered the possibility of introducing the auctioning of radio waves, it has not been adopted to date.⁶⁰

4.118. Regarding basic broadcasting, a new feature of the amended Broadcasting Act is that terrestrial broadcasters can now distribute their programming through third party terrestrial wireless transmission facilities (previously, they were required to own and operate such facilities). This possibility to unbundle is aimed at providing flexibility to the management of TV companies and to increase competition by decoupling the ownership of broadcasting facilities from the production of broadcasting content.

4.119. Basic broadcasting approvals are renewed every five years. Under the circular notice of the Ministry of Internal Affairs and Communications No. 68 of 2001⁶¹, the Government may renew the approval of a terrestrial basic broadcaster only if the ratio of educational programmes exceeds

⁵⁶ Defined as the production of television programmes whether live or on tape or another recording medium for subsequent broadcast.

⁵⁷ Defined as combined services of both producing and transmitting radio and television programmes.

⁵⁸ Defined as network services necessary for the transmission of television signals, irrespective of the type of technology (network) employed. This subclass does not include satellite-to-cable services where the provider sells T.V. signals via satellite to cable companies – as opposed to selling use of satellite facilities – nor does it include DTH (direct-to-home) satellite services where the provider sells television programme packages directly to households located in remote areas.

⁵⁹ The type of obligations for which Japan has made this reservation varies depending of the agreements: market access and national treatment for Switzerland; national treatment, prohibition of performance requirements, local presence and senior management and board of directors for Australia, Chile and Mexico; national treatment, market access and local presence for Peru; and market access, national treatment, prohibition of performance requirements, local presence and senior management and board of directors for Australia.

⁶⁰ MIC online information. Viewed at: http://www.soumu.go.jp/main_content/000121939.pdf.

⁶¹ MIC online information. Viewed at: http://www.soumu.go.jp/main_content/000120084.pdf.

10% and that of cultural programmes exceeds 20%. The Broadcasting Act contains no quantitative restrictions on the categories that television broadcasting companies may disseminate and hence no quantitative restriction on foreign-produced programmes. Basic broadcasting companies must however maintain a mutual balance between the broadcast programmes (Article 106 of the Broadcasting Act). They also have the obligation to publicize the ratio and total hours of programmes by category (culture, education, news, entertainment, TV shopping and others – Article 107 and Article 6, Para. 6 of the Broadcasting Act). They must make efforts to produce programmes that meet the demand of the audience in the areas they broadcast.

4.120. There are non-discriminatory limits on the ownership of multiple broadcasts networks based on competition policy considerations. These limitations include limits on the ownership of shares, on board seats and on the use of satellite transponder capacity. Furthermore a single person or entity cannot have a relationship of control over three businesses (newspaper business, television business and radio business) in the same broadcasting target region. In addition a single person or entity cannot hold more than one third of the voting rights in an approved broadcasting holding company.

4.121. The broadcasting law and the radio law contain a relatively complex series of limitations on foreign ownership, which varies according to the type of activity (production or transmission⁶²), to the type of licence (basic or general) and to the means of transmission (terrestrial, satellite, or cable). Table 4.15 describes in detail those limitations.

Table 4.15 Restrictions on foreign ownership applying to TV broadcasting companies

Restrictions on foreign ownership of broadcasting companies		
	Basic	General
Terrestrial	<u>Radio wave transmission activities:</u> Under 20% (Radio Act Art.5, Para. 4, items 2 and 3) e.g. NHK and the five commercial terrestrial broadcasters <u>Production activities:</u> Under 20% (Broadcasting Act Art. 93, Para. 1, item 6(4)(5)) e.g. NHK and the five commercial terrestrial broadcasters	<u>Radio wave transmission activities:</u> Under one third (Radio Act Art. 5, Para. 1, item 4) e.g. area broadcasting operators (local governments etc.) <u>Production activities:</u> No restrictions (Broadcasting Act Art. 133) e.g. area broadcasting operators (local governments etc.)
Satellite	(BS/ CS110) ⁶³ <u>Radio wave transmission activities</u> Under 33% (Radio Act Art. 5, Para. 1, item 4) i.e. Broadcasting Satellite System Corporation, Sky Perfect JSAT <u>Production activities</u> Under 20% (Broadcasting Act Art. 93, Para. 1, item 6(4)) e.g. BS Asahi, WOWOW	(CS124/CS128) <u>Radio wave transmission activities</u> No restrictions (Radio Act Art. 5, Para. 1, item 2) i.e. Sky Perfect JSAT <u>Production activities</u> No restrictions (Broadcasting Act Art. 126) e.g. Sky Perfect Broadcasting, USEN
Cable	Irrelevant	<u>Production activities</u> ^a No restrictions (Broadcasting Act Art. 126 and 133) e.g. J:COM

a Licences and limitations for radio transmission activities are irrelevant in the case of cable TV, since cable operators do not use radio transmission for signal but either copper cables or optical fibre.

Source: WTO secretariat, based on data provided by the authorities of Japan.

4.122. In cases where foreign ownership is limited, the ratio of foreign nationals in board members is restricted and the firm's voting share directly owned by foreign nationals or entities

⁶² For transmission activities the exact legal term used by the laws is "radio wave transmission business" defined as "the business to transmit radio waves on behalf of broadcasting companies". For production activities the legal term used is "broadcasting business" defined as "the business to produce and disseminate programs".

⁶³ BS stands for broadcasting satellites, CS for communication satellites, and 110, 124 and 128 for their various geo-stationary positions.

must not exceed the specified limit (20 or one third depending of the case) in order for the firm to hold or receive a licence. Furthermore, indirect foreign ownership of 20% or more through a subsidiary or an affiliate is not permitted for terrestrial basic broadcasting. In practice, the five terrestrial commercial networks and BS satellite licence holders, being publicly listed, have a certain degree of foreign ownership within the threshold. MIC approval is required in case of mergers or divestiture for holders of basic broadcasting licences.

4.123. Video-on-demand OTT services are not considered as "broadcasting" services, and are not subject to foreign ownership restrictions. Examples include the U.S. IPTV provider Hulu, which offered its services as of 2011, on a 100% US owned basis until its takeover by Nippon National Television Networks in 2014, or Netflix which launched a similar multi-device streaming service without a local shareholding partner in September 2015.

4.124. General broadcasters are divided into two categories depending of the broadcasting areas and the impact on viewers: those subject to registration and those subject to notification. General broadcasters subject to registration hold their licence permanently unless their registration is revoked following a breach of laws and regulations. Some rules concerning the programme standards are applied to general broadcasters subject to notification whereas they are all applied to general broadcasters subject to registration; in both instances there are no limitations on multiple network ownership.

4.125. Pursuant to the Foreign Exchange and Foreign Trade Act, certain acquisition of shares in broadcasting licences is subject to prior filing for assessment in terms of national security, etc.⁶⁴ This so-called prior notification requirement for investment (applied to all broadcasting licences, basic or general), as in the case of some other sectors, has not given rise to any refusals since 2015.

4.6.3.3 Radio services

4.126. There are three types of radio companies in Japan. Firstly, 99 AM/FM commercial radio operators, secondly, the public broadcaster Japan Broadcasting Corporation (*Nippon Hoso Kyokai* – NHK), and thirdly 303 Community FM radio operators. Commercial radios are financed by advertisements. They represent 2.0% of total advertisement spending, a sum in decline as, since 2010, internet advertisement spending has surpassed that of radio.

4.127. In response to the worsening business conditions for radio broadcasters, the MIC amended its regulation in 2011 in order to relax cross-ownership restrictions on radio broadcasting approval holders. As a consequence, one entity can now control up to four licence holders.

4.128. In terms of broadcasting licences/approvals the regime is the same as for basic licences for terrestrial television i.e. a limitation of foreign ownership to 20% for both transmission and production activities. As in the case of television broadcasting licences, pursuant to the Foreign Exchange and Foreign Trade Act, certain acquisition of shares in broadcasting licenses is subject to prior filing for assessment in terms of national security, etc.⁶⁵ This so-called prior notification requirement for investment has never given rise to any refusal since 2015. Although foreign investment is allowed within limits there is virtually no such foreign investment in this sector.

4.129. Japan's GATS and FTA commitments regarding radio services are identical to those for television described above, since the classification used (CPC provisional and JSIC) groups together TV and radio.

⁶⁴ This notably concerns the acquisition of 10% or more shares of a licence holder whose shares are traded on the stock exchange or over-the-counter market, and the acquisition from a Japanese party of any shares in such a licence holder whose shares are not traded on a stock exchange or over-the-counter market.

⁶⁵ As in the case of television, this notably concerns the acquisition of 10% or more shares of a licence holder whose shares are traded on the stock exchange or over-the-counter market and the acquisition from a Japanese party of any shares in such a licence holder whose shares are not traded on a stock exchange or over-the-counter market.

4.6.3.4 Sound recording services

4.130. In 2014, Japan was the largest physical market for CDs in the world and the second largest market for digitalized music accounting for 20% of the latter market. Thus it has an important upstream sound recording sector, since a large part (87% in value in 2014) of musical sales is produced locally.

