

Provisional Survey Report 2014

**New Issues and Requests for Improvements on Trade and Investment  
- Oceania -**

January 2015

Japan Business Council for Trade and Investment Facilitation (JBCTIF)  
Secretariat: Japan Machinery Center for Trade and Investment

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(Note) \*, APEC countries and regions

(Note) †, ASEM countries and regions

Issues and requests relating to foreign trade and investment - Australia

|   | Category   | No  | Issue   | Issue Details   | Requests   | Governing Laws   |
|---|--|-----|---|---|--|--|
| 1 | Restrictions on Entry of Foreign Capitals  | (1) | Verification of Identity Procedures on Purchase and Sale of Land Property | - Relative to Contract for Sale and Purchase of Land Property by Foreign Funded Enterprises (FFE), Verification of Identity is necessary for the Person signing the Contract (PSC). When signing outside Australia, PSC must appear before the person in charge at the Consulate to sign the papers. In addition, Verification of Identity is only possible during morning office hours on Tuesdays and Thursdays, while the details of the requisite documents for Verification of Identity remain undisclosed.  | - It is requested that Government of Australia (GOA):<br>-- accepts Verification of Identity at places other than Consulate (for example, at Notary Public's Office),<br>-- lengthens the hours for Verification of Identity at Consulate, and<br>-- clearly identifies the requisite documents for Verification of Identity.  | - Verification of Identity ( <a href="http://www.landgate.wa.gov.au/docvault.nsf/web/PS_TR_VI/\$FILE/VOIBRO.pdf">http://www.landgate.wa.gov.au/docvault.nsf/web/PS_TR_VI/\$FILE/VOIBRO.pdf</a> ) |
| 2 | Grant of a Preferential Tariff Rates based on Increased Home Production, and/or Local Procurements | (1) | Designated Local Procurement Rate in a Project                            | - In a project concerning electric railcar in NSW State, import of finished car was not possible due to the designation of the local procurement rate. It requires adoption of the local components or employment of workers at local factory. This rate varies by state and by project. This requirement however seems to be fading out, as some projects no longer enforces the local procurement rate requirement. Unless productivity of the local workers improves, designation of local contents rate handicaps Japanese manufacturers.   | - While it seems it is difficult to dissolve this problem by G-to-G talks, case-by-case variances of the local contents rate frustrate a long-term strategic planning. It is requested that GOA either repeals the local contents rate requirement or pursues the same policy unchanged.   |  |
| 6 | Reduction and Elimination of Preferential Policies for Foreign Capital                             | (1) | Shortage of Incentives for Local Production                               | - Severe business climate continues for the Local Car Manufacturers in Australia, due to the internationally extremely low import tariff rate of 5% on CBU, the accelerated offensive of ROK imported cars helped by the enforcement of FTA beginning 2015, and appreciation of Australian dollars aggravating the profitability on export by local car manufacturers. While the framework continues even now for Promotion of Car Industry in Australia, such as Production Incentive Program, and Investment Subsidisation Scheme, in light of the rapidly aggravating environment for the Local Production Business, the GOA's going Industrial Promotion Policy hardly fills the needs of the Local Car Industries. | - For the sake of continuation of the 3-Local Car Manufacturers, it is requested that Government of Australia (GOA) redoubles its support in Taxation System, Overhaul Of Investment Environment, Demand Stimulation, etc. (namely, Support on Investment into Factory, Increased Production Incentive, etc.).<br>- It is further requested that GOA and GOJ ratify as soon as possible Japan-Australia free trade agreement in light of import into Australia finished Japanese motor vehicles and parts thereof. |  |
| 8 | Investment Recipient Organization  | (1) | Costly FIRB Approval and Delays in Issuance                               | - A foreign investor into Australia must obtain approval of the Foreign Investment Review Board (FIRB). It takes substantial time and cost to file application at FIRB, which is quite burdensome when investing in Australia.  |  |  |

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| 9 | Restrictive Export/Import Trade, Duty, and Customs Clearance | (1) | Disparity in Customs Tariff Rates due to unratified FTA | <p>- In principle, 5% Customs Duty applies to industrial products on which there is a domestic manufacturer, (while by filing application on product by product basis, and if approved, zero Customs Duty applies.) However, between the countries where FTA is ratified, Customs Duty will gradually diminish to zero. It is said that FTA Agreement in principle is reached between Australia and ROK. Japanese manufacturers competing against ROK must bear the handicap of 5%.</p> <p>- Along with the consummation of FTA negotiation between Australia and ROK in December 2013, the 5% Import Duty upon ROK finished cars will be removed. It will create the gap in cost between the two countries on finished cars. As a result Japanese cars' competitiveness will be lowered against ROK cars at the end users' level in the Australian market.</p> <p>- On dump trucks imported into Australia from Canada, 0% Import Duty applies, while Japanese manufactured dump trucks attract 5% import duty, creating the import cost differences between the two. Japanese made cars competitiveness declines to the extent of the cost differences at the end users' level.</p> <p>- Depending upon country of production, variances in the customs duty rate cause the gap in prices. (For example, no tariff is levied on the U.S. made products, while GOA levies 5% Customs Duty on Products made in Japan.)</p> | <p>- This is probably an issue that gets resolved upon ratification of TPP, however, Japanese manufacturers must shoulder the handicap of 5% until then. If TPP does not work, it is requested that GOJ expedites ratifying a Bilateral Agreement with Australia to remove the handicap upon Japanese manufacturers in competing against ROK.</p> <p>- It is requested that GOJ expedites conclusion of the bilateral EPA or FTA between Japan/Australia for the sake of securing competitiveness of the Japanese cars in the Australian car market.</p> <p>- It is requested that GOJ takes steps to amend the Tariff Rate or ratifies FTA with Australia.</p> | - Chapter 87, Customs Tariff Act 1995                         |
|   |  | (2) | Antidumping Measures                                    | <p>- On 1 April 2004, GOA imposed provisional antidumping duties on thick steel plate from Japan, ROK, PRC, and Indonesia.<br/>On 1 April 2009, GOA terminated the antidumping measures upon reaching the termination date.</p> <p>- 15 June 2012: Initiation of Antidumping Investigation on Hot Rolled Coil Steel from Japan, Korea, Taiwan, and Malaysia.<br/>2 December 2012: Decision of Antidumping Duty Levy, Japan: 0% (Acid washed coil), 7% (Other than Acid Washed Coil), Korea: 2.6-11.8%, Taiwan: 2.6-8.2%, and Malaysia: 15%.</p> <p>- On 12 February 2013, GOA initiated Investigation on Hot Rolled Plate Steel Exported from PRC, Republic of Indonesia, Japan, ROK and Taiwan into Alleged Dumping and Subsidisation.<br/>On 19 July 2013, GOA invoked provisions measures against 4-countries excluding Taiwan.<br/>On 19 December 2013, Antidumping Committee (ADC) made affirmative determination of dumping on 4-countries excluding Taiwan (CDV only on PRC), deciding the levy of antidumping duty: Japan: 14.3%, PRC: AD: 0 to 22.1%, Indonesia: 8.6 to 19.3%, ROK: 0 to 20.6%. In addition, ADC decided 2.6 to 36.9% countervailing duty levy as to PRC.</p> <p>- On 24 October 2013, GOA initiated antidumping investigation on Hot Rolled Structural Steel Sections Exported from Japan, Korea, Taiwan and Thailand.</p>   | <p>- It is requested that GOA repeals the Antidumping Measures.</p> <p>- It is requested that GOA repeals the measures.</p> <p>- It is requested that GOA withdraws antidumping investigation as to Japan.</p>  | - Folio No. 88 Australian Customs Dumping Notice No. 2012/661 |

