Issues and Requests Relating to Foreign Trade and Investment - United States

	Category	No	Issue	Issue Details	Requests	References
1	Restrictions on Entry of Foreign Capitals	(1)	The Requirements are nebulous for Granting Approval on Foreign Acquisition of Enterprises	- Although not compulsory in all investments, in order to play it safe, a Member Firm has responded to most cases the requirements of the Committee on Foreign Investment in the United States (CFIUS) on the U.S. National Security, in as much as the retroactive conformance to CFIUS requires complications with onerous responsive measures.	- In light of Japan being one of the major alliance countries with the U.S., it is requested that the GOU: -- completely exempts Japan of the CFIUS requirements, or -- identifies the sectors that require the measures responsive to the CFIUS National Security Test.	- Federal Omnibus Trade and Competitiveness Act (1988), Section 5021 - The Foreign Investment and National Security Act of 2007 - The Exon-Florio Provision
				(Actions) - In July 2007, so called "Exon-Florio provision" was amended as "The Foreign Investment and National Security Act of 2007" to tighten the Congress supervision such as the review of the assessment standard and the reporting to the Congress of assessments or reviews. - On 21 April 2008, Department of Treasury (DOT) issued Proposed Regulations to implement FINSA. The Proposed Regulations provide for extensive examination, including "control" exercised by foreign investors in a U.S. corporation, without, however, defining expressly the precise numbers for the capital contribution rate, etc. It merely states to the effect, "if such transactions threaten the national security of the United States". It further provides that plural foreign investors under informal joint investment agreement may exercise control. In addition, the scope of examination is widened to cover the new field of "investment into infrastructure of material importance" for the U.S. - CFIUS in 2008 opposed to proposed capital contribution by Huawei (PRC) into 3Com, the U.S. corporation in network security, in 2010 opposed to Huawei's proposed capital contribution into 2Wire in mobile communication business, and into Motorola, and in February 2011, opposed to Huawei's proposed asset acquisition of 3Leaf, a telecommunication corporation in the U.S. - According to "2009 CFIUS (The Committee on Foreign Investment in the U.S.) Annual Report", Notices were issued on each of the 155-transactions (of which 8-notices concerned Japanese enterprises) in 2008, examination and investigation were made on 23-Notices. By 2009, the number of Notices dropped to 65 (of which 4-notices concerned Japanese enterprises), examination and investigation were made on 25-Notices. - On 28 September 2012, President Obama issued an order to Ralls Corporation, a U.S. corporation affiliated with a Chinese firm, to revoke its acquisition of the 4-American firms promoting wind power generation in the State of Oregon and to suspend the business, based upon the CFIUS' recommendations. CFIUS earlier submitted its recommendation for suspension of the project, due to the national security reasons. - In December 2012, CFIUS released the Annual Report to Congress. It states: "Investors from China accounted for seven percent of the notices for the period (20 notices), up from five percent for 2008-2010, with the number of notices filed by Chinese acquirers growing each year." - According to The Committee on Foreign Investment in the United States (CFIUS) Annual Report to Congress, CFIUS issued the total of 147-Notices in 2014, a substantial jump from 114-Notices in 2013: namely, 24 PRC, 21 U.K., 15 Canada, 10 Japan, 6 France, and 9 Germany.		

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2	Grant of a Preferential Tariff Rates based on Increased Home Production, and/or Local Procurements	(1)	Buy American Act favors the U.S. Products in Government Procurement	- A member firm wishing to export parts for railway vehicles is faced with The Buy America provisions under the Surface Transportation Assistance Act of 1982 that get in the way against their wishes. - BAA is the protectionist's legislation enacted with the express purposes of protecting and encouraging the domestic industries. It first appeared amidst the 1933 Great Depression Period, compelling prioritised Purchase of domestic products in government procurement. The American Recovery and Reinvestment Act enacted in February 2009 incorporates the Buy American provisions that compel purchase of the domestically manufactured steel products in public projects. While the Act includes an additional wordings, "the law shall be implemented in accordance with the international agreements", lest it violates the World Trade Organisation's Agreement, it is a matter of great concern, as it swings toward promoting the protectionism. The line of products Member Firm handles include steel and related products subject to these protectionist legislation and faces problems in its sales in the U.S. - GOU demands penalty payment of 6% or 12% over the purchase price on purchase by the U.S. federal agencies' purchase for more than $2,500 under the Buy American Act (BAA), should the amount of local procurement or purchase in the U.S. be less than 50% of the purchase price.In the event Member Firm imports from Japan and sells to any of the U.S. federal agencies Power Generator Package (gas turbine, reduction gears, generator, and other machineries and equipment), such transactions violates BAA. As it stands, Member Firm is unable to sell products to Federal Agencies, unless it assembles the power generator package in the U.S.	- It is requested that eliminates the provisions that give a more favourable treatment to the U.S. products vis-à-vis foreign imports. - It is requested that the GOU repeals these laws and provisions to promote free trade/competition. - It is requested that the GOU takes step to repeal or deregulates its requirement under BAA.	- The American Recovery and Reinvestment Act of 2009 H.R.1 ("Recovery Act") - Tender provisions of each state for public construction work
				(Actions) - On 17 February 2009, President Obama signed "The American Recovery and Reinvestment Act of 2009 : H.R.1", so called the Recover Act, which includes "Buy American Provision", compelling the use of the U.S. made steel and manufactured products (of more than 50% local contents, where the federal procurement regulation applies) in a project for construction, alter, maintenance or repair of public building or work deploying the fund made available or qualified under the same Act. This measure may be revoked for a country(ies) with which the U.S. is deemed to maintain mutually beneficial government procurement obligations under the WTO Government Procurement Agreement or FTA.		

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				- On 1 July 2009, Department of Commerce (DOC) published in Federal Register (at page 31410) on Buy American Exception under the American Recovery and Reinvestment Act of 2009 (the Recovery Act) to exclude from the Recovery Act switching, routing, transport, access, customer premises equipment, end-user devices, and billing/operations systems under the Broadband Technology Opportunities Program. - In March 2011, at the Japan-USA Economic Harmonisation Dialogue, Japan Side presented to the U.S. side: "Exclusionary Provisions under FAR 52.225, etc. are amended to require decision of the 'Contracting Officer' in order to clarify the Requisition Standard under the Buy American Act", as a matter of concern to Japan Side.		
9	Restrictive Export/Import Trade, Duty, and Customs Clearance	(1)	High Import Duty Rates	- The U.S. tariffs on watches are quite complex due to the parallel use of ad-valorem and fixed tariff rate. It makes difficult to calculate the average tariff rate. According to the estimate of Japan Clock & Watch Association, it is about 5% in average, while since 1983, the GOJ has imposed zero tariff on imports from the U.S. - Member firm desires to materialise reduce/repeal 4% customs duty on tires to enhance competitive price edge of its products. - GOU levies and collects customs duty on the following Japanese chemical products, while no duty from ROK:-- Phenol: 5.5%-- Acetone: 5.5%	- It is requested that the GOU repeals tariff on watches as soon as possible. - It is requested that GOU reduces/repeals customs duty on tires. - Reduction / repeal of customs duty on chemical products manufactured in Japan.	- The Tariff Act of 1930; and Harmonized Tariff Schedule of the United States - USA/ROK FTA
				(Actions) - In April 2007, the U.S. and ROK reached agreement on FTA, provided, however, that, its ratification is delayed at the Congresses of both governments. - In March 2012, the FTA between the U.S. and ROK (KORUS) came into force. - In July 2013, Japan joined the TPP negotiation. - On 5 October 2015, TPP was agreed in principle, and signed on 4 February 2016. As regards trade on goods between Japan and the U.S. (1)Automobile parts (the going tariff rates of mainly 2.5%): Agreed to repeal tariff immediately on 80% or more of the products, while tariffs on tires (at the going tariff rates of 3.4%~4%) will be repealed in the 10th year. (2)Passenger vehicle (at the going tariff rate of 2.5%) will begin reduction starting from the 15th year, halved in the 20th year, reduced to 0.5% in the 22nd year, until fully repealed in the 25th year). (3)Effectuation of the immediate repeal of tariffs on more than 99% of home electric appliances, industrial machinery, chemicals. (4)Wrist watches: Agreed to repeal immediately tariffs (going 40 cents each + 8.5% on the case + 14% on the strap, band or bracelet + 5.3% on the battery, etc.) (5)Organic chemicals: Agreed to repeal immediately tariffs (the going tariff rates of 1%～6.5%, 0.5 cent/kg, etc.) **(Improvement)** - GOU repealed Import tariffs on ITA related IT machinery & equipment in January 2001. - GOU reduced to 0% the tariff rate on carbide tool.		

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		(2)	Complexity in Import Duty Calculation Formula	- The calculation method for the import duty on watches is complex: (1)The GOU establishes the tariff rates on watches individually by parts: movement, case, band, etc. While the fixed tariff amounts are applied to movements, the fixed tariff rates are applied to other parts. (2)The U.S. ITC Report on Simplification of the Harmonized Tariff Schedules of the U.S. released in March 1999 continues to rely upon 8-digit-classification method and, not harmonised into 6-digit classification. It retains classification by size, and price. The fixed amount import duty on movements is not simplified.	- It is requested that the GOU streamlines the tariff rates so that fixed rates are levied on the finished watches.	- The Tariff Act of 1930; Harmonized Tariff Schedule of the United States
				(Actions) - At the 2002-2005 Japan-U.S. Deregulation Initiative talks, Government of Japan (GOJ) requests GOU to streamline the import procedures for complete units of clocks and watches by classifying them under an across-the-board 6-digit HS code, rather than accumulating the tariff amounts for individual components. In December 2005, the same request is made by GOJ at Japan-U.S. Trade Forum. The Japan-U.S. Deregulation Initiative Report of June 2004 expressly states: the U.S. is aware of the problem, and the U.S. will continue discussions with GOJ. On the other hand, in the WTO Trade Policy Review in June 2008, GOU states it is unable to agree that the tariff scheme is excessively complicated in answer to GOJ's request for improvement. The contentions of both parties continue to run in parallel. (Quoted from the Report) "Import Tariff Calculation Method and Labeling Requirements of Origin for Clocks and Watches: The Government of the United States recognizes the concerns of the Government of Japan regarding tariffs and labeling requirements for clocks and watches. The Government of the United States will continue to discuss with the Government of Japan regarding these issues, taking full account of the position held by the Government of Japan concerning a review of the U.S. tariff schedule and labeling requirements as well as discussions underway at the WTO." - In October 2009, GOJ requested GOU to resolve as soon as possible the complexity and opacity of the tariff calculation method for clocks at Japan-U.S. Trade Forum.		
		(3)	International Gaps of HS Code Classification on Supply Goods	- The U.S. & the EU impose the different tariffs on consumable goods such as toner / ink cartridge for printers, multi-purpose equipment, etc., because of the different interpretation of the HS Classification Code. While they are duty free in the U.S., the EU imposes certain tariff rate.	- It is requested that the GOJ approaches the GOE and the GOU toward unification of applicable HS Classification Code on consumable goods, and - It is requested that the GOJ approaches the GOE and the GOU to incorporate them into the expanded items list of the ITA products.	

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		(4)	Illegal Nature of Zeroing Methodology in Antidumping Regulations	- In December 2004, GOJ filed the request for consultation with GOU and the Dispute Settlement Body, stating the "zeroing" by which GOU treats transactions with negative dumping margins as having margins equal to zero for purposes of determining the weighted-average dumping in its antidumping investigation at artificially high price level is in violation of WTO AD Rules. WTO Appellate Body frequently found the U.S. violation of AD Agreement. However, the corrective measures by the GOU have been insufficient. On 20 May 2009, the GOU appealed on the Japan-the U.S. dispute case to WTO Appellate Body. The Appellate Body Report, released on 18 August 2009, totally upholds the Japanese contention. On 6 February 2012, the GOU signed Memorandum on Repeal of the Zeroing Methodology. On 14 February 2012, the U.S. DOC put up in Federal Register the review of antidumping calculation methodology, and on 18 June 2012, notified in Federal Register the revised calculation of Antidumping Margins without using the Zeroing Methodology. It resulted in amended dumping margins on some of the Japanese thin stainless steel plate products.	- It is requested that the GOU thoroughly the implements the corrective measures.	- The Tariff Act of 1930; Harmonized Tariff Schedule of the United States - Proposed Antidumping Regulations - WTO WT/DS322/AB/RW Appellate Body Reports - Notice of Determination Under Section 129 of the Uruguay Round Agreement Act
				(Actions) - The Antidumping Act of 1916 (the 1916 Act) was found to be inconsistent with the WTO Agreement by the WTO Dispute Settlement Panel. Its appeal in August 2000 by GOU was also dismissed. The Panel found that: injury test is missing (Article 6(1)); imposition of the treble damage and penalty are inconsistent with Article 6(2) of GATT; and that the procedural requirements are not met under Article 1, Article 4 and Article 5(5) of the Antidumping Agreement. - On February 11, 2000, Japan requested establishment of a panel to find that the specific anti-dumping measures imposed by the United States on hot-rolled steel from Japan are inconsistent with various provisions of the new AD Agreement, in respect of, among others, determination of injury, calculation of the antidumping margin, and investigation procedures. On March 20, Dispute Settlement Body ("DSB") established a Panel, and in February 2001, the Panel Report was released. It found inconsistency with the AD Agreement, partially in support of the GOJ's position, in respect of: "facts available", which was arbitrarily employed in determining the "all others rate", the calculation method of dumping margins employed for industry other than those subject to the antidumping proceedings, and the calculation method for the domestic price in the exporting country. - The U.S. appealed on the foregoing the Panel decision. Report of the Appellate Body ("AB") was released on July 24, 2001, upholding the Panel's decision on some of the Japanese allegations: -- AB upheld the Panel's finding that the Department of Commerce calculated unduly high dumping margins using an arbitrary calculation methodology; -- AB found that the methodology employed by ITC in determining the degree of injury to the U.S. industry is inconsistent with the WTO Agreement;		

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				-- AB set aside, however, the Japan's requests concerning: 1) the revocation of the antidumping measures against the respondents and 2) the refund of dumping duties imposed. - In the U.S.-Japan Regulatory Reform Initiative of October 2001, GOJ requested GOU not to apply the method to calculate antidumping margins, and the method to determine injury, both of which are finally found by the Appellate Body to be inconsistent with the WTO Agreement. - In the 2002 WTO Inconsistency Report, Japan pointed out that the deductible items from the domestic sales on constructed export price (CEP offset) might, depending upon its application, artificially inflate the domestic price. Japan urged that a clear, precise definition is given as regards adjustment of profits in the context of calculating normal value. Japan urged the U.S. that it should correct treatment of goods for next process in determining injury; analysis of the causal relationship between injury and dumping; arbitrary expansion of the scope of the subject products to include later developed products; and the zeroing issues. - On 15 August 2002, the U.S. Commerce Department announced its new proposal to invite public comment. According to this new proposal, if the average selling price between the related parties is within the range of 98% to 102% of the selling price to unrelated parties, such transaction between the related parties may be regarded as "ordinary trade" and used in determining normal value. - Since the WTO DSB disconfirmation of the U.S. position, the U.S. has endeavored to observe the WTO finding in the context of the 1916 Act, including the bill to repeal the Act. However, to this date, no significant progress has been made. - WTO DSB disconfirmed the use of "zeroing" in calculating the antidumping margin between the weighted average export price and the weighted average normal value, at its conference in March 2001. - Commissioner Pascal Lamy of the EC in March 2003 accused the U.S. for the repeated failures and delays in observing the WTO DSB findings, including without limitation, the repeal of the Antidumping Act of 1916. The US Trade Representative Robert Zoelick and some Congressmen committed themselves that the U.S. would observe the WTO findings including introduction of a new bill to repeal the Antidumping Act of 1916. - The 2003 WTO Inconsistency Report claims that the "zeroing" is an unfair calculation method, whose employment requires a closer attention in the future. In the absence of concrete response from GOU at the consultations between Japan and U.S. in December 2004, GOJ filed in February 2005 a request with WTO DSB to set up a Panel. - EU requested a WTO DSB's consultation on the unfair use by the U.S. of zeroing in calculating the antidumping margin. - In January 2004, EU published Council Regulation (EC) No 2238/2003 of December 15, 2003 protecting against the effects of the application of the 1916 Act, and actions based thereon or resulting therefrom. - In May 2004, the jury of District Court of Iowa returned a verdict in favor of the plaintiff awarding treble damages in the amount of US$31,619,847 in a case involving a Japanese large newspaper printing presses manufacturer pursuant to the 1916 Act. (This case is currently under appeal). However, since the 1916 Act is immune to the retroactive application, it remains valid as to the cases involving a large newspaper printing presses manufacturer and outboard engine manufacturers. - In October 2004 at the Japan-U.S. Regulatory Reform Initiative under the "Japan-U.S. Economic Partnership for Growth (Partnership)" GOJ expressed its regret to the continuation by the GOU of the 1916 Act, the zeroing method, and Byrd Amendment and urged GOU to repeal all of these. - In December 2004, Japan implemented "Special Measures Law concerning the obligations to return profits gained in connection with the 1916 Act" to relieve Japanese enterprises damaged by the 1916 Act.		

