

Intellectual Property Strategic Program 2005

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Intellectual Property Policy Headquarters

Intellectual Property Strategic Program 2005

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General

1. Philosophy of Intellectual Property Policy

<Changes in the Environment Surrounding Japan>

After the bubble burst, Japan fell into an unprecedented, extended economic depression due to a complicated mixture of various factors including the prolonged bad debt issue. However, through recent efforts to promote structural reforms, Japan is at last getting rid of such negative legacy. Japanese companies have also shifted from conventional “please-everyone” business structures that have come to a deadlock, and started making steady steps toward selecting and concentrating business resources, with the aim of becoming profitable and solidly-built companies. Thus, the Government of Japan (GOJ) and Japanese companies have switched to the offensive, but changes have occurred in the source of competitiveness from the 1980s to the present.

The first change is that technology innovation plays a more important role in promoting global economic growth. As implied in the term “knowledge-based economy,” the value added by knowledge is becoming much more important than ever before in current economic activities. The competition that companies currently experience is not the conventional price competition of similar products or services; rather, competition is becoming more dynamic in that companies are being required to provide innovative products and services differentiated from those of their competitors. As it is expected that the workforce will decrease as the birthrate declines and that production bases will be moved to optimal locations across national borders, the key to Japan’s future economic growth will be an increase in added value and productivity fueled by innovation.

The second change is that intellectual property in a broad sense, including not only scientific technology but also contents and brands, makes a country more attractive. In recent years, Japanese media content including movies, animated cartoons and game software are highly evaluated internationally, which has been significantly improving the image of Japan to one that “Japan is cool.” Furthermore, the “Japan Brand,” which consists of Japan’s originality and tradition in food, fashion, and local culture, has attracted the attention of the world. Foreign countries such as European countries, the Republic of Korea, and China have already recognized the development of these fields as national strategy and taken active measures.

Now is a time when countries are competing for attractiveness.

<Aiming at Making Japan an Intellectual Property-based Nation>

In the age of the knowledge-based economy and competition for attractiveness among countries, in order to utilize innovation, contents, and brands as the driving force of economic growth and emphasize the attractiveness of Japan, it is necessary to stimulate and revitalize intellectual creation as well as properly protect and effectively utilize the results of such creation as intellectual property.

Based on such awareness, Prime Minister Junichiro Koizumi, in his policy speech in February 2002, stated that the GOJ should promote an intellectual property policy as a national policy. In July 2002, the Strategic Council on Intellectual Property established the Intellectual Property Policy Outline, setting the goal of making Japan an “intellectual property-based nation.”

Making Japan an intellectual property-based nation is a national policy underpinned by the vision of regarding the production of intellectual property, i.e., the “production of knowledge/information of value” including technology, design, brands, and media contents, as the foundation for development, in addition to the “production of tangible goods,” which has been supporting Japan until the present time. More specifically, this national policy focuses on the following issues.

- (1) The basic goal is to encourage Japanese people to fully utilize their capabilities to make inventions and create works. Despite the shortage in natural resources and the small national territory, Japan has successfully become one of the world’s leading industrial countries since the Meiji Restoration, with the use of the characteristics of Japanese people, i.e. diligence and deftness. In the 21st century, it will be important for Japanese people to utilize their splendid capabilities to make inventions and create works in the knowledge-based society.
- (2) As we have learned about the four ancient civilizations, inventions and creative works have contributed to the development of cultures and civilizations across the world. Electronic products as well as media contents such as movies, animated cartoons and music originating in Japan have already enriched the lives of people throughout the world. The GOJ will aim to contribute to the development of global cultures and civilizations by providing inventions and creative works made by Japanese people, so that Japan will hold

an honorable position in the world.

(3) From an economic perspective, in the 21st century, competition will be focused on technical capabilities, so only such countries that have survived technology competition will be able to enjoy economic prosperity. Therefore, the GOJ will aim to develop a Japanese economy and society focusing on intellectual property.

(4) Institutionally, inventions and creative works are intangible property and they do not have economic value unless they are protected by law. The GOJ will aim to carry out drastic reforms on a national level in this respect.

Based on the Intellectual Property Policy Outline, the Basic Law on Intellectual Property passed the Diet with approval of all political parties in November 2002, and the Intellectual Property Policy Headquarters (hereinafter referred to as the “Policy Headquarters”) was established in the Cabinet Secretariat in March 2003. Thus, arrangements were made to promote an Intellectual Property Strategic Program (hereinafter referred to as the “Strategic Program”), and Japan took the first step toward becoming an intellectual property-based nation.

<Activation of the Intellectual Creation Cycle>

In order to increase national wealth through the effective use of intellectual property, it is necessary to promote the creation of high-quality intellectual property in the R&D sector and the content businesses, promptly protect such IP legally, and commercialize the results of such creation as economic activities. It is important to establish this flow more firmly, thereby enhancing reproduction of intellectual property and establish a virtuous cycle of creation, protection, and exploitation of intellectual property, an intellectual creation cycle.

It is impossible to make Japan an intellectual property-based nation only through the efforts of certain people engaging in intellectual property affairs. Rather, this goal will not be achieved unless everyone is able to enjoy the benefits of intellectual property and is encouraged to participate in the intellectual property cycle in order to create such benefits.

In order to make Japan a true intellectual property-based nation, it is necessary to encourage the entire people to participate in taking measures for the creation, protection and exploitation of intellectual property as well as for the development of human resources that support such activities. By carrying out such measures to the maximum extent through integrated and organized efforts, it will be possible for the intellectual creation cycle to move

speedily and dynamically.

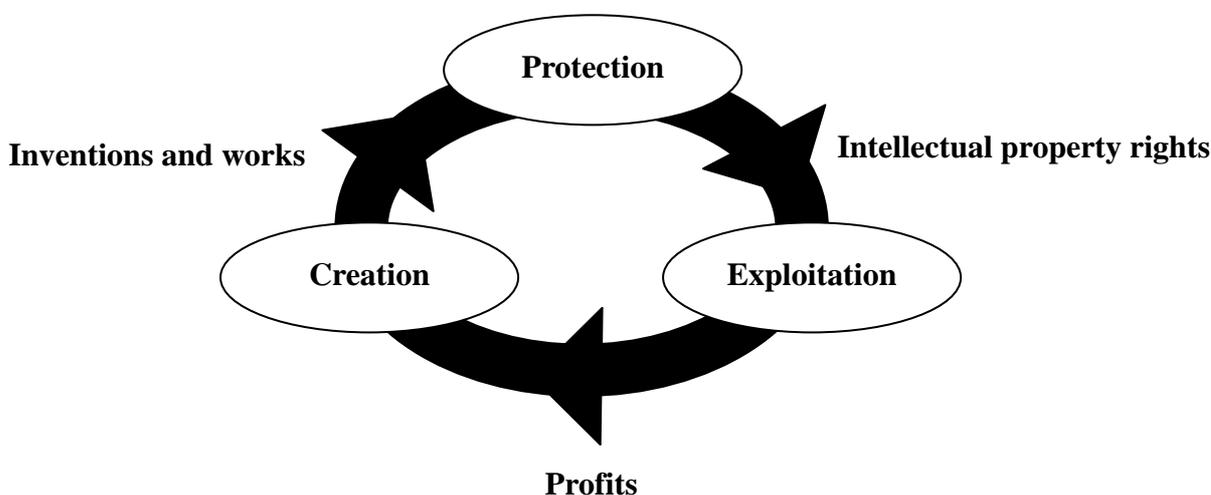
For the purpose of taking effective measures to activate the intellectual creation cycle, we should focus on specific measures depending on the characteristics of individual types of intellectual property.

More specifically, as for intellectual property for which rights come into existence through the involvement of the administrative authorities, e.g. patents, speedy granting of rights is primarily necessary for the intellectual creation cycle to start to move toward exploitation.

On the other hand, as for copyright, the key factor is to connect right holders and users efficiently. In the field of digital content business in which tangible media are not always required for distribution of intellectual property, e.g. distribution via the Internet, reforms to distribution structures will bring about new models of intellectual creation cycle.

As for all types of intellectual property, we should take measures to prevent free riders in the intellectual creation cycle from enjoying unfair profits from counterfeits and pirated copies.

Make the intellectual creation cycle move speedily and dynamically



<Driving the World forward with the Use of Intellectual Property>

Movements made in the United States in the 1980s had a considerable influence on Japan's intellectual property policy.

In the United States, the Court of Custom and Patent Appeals (CCPA) was established

in 1929 as a court specializing in dealing with appeal cases transferred from the United States Patent and Trademark Office (USPTO). As appellate courts rendered inconsistent judgments in patent infringement lawsuits and their adverse impacts became serious, the Court of Appeals for the Federal Circuit (CAFC) was established in 1982 as a court with exclusive jurisdiction over patent-related lawsuits. Though the CAFC was established for the principal purpose of rendering consistent judgments, it solidified rights and improved the predictability of judgments, thereby contributing to a pro-patent business approach. For this reason, the establishment of the CAFC is considered to have played a core role in establishing the pro-patent trend in the United States.

In 1985, the president's advisory council created the so-called "Young Report" on U.S. competitiveness. Since that time, through the agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement) concluded at the Uruguay Round of the General Agreement on Tariffs and Trade (GATT) negotiations as well as through bilateral negotiations, the U.S. Government has taken measures to raise the level of protection of IP in countries where intellectual property has not been sufficiently protected and thereby has indirectly assisted U.S. companies in expanding their businesses overseas.

Consequently, the various reforms undertaken by the U.S., resulting in the shift to the pro-patent policy in the 1980s, contributed to successfully restore and strengthen the international competitiveness of U.S. industry, under the social and economic changes stemming from the full-fledged start of the information age and the knowledge-based economy, and resulted in the achievement of long-term economic growth in the country.

Furthermore, in December 2004, the National Innovation Initiative (NII) in the Council on Competitiveness compiled a report titled *Innovate America*, which regarded intellectual property systems as necessary infrastructure for innovation, stating "innovation will be the only and most important decisive factor for the success of the United States in the 21st century," and presenting specific measures to improve the quality of patents and promote expeditious patent examination.

On the other hand, Japan started to take national measures under the intellectual property policy twenty years after the United States, so reforms should be promoted in Japan more swiftly and drastically than in the United States. However, we must not be so hasty that we simply introduce U.S. systems to Japan. Rather, we should enable individual Japanese people to fully utilize their capabilities to make inventions and create works and enrich

Japanese economy, society, and culture, while making reference to the measures taken in the United States so far, so as to play the leading role in reforming and operating intellectual property systems from the perspective of contributing to the development of world culture. To achieve this, it is critically necessary to sweepingly review and reform conventional systems and practices in all sectors of academy, industry, and government.

2. Policy for Making Japan an Intellectual Property-based Nation

<Three Viewpoints>

All of the Japanese intellectual property systems, including the Patent Law and the Copyright Law, have their own histories starting from the Meiji era. Many decades have already passed since the existing frameworks were first established (Patent Law, Design Law, and Trademark Law in 1959 and Copyright Law in 1970). During this period, Japanese economy and society have changed drastically.

The longer these systems have existed, the more necessary it has been to review them constantly with respect to whether they have satisfied the demands of the times. The current economy and society are changing at an extremely fast rate and on a dynamic scale. Following amendments that have been repeatedly made to intellectual property systems until the present time, Japan, now that the goal of aiming to become an intellectual property-based nation has been clearly delineated, should actively carry out reforms by anticipating changes in the social and economic situations, rather than only responding to such changes passively, and revitalize and develop the economy as soon as possible. Japan will work to become an intellectual property-based nation under the following policies.

(1) Developing Special Measures on Intellectual Property that Are Not Constrained by the Conventional Framework

For the purpose of strengthening the international competitiveness of Japanese industry and achieving a dynamic society and economy, Japan should establish a mechanism beyond the framework of conventional ideas and in a bold and flexible manner.

In particular, in the current age of global scale mega-competition over knowledge, there is an increasing risk that a country's competitiveness will be significantly impaired if the country is influenced by daily concerns or avoids facing problems and making necessary

reviews due to hesitation in carrying out reforms. Therefore, it is desirable for all parties engaged in intellectual property affairs including the administrative and judicial authorities, universities, and companies to push through reforms toward making Japan an intellectual property-based nation, beyond conventional ideas and systems or their vested interests.

(2) Establishing the World's Leading IP System

In the current borderless world, countries compete for attractiveness because companies have the freedom to choose more attractive countries in which they will do business. As more companies place intellectual property strategy at the core of their business planning and management, the countries that have established more favorable intellectual property systems for businesses are able to attract more companies from all over the world and enjoy vigorous business activities in various fields, which results in the further development of such countries. Furthermore, the countries that spread high-quality contents and brands worldwide are favorably evaluated among people across the world, as countries that they want to visit or live in; in other words, such countries have high brand strength as nations.

Considering that the intellectual property system competition has already started to intensify around the world, Japan should keep up with such developments and establish the world's leading IP system.

(3) Carrying out Reforms Rapidly and in a Timely Manner

“I thought that I was able to view the world without being influenced by daily concerns, but actually, I was too concerned about the present situation of Japan. Today, the world is progressing at a considerable rate,” said Mr. Soichiro Honda 50 years ago.

And now, the world is changing at a much more formidable pace. To avoid falling behind in the world, not only Japanese companies but also the Japanese national system should continue to evolve in order to respond to the changes in the global environment in a timely manner.

System reforms are apt to become the purpose per se and efforts may not be sufficiently put into the implementation of the reforms. When it comes to intellectual property, it is insufficient just to reform the systems and it is important to implement the reformed systems and bring about concrete results.

<Five Points to Be Considered>

(1) Measures from users' perspective

Intellectual property cannot fulfill its purpose unless it is effectively used rather than only protected. Protection is for utilization, because the very use of intellectual property will expand markets, bring profits, and encourage new creations. In the future, measures should be taken from users' perspectives so that outstanding intellectual property will be fully utilized, thereby generating further outstanding intellectual property. For instance, in the content field, it is necessary to make international comparison as to whether or not Japanese users stand on the same footing as foreign users in terms of services and prices.

(2) Support for SMEs and Venture Companies

SMEs and venture companies develop infrastructure technology for Japanese industry and support the industrial foundation of Japan by processing materials and supplying parts. They also play a major role in promoting local economies through job creation.

As various measures are being taken toward making Japan an intellectual property-based nation, SMEs and venture companies become more strongly aware of intellectual property. It is important to accelerate such movement so that more SMEs and venture companies will make strategic efforts to create intellectual property and effectively use it for commercialization. To this end, the GOJ should promote necessary measures.

(3) Regional Development

The recent trend of decentralization is leading to the development of regional societies that emphasize their own regional characteristics.

Amid such a situation, local governments have started taking full-fledged measures related to intellectual property to achieve innovative technological development through industrial-academic-government cooperation between universities, related research institutes and R&D-related companies, with universities, which are the center of intellectual creation, serving as the regional core. Furthermore, based on the human networks that are developed in such cooperation, movements are also becoming full-fledged to form regional clusters and launch new businesses that emphasize regional characteristics. Furthermore, intellectual property strategies carried out on a regional level have recently become diversified, including measures to develop local brands for agricultural and fishery products and other specialty

products or establish film commissions in order to make regional societies more attractive by supporting content production.

The GOJ should promote such efforts so that unique inventions and works will be created and brands specific to individual regional societies will be spread throughout Japan, and Japan as a whole will become rich in intellectual property.

(4) Improvement of Administrative and Judicial Services

The major role in making Japan an intellectual property-based nation should be played by the public and users rather than the administrative and judicial authorities. In light of the progress in the development of social networks and for the purpose of actuating the intellectual creation cycle speedily and dynamically, administrative agencies and courts should sincerely listen to the voices of the public and users and make efforts to drastically improve their services from the perspective of the public and users, by streamlining the application procedures, reviewing systems for settling disputes on intellectual property including pioneering inventions, and providing more information.

(5) Significance of Competition Policy and Attaching Importance to Freedom of Expression

Strengthening intellectual property rights is an inevitable requirement of this information age. However, at the same time, strengthening rights may bring with it adverse effects: (i) obstacles to competition and (ii) conflict with the basic values of modern society, such as freedom of expression.

Antitrust laws and other competition laws play a central role in eliminating obstacles to competition, and therefore these laws need reinforcement as appropriate. In the United States, the Antitrust Law is strictly applied to intellectual property monopoly. Such application engenders competition and leads to the development of new industries. Japan too must find a balance and make the appropriate responses.

In the case where the protection of intellectual property goes to extremes, it conflicts with the basic values of modern society, such as fair and free competition, academic freedom and freedom of expression. For this reason, in establishing intellectual property systems, we must pay attention to these basic values and strike a balance between these values and the protection of intellectual property rights.

Furthermore, we must not forget that universities should not only respond to expectations for the creation and exploitation of intellectual property but also carry out their primary role of providing education. In designing systems for intellectual property at universities, it is necessary to make such systems flexible, based on the diversity of academic and research fields.

3. Progress in Intellectual Property Policy

(1) History of the Inauguration of the Policy Headquarters

With the growing awareness among the public of the importance of intellectual property, the Prime Minister Jun'ichiro Koizumi, in his policy speech in February 2002, stated that the GOJ should set it as one of national goals to strategically protect and utilize the results of research activities and creative endeavors as intellectual property, thereby enhancing the international competitiveness of Japanese industries, and to achieve this, the GOJ should establish a Strategic Council on Intellectual Property and powerfully advance the relevant necessary measures.