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|                      |     |   | - On 8 January 2014, GOA initiated antidumping investigation on Quenched and Tempered Steel Plate exported from Finland, Japan and Sweden.  | - It is requested that GOA withdraws antidumping investigation as to Japan.   |  |
|                      | (3) | Monitored Imports   | - In April 2002, GOA executed monitoring of the general steel products imported into Australia.   |   |  |
| 12 Exchange Controls | (1) | Appreciation of Australian Dollars  | - Domestic retailers in Australia have sustained severe damage brought about by the appreciation of A\$ and the increased users of Online Purchases from overseas, such as the U.S.   |   |  |
|                      | (2) | Unstable and Ups and Downs by Large Margin in the Rate of Foreign Exchange                                      | - In an infrastructure project, the contract is based on A\$, which is called Commodity Currency. It goes hand-in-hand with the mineral products market, which is quite unstable, swaying up and down with radical amplitude. (In the past 5-years, 58.4 yen to A \$1.00 in January 2009 and 103.5 yen to A\$1.00 in March 2013.) In infrastructure projects, the construction work takes a long time, so that the bidder must take account of the Foreign Exchange Risk when it receives payment for the construction cost. It is extremely difficult for Japanese manufacturers to determine prices, as the profitability of the operation is at the mercy of the sway in the foreign exchange market. Profitability of the operation is swung to and fro by the whims and fancies of the foreign exchange market. Foreign exchange is largely influenced by the world economic trend, politics, and policies, and its prediction is difficult. Foreign Exchange being impacted largely by the trend of the world economy and politics, in reality, it is difficult to eliminate risks. However, without narrowing the margin of ups and downs, it is difficult to make business decisions. | - It makes one to wonder if it is at all possible for both countries to align their policies to narrow the margin of fluctuation in the exchange rate.  |  |
| 13 Finance           | (1) | Banking Oligopoly   | - Fund procurement cost remains at the high plateau in Australia where banking business is monopolized by just four banks.  | - It is requested that GOA takes steps to encourage competition and promote new entrants in the banking business.   |  |
|                      | (2) | Complex Housing Loan Procedures   | - Compared to Japan, the Housing Loan Procedures are complex. It is difficult for those who acquire a house for the first time to obtain the grant of the Housing Loan.   | - It is requested that GOA takes steps to promote simplified Housing Loan Procedures.   |  |
| 14 Taxation Systems  | (1) | Insufficiency of Dispute Settlement Mechanism under the Mutual Agreement Procedure Provisions of the Tax Treaty | - One of the purposes of ratifying the Tax Treaty (the Convention) is to avoid double taxation and for this purpose, Mutual Agreement Procedure (MAP) provision is included in the going Convention. Thanks to this provision, through mutual consultation, avoidance of double taxation has been achieved. However, the MAP remains within the restriction of the "endeavour" provision and does not guarantee agreement between the both authorities, although such provision is deemed unavoidable, judging from the nature of the Convention. Prospectively, the failure to reach agreement under MAP results in levy of double taxation on enterprises (particularly in the context of Transfer Pricing Taxation issues.) Furthermore, even if the double taxation is avoided through MAP, enterprises face imposition of additions to tax under the domestic law (such as interest on delayed payment and penalty) in excess of the original tax amount.)   | - It is requested that both GOA and GOJ:<br>-- incorporate into the Convention arbitration clause that can be triggered upon collapse of MAP or in the event mutual agreement cannot be reached after the lapse of certain period,<br>-- establish mediation mechanism such as OECD for referral if arbitration fails, and<br>-- include provisions for imposition of additions to tax in the matters for MAP with the view to heighten the predictability in promoting investment both ways between Japan and Australia. | - Article 19 of the Japan-Australia Tax Convention (Mutual Consultation) |