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				- Urging that the U.S. rectifies the Zeroing Methodology, GOJ filed request for bilateral talk based on WTO DSR, etc. and in February 2005, filed request with DSB to set up the Panel, which was subsequently set up. In January 2007, WTO DSB Panel ruled that the Zeroing Methodology is inconsistent with WTO Agreement recommending the U.S. to correct its measures to make them consistent with the WTO Agreement. - On 18 April 2006, in response to the EU complaint, the Appellate Body found that use of methodology to compare weighted average to weighted average in the original investigation and the use of zeroing method in administrative reviews are inconsistent with the WTO Antidumping Agreement. - On 11 October 2006, Japan appealed the Panel's (under Panel Report circulated on 20 September 2006) that zeroing was not prohibited after the decision of AD measures. Appellate Body circulated its Report WTO DISPUTE DS322 in January 2007, finding that methodology is inconsistent with the WTO Agreement throughout the Antidumping Procedures in their entirety, accepting Japanese contention in its entirety. - In January 2007, the Appellate Body Report determined that the Zeroing Methodology is inconsistent with WTO Agreement in the entire antidumping proceedings, including the periodical reviews. It also ruled that the decision based on the past rulings employing the Zeroing Methodology is inconsistent with WTO Agreement. - The new negotiating texts, issued on 30 November 2007 by the Chair on the Negotiating Group on Rules, confines prohibition of zeroing only to W-W method, while approving it under the T-T, and W-T methods, subject to regular review. In opposition to these texts, 20 countries including Japan, Brazil, PRC and India submitted an alternative text that totally prohibits the zeroing. However, the revised text by the Chair promulgated in December 2008 did not include the clause on the Zeroing Methodology. - On 10 January 2008, Japan applied for approval to implement countermeasures of the same scale as damages incurred through zeroing, which totals $248.5 million for the U.S. failure to take corrective action past the due date of the DSB Recommendation, namely, 24 December 2007. - Report of the Appellate Body (WT/DS/322ABRW) (a procedure in confirmation of the U.S. compliance with Appellate Body's Recommendations) was released on 18 August 2009. The Appellate Body upholds the (First Court) Panel's findings that totally support the GOJ's contentions, and reconfirms that the U.S. has not discontinued zeroing methodology which is not consistent with the WTO Agreement and that the U.S. has not discharged its obligation to execute the WTO Recommendations. - On 20 May 2009, the U.S. appealed on the Japan-U.S. disputes and as a result on 18 August 2009, to Appellate Body Report was promulgated, totally approving the Japanese contentions. - In February 2010, Japan and EU applied for WTO's approval on invocation of retaliatory measures against the U.S. that would not repeal the Zeroing Methodology by amendment of its Antidumping Regulation itself. - Upon GOU's objection to the Appellate Body's recommendation (WTO AB Report of January 2007) for correction, finding that GOU's Measures Relating to Zeroing and Sunset Reviews are inconsistent with the WTO Agreement throughout the U.S. Antidumping Proceedings has been referred to arbitration. It so happened that Japan, in February 2011, filed application for Retaliatory Measures against the U.S. for its failure to fully execute the WTO Recommendation, to which the U.S. undertook to take corrective action, which undertaking has temporarily suspended the arbitration. On the other hand, the U.S. contrived to let The Rules Negotiations Chair Guillermo Valles Galmes (The WTO Doha Development Agenda Negotiations) release a draft modalities paper on November 30, 2007 that included language allowing almost across-the-board the use of zeroing in certain antidumping (AD) calculations.		

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				- Department of Commerce (DOC) in Federal Register of 28 December 2010 notified Proposed Amendment of Antidumping Regulations to repeal application of the Zeroing Methodology for calculating Antidumping Duties, which was found to be inconsistent with the WTO Agreement, inviting Public Comment. Japan Machinery Center for Investment and Trade (JMCTI) submitted its comment by referring to GOU's obligation to execute the WTO Appellate Body's Recommendation on the U.S. Antidumping Measures as regards (1) Administrative Review, (2) Review of new exporters, and (3) repeal of Zeroing under the Sunset Review. It requested that non-use of the Zeroing Methodology in any of these three antidumping measures should be expressly stipulated in the Antidumping Regulations. - In July 2011, WTO Panel found that the U.S. Antidumping Measures on certain shrimp from Vietnam are inconsistent with the provisions of the WTO Anti-Dumping Agreement. The Panel Decision upholds substantially (but not all) of the Vietnamese contentions arising from the U.S. DOC Administrative Review of the Antidumping Measures. While the WTO Appellate Body's Decision is already handed down holding that the use of zeroing is inconsistent with the WTO Agreement, the Panel decision in this case follows this Appellate Body Decision. - In March 2011, at the Japan-USA Economic Harmonisation Dialogue, Japan Side presented to U.S. Side: "U.S. Side secures the expeditious and complete execution of the WTO Recommendation prohibiting the use of zeoroing", as a matter of concern from Japan Side - In February 2012, GOU signed "Memorandum" between Japan and the U.S. Toward repeal of zeroing. GOU amended the Ministry of Commerce Regulation in pursuance of Memorandum. - In August 2012, in accordance with the corrective measures under re-planning of the amended U.S. Department of Commerce Regulation on anti-dumping duty deposit for thin stainless steel plate from Japan, GOJ revoked its application seeking approval for taking the countermeasures. - On 29 August 2013, ROK filed request for WTO Consultation on Korean made large washing machines, on the alleged the U.S. use of the Zeroing Methodology in the context of Antidumping Investigation. **- On 9 May 2014, the U.S. Department of Commerce (DOC) solicited public comment on its use of differential pricing analysis methodology in the target anti-dumping investigation, in which the DOC continued to use the zeroing methodology. JMCTI submitted its comment in June 2014, pointing out "the technical issues resulting from the active use of the method called differential pricing analysis will broaden the room for the active invocation of the zeroing methodology".** **(Improvement)** - In December 2004, the U.S. President signed the Miscellaneous Trade and Technical Corrections Act of 2004 (H.R. 1047) (Public Law 108-429) repealing the 1916 Act. - On January 16, 2007, U.S. Department of Commerce announced repeal of zeroing procedure in the original Antidumping Investigations. - On 6 February 2012, GOU agreed on the Memorandum toward Settlement of Disputes on the Long Outstanding Controversy over the Zeroing Methodology (TZM) with Japan, along with its commitment to repeal TZM in its Antidumping Investigation. Pursuant to this Japan-U.S. Memorandum, DOC undertook to repeal TZM by publishing (in the Federal Register dated 28 December 2010) "Antidumping Proceedings: Calculation of the Weighted Average Dumping Margin and Assessment Rate in Certain Antidumping Duty Proceedings Proposed Rule; A Proposed Rule by the International Trade Administration Modification; Request For Comments" in order to repeal TZM within 7-days after signing the Memorandum. - On 14 February 2012, DOC published in Federal Register: "This Final Rule and Final Modification for Reviews, Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Duty Proceedings; Final Modification" for the purpose of repealing TZM. "This Final Rule and Final Modification" entered into force on 16 April 2012.		

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				- In August 2012, pursuant to Memorandum of Understanding between the U.S. and Japan, Japan withdrew its request for authorization from the WTO Dispute Settlement Body (DSB) to take retaliatory measures and to suspend the application of concessions (DS322). Japan will continue to watch, if the U.S. repeals its Zeroing Practice, without fail, under the new U.S. Regulation. - In March 2014, the U.S. anti-dumping duty levy on ball bearings and parts from Japan involving the disputes over the zeroing methodology was repealed (voiding the anti-dumping measures retroactive to 15 September 2011).		
		(5)	Targeted Dumping	- The GOU's abuse of "Target Dumping provisions", i.e., the 2nd sentence of Article 2.4.2 of the Antidumping Agreement, is a matter for concern. In December 2008, GOU withdrew the Bill on the Methodology to Determine Target Dumping on which it sought public comment in Federal Register of May 2008. After the withdrawal of the Bill, it appears no new investigation employing the target dumping methodology has been initiated. However, it remains a matter of concern in respect of the system, and the procedural transparency. (It could be a seedbed for the arbitrary implementation.)	- It is requested that GOJ continues to enquire about the methodology Ministry of Commerce employs in determining the Target Dumping.	
				(Actions) - In Federal Register (FR) of October 25, 2007, DOC sought public comment on Targeted Dumping (TD) for determining injury caused by dumping, which is provided in WTO Antidumping Agreement as an exceptional measure. Two days prior to the publication in FR, DOC applied TD for the first time to determine injury on antidumping proceeding concerning Coated Free Sheet Paper (CFS) from Republic of Korea (ROK). DOC "requests comments and suggestions on what guidelines, thresholds, and tests it should use in determining whether targeted dumping is occurring", and "what would be the appropriate statistical techniques to use to show targeted dumping"... "given the DOC's limited experience with targeted dumping allegations and analysis and certain undefined terms in the statute and regulations." - By Federal Register of May 9, 2008, DOC announced the second request for public comment on the specific draft methodology. This methodology for determining TD replaces the 2007 proposal of 2% price gap test, and adopts more stringent standard deviation test and the average price gap (weighted by sales value) test. - Department of Commerce (DOC) in Federal Register of 28 December 2010, released proposal for amending anti-dumping regulations to repeal application of the zeroing methodology, found to be in violation of WTO agreement, soliciting public comment. On this issue, JMCTI submitted its comment, after first referring to GOU's obligations to repeal the zeroing methodology in (1) administrative reviews, (2) new shipper reviews, and (3) sunset reviews, stating "repeal of zeroing methodology in all 3-Anti-dumping reviews should be expressly written into the U.S. anti-dumping regulations." - On 29 August 2013, ROK requested WTO consultation on the GOU's use of zeroing methodology in determining target dumping on large washing machine from South Korea (LRW). WTO panel was established on 22 January 2014 on use of zeroing methodology in anti-dumping investigation. (dispute settlement: dispute DS464 United States--anti-dumping and countervailing measures on LRW from Korea) - On 22 April 2014, International Trade Administration (ITA) of the Department of Commerce (DOC) promulgated in Federal Register its Final Ruling on Targeted Dumping, affirming its continued non-application of the Targeted Dumping Ruling, rescinded in December 2008.		

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				- On 9 May 2014, the U.S. Department of Commerce (DOC) solicited public comment on its use of differential pricing analysis methodology in the target anti-dumping investigation, in which the DOC continued to use the zeroing methodology. JMCTI submitted its comment in June 2014, pointing out "the technical issues resulting from the active use of the method called differential pricing analysis will broaden the room for the active invocation of the zeroing methodology".		
		(6)	Abuse of Antidumping Petitions	**- GOU currently levies antidumping duties of 30.8% on Japanese large diametre welded line pipe, and general piping/pressure piping, and seamless steel piping (107.8% on large diametre and 106.7% on small diametre). While sunset reviews took place in 2012 and 2013 on seamless steel piping and large diametre steel piping, respectively, it was decided to continue the antidumping duty levy.** **This decision has not only driven out member firm from transactions with American purchasers, they now face conundrum, having to continue purchasing products in lesser quality from other countries, at prices higher than the international market prices or, while the salient concern remains over the safety of the U.S. pipelines.** **Especially as regards 'steel pipe for Alaska' LNG project (expected demand, amounting to approx. 600k tons/70 billion yen), the consortium (purchaser, comprising of TransCanada, Exxon Mobile, BP, ConocoPhillips, Alaska Gasline Development Corporation) has expressed its high expectation for supply from Japan of the quality welded line pipe, however, with one proviso, which is revocation of antidumping finding, or exclusion of "the products with the subject specifications" from the antidumping duty order: welded large diameter line pipe from Japan.** - On 12 November 2013, the DOC released Preliminary Determination of Dumping in the Antidumping Proceedings on Nickel Plated Steel Plate (the Investigation initiated on 27 March 2013.) On 19 November 2013, in the Antidumping Investigation on Directional Electromagnetic Steel Plate, ITC made a Preliminary Injury Determination (after initiating the investigation on 18 September 2013). On 2 December 2013, in the Antidumping Investigation on Non-Directional Electromagnetic Steel Plate, ITC made a Preliminary Injury Determination (after initiating the investigation on 30 September 2013). - On 2 May 2014, ITC made its final affirmative determination of injury on nickel plated steel sheet from Japan, deciding its anti-dumping duty levy measures.	**- It is requested that GOU repeals the antidumping duties.**	- Antidumping legislation - Various legislations concerning antidumping measures.

	Category	No	Issue	Issue Details	Requests	References
				- On 6 November 2014, ITC made its final affirmative determination of injury on non-oriented electrical steel (NOES) from China, Germany, Japan, Korea, Sweden, and Taiwan, deciding its anti-dumping duty levy measures.		
				(Actions) - GOJ requested at the WTO to work aggressively on clarification and reinforcement of disciplines. - GOJ requested at the Japan-U.S. Regulatory Reform and Competition Policy Initiative of the U.S.-Japan Economic Partnership for Growth that GOU should carefully refrain from the abuse of the antidumping regulations with the intent of protectionism. - In August 2001, both WTO Dispute Settlement Panel and Appellate Body found that the United States Anti-Dumping Measures decided in June 1999 On Certain Hot-Rolled Steel Products From Japan are inconsistent with WTO Agreement, recommending that the United States bring its measures into conformity with its obligations under those Agreements. However, to this date, the U.S. has failed to execute this recommendation in full. - At the Japan-U.S. Regulatory Reform and Competition Policy Initiative held in October 2004, GOJ requested GOU to advisedly implements its Antidumping Procedure in the manner compatible with the WTO Agreement, and refrains from its abusive implementation with the intent of protectionism. - Recent imposition of Antidumping Duties (AD) on steel products: -- On 22 February 1995, AD was imposed on stainless steel bar (from 4 countries including Japan). Continuation of AD levy was decided on 2006.12.04 at the 2nd Review. -- On 18 June 1996, AD was imposed on clad steel (from Japan). Continuation of AD imposition was decided on 2007.02.20 at the 2nd Review. -- On 7 July 1999, AD and CVD was imposed on stainless steel sheet (from Japan, ROK, Taiwan, UK, France, Germany, Italy and Mexico). Continuation of AD levy was decided on 2005.06.21. 2011.08.11: Continuation of AD levy was determined at the 2nd Review. -- On 1 September 1998, AD was imposed stainless steel wire (from Japan, ROK, Taiwan, Sweden, Spain and Italy). Continuation of AD levy was decided on 2004.07.08, and on 2010.06.17, Continuation of AD levy was determined at the 2nd Review. -- On 26 June 2000, AD was levied on medium diameter seamless steel pipe (from Japan and Mexico). 2006.04.06: Continuation of AD levy was decided. -- On 26 June 2000, AD was levied on small diameter seamless steel pipe (from Japan, Romania, Czech, and South Africa). 2006.04.06: Continuation of AD levy was decided. 2011.10.11: Continuation of AD levy was decided at the 2nd Review. -- On 28 August 2000, AD was levied on tin plate from Japan. Continuation of AD levy was decided on 2006.06.13. -- On 6 December 2001, AD was levied on large diameter line pipe (from Japan and Mexico). 2007.10.02: Continuation of AD levy was decided. - On 7 November 2012, the U.S. ITC ordered Final Determination of Sales at Less Than Fair Value on Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules, From the People's Republic of China. The ITC notified the DOC of its final determination in this investigation, in which it found material injury with respect to solar cells from the PRC. It is expected that the DOC levies antidumping duty of about 250% maximum, and Countervailing Duty of about 16%. - On March 17, 2015, the United States submitted a short paper to the informal group on anti-circumvention of the WTO's committee on circumvention, criticizing the private-sector use of professional services to evade the application of antidumping duties.		