4.131. Japan has undertaken full market access commitments for sound recording services under modes 1, 2 and 3, as well as full commitments for national treatment under modes 1 and 2. For mode 3, national treatment commitments cross refer to the horizontal limitation "unbound for research and development subsidies". This binding is on a status quo basis as it reflects the applied regime of this sector in Japan. This liberal GATS regime is echoed in Japan's FTAs which when positively listed contain commitments similar to Japan GATS commitments (complemented in four cases – Malaysia, Mongolia, the Philippines and Thailand – by standstill commitments) and, when negatively listed, do not contain any reservations regarding sound recording.

4.6.4 Health-related services

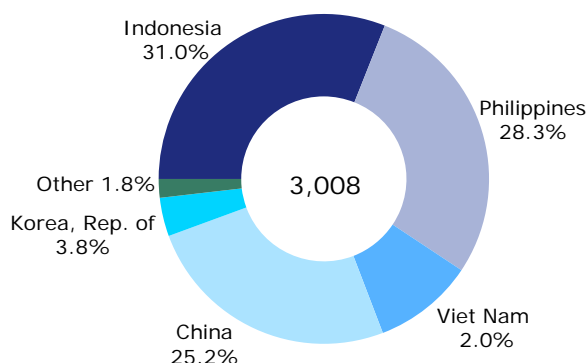
4.132. Table 4.16 describes the main economic indicators of Japan's health sector.⁶⁶ While Japan has detailed commitments for various categories of medical personnel (doctors, dentists, nurses, physiotherapist and care-workers) under the GATS and in its FTAs (see below), no detailed statistics are available for each of those categories. Chart 4.14 provides aggregated statistics for all types of medical personnel by geographical origin as at December 2015. These figures include foreign applicants/candidates to the various types and levels of Japanese examinations for medical professional/personnel.

Table 4.16 Main economic indicators of the health sector in Japan, 2010-12

Selected indicators	2010	2011	2012
Total expenditure on health (THE) as % of GDP	9.6	10.1	10.2
General government expenditure on health (GGHE) as % of THE	82.1	82.6	82.7
Social security funds as % of GGHE	87.6	87.5	87.4
Private expenditure on health (PvtHE) as % of the THE	17.9	17.4	17.3
Private insurance as % of PvtHE	13.5	14.0	14.0
Private out-of-pocket payment as % of PvtHE	80.6	80.2	80.2
Total expenditure on hospitals as % of THE	46.3	46.1	46.2
Total expenditure on inpatient care as % of THE	39.5	39.2	39.3
Prevention and public health services as % of THE	2.9	2.9	2.9
Total expenditure on health / capita at exchange rate (JPY)	360,817	371,440	378,919

Source: Institute for Health Economics and Policy and Ministry of Health online information (in Japanese). Viewed at: <https://www.ihep.jp/publications/report/search.php>; and Labour and Welfare Ministry online information (in Japanese). Viewed at: http://www.mhlw.go.jp/bunya/iryohoken/database/zenpan/iryou_doukou_b.html.

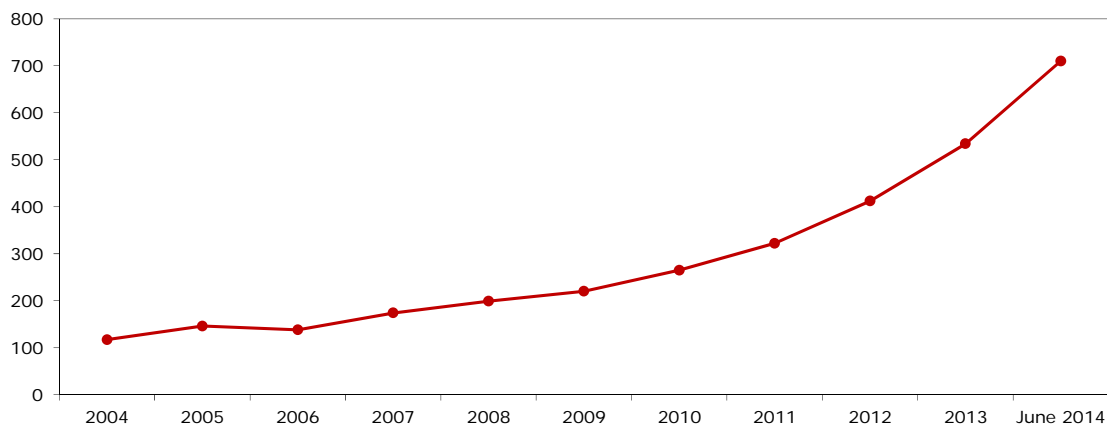
⁶⁶ The following services will be described under this section: medical and dental services (MTN.GNS/W/120 item 1.A.h, CPC 9312), services provide by midwives, nurses, physiotherapists and paramedical personnel (MTN.GNS/W/120 item 1.A.j, CPC 93191), -private-hospital services (part of MTN.GNS/W/120 item 8.A, part of CPC 9311), "other human health services" (MTN.GNS/W/120 item 8.B, part of CPC9319), social services (MTN.GNS/W/120 item 8.C, CPC 933) and other health related and social services (MTN.GNS/W/120 item 8.D, undefined by the CPC).

Chart 4.14 Foreign medical personnel in Japan, as of December 2015

Note: Foreign medical personnel include foreign doctors, nurses, care-workers and candidates to become nurses/care-workers in Japan. "Other" includes Malaysia (0.17%), Thailand (0.17%), Mongolia (0.13%), Nepal (0.13%), and other countries not specified (1.2%).

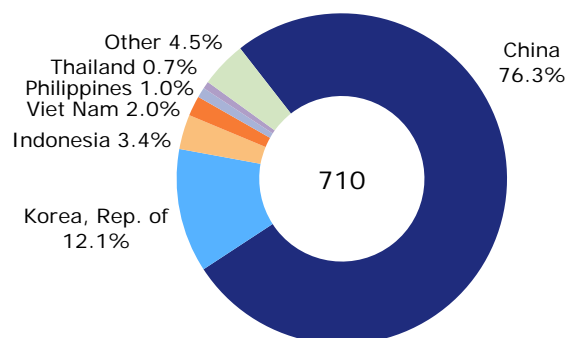
Source: Ministry of justice online information on the number of foreigners according to the residence permissions (in Japanese), Statistics No. 15-12-01-2. Viewed at: <http://www.e-stat.go.jp/SG1/estat/List.do?lid=000001150236>.

4.133. Chart 4.15 describes the evolution over the last decade of so-called "registered foreign personnel with medical status", i.e. foreign personnel having qualified either through Japanese examinations or through recognition and that have remained in Japan to practice. Chart 4.16 describes the origin of such registered medical personnel as at June 2014.

Chart 4.15 Number of registered foreign personnel with medical status, 2004-June 2014

Source: International Organization for Migration–Ministry of Foreign Affairs 2014 Workshop on Foreign Nationals and Foreign Human Resources in the Field of Medical Care – Beyond Language and Cultural Barriers. IOM online information (in English and in Japanese). Viewed at: <https://www.iom.int/speeches-and-talks/keynote-international-workshop-acceptance-foreign-nationals-and-their-integration>; and http://www.iomjapan.org/img/usr/workshop_houkoku06.pdf.

Chart 4.16 Number and origin of registered foreign personnel with medical status, as of June 2014



Source: International Organization for Migration–Ministry of Foreign Affairs 2014 Workshop on Foreign Nationals and Foreign Human Resources in the Field of Medical Care – Beyond Language and Cultural Barriers. IOM online information (in English and in Japanese). Viewed at: <https://www.iom.int/speeches-and-talks/keynote-international-workshop-acceptance-foreign-nationals-and-their-integration>; and http://www.iomjapan.org/img/usr/workshop_houkoku06.pdf.

4.6.4.1 Medical and dental services

4.134. Japan has not undertaken any GATS commitments regarding medical and dental services.

4.135. With regard to the negative listing agreements under some of Japan's FTAs (with Switzerland, Chile, Peru Mexico and Australia), there are no reservations, existing or future, specific to medical and dental services. However, it was difficult for the Secretariat to assess to what extent, if any, medical and dental services have been liberalized in view of the broadly encompassing nature of the standard reservation on social services included by Japan in all of these agreements, which stipulates that "Japan reserves the right to adopt or maintain any measures relating to the supply of services in [...] social services such as income security or insurance,..., social security or insurance, social welfare [...] health and child care".⁶⁷ The same remark is valid for all health and social services described below. Qualification requirements are of the essence in the case of medical services; doctors and dentists originating from Japan's FTA partners do not benefit in that regard from any preferential treatment and are required to go through one of the first four of the five channels listed below (Table 4.17).