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|          | (2) | Introduction of Various Taxes on Development of Resources                            | <ul style="list-style-type: none"> <li>- Relative to development of iron ore, coal, etc. various tax levy (Royalty/MRRT/Carbon Tax) by State/Federal Governments heavily burden developers. With the change of the Administration, the repeal of Carbon Tax and MRRT has been decided. However, its enforcement date remains undecided, pending approval of both Houses.</li> <li>- Federal Government has introduced The Minerals Resource Rent Tax (MRRT) against Iron Ore and Coal. The Iron Ore and Coal Suppliers' passing on of the increased economic burden to the Steel Mills, the end user, it is feared, will, among others, dampen new investment activity into Australia.</li> <li>- Since July 2012, Federal Government has introduced CTPS, which has driven up Electric &amp; Gas Utility Cost by more than 15% over the same period last year, an extra burden to enterprises. Commodity Index surge amid the economic recession, on the other hand, has dampened consumers appetite for purchase, further worsening the tone of market. It has fallen into a vicious cycle.</li> <li>- Federal Government has introduced "the Carbon Tax Scheme" since July 2012, pushing up by 15% the electricity/gas charges at a blast severely burdening enterprises. Enterprises are concerned that this measure will give negative impact, by the coal suppliers' passing on of the increased tax cost to their prices to the steel mills, the end user, a strained demand and supply balance, and debilitation of new investment activity.</li> </ul> <p><b>(Actions)</b></p> <ul style="list-style-type: none"> <li>- By election on 26 June 2013, the change of the Labour Party took place from Julia Gillard to Kevin Rudd (Premier). The new Premier announced repeal of the Carbon Tax, which was simultaneously enforced with MRRT.</li> </ul> | <ul style="list-style-type: none"> <li>- It is requested that GOA structures stable and reasonable taxation scheme for development of resources.</li> <li>- It is requested that GOA repeals CTPS.</li> <li>- It is requested that GOA repeals the Carbon Tax Scheme.</li> </ul>  | <ul style="list-style-type: none"> <li>- The Mineral Resource Rent Tax, the Carbon Tax, etc.</li> </ul>   |
|          | (3) | Repeal of tax exemption measures on the Living-Away-From-Home Allowance and Benefits | <ul style="list-style-type: none"> <li>- The Proposed Reform on Living Away From Home Allowance (LAFHA) for Temporary Residents in Australia has come into force since 1 October 2012, so that various allowances for Expatriates, including in particular, Housing Cost Allowance, have become taxable. Foreign investment is indispensable for the Australian economic growth. Heavier tax burden upon the Expatriates reduces foreign investment into Australia, inducing relocation of quality human resources to other metropolitan cities in the Asia-Pacific Region. (Australian tax rates for PIT and FBT are far higher than other countries in this Region. The impact upon FFEs is too serious).</li> <li>- The revised LAFHA Taxation System has removed Tax Exemption upon Expatriates for the Housing Rental Allowance, Meal Allowance and Schooling Allowance for their children so that Fringe Benefit Tax (FBT) becomes payable on these allowances, increasing their tax burdens.</li> <li>- By amendment of the Taxation Scheme on Living Away From Home Allowance (LAFHA), Company's Subsidy on House Rental Fees has been made subject to FBT levy, heavily inflating the tax burden on Local Enterprises operating in Australia.</li> </ul>   | <ul style="list-style-type: none"> <li>- It is requested that GOA sets up a Reasonable Tax Exemption Threshold in Tax Levy. (Australian tax rates for PIT and FBT are far higher than other countries in this Region.)</li> <li>- The FBT tax rate is extremely high at 40%, so that it severely impacts expatriates' out-of-pocket expenses. It is requested that GOA provides an adequate Grace Period before its enforcement.</li> <li>- It is requested that GOA takes steps to alleviate the tax burden upon local enterprises in one way or another.</li> </ul> | <ul style="list-style-type: none"> <li>- Budget Measures 2012-13-Budget Paper No_2-Part 1 Revenue Measures-Treasury</li> <li>- Fringe benefits</li> </ul> |

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|          | (4)        | Change in the Method for Tax Levy  | - Tax levy upon the gross amount of LAFHA has increased the tax burden upon enterprises.  | - It is requested that that GOA takes some kind of measures for relieving the tax burden.   | - Fringe Benefits Tax  |  |
|          | (5)        | Change in Tax Levy Method  | - LAFHA has widened the scope of tax burden upon enterprises, increasing the overall operational costs upon Japanese affiliated enterprises.  | - It is requested that GOA takes steps to reduce the tax rate, as it throws a wet blanket upon Japanese enterprises' urge to develop business in Australia and opportunities to incubate Pro-Australia minded Japanese businesspersons.   |  |  |
|          | (6)        | Expanded Scope of the Taxable Items on Fringe Benefits                                     | - Since last year, GOA has abolished tax-free treatment on LAFHA, widening the scope of taxable items on fringe benefits so that company-housing expenses, excluded from taxable items on FBT has become taxable, radically inflating the amount payable as FBT.<br><br>- In the case of a Member Firm's Subsidiary (MFS) (since October 2012), Living Away From Home Allowance (Housing Rental Fee Allowance, and Meal Allowance) has become taxable as FBT, increasing the cost by AS\$60,000 per expatriate. | - While achieving the unique role to ensure smooth communication with the Headquarters in Japan, expatriates contribute to the Australian Economic Development. It is requested that GOA refrains from effecting change in its taxation system toward increasing the expatriates' costs.<br><br>- This taxation scheme amendment is focused upon Foreign Funded Enterprises to complement less than expected revenue from the MRRT. It is requested that GOA reviews as soon as possible the tax levy on LAFHA. | - Australian Tax Laws  |  |
|          | (7)        | Imbalance in Tax Burdens between Reasonable Drinking and Categories of Alcoholic Beverages | - Excise Tax Rate on Alcoholic Beverages (corresponding to the Japanese Liquor Tax) varies by Category. It is considered that it affects Consumers Reasonable Drinking, and creates inequality among enterprises, while it gives negative influence upon the society.   | - It is requested that GOA introduces Volume Metric Tax (so-called per-unit-tax in terms of so called pure alcohol).  |  |  |
| 16       | Employment | (1)  | High Labour Cost  | - The average wage level in Australia is higher than the rest of Asian countries. Especially the soaring wage in the Resources and Energy Business Sectors has made it difficult for enterprises to secure quality workers at reasonable wage level. Under the former Labour Administration, Trade Unions have further consolidated their strength, spurring into full swing the industrial disputes as represented by strikes in the mines industry.   | - It is requested that GOA:<br>-- considers devising a mechanism to secure labour force at reasonable wage levels on a stable basis and to stop soaring of wage levels, and<br>-- gives due consideration to the importance of GOA/FFEs' mutual exchange of dialogues to enable enterprises to secure workers at reasonable wage level on a stable basis, and<br>-- curbs the excessive Trade Unions' right. |  |