	Category	No	Issue	Issue Details	Requests	References
				- On 24 September 2015, The U.S. International Trade Commission (ITC) made preliminary affirmative determination of anti-dumping duty on certain hot-rolled steel flat products from Australia, Brazil, Japan, Korea, the Netherlands, Turkey, and the United Kingdom, and preliminary affirmative determination of countervailing duty on the products from Brazil, ROK, and Turkey. - On 15 March 2016, The U.S. Department of Commerce made preliminary affirmative determination of anti-dumping duty on certain hot-rolled steel flat products from Australia, Brazil, Japan, Korea, the Netherlands, Turkey, and the United Kingdom. **(Improvement)** - On 23 February 2006, the U.S. ITC decided to revoke the antidumping measures against structural steel products for construction from Japan and South Korea that had been imposed since June 2000, concluding that no material injury on domestic industry would result any longer from these imports.		
		(7)	Sunset Review under Antidumping Proceedings	- As affairs now stand, GOU's Sunset Review is dictated by the ground rule of "Order continues in principle, and revoked in exceptional cases" under the relative laws and regulations, internal rules and in their implementation. Thus, in reality, antidumping measures are not revoked over five-years and prolonged imposition of Antidumping Duty continues. - On 22 February 1995, Antidumping Duty levied on Stainless Steel Bar (from 4-countries including Japan), Continued Levy decided by the 2nd and 3rd Sunset Reviews on 4 December 2006 and 17 July 2012, respectively. - On 18 June 1996, Antidumping Duty levied on Clad Steel Plate from Japan, continued levy decided by the 2nd and 3rd Sunset Reviews on 20 February 2007 and 15 January 2013, respectively. - On 7 July 1999, Antidumping Duty levied on Stainless Steel Thin Plate (from Japan, South Korea*, Taiwan, U.K., France*, Germany, Italy* and Mexico)(* marked here and the following also includes Countervailing Duty), continued levy decided by the 1st and 2nd Sunset Reviews on 21 June 2005 and 11 August 2011, respectively. - On 1 September 1998, Antidumping Duty levied on Stainless Steel Wire (from Japan, South Korea, Taiwan, Sweden, Spain, Italy*), continued levy decided by the 1st and 2nd Sunset Reviews on 8 July 2004 and 17 June 2010, respectively. - On 26 June 2000, Antidumping Duty levied on Middle Diametre Seamless Steel Pipe (from Japan and Mexico), continued levy decided by the 1st and 2nd Sunset Reviews on 6 April 2006 and 11 October 2011, respectively. - On 26 June 2000, Antidumping Duty levied on Small Diametre Seamless Steel Pipe (from Japan, Rumania, Czech, South Africa), continued levy decided by the 1st and 2nd Sunset Reviews on 6 April 2006 and 11 October 2011, respectively.	- It is requested that the GOU conducts its antidumping reviews in accordance with the WTO Antidumping Agreement. - It is requested that the GOU: -- conducts the sunset review pursuant to the principles set forth in the WTO Antidumping Agreement, and -- applies the GOJ's proposal at the WTO negotiation, namely, "the antidumping measures terminate after 8-years from the date of the first antidumping duty levy had been imposed."	- WTO Antidumping Agreement (Article 11.3)

	Category	No	Issue	Issue Details	Requests	References
				- On 28 August 2000, Antidumping Duty levied on Tinplate (from Japan), continued levy decided by the 1st and 2nd Sunset Reviews on 13 June 2006 and 15 May 2012, respectively. - On 6 December 2001, Antidumping Duty levied on Large Diametre Welded Line Pipe (from Japan, Mexico). - On 2 October 2007, Antidumping Duty continued levy was decided. On 29 October 2013, at the 2nd Sunset Review, continued levy was decided.The antidumping measures against the Japanese steel products in the foregoing in many cases continue to this day, although some cases have been revoked. The revocation of antidumping measures take place only when the U.S. domestic industries show no interest for continuation of the measures or the U.S. petitioners participate in the Sunset Review, and ITC votes in favour of revocation.		
				(Actions) - The sunset provision incorporated into the new antidumping act of GOU is based on the premise that antidumping measures continue in principle and revocation is an exception in contravention of the WTO Antidumping Agreement. In January 2001 GOJ requested GOU to convene a bilateral consultation under WTO as regards the sunset review of antidumping measures on the surface treated steel sheet from Japan. In May 2005, a Panel was established and in August the Panel decided on the case, which was appealed to Appellate Body (AB) by GOJ. In December 2003, AB adjudicated that GOU decision could not be held as incompatible with WTO. - In October 2004 at the Japan-U.S Regulation Reform Initiative, GOJ requested that GOU should thoroughly examine the need for the continuation of antidumping measures and conduct its sunset review in strict conformance to the rules set out in the WTO Antidumping Agreement. - At the negotiation table of the DOHA Round on WTO rules, Japan and Canada submitted proposal to tighten the discipline on sunset review such as revocation of the antidumping measures in 5 years from the issuance of antidumping order, etc. - In November 2004, GOJ filed petition for consultation at WTO and in April 2005, the Panel was set up on issues concerning the practices of the Department of Commerce (DOC) on antidumping investigation including the sunset review. - Of the 12 sunset reviews made during 2006 on antidumping measures against Japan, 5 cases are revoked while 7 cases are continued. - After continued imposition of antidumping duty, the U.S. ITC revoked in February 2007 the AD measures by determining that the revocation would not result in the recurrence of injury to the U.S. industry, in response to the joint petition for revocation filed by the Japan and the U.S. automobile manufacturers. - On 30 November 2007, the Chair on the Negotiating Group on Rules issued the new negotiating text which among others includes "the Automatic Sunset clause" whereby the AD measure is terminated automatically in 10-years from the imposition of AD measures. The text includes a provision that facilitates reexamination within 2-years of termination to resume imposition of the AD measures. - On 17 December 2008, WTO Panel (for confirming implementation of rulings and recommendations) ruled on the U.S.-EU disputes concerning DS294 "United States - Laws, Regulations and Methodology for Calculating Dumping Margins ("Zeroing") Recourse to Article 21.5 of the DSU by the European Communities" concluding that the U.S. use of "zeroing methodology" in the sunset reviews of the Antidumping Order amounts to the failure to implement the rulings and recommendations of DSB (WTO's Dispute Settlement Board) of 2006.		

	Category	No	Issue	Issue Details	Requests	References
				- In August 2008, antidumping measures on Large Newspaper Printing Presses were terminated on account of the U.S. domestic industry's withdrawal of the Sunset Review request. - In March 2011, at Japan-USA Economic Harmonisation Dialogue, Japan Side presented: "U.S. Side repeals prolonged antidumping measures to enable Japanese manufacturers to secure the benefit of export business and to exclude excessive burdens to the importers and the U.S. users", as a matter of concern to Japan Side. - On 15 May 2012, continued imposition of anti-dumping duty determined at the 2nd review on tin plate from Japan. - On 29 October 2013, U.S. Department of Commerce determined continuation of anti-dumping duty imposition on certain large diameter welded line pipe from Japan and Mexico.		
		(8)	Heavier Tariff Levied on Imported Parts	- Member Firm exports certain products to North American purchasers via its hub in North America. The recent resumption of antidumping levy (for example, on bearings related products) at a high rate materially affects profit and loss of the business in concern.	- It is requested that GOJ collects extensive information on all tariff rates in advance.	
		(9)	Monitoring on Steel Imports	- On 1 February 2003, the Department of Commerce (DOC) instituted Steel Import Monitoring on all imported steel products (including excluded countries and excluded items) subject to the safeguard measures. After repeal of Safeguard Measures in December 2003, DOC continued monitoring until establishment of new measures replacing this measure.On 5 December 2005, the DOC released the Final Rule for SIMA (Steel Import Monitoring and Analysis). The followings are the major outlines:Subject goods: All basic steel mill products (however, excluding coupling flange, stainless steel coupling flange, partially excluding cold formed steel, steel bar, secondary wire rod). -- The monitoring period: 5 December 2005 - 21 March 2009. -- Classification of Products subject to monitoring: Based on HTS Code 6 Digits -- Transactions subject to monitor: Not only export/import but also includes delivery/export. -- On items excluded from monitor, only import data separately is released.	- It is requested that GOU streamlines the procedure.	
				(Actions) - On 1 February 2003, GOU monitors all items subject to safeguard measures (including the excluded countries and excluded items). GOU continues to monitor steel products after repeal in December 2003 of the safeguard measures, pending stipulation of an alternative new system. - GOU decided to maintain the "Steel Import Licensing and Monitoring System" until March 21, 2005 or otherwise DOC establishes a substitutable system.		

	Category	No	Issue	Issue Details	Requests	References
				- Recommendations regarding Regulatory Reform and Competition Policy by GOJ includes among others: 1) GOU to ensure compatibility with the WTO rules "the Steel Import Licensing and Monitoring System (SILMS)", 2) GOU to ensure that SILMS does not constitute a new trade barrier, and 3) GOU refrains from expanding the scope of the subject goods to cover all steel products.		
		(10)	**Rigorous/Veraciously Complex Origin Marking Regulations**	- The GOU requires the Certificate of Origin not only the marking of the country in which the final production process takes place, but also the Certificate of Origin for raw materials and semi-processed products.	- It is requested that the GOU restricts the Certificate of Origin marking requirement only to the country in which the final production process takes place.	- The Harmonized Tariff Schedule of the United States (HTS) - The Tariff Act of 1930
				- Country of Origin (COO) marking is required on every movement, case and band in accordance with the precise method specified in the relevant statutory requirement. This requirement is quite burdensome to watch manufacturers, etc. in production control, etc.	- It is requested that the GOU applies the COO Marking only on finished watches, with the method for COO Marking at the discretion of manufacturers, - It is requested that the GOU: -- follows "GOJ's Comment on U.S. ITC Report on Simplification of the Harmonized Tariff Schedules of the U.S.", -- applies COO Marking requirement only on finished products, and -- leaves the method for COO Marking at the discretion of manufacturers.	
				(Actions) - Following the comment by GOJ on "ITC's Proposed Simplification of The Harmonized Tariff Schedule of the U.S.", Japanese industry requested GOU to accept the origin marked on finished products only, and to leave to the discretion of manufacturers the method of marking the origin. - GOJ requested GOU to improve, as soon as possible, the origin marking requirements of the U.S., which is forcing undue hardships on clock and watch manufacturers in their production management. - In the absence of any sign for improvement, GOJ requested at the Japan-U.S. Regulatory Reform Initiative that the U.S. streamlines its country of origin marking requirements. - In the WTO Trade Policy Review in June 2008, GOU stated, "It is unable to agree that the tariff scheme is excessively complicated" in answer to GOJ's request for improvement. Since then, during WTO Trade Policy Review on the U.S. held on 30 September and 1 October 2010, GOJ prompted GOU for improvement. Nevertheless, no improvement has materialised to this date.		

	Category	No	Issue	Issue Details	Requests	References
				(Improvement) - 15 CFR Part 245, The Guides for Watch Industry is rescinded, obviating the need for marking the metal composition for each watchcase. - The origin marking is harmonized to the method stipulated in the Customs Act. - The use of indelible ink is formally approved as the method to provide the origin marking on imported watches. (H.R.435 Miscellaneous Trade and Technical Collection Act of 1999)		
		(11)	Increased Tariff Burden due to the Delay in Renewal of GSP	- Increased Tariff Burden due to the Delay in Renewal of GSP - Generalised System for Preferential Tariff (so called GSP) that exempts tariff on products imported from designated Developing Countries and Territories expired on 31 July 2013, without renewal to this date (as of 3 January 2014). More precisely, MFS imports products from Indonesia by incurring, in a sense, extraneous cost (several hundred million yen per annum). It remains uncertain "when the GSP renewal takes place (or never gets renewed)", and "if renewed, retroactive refund of tariff paid during the hiatus of GSP takes place". Importers' assumption of the tariff burden continues.	- It is requested that the GOU: -- ensures there is no hiatus of GSP treatment at each renewal. -- determines in advance in the event of occurrence of expiry, provisional measures such as "renewal time", "retroactive measures", or at least provides a clear-cut information.	-Generalized System Of Preferences - Trade Preferences Extension Act of 2015 (H.R. 1295)
				(Actions) - The U.S. grants zero tariff imports over about 5,000 items to 131 countries/regions under the GSP Scheme. The amount of tariff so exempted represented 1.5% of the total U.S. imports, reaching more than USD31.7 billion (in 2008). - On 22 September 2011 the U.S. Senate passed H.R. 2832, a bill to retroactively renew, among others, the Generalized System of Preferences (GSP), granting import duty exemption on 4,800-items from 129 countries/areas. - On 31 July 2013, the U.S. Generalized System Of Preferences (GSP) expired. **(Improvement)** - On 29 July 2015, the U.S. Customs Border Protection, under H.R. 1295 "Renewal of GSP of 2015, reauthorizing the Generalized System of Preferences (GSP)," reconvened acceptance of application for customs tariff exemption, extending GSP until 31 December 2017. - On 13 November 2015, USTR released a publicly identifying of 19-items, likely to exceed Competitive Needs Limit (CNL) (in the full year of 2015 and be excluded from preferences beginning 1 July 2016 under the graduation provisions of the U.S. GSP); extending until 4 December 2015, the deadline for acceptance of request for exclusion from the CNL application by interested parties. - On 11 January 2016, relative to Annual Review 2015/2016 of the U.S. Generalized System of Preferences (GSP), Trade Policy Staff Committee (TPSC) under auspices of USTR, set forth its review of 34-petitions, requesting change in the scope of products subject to GSP (addition of certain products to the list of GSP eligible products, exclusion from GSP application of the specified GSP eligible products of the specified GSP eligible country, exemption of the CNL application on certain imported products from the specified GSP beneficiary country).		

	Category	No	Issue	Issue Details	Requests	References
		(12)	**Nebulous Merit of C-TPAT**	- A member firm, a USCBP recognized C-TPAT-Certified Participant (CTCP), fails to see any distinctive merit of being certified as a CTCP, other than some kind of perhaps a corporate status to the public. USCBP's periodic on-site inspection made at random goes to the extent of involving exporters, with the resulting needs for rescheduling and assumption of traveling costs, etc. It is questionable if it is really worth all the pains. - Despite the increased internal expenses from acquisition of C-TPAT, involving auditing, documentation, etc., it is difficult to numerically express the benefit from acquisition of C-TPAT.	- It is requested that USCBP clarifies the merit of being a CTCP. - It is requested that USCBP numerically explains the merit of C-TPAT acquisition (in terms of reduction in the requisite number of days, cost of customs clearance charges).	- C-TPAT(Custom Trade Partnership Against Terrorism)

(Actions)

- Since the beginning of 2002, the U.S. Customs Service (USCS) has implemented the Supply Chain Security Initiative against Terrorism. USCS has invited enterprises to participate in the C-TPAT program, executed the Smart Border Initiative, such as Container Security Initiative (CSI), increased installation of non-contact inspection equipment such as X-ray and Gamma-ray Inspection Equipment at US harbors and airports, and the FAST Program at the Canadian Border. From December 2002, it has started "The 24-Hour Rule", that requires 24-hours advance cargo declarations for vessels sailing from foreign ports into the United States. Effective as of 1 February 2003, the full-fledged enforcement of the programs has begun.
- On May 2002, GOU published its plan to select 40-importer-accounts and to conduct its Initial Test of ACE, in pursuance of the National Customs Automation Program (NCAP). Only PE's are qualified to participate in the Initial Test.
- In March 2003, coinciding with the establishment of DHS, The Supply Chain Security Initiative, along with the jurisdiction and customs clearance operation, has been shifted to CBP.
- On July 23, 2003, DHS announced publication of proposed regulations, requiring advance notice to CBP of import and export shipments for each mode of transportation, air, truck, rail, and sea, to implement the Trade Act of 2002.
- On 18 August 2003, the participation to the C-TPAT has been opened for foreign manufacturers in Mexico and the FAST Program was started at the Mexican Border.
- According to the explanation provided by CBP, the benefits promised to PE's include:
  (1) The low inspection rate/Speedy customs clearance: As regards PE's, the ratio to get the cargo inspection is one to six, and the ratio to get the precision inspection on compliance related matters is one to four (which figures correspond to once over 47 entries for NPEs, compared to once over 300 entries for PE's); and
  (2) Payment on the basis of the Periodic Monthly Statement ("PMS"): PMS is prepared based on the Automated Commercial Environment ("ACE") now under development, which is due for full operation upon reaching the Release 3. ACE has been tested since June 2004.