4.136. For positively listed commitments under certain Japan's FTAs (with Brunei, India, Indonesia, Malaysia, Mongolia, the Philippines and Singapore), there are basically three cases. The first case is seen in the FTA with Thailand, for which, like for GATS, there is no specific commitment. The second case is observed in the FTA with Singapore, where there are limited commitments for mode 2⁶⁸ and for mode 3⁶⁹. The third is that of all other positively listed FTA partners for which there are full mode 2 commitments⁷⁰ and the same limited mode 3 commitments as for Singapore⁷¹. In addition, some of the positively listed commitments in FTAs that additionally contain an investment chapter (Malaysia, Mongolia, the Philippines and

⁶⁷ The obligations to which this reservation applies vary depending on the agreement: MFN, market access and national treatment for Switzerland; MFN, national treatment, performance requirements, senior management/boards of directors and local presence for Chile and Australia; MFN, market access, national treatment and local presence for Peru; national treatment, senior management/ board of directors and local presence for Mexico.

⁶⁸ Market access: "services must be supplied by a natural person"; and national treatment: "none except that medical expenses covered by social welfare schemes are not the same as those covered in Japan".

⁶⁹ Market access and national treatment: "unbound except that there is no limitation on the participation of foreign capital".

⁷⁰ These mode 2 commitments bind the regime applied *erga omnes* i.e. for medical care that was received in foreign countries, the insured persons who are enrolled in medical insurance in Japan can make a claim for the overseas medical expenses. However, in such cases the insurer uses the medical fee system of Japan to determine the reimbursement amount for the medical care received. Therefore, there are times when the reimbursement amount differs between cases in which medical care was received abroad and in cases where it was received in Japan.

⁷¹ Unbound except that there is no limitation on the participation of foreign capital.

Singapore) include a reservation for future measures for health and social services drafted in exactly the same terms as for the negatively listed agreement described above.⁷² The agreements with Indonesia and Brunei Darussalam, which also contain an investment chapter, do not have a health and social services reservation for future measures whereas they did have one for broadcasting (Section 4.5.3).

4.137. In terms of the regime applied, the opportunities for foreign doctors to provide medical services in Japan are basically limited to the following five channels:

- following the entire Japanese medical curriculum, passing examinations and obtaining qualifications under the same conditions as Japanese nationals;
- seeking authorization from the Ministry of Health, Labour and Welfare (MHLW), based on qualifications obtained abroad, to take the final national Japanese examination for medical practitioners in the Japanese language;
- in the absence of recognition of qualifications obtained abroad by the MHLW, seeking authorization by the MHLW to first take a preliminary examination and then, if successful, complete a traineeship of one year and take the final Japanese medical examination in the Japanese language;
- benefitting from a traineeship programme allowing a degree of practice in Japanese hospitals under the supervision of Japanese doctors, but without obtaining formal licences to practice in Japan for a period of two years, extendable to four; or
- benefitting from one of the four sectoral bilateral sectoral agreements signed by Japan allowing the final Japanese national medical examination to be sat in English.

4.138. Japan has signed four such bilateral sectoral agreements allowing the practice of medicine by foreign doctors in Japan, namely with the United Kingdom (1964), the United States (1971), France (1996), and Singapore (2002). Table 4.17 describes the main conditions and procedures foreseen by these agreements as well as the number of foreign doctors effectively exercising within the framework of these agreements as of October 2015.

Table 4.17 Main conditions and procedures under bilateral medical recognition agreements signed by Japan, as of 2015

Country	Limitations on the number of practitioners allowed	Number of practitioners as of October 2015	Geographical limitations	Common cumulative operating conditions
United Kingdom	7	3	3 hospitals	(1) Authorization by the MHLW, based on the educational and professional backgrounds of foreign doctor applicants to take the National Examination for Medical Practitioners in the English language (Article 11, item 3 of the Medical Practitioners' Act) (2) Success in this exam (3) Obligation to work in hospitals designated by the MHLW (4) Prohibition from practising under the coverage of National
United States	No limitations	2	1 hospital	
France	No limitations	1	2 hospitals	
Singapore	7 doctors 3 dentists	0 0	No limitations on hospitals but practice limited to five prefectures	

⁷² There again the obligations to which this reservation apply vary depending of the agreement: MFN and national treatment for Malaysia; MFN, market access and national treatment for Singapore; MFN, national treatment and prohibition of performance requirements for the Philippines and Mongolia.

Country	Limitations on the number of practitioners allowed	Number of practitioners as of October 2015	Geographical limitations	Common cumulative operating conditions
				Healthcare Insurance (5) Prohibition from treating Japanese patients

Source: WTO Secretariat, based on data provided by the authorities of Japan.

4.139. Individuals can practice individually without creating a legal entity. They have to undergo a registration procedure at prefectural level so as to verify their qualifications. There are no differences of treatment between Japanese doctors and foreign doctors provided that the latter have a Japanese doctor's licence.

4.6.4.2 Services provided by midwives, nurses, physiotherapists and paramedical personnel⁷³

4.140. The pattern and texts of the GATS and FTA commitments for these services are identical to those for medical services described above. For positive-listed commitments in FTAs, there are no commitments under GATS and the FTA with Thailand, limited commitments in the FTA with Singapore in mode 2⁷⁴ and for mode 3⁷⁵, and full mode 2 commitments and the same limited mode 3 commitments⁷⁶ as for Singapore for all other positively listed commitments for FTA partners (Brunei Darussalam, India, Indonesia, Malaysia, Mongolia, the Philippines and Viet Nam). As in the case of medical services, the four positive-listed agreements that also contain an investment chapter (Malaysia, Mongolia, the Philippines, and Singapore) have a generic reservation for future measures listed for health and social services.

4.141. For negatively listed commitments in certain FTAs (i.e. with Switzerland, Chile, Mexico, Peru and Australia), there are no specific reservations, existing for future, regarding this subsector of midwives, nurses and paramedical services but only the generic reservation for future measures regarding health and social services.

4.142. In addition, six positively listed commitments in certain FTAs (with Brunei, India, Indonesia, Malaysia, Mongolia and Thailand) contain a commitment for "services supplied by physiotherapists qualified as *rigaku ryouhoushi* under the Japanese law". The substance of this commitment is identical to that of commitments for midwives, nurses and paramedical personnel (i.e. none for mode 2 and unbound except that there is no limitation on the participation of foreign capital for mode 3), but this commitment is further substantiated by the possibility of a recognition of foreign qualifications under certain conditions like for medical services. The Act on Physiotherapists and Occupational Therapists (Law No. 137 of 1965, last amended in 2014) provides in its article 11-3 that persons who graduated from foreign physiotherapy schools can take the national exam of *rigaku ryouhoushi* if they are authorized to do so by the Minister of Health, Labour and Welfare (MHLW) after an examination of their qualifications. This possibility is open to all nationalities regardless of the existence or absence of an FTA. In practice though, no foreign person that has taken the exam in the past 5 years.

4.143. Regarding this subsector, four agreements (those with the Philippines, Indonesia, Viet Nam and Thailand) contain mode 4 commitments for nurses and/or care-workers. In the case of the FTA with Thailand, it only stipulates that the parties shall enter into negotiations regarding the possibility of acceptance of Thai certified care-workers in Japan with a view to concluding those

⁷³ In order to avoid repetition, this subsection will deal with certified care-workers that Japan has classified as belonging to social services since the substantial concessions made by Japan for nurses and care-workers in some of its FTAs are basically identical and follow the same internal regime. It will also deal with physiotherapists that Japan has singled out in its positive listing FTA commitments and for which it has created a specific recognition regime.

⁷⁴ Market access: "services must be supplied by a natural person"; national treatment: "none except that medical expenses covered by social welfare schemes are not the same as those covered in Japan".

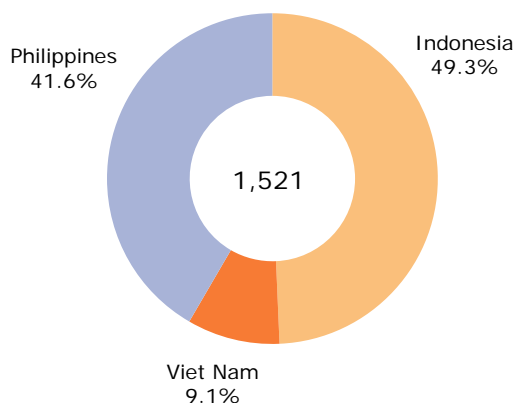
⁷⁵ Market access and national treatment: "unbound except that there is no limitation on the participation of foreign capital".