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|          |     |  | <ul style="list-style-type: none"> <li>- With the Australian employees assuming the major part of business activity, the spiraling labour cost has become the issue for optimising the management of the MFS's operation.</li> <li>- International competitive edge of the Australian business has been declining in general, while the soaring labour cost presents managerial issues to deal with.</li> <li>- The labour cost in Australia has climbed by 54.1% in 13-years since 2000, as The Organisation for Economic Co-operation and Development (OECD) Research has pointed out. Along with the appreciation of A\$ in the recent years, especially the manufacturing sectors are faced with the continued severe profitability problems.</li> <li>- From the perspective of foreign investors, the ever-increasing labour cost paralleling the economic growth or more in Australia suggests a country risk relative to Australia, as the target country for new investment or for continuation of the existing business.</li> <li>- [From Japanese Affiliated Enterprises] Due to the high levels of the minimum wage and allowances for work on weekends and holidays, especially in manufacturing business, a high cost management prevails. In reality, the only viable form of entry into Australia is distribution.</li> <li>- The policy to protect labour staunchly prevails in Australia. Frequent strikes push up wages, causing a factor for high cost.</li> </ul> | <ul style="list-style-type: none"> <li>- It is requested that GOA considers ways and means to halt the spiraling wage level.</li> <li>- It is requested that GOA deregulates the requirements (particularly, the minimum wage) for accepting overseas' workers.</li> <li>- It is requested that GOA rectifies the labour cost to an adequate level.</li> <li>- It is requested that GOA takes steps to water down the Fair Work Act.</li> <li>- It is requested that GOA takes steps to:                             <ul style="list-style-type: none"> <li>-- make labour market more flexible by accepting foreign workers,</li> <li>-- deregulate the visa requirement to make the labour market more flexible, and</li> <li>-- hold down the labour cost. (Loosening of Labour-Management Confrontation)</li> </ul> </li> <li>- It is requested that GOA reviews the Labour Policy.</li> </ul> | <ul style="list-style-type: none"> <li>- Immigration Act 1958</li> <li>- Fair Work Act</li> <li>- Fair Work Act</li> <li>- Labour Act</li> </ul>           |
|          | (2) | Inflexible Posture of Trade Unions at Labour Management Negotiations | <ul style="list-style-type: none"> <li>- Higher productivity and flexibility are indispensable essential elements for survival of the enterprises to meet competition and to assure stability in their operation. Improvement in the working conditions is the outcome of such management effort. Enterprises negotiate fairly with Trade Unions in accordance with the good faith bargaining requirements under the Act. On the other hand, Trade Unions simply focus on improvement of the working conditions and turn deaf ears to enterprises' proposal for improvement in productivity and flexibility. The continuation of this status quo debilitates competitive edge of enterprises, and risks FFEs' evacuation from Australia in a mid-long-term.</li> <li>- Amid the declining membership of the Trade Unions, Trade Unions' led strikes break out. There is a constant threat of production hiatus all the time as a risk. The risk for the outbreak of industrial disputes impacts heavily upon business activity, especially in implementing the mid-long term operational integration or discontinuation.</li> </ul>  | <ul style="list-style-type: none"> <li>- It is requested that GOV weaves into Fair Work Act a Process, whereby during labour bargaining the Trade Union undertakes to cooperate with employers for improvement of productivity / flexibility in enterprises' operation.</li> <li>- It is requested that GOA takes steps to have the going Fair Work Act amended.</li> </ul>  | <ul style="list-style-type: none"> <li>- Fair Work Act Article 228, Bargaining representatives must meet the good faith bargaining requirements</li> </ul> |



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|          |     |  | - Due to the Trade Union led strikes, the construction work can be delayed.  | - It is requested that GOA takes steps to:<br>-- strengthen the Bureau of Mediation's authority in regard to new Collective Agreement, and<br>-- make more stringent the requirements to authorise labour disputes.  | - Fair Work Act   |
|          | (3) | Difficulty in Suspension or Termination of Industrial Action | - Trade Unions can readily plead industrial action, which cannot be readily suspended or terminated unless Fair Work Commission (FWC) is satisfied that the protected industrial action would cause significant harm to the Australian economy or an important part of it. During the industrial bargaining in 2011, a Japanese affiliated manufacturing enterprise experienced 4-times of strike, but its application for termination To Fair Work Australia (FWA, predecessor of FWC) got rejected because of the excessively high basis for interpretation of what amounts to "significant harm". | - It is requested that GOA reviews the judgement basis of what amounts to "significant damage" in an industrial action.  | - Fair Work Act 2009, Article 424 FWA must suspend or terminate protected industrial action---endangering life etc. |
|          | (4) | Rampant Sporadic Absentees                                   | - The rules are lax under the going Fair Work Act concerning prior submission of Emergency Leave Notice or Medical Certificate in proof of accident and sickness. As a result, rampant sporadic absentees slow down production / business activity also in private enterprises.  | - It is requested that GOC weaves into "Notice and evidence requirements" the rules to deal with sporadic absentees, the solution of which is beyond private bargaining of an enterprise.<br>[Example]: Mandate for submission of Medical Certificate or Voucher for all sporadic absentees. | - Fair Work Act, Article 107, Notice and evidence requirements  |
|          | (5) | Shortage of Human Resources                                  | - The shortage of skilled workers persists in Australia so that there are occasions where acceptance of foreign workers becomes necessary.   | - It is requested that GOA:<br>-- substantially deregulates the requirements for issuance of The Temporary Work (Skilled) visa (subclass 457), and<br>-- simplifies the visa acquisition procedures.   | - Migration Act 1958  |
|          | (6) | Shortage of Skilled Workers                                  | - (From the perspective of Japanese Affiliated Enterprises) Basic Qualification sought is punctuality (for appointment), faithful performance of matters mutually promised. These fundamentals in business are not sufficiently observed. (There are too many instances of: "Never mind!" and "Don't you worry!")  | - The fundamental absence of mannerism or sense of crisis on the part of workers needs recognition anew by both workers and management. Workers' rethinking themselves, in particular, is a pressing issue.  |   |
|          | (7) | Workers' Qualification                                       | - On 1 July 2013, GOA released the amended terms for Subclass 457 Visa (Long-Term Work Visa), adding International English Language Testing System (IELTS Band Score of 5 or more). GOA once announced that the amended Law applies to the documents submitted before 1 July, where their examination takes place after 1 July. Later announcement made it clear that the new Law does not apply to the documents submitted before 1 July. The vacillating position of Department of Immigration and Border Protection has caused great confusions to concerned parties.                             | - It is requested that GOA:<br>-- deregulates the rules concerning acquisition of the 457 Visa,<br>-- conducts examination in expeditious manner, and<br>-- harmonises and improves the immigration officers' handling of applications.  | - Migration Act 1958  |