	Category	No	Issue	Issue Details	Requests	References
				- On December 9, 2004, The High Level Committee of the World Customs Organization released its Plan to Establish the Framework of Standard for the Supply Chain Security Standard, with a view to facilitate the International Supply Chain Security and Trade. This Plan is based on the Security Program, which has already been implemented by the U.S., namely, The 24-Hour Rule, C-TPAT, CSI, and Automated Targeting System. The "Framework" is designed to beef up the cooperation by and among the customs authorities commissioned to facilitate the Supply Chain Security and trade through the use of the advanced information technology and the smart container with a tightened security. - On February 1, 2005, CBP has excluded the PE requirements to C-TPAT, from the conditions to get the ACE connection, with the intent of promoting incorporation of ACE into the electronic customs declaration system and spreading widely the benefits that can be gained from a wider use of the ACE, such as payment of duties under the Periodic Monthly Statement. This has made it possible for NPEs to connect to ACE, or to apply for participation in the ACE tests. - In December 2005, GOJ requested GOU to expand the scope of the benefit that PE's enjoy while seeking to strike a balance between thoroughness of security and efficiency of distribution:- Less strict deadline for submission of the Manifest, exemption of PE's from the Manifest submission requirement, reduction in the number of days for examination, etc. GOJ also requested that GOU executes policy evaluation that reflects the PE's wishes and publishes the evaluation result. - In "The Sixth Report To The Leaders On The U.S.-Japan Regulatory Reform And Competition Policy Initiative" GOU stated: "The Government of the United States fully understands Japan's request that more tangible benefits should be given to C-TPAT participants. The Government of the United States will take appropriate measures to expand tangible benefits to C-TPAT participants and will continue to facilitate private sector engagement in an effort to enhance the transparency in the process of implementation and further revision of C-TPAT rules." - On August 7, 2008, Customs and Border Protection released General Notice, "Container Seals on Maritime Cargo", bringing attention to the existing statutory requirement by which all maritime containers in transit to the United States are required to be sealed with a seal meeting the ISO/PAS 17712 standard and specifies the date on which the requirement shall take effect. EFFECTIVE DATE: October 15, 2008. - On 23 September 2010, CBP of the U.S. announced that the number of certified C-TPAT enterprises has exceeded 10,000 firms, representing 50% of the total import into the U.S. - On 6 September 2012, U.S. Customs and Border Protection (CBP) established the Centers of Excellence and Expertise (CEE) with experimental purposes for Automotive and Aerospace in Detroit, after electrical appliances and drugs sectors, with the view to reduce the cost of import examination, to strengthen security, to homogenize import examination by concentrating in one spot importer's information that requires expert knowledge for customs examination which is specialized in each industrial sector, and to expedite import customs examination. Enterprises participating in C-TPAT and Importer Self Assessment-(ISA) are deemed as CEE Partnership Enterprises and will enjoy an expedited import customs clearance. From now on, CEE will be placed in 9-locations for various products, including Agriculture & Processed Foods, Steel, Machinery, Consumer Products, Industrial and Manufacturing Materials Apparel, Footwear & Textiles, etc. - On 9 July 2014, the U.S. CBC released the qualifications and the security requirement to participate in C-TPAT in the export sector.		

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				(Improvement) - On 26 June 2009, Japan Customs of Ministry of Finance and Customs Border Protection (CBP) of the U.S. Department of Homeland Security reached a mutual recognition agreement in AEO Program, whereby both parties will certify a party involved in the international movement of goods as complying with WCO or equivalent supply chain security standards and mutually approve AEO (Authorized Economic Operator) Program and signed and executed the Agreement. The followings are the essential issues of the Agreement:(1) Upon examination and inspection of the import cargo, the U.S. Customs Authority will reflect in its Risk Evaluation the qualification of the enterprise, if the cargo is exported by an AEO enterprise of Japan.(2) The Customs Authorities of both countries will accept the qualification of the enterprise that is certified as AEO enterprise of the other country in examining the enterprise of the other country in respect of its own AEO Program.		
		(13)	Regulations Requiring Submission of the Cargo Manifest 24-Hours prior to Shipment	- The 10+2 Rule under the SAFE Port Act fully implemented since 2010 takes a lot of work and time. Particularly information from India lags behind. - While the EU and the GOJ compel the Programme for 24-Hours' Advance Registration of Manifest, as is done by the GOU, the GOU compels Registration of 10-Items upon Shippers, heavily burdening Shippers. In addition, the GOU compels the U.S. Importer Security Filing "10+2" Programme with 24-Hours' Advance Registration of Manifest Requirement, which heavily burdens the Shippers. Moreover, GOU fines penalty in the amount of USD5,000 for the delays, which practice is unique to the U.S.	- It is requested that GOU alleviates, simplifies or repeals the 10+2 Rule. - It is requested that the GOU deregulates the Programme at least to the level similar to the EU 24-Hour Programme.	- 24-Hour Rule - Trade Act of 2002, Section343 - Customs Regulations 19 CFR Parts 4, 103, 113, 122, 123, 178, 192 - 10+2 Rule - Customs Regulations 19 CFR Parts 4, 12, 18, 101, 103, 113, 122, 123, 141, 143, 149, 192 - Importer Security Filling "10+2", US Customs and BP
				(Actions) - On 5 December 2003, the Final Rule is due to be announced, requiring advance notice to CBP of import and export shipments for each mode of transportation, air, truck, rail, and sea, to implement the Trade Act of 2002. - Japan reacted as follows: -- In September 2002, a Public Comment concerning The 24-Hour Rule was submitted by JMCTI (Japan Machinery Center for Trade & Investment). -- Since November 2002, at Japan-U.S. Conferences, such as the WG of the U.S.-Japan Regulatory Reform Initiative and Deputy Ministers, GOJ requested GOU to consider deregulation or exemption of the Advance Notice Electronic Transmission Rule (ANET Rule) so that a series of measures against terrorism does not turn into a factor of trade impediments. -- In August 2003, GOJ submitted a Public Comment concerning the ANET Rule. JMCTI, Nippon-Keidanren, Japan Automobile Manufacturers Association, Inc. and The Japan Chamber of Commerce and Industry each submitted its respective Public Comment. - On November 5, 2003, at the WG of Japan-U.S. Investment Initiative, GOJ requested GOU to give the C-TPAT participating enterprises a flexible response to The 24-Hour Rule requirement, since these enterprises are compelled to absorb increased costs arising from the submission of the cargo information 24 hours in advance of the cargo loading on to the vessel.		

	Category	No	Issue	Issue Details	Requests	References
				- On November 20, 2003, DHS and CBP released the Final Rule for the Advance Notice to implement the Trade Act of 2002 and reported it to the Congress. - In the 3rd Report to the Leaders of the Japan-U.S. Regulatory Reform Initiative of June 2004, it is expressly stated: "The CBP will continue to work to ensure that C-TPAT members realize the benefits of the program." - In The Sixth Report To The Leaders On The U.S.-Japan Regulatory Reform And Competition Policy Initiative, GOU stated: "Advance Electronic Presentation of Cargo Information ... Is becoming a recognized international best practice ... GOU notes Japan's concern ... GOU will continue to work to enhance the compatibility of security measures and efficient distribution, and continue working with the international community through organizations such as the International Maritime Organization and the World Customs Organization to achieve greater international uniformity in requirements for the international transportation of cargo." - On 2nd January 2008, CBP announced 10+2 Rule that requires additional information not contained in the manifest (such as the manufacturer's name and the place of vanning) 24-hours before the container is loaded on a vessel, inviting public comments. In addition to the requirement for submission of manifest 24-hours in advance of shipment, 10+2 Rule requires submission of 10 items by the U.S. exporters and 2 items by carriers 24-hours in advance of shipment. Due to the additional cost and additional lead time necessitated by 10+2 Rule, about 200 comments have been submitted from not only NAM, ICC, and AAEI but also GOJ, EU, WCO, Japan Machinery Center for Trade and Investment(JMCTI), Japan Automobile Manufacturers Association, Inc. (JAMA), etc. - On July 17, 2008, 40 U.S. groups including National Association of Manufacturers (NAM), American Association of Exporters and Importers (AAEI) submitted to the Congress a request for implementing an advance pilot program on 10+2 Rule. - On November 25, 2008, U.S. Customs and Border Protection (CBP), Department of Homeland Security, promulgated "10+2 Interim Final Rule" (IFR), due for enforcement from January 26, 2009, provided, however, that, one-year grace period without penalty is incorporated into the Rule. In response to the IFR's invitation of comments, about CBP has received about 60 comments domestically and abroad, requesting review of the rule and deferment of implementing period. - In "United States-Japan Investment Initiative 2009 Report", GOU states: "Since the issuance of the proposed rule, CBP has made significant revisions based on input from the private sector. It has allowed a number of flexibilities associated with certain required data, created a 12-month "delayed compliance" period, and accepted additional comments from stakeholders on the rule." GOJ: (1) states only a small percentage of Japanese companies have adopted this program at the present time, (2) asks GOU to consider delaying full implementation of the Importer Security Filing regulations beyond the current target date of January 26, 2010, (3) asks GOU to show flexibility in setting deadlines for filing Bill of Lading (B/L) numbers with CBP because many companies, especially small and medium companies, are unable to file the number at least 24 hours prior to lading, (4) asserts many companies have difficulty meeting the deadline due to the current global economic downturn, and (5) requests GOU to ensure wider opportunities for feedback on the proposed new rules. - On July 17, 2009, CBP released its Guideline on implementation of the 10+2 Interim Final Rule, including the calculation of damage and the method of lessening such damage. - Since 26 January 2010 "Full Enforcement" of "the 10+2 Interim Final Rule" has begun. While liquidated damage of USD5,000 is provided in this Rule, Customs Border Protection has publicly announced that it will not assess liquidated damages for failure to file Importer Security Filing (ISF) or errors in the INSUFFICIENT in the 1st and 2nd quarters of 2010. As of October 2010, neither liquidated assessment has been filed nor has DNL (Do Not Load) instruction been issued.		

	Category	No	Issue	Issue Details	Requests	References
				- In March 2011, at Japan-USA Economic Harmonisation Dialogue, Japan Side proposed to the U.S. Side exchange of dialogues over the deregulation of 24-Hour Rule and 10+2 Rule to smoothen the export procedures, in recognition of the MRA, as a matter of concern to Japan Side. - On 30 March 2012, U.S. Customs and Border Protection (CBP) of the Department of Homeland Security posted Air Cargo Advance Screening Pilot Strategic Plan (ACAS) at its website. The thrust of this pilot program is to compel enterprises related to air cargo to send advance security filing of the air cargo data and information to CBP and Transport Security Administration (TSA). - On 24 October 2012, U.S. Customs and Border Protection (CBP) published a notice in the Federal Register that announced the Air Cargo Advance Screening (ACAS) pilot program would be formally initiated. - TSA's compulsion of 100% screening on all air cargoes on board the passenger carrier destined to the U.S. is due for enforcement from 3 December 2012. In return, Japan Ministry of Land, Infrastructure, Transport and Tourism has implemented Known Shipper/Regulated Agent (Specified forwarder) (KS/RA) System with effect from 15 October 2012, A new shipper designated as Known Shipper may conduct 100% Screening Inspection as designated by the U.S. on the export cargo at its own facility. - On 30 March 2014, the diet passed the bill to amend partially Customs Tariff Act, introducing "24-hour Advance Manifest Policy". This policy implemented since March 2014 requires "all ocean carriers or NVOCC's (Non Vessel Operating Common Carriers) to submit electronically a complete cargo manifest to the customs, in principle, at least 24 hours prior to cargo loading if that vessel is calling a Japanese port direct". - The Shanghai customs authorities promulgated circular formally requiring 24-hours 24-hour advance manifest policy on direct vessel entering Hong Kong port (excluding transshipped cargoes) on or after 28 June 2014.		
		(14)	Rigorous, Complex Air Cargo Explosives Inspection	- Since December 2012, the GOU requires 100% Air Cargo Explosive Screening loaded on Passenger Planes destined to the U.S. Beginning April 2014, the requirement will apply to all Passenger Planes flying to all destinations. These additional works not only increase the cost and administrative expenses, with high possibility of transport cargo delays, it hinders the smooth international trade operation.	- It is requested that the GOU deregulates by large margin the requirements in the left column to the Authorised Economic Operator (AEO) Certified Companies.	- The Aviation Security Scheme (Ministry of Land, Infrastructure, Transport and Tourism) - The Implementing Recommendations of 9/11 Commission Act
		(15)	Disharmony of International Cargo Security Measures	- While international compatibility is desirable on hamonisation of security measures and trade facilitation, it appears each government is individually drafting its own rules. It is requested that GOU and GOJ takes step toward internationally harmonising the measures on the international cargo security.	- It is requested that GOU and GOJ take step toward harmonising the measures on international cargo security.	
		(16)	Stringent Regulations on Food Import and Insufficient Systematic Coordination	- Including Japan, regulatory control on foodstuff and materials varies in each country, the variance of which forming a non-tariff barrier.	- It is requested that GOU and GOJ take step to harmonise the international plural FDA regulations into a single legislation.	- USFDA - Code of Federal Regulations Title 21

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				(Actions) - "The Public Health Security and Bioterrorism Preparedness and Response Act of 2002 (Bioterrorism Act of 2002)" was promulgated and entered into force in 2002. Under the Act, U.S. Food and Drug Administration (FDA) compels inspection on food related facilities not only domestically in the U.S. but also abroad. FDA deems as refusal of inspection, if Inspection Request is not accepted within 24-hours of FDA's inspection request, the name of the party is put on the Import Warning List, and the import into the U.S. is disallowed. - In December 2003, GOU publicized two Interim Final Rules of "Registration of Food Facilities" and "Prior Notice of Imported Food Shipments". - In January 2011, Food Safety Modernization Act was enacted. - On 4 June 2015, the U.S. Food and Drug Administration (FDA) released draft guidance for the industry, "Voluntary Qualified Importer Program (VQIP)" under The FDA Food Safety Modernization Act (FSMA). It is expected, hopefully, that the 3rd party accreditation requirements, etc. will be helpful in streamlining the import examination.		
		(17)	SEC Rule on Compulsory Disclosure for Use of Conflict Minerals	- SEC Rule compels reporting upon Listed Companies manufacturing products using Conflict Minerals (gold, tantalum, tin, or tungsten) that originated in the Democratic Republic of the Congo and/or an adjoining country (the Covered Countries) to the Securities and Exchange Commission. Listed Companies compel their suppliers' disclosure of information on use or non-use, including the case where the minerals originate in countries outside the Covered Countries, in which case the supplier must give explanation in detail that the minerals originated in a country outside the Covered Countries.	- It is requested that the GOU deregulates disclosure of explanation on Conflict Minerals produced outside the Covered Countries.	- Dodd-Frank Wall Street Reform and Consumer Protection Act, H.R.4173 (promulgated on 2l July 2010)
				(Actions) - Dodd-Frank Wall Street Reform and Consumer Protection Act, (H.R.4173 of 2l July 2010) has introduced a provision compelling enterprises listed in the U.S. Securities Exchange Commission (SEC) to file reporting on transactions related to handling of conflict minerals. Any enterprise manufacturing products using mineral resources originating in Congo or an adjoining country (coltan, tin, gold, tungsten minerals, etc.) is compelled to file Reporting to SEC once a year and to disclose information at its Internet Home Page. Such enterprise must provide detailed explanation to the maximum extent possible as regards (1) a description of the measures taken by the person to exercise due diligence on the source and chain of custody of such minerals, (2) a description of the products manufactured or contracted to be manufactured that are not Democratic Republic of Congo (DRC) conflict free, (3) the entity that conducted the independent private sector audit, (4) the facilities used to process the conflict minerals, the mine or location, (5) originating country, etc. with the greatest possible specificity. (The annual report must be certified by the independent third party private sector audit.) - Dodd-Frank Wall Street Reform and Consumer Protection Act, (H.R.4173) signed by President Obama on 2l July 2010 includes a provision requiring reporting to SEC on enterprises listed in and filing report to the SEC using for their products conflict minerals originating from DRC or its adjoining countries. (Section 1502 of the said Act). - On 15 December 2010, SEC issued Proposed Rules compelling enterprises listed in SEC to file report to SEC and make disclosure of information in case of using conflict minerals in any of their products, soliciting public comment. Many public comments have reached SEC. Final Regulations scheduled for issuance in April 2011 is delayed.		