⁷⁶ Market access and national treatment: "unbound except that there is no limitation on the participation of foreign capital".

negotiations within one or two years. Those negotiations are still ongoing. In the case of Viet Nam, the commitment is twofold: firstly, the granting of entry for one to three years for a natural person of Viet Nam who has qualified under the Japanese law by passing the *kangoshi* examination in Japanese and secondly, an undertaking to negotiate within two years from the entry into force of the agreement the possibility of acceptance of Vietnamese qualified nurses (and certified care-workers, see below). On 18 April 2012, diplomatic notes of "Entry and Temporary Stay of the Natural Persons of Viet Nam Who Engage in Supplying Services as Nurses or Certified Care Workers or Related Activities in Japan" were exchanged, and were put into effect on 17 June of the same year. Japan began accepting Vietnamese candidates for nurses and care-workers from 6 June 2014

4.144. In the case of FTAs with the Philippines and Indonesia, the agreements are almost the same and contain a detailed and relatively complex regime.⁷⁷ They grant access to qualified nurses and qualified care-workers selected and presented by the administration of their country of origin⁷⁸, to first learn the Japanese language over a period of six months and then during a period of one year (renewable) follow a training course within a designated Japanese medical institution to prepare for the Japanese examination for nurses or care-workers. Beneficiaries can take the examinations up to three times and durations of stay are extendable proportionally. More favourable stay conditions are granted to persons having successfully passed the exams in order to exercise in Japan. Japan can set annual quotas for the two categories of applicants to the examinations as well as global quotas whose periodicity is not precisely detailed for the totality of three categories concerned. In addition, Japan can withdraw these quotas by invoking a mechanism akin to a safeguard. According to 2015 statistics, there are over 1,500 persons benefitting from these regimes (Chart 4.17).

Chart 4.17 Origin of foreign nurses and care-workers under EPAs, as at June 2014



Source: International Organization for Migration–Ministry of Foreign Affairs 2014 Workshop on Foreign Nationals and Foreign Human Resources in the Field of Medical Care – Beyond Language and Cultural Barriers, P.5 of the Statistics Part. Viewed at: http://iomjapan.org/img/usr/workshop_houkoku06.pdf.

4.145. Altogether, there are about 3,000 foreign persons with a medical status (including doctors in a limited but unknown number) (Table 4.18). It would appear that the number of medical personnel from China in Japan is nearly equivalent to that of the Philippines and that from Korea nearly doubles that of Viet Nam; the bulk of medical personnel from these two countries is composed of nurses and care-workers that have passed Japanese qualification examinations.

⁷⁷ MOFA online information. Viewed at: <http://www.mofa.go.jp/region/asia-paci/indonesia/epa0708/annex10.pdf> (section 6, pp. 923-926 for Indonesia), and <http://www.mofa.go.jp/region/asia-paci/philippine/epa0609/annex8.pdf> (section 6, pp. 931-933 for the Philippines).

⁷⁸ Their necessary qualifications in the country of origin are specified in detail.

Table 4.18 Conditions to take the national nurses and caretakers exams

	Country	Total number of foreign doctors, nurses, caretakers and nurses/caretaker candidates	Conditions to take the national exams for (1) nurses (2) caretakers	Period of stay
EPA	Indonesia	933	(1) Qualification as a nurse in Indonesia, professional experience of at least 2 years and some basic knowledge of Japanese language equivalent to N5 (entry level) (2) (a) Completion of studies at a higher educational institution and a qualification as a caretaker in Indonesia, or (b) Completion of studies at a nursing school in Indonesia	Under the status of residence of "Designated Activities (EPA)" 6 months/ 1 year/3 years per stay Unlimited number of renewals of a permission of stay
	Philippines	852	(1) Qualification as a nurse in the Philippines and professional experience of at least 3 years (2) (a) Completion of 4 years of study at university and a qualification as a caretaker, or (b) Completion of studies at a nursing school in the Philippines	Under the status of residence of "Medical Services" 3 months/ 1 year/3 years/ 5 years per stay Unlimited number of renewals of a permission of stay
	Viet Nam	296	(1) Completion of 3 years/4 years of study in nurses' schools, qualification as a nurse in Vietnam and professional experience of at least 2 years (2) Completion of 3 years/4 years of study at a nursing school	Under the status of residence of "Medical Services" 3 months/ 1 year/3 years/ 5 years per stay Unlimited number of renewals of a permission of stay
Non-EPA	China	758	(1) Authorization by the MHLW, based on educational backgrounds, a qualification as a nurse in a foreign country and a good command of the Japanese language equivalent to N1 level (the highest level) (2) Completion of studies in a caretakers' school in Japan	Under the status of residence of "Medical Services" 3 months/ 1 year/3 years/ 5 years per stay Unlimited number of renewals of a permission of stay.
	Korea, Republic of	114		
	Malaysia	5		
	Thailand	5		
	Mongolia	4		
	Nepal	4		
	others	37		
	Total	3008		

Note: Foreign workers in the medical service industry include foreign doctors, nurses, caretakers and nurse/caretaker candidates in Japan.
The number in non-EPA countries refers to foreign nationals with the status of residence of "Medical Services."
The number in EPA countries is the total of foreign nationals with the status of residence of "Medical Services" and those with the status of residence of "Designated Activities (EPA)".

Source: Ministry of Justice online information on the number of foreigners according to the residence permissions. Statistics No. 15-12-01-2. Ministry of Health, Labour and Welfare (MHLW) online information. Viewed at: http://www.mhlw.go.jp/file/06-Seisakujouhou-11650000-Shokugyouanteikyokuhakenyukiroudoutaisakubu/epa_base5_270825.pdf and <http://www.mhlw.go.jp/stf/seisakunitsuite/bunya/0000112866.html>.

4.146. The rate of success in the examinations is around 35% for caretakers and slightly over 10% for nurses. Table 4.19 details the number of candidates and the number of persons having successfully passed the examination by EPA partner and for the last seven years. These mode 4 concessions are a quasi-unique example of detailed preferential sectoral mode 4 commitments. At the same time, the numerical importance of nurses and care-workers originating from non-EPA

benefitting partners shows that the liberalization undertaken by Japan goes beyond the strictly preferential context.

Table 4.19 Foreign nurse and care-worker candidates, 2008-14

	2008	2009	2010	2011	2012	2013	2014	Total (Passed)	Total (Candidates)
Nurses									
Passed (Test takers)									
	0 (82)	3 (254)	16 (398)	47 (415)	30 (311)	32 (301)	26 (357)	154	839
Indonesia	0 (82)	2 (195)	15 (285)	34 (257)	20 (173)	16 (151)	11 (174)	98	481
Philippines	..	1 (59)	1 (113)	13 (158)	10 (138)	16 (150)	14 (163)	55	337
Viet Nam	..	..	..	..	..	..	1 (20)	1	21
Care-workers									
Passed (Test takers)									
	..	..	..	36 (95)	128 (322)	78 (215)	78 (174)	320	1,501
Indonesia	..	..	..	35 (94)	86 (184)	46 (107)	47 (85)	214	754
Philippines	..	..	..	1 (1)	42 (138)	32 (108)	31 (89)	106	630
Viet Nam	..	..	..	..	..	..	..	0	117

.. Not available.

Note: The total number of candidates doesn't correspond to the sum of test takers because a candidate can take exams multiple times.
Only those who have completed the traineeship of at least 3 years can take the care-workers exam.

Source: MHLW online information. Viewed at: http://www.mhlw.go.jp/file/06-Seisakujouhou-11650000-Shokugyouseiteikyokuhakenyukiroudoutaisakubu/epa_base5_270825.pdf.

4.6.4.3 Hospital and other human health services

4.147. Japan's GATS commitments for hospital and other human health services are limited to the item 8.A, hospital services, and there are none for mode 2 for both market access and national treatment (mode 1 deemed technically unfeasible), or for mode 3 under both market access and national treatment, which are "unbound except that there is no limitation on the participation of foreign capital". Positively listed commitments for hospital services in certain FTAs (i.e. with Thailand, Singapore, the Philippines, Mongolia, Malaysia, Indonesia, Brunei Darussalam and India) are identical to those of Japan's GATS commitments, with two additions. Firstly, for Mongolia, this commitment is bound on a standstill basis. Secondly, the agreement with Thailand contains an additional commitment on the portability of Japanese national health insurance (i.e. the reimbursement by the Japanese health insurance of hospital expenses incurred abroad)⁷⁹.

4.148. In addition, positively listed commitments in certain FTAs contain commitments on ambulance services and on blood collection services with the same entries as for hospital services (i.e. none for mode 2 and unbound except no limitation on the participation for foreign capital for mode 3) and the same standstill for Mongolia.

4.149. The positively listed commitments in certain FTAs that also contain an investment chapter (Malaysia, Mongolia, the Philippines and Singapore) have the same generic reservation on health services as described above and the same is true for negatively listed commitments in certain FTAs (i.e. with Switzerland, Chile, Mexico, Peru and Australia). These negative listings do not contain any reservations specific to hospital and other human health services.

4.150. In terms of the regime applied, the establishment of private clinics, including foreign owned and managed clinics, is allowed in Japan provided the technical terms and conditions for opening clinics are fulfilled. In terms of qualifications and procedures required, doctors who qualified in Japan and completed a clinical traineeship of at least 2 years can establish their own medical institution without permission from the governor or the mayor. However, if a person who is

⁷⁹ The precise wording of this additional commitment is the following: "The reimbursement of expenses for medical treatment received by Japanese nationals in Thailand shall be permissible. Such reimbursement shall be made in accordance with Japan's law and regulations".

not a clinical traineeship graduate wishes to open a medical institution, he/she must obtain the permission of the prefectural governor, the city mayor or the ward mayor.