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|          |   |   | <p>- Since the tightening of legislation on Subclass 457 Visa in July 2013, it has become increasingly difficult to despatch especially young expatriates to Australia. A Member Firm, anxious to avoid the risk of denial, must rely on the consultant for advice and processing the application, with additional costs. (Presumably, raising the threshold is not aimed at Japanese affiliated enterprises at large. However, raising the threshold drives Japanese enterprises into extraneous expenses and the loss of their desire to invest in Australia.</p> <p>- 2013 revision of the Law requires visa (subclass 400), which is a temporary visa, requiring much paperwork and time from the filing date of application and Visa issuance. Under the amended Law, inspector and technician are unable to make an immediate trip to fix the malfunctioning equipment, should an emergency arise requiring immediate attention. Before the amendment, it was possible to make a trip without problems.</p> <p>- The spiraled cost and the prolonged examination period in filing application for expatriates' visa issuance.</p> | <p>- It is requested that GOA takes steps to consider more flexible rule making, by reflecting upon the differences between Australian and Japanese enterprises on the concept of one's working life, such as career vs. specialist, and the wage systems (such as substantial weight of bonus payment in Japanese enterprises at large).</p> <p>- It is requested that GOA streamlines and cuts down the time in visa issuance.</p> <p>- It is requested that GOA streamlines the procedures and cuts down the examination period concerning the procedures for acquisition of Subclass 457 Visa.</p> | - Migration Act 1958  |
|          | (8)   | Barriers to Acquisition of Work Visa                  | - In regard to Subclass 457 Visa normally issued to expatriates from Japan, the Competent Authority (Department Of Immigration And Border Protection) reacts differently between the examiners in charge. Moreover, the relative costs keep climbing year after year, for example, Application Charge (from A\$455 to A\$2,590), and Health Insurance Coverage (minimum A\$2,600). Moreover, for Maintenance of Visa Sponsorship, GOA requires Contribution of 2% of the Total Annual Labour Cost as the Local Employees Training Fund (LETF).  | - It is requested that GOA:<br>-- exempts compulsion of health insurance coverage, and,<br>-- exempts or reduces the contribution to LETF.   | - Migration Act 1958  |
|          | (9)   | Cost Increase due to Securing Drivers' Safety         | - Suppliers and transportation operation contractors are responsible for securing the safety of their drivers (from overwork and by arrangement of an adequate operational plan). In addition to the car drivers' insurance, employers incur the cost of proper training and labour control. This is one of the factors that drive up the transportation fees.  |  |   |
| 17       | Implementation of Intellectual Property Rights ("IPRs") | (1) Restrictive Rules on Reproduction for Private Use | - Reproduction for private use actually takes place from an officially purchased music CD into a Personal Computer (PC), from PC to Portable Audio Player, from Broadcast Programme to Audio/Video Recorder for time-shift, as well as to Smartphone (for listening/viewing while away from home), digitization of books purchased for tablet reading, etc. In light of the fact that all of these conducts cannot be considered injurious to copyright holder, the right of copyright holder requires restrictions. Nevertheless, in certain countries, these conducts are considered illegal, or even if stipulated as legal on certain conducts, such stipulation could be insufficient. Furthermore, in Japan, Article 30 of the Copyright Act restricts copyright relatively broadly in regard to reproduction for private use.  | - It is requested that IP Australia introduces restriction on copyright for reproduction for private use on a realistic basis.   | - In Australia, Note (to Article 111 of Copyright Act 1968) provides: "Even though the making of the film or recording does not infringe that copyright, that copyright may be infringed if a copy of the film or recording is made." |