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				- On 9 September 2011, the Senate of the State of California passed the Bill that requires compliance of Regulations on DRC conflict mineral resource as requisite conditions for participation in the U.S. Government Procurement. - In March 2011, at Japan-USA Economic Harmonisation Dialogue, Japan Side presented its proposal: "the U.S. Side is requested to consider the means to minimise the burden and impact on the supply chain as regards the compulsion for reporting to SEC and disclosure of information concerning conflict mineral resource originating from DRC, etc. under the Section 1502 of Dodd-Frank Wall Street Reform and Consumer Protection Act", as a matter of concern to Japan Side. - On 22 August 2012, the U.S. Security Exchange Commission (SEC), under the Section 1502 of Dodd-Frank Wall Street Reform and Consumer Protection Act, adopted and published the Final Regulation, requiring public companies issuing shares (issuers) to disclose their use of certain "conflict minerals" (Tin, Tungsten, Tantal, Gold: "3TG"). On the Proposed Regulation published in November 2010, extremely numerous public comments from both domestic and abroad reached SEC. The Final Regulation has been promulgated after the lengthy deliberation beyond the original date of enforcement. The subject period for investigation is based on the calendar year, so that the period for the first year is from 1 January 2013 to 31 December 2013, while the submission deadline for Form SD on Conflict Minerals falls on 31 May in each year. The Final Regulation adopts the 3-staged processes, the same as Proposed Regulation released in November 2010. However, its procedures and the judgement basis are modified in many respects. According to SEC, these modifications have been made to alleviate the burden to satisfy the requirements under Section 1502. - On 12 September 2012, SEC published final regulation, which will be applied from the year 2013 (January through December). The First Report is due by the End of June 2, 2014. - In March 2014, European Committee released draft regulation on conflict minerals, initially based on the voluntary self-accreditation scheme. However, European Parliament demanded amendment that required compulsory auditing obligations upon refineries/factories, and evaluation and administration of the supply chain in the downstream industries, under strict observance of the OECD guidelines. - National Association Of Manufacturers, et al. (NAM) filed petition to United States court of appeals for the district of Columbia circuit, alleging compulsion under SEC Regulation marking of "not been to be 'DRC conflict free' " etc., infringes upon enterprises freedom of expression protected under the U.S. Constitution. In April 2014, United States court of appeals for the district of Columbia circuit ruled, voiding partially the SEC Regulation. Consequently, SEC announced removal of the judgement results: "DRC conflict free", "not been found to be 'DRC conflict free' ", "DRC conflict undeterminable", etc., from the information disclosure obligations under the SEC Regulation. It is said, in addition, that dissatisfied with the decision, SEC then appealed to United States court of appeals for the district of Columbia circuit, seeking "en banc" examination.		
		(18)	International Discrepancies in the Requisite Description relative to the Customs Clearance Documents	- It has taken a Member Firm one month, only to get the discrepancies adjusted between the GOU and the GOJ over the Health Certificate (Export Certificate for Animal Products, issued by the USDA this time), concerning the wordings, which should be described on the Products (the descriptive method of the wordings). While the GOU accepts only a simple generic product description, the GOJ requires the verbatim word for word compatibility with the Commercial Invoice (CI) description, in addition to the quantitative description on the CI. The Member Firm was at a loss what to do.The GOU would not concede to the last minute, due to the	- The case described in the left column occurred just for importing the product simply as an evaluation sample. While the respective circumstances affecting both governmental authorities cannot be ignored, it is requested that both governments will make it crystal clear as to what the concerned	- State, Local, and Tribal Laws on Prevention of Livestock Epidemic Disease (Animal Quarantine)

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				absence of any such precedence. As the last straw, the Member Firm filled, in the Identification Column of the Certificate, the Product Catalogue Number that matches the Customs Clearance Documents to obtain GOJ's approval in the end.	parties must practically do, by adjusting the tolerance in the requisite description, and eliminating discrepancies in the tolerance between GOJ and GOU.	
		(19)	Non-Conforming Customs Clearance Systems by Countries (NCCC)	- NCCC blocks the benefits from effective collaboration between countries, due to the systematic differences in the export/import customs clearance procedures both ways. Exporters are unable to grasp the import procedures in the importing countries, as it were a formation of procedural trade barriers. Examples: (1) The system that enables import customs clearance by the procedures completed in exporting country, through mutual data exchange between the customs. (2) The system that enables authorised exporter's automatic import customs clearance only by completion of customs clearance in exporting country. (3) The system that largely cuts down the procedures by eliminating consumption tax on duty free products, simplifying the customs clearance system.	- It is requested that both GOU and GOJ mutually advance rationalization in import/export procedures no different from the domestic logistics.	
10	Restrictive Measures for Operations in Free Trade Zones ("FTZs") and Special Economic Zones ("SEZs")	(1)	Denial of FTZ Preferential Tariff	- 6% tariff is imposed on the ink materials to be used for the manufacturing in the FTZ due to the request by local material producer.	- It is requested that the GOU: -- ensures exemption of import duty on raw materials imported into FTZ, and -- repeals the import duty.	
12	Exchange Controls	(1)	Rapid Exchange Fluctuations	- As it stands, Member Firm's Subsidiary (MFS) benefits from exchange gain on a direct export transaction in yen. Nevertheless, negotiation for raise in price is difficult. In a transaction with its parent company, the prevailing Yen depreciation enables MFS to offer special prices to its customers. However, MFS runs on a thin margin, so that if the exchange rate swings toward appreciation of Yen, it will instantly show operational loss: such is the severity of the fluctuation band.	- It is requested that GOP takes step to: -- stablise foreign exchange fluctuations, and -- holds the fluctuation band within a few percents in 6-months.	
				(Actions) - The weaker yen, stronger USD base up to 2015 has rapidly shifted since 2016 to stronger yen, and weaker USD base.		

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				- On 29 April 2016, the U.S. Department of Treasury designated 5-Countries/Areas, with large trade surplus against the U.S., i.e., PRC, FRG, Japan, Korea, and Taiwan on “the Trade Policy Watch List”, checking the respective exchange policy geared toward weaker currencies (RMB, DM, JPY, TWD, respectively).		
14	Taxation Systems	(1)	High Corporate Income Tax Rate	- By combining the Federal and the State tax Effective Corporate Income Tax (CIT) exceeds 40% in total.	- It is requested that the GOU reduces the CIT rate.	- The U.S. Tax Law
				(Actions) - As of 2012, the maximum U.S. Federal Corporate Income Tax remains unchanged at 35%, while in most States, individual Corporate Income Tax of 5% in average is separately collected. The effective tax rate for Corporate Income Tax amounts to 40% approximately in total of both Federal and State Taxes, the highest level among all OECD Member States. The U.S. tax collection system extends worldwide so that Corporate Income Tax is levied in principle also upon the income gained outside the U.S., while the average Corporate Income Tax in the OECD Member States is reduced to 25%. The tax rate in the amended tax bill now published is aimed at its reduction in line with the average rate in the OECD Member States. - In June 2013, House Ways and Means Committee held Public Hearing on International Tax Levy Rule, Tax Haven, BEPS (Base Erosion and Profit Shifting). The discussions included the method of amending the U.S. domestic tax laws through hike of Corporate Income Tax Rate and Expansion of the Scope of the Taxable Base. - On 30 July 2013, President Obama announced the U.S. Domestic Tax Reform Proposal, reducing Corporate Tax from 35% to 28% and 25% for Domestic Manufacturers. This proposal formed the pillar of his speech in Tennessee. - On 26 February 2014, Chairman Dave Camp of House Committee on Ways & Means released draft legislation ,"Tax Reform Act 2014" that makes a comprehensive amendment of the taxation system, including reduction of the maximum statutory corporate income tax rate to 25% in 5-years.		
		(2)	Varying Tax Levy by each State, County, etc.	- State Income Tax NEXUS (Determination of State Corporate Income Tax) varies in each state. Moreover, the sales tax system varies in each state, county and city.	- It is requested that GOU harmonises state and county taxes.	- State and County/City Tax Laws
				(Actions) - In the U.S., the Federal Taxation System under the Internal Revenue Code and individual State Taxation System run in parallel. In general, each State/Local Autonomous Body provides its own taxation system as regards taxpayer, taxable items, calculation of tax amount, tax rates, etc.		
		(3)	Complex Regulation on Financial Statement	- The GOU compels tax regulations (such as so called FIN 48) Reserve for Uncertain State Tax Positions, which are unprecedented elsewhere internationally. It demands a vast amount of time and financial resources for the account audit.	- It is requested that the GOU repeals FIN 48.	- FASB ASC740-10
		(4)	Judgement Basis of Under-Capitalization (Not Earnings Stripping Rule)	- Determination of Under-capitalization in the U.S. lacks clarity in certain aspects, because it relies on rulings of old cases, or on aborted legislative drafts, etc., all no longer in force. It necessitates consultation with CPA's each time on issues such as increase in the borrowing amounts, capital fund, etc.	- It is requested that the GOU takes step to numerically identify the tax basis.	

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		(5)	Sales Tax (Consumption Tax) Rates	- Member Firm's Subsidiary (MFS) in the U.S. operating manufacture/distribution business finds tax rates are high on brassieres, shorts, girdles, etc.	- It is requested that GOU reduces the tax rates.	
		(6)	Double Taxation Risk from Disharmony in TPTS Rules	- Especially in regard to Transfer Price Taxation System (TPTS), due to disharmony in rules among countries, competent authority's views are diversified. A member firm group faces the risk of double taxation. - It is necessary to consider distribution of profit/loss in regard to invoicing management fees to subsidiary, and transactions among related companies.	- It is requested that GOU/GOJ: -- thoroughly explore, develop and perfect the world standard TPTS (such as guidelines, etc.), and -- perfect Advance Price Agreement Scheme.	
		(7)	Delayed Enforcement of New Japan/U.S. Tax Treaty (NJUTT)	- In January 2013, both GOU and GOJ signed NJUTT (Amended Protocol of NJUTT, incorporating further reduction of withholding tax on interest income from investment, in light of furthering bilateral exchange of investment and economy). However, U.S. congressional approval remains pending, and it has not yet come into force.	- It is requested that GOU takes step to expedite enforcement of NJUTT.	- Japan/U.S. Tax Treaty
				(Actions) - In January 2013, Protocol Amending the Convention between Japan/USA for Avoidance of Double Taxation was signed. It stipulates among others, (1) Expanded Scope of Tax Exemption on Dividends and Interests in the Withholding Country, (2) Introduction of Arbitration Scheme in Mutual Consultation, and (3) Mutual Assistance Scheme for Collection of Tax Arrears in other country. - On 13 April 2015, President Obama requested the Senate's speedy ratification of the amendment protocol of NJUTT. Premier Abe's official visit to the U.S. was due in two weeks. However, due to the oppositions of the republicans, etc., approval procedures came to a standstill. - On 10 October 2015, The Senate foreign relations committee approved the amendment protocol of NJUTT.		
		(8)	Absence of DOS Scheme	- The scheme excluding charges against dividend received from Overseas' Subsidiary (DOS scheme) does not exist in the U.S., (whereas in Japan, 95% of dividends received from overseas' subsidiary, etc. are deductible from income, with share ownership in excess of 25% and 6-months).	- It is requested that GOU takes step to introduce DOS scheme.	
16	Employment	(1)	Tightened Control over Visa Acquisition/ Renewal Procedures	**- GOU compels applicant's existing the U.S. to 3rd countries for each visa renewal. This requirement burdens the applicants in discharge of their work responsibility, and schooling of their children. (expatriates' visa renewal requires temporary exiting to a 3rd country, with resulting problems over work and schooling of the accompanying children. (The problems occur only for expatriates with a long stay so that it fails to be recognised as problems.)**	- It is requested that GOU dispenses with the requirement for temporary exiting to a 3rd country.	- Immigration and Nationality Act - The US-Visit Program - H1B Visa - E-1 E-2 Visa - DS-160

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				- Expatriates/locally employed Japanese staff (existing the U.S. on business or temporary return to home country) must exit the U.S. for completing the visa application. This could disrupt business operation. - A Member Firm Subsidiary (MFS), adopting new graduates under H-1B Visa or F-1 OPT (Optional Practical Training), faces the annual count cap (which is currently extremely tight) on H-1B visa, so that filed application does not guarantee visa issuance. It materially jeopardises stable employment of requisite human resources.	- It is requested that GOU enable visa acquisition in the U.S., obviating the need for temporarily exiting the U.S. - It is requested that GOU expands the annual count cap.	
				(Reference) - H-1B Fiscal Year (FY) 2014 Cap Season (USCIS) (http://www.uscis.gov/portal/site/uscis/menuitem.5af9bb95919f35e66f614176543f6d1a/?vgnextoid=4b7cdd1d5fd37210VgnVCM100000082ca60aRCRD&vgnextchannel=73566811264a3210VgnVCM100000b92ca60aRCRD) **(Actions)** - In the U.S.-Japan Regulatory Reform Initiative, GOJ requested the U.S. to increase substantially the total H-1B visas issued, and to publish the standard time schedule delineated for disposal of visa applications. - On October 3, 2000, the U.S. Congress (House and Senate) approved the bill to expand the quota for issuance of the H-1B visa for aliens in specialty occupations. The quota for this visa will be increased from the current 11.5% to 19.5% in three years and will be valid for six years at maximum. Under a separate Act, it has now become possible for workers under H-1B visa to work at a different enterprise without waiting for completion of procedure at the U.S. Citizenship and Immigration Services (USCIS). This new law will encourage movement of such workers among the high-tech related industries. - In the Second Report to the Leaders on the U.S.-Japan Regulatory Reform and Competition Policy Initiative, May 23, 2003, GOU stated that renewal of business visas could be filed at the Headquarters of DOS in Washington, D.C., the U.S. Embassies in Canada, and Tokyo (USE Tokyo) and the U.S. Embassy or Consulate in Mexico. GOU stated further that reinforcement had been made at USE Tokyo for the staff in charge of Visa and that a more flexible treatment would be made both for the acceptance period and for the renewal period in an emergency. - On July 3, 2003, the U.S. Embassy in Japan introduced an oral interview system for virtually all non-immigrant visas, in exchange for such interview being exempted on the petition based visa applications at the time of filing applications. On the other hand, effective from August 2003, new applicants for L-visa (intra-company transferees), H-1B-visa (specialty occupations) and their family members have been exempted from an oral interview. Applicants for E-visa (resident expatriates) J-visa (company trainees) must still receive an oral interview. - On 7 July 2003, the U.S. DOS published Proposed Rule for amending regulations, requiring an oral interview, at USE Tokyo or at American Consulate General (Osaka-Kobe, or Naha) effective 1 August 2003. - In September 2003, GOJ ("METI") requested GOU to effect improvements to enable early issuance of visas. These include, among others, the following: reinforcement of staff in charge of interview, affording an adequate consideration to the applicants on the waiting list, construction of an electronic booking system on the web, increasing the venues for an oral interview, and expanding the visa categories for which an oral interview is exempted beyond F-visa.		

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				- Effective January 15, 2004, GOU introduced the "US-VISIT Program" for use in the entry procedure via air and sea, whereby visitors' biometrics (digital fingerscans and photographs) (the Biometrics) are collected and checked against a database of known criminals and suspected terrorists, in addition to the previous examination of visa and passport. The biometrics thus collected is electronically recorded into the database for checkup when the visitor exists the U.S. On 30 September 2004, the scope of the US-VISIT Program with the biometrics requirements was expanded to apply to all visitors to the U.S. in principle, including the short stay visitors for sight seeing. - The 3rd Report to the Leaders of the Japan-U.S. Regulatory Reform Initiative expressly states: "The Government of the United States has taken a number of steps to improve visa processing in Japan and North America." and "The Citizenship and Immigration Services Office of the Ombudsman (OCIS) within the Department of Homeland Security is exploring ways to improve the process of applying for extension of permission to stay. OCIS will continue to make efforts so that the processing period for applications to extend the period of permission to stay will be reduced for non-immigrant visa holders." - In July 2004, DOS discontinued the acceptance of visa renewal stamp by mail. - Effective July 2004, GOU compels both oral interview and the Biometrics to all visa applicants excluding "Applicants for (A) official visas, or (G) International Organization Officers visas" and "Applicants more than 80 years and less than 13 years". In addition GOU newly requires an oral interview for those applying for temporary professionals (H-1B), intra-company transferee (L), crew members (D) for the flights with Japanese or the U.S. flag, visa revalidation, and for those in the age brackets of more than 13 and less than 16 and more than 60 and less than 79. - Effective 16 July 2004, applicants for visa revalidation must exit the U.S. for an oral interview and the Biometrics at the U.S. Embassy outside the U.S., in lieu of the discontinued practice of "posting the request for visa revalidation by the U.S. mail". - Effective 26 October 2004, GOU requires acquisition of an entry visa also for any short stay visitor to the U.S. (including transit visitors) holding a non-machine readable passport. - DOS no longer renews the following visas: Transit (C), Treaty Trader (E), General Worker (H), Foreign Information Media (I), Intra-company transferee (L), Alien with extraordinary ability (O), and Internationally recognized athlete, artist and entertainer (P). - GOU indicates two choices for those who now stay in the U.S. and wish to renew the visa revalidation: (a) return to Japan and apply for revalidation at the U.S. Embassy in Japan, or (b) file application for revalidation at the U.S. Embassy in neighboring countries (Canada or Mexico). GOU has introduced a system for fixing appointment for an oral interview by internet. - In December 2005, GOJ made the following recommendations to GOU at Regulatory Reform And Competition Policy Initiative: 1) Resumption of visa revalidation by DOS, 2) Authorization of E-visa (traders, investors) revalidation in third countries, 3) Shortening of time required for revalidation and identifies the period between filing of applications to issuance of visas. 4) Execution of interview and the Biometrics by the U.S. Embassies in Sapporo, Nagoya and Fukuoka, 5) issuance of work visa with 5-year validity, 6) Deregulating the requirements for issuance of E-visas, such as certain service years in managerial position with flexible application, 7) Re-expansion of the H1-B Visa Issuance Quota per year, 8) Stopping the Bills (H.R.3322 and HR.3648) that aim at further tightening the issuance of H and L visas. 9) Improving the suspension of visa exemption to holders of non-machine readable passports. - In April 2007, GOU suspended acceptance of H-1B application on or after April 4 for the fiscal year 2008 (from October 2007 through September 2008), excepting for scholarship.		