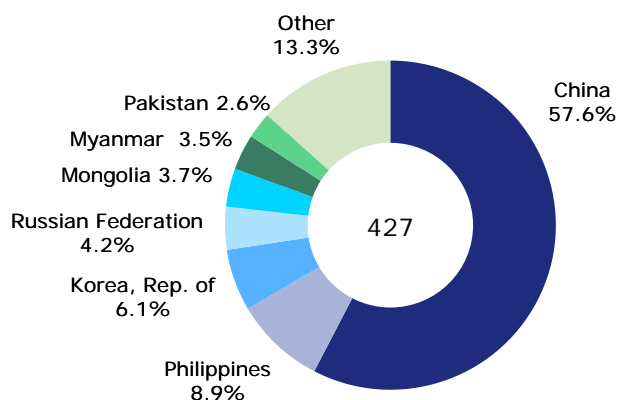
4.151. In both instances the authorities will check the fulfilment of the technical requirements (Article 27 of the Medical Treatment Act). Even if the planned clinic satisfies the technical requirements, the authorization will be granted only if the number of beds in hospitals and clinics in the region concerned does not exceed the standard fixed by the prefecture government (Articles 30-4 and 30-7 of the Medical Treatment Act). This standard applies to both Japanese-owned and foreign-owned clinics.

4.152. To obtain the coverage of the national healthcare insurance, the owners of the clinics must request designated clinic status from the National Healthcare Insurance Authorities under the National Healthcare Insurance Act (Article 65), which is conditional on meeting technical requirements. However, foreign clinics, like foreign doctors, cannot benefit from the coverage of the Japanese national health insurance system.

4.153. In practice, the number of foreign clinics is limited compared with the size and level of development of the country. The Secretariat has identified only one foreign clinic, the American Clinic Tokyo, while a second one, the British Clinic of Tokyo has just closed its doors.

4.154. Chart 4.18 also describes health-related movements of persons to Japan under mode 2 (consumption abroad) and their origin. They appear relatively marginal compared with the size of Japan and with the quality level of its health system.

Chart 4.18 Number and origin of foreign patients treated in Japan (including their companions), as at June 2014



Source: International Organization for Migration–Ministry of Foreign Affairs 2014 Workshop on Foreign Nationals and Foreign Human Resources in the Field of Medical Care – Beyond Language and Cultural Barriers, P.5 of the Statistics Part. Viewed at: http://iomjapan.org/img/usr/workshop_houkoku06.pdf.

4.6.4.4 Social services

4.155. Japan's GATS schedule does not include commitments for social services (8.C). By contrast, the positively listed commitments under the FTAs with Thailand, the Philippines, Mongolia, Malaysia, Indonesia, and Brunei contain commitments on a large part of social services ("social services - including services supplied by certified care-workers, excluding child day care services - CPC 933 except 93321") modelled on those for hospitals (i.e. none for mode 2 and unbound except no limitation on the participation for foreign capital for mode 3) and the same standstill for Mongolia. There are no specific reservations regarding social services in negatively listed commitments under certain FTAs other than the generic health and social services reservation and the same is true for the investment chapter of the positive listing agreements that contain such a chapter.

4.156. The main commercial segment of social services is retirement home services. Although it is a relatively recent market in Japan, due perhaps to the strength of traditional family ties, it is a booming business (12.7% of annual revenue growth between 2010 and 2013) due to the

increasing geographical mobility of the working population and to the ageing of the population. In 2005, Japan became the country with the highest percentage of the population over 65 years old at 20.1%; this percentage reached 24.1% in 2012 and is expected to rise to 39.9% in 2060.⁸⁰

4.157. To take into account this evolution, the Diet approved a mandatory long-term care policy for the elderly in April 2000, the "long-term care insurance system" with the triple aim of shifting the burden from the family to the State, establishing a relationship between benefits received and cost sharing via insurance premiums and co-payments, and integrating medical care and welfare services into a unified financing model. The reform also partially opened the market for medical care and welfare facilities to the private for-profit sector, which was previously banned. This for-profit market was then valued at ¥4 trillion.

4.158. In 2013, the Japanese senior care market rose above ¥10 trillion, of which ¥5.6 trillion can be attributed to senior housing alone (the private sector accounting for ¥1.3 trillion (25%) of this). Several foreign firms attracted by this market have bought up existing retirement home facilities, essentially under the legal form of health dedicated real estate investment trust (health REIT), notably AIP healthcare from the US and Parkway REIT from Singapore. While major domestic companies present in other sectors have also invested in the ownership and management of such facilities, such as the education service provider Benesse and the food service provider Watami. Nonetheless, the market remains fragmented: in 2013, there were 4,762 operators and the top 5 operators, all Japanese (Message co, Benesse, Nichii Gakan, Best Life Inc and Watami No Kaigo), accounted for only 13 % of the market.

4.159. There are basically three types of senior housing (plus a large and heterogeneous "other" category) (Table 4.20).

Table 4.20 Main types of senior accommodation in Japan, 2013

	Characteristics	Condition of establishment	Nursing care financing mode ^a	Number of rooms	Size and growth rate of the market
Licensed retirement home (<i>tokutei shistesu</i>)	24-hour nursing	- Licensing at prefectural level (municipal level for small facilities accepting generally only local residents (<i>micchakugata</i>) - Limited amount of authorizations available - Bidding procedure	Reimbursement for nursing services directly from government to the operator with a 10% co-payment for the resident	314,000	¥1,328 billion 12.7% annual growth between 2000 and 2013
Residential style retirement home (<i>jutakugata</i>)	Day-to-day support and meal services	No licence but rules and controls on quality, e.g.: Regarding staff more than 1 office worker (<i>seikatsu sodanin</i>) per 100 users and more than 1 nursing or care-giving staff per 3 users who require care, regarding facilities: fire safety standards Prefectures can instruct the operator to improve in case they find that the operator conduct unfair or disadvantageous actions towards users	The operator has to submit a "customer care plan" and receives 30 to 40% less than the licensed retirement home operator, the rest being paid by the resident in the form of co-payments		

⁸⁰ Harvard Business School (2015) case study "AIP Healthcare Japan: investing in Japan's retirement home market". Viewed at: <https://hbr.org/product/aip-healthcare-japan-investing-in-japan-s-retirement-home-market/515102-PDF-ENG>.

	Characteristics	Condition of establishment	Nursing care financing mode ^a	Number of rooms	Size and growth rate of the market
Elderly only apartments (<i>sakoku</i>)	Remote/on call nursing care provider often affiliated with the apartment operator	No licence	If the elderly only apartments are within a licensed retirement home, nursing care fees are paid with insurance premiums	77,000	¥142.4 bn in 2014 + 17.3 annually between 2010 and 2013
Others				172,000	¥726 bn
Total				563,000	¥2,196 bn

a The housing fees strictly speaking are paid by an upfront fee ("moving in fee") and by monthly rental and administration fees both paid by residents with their pension and savings.

Source: Harvard Business School case study "AIP Healthcare Japan: investing in Japan's retirement home market".

4.160. In terms of the regime applied, there are no restrictions in the GATS sense for foreign operators of REIT and retirement homes including licensed retirement homes. The Government has recently taken measures to encourage the construction of new facilities and the renovation and extension of existing ones. Retirement housing is one of the sectors – with hospitals – that can benefit from the Fund for Ensuring Regional Access to Medical Care and Long-Term Care, established by the Act on Ensuring Regional Access to Medical Care and Long-Term Care of 25 June 2014, amending Law No. 64 of 1988. This fund is financed by the consumption tax and contributions to its budget are split between the central state (two thirds) and each prefecture (one third). Its budgetary allotment was of ¥162.8 billion nationwide in 2015 of which ¥72.4 billion was for elderly care services. The guidelines for the usage of this fund⁸¹ published by the Ministry of Health, Labour and Welfare (MHLW) contain no discriminatory provisions reserving the benefit of those funds for Japanese nationals or Japanese companies. In addition, in its December 2013 "outline of economic measures for realization of positive cycles" the Government encouraged private funds and banks to invest in high growth projects (e.g. healthcare industry targeting elderly people).

4.161. In terms of qualifications required from national or foreign REIT operators, the 1951 Investment Trust and Investment Company Law, last amended in 2013, stipulates that an asset manager of a REIT must have real estate transaction agency service approval. The Real Estate Transaction Business Act requires a real estate transaction agency service applicant to have the necessary knowledge and experience to conduct the business fairly and adequately (Article 50-2-3 (iii)). Further, in 2014, the Government issued the Home Care Rehabilitation guidelines which provide a detailed interpretation of the notion of "necessary knowledge and experience" for REITs that invest in healthcare.

⁸¹ MHLW online information (in Japanese). Viewed at: <http://www.mhlw.go.jp/file/05-Shingikai-12401000-Hokenkyoku-Soumuka/0000057828.pdf>.