Following this policy, the GOJ quickly took measures to build necessary internal frameworks. In March 2002, the Strategic Council on Intellectual Property was established with the Prime Minister and related ministers as well as experts in the private sector as members. In July, the council adopted the Intellectual Property Policy Outline, which indicated specific reform schedules for creation, protection, and exploitation of intellectual property. Subsequently, the Basic Law on Intellectual Property was enacted in November, and the Intellectual Property Policy Headquarters were established in March 2003.

(2) Completing the Strategic Program

To make Japan an intellectual property-based nation in which the international competitiveness of industry is strengthened by focusing on intellectual property, thereby increasing national wealth, the Policy Headquarters, in July 2003, developed the Strategic Program 2003 consisting of about 270 measures. Prior to the development of this program, in June 2003, the Task Force on Intellectual Property Policy in the Council for Science and Technology Policy developed an intellectual property policy focusing on the promotion of intellectual property-related activities at universities and other institutes, which was reflected

in the Strategic Program developed by the Policy Headquarters.

While taking into account the progress made for the Strategic Program 2003 and adding necessary measures, in May 2004, the Policy Headquarters developed the Strategic Program 2004 consisting of about 400 measures.

In order to make steady progress every year while quickly responding to the changing circumstances, the Strategic Program has been developed by the rolling plan method that is widely adopted in the private sector.

(3) Activities of Task Forces

Three task forces Task Force on Strengthening of the Foundation for Right Protection, Task Force on Contents, and Task Force on the Protection of Patents of Medical-Related Acts were established to discuss important issues in intellectual property policy, which had been considered to require further study and discussion in order to complete the Strategic Program. These three task forces started their discussions in the fall of 2003.

The Task Force on Strengthening of the Foundation for Right Protection created reports entitled “Comprehensive Measures for Accelerating Patent Examination” and “Creation of Intellectual Property High Court” in December 2003, “Strengthening Measures against Counterfeits and Pirated Copies” in May 2004, and “Measures to Promote Intellectual Property Strategy at SMEs and Venture Companies” in April 2005.

The Task Force on Contents prepared a report entitled “Contents Business Promotion Policy” in April 2004. In November, the Japan Brand Working Group was established under the Task Force on Contents. The working group compiled a report entitled “Promotion of Japan Brand Policy” in February 2005.

The Task Force on the Protection of Patents of Medical-Related Acts compiled a report entitled “Patent Protection for Medical-Related Acts” in November 2004.

The Task Force on Intellectual Property Policy established under the Council for Science and Technology Policy in January 2002, has developed annual reports entitled “Intellectual Property Strategy” regarding creation and utilization of intellectual property at universities and other institutes as well as integrated promotion of strategies for R&D, intellectual property, and standardization. In FY2005, the task force compiled a report in May regarding the active use of intellectual property originating in universities and the strategic development and acquisition of human resources related to intellectual property.

(4) Major Achievements Made by the Strategic Program

Various measures have been taken according to the Strategic Program and have resulted in specific achievements so far.

In terms of creation, University Intellectual Property Headquarters and technology licensing organizations (TLOs) were established nationwide, improving mechanisms for transferring research results made at universities and other institutes to the private sector. Furthermore, in order to cope with the issue of compensation for employees' inventions, amendment was made to Section 35 of the Patent Law and the amended provision came into force in April 2005.

In terms of protection, system improvements were made to reduce the time required for examination by formulating the plan for expeditious patent examination and starting to appoint a large number of fixed-term examiners. Also, the Intellectual Property High Court was established under law as a court specializing in handling intellectual property cases, which is expected to ensure more effective and prompt trial proceedings. Furthermore, with respect to trade secrets, which have recently increased in their value as property, penalties were provided in the Unfair Competition Prevention Law against those who have acquired, used or disclosed trade secrets of others by improper means. Regarding the issue of counterfeits and pirated copies, measures at borders were strengthened through the amendment of the Customs Tariff Law.

In terms of exploitation, the amendment of the Trust Business Law made intellectual property available as trust property and facilitated management and utilization of intellectual property. Also, the New Bankruptcy Law came into force in March 2005, strengthening protection of intellectual property licensees in the event of bankruptcy of licensors. For SMEs and venture companies, supportive measures were started in prior art search. Furthermore, according to the Guidelines for Disclosure of Intellectual Property Information, 11 companies developed intellectual property reports in FY2004.

In terms of contents, the Law Concerning Promotion of Creation, Protection, and Exploitation of Contents was enacted, with the objective of encouraging the national and local governments and other parties concerned to make concerted efforts to comprehensively and effectively promote creation, protection, and exploitation of contents. Efforts have also started in the private sector, such as the inauguration of the Entertainment Lawyers Network and the

establishment of the Visual Industry Promotion Organization.

In terms of the development of intellectual property experts, law schools and graduate schools specializing in intellectual property were established, enhancing educational systems. Human networks were also established such as the Intellectual Property Lawyers Network and access points of the Japan Patent Attorneys Association.

Since the establishment of the Basic Law on Intellectual Property, 18 intellectual property laws have been enacted, and three intellectual property bills have been submitted to the 162nd session of the Diet.

Major achievements are indicated in the list of Progress in Intellectual Property Policy at the end of this report.

Reference: Intellectual property laws enacted and intellectual property bills submitted to the 162nd session of the Diet

Year	Name of Law (related law amended by the law)	Date of Promulgation
2002	Basic Law on Intellectual Property	December 4, 2002
2003	Law for Partial Amendment of the Customs Tariff Law, Etc. (Customs Tariff Law)	March 31, 2003
	Law for Partial Amendment of the Unfair Competition Prevention Law (Unfair Competition Prevention Law)	May 23, 2003
	Law for Partial Amendment of the Patent Law, Etc. (Patent Law, Utility Model Law, Design Law, and Trademark Law)	May 23, 2003
	Law for Partial Amendment of the Copyright Law (Copyright Law)	June 18, 2003
	Law for Partial Amendment of the Seeds and Seedlings Law (Seeds and Seedlings Law)	June 18, 2003
	Law for Partial Amendment of the Code of Civil Procedure, Etc. (Code of Civil Procedure, Patent Law, and Utility Model Law)	July 16, 2003
2004	Law for Partial Amendment of the Customs Tariff Law, Etc. (Customs Tariff Law)	March 31, 2004

	Bankruptcy Law	June 2, 2004
	Law for Partial Amendment of the Patent Law, etc. for the Promotion of Expeditious Patent Examination (Patent Law and Utility Model Law)	June 4, 2004
	Law Concerning Promotion of Creation, Protection, and Exploitation of Contents	June 4, 2004
	Law for Partial Amendment of the Copyright Law (Copyright Law)	June 9, 2004
	Law for the Establishment of the Intellectual Property High Court	June 18, 2004
	Law for Partial Amendment of the Court Organization Law, Etc. (Court Organization Law, Code of Civil Procedure, Patent Law, Utility Model Law, Design Law, Trademark Law, Unfair Competition Prevention Law, and Copyright Law)	June 18, 2004
	Trust Business Law	December 3, 2004
2005	Law for Partial Amendment of the Customs Tariff Law, Etc. (Customs Tariff Law)	March 31, 2005
	Law for Partial Amendment of the Law for Supporting SME Management Innovation (Law for Supporting SME Management Innovation)	April 13, 2005
	Law for Partial Amendment of the Trademark Law (Trademark Law)	Enacted on June 8, 2005
	Bill for Partial Amendment of the Unfair Competition Prevention Law, Etc. (Unfair Competition Prevention Law, Patent Law, Utility Model Law, Design Law, Trademark Law, Copyright Law, and Patent Attorneys Law)	Submitted to the 162nd session
	Bill for Partial Amendment of the Seeds and Seedlings Law (Seeds and Seedlings Law)	Submitted to the 162nd session
	Bill for Basic Law on Food Education	Submitted to the 162nd session

4. Development and Implementation of the Intellectual Property Strategic Program 2005

(1) Development

The Policy Headquarters reviewed the Strategic Program in response to the changes in the circumstances affecting intellectual property and in accordance with the Basic Law on Intellectual Property, and developed the Intellectual Property Strategic Program 2005, giving due consideration to the following points.

- (i) Efforts were made to bring about more concrete results by properly operating the intellectual property systems that were reformed in the past two years. Since 2003, various institutional and legal reforms have been made, including the creation of the Intellectual Property High Court, the establishment of intellectual property headquarters at universities, the improvement in the JPO systems, and the reinforcement of control measures at the customs. These reformed systems should be monitored so that they will bring about results as initially expected.
- (ii) Efforts were also made to obtain opinions from the public and users through the public comment procedure and reflect their needs in reviewing the measures.
- (iii) The new program was developed not only from the viewpoint of the national government but also from the viewpoint of local governments, aiming to achieve progress in the intellectual property policy both on a national level and on a local level.
- (iv) Systems were reviewed from an international perspective along with the advance of globalization. In particular, consideration was given to contribute to the world as a whole in developing international intellectual property systems such as the global patent system and a counterfeit/pirated copy nonproliferation treaty.

The Policy Headquarters, while giving due consideration to these points, presented more concrete details for the existing measures, and also included additional measures to cope with challenges for which sufficient progress has yet to be made as well as new challenges. Consequently, the Strategic Program 2005 consists of about 450 measures to be implemented.

<Implementation>

Japan can afford no further delay in becoming an intellectual property-based nation.

The individual items included in the Strategic Program shall be undertaken by the

ministry or agency in charge. Where two or more ministries or agencies are in charge, they should secure close coordination with each other to promote the measures. For these reasons, the individual items in the Strategic Program are assigned to the specific ministries or agencies in charge.

The Policy Headquarters shall regularly check the progress of the measures taken by the ministry or agency in charge and encourage them to implement such measures if there is any delay. Furthermore, if there is any delay in the implementation of measures due to the lack of communication between the ministries and agencies in charge, the Policy Headquarters shall comprehensively coordinate the measures. Though not being specifically designated in the Strategic Program, the Policy Headquarters shall be involved in the implementation of all policies.

Highly important issues shall be considered by the ministry or agency in charge as well as investigated and discussed by the Policy Headquarters. To this end, task forces shall be established in the Policy Headquarters under the provision of Article 2 of the Cabinet Order on the Intellectual Property Policy Headquarters (Cabinet Order No. 45 issued in February 2003).

The Policy Headquarters shall further build organic cooperation with other councils and headquarters, e.g. the Council for Science and Technology Policy, the IT Strategic Headquarters, and the Japan Tourism Strategic Council.

The goal of making Japan an intellectual property-based nation will not be achieved unless the general public shares the understanding of such a goal. Consequently, the Policy Headquarters shall ask for public opinions constantly and also start holding explanatory meetings and symposia on intellectual property strategy at various locations in order to encourage efforts by local governments and business and to have a frank exchange of views with local people throughout Japan.

Chapter 1 Creation of Intellectual Property

An intellectual creation cycle begins with the creation of intellectual property. The goal of making Japan an “intellectual property-based nation” cannot be achieved without a mechanism for producing creative and innovative R&D assets and for supplying those assets to society. Universities and public research institutes, which own most of the R&D resources in Japan, play an extremely important role in this respect.

In order to make Japan an "intellectual property-based nation," it is therefore necessary to establish a mechanism by which universities and public research institutes create outstanding intellectual property, including inventions, software, and databases and for such property to be utilized to the maximum extent in society. It is also necessary to increase the motivation of remarkably talented researchers to create intellectual property.

It is also necessary to encourage companies to shift the emphasis in their intellectual property strategy from quantity to quality and reinforce the foundation for intellectual creation as well as intensify their efforts for industry-academic-government cooperation.

Based on such awareness, the GOJ will take the following measures with the aim of encouraging the creation of high-quality R&D assets at universities, public research institutes, and private companies, while establishing a society where researchers who create outstanding intellectual property are sufficiently rewarded.

1. Promoting the Creation of Intellectual Property at Universities and Public Research institutes

(1) Promoting the Establishment of Consolidated Management

1) Encouraging the development of rules according to the principle of consolidated

i) Many universities and public research institutes have recently established a system of consolidated management by individual organizations in respect to the attribution of inventions, etc. For universities and public research institutes where such a system has not yet been established, the GOJ will encourage these organizations to ensure that inventions, etc. are attributed to the organizations in principle and to establish a system

of consolidated management by individual organizations as soon as possible in FY 2005 so that they can use intellectual property efficiently. In addition, regarding the items to be defined and transferred as inventions, such as materials used in research and other activities (microorganisms, biological resources such as laboratory animals and plants, and samples of chemical compounds and materials), software, databases, and digital contents, the GOJ will encourage universities and public research institutes to clarify rules for handling such materials so as to make the inventions created at universities and public research institutes the property of the organizations in principle.

With respect to intellectual property that is attributed to the organizations, the GOJ will encourage universities and public research institutes to make clear whether or not such intellectual property is open to society free of charge.

(Council for Science and Technology Policy, Ministry of Education, Culture, Sports, Science and Technology, Ministry of Economy, Trade and Industry, and other ministries and agencies concerned)

ii) Many universities and public research institutes have just established a provision to the effect that researchers shall report research results to organizations to which they belong (University Intellectual Property Headquarters, etc.) if any patentable results are obtained. For universities and public research institutes which have not yet established such a provision, the GOJ will encourage them to establish such a provision as early as possible in FY 2005. In addition, although inventions created by graduate students and undergraduate students are generally considered to be the property of those graduate students and undergraduate students, it is desirable that such students report to universities the inventions which have been created by them using university facilities or the inventions that are considered to be joint inventions of professors and themselves due to the strong connection between education and research by a supervisory professor. After the establishment of such a provision concerning the treatment of intellectual property, the GOJ will encourage universities and public research institutes to develop rules to ensure that the rights over inventions for which they have no intention to file patent applications will be returned to the researchers who created the inventions.

(Council for Science and Technology Policy, Ministry of Education, Culture, Sports, Science and Technology, Ministry of Economy, Trade and Industry, and other ministries and agencies concerned)

2) Giving due consideration to the mobility of researchers in developing

As early as possible in FY 2005, the GOJ will encourage universities and public research institutes to clarify rules between the organization and researchers in order to enable researchers to continue their research and receive appropriate returns even if they have changed the organizations to which they belong.

As for handling inventions and other research results created by researchers who belong to universities or public research institutes that continue to own the IP created by its researchers even if the researchers have changed their organizations, it is desirable that such inventions shall be handled in accordance with the regulations of the organization to which the researchers belonged at the time of creation of the relevant inventions.

In this regard, the GOJ will encourage universities and public research institutes to take flexible measures while extensively considering contract points and other possible means, in order to ensure that researchers' inventions, as the rights for the inventions belong to the universities or public research institutes for which the researchers were previously employed, work against researchers' continuing research at the universities or public research institutes to which they transferred or against industry-academic collaborative projects.

Moreover, in case researchers participate in a research project, to which universities or public research institutes allocate special budgets, or in an industry-academic collaborative research project, it is important for organizations to which such researchers transferred to take flexible measures, such as confirming research results (including results regarding the method of research) of relevant researchers before their transfer and obtaining confirmation from organizations to which relevant researchers previously belonged with respect to confidentiality and applications filed in a certain period after the transfer of the researchers.

(Council for Science and Technology Policy, Ministry of Education, Culture, Sports, Science and Technology, Ministry of Economy, Trade and Industry, and other ministries and agencies concerned)

(2) Strengthening Comprehensive Systems for Intellectual Property

In response to the establishment of University Intellectual Property Headquarters in many universities as well as the development of technology licensing organizations (TLOs), in FY 2005, the GOJ will continue to enhance and strengthen the functions of University Intellectual Property Headquarters, based on the creative efforts of individual universities, and provide support for individual universities to ensure that various types of intellectual property management systems are established according to the circumstances of the individual universities.

The GOJ will encourage individual universities and public research institutes to clarify their own intellectual property policy under consolidated management, and further intensify cooperation with TLOs for the purpose of making the best use of knowledge and know-how on technology transfer stored at TLOs, so as to select methods of utilizing research results and filing patent applications therefor promptly and properly.

1) Strengthening University Intellectual Property Headquarters

i) As early as possible by the end of FY2005, the GOJ will evaluate intellectual property-related activities carried out by University Intellectual Property Headquarters, strictly select headquarters that carry out vigorous activities and which are expected to strengthen the international competitiveness of Japanese industry, designate a Super Industry-Academic-Government Collaboration Headquarters, and reinforce support for such headquarters.

(Ministry of Education, Culture, Sports, Science and Technology)

ii) In FY2005, the GOJ will continue to evaluate University Intellectual Property Headquarters that begin to achieve results and transfer their know-how to neighboring universities, and will support such activities.

(Ministry of Education, Culture, Sports, Science and Technology)

iii) From FY2005, the GOJ will evaluate University Intellectual Property Headquarters that carry out community-oriented intellectual property activities through cooperation with local SMEs with the aim of revitalizing local industries, and will strengthen support for such activities.

(Ministry of Education, Culture, Sports, Science and Technology)

2) Strengthening TLOs

In FY 2005, the GOJ will continue to provide newly established TLOs with financial support for a certain period and assistance in filing foreign patent applications.