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				- In United States-Japan Investment Initiative of 2007, GOJ requested GOU timely issuance and renewal of visas and also requested a status report on considerations to establish a procedure to revalidate E visas in nearby third countries. - On June 3, 2008, DHS released a new measure that requires visitors from the 27 Visa Waiver Program countries including Japan to apply for travel authorization online beginning middle of January 2009. DHS began its trial implementation on January 1, 2009. - Senators Chuck Grassley (R-Iowa) and Dick Durbin (D-Ill.) proposed a bill to toughen the H-1B visa and L-1 visa programs. - As of January 12, 2009, a valid Electronic System for Travel Authorization (ESTA) approval is required for short stay travelers to the U.S. from all Visa Waiver Program (VWP) countries to travel to the United States. - In "Japan-US Investment Initiative Report 2009" (July 2009) the U.S. side noted: "The validity of H-1B visas and their annual quotas are also controlled by the U.S. Congress. The law limits an H-1B nonimmigrant to a maximum length of stay of six years. The quota for the current fiscal year that began in October 2008 has still not been reached, thus there are still H-1B visas available. The United States government is aware of the Japan's interest in increasing the number of Japanese IT and other temporary workers authorized to work in the U.S. However, changing the temporary worker visa requirements and increasing the H-1B visa annual caps would require legislation." - On 9 May 2011, GOU sought public comment on the issues subject to review by Ministries and Agencies under Executive Order 13563 to dispense with or reduce unnecessary paperwork, including DOS Regulations on Non Renewal Of Work Visa in the U.S. The Department of State's "Regulatory Review under EO 13563 - Department of State Preliminary Plan" (DOS-2011-0079). - In March 2011, at Japan-USA Economic Harmonisation Dialogue, Japan Side presented: "U.S. Side resumes all visa renewal in the U.S. and the E-visa (Treaty Trader) renewal in a third country", as a matter of concern to Japan Side. **(Improvement)** - The visa sections of the U.S. Embassy in Tokyo and the U.S. General Consulate in Osaka have adopted acceptance of oral interview reservation by internet up to 3 months in advance, while DOS has reinforced the staff at the visa sections. Applicants may file their application at either place. - Reservation for oral interview can be made by internet and application for visa renewal is accepted at the U.S. Embassies and Consulates in Canada and Mexico. - DOS now exempts visa for certain Japanese nationals under "H" and "L" visa categories. - In "Japan-US Investment Initiative 2007 Report", GOU explained that collecting biometric data during the revalidation process is a legal requirement and that it is technically impossible to collect such data within the United States. The U.S. Embassy in Tokyo has been accommodating the travel needs of Japanese business applicants by maintaining an online visa appointment system that enables appointments to be made up to three months in advance. In The Sixth Report To The Leaders On The U.S.-Japan Regulatory Reform And Competition Policy Initiative, GOU announced: "DOS is exploring ways to expedite Investor/Trader E visa applications, including through an online visa application being piloted this summer, and make it possible for more posts to accept renewal applications from third country nationals ... DOS responded to the request by GOJ to expand visa services in Japan by starting non-immigrant visa processing at US Consulate General in Sapporo in April 2006 ... And began limited visa services at the U.S. Consulate in Fukuoka on May 9, 2007 ... Currently, most Japanese who require a visa and qualify for a visa receive their visa within one week of beginning the visa application process."		

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		(2)	Disallowed Re-Issuance of Form I-94 Arrival-Departure Record upon Reentry After a Temporary Departure	- Upon temporary exit to Mexico or Canada, Form I-94 is returned to the holder on the spot without renewal. Non-collection of Form I-94 at the Immigration Wicket is the original rule in the case where the temporary exit destination is Mexico or Canada, consequently, obviating the need for reissuance of Form I-94 upon re-entry (to return from Canada or Mexico). Consequently, it seems temporary exit to (most convenient neighbouring) Canada or Mexico will not do good for Form I-94 renewal.	- It is requested that the DOS: -- continues with the going administrative practice of accepting visa renewal (Form I-94) in Canada or Mexico is meritorious to the applicant -- gives full instructions to officers at the Immigration Wicket of national borders and airport to assure the uniform treatment is given to exiting visa holders (including Form I-94).	
				(Actions) - In December 2005, GOJ requested that GOU would extend the terms of validity for I-94 (especially for E-visa). - In March 2011, at Japan-USA Economic Harmonisation Dialogue, Japan Side presented:"U.S. Side resumes accepting application for renewal or change of E-visa (Form I-94)", as a matter of concern to Japan Side.		
		(3)	Too Short Visa Validity	- The I-94 with the validity of 2-years is issued upon each entry for holders of E-visa, regardless of the remaining term of E-visa, while their accompanying family members have no need to travel outside the U.S. during the valid term of E-visa in many cases. In such cases, employers must incur additional cost and trouble of filing application for visa-extension for the accompanying family members of the expatriate under E-visa. - Validity of Form I-94 arrival/departure record under E-visa is short, only for 2-years. Therefore, expatriates and accompanying family members must return to home country, regardless of the business needs or otherwise, at heavy cost upon the expatriates, family members and employers.	- It is requested that the DOS takes advantage of the E-visa under which I-94 valid for 2-years is issued regardless of the remaining term, to extend the effective E-visa validity. As far as employers are concerned, the longer the better the effective validity of E-visa is. - It is requested that GOU extends the Form I-94 validity to 5-years, the same as E-visa.	
				(Actions) - In March 2011, at Japan-USA Economic Harmonisation Dialogue, Japan Side presented: "GOU extends the validity of L-visa (intracompany transferee) based upon the principle of the reciprocity", as a matter of concern to Japan Side.		

	Category	No	Issue	Issue Details	Requests	References
		(4)	Arbitrary Nature of the Entry Documental Procedures	- Errors and inadequacies in examiner's disposal at the Immigration Wicket are noticeable such as those in the followings, limited only to the MFS's own experience: 1) An apparently incorrect date (a past date) is filled in. 2) Stay period is allowed only within the validity of the Passport. 3) Validity of Form I-94 is synchronised with the validity of an E-visa. 4) I-94 dates are different between the visa holder and his/her accompanying family members. 5) Filled in figures are almost illegible (so that in one case, DMV refused to accept application for Driver's Licence). 6) Incorrect Visa type is filled in on I-94. 7) Applicant is unduly held at the Immigration Wicket when the error was pointed out. These cases continue to occur in increasing numbers. It looks as if each immigration officer changes the law. It is beyond comprehension to the Japanese mentality.	- It is requested that the GOU reviews the operational framework at the Immigration Wicket including the through orientation given to the officers at the Wicket, since employers must assume the costs required for the subsequent requisite corrections.	- Immigration and Nationality Act
		(5)	Restricted Stay of Accompanying Family Members	- The accompanying family members of an expatriate (AMFs) must leave the U.S. at the same time as the return of the expatriate to Japan. While it is understood that the AFMs' authorized stay in the U.S. is linked to the expatriate's work visa, nevertheless, the fact remains that the AFMs have a strong desire to leave the U.S. at the timing most suited to their individual situation. As it now stands, if AFMs stay in the U.S. after the return to Japan of the expatriate, it constitutes an illegal stay. Thus, either the employers or the AFMs are compelled to compromise against their original wishes.At present, enterprises are compelled to rotate staff by considering the schooling ages of AFMs for the candidate expatriate.	- While employers must give due consideration to the expatriate's accompanying AFMs beyond a certain age level, frequently, employers find themselves not in a position to listen to the wishes of AFMs. It is therefore much appreciated if GOU paves the way for AFMs to legally remain in the U.S. for a certain period after return to Japan of the expatriates.	- Immigration and Nationality Act
		(6)	Difficult Acquisition of Social Security Number (SSN)	- SSN Application follows the sequence of: (1) applicant hands out I-94 stub at Airport to Immigration Officer => (2) who inputs information on the stub (the Information) into the USCIS computer => (3) SSN Application gets accepted when the Information becomes accessible at SSN Office Computer. It takes about 1-2 weeks to get the Application accepted, and further 1-4 weeks for issuance of SSN.	- It is requested that the GOU cuts down the lead-time for the issuance of SSN, without which expatriates must put up with much inconvenience such as inability to open personal bank account, etc.	- Procedural Problems
				(Actions) - In October 2001, at the U.S.-Japan Regulatory Reform Initiative, GOU requested GOU to amend Regulations so that: 1) SSN is issued to those including the family members of Japanese expatriates who stay legally in the U.S.; 2) those who stay legally in the U.S. without SSN are not discriminated; and that 3) the U.S. establishes a consultative window at each local Social Security Administration (SSA) office.		

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				- The Illinois Congress passed the bill HB5320, enabling aliens lawfully entering the U.S. to obtain the Illinois driver's license. Previously, Illinois denied any alternative ID other than SSN for applicants to obtain the driver's license. - In December 2003, it was determined that the filing of application for Individual Taxpayer Identification Number (ITIN) that replaces SSN as personal ID is accepted once a year (during February through April). - In December 2005, GOJ made the following recommendations to GOU at Regulatory Reform And Competition Policy Initiative that GOU: 1) accepts application for ITIN outside the time frame for filing personal income tax returns, 2) causes the individual state authority determines the administrative procedural documents upon applicant's presentation of documents, etc. that the applicant is not qualified to obtain SSN, and 3) shortens the time required to obtain ITIN. - According to "the Sixth Report To The Leaders On The U.S.-Japan Regulatory Reform And Competition Policy Initiative" of June 2007, all Social Security Administration field offices began using a more efficient system of verifying immigration documents called the Electronic Additional Verification (EAV) process in order to improve social security number processing times. The EAV process has replaced the time-consuming, paper-based G-845 verification process and DHS now sends out EAV responses within 15 business days. The G-845 process is now only used when DHS is unable to verify documents via the EAV process. - According to the Sixth Report To The Leaders On The U.S.-Japan Regulatory Reform And Competition Policy Initiative of June 2007, as regards issuance of Social Security Numbers to Dependents of Employment Visa Holders, GOU recognizes an individual as eligible for a social security number if they have DHS work authorization or if they have a valid non-work reason for a social security number. - The Social Security Administration (SSA) and the Department of Homeland Security (DHS) began using an enhanced version of the Systematic Alien Verification for Entitlements (SAVE) program in February 2009, which will provide faster verification of alien status in some situations. "Eighth Report to the Leaders on the U.S.-Japan Regulatory Reform and Competition Policy Initiative" (July 2009). - According to the "Eighth Report to the Leaders on the U.S.-Japan Regulatory Reform and Competition Policy Initiative" (July 2009), "Whether SSA assigns SSNs to dependent children of temporary foreign workers is based on whether such dependents have work authorization from DHS. E-1, E-2, and L-2 dependent children are not allowed to work in the United States under DHS regulations. They may qualify for a non-work number under only very limited circumstances." - In March 2011, at Japan-USA Economic Harmonisation Dialogue, Japan Side presented: "GOU expedites issuance of Social Security Number (SSN) to allow expatriates to start up speedily their new life in the U.S.", as a matter of concern to Japan Side. - In March 2011, at Japan-USA Economic Harmonisation Dialogue, Japan Side presented: "GOU thoroughly disseminates the System on Issuance of SSN to the expatriate's spouse, and assures its uniform implementation and handling at Social Security Office Window," as a matter of concern to Japan Side. **(Improvement)** - "The Social Security Administration (SSA) has worked successfully with the American Association of Motor Vehicle Administrators (AAMVA) and with the Department of Transportation to eliminate requirements for a social security number (SSN) as a prerequisite to getting a drivers license in those situations where the applicants for the drivers' license are not eligible for an SSN." "Eighth Report to the Leaders on the U.S.-Japan Regulatory Reform and Competition Policy Initiative" (July 2009).		

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		(7)	Irrational Time Limitations on Driver's Licence Acquisition For Foreign Transferees	- Under California Vehicle Code (CVC), persons starting residency or work in California must obtain driver's licence for motor vehicles within 10 days of starting residency or work in California. While this requirement can be satisfied by persons moving into California from other state by having his or her driver's licence rewritten, it is practically not possible in the case of persons moving in from other countries for want of requisite matters, including without limitation, social security number. On the other hand, international driving permit issued under the Geneva convention (IDP-GC) is valid for one year.	- It is requested that CVC is modified to permit acquisition of California driver's licence during the remaining validity period of the IDP-GC (without having to conform to CVC).	- Traffic Laws and Driving Rules in Georgia - California Driver Handbook-General Information, New Residents
				(Actions) - In March 2011, at Japan-USA Economic Harmonisation Dialogue, Japan Side presented: "GOU extends the validity of Driver's Licence for resident Japanese expatriates in order to alleviate their burden from frequent renewal of Driver's Licence", as a matter of concern to Japan Side.		
		(8)	Bidding War for Procurement of Human Resources	- Intense robbery prevails in the procurement of human resources with technology for Unity, Python Developer, etc. While the U.S. start-up operators can offer contingency fees in the form of Stock Option, etc., generally, the locally incorporated Japanese Affiliated Enterprises are unable to offer such benefits, and must face difficulty in procurement of human resources.	- It is requested that the GOU deepens its appreciation of the employment status around the Bay Area.	
		(9)	Absence of Age Limit Retirement System (ALRS)	- Absence of ALRS has narrowed room to adopt young human resources that shoulder the future, closing out opportunities for revitalising organisation from fluidity in management of human resources, ending up by organisational inertia.	- It is requested that GOU takes step to enable partial introduction of ALRS.	- Act to prohibit Age Discrimination in Employment
17	Implementation of Intellectual Property Rights ("IPRs")	(1)	Heavy Burden of Obligating Applicant the Disclosure of Prior Art	**- In regard to patentability of the patent applications, the documental submission that accompanies the disclosure obligation based on the principle of good faith on the pending patent relative to patentability of the material information (on prior art) is extremely onerous upon patent applicants.** **Especially foreign patent application cases quoted by patent offices (in Japan, EU, and other countries) require not only case numbers but photo copies of gazette, and literature themselves at exorbitant cost for work time, attorney's fees, etc.**	- It is requested that the USPTO repeals the applicant's responsibility for disclosure of important information by taking advantage of the information exchange system (such as Dossier Information System) between the Patent Office's concerned without the applicants' participation.	- CFR Title 37, Sec. 1.56 Duty to Disclose Information Material To Patentability, (a)(1) Prior Art Cited in Search Reports of a Foreign Patent Office in a Counterpart Application

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		(2)	Anomaly in the deadline for submission of applicant's oath and invoicing of surcharge	- Notwithstanding the provisions under Patent Act Sec. 115 (f)) "Timing of Filing Inventor's Oath or Declaration (IOD) shall be ... No later than the date on which the issue fee for the patent is paid," in practice, unless IOD is filed simultaneously with the filing of patent application, the surcharge is withdrawn automatically from the bank account of the applicant registered by each patent attorney. Thus inconsistency has arisen between the period of IOD submission and withdrawal of the surcharge set forth in the Patent Act. This is unfair.	- It is requested that the U.S. Patent and Trademark Office refrains from automatically withdrawing from the bank account of the applicant the surcharge, where IOD is timely submitted, as specified in the Patent Act	- 35 USC Sec. 115 - Oath of applicant (f)
		(3)	Nebulous Legislative Provisions on the Home Country Application Obligations	- In emerging countries where needs for local development grow, many of them retain legislative provisions for Home Country Application Obligations (HCAO). However, due to the opaqueness of the legislation, on occasions, it is difficult to secure effective protection of IPRs. In addition, in these days when needs grow for the cross border joint development, there is a risk that HCAO in plural countries can conflict each other.	- It is requested that the GOU takes step to: -- deregulate HCAO or clearly sets forth the provisions into law, and -- promote deregulation of HCAO upon the cross border development through agreements by and among multiple countries.	
		(4)	Nebulous Disclosure Obligations for Information on Foreign Patent Application and Examination Information	- Even today when the computerisation and provision to the public of patent examination information, some countries continue to obligate disclosure of information on the fact of foreign patent application and the result of its examination. It heavily burdens Multi-National Enterprises (MNES) seeking IPRs protection in multiple countries. Due to the vagueness of such requirements, MNEs must run the risk of unintentional violation of its obligations.	- It is requested that the GOU deregulates or repeals the disclosure obligations of the foreign patent application information, or else, advances clarification of the contents of such obligations.	
		(5)	(Copyright) Legal Measures on Circumventing Access Control	- Member Firm is opposed to introduction of both 'Civil' and 'Criminal' Penalties on the 'Conducts' and 'Equipment' in Circumventing Access Control (CAC). Introduction of restrictions holds material impact upon viewing, listening and using conducts of the non-exclusionary copyrighted literary work/materials, with a possibility of largely disrupting the balance between copyright owner and user of copyrighted materials. However, failure of the GOU proposal to refer to these exceptional cases could likely upset the balance of benefits between right-holders and users among the TPP signatories. Protection of access control itself is not only harmful to users' free use and exchange of information. It is also injurious to technology development relative to hardware/software that users could enjoy. As a result, it means	- It is requested that GOU tolerates circumvention of access control.	- WikiLeaks Release of Secret Trans-Pacific Partnership Agreement (TPP), 30 August 2013, QQ.G.10、QQ.G.11、QQ.G.12、QQ.H.9*GOU seeks Introduction of Legal Measures on Avoidance of Access Control - EU, Korea 10.12 - the U.S., Korea 18.4.7