5 APPENDIX TABLES

Table A1. 1 Merchandise exports by product group, 2011-15

	2011	2012	2013	2014	2015
Total exports (US\$ billion)	823.2	798.6	715.1	690.2	624.9
	(% of total)				
Total primary products	5.9	5.8	6.6	6.5	5.9
Agriculture	1.3	1.4	1.5	1.5	1.7
Food	0.6	0.6	0.6	0.7	0.8
Agricultural raw material	0.8	0.8	0.9	0.9	0.8
Mining	4.6	4.4	5.1	5.0	4.3
Ores and other minerals	0.7	0.9	0.9	0.8	0.7
Non-ferrous metals	1.9	1.9	1.9	1.9	1.8
Fuels	2.0	1.7	2.3	2.3	1.8
Manufactures	88.1	88.9	87.6	87.6	87.2
Iron and steel	5.7	5.5	5.4	5.4	4.9
Chemicals	10.3	9.9	10.6	10.4	10.1
5112 Cyclic hydrocarbons	0.9	0.9	1.3	1.0	0.9
5822 Other plastics, flat shapes, non-cellular and not reinforced, etc.	1.0	1.0	0.9	0.9	0.8
Other semi-manufactures	4.8	4.9	4.9	4.7	4.7
Machinery and transport equipment	58.3	59.6	57.9	58.0	58.7
Power generating machines	1.7	1.8	1.8	1.8	1.8
Other non-electrical machinery	15.4	14.6	13.5	14.0	13.8
7284 Machinery and appliances for particular industries, n.e.s.	3.4	2.8	2.5	2.7	2.8
7232 Mechanical shovels, etc., self-propelled	1.2	1.3	1.0	1.1	1.0
7285 Parts, n.e.s. of machines/appliances of 723.48, 727.21, 728.41 to 728.49	0.8	0.8	0.7	0.8	0.8
Agricultural machinery and tractors	0.3	0.3	0.3	0.3	0.3
Office machines & telecommunication equipment	10.6	10.3	9.8	9.5	9.6
7764 Electronic integrated circuits and microassemblies	3.6	3.5	3.5	3.4	3.5
7763 Diodes, transistors, etc.	1.2	1.1	1.0	1.0	1.0
7649 Parts and accessories for apparatus of division 76	1.0	0.9	0.9	0.9	1.0
Other electrical machines	6.2	6.3	6.3	6.4	6.5
7725 Switches, relays, fuses etc. for a voltage not exceeding 1000 V	1.0	1.1	1.1	1.1	1.1
Automotive products	18.3	20.8	21.2	21.0	21.9
7812 Motor vehicles for the transport of persons, n.e.s.	10.6	12.2	12.8	12.8	13.8
7843 Other motor vehicle parts and accessories of 722, 781 to 783	4.6	5.0	4.9	4.7	4.6
7821 Goods vehicles	1.4	1.6	1.4	1.5	1.5
Other transport equipment	6.2	5.8	5.3	5.2	5.1
7932 Ships, boats, etc. (excl. pleasure craft, tugs, etc.)	3.1	2.7	2.1	1.8	1.8
7139 Parts, n.e.s., for piston engines of 713.2, 713.3, 713.8	1.1	1.1	1.1	1.0	0.9
7929 Parts, n.e.s., (excl. tyres, engines, electrical parts) of 792	0.4	0.5	0.6	0.8	0.8
Textiles	1.0	1.0	1.0	1.0	1.0
Clothing	0.1	0.1	0.1	0.1	0.1
Other consumer goods	7.9	7.9	7.7	8.0	7.9
8719 Liquid crystal devices, n.e.s.; lasers (excl. laser diodes)	1.0	1.0	0.9	1.1	0.9
8746 Automatic regulating and controlling instruments	0.6	0.7	0.8	0.7	0.7

	2011	2012	2013	2014	2015
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	0.7	0.8	0.8	0.8	0.7
Other	6.0	5.3	5.8	5.9	6.8
9710 Gold, non-monetary (excl. gold ores and concentrates)	1.2	0.9	0.7	0.7	0.9

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

Table A1. 2 Merchandise imports by product group, 2011-15

	2011	2012	2013	2014	2015
Total imports (US\$ billion)	855.4	886.0	833.2	812.2	625.6
	(% of total)				
Total primary products	51.4	51.3	50.5	48.8	38.7
Agriculture	11.2	10.6	10.3	10.1	11.8
Food	9.2	8.9	8.6	8.5	10.0
Agricultural raw material	2.0	1.7	1.7	1.6	1.8
Mining	40.1	40.7	40.2	38.7	26.8
Ores and other minerals	5.4	4.7	4.6	4.5	4.2
2831 Copper ores and concentrates	1.3	1.9	1.3	1.2	1.3
2815 Iron ores and concentrates, not agglomerated	2.3	1.3	1.9	1.7	1.2
Non-ferrous metals	2.6	1.9	1.8	1.9	2.2
6841 Aluminium and aluminium alloys, unwrought	0.8	0.7	0.6	0.8	0.8
Fuels	32.1	34.1	33.8	32.3	20.5
3431 Natural gas, liquefied	7.0	8.5	8.7	9.1	7.3
3330 Crude oils of petroleum and bituminous minerals	16.6	17.3	17.5	16.1	7.2
3212 Other coal, whether or pulverized, not agglomerated	3.5	3.2	2.7	2.3	2.5
334 Petroleum oils, other than crude	3.3	3.4	3.2	3.1	2.3
3421 Propane, liquefied	1.0	1.1	1.0	1.0	0.7
Manufactures	47.1	47.2	48.0	49.8	59.5
Iron and steel	1.4	1.1	1.0	1.1	1.1
Chemicals	8.8	8.3	7.9	7.9	10.2
5429 Medicaments, n.e.s.	1.3	1.6	1.5	1.4	2.4
5416 Glycosides; glands, etc. and extracts; antisera/vaccines, etc.	0.6	0.6	0.6	0.6	0.8
Other semi-manufactures	3.5	3.5	3.5	3.7	4.3
Machinery and transport equipment	20.8	21.5	22.7	24.0	28.2
Power generating machines	0.9	0.9	0.9	1.0	1.3
Other non-electrical machinery	3.3	3.1	3.3	3.6	4.5
Agricultural machinery and tractors	0.1	0.1	0.1	0.1	0.1
Office machines & telecommunication equipment	10.2	10.2	10.9	11.3	12.9
7764 Electronic integrated circuits and microassemblies	2.1	2.0	2.0	2.1	2.7
7643 Radio or television transmission apparatus	1.1	1.6	2.0	2.0	2.3
7763 Diodes, transistors, etc.	0.4	0.5	0.9	1.2	1.1
7522 Data processing machines, with at least processing, input and output units	1.0	1.0	1.0	1.1	1.1
7649 Parts and accessories for apparatus of division 76	1.0	1.0	0.9	0.8	1.0
Other electrical machines	3.4	3.6	3.6	3.9	4.7
7731 Insulated wire, cable etc.; optical fibre cables	0.7	0.7	0.8	0.8	1.0
Automotive products	2.0	2.3	2.5	2.6	3.1
7812 Motor vehicles for the transport of persons, n.e.s.	1.0	1.2	1.3	1.3	1.4
7843 Other motor vehicle parts and accessories of 722, 781 to 783	0.7	0.8	0.9	0.9	1.2
Other transport equipment	1.0	1.4	1.5	1.5	1.8
Textiles	1.1	1.0	1.1	1.1	1.3
Clothing	3.9	3.8	4.0	3.8	4.6
8453 Jerseys, pullovers, cardigans, etc., knitted/crocheted	0.6	0.6	0.6	0.6	0.7
Other consumer goods	7.6	7.9	7.9	8.1	9.8
8722 Instruments used in medical, surgical or veterinary sciences	0.5	0.6	0.6	0.5	0.7
Other	1.6	1.5	1.4	1.4	1.8

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

Table A1.3 Merchandise exports by destination, 2011-15

	2011	2012	2013	2014	2015
Total exports (US\$ billion)	823.2	798.6	715.1	690.2	624.9
	(% of total)				
America	21.7	24.2	24.8	24.7	25.8
United States	15.5	17.8	18.8	18.9	20.2
Other America	6.2	6.4	6.0	5.8	5.6
Mexico	1.2	1.3	1.4	1.5	1.7
Canada	1.1	1.3	1.2	1.2	1.2
Europe	13.3	11.2	11.0	11.3	11.5
EU-28	11.7	10.2	10.0	10.4	10.6
Germany	2.9	2.6	2.7	2.8	2.6
The Netherlands	2.2	2.0	1.9	1.9	1.9
United Kingdom	2.0	1.7	1.6	1.6	1.7
France	1.0	0.8	0.9	0.9	0.8
Belgium	0.8	0.8	0.7	0.8	0.8
EFTA	1.3	0.7	0.6	0.6	0.6
Other Europe	0.4	0.3	0.3	0.3	0.4
Commonwealth of Independent States (CIS)	1.7	1.8	1.8	1.6	1.0
Africa	1.6	1.6	1.6	1.5	1.4
Middle East	3.0	3.5	3.6	4.1	4.2
United Arab Emirates	0.9	1.1	1.2	1.4	1.4
Saudi Arabia	0.8	1.0	1.0	1.1	1.1
Asia	58.7	57.6	57.2	56.7	56.1
China	19.7	18.1	18.1	18.3	17.5
Korea, Republic of	8.0	7.7	7.9	7.5	7.0
Chinese Taipei	6.2	5.8	5.8	5.8	5.9
Hong Kong, China	5.2	5.1	5.2	5.5	5.6
Thailand	4.6	5.5	5.0	4.5	4.5
Singapore	3.3	2.9	2.9	3.0	3.2
Australia	2.2	2.3	2.4	2.1	2.1
Viet Nam	1.2	1.3	1.5	1.7	2.0
Malaysia	2.3	2.2	2.1	2.0	1.9
Indonesia	2.2	2.5	2.4	2.1	1.8
Philippines	1.4	1.5	1.4	1.4	1.5
India	1.3	1.3	1.2	1.2	1.3
<i>Memorandum:</i>					
APEC	76.1	77.6	78.4	77.8	77.8

Source: UNSD Comtrade database.