For the purpose of enabling University Intellectual Property Headquarters and TLOs to conclude contracts promptly and flexibly and improving their matching function, in FY 2005, the GOJ will also continue to provide Super TLOs with support for their efforts to develop research personnel as technology transfer specialists and improve the practical skills of those engaging in technology transfer.

(Council for Science and Technology Policy, Ministry of Education, Culture, Sports, Science and Technology, Ministry of Economy, Trade and Industry, and other ministries and agencies concerned)

3) Enhancing information on human resources related to intellectual property

The Japan Patent Attorneys Association has collected and organized information on patent attorneys to develop a database and is introducing appropriate human resources in response to the requests of universities. In FY 2005, the GOJ, with the cooperation of patent attorneys, attorneys at law and relevant industrial organizations, will continue to disseminate information on excellent human resources who are able to participate in activities of University Intellectual Property Headquarters (such as (i) private-sector employees who have abundant knowledge and experience on intellectual property and (ii) patent attorneys and attorneys at law who have advanced practical abilities), thereby introducing and providing appropriate human resources in response to the requests of universities and public research institutes.

(Council for Science and Technology Policy, Ministry of Education, Culture, Sports, Science and Technology, Ministry of Economy, Trade and Industry, and other ministries and agencies concerned)

4) Supporting the development of dispute settlement systems

i) Problems have become obvious in connection with disputes in which universities and public research institutes are involved. From FY2005, the GOJ will provide universities and public research institutes with support for making arrangements to cope with these problems.

(Council for Science and Technology Policy, Ministry of Education, Culture, Sports, Science and Technology, and other ministries and agencies concerned)

ii) In order to reduce legal costs incurred by universities and public research institutes and indemnify them for damage, by the end of FY2005, the GOJ will discuss concrete measures to revitalize the use of intellectual property insurance in the private sector and develop a necessary system as appropriate.

(Council for Science and Technology Policy, Financial Services Agency, Ministry of Education, Culture, Sports, Science and Technology, and Ministry of Economy, Trade and Industry)

5) Clearly indicating liaisons

By the end of FY2005, the GOJ will encourage universities to clarify the relationships between University Intellectual Property Headquarters and TLOs in joint research and technology transfer and promote integration of their liaisons so as to increase the accessibility for private companies, especially SMEs and venture companies. The GOJ will also encourage universities to enhance information to be provided at liaisons in types and contents.

(Ministry of Education, Culture, Sports, Science and Technology, Ministry of Economy, Trade and Industry, and other ministries and agencies concerned)

6) Evaluating University Intellectual Property Headquarters and TLOs

i) In FY 2005, the GOJ will continue to follow up activities carried out and achievements made by University Intellectual Property Headquarters and TLOs annually. The GOJ will establish methods of evaluating activities for promoting industry-academic-government cooperation, and will apply such evaluation methods and publish evaluation results from FY2005. The GOJ will also aim to utilize such results for resource allocation and system improvement.

(Council for Science and Technology Policy, Ministry of Education, Culture, Sports, Science and Technology, and Ministry of Economy, Trade and Industry)

ii) The GOJ will analyze activities of TLOs from various perspectives and publish analysis results by the end of FY2005. The GOJ will also provide TLOs with such results as feedbacks, thereby promoting their independent efforts to improve their

capabilities.

(Council for Science and Technology Policy and Ministry of Economy, Trade and Industry)

7) Encouraging universities to disclose information on intellectual property-related activities

In FY 2005, the GOJ will continue to investigate and publish the progress in the development of University Intellectual Property Headquarters, and encourage universities to regularly disclose information on their intellectual property-related activities, including intellectual property rights in their possession, achievements such as the number of licenses and of patent applications filed, recruitment of personnel from the private sector at Intellectual Property Headquarters, and intellectual property policy. (Ministry of Education, Culture, Sports, Science and Technology)

8) Strengthening cooperation among University Intellectual Property Headquarters and TLOs

The Japan Association for University Intellectual Property and Technology Management was established as a nationwide collaborative organization, and many University Intellectual Property Headquarters and TLOs have joined the association. In order to further strengthen and improve the association, in FY2005, the GOJ will continue the following efforts.

i) Ensure that universities and TLOs cooperate with one another in (1) investigating “good practices” of industry-academic-government collaboration and technology licensing, (2) promoting the exchange and sharing of information and the establishment of information networks, (3) coordinating opinions, and (4) promoting human resource development by utilizing case studies.

(Council for Science and Technology Policy, Ministry of Education, Culture, Sports, Science and Technology, and Ministry of Economy, Trade and Industry)

ii) Support cooperation between University Intellectual Property Headquarters and TLOs in dealing with technology transfers from such universities and public research institutes (including local institutes) that have not yet established relationships with TLOs.

(Council for Science and Technology Policy, Ministry of Education, Culture, Sports, Science and Technology, Ministry of Economy, Trade and Industry, and other ministries and agencies concerned)

iii) Promote collaboration with technical licensing organizations overseas.

(Council for Science and Technology Policy, Ministry of Education, Culture, Sports, Science and Technology, Ministry of Economy, Trade and Industry, and other ministries and agencies concerned)

(3) Increasing Funds for Intellectual Property-Related Activities

i) In FY 2005, the GOJ will continue to enhance financial support for universities and TLOs for patent-related expenses, including the costs for filing patent applications at home and abroad under the principle of competition.

(Council for Science and Technology Policy, Ministry of Education, Culture, Sports, Science and Technology, Ministry of Economy, Trade and Industry, and other ministries and agencies concerned)

ii) It has been clarified, under the Common Guidelines for Indirect Expenses in Competitive Research Grants, that a portion of the indirect expenses can be appropriated to patent-related expenses. In FY2005, the GOJ will continue to raise awareness of this research grant system and encourage the active use thereof, and will also enhance competitive research grants in quality and quantity.

In addition, the GOJ will take similar measures with respect to indirect expenses in government research funds other than competitive research grants.

(Council for Science and Technology Policy, Ministry of Education, Culture, Sports, Science and Technology, Ministry of Economy, Trade and Industry, and other ministries and agencies concerned)

iii) In FY 2005, with respect to joint research projects in which universities and public research institutes are proactively engaged, the GOJ will continue efforts to secure sufficient funds to strategically obtain and maintain intellectual property for the purpose of commercializing the research results. To this end, the GOJ will encourage universities and public research institutes to secure, in advance, the cost of obtaining and maintaining intellectual property from research funds provided by sponsoring companies. In doing so, the GOJ will promote the flexible handling that enables

universities and public research institutes to carry over such research funds or use them for other research results.

(Council for Science and Technology Policy, Ministry of Education, Culture, Sports, Science and Technology, Ministry of Economy, Trade and Industry, and other ministries and agencies concerned)

iv) By the end of FY2005, the GOJ will discuss incentives for companies to spend more money for joint research and contract research projects with universities and public research institutes, and will take measures as appropriate.

(Ministry of Education, Culture, Sports, Science and Technology, Ministry of Economy, Trade and Industry, and other ministries and agencies concerned)

v) In FY2005, the GOJ will continue to encourage the active use of tax benefits for donations from companies and individuals to universities.

(Council for Science and Technology Policy, Ministry of Education, Culture, Sports, Science and Technology, and other ministries and agencies concerned)

vi) In FY2005, the GOJ will continue to raise awareness that the Japan Science and Technology Agency (JST), through its local supportive offices for patenting, provides prior art research services for inventions made by researchers at universities and public research institutes, and will promote the use of such services.

(Council for Science and Technology Policy and Ministry of Education, Culture, Sports, Science and Technology)

(4) Giving Due Consideration to Intellectual Property-related Activities in Evaluating Universities and R&D-type Independent Administrative Agencies

In FY2005, the GOJ will continue to evaluate national universities and R&D-type independent administrative agencies in consideration to their characteristics and on the basis of their efforts relating to intellectual property in accordance with the National Guidelines for Research and Development, and will publish the evaluation results.

(Council for Science and Technology Policy, Ministry of Education, Culture, Sports, Science and Technology, Ministry of Economy, Trade and Industry, and other ministries and agencies concerned)

(5) Utilizing Patent Information in R&D

i) In order to develop the infrastructure for creating and using intellectual property at universities and public research institutes by the end of FY2005, the GOJ will provide support for database management, aiming to start the operation of the integrated search system for bibliographic information of academic papers and patent information in FY2005. Furthermore, for the purpose of improving the accessibility to patent information from universities and other research sites, the GOJ will build a high-speed and high-function search system for patent information via academic information networks.

(Council for Science and Technology Policy, Ministry of Education, Culture, Sports, Science and Technology, and other ministries and agencies concerned)

ii) In FY2005, the GOJ will continue providing universities and public research institutes with support for conducting prior art search and developing patent maps so that they will be able to select specific research projects and avoid filing unnecessary patent applications. The GOJ will also make efforts to improve the functions of the Industrial Property Digital Library (IPDL) and make it available to universities and public research institutes via dedicated lines.

(Council for Science and Technology Policy and Ministry of Economy, Trade and Industry)

iii) Based on the achievements made in FY2004 in the development of the academic content portal system, the GOJ will, by the end of FY2005, provide comprehensive infrastructure for distributing academic information resources, including information on academic papers and bibliographical information on books and magazines stored at university libraries. Also, in FY2005, for the purpose of promoting cooperation between SMEs/venture companies and universities/other institutes, the GOJ will continue efforts to improve and enhance databases of researchers, research results, and research activities at universities and public research institutes and encourage the active use of such databases.

Furthermore, in FY2005, the GOJ will continue working toward improving the function of universities and academic societies to disseminate information through the development of electronic academic magazines issued in Japan and investigating measures to disseminate research results from Japan to the world, thereby developing a

system for promoting the distribution of research information.

(Council for Science and Technology Policy, Ministry of Education, Culture, Sports, Science and Technology, and other ministries and agencies concerned)

(6) Improving Research Facilities and Equipment

In FY2005, the GOJ will continue to further promote the improvement of research facilities and equipment based on the “Five-year Plan for Urgent Development of Facilities of National Universities, etc.” prepared by the Ministry of Education, Culture, Sports, Science and Technology.

(Council for Science and Technology Policy, Ministry of Education, Culture, Sports, Science and Technology, and other ministries and agencies concerned)

2. Promoting Industry-Academic-Government Cooperation Based on Intellectual Property

(1) Strengthening the Foundation for Industry-Academic-Government Cooperation

1) Supporting universities and other institutions in reforming their administrative and operational systems

i) By the end of FY2005, the GOJ will encourage universities and public research institutes to take independent measures to achieve appropriate sharing of responsibilities among those engaging in research, education, and industry-academic-government cooperation, by introducing effort management based on the flexible working hour system, so that researchers, who are active in contributing to society through the use of intellectual property, will be able to spend sufficient time and labor on their activities.

(Council for Science and Technology Policy, Ministry of Education, Culture, Sports, Science and Technology, Ministry of Economy, Trade and Industry, and other ministries and agencies concerned)

ii) It is important to increase incentives for universities to take an active part in promoting industry-academic-government cooperation, depending on their individual natures and characteristics. Therefore, from FY2005, the GOJ will evaluate universities and determine the allocation of resources, while giving consideration to such activities.

The GOJ will also give consideration to this point when providing support for joint research projects under industry-academic cooperation.

(Council for Science and Technology Policy, Ministry of Education, Culture, Sports, Science and Technology, Ministry of Economy, Trade and Industry, and other ministries and agencies concerned)

iii) From FY2005, the GOJ will encourage independent efforts of universities for regarding it as the duty of university researchers to engage in joint research projects and give technical advice to private companies including SMEs, and evaluating researchers based on their performance of such duty.

(Ministry of Education, Culture, Sports, Science and Technology)

iv) From FY2005, the GOJ will provide universities and public research institutes with support for their training programs on intellectual property and industry-academic-government cooperation for the purpose of increasing awareness of intellectual property among teachers.

(Council for Science and Technology Policy and Ministry of Education, Culture, Sports, Science and Technology)

2) Strengthening the intermediary function

i) From FY2005, the GOJ will provide universities and public research institutes with support for improving their functions as intermediaries with SMEs and venture companies, e.g. matching the supply from universities with the needs of companies and making research results, which are made at universities and public research institutes, available for commercialization in the private sector, so as to facilitate technical transfer, joint research, and contract research with companies. The GOJ will encourage universities and public research institutes to develop systems for making the best use of knowledge and know-how on technology transfer stored at TLOs and further strengthen cooperation with TLOs. The GOJ will also encourage universities and public research institutes to use, as intermediaries with private companies, intellectual property experts including patent licensing advisors as well as publicly-funded research institutes and private businesses. By the end of FY2005, the GOJ will compile and publish good practices.

(Council for Science and Technology Policy, Ministry of Education, Culture, Sports,

Science and Technology, Ministry of Economy, Trade and Industry, and other ministries and agencies concerned)

ii) By the end of FY2005, the GOJ will ensure that universities and public research institutes will develop and enhance systems for carrying out joint research projects with private companies strategically and systematically.

(Council for Science and Technology Policy, Ministry of Education, Culture, Sports, Science and Technology, and other ministries and agencies concerned)

iii) In FY2005, with the aim of enabling universities and public research institutes to take appropriate measures to conclude contracts and cope with legal issues concerning intellectual property, the GOJ will help them to find lawyers who are versed in intellectual property via the Intellectual Property Lawyers Network and acquire people who have engaged in legal affairs and licensing negotiations at private companies.

(Council for Science and Technology Policy, Ministry of Education, Culture, Sports, Science and Technology, and other ministries and agencies concerned)

(2) Developing Rules for Industry-Academic-Government Cooperation

1) Clarifying rules for joint research and contract research

In order for universities and public research institutes to promote their own strategies for the exploitation of intellectual property and the implementation of joint research and contract research, in FY 2005, the GOJ will continue to encourage such institutions to clarify policies and rules for implementing and handling joint research and contract research with private companies as well as to develop and disclose their own contract formats and operation manuals. These policies and rules include:

- Rules for handling trade secrets and other confidential information
- Rules concerning the attribution of intellectual property rights that are the results of joint research
- Policies for the assignment and licensing of rights to private companies
- Rules for handling rights in cases where intellectual property is created in cooperation with researchers of other domestic or foreign universities.

(Council for Science and Technology Policy, Ministry of Education, Culture, Sports, Science and Technology, Ministry of Economy, Trade and Industry, and other ministries and agencies concerned)

2) Promoting management of confidential information at universities and other institutions

i) In order to prevent leakage of confidential information on joint research projects, the GOJ will encourage universities and TLOs to manage trade secrets and thoroughly ensure compliance with confidentiality obligations by employees and students, as well as encourage companies involved in joint research projects to ensure such compliance. Also, in accordance with the amendment to the Unfair Competition Prevention Law, the GOJ will review guidelines relating to trade secrets as necessary and raise awareness thereof by the end of FY2005. Furthermore, the GOJ will encourage universities to publicly inform others of the fact that the rules for handling the attribution of intellectual property rights within universities differ between professors/officials and graduate students/undergraduate students.

(Council for Science and Technology Policy, Ministry of Education, Culture, Sports, Science and Technology, Ministry of Economy, Trade and Industry, and other ministries and agencies concerned)

ii) From FY2005, with respect to students and postdoctoral fellows involved in industry-academic joint research projects, the GOJ will encourage industry to report costs for such personnel as appropriate and also encourage universities and public research institutes to clarify contractual relationships, thereby thoroughly ensuring compliance with confidentiality obligations by such personnel.

To this end, from FY2005, the GOJ will provide universities and industry with opportunities to establish basic ideas based on differences in positions and discuss possible types of confidentiality agreements, so as to improve mutual understanding regarding the status of students.

(Council for Science and Technology Policy, Ministry of Education, Culture, Sports, Science and Technology, Ministry of Economy, Trade and Industry, and other ministries and agencies concerned)

3) Concluding and implementing contracts flexibly

i) From FY2005, the GOJ will encourage universities and TLOs to conclude and implement contracts flexibly in terms of contract rates and other contract details

depending on the conditions of the companies and the situation of research and technology transfer. Also by the end of FY2005, the GOJ will evaluate contract practices applied by universities and TLOs and compile and publish examples of contract details and flexible implementation for reference.

(Council for Science and Technology Policy, Ministry of Education, Culture, Sports, Science and Technology, Ministry of Economy, Trade and Industry, and other ministries and agencies concerned)

ii) In FY2005, with respect to patents jointly owned by universities and companies, the GOJ will continue to promote industry-academic efforts to hold discussion so as to conclude flexible contracts while giving consideration to the positions of the other party, i.e. the university not using the patented technology and the company promoting commercialization thereof.

(Council for Science and Technology Policy, Ministry of Education, Culture, Sports, Science and Technology, Ministry of Economy, Trade and Industry, and other ministries and agencies concerned)

4) Clarifying rules for conflicts of interest

i) By the end of FY2005, the GOJ will encourage universities to develop guidelines for the management of conflicts of interest and indicate their judgment criteria as clearly as possible.

(Council for Science and Technology Policy and Ministry of Education, Culture, Sports, Science and Technology)

ii) By the end of FY2005, the GOJ will publicize the results of the case study relating to the management of conflicts of interest and encourage the Japan Association for University Intellectual Property and Technology Management to ensure the sharing of specific know-how on the management of conflicts of interest, thereby improving universities in their capabilities to manage conflicts of interest.