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| 19 | Industrial Standards, Approval of Safety Standards | (1) | Introduction of Unique Standard  | - Despite the small volume of domestic distribution of imported industrial products, GOA enforces its own AS Standards and MDG (Mining Design Guideline). Their compatibility with International Standard (ISO) is nebulous or different. It is difficult to take responsive actions.   | - It is requested that GOA:<br>-- repeals AS Standard and<br>-- harmonises all standards into ISO only.   | - AS (Australian Standard)<br>- MDG15  |
|    |  | (2) | Introduction of Individual State's Own Independent Safety Standards And Rules            | - On cars, it appears that the individual State Governments' movements, in lieu of the Federal Government, have subsided to promote introduction of their own unique standards, such as Victoria State's decision to compel installment of safety equipment and the Bill for installment of speed control equipment, and NSW State's Bill for standardisation of alternative fuels. From now on, harmonisation of The Australian Design Rules (ADRs) with EC Regulations is a mandatory necessity. Otherwise, it ends up by development of exclusive models and increase in car types. Delays in harmonisation would mean delayed introduction of new cars and increased car cost to the Australian purchasers. | - It is requested that Federal Government:<br>-- takes the leadership in consolidating the framework for deliberation of rules and standards for motor vehicles,<br>-- prevents individual states introduction of their own unique rules and standards and<br>-- promotes the project for harmonising ADRs with EC Regulations.           |  |
|    |  | (3) | Aggravated Profitability due to Introduction of National Product Stewardship Legislation | - Beginning 1 July 2012, all manufacturers and importers of television receivers are required to contribute to the recycling of television receivers. This requirement will serve as a new element of aggravating their profitable operation.   |   |  |
|    |  | (4) | Industrial Standard, Norm, Safety Certification in Conformity to EU Standards            | - Australia developed from the former British Colony was a member of former British Empire. Historically, industrial standards for the infrastructure were born in U.K., and recently in many cases, conforming to the EU standards. Products manufactured under the Japanese standards clear the requirements either by additional certification of conformity, or manufactured to the Australian Standard (EU Standard), with additional cost, a handicap. International battle for standard takes place today, to begin with, for recharger specifications for electric car, high speed railway transport, railway signal method, etc.   | - While numerous measures are under way for development in diversified fields in Japan, this is an issue that requires consolidated approach as a nation. Standards for the Infrastructure should not end up by the 2nd case of Galapagos Syndrome on cell-phones, or an isolated development for branch of a globally available product. |  |
| 20 | Monopoly   | (1) | Monopolised Port Services  | - Basically the two firms (Patrics and P&O) monopolises port services, eliminating any competition among enterprises for better service and cost reduction. Their excessively high profit rates are matters of concern to GOA also.   | - It is requested that GOA authorises firms other than these two upon opening of the Wolongong Port for port services.  |  |
|    |  | (2) | Oligopoly in the Domestic Transportation Business  | - Due to the slow handling of the domestic railway, the home-delivery service offered by Toll/IPEC is the main service available with the nation-wide coverage. Toll/IPEC single handedly virtually monopolises the Australian market, impeding a sound inter-company competition.  | - It is requested that GOA improves the slow railway transport, the inefficiency of which is due to differences in the rail width from state to state, requiring loading and unloading of cargoes each time.  |  |
| 21 | Restrictions on Land Ownership                     | (1) | Delayed Examination for Land Acquisition Licence   | - Transactions for land acquisition by Foreign Funded Enterprises require Foreign Investment Review Board (FIRB) examination, which takes a lot of time.  | - It is requested that FIRB expedites the examination.  | - FIRB ( <a href="http://www.firb.gov.au/content/real_estate/real_estate.asp">http://www.firb.gov.au/content/real_estate/real_estate.asp</a> ) |

|    | Category                                   | No  | Issue  | Issue Details  | Requests   | Governing Laws |
|----|--|-----|--|--|--|----------------|
| 22 | Environmental Pollution and Waste Disposal | (1) | Irrational Implementing Policy for CO2 Emission Control        | <p>- In regard to the CO2 Emission Control under deliberation due for implementation from 2015, the following 3-issues require a careful attention and scrutiny:</p> <p>(1) The Original Control Proposal relies on US Corporate Average Fuel Economy (CAFÉ) Standards, which required each manufacturer to meet the fixed amount of greenhouse gas (GHG) emissions levels for Passenger Cars and Commercial Vehicles across-the-board. This proposal is disadvantageous to manufacturers focusing on the Product Line Up of Commercial and Larger Vehicles.</p> <p>(2) The Consultant's Report in support of the Proposed Policy Draft is based on unrealistic premises that deviate from the status quo of the Car Industries and their Technical Developments.</p> <p>(3) The Process toward Policy Decision has frequently lagged behind. Even now, Risk Impact Statement (RIS), originally due in August 2012, remains unissued. Further delays would deprive manufacturers of the requisite development time to respond to the new regulatory control.</p>   | <p>- It is requested that GOA:</p> <p>(1) considers Product Line Up of each Manufacturer in determining the CO2 Emission Control Levels flexibly,</p> <p>(2) takes into account the deviation of the Consultant's Report from the status quo which requires correction, and</p> <p>(3) decides upon enforcement timing that reflects the delay in policy decision.</p>         |                |
|    |  | (2) | Lenient Environmental Control                                  | <p>- Relative to environmental protection, Japanese enterprises excel in technology in many fields. For example, the emission standards of Australia are extremely lenient compared to that of Japan. While superior technology is available from Japan, there is no market in Australia. There is no demand for superb high technology equipment, for Stack Gas Desulfurisation, NOx removal, Soot Dust Removal, etc.</p>   | <p>- It seems GOA drags its feet in dealing with the environmental problems, despite the fact that Australia is one of the advanced countries. It is requested that GOJ approaches GOA to align its environmental protection measures fitting to its international reputation.</p>   |                |
|    |  | (3) | Environmental Control -- Introduction of Carbon Pricing Scheme | <p>- "The Carbon Tax Pricing Scheme (CTPS)", Federal Government has introduced since July 2012, compels about 500 enterprises (including Toyota, GM Holden, and Ford) with high volume of carbon emission) payment of A\$23 (about 2,000 Japanese yen) levy for each tonne of CO2 emissions, which is high in the international perspective. After initial three years of the fixed carbon tax levy, it will shift to an Emissions Trading Scheme (ETS). The CTPS does not apply to industrial products imported from overseas (excepting refrigerant for car air-conditioner). Therefore, it means an extra heavy handicap to the enterprises engaged in the local manufacturing operation in Australia.</p> <p>On the other hand, GOA will set aside investment subsidy of A\$800 million (about 70 billion Japanese yen) to enterprises, including those that consume huge volume of electricity, gas, etc., directly affected by Carbon Tax Scheme, by creation of Clean Energy Programme, in order to assure improvement in energy consumption in the manufacturing sectors, and to assist technical/capital investment for higher efficiency in energy consumption and reduction of the global warming gas emission. However, it is highly likely that the amount of subsidy allocated to large manufacturers will be reduced to a minimal level, in light of the diversity and multiplicity of the enterprises and the business units eligible for such subsidy. In sum, Carbon Tax Scheme will most probably end up by the debilitation of the locally manufactured products in price competitiveness against imports.</p> | <p>- It is requested that GOA:</p> <p>-- gives due consideration to the local industries and business bodies exposed to international competition in allocating investment subsidies, and</p> <p>-- designs ETS so that the international competitiveness is assured of the enterprises locally manufacturing products in Australia, when the time comes for shift to ETS.</p> |                |