	Category	No	Issue	Issue Details	Requests	References
				nothing but adding negative factors to users in the globally competitive world. Moreover, it could give vent to a side effect of protecting a particular platform. In fact, litigations have materialised in the U.S. to protect certain platform in the name of copyright protection. In this respect, under doctrine of fair use and Digital Millennium Copyright Act of 1998, the U.S. permit distribution of equipment for securing interchangeability Defeating Access Control (DAC), including the application procedures in every three year for renewal of DAC, due consideration being given to balancing between protection and usage. However, member firm is opposed to apply access control avoidance provisions in Japan where no such written exclusionary legislation by GOU exists. In addition, for avoidance of extreme instances where manufacturers' freedom of design/supply is materially impaired, it is also necessary to expressly provide into legislation that the technical devices unilaterally used by the contents providers (including without limitation, access control and copy control) by no means may be made into mandatory requirement.		- the U.S., Peru 16.7.4 - the U.S., Chili 17.7.5
				(Actions) - On 5 October 2015, TPP Agreement agreed in principle by 13-countries including Chile (in Chapter 18 Intellectual Property, Article 68.1) act of unlimited circumvention of access control, manufacture, import, distribution, or sale to public of devices, etc. is liable and subject to the remedies provided for in Chapter 18 Article 68.1 (Civil and Administrative Procedures and Remedies).		
		(6)	(Copyright) Turning Copyright Infringement into a Crime prosecutable without a Formal Complaint From the Victim	- Copyright infringement being addressed to private right infringement, there can be no necessity for its recovery in the absence of the injured party's wish for the damage recovery. From the perspective of deterrent effect, it is barely necessary, either. On the contrary, only its negative impacts such as future atrophy due to criminal punishment on expressing act remain . In light of the fact that most creation, expression, etc. begin from copying, tightening of the deterrent measures with criminal fines will only leave the negative atrophic effect upon future expressive works and conducts. Concerning copyright, the vicinity of right is ambiguous, such as restricted right, indirect infringement, etc. Due consideration or deliberation is necessary (for example, from the perspective of atrophic effect) in cases with difficult predictability.	- It is requested that GOU refrains from turning Copyright infringement into a crime prosecutable without a formal complaint from the victim.	- WikiLeaks Release of Secret Trans-Pacific Partnership Agreement (TPP), 30 August 2013, QQ.H.7-7(h) turning Copyright Infringement into a Crime capable of prosecution without a Formal Complaint from the Victim. - the U.S./Korea 18.10.27 - the U.S./Peru 16.11.27 - the U.S./Chili 17.11.22 - Australia/Chili 17.38

	Category	No	Issue	Issue Details	Requests	References
				(Actions) - On 5 October 2015, TPP Agreement in Chapter 18, agreed in principle, by 13-countries including Chile, "Criminal Procedures and Penalties" provides: "Its competent authorities may act upon their own initiative to initiate legal action without the need for a formal complaint by a third person or right holder, provided, however, that, " With regard to copyright and related rights piracy provided for under paragraph 1, a Party may limit application of this subparagraph to the cases in which there is an impact on the right holder's ability to exploit the work, performance or phonogram in the market. (Chapter 18 Intellectual Property, Article 18.77.6g.).		
		(7)	(Copyright) Protection Period	- Extension of copyright protection period to "50-years beyond life" means a delay by a few decades to make the copyrighted work public, forming the base of next creative work. It leaves a question as to its propriety. While one thought relies on the EU/U.S. based international streams, both of which, however, have been prompted by the respective unique domestic needs: in the case of the U.S., the protection of the movie industry, and EU, the formation of the single market, which was incapable of completion without taking substantial time. On the other hand, Japan fails to see any needs for prolonging the protection period. If anything, maintenance of copyright for "50-years after the end of life" should be appropriate, in the burgeoning Asian contents industries geared toward PRC/Korea, etc. In this regard, thanks to the provisions under doctrine of fair use, etc., the U.S., are, in effect, balancing to a degree between protection of copyright and use of copyrighted materials, whereas only the negative impact remains in Japan where no equivalent provisions are made into law. What impact could it give on the extended copyright protection between the result in the protection of copyright and its utility, and in the same perspective, if there are issues that Japan needs to demand other countries over the issues such as restricted rights, etc. These are some of the additional issues Japan needs to address over the optimum balance between copyright protection and its utility. (The same applies equally to the overall tightening of protection of other rights incorporated into TPP, to ascertain, if there are issues Japan must require other countries, while seeking the optimum balance between protection and utility of copyrighted materials. Incidentally, in Europe, extension of the protection period, i.e., the copyright on live performance, recording, and measures to reduce dead contents are being incorporated.	- It is requested that GOU accepts the copyright protection period of "50-years after the end of life".	- Countries with the Copyright Protection Period of "50-Years After the End of Life": New Zealand, Vietnam, Brunei, Malaysia. - Countries with the Copyright Protection Period of "70-Years After the End of Life (70-YAEL)": the U.S., Australia, Singapore, Chile, Peru. - WikiLeaks Release of Secret Trans-Pacific Partnership Agreement (TPP), 30 August 2013, QQ.QQ.G.6、QQ.G.7 Protection Period of 70-YAEL - EU/Korea10.6: 70-YAEL - US/Korea 18.4.4: 70-YAEL - US/Peru 16.5.5: 70-YAEL - US/Chili: 17.5.4: 70-YAEL - Australia/Chili 17.27: 70-YAEL - EU/Peru/Columbia: 70-YAEL

	Category	No	Issue	Issue Details	Requests	References
				(Actions) - On 15 October 2015, 13-countries including Chili agreed in principle on Trans Pacific Partnership Agreement (P-TPP). In Chapter 18 intellectual property, it provides the period protection of copyrighted materials (including movies), live performance, or recorded materials as follows: (a) on the basis of the life of a natural person, the term shall be not less than the life of the author and 70 years after the author's death; (b) on a basis other than the life of a natural person, the term shall be: (i) not less than 70 years from the end of the calendar year of the first authorised publication of the work, performance or phonogram; or (ii) failing such authorised publication within 25 years from the creation of the work, performance or phonogram, not less than 70 years from the end of the calendar year of the creation of the work, performance or phonogram.		
		(8)	(Copyright) Parallel Import of Copyrighted Original (Genuine) Products	- Extension of exclusive right on import of original (Genuine) products interferes with external distribution / transactions of copyrighted products beyond national border. (Note) GOU seeks inclusion in TPP a provision that makes parallel import of original (genuine) products illegal. However, legality of parallel import of original (genuine) products was affirmed in supreme court decision, Kirtsaeng v. John Wiley & Sons, Incentives. (19 March 2013).	- It is requested that GOU permits the legality of parallel import of original (Genuine) products.	- WikiLeaks Release of Secret Trans-Pacific Partnership Agreement (TPP), 30 August 2013, QQ.G.3[US/AU/PE/NZ/SG/CL/MX propose; VN/MY/BN/JP oppose: Each Party shall provide to authors, [NZ/MX oppose: performers,] and producers of phonograms the right to authorize or prohibit the importation [133] into that Party's territory of copies134 of the work [PE oppose: [NZ/MX: oppose: performance,] or phonogram] made without authorization, [PE/AU/NZ/CA/SG/CL/MX/JP oppose: or made outside that Party's territory with the authorization of the author, performer, or producer of the phonogram.[135]]] [136]

	Category	No	Issue	Issue Details	Requests	References
		(9)	(Copyright) Statutory Damages	- While the argument presupposes difficulty in providing burden of proof for damages, generally, proof of damages for transmissibility, etc. is not necessarily difficult. To begin with, in other illegal activity where provision of proof of damage is difficult, the onus is upon the plaintiff to prove damage. There can be hardly any justification to introduce "statutory damage" provisions, exceptionally, only on copyright. Moreover, under Anglo-American Laws, from its atrophic effect, statutory damages ought to have a deterrent effect. However, its introduction triggers frequent IPR instigation, with the spiraling amount of damage, as are the cases in the U.S. In this respect, these are no consensus not only within industries, but no social consensus itself exists. Moreover, the decline in sales is not due to illegal download, but rather, fundamentally, to the original price setting of the official products, as pointed out by some. To begin with, before argument on damages, the problems at issue seem to point to the causal relationship between infringement on the transmissibility right and damages. Why the proof of the damage amount alone has become the focus of discussion is questionable. Consequently, the going provisions of lessening the burden of proof alone should suffice. It obviates the need for extraneous provisions on top of them. In the copyright field, both special consideration and review are necessary in a case where the boundary of copyright is ambiguous, (for example, from the view point of atrophic effect, such as indirect infringement of the restricted right--where predictability barely exists.)	- It is requested that GOU takes step to remove "statutory damage" from the legislation.	- WikiLeaks Release of Secret Trans-Pacific Partnership Agreement (TPP), 30 August 2013, QQ.H.4.X - 1 - The U.S. seeks introduction of Statutory Damage for copyright under TPP. - EU/Korea 10.50.2, 10.50.3 - The U.S./Korea 18.10.6 - The U.S./Peru 16.11.9 - The U.S./Chili 17.11.9 - The U.S./Columbia 244.2
		(10)	(Copyright) Punitive Damage Scheme	- Punitive damage scheme fails to come to grip with “restitution in integrum of the damage actually caused to the injured party” to begin with, in breach of good public order and customs. (Japan supreme court Decision of 11 July 1997, Bansei Kogyo Case). Assuming arguendo, the deterrent effect, inherent to criminal penalty, should fail to bring out sufficient results, the answer ought to be sought in strengthening its enforcement under the existing legislation. To begin with, the precise check on its effectiveness is necessary. In the first place, the consequence of establishing the act of copyright infringement has been ambiguous, while from the past, the problem over assurance of its predictability has been pointed out. It is clear from Disney's 'Winnie-The-Pooh' rights case, which shows: The severely narrowed down requisite conditions for establishing the Act of	- It is requested that GOU refrains from establishing Punitive Damage Scheme in its legislation.	- WikiLeaks Release of Secret Trans-Pacific Partnership Agreement (TPP), 30 August 2013, QQ.H.4.X - 1 ＊- GOU seeks introduction of Punitive Damage in TPP.

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		(10)	(Copyright) Punitive Damage Scheme	- Punitive damage scheme fails to come to grip with “restitution in integrum of the damage actually caused to the injured party” to begin with, in breach of good public order and customs. (Japan supreme court Decision of 11 July 1997, Bansei Kogyo Case). Assuming arguendo, the deterrent effect, inherent to criminal penalty, should fail to bring out sufficient results, the answer ought to be sought in strengthening its enforcement under the existing legislation. To begin with, the precise check on its effectiveness is necessary. In the first place, the consequence of establishing the act of copyright infringement has been ambiguous, while from the past, the problem over assurance of its predictability has been pointed out. It is clear from Disney's 'Winnie-The-Pooh' rights case, which shows: The severely narrowed down requisite conditions for establishing the Act of Aiding and Abetting ("AAA"), for avoidance of an "excessive atrophic effect" upon persons engaged in software development. It severely defines its AAA invocation requirements: "Software being capable of application, both for 'legal' and "illegal infringing" use of copyright by persons, within an exceptional high probability of using the software in copyright infringing conduct, while the software provider knowingly has disclosed and provided the software, and only when AAA was committed using software so received." Thus, a copyright infringement case, being both civil and criminal proceedings, requires a degree of clarity, reflecting the circumstances in which AAA is established, just the same as other criminal cases in general. Member firm is opposed to the GOU's ready and hasty resort to beefing up the deterrent effect when the indirect infringement issue largely relates to this subject.In addition, conformance of direction of argument on punitive damage would be advisable, including not only patents but other civil issues as well."Japanese Supreme Court Decision of 11 July 1997"	- It is requested that GOU refrains from establishing Punitive Damage Scheme in its legislation.	- WikiLeaks Release of Secret Trans-Pacific Partnership Agreement (TPP), 30 August 2013, QQ.H.4.X - 1 ＊- GOU seeks introduction of Punitive Damage in TPP.
19	Industrial Standards, Approval of Safety Standards	(1)	Control on Higher Efficiency of Low Voltage Motors (LVMs)	- LVMs, including those assembled into machinery, are subject to higher efficiency control in each country including the U.S., Canada, Brazil and Mexico. The accreditation standards, which vary by country, form de facto trade barriers due to the complexity of the application process.	- It is requested that GOU dispenses with the accreditation requirement on LVMs, assembled into machinery that satisfies the regulated efficiency level to remove the trade barriers	- EISA (Energy Independence and Security Act)

	Category	No	Issue	Issue Details	Requests	References
		(2)	Unauthorised Export on JIS Approved Production Facilities	- JIS approved food production facilities cannot be exported to the local food processing factory in the U.S., despite its superb manufacturing technology in safety and hygiene. The CE mark standard forms totally a non-tariff barrier. Japanese foods advocating food-safety and good taste demand observation in the total perspective including machineries that make Japanese foods.	- It is requested that the U.S./EU accepts mutual recognition of their standards with JIS standard.	- ASME Boiler and Pressure Vessel Code LLL
20	Monopoly	(1)	Obligations to submit Form F-4 upon Reorganisation by Exchange of Shares, etc.	- In acquisition of a target company by means of exchange of shares, even where the transaction takes place between the Japanese affiliated companies, unless the exclusionary provisions under the U.S. Securities Act apply, the acquiring company has obligations to file Form F-4 to the U.S. Securities Exchange Commission (SEC). Regardless of the accounting standards applied, in certain cases, Financial Statement must be prepared in accordance with the U.S. Generally Accepted Accounting Principles (US GAAP). This requirement is not only costly but gives a substantial impact on scheduling, and on occasions disables the agile reorganisation.	- (1) In principle, obligations to submit Form F-4 are exempted in the event of less than 10% substantive ownership by the U.S. acquiring party. It is requested that GOU deregulates the exemption requirements. For example, if the transactions are of small consequence to the acquiring group (if it is a simple company reorganisation under the Japanese law) or if the individual notification is given to the substantive owner in the U.S., submission of Form F-4 is exempted. (2) Obligations to submit Financial Statement prepared under the US-GAAP are exempted as to the Listed US Subsidiary (for example, if the Consolidated Financial Statement is prepared under the US-GAAP in the process of turning the listed US Subsidiary into a wholly owned US Subsidiary.)	- Securities Act of 1933, Section 5(c) and its relevant SEC Regulation (mainly Rules Sec. 145, and Sec. 802)

	Category	No	Issue	Issue Details	Requests	References
22	Environmental Pollution and Waste Disposal	(1)	Difficulty in Designating the Disclosure Date of Information concerning Energy Efficiency Report	- Section 429.12 of Title III of the Energy Policy and Conservation Act (EPCA) requires submission to Department of Energy (DOE) of compliance declaration and certification report in regard to the energy efficiency rates before launching into the market any products subject to EPCA. While the data concerning the products prior to marketing are in principle confidential to the disclosing party, EPCA under the current implementation scheme does not allow the disclosing party to designate the date of disclosure of such confidential information. (While confidentiality of certain information may be protected, in case of new products, the disclosing party desires the full information submitted as confidential pending launching into the market of the products in concern. Therefore the disclosing party is unable to seek confidential protection authorized under the regulations.) As a result, it requires a careful timing of when to submit the confidential information, demanding otherwise unnecessary burden upon the disclosing party.	- It is requested that the DOE implements the Act that allows the disclosing party to designate the date of disclosure.	- Title III of the Energy Policy and Conservation Act (EPCA) (42 U.S.C. 6291, et seq.) establishing the Energy Conservation Program for Consumer Products Other than Automobiles, Section 429.12 (without, however, any implementing details written into law.)
		(2)	Nebulous, Indefinite Emission Standards such as EPA and CARB to control Non-Road Exhaust Emissions	- Emission Standards are ambiguous in details, (defying interpretation by even the native Americans, such as the timing of the change in Exhaust Emission Standards.) The Exhaust Emission Standards (EES) vary by states. It makes it difficult for the parties in concern to take responsive measures.	- It is requested that GOU: -- makes the regulation simple and clear, and -- makes possible the automatic clearance of EES in each state, once the EPA Clearance is granted.	
		(3)	Unconfirmed Contents of the Green Chemistry Regulations	- The Safer Consumer Products Regulations. Of California State, does not specify the targeted consumer products and chemical substance. It is therefore difficult to evaluate in full the degree of impact it gives over the trade.	- It is requested that the GOJ brings the issue to WTO Panel on account of a possible TBT issue, after publication of the decision on the target products and the hazardous substance covered under the Regulation. - It is requested that the GOU shall decide subject substances based on scientific ground, provide with sufficient time for evaluation and consider confidentiality of enterprises.	- The Safer Consumer Products Regulations California State (OAL File No. 2013-0718-03 S)