Table A1. 4 Merchandise imports by origin, 2011-15

	2011	2012	2013	2014	2015
Total imports (US\$ billion)	855.4	886.0	833.2	812.2	625.6
	(% of total)				
America	14.3	14.0	13.9	13.9	16.2
United States	8.9	8.8	8.6	9.0	10.9
Other America	5.4	5.2	5.3	4.9	5.3
Canada	1.5	1.4	1.4	1.4	1.5
Brazil	1.5	1.3	1.3	1.2	1.2
Europe	10.7	10.7	10.6	10.8	13.0
EU-28	9.4	9.4	9.4	9.5	11.4
Germany	2.7	2.8	2.9	3.0	3.2
France	1.4	1.4	1.4	1.4	1.5
Italy	1.0	1.1	1.1	1.1	1.2
Ireland	0.5	0.5	0.4	0.4	1.2
United Kingdom	0.8	0.8	0.8	0.8	1.0
EFTA	1.2	1.2	1.1	1.2	1.5
Switzerland	0.9	0.9	0.9	0.9	1.2
Other Europe	0.1	0.1	0.1	0.1	0.1
Commonwealth of Independent States (CIS)	2.3	2.5	3.0	3.2	2.8
Russian Federation	2.2	2.3	2.8	3.0	2.5
Africa	2.0	2.4	2.3	2.1	1.8
Middle East	18.8	19.2	19.3	18.4	9.1
United Arab Emirates	5.0	5.0	5.1	5.1	3.8
Qatar	3.5	4.1	4.4	4.1	2.6
Saudi Arabia	5.9	6.2	6.0	5.8	0.4
Asia	51.8	51.2	50.9	51.6	57.1
China	21.5	21.3	21.7	22.3	25.7
Australia	6.6	6.4	6.1	5.9	5.6
Korea, Republic of	4.7	4.6	4.3	4.1	4.3
Chinese Taipei	2.7	2.7	2.8	3.0	3.7
Malaysia	3.6	3.7	3.6	3.6	3.4
Thailand	2.9	2.7	2.6	2.7	3.3
Indonesia	4.0	3.6	3.5	3.2	3.2
Viet Nam	1.4	1.7	1.7	1.9	2.4
Philippines	1.0	1.1	1.1	1.3	1.4
Singapore	1.0	1.0	0.9	1.0	1.3
<i>Memorandum:</i>					
APEC	65.2	64.5	64.3	65.4	72.5

Source: UNSD Comtrade database.

Table A2. 1 WTO dispute settlement cases active 1 January 2015-8 July 2016

(Reverse chronological order)

Subject	Respondent/ complainant/ appellant	Request received for consultation	Status (as at 8 July 2016)	WTO document series
Japan as respondent				
None				
Japan as complainant				
Anti-Dumping Duties on Pneumatic Valves from Japan	Korea, Republic of	15/03/2016	Panel established 04/07/2016	DS504
Certain Measures Concerning Taxation and Charges	Brazil	02/07/2015	Panel composed 29/09/2015	DS497
Import Bans, and Testing and Certification Requirements for Radionuclides	Korea, Republic of	21/05/2015	Panel composed 08/02/2016	DS495
Definitive Safeguard Measures on Certain Passenger Cars	Ukraine	30/10/2013	Panel Report circulated 26/06/2015	DS468
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

Source: WTO Secretariat.

Table A2. 2 Selected notifications under WTO Agreements (1 January 2015-11 October 2016), or last notification if applicable

WTO Agreement	Description of requirement	Document symbol and date of most recent notification
Agriculture		
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)	G/AG/N/JPN/143, 26/02/2009
Article 18.2	Volume of imports under tariff quotas (MA: 2)	G/AG/N/JPN/210, 07/03/2016
Article 5.7	Volume-based special safeguard (MA: 3)	G/AG/N/JPN/214, 05/10/2016
Article 5.7	Price-based special safeguard (MA: 4)	G/AG/N/JPN/213, 27/09/2015
Articles 5.7 and 18.2	Special safeguard (MA: 5)	G/AG/N/JPN/211, 22/04/2016
Articles 10 and 18.2	Export subsidies (outlays and quantities) (ES: 1)	G/AG/N/JPN/212, 23/05/2016
Article 10	Volume of food aid in the context of export subsidy commitments (ES: 3)	G/AG/N/JPN/198, 16/10/2014
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/199, 20/10/2014
Anti-dumping		
Article 16.4	Anti-dumping actions taken	G/ADP/N/286/JPN, 27/07/2016
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.8 G/SCM/N/1/JPN/2/Suppl.8, 07/10/2016
GATT 1994 (Article VII: Customs Valuation)		
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
GATT 1994 (Article XVII:4(a) Understanding on the Interpretation of Article XVII)		
	Notification of products traded by state enterprises State trading activities	G/STR/N/16/JPN, 05/07/2016
Government Procurement (Revised GPA entered into force in April 2014)		
Revised Article 19.1(a)	Modification to Annex 3 of Appendix I	GPA/MOD/JPN/82, 29/06/2016
Article 19.5	Modification of statistics on government procurement	GPA/108/Add.4, 23/02/2012
Article 24.5(b) Revised article 22.5	Notification of national implementing legislation Laws and regulations (and changes)	GPA/W/314/Add.5, 06/02/2012 GPA/117, 22/04/2013 GPA/37/Add.13, 14/07/2016
Article 24.6(a)	Modifications to Annex 1 and 3 of Appendix I	GPA/MOD/JPN/52, 22/06/2010 GPA/W/309/Add.5, 11/02/2010 GPA/MOD/JPN/67, 09/03/2012 GPA/MOD/JPN/66, 14/02/2012
Paragraph 2 of Annex F in Appendix 2	Exclusions and restrictions in the Annexes to Appendix I	GPA/WPS/EXCS/3/Rev.1, 08/12/2014
Paragraph 2 of Annex D in Appendix 2	Statistics on procurement	GPA/WPS/STAT/4, 25/06/2015
Paragraph 3.2 of Annex C in Appendix 2	Questionnaire; work programme on SMEs	GPA/WPS/SME/3, 04/08/2015
Annexes 1, 2 and 3 of Appendix I	Thresholds	GPA/W/337, 05/02/2016
Import Licensing Procedures		
Articles 1.4(a) and 8.2(b)	Laws and regulations relevant to import licensing	G/LIC/N/1/JPN/2/Rev.1, 26/02/1997
Article 5.1 and 5.3	Notification of licensing procedures and changes	G/LIC/N/JPN/3, 27/04/2001
Article 7.3	Questionnaire; rules and information concerning procedures for the submission of applications	G/LIC/N/3/JPN/15, 05/10/2016
Subsidies and Countervailing Measures		
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

WTO Agreement	Description of requirement	Document symbol and date of most recent notification
Article 25.11	Countervailing duty actions taken	G/SCM/N/235/Add.1, 24/04/2012
Article 25.1	Subsidies programmes	G/SCM/N/284/JPN, 30/06/2015
Article 25.12	Notification of domestic procedures and authorities competent to initiate and conduct investigations	No notification
Safeguards		
Article 12.6	Laws and regulations	G/SG/N/1/JPN/2/Suppl.3, 20/05/2016 G/SG/N/1/JPN/3/Corr.1, 20/05/2016
Article 12.5	Notification of termination of safeguard investigation	No notification
Sanitary and Phytosanitary Measures		
Article 6, Annex B	Notification of emergency measures	G/SPS/N/JPN/358/Add.1, 18/09/2015
Article 5, Annex B	Notification of sanitary and phytosanitary measures	2014 – 23 notifications 2015 – 56 notifications 2016 – 44 notifications
Technical Barriers to Trade		
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/528, 28/06/2016
Article 2.9	Technical regulations	2014 – 4 notifications 2015 – 24 notifications 2016 – 21 notifications
Article 5.6	Conformity assessment procedures	G/TBT/N/JPN/505, 25/11/2015 G/TBT/N/JPN/522, 01/04/2016
Article 5.7	Urgent conformity assessment procedures	No notifications
TRIMs		
Article 5.1	Investment measures	No notifications
TRIPS		
Article 63.2	Design Act, updated text	IP/N/1/JPN/D/7, 30/05/2016
	Trademark Act, updated text	IP/N/1/JPN/T/7, 30/05/2016
	Patent Act, updated text	IP/N/1/JPN/P/12, 30/05/2016
	Law Concerning International Applications, etc. pursuant to the Patent Cooperation Treaty	IP/N/1/JPN/P/11, 07/07/2015
	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/O/9, 27/01/2016
Article 69	Contact points	IP/N/7/Rev.3, 17/02/2010
General Agreement on Trade in Services (GATS)		
Article III:3	Changes to laws and regulations affecting services	S/C/N/659, 05/11/2012 S/C/N/660, 05/11/2012
	Notifications of preferential treatment to services and service suppliers of least developed countries	S/C/N/820, 31/07/2015
Regional Trade Agreements		
	Notification of regional trade agreement	WT/REG373/N/1, 02/06/2016 WT/REG361/N/1, 13/01/2015
	Notification of changes affecting the implementation of a regional trade agreement	No notifications

Source: WTO documents.