| Category  | No  | Issue  | Issue Details   | Requests   | Governing Laws   |
|---|-----|--|---|--|--|
|   | (4) | Time Consuming Procedures for Environmental Licences and Approvals             | - Due to the duplication in Federal And State Governments for grant of the Environmental Licences and Approvals on Coal Mine Development Projects, sometimes, it takes a few years for issuance of the requisite Environmental Licences and Approvals.  | - It is requested that GOA corrects the Licences and Approvals procedures by eliminating duplication of the Competent Authority.   | - Bills relative to Environmental Licences and Approvals |
|   | (5) | Nebulous Assumption of GHG Cost  | - New Conservative Coalition Government intends to repeal the current Carbon Tax Scheme introduced by the former Labour Administration and deliberation on Green House Gas (GHG) measures is now under way. Compared to thermal plants relying on fossil fuel, the emission volume is slight in the case of a thermal plant running on natural gas. It contributes to reduction in GHG emission. However, if the cost for GHG reduction in a natural gas thermal plant is heavier than the operation in other countries, the competitive edge of the Australian natural gas thermal plant declines. | - It is requested that GOA introduces GHG scheme that pays attention to the LNG international competition.   | - Clean Energy Act 2011                                  |
| 23 Inefficient Administrative Procedures, Regimes and Practices | (1) | Delays in the Governmental Approval Procedures of Various Kinds                | - GOA's reaction is slow; taking more than 6-weeks on products (note) for which GOA's approval is required.<br>(Note) These are the products for which GOA's approval is required for safety, market compatibility certificate, etc. before they are allowed to enter Australia.  | - It is requested that GOA will reinforce its staff on provision of online approval service, which GOA has started since October 2008. Due to the staff shortage, online service takes longer than the previous manual handling. |  |
|   | (2) | Nebulous Procedures on Licences and Approvals of Federal and State Governments | - (From Japanese Affiliated Enterprises) In one case, the total picture was beyond the grasp of even law offices and consultants concerning Licences and Approvals at State and Federal Governments. In another case, after acquisition of Licences and Approvals at Federal Government, due to the failures at State Government, additional time was required for completing the process.  | - It is requested that GOA assures transparency in processing Licences and Approvals.  |  |
|   | (3) | Varying Licences and Approvals By State  | - A licence obtained in one State is not necessarily valid in another State, due to differences of laws in the other State for example, in the adjoining states of Queensland and New South Wales. Because Electrical Licences (E/L) are different in these states, two licences are necessary to repair or service products installed over the State borders. It doubles the cost of acquiring the E/L.  | - It is requested that GOA promulgated new regulations on E/L that is valid universally nationwide or each state permits provisions of services based on the E/L issued by other states.   |  |
|   | (4) | Delays in Licences and Approvals concerning Housing Land Development           | - (From Japanese Affiliated Enterprises) In the Metropolitan (and Commuting Areas), the chronic shortage in housing supply has driven up the real-estate values, due to the delays in issuance of Licences and Approvals on account of environmental control, etc. at the Council authorised to issue Licences and Approvals for land development. The delay in land development has caused soaring real-estate values, far apart from reality.   | - It is requested that GOA makes transparent the Licences and Approvals processes.   |  |
|   | (5) | Raise in the Port Service Charge by Large Margin                               | - A Member Firm Subsidiary (MFS) exports wooden chips for papermaking raw materials, using public ports at Bunbury (WA), Portland (VIC) and Geelong (VIC). Port Authority has radically raised the Port Service Charge directly impacting the international competitive edge of the export products.  | - Before effecting price hike in the port service charge, it is requested that the Port Authority provides to the users an opportunity for exchange of dialogues, provides sufficient explanation, and makes cautious decisions. |  |

|    | Category                               | No  | Issue  | Issue Details  | Requests   | Governing Laws |
|----|--|-----|--|--|--|----------------|
| 24 | Indigested Legislation, Abrupt Changes | (1) | Lack of Consistency upon Change in Administration                          | - (From Japanese Affiliated Enterprises) Looking the political events, such as change in Administration, or State Premier, it is difficult to predict their stance relative to Licences and Approvals, taxation policy, etc. FFEs must postpone business decision across the board in regard to investment. (Confusions, etc. resulting from the aftermath of FBT change have caused stagnant business conditions. | - It is requested that the Administration pays attention to the consistency on the business side in its implementation (including impact on investors on the business side).                       |                |
|    |  | (2) | Nebulous Tax Changes   | - The moment after the company car was determined to be taxable under FBT, contrary decision was made to make it non-taxable. It has brought confusions.   | - It is requested that GOA maintains transparency in its taxation policy.  |                |
|    |  | (3) | Nebulous Implementation of New Regulations.                                | - The rules are ambiguous concerning release of new rules and registrations. Its timing, method, and route of implementation, frequently gives an impression, as if they are promulgated in a haphazard manner.  | - It is requested that GOA make the new rules and regulations known in advance to everyone without exception in industrial groups and the enterprises in concern.                                  |                |
| 26 | Others                                 | (1) | Delays in Port Service Work  | - At Botany Port (near Sydney Port) due partly to the calls of ships beyond its holding capacity, there has arisen a chronic demurrage in port services.   | - The State of NSW are expanding the Botany Port, while opening of new container port is under consideration at Wolongong. It is requested that GOJ extends its assistance toward its development. |                |
|    |  | (2) | Aggravated Efficiency in Cargo Delivery due to Restricted Kerbside Parking | - Due to restricted Kerbside Parking, a delivery car must be parked a good distance away from the cargo recipient, and the package must be reloaded on a trolley for delivery. While so doing reduces efficiency in delivery, it is also inductive to thefts of the other cargoes left on the delivery car.  |  |                |
|    |  | (3) | Difficulty in establishing Manufacturing/ Processing Business              | - In addition to the stringent Health Safety Environment (HSE), and environmental control, due to the soaring labour cost, shortage of skilled workers etc., a Member Firm is compelled to locate the operation site to overseas, much against its desire to manufacture and process products close to the project site.   | - It is requested that GOA reviews and implements policy for attraction and fosterage of manufacturing and processing business in Australia.   |                |