	Category	No	Issue	Issue Details	Requests	References
				- In the absence of the details of the subject consumer products and chemical substance, it is difficult to give sufficient evaluation concerning the extent of injurious impact upon international trade.	- It is requested that GOU: -- renews its TBT notice after deciding the details of the subject products and substance, and in evaluation of the regulation, -- ensures selection of the subject substance on scientific basis, and secures requisite time for evaluation, while paying due attention to the protection of corporate confidential information.	
		(4)	Original Recycle Mark (Batteries)	- Legislative provisions have been promulgated in each country and each region throughout for effective use of natural resources and prevention of environmental pollution. It is the same with Batteries. GOU compels provision of the various markings on the Battery itself, and its User's Manual correctly without any mistakes, the administration of which heavily burdens the manufacturers. 	- It is requested that the GOJ and the GOU will jointly work toward unification of the Recycle Marking Requirement worldwide.	
				(Actions) - On 6 August 2014, US Department of Transportation (DOT) Pipeline and Hazardous Materials Safety Administration (PHMSA) promulgated "Federal Register, 49 CFR Parts 171, 172, 173, 175. Hazardous materials: transportation of lithium batteries; Final Rule." This Rule has tightened the control on transport of lithium batteries and cells, over air, sea and land, especially with increased requirements for packages, documents, and markings in transport. Please refer to "PART 173- SHIPPERS-GENERAL REQUIREMENTS FOR SHIPMENTS AND PACKAGINGS" for details of Label Marking.		
		(5)	**Californian State's Stringent Regulations of Chemical Substances**	- The Californian State Act "Proposition 65" promulgated in 1986 regulates carcinogenic substance contained in foods and chemical substances, inclusive of numerous substances for which the controlled density remains unspecified so that even the minutest contents that exist in the natural environment can be a subject of litigation. While it is the state law, in light of the large market scale of the State of California, basically, can affect the total business across the entire country. Therefore, it poses a potential threat.	- It is requested that the GOU takes steps to have the Californian State Law amended more in line with the reality.	- Proposition65 Safe Drinking Water and Toxic Enforcement Act of 1986 - California Proposition 65

	Category	No	Issue	Issue Details	Requests	References
				- Proposition 65, California's own state regulation, because of its ambiguous basic regulated values, has triggered litigation over a miniscule value of pollutants, becoming a subject of ridicule: "It does not serve for environment protection but has become a lawyers' source of income". - Due to the stringent regulatory control, chemical substance, accepted in other States, is disapproved in California.	- It is requested that State of California (SOC) amends the Regulation. - It is requested that SOC deregulates Proposition 65.	
				(Actions) - On 6 August 2014, US Department of Transportation (DOT) Pipeline and Hazardous Materials Safety Administration (PHMSA) promulgated "Federal Register, 49 CFR Parts 171, 172, 173, 175. Hazardous Materials: Transportation of Lithium Batteries; Final Rule." This Rule has tightened the control on transport of Lithium Batteries and Cells, over Air, Sea and Land, especially with increased requirements for Packages, Documents, and Markings in transport. Please refer to "PART 173- SHIPPERS-GENERAL REQUIREMENTS FOR SHIPMENTS AND PACKAGINGS" for details of Label Marking.		
		(6)	Delayed Publication of NSRL	- Proposition 65: In December 2013, Di-isononyl Phthalate (DINP) vinyl chloride resin called DINP has been listed since December 2013 as a substance "known to the State of California to cause cancer". Since December 2014, warning label has become a mandate on vinyl chloride resin containing DINP in excess of the value of No Significant Risk Level (NSRL). It appears there is no possibility to reach the MADSL threshold value proposed by American Chemistry Council (ACC), while ACC has filed complaint on the list prepared by the authority (OEHHA). However, while litigation is pending on the authority's recording, OEHHA has proposed the revised NSRL which is about 1/20 of the ACC's proposal, making the judgement for the possibility of exposure difficult.	- It is requested that OEHHA: -- publicly discloses without fail NSRL before listing, and -- shows by example the process to evaluate the possibility for consumers' exposure, or else, -- specifies the NSRL that triggers warning label requirement.	- Proposition 65
23	Inefficient Administrative Procedures, Regimes and Practices	(1)	Filing Obligations of Service Contracts, etc.	- In the U.S., filing of Service Contracts (=S/C: Service Contracts between Shipper and Carrier inclusive of all Arrivals/Departures to and from the U.S.) to Federal Maritime Commission (FMC)) is compulsory. However, in the middle of liberalisation where freight conferences get dissolved one after another, the compulsory filing requirement merely piles up a large volume of service contracts with individually different contents. It is a unique rule implemented only by the U.S. throughout the world. There is no output from FMC and the legislative thrust of "Exclusion of the Disinterest to the U.S. Consumers" is also questionable.	- It is requested that GOU takes step to -- review the U.S. Shipping Act and -- repeal the compulsory filing requirement of Service Contracts.	- Federal Regulation, Title 530, part 530, $530.8 Service Contracts

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24	Indigested Legislation, Abrupt Changes	(1)	Restrictions on Auto Truck Transport Varying by Each State	- While this is not a matter of immediate concern to a Member Firm, in the inter-state transport, varying truck weight requirements by individual states compel splitting the container cargo into smaller bundles in certain cases.	- It is suggested that the GOU harmonizes the truck weight throughout the U.S. for the sake of attaining the optimum efficiency.	
		(2)	Exceptional Treatment for Specific Industry	- Exceptional treatment for tobacco industry under TPP could materially affect the activity for promoting foreign trade investment. It can likely spread to economic activity of individual bodies or investors in the TPP signatories, forcing them into thinking twice for furthering investment activity. Its impact is broad and substantial. GOU and Malaysian Government (reportedly) filed proposals for giving an exceptional treatment on the products of tobacco industry. (Reported Information).	- It is requested that GOJ participating in TPP negotiation to appreciate the state of affairs shown in the left column, and take whatever measures are necessary to avoid giving a special treatment on any specific products.	
25	Government Procurement	(1)	**Discrimination under Buy American Act on Government Procurement: Domestic vs. Foreign**	- The Buy American Provisions for iron and steel, etc. passed the Congress under the American Recovery and Reinvestment Act of 2009 ("Recovery Act"), which compels the use of the U.S. made products relating to the public procurement of iron and steel and other general industrial products. The public work under this Act includes, without limitation, construction, alteration, maintenance or repair of airport, bridge, canal, dam, banks, pipeline, railway, public transportation system, road, tunnel, port, and landing bridge. Circumvention is a matter of concern by non-member countries like PRC, closed out from the WTO GPA membership on steel products. Japan, being a Member State to WTO Government Procurement Agreement (GPA), Japanese Steel Industries have sustained no direct negative interest. However, it remains a matter of concern that indirect damage to the maintenance of the sound international trade environment could result from the circumventing export via third countries by non-GPA Member States such as PRC.	- It is requested that the GOU implements The Buy American Provisions in the manner compatible with the WTO GPA.	- The Buy American Act (Federal Law - Obligation to procure the U.S. made parts) - 41 U.S.C. S10a-10d - Federal Acquisition Regulation(FAR) Part25 & DFARS 225.1(Supplies) and DFARS 225.2(Construction) - Compulsory Procurement of the U.S made Parts and Components
				- The U.S. gives priority to domestic products in federal procurement under BAA, discriminating foreign products.	- It is requested that the GOU deregulates its BAA policy of prioritising the domestic products in the U.S.	
				(Actions) - In 2002, Kawasaki Heavy Industries, Ltd. Newly established in Lincoln, NE, the latest integrated rail car manufacturing plant (Kawasaki Motors Manufacturing Corp (KMMC)), which has substantially increased the U.S. local contents. In cooperation with many Japanese manufacturers, KMMC manufactures quality rail car with high reliability and safety, and its business grows in the public construction work. (JETRO Business News of 5 March 2012).		

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				- In the Japan-U.S. Deregulation Talk, GOJ requested GOU to repeal the Buy American Act concerning the federal government procurement to which application of the WTO Agreement is exempted. GOJ also requested GOU that it will take all necessary measures to establish a foreign-US non-discriminatory policy in procurement by its local governmental agencies. - In October, 2001, during the U.S.-Japan Regulatory Reform Initiative, GOJ requested GOU to take measures as follows under the direction and leadership of the federal government: 1) improvement of double structured regulations, federal vs. state or of varying regulations by each state; 2) express statement of the schedule toward liberalization; 3) review of The Public Utility Holding Company Act (PUHCA); 4) proposal as to the future direction public businesses should take; and 5) establishment of the upper limit price (price cap) in the wholesale market, by reflecting the predictability of enterprises upon direction of the federal government. GOJ thereafter has kept pressing GOU each year for GOU to review the Buy American system at both Federal and State levels to ensure that an equal business opportunity is afforded indiscriminately to both domestic and overseas enterprises. - Effective as of October 1, 2003, contractors wishing to do business with the US Department are mandated to file Central Contractor Registration (CCR) trading partner profiles and to update such information at least once a year. - In December 2004, at the negotiation to widen the scope of application for Agreement on Government Procurement under WTO, GOJ requested GOU to add 13 states that are outside the scope. - In December 2005, in the Japan-U.S. Deregulation Initiative, GOJ requested GOU to ensure that GOU affords the equal business opportunities to foreign industry as it gives to the U.S. industry in respect of the Federal Buy American Act. - On 17 February 2009, President Obama signed into law the American Recovery and Reinvestment Act of 2009 H.R.1 ("Recovery Act"), otherwise called "Stimulus Plan". This law includes the "Buy American" provision that compels the use of American Iron, Steel, and Manufactured Goods produced in the United States (with local contents of more than 50% where Federal Procurement Regulations apply) in a project for the construction, alteration, maintenance, or repair of a public building or public work employing "the funds appropriated or otherwise made available by this Act". This Buy American provision includes 3-exceptions:-- (i) it would be inconsistent with the public interest; (ii) iron, steel, and the relevant manufactured goods are not produced in the United States in sufficient and reasonably available quantities and of a satisfactory quality; or (iii) inclusion of iron, steel, and manufactured goods produced in the United States will increase the cost of the overall project by more than 25 percent. The head of the department or agency shall publish in the Federal Register a detailed written justification as to why the provision is being waived. It also provides: "This section shall be applied in a manner consistent with United States obligations under international agreements", excluding from the scope of its application, the Member States of WTO Agreement on Government Procurement, the Member States of the FTA's, and such Less Developed Countries (LDC's) as designated by the U.S. Trade Representative. (Ref: the American Recovery and Reinvestment Act of 2009 H.R.1 ("Recovery Act") (http://www.govtrack.us/congress/billtext.xpd?bill=h111-1)) - GOJ at the WTO Government Procurement Committee in February and May 2009 presented: "GOJ will watch GOU's employment of the The Buy American Provisions of the Act," and pointed out in spring 2009 at the Japan-USA Regulatory Reform Initiative, GOU's thorough implementation of the non-discrimination principle domestic vs. foreign in the U.S. Government Procurement and the U.S. review of the protectionist measures including this issue.		

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				- On 5 February 2010, the U.S.-Canada Governments mutually signed "Agreement Between GOC and GOU on Government Procurement (Canada-US GPA)": (1) exempting Canadian enterprises from application of "Buy American" provision of the Recovery Act, and (2) permanently liberalising mutually the state/provincial government procurement under the WTO Agreement on Government Procurement (WTO-GP). Furthermore, with coming into effect of Canada-US GPA on 16 February 2010, GOU would amend the Appendix of WTO-GP, deregulating Canadian Enterprises' entry into the government procurement by the 37 states, while excluding Canadian enterprises from application of the Buy American provision to the 7-programmes implemented by the state governments. - On 6 April 2014, amended government procurement agreement came into force. The U.S. newly added 10-Federal Government Agencies to the List of International Government Procurement. - On 4 February 2016, TPP agreement was signed, newly liberalising Tennessee River Regional Development, Bonneville Power Administration, etc.		
		(2)	Exclusion of Non Designate Countries in Government Procurement	- Under Buy American Act provided for in FAR (Federal Acquisition Regulation), its application remains unauthorised to products from highly price competitive States such as PRC, India, Brazil, etc., while some of them, it would appear, are left to discretionary judgement of contract officers. It remains a far cry from flexible implementation. - Due to the exclusion of products manufactured in PRC, participation in government tender is either disallowed or excessively burdensome. - What with the cabinet decision on the three principles on transfer of defense equipment and technology, member firm contemplating development of business destined to the U.S. finds existence of the Buy American Act on Government Procurement which could get in the way of business development hereafter.	- It is requested that GOU repeals or deregulates Buy American Act Provisions (in FAR). - It is requested that the GOU repeals the restrictions as soon as possible. - It is requested that GOU takes step to deregulate or repeal the legislation.	- US General Service Administration
				(Actions) - Pursuant to the Trade Act of 1979, the U.S. governmental agencies are not authorized to procure products from countries other than the Member States of WTO Agreement on Government Procurement, NAFTA (Canada/Mexico) and Caribbean countries, except where the required products are not available from the authorized countries, procurement is possible from non-authorized countries. - PRC committed itself to the U.S. that it would start a formal negotiation with a view to ratify WTO Agreement on Government Procurement by 31 December 2007, at the JCCT conference between the U.S. and PRC held in April 2006. - On December 28, 2007, PRC signed and submitted to WTO Secretariat application form to accede to WTO Agreement on Government Procurement. Thus, the official talk on PRC's accession to WTO Agreement on Government Procurement has begun. - On 4 February 2016, 13-Non-Signatories to WTO GPA, including Vietnam, Malaysia, and Australia signed TPP Agreement. Upon its enforcement, access becomes possible to the U.S. Government procurement market.		

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		(3)	The U.S. Regulation on Defence Equipment	- The U.S. Registration applicable only to defense equipment exists, deregulation/repeal of which will be requested via Ministry of Defence, and Ministry of Economy, Trade and Industry. Now, GOJ works toward ratification of G-to-G Agreement with the U.S. on removal of restrictions applicable to defence equipment (while the U.S. has ratified such Agreement with 23-countries centering the EU Member States)		
26	Others	(1)	The Risk of Impending Seaport Functional Hiatus due to Strikes	- Upon outbreak of waterfront strikes, if doubled with the peak period of the cargo volume, 2~3 weeks delays can result. - Waterfront strikes in the West Coast, from time to time, could cause delays in import cargo release at times. Normal 10-days to 2-weeks arrival schedule could be stretched to a month. - Member firm regularly shipping export cargoes to MFS (Member firm's locally incorporated subsidiary) faces procrastinated cargo arrival due to the West Coast ports strikes, necessitating alternative air-freight, which drives up the cost of transportation sky high. - Due to the U.S. Port strikes occurring at irregular intervals, MFS is forced to confirm the supply chain, necessitating emergency research on delivery/shipment of cargoes.Transportation costs jump up from having to arrange alternative means of transport by airfreight. - Large-scale West Coast labour disputes/walkout materially impacted the logistics, forcing costly switch to airfreighting cargoes. - The U.S. West Coast (Los Angeles port) stevedores' sabotage has prolonged, demanding improved remuneration, working conditions, with increase in cost and time of receiving cargo delivery. - Delayed import and impact on the volume of export cargoes.	- It is requested that GOU takes step to: -- i) terminate strikes as soon as possible and -- ii) secure a sufficient number of containers. - It is requested that GOU endeavours to avoid port strikes and maintain port functionalities through meticulous and smooth negotiation. - Negotiation skill improves at the advent of strikes. - Prior notice upon outbreak of strikes. - Online real-time check on cargo movement. - Early return to normal operation is awaited. - It is requested that GOU settles the dispute by prompt mediation. - It is requested that GOU intervenes to settle promptly industrial disputes to alleviate harbour congestion.	

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				- The area in concern is not Mexico itself direct. The Maquiladora operations in the area mostly rely on California Long Beach for import of parts, etc. Currently, labour-management negotiation faces rough going. - Reliability is absent on the transport infrastructure in Mexico, arising from the disputes between the Employer Pacific Maritime Association (PMA) and International Longshore Workers Union (ILWU). - Due to the prolonged U.S. West Coast Labour Disputes (since July approx.), arrival vessel's lead-time has been extended.	- It is said the Federal Government will intervene, but it is requested that Japan side will also send their request for early settlement. - In addition, to complement the shortage in capacity, expanded use of Ensenada Port in Mexico is also requested. - It is requested that GOU extends its assistance for improvement of congestion. - It is requested that GOU settles the labour disputes at harbours as soon as possible.	
				(Actions) - U.S. West Coast ILWU labour-management negotiation stretched into a 9-months long period from May 2014. Especially in November 2014, ILWU workers decided to go out on strike so that the number of landed containers further dropped by large margin. - According to Japan maritime center verification, in February 2014 at Los Angeles port, vessel's anchorage-time increased by 146-hours (about 6-days) at Los Angeles port, and 104-hours (about 4.5 days) at Long Beach port, compared to the same month of the preceding year, delay by a large margin in each case. - On 21 February 2015, ILWU (International Longshore and Warehouse Union) and PMA (Pacific Maritime Association) signed Tentative Collective Agreement (TCA). - With signing of TCA that ended the labour bargaining, the functionality at ports took off toward normalisation, increasing the number of import containers.		