(Council for Science and Technology Policy, Ministry of Education, Culture, Sports, Science and Technology, and Ministry of Economy, Trade and Industry)

(3) Raising Awareness of the Ability of National Universities to Acquire Stocks as Compensation for Licensing

i) It has been clearly indicated that national universities shall be allowed to acquire stocks as compensation for licensing under certain rules, so as to promote the transfer of technology possessed by them. By the end of FY2005, the GOJ will prepare instructions concerning points of note upon acquiring or selling stocks and widely publicize such instructions to universities and public research institutes, aiming to ensure the establishment of this approach as soon as possible.

Also by the end of FY2005, the GOJ will discuss and take measures to make this approach available to R&D-type independent administrative agencies.

(Council for Science and Technology Policy, Ministry of Education, Culture, Sports, Science and Technology, Ministry of Economy, Trade and Industry, and other ministries and agencies concerned)

ii) By the end of FY2005, the GOJ will encourage universities and public research institutes to be fully careful about protecting personal information in the management of conflicts of interest.

(Council for Science and Technology Policy, Ministry of Education, Culture, Sports, Science and Technology, and other ministries and agencies concerned)

iii) By the end of FY2005, the GOJ will encourage universities and public research institutes to develop systems for handling issues concerning conflicts of interest and stocks.

(Council for Science and Technology Policy, Ministry of Education, Culture, Sports, Science and Technology, and other ministries and agencies concerned)

(4) Promoting University Start-ups

i) From FY2005, in order to support university start-ups, the GOJ will encourage universities and public research institutes to introduce preferential treatment for the access to their research facilities and equipment as well as their patents.

(Council for Science and Technology Policy, Ministry of Education, Culture, Sports, Science and Technology, and other ministries and agencies concerned)

ii) In FY2005, the GOJ will continue to provide support for university start-ups and other companies in carrying out empirical testing and practical application research through the matching of industries and universities.

(Council for Science and Technology Policy, Ministry of Education, Culture, Sports,

Science and Technology, Ministry of Economy, Trade and Industry, and other ministries and agencies concerned)

iii) Considering that university start-ups have difficulty in securing human resources with the necessary management knowledge, in FY2005, the GOJ will continue to dispatch specialists such as lawyers and certified accountants to them, and will also enhance networks of supporters of university start-ups, including venture capital companies and financial institutions.

(Council for Science and Technology Policy, Ministry of Economy, Trade and Industry, and other ministries and agencies concerned)

iv) By the end of FY2005, the GOJ will support universities and public research institutes so that they will be able to provide researchers and students with educational programs, at their discretion, regarding the significance and challenges in starting up ventures.

(Council for Science and Technology Policy, Ministry of Education, Culture, Sports, Science and Technology, and other ministries and agencies concerned)

(5) Expanding the Scope of Application of the Japanese Bayh-Dole System

In FY2005, the GOJ will continue to discuss measures to ensure that intellectual property rights obtained in R&D projects sponsored by the national government or special public corporations belong to those that actually carried out the R&D projects under contract, and submit related bills to the Diet.

(Council for Science and Technology Policy, Ministry of Education, Culture, Sports, Science and Technology, Ministry of Economy, Trade and Industry, and other ministries and agencies concerned)

3. Improving the Creation Environment for Researchers

(1) Promoting R&D Focused on the Creation of Intellectual Property

1) Providing incentives to researchers

In FY 2005, the GOJ will continue to encourage universities and other research institutes to clarify the payment rules for returning royalties to individual researchers, who have obtained relevant research results in cases where universities and public

research institutes are assigned the rights for research results created by the researchers and receive the royalties corresponding to such rights, and to clarify the payment rules for universities' returning royalties to the researchers themselves or the faculties and departments to which relevant researchers belong, while giving due consideration to the treatment of employees' inventions at companies.

(Council for Science and Technology Policy, Ministry of Education, Culture, Sports, Science and Technology, Ministry of Economy, Trade and Industry, and other ministries and agencies concerned)

2) Utilizing intellectual property in evaluating R&D

In accordance with the National Guidelines for Research and Development, which were amended in April 2005, the GOJ will, from FY2005, evaluate the allocation of resources and performance in R&D projects in the fields where creation of intellectual property is expected, by using the acquisition and use of intellectual property rights as evaluation indicators.

When publicizing R&D results and evaluation results, researchers' performance in R&D projects, and examination results on the issuance of competitive research grants, consideration will be given to preservation of intellectual property.

(Council for Science and Technology Policy, Ministry of Education, Culture, Sports, Science and Technology, and other ministries and agencies concerned)

(2) Ensuring the Smooth Use of Patented Inventions in Research

i) For the purpose of enabling universities and public research institutes to secure an environment for research activities without restrictions through the smooth use of patented inventions owned by others, by the end of FY2005, the GOJ will develop guidelines for licensing patented inventions financed by the national treasury and diffuse them widely across the research community as a whole.

(Council for Science and Technology Policy, Ministry of Education, Culture, Sports, Science and Technology, Ministry of Economy, Trade and Industry, and other ministries and agencies concerned)

ii) With respect to the handling of patent rights under the Patent Law relating to genetically-modified animals with high versatility and low substitutability, which are

used for testing at universities and public research institutes, and materials for which the screening methods are patented and such patented methods, from FY2005, the GOJ will pay attention to the effect and influence of the diffusion of the guidelines mentioned above, and will consider and take measures including legal amendment, while taking into account the trends in foreign practices and international discussion on the handling of such items as well as patented inventions not financed by the national treasury.

(Council for Science and Technology Policy, Ministry of Education, Culture, Sports, Science and Technology, Ministry of Economy, Trade and Industry, and other ministries and agencies concerned)

(3) Encouraging the Use of Laboratory Notebooks

In FY2005, the GOJ will continue to encourage the positive use of laboratory notebooks and promote training on how to prepare and manage such notebooks.

(Council for Science and Technology Policy, Ministry of Education, Culture, Sports, Science and Technology, Ministry of Economy, Trade and Industry, and other ministries and agencies concerned)

(4) Promoting Computerization of Intellectual Property Management

In FY2005, the GOJ will continue to consider the possibility of utilizing electronic media as a substitute for laboratory notebooks and consider the problems that would arise from such utilization, and will take necessary measures.

Also, with the aim of securing the authenticity of electronic documents, the GOJ will promote efforts to increase the credibility and promote the use of electronic documents, along with the progress in time stamping technology and the enforcement of the Electronic Document Law.

(Ministry of Internal Affairs and Communications, Ministry of Education, Culture, Sports, Science and Technology, Ministry of Economy, Trade and Industry, and other ministries and agencies concerned)

4. Promoting the Creation of High-Quality Intellectual Property at Companies

(1) Promoting Corporate Strategy Focused on Acquisition of Basic Patents

From the perspective of contributing to the development of world culture, in FY2005, the GOJ will continue encourage companies, through the opportunities to exchange opinions with company executives, to motivate researchers and provide them with greater incentive to create high-quality basic patents, thereby shifting the emphasis in their patent strategy from quantity to quality.

(Ministry of Economy, Trade and Industry)

(2) Encouraging Companies to Create Intellectual Property according to the Three-Pillar Management Strategy

In FY2005, the GOJ will continue to encourage companies, through the opportunities to exchange opinions with company executives, to promote efficient creation of intellectual property in accordance with the three-pillar management strategy consisting of intellectual property strategy, business strategy, and R&D strategy, while looking toward the future in technical trends, the intellectual property situation, and business circumstances.

(Ministry of Economy, Trade and Industry)

(3) Promoting Efforts of Companies for Industry-Academic-Government Cooperation

i) In FY2005, the GOJ will continue to encourage industry to positively regard cooperation with universities and public research institutes in corporate management strategy and actively publish efforts for and results of industry-academic-government cooperation.

(Council for Science and Technology Policy, Ministry of Education, Culture, Sports, Science and Technology, Ministry of Economy, Trade and Industry, and other ministries and agencies concerned)

ii) In FY2005, the GOJ will continue to encourage industry to clarify the liaisons at companies for industry-academic-government cooperation so that universities and companies will be able to promote negotiations smoothly and efficiently.

(Ministry of Education, Culture, Sports, Science and Technology and Ministry of Economy, Trade and Industry)

(4) Promoting Strategic R&D Using Technology Strategy Maps

From FY2005, the GOJ will promote effective R&D projects both at companies and universities with the use of technology strategy maps developed in FY2004, and will make reviews (rolling) on the maps based on the patent and technical trends as well as market trends.

(Ministry of Economy, Trade and Industry)

5. Promoting the Creation of Attractive Designs

(1) Promoting Design Strategy

According to the “40 Recommendations for Increasing Competitiveness” made by the Study Group on Strategic Use of Designs, in FY2005, the GOJ will continue to comprehensively promote the national design strategy.

(Ministry of Economy, Trade and Industry and other ministries and agencies concerned)

(2) Drastically Improving the Good Design Project

In FY2005, for the purpose of improving the understanding and awareness of designs among consumers, manufacturers, and distributors, and raising the level of product designs, the GOJ will continue to take the following measures for the Good Design Project or G-mark system, in which outstanding designs are selected and honored annually, and will drastically enhance the project.

- a) Create honing schemes outstanding brands, companies, and designers and expand the scope of articles and entities to be honored.
- b) Honor not only goods sold in Japan but also goods sold overseas
- c) Support matching between companies and student or young designers
- d) Enhance the Good Design Presentation

(Ministry of Economy, Trade and Industry)

(3) Promoting the Development of Social Infrastructure in Public Works Projects while Giving Due Consideration to Designs and Landscape

From FY2005, the GOJ will promote the development of social infrastructure

while giving due consideration to designs and landscape. More specifically, with regard to national public works projects to build structures and roads or projects according to landscape plans prepared under the Landscape Law, the GOJ will promote the approach of taking designs into account in the comprehensive evaluation for successful bidding, and will also make efforts to encourage designers to take an active part as landscape advisers and members of the Landscape Committee.

(Ministry of Agriculture, Forestry and Fisheries, Ministry of Land, Infrastructure and Transport, and other ministries and agencies concerned)

(4) Promoting Efforts of Universities and other Institutions for Industry-Academic-Government Cooperation in the Design Field

In FY2005, the GOJ will continue to promote independent efforts of technical universities and art colleges for industry-academic-government cooperation with the use of their capabilities to create attractive designs.

(Ministry of Education, Culture, Sports, Science and Technology and Ministry of Economy, Trade and Industry)

(5) Promoting the Creation of a New Japan Brand

With the objective of spreading a Japan brand to the world, by the end of FY2005, the GOJ will arrange public-private discussion on the ideal form of a new Japan brand, which will be applied to designs, functions, contents created based on Japanese traditional culture and adjusted to the contemporary lifestyle, e.g. Neo-Japanesque, and will work toward establishing such brand.

(Ministry of Economy, Trade and Industry)

(6) Developing Infrastructure for Design Creation

i) In order to create an environment in which the strategic creation of designs will be promoted and to increase the understanding of and interest in excellent designs among the general public, in FY 2005, the GOJ will continue to hold seminars, symposiums and other events.

(Ministry of Economy, Trade and Industry)

ii) In order to support the development of human resources who will create attractive

designs, in FY 2005, the GOJ will continue to improve educational content provided by technical schools and other schools and develop design management personnel.

(Ministry of Education, Culture, Sports, Science and Technology and Ministry of Economy, Trade and Industry)

iii) In order to disclose and provide design-related information possessed by the JPO, in FY2005, the GOJ will continue to prepare organized and standardized data relating to designs. From FY2005, the GOJ will also provide organized and standardized data (relating to designs made in the United States) that was prepared in FY2004.

(Ministry of Economy, Trade and Industry)

iv) In order to develop useful design information and make it broadly available for the purpose of encouraging the creation of attractive designs, in FY 2005, the GOJ will continue to develop basic information concerning human property, including the measurement of the human body.

(Ministry of Economy, Trade and Industry)

Chapter 2 Protection of Intellectual Property

I. Strengthening the Protection of Intellectual Property

In order to secure incentives for the creation of intellectual property and to utilize intellectual property effectively, its proper protection is indispensable, and the related systems and frameworks must be further developed. Therefore, the Government of Japan (GOJ) will strive to establish the foundation for the sufficient protection of intellectual property by appropriately protecting new intellectual property, while monitoring the trend in the global harmonization of IP-related systems and in the progress made in technological innovation, as well as by developing frameworks for improving and expediting right obtainment procedures and enhancing dispute resolution procedures

1. Speeding up Examination of Patent Applications

Amidst economic globalization and intensive international competition, the request for the early establishment of rights has been increasing more than ever before. The early establishment of rights extends the contribution of R&D investment to profits through the elimination of overlapping researches and the revitalization of competition in domestic technical development, thereby contributing to the increasing global competitiveness of Japanese companies. In addition, the early obtainment of rights for inventions enables the leaders who actively work on R&D to maintain their superiority with creative, high value-added products, and it also contributes to strengthening competitiveness of SMEs and venture companies that have innovative technology.

On the other hand, looking at the actual status of patent examination, in FY2004, the number of requests for examination increased, at a higher pace than expected, to about 380,000 (about 1.7-folds from FY2003). Due to this, despite the exhausting efforts of the JPO, the number of applications waiting to be examined swiftly increased from about 520,000 at the beginning of FY2004 to about 650,000 at the end of the same fiscal year, and the waiting period for patent examination remained at 26 months (at the end of FY2004). Under these circumstances, in FY2004, various

measures were taken to examine more patent applications, i.e. appointing 117 new examiners (including 98 fixed-term examiners), registering two new search agencies, expanding the outsourcing of prior art search to external agencies (from about 160,000 cases to about 180,000 cases), and improving the performance of examiners' terminal computers (about 1,250 units). Through these measures, the number of applications examined in FY2004 reached 236,000, up by 6,000 from the previous year, but this increase is not large enough to reduce the waiting period for patent examination.

From the perspective of the international competitiveness of Japanese industry, we should regard this situation as an emergency situation, and take urgent and special measures, through public-private cooperation, to eliminate the waiting period as soon as possible.

Some applicants are in favor of the request for examination system, saying that it enables companies to obtain patent rights according to their patent strategies, whereas others are critical of this system because companies tend to refrain from requesting examination until the deadline and actually take a long time to obtain rights, which requires more time for the process from the filing until the registration of patents in Japan than in the United States and puts Japanese companies at a disadvantage in international competition. There is also an opinion that it is uncertain for a long time whether or not rights will be successfully obtained, and such uncertainty increases the burden of applicants, and in particular SMEs and venture companies, and hinders their growth.

(1) Achieving Expeditious and Accurate Patent Examination at the Highest Global Standard

The GOJ will implement comprehensive measures to clear away applications waiting to be examined, aiming to achieve the end goal of completely eliminating the waiting period for patent examination.

A) In order to steadily achieve an expeditious patent examination, the GOJ will establish the following medium-term goal and long-term goal regarding the waiting period for patent examination.

- Medium-term goal (by 2008): 20 months
- Long-term goal (by 2013): 11 months

B) In order to achieve the interim/long-term goals mentioned above, the GOJ will continue to steadily implement the following measures in FY 2005.

a) Promoting structural reform of the patent application/examination request

- Encourage companies to file applications and request examination thereof in order to obtain patents that are truly necessary for them under their management strategy.
Increase awareness among companies that knowledge arising from company activities can be protected not only in the form of patent rights but also in various other forms such as utility model rights, trade secrets (know-how), design rights, and copyrights, and it is important to choose and use appropriate forms according to management strategy; based on such awareness, require companies to file applications and request examination thereof in order to obtain patents that are truly necessary for them.
- Encourage companies to obtain high-quality patents
Increase awareness among companies that it is important to intensively obtain high-quality patents, and encourage them to carefully select inventions for which they file applications and request examination to obtain patents.
- Encourage companies to use the withdrawal/abandonment system
Encourage companies to use the system of withdrawal/abandonment of applications (system of partial return of examination request fees) with respect to applications relating to inventions for which obtainment of patents becomes no longer necessary after examination has been requested.
- Request cooperation to the Japan Patent Attorneys Association (JPAA)
Request cooperation to the JPAA in terms of guidance for prior art search given by patent attorneys to applicants and the disclosure/provision of information useful for applicants when selecting patent attorneys.

b) Enriching the personnel system of the Japan Patent Office

- Secure examiners and fixed-term examiners
Secure a sufficient number of examiners who are continuously necessary and fixed-term examiners who are necessary for the period of the medium-term goal.
- Assign examiners to important point
Assign examiners to important point in light of the importance in society of specific technical fields, the number of applications waiting to be examined, and the future

prospects in patent applications and requests for examination, as well as the progress in the outsourcing of prior art search.

- Utilize assistants with expertise

Utilize officials with expertise as assistants for examiners in understanding technical knowledge, conducting search of prior art documents, and developing a database for patent search.

c) Increasing examination efficiency

- Actively use search/examination results provided by the USPTO and the EPO

With respect to patent applications filed both in Japan and in the United States or Europe, actively use search/examination results provided by the USPTO and the EPO.

- Expand outsourcing of prior art search

Encourage private organizations to become registered search agencies and expand the outsourcing of prior art search to such registered search agencies.