Table A3. 1 Japan's tariff summary, FY2016

	Number of lines	Average (%)	Range (%)	Standard deviation	Duty free (%)	Non-ad valorem rates (%)
Total	9,071	6.1	0-389	16.7	40.1	6.8
HS 01-24	2,158	14.5	0-389	30.2	18.5	14.2
HS 25-97	6,913	3.5	0-235.5	7.7	46.9	4.5
By WTO category						
WTO agricultural products	1,788	16.3	0-389	33.4	25.5	17.5
Animals and products thereof	222	10.2	0-50	12.8	34.7	14.9
Dairy products	64	57.4	8.4-206.8	50.2	0.0	70.3
Fruit, vegetables, and plants	495	13.7	0-389	37.4	15.2	3.0
Coffee and tea	62	19.5	0-107.1	17.5	11.3	9.7
Cereals and preparations	342	26.7	0-370.2	40.5	9.9	27.8
Oilseeds, fats, oil and their products	130	5.5	0-312.4	28.0	41.5	30.8
Sugars and confectionary	49	32.8	0-114.2	26.6	6.1	59.2
Beverages, spirits and tobacco	146	17.2	0-68.9	13.0	21.9	24.7
Cotton	5	0.0	0-0	0.0	100.0	0.0
Other agricultural products, n.e.s.	273	5.5	0-303.5	23.1	61.9	5.1
WTO non-agricultural products	7,283	3.6	0-235.5	7.1	43.7	4.2
Fish and fishery products	493	6.2	0-15	3.7	4.3	0.2
Minerals and metals	1,254	0.9	0-10	1.6	72.3	2.4
Chemicals and photographic supplies	1,157	2.5	0-6.5	1.8	30.0	0.7
Wood, pulp, paper and furniture	451	1.8	0-10	2.8	65.6	0.0
Textiles	1,474	5.6	0-25	2.5	4.3	14.0
Clothing	508	9.2	0-13.4	2.0	0.8	0.0
Leather, rubber, footwear and travel goods	318	15.0	0-235.5	27.7	39.3	7.9
Non-electric machinery	601	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.	409	1.3	0-8.4	2.3	71.6	0.4
Petroleum	90	1.5	0-7.9	1.9	32.2	36.7
By ISIC sector						
ISIC 1 – Agriculture, hunting and fishing	662	5.8	0-303.5	19.0	44.9	5.1
ISIC 2 – Mining	109	0.1	0-4.1	0.5	96.3	0.9
ISIC 3 – Manufacturing	8,300	6.2	0-389	16.7	39.0	7.0
Manufacturing excluding food processing	6,718	3.6	0-235.5	7.7	45.5	4.6
By stage of processing						
First stage of processing	1,156	7.5	0-389	33.4	50.4	4.9
Semi-processed products	3,393	4.7	0-158.3	7.3	27.0	8.6
Fully processed products	4,522	6.7	0-252.9	15.3	47.3	6.0
By HS section						
01 Live animals and products	695	10.8	0-206.8	22.1	16.5	11.1

	Number of lines	Average (%)	Range (%)	Standard deviation	Duty free (%)	Non- <i>ad valorem</i> rates (%)
02 Vegetable products	585	15.1	0-389	46.9	31.3	11.3
03 Fats and oils	89	4.1	0-29.8	4.4	24.7	41.6
04 Prepared food, beverages and tobacco	789	18.3	0-252.5	20.0	10.1	16.0
05 Mineral products	251	0.7	0-7.9	1.4	67.7	13.9
06 Chemicals and products thereof	1,058	2.4	0-25.2	2.3	35.7	0.5
07 Plastics, rubber, and articles thereof	293	2.4	0-6.5	1.9	35.2	2.0
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	167	0.0	0-0	0.0	100.0	0.0
11 Textiles and textile articles	1,965	6.7	0-103	5.6	4.2	10.8
12 Footwear, headgear, etc.	104	29.4	0-235.5	42.3	4.8	24.0
13 Articles of stone, plaster, cement	163	1.2	0-8	1.7	60.7	0.0
14 Precious stones and metals, pearls	76	1.4	0-10	2.3	71.1	0.0
15 Base metals and articles thereof	846	0.9	0-7.5	1.6	72.0	3.3
16 Machinery, electrical equipment, etc.	917	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	260	0.2	0-16	1.5	96.5	0.0
19 Arms and ammunition	22	6.9	5.4-8.4	1.5	0.0	0.0
20 Miscellaneous manufactured articles	181	1.8	0-6.6	2.1	55.8	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 authorities of Japan. In case of unavailability, the *ad valorem* part is used for compound and alternate rates.

Source: WTO Secretariat calculations, based on data provided by the authorities of Japan.

Table A4. 1 Special safeguard, FY2014/15

HS	Description	Type of SSG	Date or period of application
FY2014			
040221119	Milk powder, not containing added sugar or other sweetening matter - of a fat content, by weight, exceeding 5% but not exceeding 30%	Price	09/07/2014
040291129	Milk and cream, concentrated, not containing added sugar or other sweetening matter - of a fat content, by weight, exceeding 7.5%	Price	09/07/2014, 15/01/2015
040299129, 040299290	Condensed milk	Volume	01/10/2014 to 31/03/2015
071335299	Cow peas (<i>Vigna unguiculata</i>)	Price	09/07/2014
110100200	Wheat or meslin flour	Price	18/06/2014
110820090	Inulin	Price	25/08/2014, 24/10/2014, 19/01/2015, 20/03/2015
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	16/04/2014, 22/04/2014, 27/06/2014, 04/07/2014
500100090	Silk-worm cocoons suitable for reeling	Volume	01/01/2015 to 31/03/2015
FY2015			
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	01/12/2015 to 31/03/2016
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	01/10/2015 to 31/03/2016
040221119	Milk powder, not containing added sugar or other sweetening matter - of a fat content, by weight, exceeding 5% but not exceeding 30%	Price	13/04/2015, 22/10/2015, 27/01/2016
040291129	Milk and cream, concentrated, not containing added sugar or other sweetening matter - of a fat content, by weight, exceeding 7.5%	Price	02/10/2015
040299129, 040299290	Condensed milk	Volume	01/08/2015 to 31/03/2016
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	01/11/2015 to 31/03/2016
040510129	Butter - of a fat content, by weight, not exceeding 85%	Price	15/10/2015
071333229	Kidney beans, including white pea beans (<i>Phaseolus vulgaris</i>)	Price	20/05/2015
071335299	Cow peas (<i>Vigna unguiculata</i>)	Price	13/04/2015
110290190	Barley flour	Price	14/12/2015
110812090	Maize (corn) starch	Volume	01/02/2016 to 31/03/2016
110814090	Manioc (cassava) starch	Price	24/09/2015
110819099	Other starches (excluding Sago starch)	Price	01/05/2015, 10/06/2015, 18/12/2015
110820090	Inulin	Price	13/05/2015, 07/08/2015, 30/10/2015, 08/12/2015, 10/03/2016

HS	Description	Type of SSG	Date or period of application
190120159, 190190179	Food preparations of flour, meal, or starch, which contain more than 85% by weight of flour, groats, meal and pellets of rice, wheat, triticale or barley, starch, or any combination thereof, excluding cake-mixes and a kind used as infant food or dietetic purpose - mostly containing starch (excluding wheat starch)	Volume	01/12/2015 to 31/03/2016
190190179	Food preparations of flour, meal, or starch, which contain more than 85% by weight of flour, groats, meal and pellets of rice, wheat, triticale or barley, starch, or any combination thereof, excluding cake-mixes and a kind used as infant food or dietetic purpose - mostly containing starch (excluding wheat starch)	Price	01/07/2015, 30/07/2015
190410212	Prepared foods containing not less than 50% by weight of those obtained by merely swelling or roasting of rice, wheat, triticale or barley, of rice	Price	02/12/2015

Source: WTO notifications G/AG/N/JPN/203 of 1 May 2015 and G/AG/N/JPN/211 of 22 April 2016.