Issues and requests relating to foreign trade and investment - New Zealand

|    | Category   | No  | Issue  | Issue Details  | Requests  | Governing Laws |
|----|--|-----|--|--|---|----------------|
| 9  | Restrictive Export/Import Trade, Duty, and Customs Clearance | (1) | Excessive Control upon Timber Processing Industries                                      | - While raw wood itself has gotten stronger in competitive edge, by high labour cost relative to developing countries, environmental control on Timber Processing Factories (TPFs), regulatory standard control, stricter safety control, concentration of R&D into raw wood material itself instead of processed products, etc., processed products (processing factories) have rapidly lost competitive strength. It goes nowhere but down only. (It makes more profit to sell the raw wood itself, without processing.)   | - It is requested that Government of New Zealand (GNZ):<br>-- repeals the regulations mismatching with reality.<br>-- shifts the focus of R&D effort from Raw Wood to Processed Products to enhance the international competitive edge of Timber Processing Factories (TPFs),<br>-- puts the stop to the serial closure of TPFs, and<br>-- secures the domestic employment. |                |
| 12 | Exchange Controls  | (1) | Instability of Foreign Exchange  | - Export sales and revenue is largely affected by fluctuations in the foreign exchange between NZD/USD, NZD/Japanese Yen, etc. However, in recent years, NZD has kept appreciating against other currencies.<br>- Due to the relative small scale of the domestic economy, the world economy impacts heavily upon the New Zealand economy, inflating the foreign exchange risks. The recent appreciation of NZD is a threat to the Export Enterprises.<br>- A large margin of foreign exchange fluctuations makes sales and profit control difficult. The margin of NZD fluctuations against Japanese yen is especially radical, while 60% of transaction is represented by the sales that involve currency conversion between NZD and Japanese yen. It can easily go beyond the revenue garnered by the operational efforts.<br>In the prevailing foreign exchange trend, it is also difficult to make a favourable advance booking of foreign exchange.  | - Stability in foreign exchange is more desirable to enterprises.<br><br>- It is requested that GNZ materialises stability in Foreign Exchange.   |                |
| 16 | Employment   | (1) | Rigorous and Delayed Examination of Application for Acquisition of Permanent / Work Visa | - For smooth operation of Member Firm Subsidiary's (MFS) business, a high quality bilingual expertise in Japanese and English is essential. In addition, due to the low wage level of the MFS industry, it is equally difficult to locate a local resident, bilingual in Japanese and English. Even if MFS desires to adopt such local candidates, it is unable to do so, as so doing inflates the wages. MFS is compelled to employ Japanese all the time. Next problem is the time required for acquisition / renewal of Work Visa. Likewise, concerning acquisition of Permanent Visa (in light of long-term employment), the examination gets stricter, taking more days). As regards Work Visa, it takes half a year for new visa or visa renewal, while the validity of the Work Visa so acquired is only for one year, requiring filing of renewal application in 6-months after acquisition. It takes more than one year for acquisition of Permanent Visa, and the applicant must be in managerial position or higher to get the Permanent Visa issued. | - It is requested that GNZ:<br>-- issues Work Visa in one month or so after the filing date of application, and<br>-- accepts application for Permanent Visa by persons with employment record for a certain period, Letter of Recommendation from employer, etc., whether or not the applicant assumes managerial position.  |                |

| Category | No  | Issue   | Issue Details  | Requests   | Governing Laws   |  |
|----------|---|---|--|--|--|--|
|          | (2)   | Inequality / Complexity of Mandatory Work Visa Acquisition upon Tour Conductors | - It takes about a month for acquisition of Work Visa for Tour Conductors accompanying Japanese Tourists on Sightseeing Trip to New Zealand. The Work Visa validity is short, only for one year. Renewal application takes just as long, requiring resubmission of the documents already submitted incurring expensive translation cost of tens of thousands of yen each time. In addition, inequality in treatment between the two countries has arisen: while GNZ compels acquisition of Work Visa upon Tour Conductors, GOJ makes no such compulsion for acquisition of Work Visa upon Tour Conductors' entry into Japan. | - It is requested that GNZ:<br>-- exempts acquisition of work visa for tour conductors entering New Zealand, or else,<br>-- cuts down the time required for Work Visa acquisition, and<br>-- reduces the costs relative to Work Visa acquisition.  |  |  |
| 17       | Implementation of Intellectual Property Rights ("IPRs") | (1)   | Lack of Transparency in Patent Application   | - The Patent Act of NZ lacks openness and transparency when filing patent application so that it is risky to introduce a production process for fabricating products for market distribution in New Zealand.   | - It is desirable for GNZ to harmonise its Patents Act in line with the international prevailing circumstances. (Amendment of Patents Act is expected in 2014) | - Patents Act 1953   |
|          |   | (2)   | Restrictive Rules on Reproduction for Private Use  | - Reproduction for private use actually takes place from an officially purchased music CD into a Personal Computer (PC), from PC to Portable Audio Player, from Broadcast Programme to Audio/Video Recorder for time-shift, as well as to Smartphone (for listening/viewing while away from home), digitization of books purchased for tablet reading, etc. In light of the fact that all of these conducts cannot be considered injurious to copyright holder, the right of copyright holder requires restrictions. Nevertheless, in certain countries, these conducts are considered illegal, or even if stipulated as legal on certain conducts, such stipulation could be insufficient. Furthermore, in Japan, Article 30 of the Copyright Act restricts copyright relatively broadly in regard to reproduction for private use. | - It is requested that IP Australia introduces restriction on copyright for reproduction for private use on a realistic basis.                                 | - Coping sound recording for personal use is restricted to no more than 1 copy is made for each device (Copyright Act 1994, 81A) |
| 26       | Others  | (1)   | Instability of Power Charge  | - The South Island or Te Waipounam relies heavily on hydraulic power generation so that during the dry winter season, or at the time of peak power consumption, the power charge tends to get more expensive.  | - It is requested that GNZ reduces the power charge by diversifying the power source.  |  |
|          |   | (2)   | Delayed Containerised Transport, Unstable Freight Cost   | - The imbalance in the volume of export/import cargoes brings about difficulty in securing containers, or shipment delays by soaring market price, or increase freight cost at the peak time of transport volume.  | - It is requested that competition among shipping transport improves service among the companies in New Zealand. (Some improvements are expected ruing 2014).  |  |



Provisional Survey Report 2014  
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January 2015

Published by the Japan Machinery Center for Trade and Investment

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