- Shift to methods with high examination efficiency

Shift to search methods with high examination efficiency (face-to-face interview) upon outsourcing prior art search to registered search agencies.

- Request cooperation to the JPAA

Request cooperation to the JPAA for writing patent specifications clearly and concisely by expressing technical matters in simple and clear language.

d) Establishing the foundation necessary for expediting patent examination

- Encourage private organizations to become specified registered search agencies

Encourage private organizations to become specified registered search agencies so as to promote the use of the system in which fee reduction is available when a request for examination is filed with a search report issued by a specified registered search agency.

- Strengthen the training system for examiners

Strengthen the training system in order to improve the examination skills and efficiency of examiners.

- Develop human resources for prior art search

Develop human resources at registered search agencies in order to improve the quality of prior art search conducted by such agencies.

- Enhance the search performance of the Intellectual Property Digital Library (IPDL)
In order to enable applicants to quickly search prior art information, make the IPDL also available for searching information of related foreign patent applications and prior art information used for the examination.
- Improve information services, including the provision of patent information
Arrange search know-how acquired by examiners and make it available to the public.

C) The Ministry of Economy, Trade and Industry will formulate an implementation plan for every fiscal year to achieve the medium-term and long-term goals mentioned above, while formulating the intellectual property strategic program for that fiscal year, and will submit the plan and the program to the Intellectual Property Strategy Headquarters, with the report on the status of achievement of the goals set and the implementation plan formulated for the previous fiscal year, and make these materials public.

D) The Intellectual Property Strategy Headquarters will carry out comprehensive and multifaceted verification of the report mentioned above and will take necessary measures, such as providing information to persons concerned, inside and outside of the government, and requesting the cooperation of such persons, as appropriate.

(Ministry of Economy, Trade and Industry)

(2) Improving the Environment for Using Patent Information

i) In order to ensure quick search of useful patent information, in FY2005, the GOJ will make the IPDL also available for searching information of related foreign patent applications and prior art information used for the examination, and will also make patent gazettes downloadable in bulk in the form of PDF files. Also from FY2005, the GOJ will take necessary measures to improve the input function for text search, add the function for full-text search, and upgrade the image quality of search pages.

(Ministry of Economy, Trade and Industry)

ii) In FY2005, the GOJ will realize the issuance of utility model gazettes via the Internet. The GOJ will also make other gazettes available via the Internet in FY2006 and thereafter.

(Ministry of Economy, Trade and Industry)

iii) For the purpose of promoting R&D on computer software-related technology and

encouraging applicants to conduct prior art search on such technology, in FY 2005, the GOJ will continue to put new documents in the JPO's Computer Software Database (CSDB) and improve the search function thereof, and will provide original documents and abstracts at the IPDL, with permission from copyright holders.

(Ministry of Economy, Trade and Industry)

iv) In FY2005, the GOJ will continue to enhance support for the wide use of patent information, by dispatching experts in using such information to SMEs and venture companies.

(Ministry of Economy, Trade and Industry)

2. Promoting Flexible Patent Examination according to Applicant Needs

(1) Ensuring Flexible Examination Timing according to Needs

i) In FY 2005, the GOJ will continue to further disseminate the accelerated examination system, which preferentially examines applications filed by universities, TLOs and SMEs, overseas-related applications, and applications of inventions soon to be commercialized, and will properly deal with such applications.

(Ministry of Economy, Trade and Industry)

ii) In order to grant patent rights for applications relating to international standards and applications on inventions that will take time to be commercialized at the appropriate time, in FY2005, the GOJ will, based on the report prepared by the Industrial Structure Council, continue to consider the necessity to ease the requirements for making amendment and the deadline for dividing applications, and will develop systems as appropriate.

(Ministry of Economy, Trade and Industry)

iii) In FY 2005, in light of the necessity to conduct additional testing and acquire more data for the development of biotechnology and other advanced technology the GOJ will consider, from various perspectives, the introduction of the continuation-in-part application systems from the United States and the extension of the one-year grace period under the domestic priority system, and will revise laws and develop systems as appropriate.

(Ministry of Economy, Trade and Industry)

(2) Improving Communication with Applicants

i) In FY2005, the GOJ will continue to improve communication with applicants by providing them with information regarding the examination schedule, including the applications scheduled to be examined and the date of the examination, and by continuously promoting the circuit offices for patent examination and appeals for local SMEs and venture companies, which lack the opportunity to directly exchange opinions with examiners.

(Ministry of Economy, Trade and Industry)

ii) In FY 2005, the GOJ will continue to disseminate the consolidated examination program for relevant applications, which is a system to examine patent applications in related technical fields as a whole, and encourage utilization of the system in order for companies to strategically obtain patents.

(Ministry of Economy, Trade and Industry)

(3) Enhancing the Examination System for Cutting-Edge Technologies and International Applications

i) In FY 2005, the GOJ will continue to strengthen examination capability with a focus on applications in the field of cutting-edge technology and international applications, by taking such measures as tripling the number of examiners in the life-science field compared with the number at the beginning of FY 2003.

(Ministry of Economy, Trade and Industry)

ii) In FY 2005, the GOJ will continue to increase dispatches of examiners and trial examiners to academic conferences and implement more training for them in order to cope with examination and appeals/trials on cutting-edge technologies, such as state-of-the-art bio-medical technologies, and to promote international cooperation in examination. Also, the GOJ will enhance the system for obtaining advice from doctors and other experts for patent examination.

(Ministry of Economy, Trade and Industry)

(4) Increasing Convenience of Users

i) By the end of FY2005, the GOJ will enable the public to file applications and inspect various documents related to industrial property rights via the Internet. Also by the end of FY2005, the GOJ will consider making patent examination documents available for public inspection via the Internet, free of charge, and will revise laws and develop systems as appropriate.

(Ministry of Finance and Ministry of Economy, Trade and Industry)

ii) By the end of FY 2005, the GOJ will enable the public to pay application fees and other fees via the Internet. Also by the end of FY2005, the GOJ will consider desirable payment means for fees, including automatic debit transfer from a bank account and the use of credit cards, and will develop systems as appropriate.

(Ministry of Finance and Ministry of Economy, Trade and Industry)

iii) There are various types of computer operating software. By the end of FY2005, the GOJ will consider and take necessary measures to increase the number of types of operating software compatible with on-line application adopted at the JPO.

(Ministry of Economy, Trade and Industry)

iv) In FY2005, the GOJ will continue to ensure that examination will be conducted based on the recognition that in order to achieve the goal of making Japan an intellectual property-based nation, it is important to promptly and properly grant rights for new technical ideas. The GOJ will also aim to clarify the scope of rights.

(Ministry of Economy, Trade and Industry)

v) From FY2005, the GOJ will thoroughly publicize, through the examination procedures and meetings, that application documents such as patent specifications should be written clearly and concisely by expressing technical matters in simple and clear language. Upon such occasions, the GOJ will also thoroughly publicize that terms and expressions used in applications documents should be clearly written.

(Ministry of Economy, Trade and Industry)

vi) In light of excessive burden of translation on SMEs and venture companies, in FY2005, the GOJ will consider, from various perspectives, extending the existing two-month period for submitting the translation of documents written in foreign languages, and will revise laws and develop systems as appropriate.

(Ministry of Economy, Trade and Industry)

vii) From FY2005, the GOJ will consider, from various perspectives, accepting color

drawings in addition to black-and-white drawings, and will revise laws and develop systems as appropriate.

(Ministry of Economy, Trade and Industry)

viii) In FY2005, the GOJ will consider, from the perspective of increasing users' convenience, extending the existing 60-days period for responding to a notification of reasons for refusal, and will develop systems as appropriate.

(Ministry of Economy, Trade and Industry)

ix) By the end of FY2005, the GOJ will consider desirable ways of indicating the names of the patentee and the inventor in a certificate of patent in light of users' needs and indications in other certificates, and will take necessary measures in this respect.

(Ministry of Economy, Trade and Industry)

3. Strengthening the Intellectual Property Protection Systems

(1) Working toward Building the World's Leading Intellectual Property Systems

While it is important to continue our efforts to accelerate the intellectual property policy that we have implemented so far, it is also important to consider how we can actively contribute to the development of world culture based on intellectual property. We should build a mechanism for developing, in a harmonious way, the intellectual property cycle as a whole, which consists of creation, protection, and exploitation of intellectual property, while placing more emphasis on a global perspective. Consequently, in order to respond to various new needs of the times flexibly, quickly, and strategically, while bearing in mind the national interest from a longer-term and more comprehensive perspective based on the prospects of global advances in science and technology and structural changes in the economy, and making arrangements to ensure that low-income developing countries will be able to play an appropriate role in the intellectual property cycle, from FY2005, the GOJ will make comprehensive reviews to intellectual property systems and develop systems as appropriate.

(Ministries and agencies concerned)

(2) Paying Attention to the Implementation of the Examination Guidelines

regarding Protection of Technology Relating to Methods for Bringing about New Efficacy or Effects of Medicine

The Examination Guidelines were revised in April 2005 with the objective of affording patent protection to technology relating to “methods for bringing about new efficacy or effects of medicine for the purpose of manufacturing and selling medicine,” as inventions of products. In the report titled “Patent Protection for Medical-Related Acts,” the task force stated as follows: an invention of a product differs from an invention of a process in terms of the scope of the subject matter and the effect of the patent, and it is impossible to fully protect technology relating to medical-related acts only as an invention of a product; therefore, the authorities concerned should continue efforts to explore the possibility of protecting such technology as an invention of a process in accordance with the purport of the invention. Based on this report, in FY2005, the GOJ will pay attention to the implementation of the Examination Guidelines regarding the protection of technology relating to methods for bringing about new efficacy or effects of medicine for the purpose of manufacturing and selling medicine.

(Ministry of Economy, Trade and Industry)

(3) Upgrading the Patent System for Gene Therapy and Regenerative Medicine

Recently, remarkable achievements have been made in technology innovation in the fields of gene therapy and regenerative medicine. From FY2005, the GOJ will investigate trends in innovative and advanced technology in these fields and consider future problems and the desirable form of the patent system in line with such advance in technology, and will develop systems as appropriate.

(Council for Science and Technology Policy and Ministry of Economy, Trade and Industry)

(4) Upgrading the Design System in order to Enhance Design Protection

In order to develop an environment for providing products of higher value through the creation of attractive designs, by the end of FY2005, the GOJ will consider reviewing the definition of design, introducing the non-substantive examination system, clarifying the approach for determining the similarity of designs, and reviewing the related design system and the part-design system, and will reform the Design Law and

develop systems as appropriate.

(Ministry of Economy, Trade and Industry)

(5) Upgrading the Trademark System in order to Enhance Brand Protection

For the purpose of developing an environment for providing products and services of higher value by utilizing attractive brands, until FY2004, the GOJ considered the definitions of trademark and use thereof, protection of famous trademarks, measures against counterfeits, and protection of local brands. In FY2005, the GOJ will further consider protecting trademarks for retailing/wholesaling as service marks and introducing the consent system, and will reform the Trademark Law and develop systems as appropriate.

(Ministry of Economy, Trade and Industry)

(6) Strengthening the Protection of Trade Secrets

1) Establishing new systems to prevent leakage of technology through patent applications

A large number of patent applications are filed by companies even with respect to know-how, which should have been kept secret, for fear that other companies might file applications and obtain rights relating to such know-how. This approach does not only cause a delay in the examination process but also unintended leakage of technology to other Japanese and foreign companies through publication of patent applications. Such unintended leakage of technology is partly due to the companies' own decisions to file applications, but it is also derived from the circumstances in which the existing system to grant non-exclusive license to the prior user is not easy to use, and due to cost restrictions, companies that successfully obtain rights both in Japan and overseas account for less than 10% of all companies that have filed applications. In light of such circumstances, it is necessary to provide companies with various means to take flexible measures depending on the types of technology and their own intellectual property strategy, in addition to filing patent applications, so that they will be able to protect their technology, which they seek to keep secret. Therefore, by the end of FY2005, the GOJ will consider such protective means from various perspectives, including the requirements and effect of such means and the methods of proof, and will

revise laws and develop systems as appropriate. The GOJ will also encourage Asian countries to develop systems in the same direction.

(Ministry of Economy, Trade and Industry)

2) Thoroughly strengthening the protection of trade secrets and the prevention of leakage of technology

i) In order to promote corporate efforts to manage trade secrets and prevent the leakage of technology, in FY2005, the GOJ will continue efforts to increase awareness of the “Guidelines for the Management of Trade Secrets” and “Guidelines for the Management of the Leakage of Technology” among large companies and SMEs as well as universities and other institutes.

ii) Based on the results of the follow up survey (FY2004) related to the Act against Delay in Payment of Subcontract Proceeds, Etc. to Subcontractors, which was amended to expand the scope of die transactions, in FY2005, the GOJ will amend the “Guidelines on the Prevention of Unintended Leakage of Die Drawings and Die Processing Data” as appropriate. Also, the GOJ will continue to disseminate to both die manufacturers and users the guidelines and the amended act mentioned above.

iii) In FY 2005, the GOJ will continue to encourage die manufacturers to make independent efforts to manage and protect intellectual property, by disseminating the “confidential mark” sealed on die drawings, etc. and the sample “basic transaction contract,” which were prepared by the Japan Die & Mold Industry Association.

(Ministry of Economy, Trade and Industry)

3) Considering the reinforcement of the protection of pharmaceutical test data

From the viewpoint of ensuring the quality, effectiveness, and safety of a new drug after it has been placed on the market, the test data to be submitted for obtaining approval for a new drug from the Ministry of Health, Labor and Welfare is subject to a re-examination period of six years, which effectively protects the data from being used later for filing an application for equivalent drugs (generics) in a simplified manner. By the end of FY 2005, the GOJ will consider strengthening the protection of such data in order to protect intellectual property and increase the incentive for the development of new drugs, including the possibility of making the term of protection 10 years, and will

develop systems as appropriate.

(Ministry of Health, Labor and Welfare, and Ministry of Economy, Trade and Industry)

4) Ensuring protection of trade secrets under the information disclosure system

For the purpose of protecting companies' trade secrets that might be disclosed under the Material Safety Data Sheet (MSDS) system, by the end of FY2005, the GOJ will consider this issue in accordance with the legislative purpose, e.g. securing public safety, and will upgrade the system as appropriate.

(Ministry of Health, Labor and Welfare, and Ministry of Economy, Trade and Industry)

7) Strengthening Database Protection

In FY2004, the Industrial Structure Council discussed database protection and concluded that this issue should be further discussed, while considering the introduction of protection under the *sui generis* system rather than protection under the Unfair Competition Prevention Law. From FY2005, the GOJ will further consider the desirable form of database protection and develop systems as appropriate.

(Ministry of Education, Culture, Sports, Science and Technology and Ministry of Economy, Trade and Industry)

(8) Strengthening the Protection of New Varieties of Plants

i) A bill for partial amendment of the Seeds and Seedlings Law has been submitted to the ordinary session of the Diet in 2005. The amendment is intended to afford appropriate protection to breeders of new varieties of plants, by expanding the scope of objects protected under the breeder's right to include processed products directly made from harvested materials as provided by Cabinet Order, and extending the term of breeder's right to 25 years. If this bill is passed by the Diet, the GOJ will work toward raising awareness of the amended system for protection of new varieties of plants and promote appropriate enforcement of rights. Also, the GOJ will consider expanding the scope of plants for which farmers need to obtain permission from plant breeder's right holders for their independent cultivation, and make necessary revisions to the system by the end of FY2005.

(Ministry of Agriculture, Forestry and Fisheries)

ii) In FY 2005, the GOJ will continue to promote the development of DNA analysis technologies in order to make it easier to determine infringing products with respect to plant varieties to be used for the harvested materials and/or processed goods made from the materials.

(Ministry of Agriculture, Forestry and Fisheries)

iii) The GOJ will increase efficiency in test growing and examination procedures, and reduce the average time required for the examination for the registration of plant varieties to 2.5 years by FY2010.

(Ministry of Agriculture, Forestry and Fisheries)

iv) In order to prevent farmers from infringing breeder's rights, without intention, when growing or assigning plant seeds and seedlings, in FY2005, the GOJ will support the diffusion of uniform marks created in the private sector for registered varieties.

(Ministry of Agriculture, Forestry and Fisheries)

(9) Upgrading the Systems for Strengthening Protection of Intellectual Property

Various legal and practical problems have been pointed out in respect of protection of intellectual property as follows.

- Large companies apply unjust treatment to intellectual property owned by SMEs that are subordinate to them in business relationships.
- Companies suffering infringement cannot obtain sufficient relief at court compared to the size of the damage, resulting in the infringers easily benefiting from acts of infringements.
- In intellectual property lawsuits, the infringer holds a large part of evidence that is necessary to establish infringement, which makes it extremely difficult for the victim, especially SMEs with poor capability of evidence collection, to establish infringement.
- Where an infringement lawsuit is filed, it would invite a number of trials for invalidation and actions regarding related patents, which makes it extremely difficult for the victim, especially SMEs with poor financial resources, to respond to such trials and actions.

In light of these circumstances, the GOJ will work toward raising awareness of the evidence disclosure system that has recently been amended. Also, in FY2005, the

GOJ will continue to discuss the following issues while giving due consideration to the understanding of the actual conditions, the positioning of intellectual property lawsuits within the framework of civil litigation, and legal proceedings, and will improve legal systems as appropriate.

- In accordance with SME-related laws and the guidelines under the Anti-Monopoly Law, protect intellectual property owned by SMEs and prevent large companies from abusing their superior status.
- Afford adequate relief to right holders under the compensation schemes for intellectual property, e.g. assessment of the amount of damage.
- Reduce the burden of the parties to intellectual property lawsuits in terms of proof.

(Japan Fair Trade Commission, Ministry of Justice, Ministry of Education, Culture, Sports, Science and Technology, Ministry of Agriculture, Forestry and Fisheries, and Ministry of Economy, Trade and Industry)

(10) Reviewing the Penalties for Infringements of Intellectual Property Rights

In order to increase deterrents against the infringement of intellectual property rights, from FY2005, the GOJ will consider raising the upper limit of the term of criminal penalty (imprisonment with labor) for infringement of intellectual property rights to ten years, and will develop systems as appropriate.

(Ministry of Justice, Ministry of Education, Culture, Sports, Science and Technology, Ministry of Agriculture, Forestry and Fisheries, and Ministry of Economy, Trade and Industry)

4. Strengthening the Dispute Settlement Functions

(1) Counting on the Intellectual Property High Court

i) The Intellectual Property High Court established in April 2005 is expected to realize more appropriate and prompt trial proceedings while meeting various needs, including: (i) making judgments based on technical expertise with the use of expert officials who are versed in intellectual property and technical matters; (ii) increasing the predictability of judgments by presenting de fact uniform standards in the earlier stage; (iii) operating the judicial system in line with the actual conditions of the economy and society. Judges at the Intellectual Property High Court are also expected to vigorously participate in

training programs provided in the private sector and international exchange activities in order to further improve their knowledge on business reality and international perspective. It is also desirable to disseminate information on the Intellectual Property High Court across the world.

ii) The expert official system was launched in April 2004. In FY2005, it is desirable to make this system function effectively, while securing users' confidence in it.

(2) Expanding Procedures for Collecting Evidence

In FY 2005, the GOJ will continue to consider the protection of trade secrets in criminal proceedings based on the results of the study on the need of industry, and will develop systems as appropriate if, in particular, it is allowable under the constitutional principle of open trial.

(Ministry of Justice and Ministry of Economy, Trade and Industry)

(3) Reinforcing Alternative Dispute Resolution (ADR)

i) In accordance with the Law Concerning the Promotion of the Use of Alternative Dispute Resolution Procedures established in 2004, a system for certifying services of private dispute resolution procedures to arrange reconciliation or mediation, will be implemented by the end of May 2007. In order to reinforce and revitalize the functions of ADR organizations from the perspective of providing a variety of dispute resolution methods concerning intellectual property, in FY2005, the GOJ will continue to raise awareness of the certification system among private operators engaging in dispute resolution procedures.

(Ministry of Justice and Ministry of Economy, Trade and Industry)

ii) In FY2005, the GOJ will continue to request the parties concerned, including the Japan Federation of Bar Associations and the Japan Patent Attorneys Association, to have discussions about the fields in which ADR can be utilized, such as the valuation of intellectual property, and expert opinion on patents and dispute resolution related to technical standards, and to take necessary measures.

(Ministry of Justice and Ministry of Economy, Trade and Industry)

iii) In FY2005, the GOJ will continue to consider appropriate role-sharing between the JPO's Hantei system (advisory opinion on the technical scope of a patent) and ADR

organizations, based on the study of a desirable ADR conducted in the course of the justice system reform, and will develop systems as appropriate.

(Ministry of Justice and Ministry of Economy, Trade and Industry)

5. Promoting Efforts to Establish a Global Patent System

(1) Aiming to Achieve the Mutual Recognition of Patents among the Trilateral Patent Offices

Filing patent applications in multiple countries requires much labor and costs from individual applicants, and also causes overlap in the examination process at patent offices that face an increase in the number of applications, resulting in inefficiency and waste on a global level. In particular, the trilateral patent offices, i.e. the JPO, USPTO, and EPO, deal with about 80% of the total number of patent applications filed in the world (about 1.06 million in 1.3 million), in which about 200,000 applications are examined at the trilateral patent offices in an overlapping manner. With such a rapid progress in globalization of science and technology and of business activities, we have already passed the phase of discussing theoretical matters and reached the phase of taking and accelerating concrete measures to cope with this issue.

Fortunately, thanks to the concerted efforts of the trilateral patent offices, progress has been made to a considerable extent toward the harmonization of examination standards. Measures have also been taken to conduct comparative study on search/examination results and hold international conference of examiners. Furthermore, the network for effective sharing of search/examination results among the trilateral patent offices (dossier access system) has already started operation.

Under these circumstances, with the aim of increasing convenience both for applicants and patent offices and realizing a global patent system, from FY2005, the JPO will play the leading role and take the following measures while promoting the harmonization of systems and operation thereof.

A) a) In light of the serious situation in which patent examination in Japan requires more time than that in the United States and Europe and the waiting period for examination becomes increasingly longer every year, and in consideration of applicants' needs, the JPO will establish a next-generation dossier access system in which, with respect to patent applications filed both in Japan and in the United States or Europe and

examined at the USPTO or the EPO, the JPO will be able to omit search in the examination process and determine whether or not to grant patent. The JPO will start operation of this new system in FY2005 (First step).

b) While making the efforts mentioned in a) above, with respect to patent applications filed at the trilateral patent offices relating to inventions in fields of cutting-edge technology where Japan plays a leading role, the JPO will immediately conduct search at the request of applicants and make the search results available, via the new system, to the USPTO and the EPO for examination (First step).

B) a) With the objective of enabling each trilateral patent office to omit search in the examination process and determine whether or not to grant patent with the use of the search results provided by another trilateral patent office, the JPO will build a “Patent Examination Highway System” to promote mutual exploitation of search/examination results among the trilateral patent offices (Second step).

b) While making the efforts mentioned in a) above, in order to ensure homogeneity and stability in examination and granting of rights among the trilateral patent offices, the JPO will promote mutual cooperation so that the USPTO and the EPO will be able to fully search reference materials written in Japanese (Second step).

C) While paying attention to the progress in the efforts mentioned in B) above, the JPO will establish a *de facto* mutual patent recognition system among the trilateral patent offices in which a patent granted in one country will be, in principle, recognized in other countries (Third step).

D) While making the efforts mentioned in A) to C) above, the JPO will approach other foreign patent offices in addition to the USPTO and the EPO with respect to the expansion of mutual exploitation and recognition, with the ultimate goal of realizing a global patent system.

(Ministry of Economy, Trade and Industry)

(2) Promoting Unification of Formats of Patent Specifications among the Trilateral Patent Offices

Along with the efforts among the trilateral patent offices mentioned in (1) above, from FY2005, the GOJ will promote public-private cooperation to unify formats of patent specifications into one format among the trilateral patent offices, while giving

due consideration to the influence on applicants of such change in formats.

(Ministry of Economy, Trade and Industry)

(3) Promoting Efforts to Harmonize Patent Systems and Operation Thereof in Asia

As business relationships become closer among Asian countries including China and the Republic of Korea, it is hoped that patent systems in Asia will be unified in the future. In FY2005, the GOJ will continue to provide Asian countries, through bilateral or regional partnerships, with support for examination, human resource development, and computerization, as well as promote public-private cooperation toward harmonization of patent systems and operation thereof in Asia.

(Ministry of Economy, Trade and Industry)

(4) Promoting Global Cooperation in Patent Examination

In FY 2005, the GOJ will continue to further promote projects mutually exploiting search/examination results and examiner exchange among the trilateral patent offices of Japan, the United States, and Europe, as well as among other developed countries. In addition, the GOJ will promote further utilization of international applications under the Patent Cooperation Treaty (PCT) and the accelerated examination system for applications filed by Japanese applicants to acquire rights overseas, and promptly transmit information on examination results to the world.

(Ministry of Economy, Trade and Industry)

(5) Promoting the Reform of the Patent Cooperation Treaty (PCT)

In FY 2005, the GOJ will continue to promote the establishment of a system that will facilitate the international acquisition of rights by vigorously committing to discussions aimed at improving the convenience of users and further utilizing prior art searches and preliminary examinations conducted by international search authorities and international preliminary examination authorities in the discussions on PCT reform in the World Intellectual Property Organization (WIPO).

(Ministry of Foreign Affairs and Ministry of Economy, Trade and Industry)

(6) Facilitating the Acquisition of Rights in Developing Countries

In FY 2005, with the objective of facilitating the acquisition of rights overseas by Japanese applicants and ensuring sufficient protection of those rights, the GOJ will continue to strategically promote developing countries' joining of the PCT as well as developing countries' institutional or operational adoption of the modified substantive examination system, which is a system of patenting applications based on the search/examination results of Japan in cases in which the applications have been patented in Japan, through bilateral and regional frameworks. The GOJ will also continue to promote its cooperation in human resources development and computerization through such activities as a dispatch of experts, acceptance of trainees, holding of local seminars, and implementation of technical cooperation projects, in order to contribute to developing patent law systems and improving operations of the systems in developing countries.

(Ministry of Foreign Affairs and Ministry of Economy, Trade and Industry)

(7) Promoting International Harmonization of Patent Systems

i) In FY 2005, the GOJ will continue to engage vigorously in the discussions on the Substantive Patent Law Treaty in WIPO and promote debates aimed at achieving the international harmonization of the patent systems, including discussions about having the United States fully introduce an 18-month-publication, review of the first-to-invent system, and the global adoption of a unified grace period.

(Ministry of Foreign Affairs and Ministry of Economy, Trade and Industry)

ii) In FY 2005, with the objective of facilitating the international acquisition of rights, the GOJ will continue to promote discussions for making international rules in WIPO and other opportunities, encouraging countries to adopt a system that allows filing of original language applications and correction of translations based on application documents written in the original language, while considering the balance with the interests of third parties

(Ministry of Foreign Affairs and Ministry of Economy, Trade and Industry)

(8) Establishing International Networks for Exchanging Information on Patent Examination

i) With the aim of sending out the JPO's examination results overseas and enhancing

cooperation in examination among the trilateral patent offices of Japan, the United States, and Europe and to the developing countries, in FY2005, the GOJ will continue to improve the environment to use the Advanced Industrial Property Network (AIPN) for translating information on search/examination results from Japanese to English and making it available to foreign patent offices, and will promote the use of this system. Also, in FY2005, the GOJ will continue to prepare English abstracts of published Japanese patent applications and make them available to foreign countries free of charge.

(Ministry of Economy, Trade and Industry)

ii) In FY 2005, the GOJ will continue to promote the utilization of Japanese-English machine translation in the industry by further reinforcing dictionaries for machine translation from Japanese to English and disclosing to outsiders the dictionaries possessed by the Japan Patent Office, in order to ensure that the JPO's search/examination results will be effectively utilized through AIPN in examinations conducted in other countries as well as to contribute to expediting the acquisition of rights overseas by Japanese applicants and reducing the burden of translation.

(Ministry of Economy, Trade and Industry)

6. Promoting International Protection of Intellectual Property and Cooperation in Protection

(1) Promoting International Design Protection and Cooperation in Protection

With the objective of internationally protecting the designs created in Japan, in FY 2005, the GOJ will continue to provide Asian nations with cooperation in examination through provision of information about the JPO's design examination results and cooperation in developing relevant protection systems through a dispatch of design experts and acceptance of trainees.

(Ministry of Economy, Trade and Industry)

(2) Promoting International Trademark Protection and Cooperation in Protection

1) Promoting the use of the international trademark registration system

Since the international trademark registration system based on the Madrid Protocol facilitates the international acquisition of trademark rights, the GOJ will, in FY

2005, continue to approach the non-members in the Asia region to join the Protocol through bilateral and regional frameworks, and promote the use of the system by Japanese applicants.

Also, the GOJ will actively participate in the discussion on the review of the Madrid System to be launched at WIPO in FY2005, with the aim of contributing to the development of the system.

(Ministry of Foreign Affairs and Ministry of Economy, Trade and Industry)

2) Promoting cooperation in human resources development in developing countries

In FY 2005, the GOJ will continue to extend cooperation in the areas of human resources development and utilizing IT through a dispatch of experts, acceptance of trainees, holding of local seminars, and implementation of technical cooperation projects, in order to contribute to developing trademark law systems and improving their operations in developing countries.

(Ministry of Foreign Affairs and Ministry of Economy, Trade and Industry)

3) Promoting international harmonization of the trademark system

i) In FY 2005, the GOJ will continue to engage vigorously in discussions on the amendment of the Trademark Law Treaty in WIPO and promote such discussions so as to further improve the trademark system for the convenience of users.

(Ministry of Foreign Affairs and Ministry of Economy, Trade and Industry)

ii) In FY 2005, the GOJ will continue to further promote the standardization of indications of designated goods/services among the trilateral patent offices of Japan, the United States, and Europe, in order to reduce procedural burdens on applicants who acquire rights overseas and the workload on national patent offices.

(Ministry of Foreign Affairs and Ministry of Economy, Trade and Industry)

(3) Promoting Cooperation in Examination and the Development of Systems Related to the Protection of Rights on New Plant Varieties

i) With the objective of achieving prompt and precise international protection of rights, in FY 2005, the GOJ will continue to take the following measures. The GOJ will also consider the future introduction of the mutual recognition system and develop systems

as appropriate.

a) Review the examination standards to harmonize examination processes on a global scale.

b) Implement regular discussions with examiners in China, the Republic of Korea, and other countries to promote cooperation in examination.

(Ministry of Foreign Affairs, and Ministry of Agriculture, Forestry and Fisheries)

ii) In FY 2005, with the objective of enhancing the development of systems for protecting rights on new plant varieties in the Asian region, the GOJ will continue to provide assistance for developing such systems and conduct training for developing experts through the International Union for the Protection of New Varieties of Plants (UPOV). In addition, the GOJ will promote the establishment and improvement of such systems through various opportunities such as negotiations for Free Trade Agreements (FTA) or Economic Partnership Agreements (EPA).

(Ministry of Foreign Affairs and Ministry of Agriculture, Forestry and Fisheries)

iii) From FY2005, the GOJ will dispatch public-private joint missions to China and the Republic of Korea and encourage these countries to expand the scope of plants eligible for protection and improve the system for protecting plant varieties and the operation thereof.

(Ministry of Agriculture, Forestry and Fisheries)

(4) Promoting the Development of International Rules on Dispute Settlement

With the objective of clarifying international rules on intellectual property enforcement and dispute settlement across national borders pertaining to Internet-related incidents etc., the GOJ will continue to actively engage in discussions concerning the international jurisdiction of lawsuits related to the validity or infringement of intellectual property rights in FY 2005.

(Ministry of Justice, Ministry of Foreign Affairs, Ministry of Education, Culture, Sports, Science and Technology, and Ministry of Economy, Trade and Industry)

(5) Utilizing Free Trade Agreements (FTAs), Economic Partnership Agreements (EPAs) and Other Agreements

In FY 2005, the GOJ will continue to actively encourage negotiating countries

to develop the intellectual property system and ensure the efficient enforcement of intellectual property rights through negotiations on bilateral and multilateral agreements, including Free Trade Agreements, Economic Partnership Agreements, and investment agreements, so as to achieve intellectual property protection beyond the level provided in the TRIPS Agreement, which meets the request of the Japanese industry.

(Ministry of Foreign Affairs, Ministry of Education, Culture, Sports, Science and Technology, Ministry of Agriculture, Forestry and Fisheries, and Ministry of Economy, Trade and Industry)

(6) Sending out the English Translations of Intellectual Property-Related Laws to the World

In FY 2005, the GOJ will continue to promote the global distribution of accurate and unified English translations of Japanese intellectual property-related laws to the world in cooperation with the ministries and agencies concerned and relevant organizations, with the aim of making these laws understood and easy to utilize throughout the world.

(Judicial Reform Headquarters in the Cabinet Secretariat, Ministry of Justice, Ministry of Education, Culture, Sports, Science and Technology, Ministry of Agriculture, Forestry and Fisheries, Ministry of Economy, Trade and Industry, and other ministries and agencies concerned)

II. Strengthening Measures Against Counterfeits and Pirated Copies

In overseas markets, including the Chinese market, the number of Japanese companies damaged by counterfeits and pirated copies has been increasing and all types of business have been affected. The numbers of products which infringe not only trademarks but also designs, patents, and seeds and seedlings have been increasing, and the technical advance and large-scale distribution of counterfeits have been progressing. Counterfeits and pirated copies spread throughout the world from the country or region where they are manufactured. In particular, the connection between counterfeits/pirated copies and criminal organizations/terrorist groups has been pointed out in recent years. Therefore, the problem of counterfeits and pirated copies is to be tackled with the cooperation of all countries around the world. In addition, since the number of counterfeits and pirated copies being stopped at Customs has been rapidly increasing in Japan in recent years, there is strong concern about the flow of counterfeits and pirated copies into the Japanese domestic market.

The problem with counterfeits and pirated copies is that they cheat right holders out of potential profits and diminish the incentive to create new intellectual property, as well as decrease consumer trust in corporate brands, thereby hindering consumer benefits. In addition, counterfeits and pirated copies remarkably inhibit fair competition among companies in the global market.

In aiming to make Japan an "intellectual property-based nation," both public and private sectors are strongly required to take powerful measures to protect Japanese companies against damage from counterfeits and pirated copies, not only in Japan but also overseas.

1. Strengthening Measures in Overseas Markets

Damage from counterfeits and pirated copies in overseas markets has been spreading all over the world from Asia along with the progress of technical advances and large-scale distribution. Although Japanese companies are making efforts to protect their own profits in countries and regions where infringements have been exposed, it is difficult to ask the authorities in such countries and regions to regulate infringements or to improve systems through such private sector efforts alone. Especially for SMEs, the procedural, personnel, and cost burdens are excessive, and they are thus actually helpless when faced with infringements. Therefore, the appropriate government support corresponding to the actual damage is strongly requested.

In particular, there has recently been concern about involvement by criminal organizations in the distribution of counterfeits and pirated copies. Moreover, it has been pointed out that unfair profits from selling counterfeits and pirated copies have become a financial source of terrorist groups. Therefore, the problem of counterfeits and pirated copies is to be tackled based on cooperation among all countries around the world.

Furthermore, inferior products spread across the world and cause health damage and explosion incidents, threatening consumers' health and safety.

Under these circumstances, from the viewpoint of maintaining global competition and strengthening the industrial competitiveness of Japan, the problem of counterfeits and pirated copies should not only be considered an issue of intellectual property protection but also be recognized as a global trade issue, and measures against the problem should be strengthened.

(1) Strengthening Measures against Countries and Regions Where Infringements Have Been Exposed

1) Strengthening measures against counterfeits and pirated copies in overseas markets

i) Positioning measures against counterfeits and pirated copies as a key diplomatic measure of Japan, in FY2005, the GOJ will continue efforts to ensure that all Overseas Establishments will, in accordance with the Manual to Cope with Intellectual Property Infringements and under the initiative of the ambassadors, actively conduct support activities, such as understanding actual damage incurred by individual Japanese companies, following up measures against damage taken by the regulatory authorities, and making a request to the regulatory authorities, aiming to increase accessibility to these establishments for companies.

(Ministry of Foreign Affairs)

ii) In FY 2005, Overseas Establishments and the Japan External Trade Organization (JETRO) will continue to provide specific support, such as giving advice about procedures and measures to be taken, introducing search companies, and instructing companies about the acquisition and enforcement of rights overseas.

(Ministry of Foreign Affairs and Ministry of Economy, Trade and Industry)

iii) In FY 2005, the GOJ will continue to gather know-how and related information, including measures to be taken when incurring damage from counterfeits and pirated copies, and to gather and distribute examples of such cases, which are needed for Japanese companies to enforce their rights in infringing countries by taking action such

as instituting lawsuits; and the GOJ will distribute compiled material to companies.

(Ministry of Foreign Affairs, Ministry of Education, Culture, Sports, Science and Technology, Ministry of Economy, Trade and Industry, and other ministries and agencies concerned)

iv) In FY 2005, the GOJ will continue to support the overseas activities of the International Intellectual Property Protection Forum, the Organization for Promotion of Overseas Distribution of Contents, the Anti-Counterfeiting Association, and other private organizations in order to assist Japanese companies' efforts overseas against counterfeits and pirated copies.

(National Police Agency, Ministry of Foreign Affairs, Ministry of Education, Culture, Sports, Science and Technology, and Ministry of Economy, Trade and Industry)

v) In order to facilitate efforts to expose pirated copies, from FY2005, the GOJ will support the dissemination of the *Content Japan* (CJ) mark as well as the activities to investigate and expose pirate copies.

(National Police Agency, Ministry of Education, Culture, Sports, Science and Technology, and Ministry of Economy, Trade and Industry)

vi) In order to resolve international disputes over counterfeits and pirated copies effectively, in FY 2005, the GOJ will continue to encourage private industrial organizations to establish an international arbitration/conciliation organization, hold periodical meetings to exchange opinions, and carry out other supporting activities.

(Ministry of Economy, Trade and Industry)

2) Utilizing the infringement situation survey

i) In light of the seriousness of damage due to intellectual property infringements suffered by Japanese companies overseas, from FY2005, the GOJ will promote the use of the Survey on Intellectual Property Infringements Overseas.

(Ministry of Foreign Affairs, Ministry of Economy, Trade and Industry, and other ministries and agencies concerned)

ii) From FY2005, the GOJ will prepare and disclose reports on the measures against counterfeits and pirated copies taken by other countries, on the basis of regular surveys and surveys based on a right holder's claim, and will also strongly request the governments of countries and regions, where infringements have been exposed, to alleviate the problem.

(Ministry of Foreign Affairs, Ministry of Economy, Trade and Industry, and other ministries and agencies concerned)

3) Making specific requests to countries and regions where infringements have been exposed

i) In FY 2005, the GOJ will continue to strongly request, on the ministerial level and various other levels, that countries and regions where infringements have been exposed, such as China and other Asian countries, improve specific systems and strengthen regulations effectively, including: (i) tightening control of fake designs; (ii) strengthening the enforcement; (iii) strengthening regulations against repeat offenses; (iv) promoting the recognition of well-known trademarks; and (v) reducing burden on right holders for control at the border.

(Ministry of Foreign Affairs, Ministry of Education, Culture, Sports, Science and Technology, Ministry of Economy, Trade and Industry, Ministry of Land, Infrastructure and Transport, and other ministries and agencies concerned)

ii) In order to eradicate counterfeits and pirated copies overseas, it is important for Japan to produce a climate that emphasizes intellectual property and to become a country that does not produce counterfeits and pirated copies for itself. Therefore, in FY 2005, the GOJ will continue to strengthen cooperation with authorities and organizations that work on measures in countries and regions where infringements have been exposed. The GOJ will also work on support for awareness-raising activities so that the general public in countries and regions where infringements have been exposed can recognize counterfeits and pirated copies as social ills.

(Ministry of Foreign Affairs, Ministry of Education, Culture, Sports, Science and Technology, Ministry of Economy, Trade and Industry, and other ministries and agencies concerned)

4) Investigating the damage due to counterfeits and pirated copies

Taking into account the increase in the number of Japanese companies damaged by counterfeits and pirated copies in overseas markets, including the Chinese market, in FY2005, the GOJ will continue to investigate and analyze the actual damage due to counterfeits and pirated copies, and will make the analysis results public and use them for international negotiations.

(Ministry of Foreign Affairs, Ministry of Education, Culture, Sports, Science and Technology, and Ministry of Economy, Trade and Industry)

(2) Utilizing Bilateral Frameworks

i) In FY 2005, the GOJ will continue to conduct active negotiations in order to incorporate not only a provision for the establishment of an intellectual property-related

legal system but also a provision for ensuring effective enforcement of the system into bilateral/multilateral agreements with Asian countries, such as free trade agreements (FTA), economic partnership agreements (EPA), investment agreements, and customs mutual assistance agreements. Also, the GOJ will review the actual status of enforcement within mechanisms under the treaties.

(Ministry of Foreign Affairs and other ministries and agencies concerned)

ii) In FY 2005, the GOJ will continue to take strategic and detailed measures, including requesting that other countries strengthen regulations and improve systems by presenting actual damage incurred by Japanese companies, in bilateral consultations.

(Ministry of Foreign Affairs and other ministries and agencies concerned)

(3) Strengthening Cooperation with the United States and Europe

1) Strengthening cooperation with the EU and European countries

At the Japan-EU periodical summit held in May 2005, an agreement was reached to further promote the Japan-EU Joint Initiative for Enforcement of Intellectual Property Rights in Asia, with the objective of coping with counterfeits and pirated copies in Asia. In FY 2005, in order to be more effective in approaching and generating results in countries and regions where infringements have been exposed, the GOJ will continue to develop cooperation with the EU by actively utilizing regular consultations and individual consultations between the leaders or ministers of Japan and the EU and promoting measures based on actions plans under the initiative.

Furthermore, for the purpose of ensuring effective cooperation with the EU, the GOJ will also strengthen bilateral cooperation with France and other European countries.

(Ministry of Foreign Affairs, Ministry of Education, Culture, Sports, Science and Technology, Ministry of Economy, Trade and Industry, and other ministries and agencies concerned)

2) Strengthening cooperation with the United States

In FY 2005, in order to promote protection of intellectual property rights in Asia, the GOJ will continue to develop cooperation with the United States by actively utilizing bilateral consultations between the leaders or ministers of Japan and the United States.

(Ministry of Foreign Affairs, Ministry of Education, Culture, Sports, Science and Technology, Ministry of Economy, Trade and Industry, and other ministries and agencies concerned)

(4) Taking the Initiative in Promoting Multilateral Efforts

i) In the Chair's Summary at the Sea Island Summit in June 2004, the need to fight counterfeiting and piracy of intellectual property was recognized. In FY2005, the GOJ will continue to make arrangements so that the issue of counterfeiting and piracy will be discussed among leaders and other high-level government officials at the G8 summit as well as the Organization for Economic Co-operation and Development (OECD), the Asia-Pacific Economic Cooperation (APEC), the Asia-Europe Meeting (ASEM), the World Trade Organization (WTO), the World Intellectual Property Organization (WIPO), and other international organizations and forums.

(Ministry of Foreign Affairs, Ministry of Education, Culture, Sports, Science and Technology, Ministry of Economy, Trade and Industry, and other ministries and agencies concerned)

ii) In FY2005, in cooperation with other countries, the GOJ will continue to actively promote discussions on the anti-counterfeiting project under consideration at the OECD. (Ministry of Foreign Affairs, Ministry of Education, Culture, Sports, Science and Technology, Ministry of Economy, Trade and Industry, and other ministries and agencies concerned)

iii) Promotion of intellectual property right protection was incorporated in the Asia-Pacific Economic Cooperation (APEC) Leaders' Declaration and the Ministerial Declaration in November 2004, and an agreement was reached as to the "Intellectual Property Policy Progress Mapping," which was proposed by Japan and developed under the initiative of Japan. In March 2005, Japan and the United States made a joint proposal of "APEC Anti-Counterfeiting and Piracy Initiative," which aimed to reduce transactions of counterfeits and pirated copies as well as copyright infringements on the Internet and strengthen cooperation to fight counterfeiting and piracy. This initiative was agreed at the Meeting of Ministers Responsible for Trade in June 2005. In FY2005, the GOJ will work on guidelines as proposed in the initiative, aiming to submit them to the ministerial conference. Also, the GOJ will continue to steadily promote the use of the Intellectual Property Policy Progress Mapping and the APEC Comprehensive Strategy on IPR Protection, and encourage other countries and regions to establish intellectual property right service centers at an early date.

(Ministry of Foreign Affairs, Ministry of Economy, Trade and Industry, and other ministries and agencies concerned)

iv) Strengthening of efforts in the field of intellectual property rights was incorporated in the Chairman's Statement and the Economic Declaration at the fifth Asia-Europe

Meeting (ASEM) in October 2004. In FY2005, in order to steadily implement measures adopted at the summit meeting, the GOJ will actively engage in activities in the field of intellectual property rights under the ASEM Trade Facilitation Action Plan, and promote cooperation between Asia and Europe to protect intellectual property.

(Ministry of Foreign Affairs and other ministries and agencies concerned)

v) In FY 2005, the GOJ will continue to strongly request Asian countries and regions to regulate counterfeits and pirated copies by actively utilizing the World Trade Organization's (WTO) Transitional Review Mechanism (TRM) for China, the WTO review of the implementing legislation for the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement), and the WTO Trade Policy Review Mechanism (TPRM).

(Ministry of Foreign Affairs, Ministry of Education, Culture, Sports, Science and Technology, Ministry of Economy, Trade and Industry, and other ministries and agencies concerned)

vi) In FY 2005, the GOJ will continue to take up the issue of enforcement against counterfeits and pirated copies as a main topic on the agenda in the WIPO and make active efforts to have the WIPO members share the common recognition that the regulation of counterfeits and pirated copies is a problem that must be addressed through the united efforts of WIPO members.

(Ministry of Foreign Affairs, Ministry of Education, Culture, Sports, Science and Technology, Ministry of Economy, Trade and Industry, and other ministries and agencies concerned)

(5) Advocating a Counterfeits/Pirated Copies Nonproliferation Treaty and Aiming for Adoption Thereof

Taking into consideration the situation that the problem of counterfeits and pirated copies did not remain in a specific country but has spread throughout the world and that counterfeits and pirated copies generate funds for criminal groups/terrorist groups as well as threaten consumers' health and safety, the GOJ will advocate, as an effective supplementary means for the TRIPS Agreement, a treaty to provide for proliferation of counterfeits and pirated copies as a clear international rule, in cooperation with other countries as well as international organizations including the World Customs Organization (WCO) and the International Criminal Police Organization (Interpol), and will aim to realize the adoption of the treaty as early as possible. To this end, in FY2005, the GOJ will consider a wide range of issues including the following to make proposals and discuss them with other countries.

a) Prohibition of export and transit of counterfeits and pirated copies across the border

For the purpose of preventing counterfeits and pirated copies from spreading from the countries and regions where they are produced, throughout the world, the Member States shall prohibit export or transit of counterfeits and pirated copies across the border. The custom authorities shall forfeit such counterfeits and pirated copies in the middle of export or transit.

b) Prohibition of private importation

The Member States shall prohibit private import of counterfeits and pirated copies. The custom authorities shall forfeit such counterfeits and pirated copies in the course of import.

c) Prohibition of imitation of configurations

For the purpose of ensuring effective protection from unfair competition, the Member States shall prohibit imitation of configurations. The custom authorities shall forfeit such imitations of configurations in the middle of import or export.

d) Remove of marks at the border

Unless in exceptional cases, the custom authorities shall not permit a person to import goods with counterfeit trademarks only by removing such trademarks that are illegally attached to the goods.

e) Forfeiture of crime proceeds and extradition of criminals

By establishing provisions on intellectual property-related crimes in accordance with the United Nations Convention against Transnational Organized Crime, the Member States shall enable forfeiture of crime proceeds and extradition of criminals.

f) Cooperation, operation, dispute settlement

Efforts shall be made to promote appropriate exchange of information and mutual cooperation between the competent authorities and develop mechanisms for reporting operational status and settling disputes.

(Ministry of Foreign Affairs, Ministry of Education, Culture, Sports, Science and Technology, Ministry of Economy, Trade and Industry, and other ministries and agencies concerned)

(6) Supporting Asian Nations to Increase Their Capacity to Take Measures against Counterfeits and Pirated Copies

i) Taking into account that the appropriate protection of intellectual property rights is essential for the expansion of trade investment and economic development in developing countries, in FY 2005, the GOJ will continue to support developing

countries in developing their intellectual property systems and strengthening the enforcement thereof according to the needs and priorities under individual aid projects, on the basis of the ODA Charter decided in August 2003.

(Ministry of Foreign Affairs and other ministries and agencies concerned)

ii) In accordance with the Support Initiative for Cooperation and Capacity Building for Intellectual Property Protection developed in June 2005, the ministries and agencies concerned as well as relevant organizations including the Japan International Cooperation Agency (JICA) and JETRO will, in cooperation among them and in collaboration with Japanese companies, from FY2005, implement capacity-building activities for the protection of intellectual property rights, for the government officials and private organizations/companies in Asian countries that take active measures against counterfeits and pirated copies.

The activities will be reviewed at the end of every fiscal year.

(National Police Agency, Ministry of Internal Affairs and Communications, Ministry of Justice, Ministry of Foreign Affairs, Ministry of Finance, Ministry of Education, Culture, Sports, Science and Technology, Ministry of Agriculture, Forestry and Fisheries, and Ministry of Economy, Trade and Industry)

2. Strengthening Regulations at the Border

Products infringing patent rights, which were produced in countries/regions where infringements have been exposed, are flowing into Japan, and border regulations must be urgently strengthened for products infringing patent rights, etc. The GOJ has been steadily promoting the establishment of a system to regulate such products at the border. For example, the amendment of the Customs Tariff Law in 2005 created a system in which, under certain conditions, Customs may provide the right holder with samples for overhaul inspection.

However, the GOJ needs to establish a system to effectively seize products that infringe patent rights based the opinions of the parties concerned and the involvement of experts, while giving due consideration so as not to damage the legitimate interests of right holders and importers. Such considerations are necessary because it can be difficult in many cases to determine infringement just by the appearance of a product and because importers sometimes bring forward counterarguments in terms of legal/technical problems.

As for regulations of products infringing trademark rights, due to Customs' efforts, the number of products infringing intellectual property rights, such as fake brand

products, that are seized by Customs has recently been significantly increasing. However, massive counterfeits and pirated copies are still flowing into Japan through sophisticated methods of counterfeiting and diversified forms of distribution. In order to overcome such a situation and keep out fake brand products and other counterfeits at the border, it is necessary to further strengthen border regulations through the improvement of the legal system and other measures.

(1) Establishing a System for Specialized, Simple, and Prompt Determination of Infringement and Suspension of Products Infringing Patent Rights

Products infringing patent rights, etc. that are seized at the border are wide-ranging, including those that are determinable from their appearance and those that require specialized determination of infringement based on the claims of the parties concerned. In addition, speed is an important factor in the measures taken against counterfeits and pirated copies, and especially for SMEs, a concise procedure and low-cost burden are virtually indispensable. There is also a view stressing the need to develop fair and transparent procedures and provide both parties to dispute with opportunity to present their opinions. Therefore, in order to ensure that right holders can use various procedures according to their needs and the nature of infringement, by the end of FY2005, the GOJ will further consider a mechanism for determining technical matters from an expert perspective, in light of the importance of the capability to judge technology at the border as well as the institutional usability and the procedural fairness, and based on the outcome of the implementation of the past system reforms, and will develop legal systems and other systems as appropriate.

(Ministry of Finance, Ministry of Agriculture, Forestry and Fisheries, and Ministry of Economy, Trade and Industry)

(2) Utilizing Orders of Provisional Disposition Issued by Courts

If the court issues a preliminary injunction during the period of the infringement-finding procedure by Customs, unless there are special circumstances, the Customs Director will find infringement based on determination of the infringement in the order. Considering this fact and the necessity of prompt remedy at the border, in FY2005, courts are expected to take action in the proceeding so as to ensure that a preliminary injunction is issued promptly.

(3) Stopping the Import of Identical Products Regardless of Relevant Importer

From the viewpoint of preventing the circumvention of measures to seize the

infringing products and of securing the effectiveness of such measures, it is necessary to seize products suspected of being identical to relevant infringing products if any such products are to be imported after the relevant product was determined as an infringing product. From FY2005, the GOJ will ensure that Customs will thoroughly implement the procedures, regardless of the importer, to determine whether the product is identical to an infringing product or judge the existence of licenses, thereby stopping the import of such products in a simple and prompt manner.

(Ministry of Finance)

(4) Utilizing Alternative Dispute Resolution (ADR) Organizations

In consideration of the diversity of patent infringement cases, from FY2005, the GOJ will ensure that Customs will determine infringement based on the outcome of the dispute resolution procedures in cases where both parties concerned, the right holder and the importer, utilize an alternative dispute resolution (ADR) organization, such as the Japan Intellectual Property Arbitration Center.

(Ministry of Finance)

(5) Strengthening Regulations according to the Distribution Form of Counterfeits, etc.

1) Strengthening the regulations of counterfeits and pirated copies at Customs

i) Taking into account the current situation in which imports, under the guise of parallel imports or private imports or private small-lot cargoes, is one of the reasons for the deluge of fake brand products and pirated copies in Japan, the GOJ will, in FY 2005, continue to promote the strengthening of cooperation between Customs and right holders, the reinforcement of inspection equipment and the information system at Customs, the securing of a necessary number of Customs officials, and the improvement of the capabilities of Customs officials, in order to further strengthen the regulations against such kinds of imports.

(Ministry of Finance)

ii) Taking into account the current situation in which new methods have been invented to transport counterfeits and pirated copies, e.g. bringing counterfeits and pirated copies into a third party country for transshipment and then exporting them to the target country, the GOJ will, from FY2005, consider appropriate systems from various perspectives along with the discussion on a Counterfeits/Pirated Copies Nonproliferation Treaty (tentative name), with the aim of enabling Customs to take timely measures to stop export cargos or transit cargos at the border, and will revise

laws and develop systems as appropriate, and strengthen control at Customs.
(Ministry of Justice, Ministry of Finance, Ministry of Education, Culture, Sports, Science and Technology, Ministry of Agriculture, Forestry and Fisheries, and Ministry of Economy, Trade and Industry)

2) Strengthening the regulations of products that imitate configuration

A bill for amendment of the Customs Tariff Law was passed by the ordinary session of the Diet in 2005 to also prohibit import of products that imitate configuration, products that bring about confusion with a well-known indication, and products that abuse a famous indication. Consequently, it will be possible to prevent evasion of the law, specifically, the clearing of customs by removing marks attached to products infringing trademark rights. Furthermore, a bill for amendment of the Unfair Competition Prevention Law has been submitted to the ordinary session of the Diet in 2005 to introduce penal provisions for imitations of configurations, so as to make it possible to regulate imitations of the inner structure of products and evasion of the law by removing marks. If this bill is passed by the Diet, the GOJ will raise awareness of new regulations and strengthen Custom control of import of imitations of configurations.

(Ministry of Finance and Ministry of Economy, Trade and Industry)

3) Strengthening regulations against evasion of law by removing components and parts

In order to prevent evasion of the law, specifically, clearing through Customs by removing parts of products infringing design rights at the Customs Office, in FY 2005, the GOJ will continue to review the Design Law and develop the system by amending laws as needed, thereby strengthening regulations at Customs.

(Ministry of Finance and Ministry of Economy, Trade and Industry)

(6) Strengthening the Regulations of Private Import, etc.

At present, importing and possessing counterfeits and pirated copies for personal use is not prohibited by law and the public awareness of counterfeits and pirated copies is very weak. Therefore, in order to make it clear to the public that importing and possessing counterfeits and pirated copies for personal use is harmful to society and to prevent a deluge of counterfeits, by the end of FY 2005, the GOJ will further reconsider the prohibition of importing and possessing counterfeits and pirated copies for personal use, and will establish a new law or develop systems as appropriate.

(National Police Agency, Ministry of Justice, Ministry of Finance, Ministry of Education, Culture, Sports, Science and Technology, and Ministry of Economy, Trade and Industry)

3. Strengthening Domestic Regulations

The trade of massive fake brand products and pirated CD and DVDs on Internet auction sites and the infringement of copyrights of movies and music by using file-swapping software are rampant. Another problem arises from counterfeits threatening consumers' health and safety. Also, the trade of products that use one's portrait without authorization is increasing. Taking into consideration such situations in which counterfeits and pirated copies cause increasingly serious damage in Japan, it is necessary to further strengthen domestic regulations.

In addition, in order to prevent counterfeits and pirated copies from being manufactured overseas, it is necessary to strengthen domestic measures including the improvement of the legal system to prevent the leakage of technologies such as know-how.

(1) Promoting Comprehensive Measures to Regulate Infringements on the Internet **1) Protecting consumers from the sale of counterfeits and pirated copies via Internet auctions**

The sale of counterfeits and pirated copies via Internet auctions is a criminal act. While the GOJ currently requests Asian countries to strengthen regulations (enforcement) for infringements of intellectual property rights, massive sale of counterfeits and pirated copies is also seen domestically. Taking into consideration the seriousness of such damage suffered by consumers and of infringements of intellectual property rights as well as the urgent need of countermeasures, by the end of June 2005, the GOJ will strongly implement the following measures. Furthermore, the GOJ will pay attention to the implementation of such measures and the actual damage due to counterfeits and pirated copies and will verify the effectiveness of the measures in a timely manner. Based on the results of verification, the GOJ will comprehensively discuss the necessity of additional measures while giving due consideration to protection of personal information, sound development of Internet auctions, equity between auction providers, and coordination of interest among auction providers, dealers, and right holders, and will revise laws and develop systems as appropriate.

A) Strengthen the implementation of the Special Commercial Transaction Law

a) Develop standards for determining “commercial dealers” to be regulated under the Special Commercial Transaction Law based on the actual damage due to counterfeits and pirated copies at Internet auctions, and establish them as guidelines under the law as early as possible by following necessary procedures. In this process, qualitative and quantitative factors for determination should be indicated as clearly as possible, by setting a quantitative threshold for each product field where sale of counterfeits and pirated copies frequently occurs.

b) Raise awareness of the guidelines and strengthen law enforcement against commercial dealers who are in violation of the Special Commercial Transaction Law.

c) Strengthen regulations for commercial dealers who are in violation of the Special Commercial Transaction Law.

B) Encourage auction providers to develop rules for voluntary control such as the followings and promote their independent efforts.

a) Strongly request commercial dealers to comply with the obligation of self-identification under the Special Commercial Transaction Law.

b) Refuse commercial dealers who are found to be in violation of the Special Commercial Transaction Law from bringing articles for auctions, delete information on their articles from the auction sites, or cancel auction contracts with such dealers.

c) Take measures to establish a system in which commercial dealers who are found to be in violation of the Special Commercial Transaction Law will be refused from bringing articles for auctions as non-commercial individuals.

d) Delete information on articles that are alleged by right holders to be infringing their rights.

e) Acquire information (e.g. name, address) of all sellers, and disclose information (e.g. name, address) of the seller who is alleged by the right holder to be infringing their right, immediately in accordance with laws and regulations.

f) Establish a consultation office on the issue of counterfeits and pirated copies.

(National Police Agency, Ministry of Economy, Trade and Industry, and other ministries and agencies concerned)

2) Strengthening regulations against counterfeits and pirated copies on auction websites

In FY 2005, the GOJ will establish, as early as possible, a scheme for sharing information among right holders, auction providers, and investigation authorities, and improve the efficiency and effectiveness of the regulations against the trade of counterfeits and pirated copies via auction sites. Also, Customs will actively regulate

the import of counterfeits and pirated copies that are ordered via auction sites.

(National Police Agency and Ministry of Finance)

3) Strengthening regulations and crime prevention measures under the Antique Dealings Law

In FY2005, the GOJ will continue to strengthen regulations of malicious sellers at auctions and reinforce guidance for auction providers as to compliance with the obligations under the Antique Dealings Law, including the verification of the identity of the seller.

(National Police Agency)

4) Regulating copyright infringements committed by using file-swapping software

Taking into consideration copyright infringements arising from the services to transmit music by using file-swapping software, in FY2005, the GOJ will continue to regulate copyright infringements committed by using file-swapping software.

(National Police Agency)

(2) Regulating Goods that Use Portraits, etc. without Authorization

In order to regulate the trade of goods that use the portraits and names of entertainers and athletes, a bill for amendment of the Unfair Competition Prevention Law has been submitted to the ordinary session of the Diet in 2005, aiming to introduce criminal penalties for misappropriation of famous indications. When this bill is passed by the Diet, the GOJ will, by the end of FY 2005, raise awareness of the amended law while providing expected cases of violation, and will strengthen the regulations for violation of the law.

(National Police Agency, Ministry of Justice, and Ministry of Economy, Trade and Industry)

(3) Preventing the Leakage of Know-How, etc.

In order to prevent overseas leakage of know-how through engineers, a bill for amendment of the Unfair Competition Prevention Law has been submitted to the ordinary session of the Diet in 2005, aiming to enhance criminal penalties against persons who have taken trade secrets out of Japan and used or disclosed them for the purpose of unfair prevention of completion and against retired employees who have used or disclosed trade secrets for such purpose. When this bill is passed by the Diet, the GOJ will, by the end of FY2005, revise and thoroughly publicize the Guidelines for the

Management of Trade Secrets.

The GOJ will also promote the establishment of the practice of concluding confidentiality agreements for specified secrets. From FY2005, the GOJ will investigate the conclusion of such agreements, and based on the results of the investigation, the GOJ will consider measures, as early as possible, aiming to impose criminal penalties where protection is insufficient under contracts or with civil relief under the Unfair Competition Prevention Law, and will develop necessary systems.

(National Police Agency, Ministry of Justice, and Ministry of Economy, Trade and Industry)

(4) Strengthening Regulations by Police

i) In FY 2005, the GOJ will continue to precisely clarify the actual status of criminal organizations that enjoy illicit gains through illegal sales of counterfeits and pirated copies and to strengthen regulations against such organizations, in order to cut off the supply routes of counterfeits and pirated copies. In addition, the GOJ will promote the activities of police a keeping in mind the connection between IP-related crimes and the fund-raising activities of international terrorist groups.

(National Police Agency)

ii) In FY2005, the GOJ will continue to strengthen regulations of sale of counterfeits and pirated copies by using various investigative methods, including officials for preliminary determination of trademark right infringement who are capable of distinguishing pirated copies from genuine products. The Tokyo Metropolitan Police Department assigned these officials earlier than any other police departments in Japan.

(National Police Agency)

ii) In FY 2005, the GOJ will continue to strengthen the ties between industry organizations such as the Anti-Counterfeiting Association and the police authorities to implement effective regulations based on highly accurate information.

(National Police Agency)

(5) Strengthening measures against infringements of breeders' rights

There is a limit to the capabilities of individual breeders of plant varieties to investigate and prove infringements of their rights. Therefore, in order to prevent unfair use of new varieties of plants and promote appropriate protection of breeder's right holders, from FY2005, the GOJ will assign plant variety protection officials (Plant Variety Protection G-Men) within the National Center for Seeds and Seedlings to investigate the actual damage due to infringements of rights at home and abroad. The

GOJ will also continue to conduct tests to determine similarity in plant varieties (comparative cultivation, DNA analysis) for supporting determination of infringement, thereby strengthening measures to protect rights of breeders of plant varieties from infringements.

(Ministry of Agriculture, Forestry and Fisheries)

4. Strengthening Cooperation between the Public and Private Sectors

A wide variety of ministries and agencies are involved in the government measures against counterfeits and pirated copies. The sharing of information about actual damage among ministries and agencies concerned and government activities in a united effort are insufficient under the present circumstances. Strong cooperation among ministries and agencies concerned across boundaries and a framework that is very convenient for companies are essential for the entire nation to promote measures in overseas foreign markets and border and domestic regulations in terms of the problem of counterfeits and pirated copies.

In addition, as with the government, relevant organizations are required to strengthen cooperation with foreign organizations as well as domestic organizations, and are also required to implement effective measures against counterfeits and pirated copies jointly with the government.

(1) Establishing Cooperation within the Government

i) In order to ensure that the ministries and agencies concerned make concerted efforts towards measures in the overseas markets and border and domestic regulations, in FY2005, the GOJ will continue to take the following measures and strengthen cooperation among the ministries and agencies concerned.

a) Publicizing the government's comprehensive office for consultation services on counterfeits and pirated copies and strengthening cooperation

The GOJ will publicize the government's comprehensive office for consultation services on counterfeits and pirated copies, and strengthen cooperation among the ministries and agencies concerned so as to respond to requests of right holders and companies for advice. From FY2005, the comprehensive office will also accept applications for projects for protection of intellectual property rights of SMEs. The comprehensive office will also prepare annual reports.

b) Sharing information among the ministries and agencies concerned

The GOJ will establish a database so that the ministries and agencies concerned

can share information about counterfeits and pirated copies.

c) Utilizing information by the regulatory authorities

The police and Customs utilize information about the manufacturing and distribution of counterfeits and pirated copies in foreign markets to prevent counterfeits, etc. from entering the domestic market and eliminate them from inside of Japan.

d) Reflecting on the government policy

The GOJ will formulate and implement policies for measures against counterfeits and pirated copies, based on various kinds of information collected and analyzed both at home and overseas, and also feed back the results thereof to persons concerned.

e) Adjusting policies among the ministries and agencies concerned and implementing them comprehensively

The ministries and agencies concerned will make arrangements with each other in taking measures. They will also hold, in a timely manner, meetings of the Ministerial Conference on Measures against Counterfeits and Pirated Copies, to adjust policies closely and implement them comprehensively.

(National Police Agency, Ministry of Internal Affairs and Communications, Ministry of Justice, Ministry of Foreign Affairs, Ministry of Finance, Ministry of Education, Culture, Sports, Science and Technology, Ministry of Agriculture, Forestry and Fisheries, and Ministry of Economy, Trade and Industry)

ii) In order to provide services including giving advice on the acquisition of rights and counterfeit measures, introducing local patent attorneys, attorneys at law and search organizations, providing consultations for individual cases, communicating with the ministries and agencies concerned, and making requests to the government authorities of countries where infringement cases have been exposed, the GOJ will continue, in FY2005, to promote the active use of the network established with cooperation of JETRO, Japan Chamber of Commerce and Industry, Japan Foundation of Bar Associations, Intellectual Property Lawyers Network, Japan Patent Attorneys Association, Japan Institute of Invention and Innovation, and other organizations, which is called the Counterfeit Consultation Network.

(Ministry of Economy, Trade and Industry and other ministries and agencies concerned)

iii) In FY2005, the GOJ will continue to promote information exchange and cooperation between the police and Customs through the Liaison Conference on Information about Measures against Counterfeits and Pirated Copies, in order to ensure further effective enforcement of both border regulations and domestic regulations.

(National Police Agency and Ministry of Finance)

(2) Strengthening Cooperation with the Authorities in Countries and Regions Where Infringements Have Been Exposed

In FY 2005, the GOJ will continue to promote the conclusion of mutual assistance agreements and to promote regular consultations between authorities in Japan and those in countries and regions where infringements have been exposed in addition to daily information exchange, in order to specifically strengthen cooperation with the authorities (government office granting rights, police authorities, customs authorities, administrative regulatory authorities, and judicial authorities) in such countries and regions.

(National Police Agency, Ministry of Foreign Affairs, Ministry of Finance, Ministry of Education, Culture, Sports, Science and Technology, and Ministry of Economy, Trade and Industry)

(3) Strengthening Public-Private and Private-Private Cooperation

i) In FY 2005, the GOJ will continue to strengthen public-private cooperation through the implementation of public-private joint missions, in order to conduct negotiations with and approach the authorities in countries and regions where infringements have been exposed.

(Ministry of Education, Culture, Sports, Science and Technology, Ministry of Economy, Trade and Industry, and other ministries and agencies concerned)

ii) From FY 2005, the GOJ will continue to actively encourage the strengthening of cooperation between organizations to cope with counterfeits and pirated copies in foreign countries, such as the QBPC (Quality Brands Protection Committee) and BSA (Business Software Alliance), and domestic organizations related to measures against counterfeits and pirated copies, as well as strengthening cooperation among relevant domestic organizations.

(Ministry of Education, Culture, Sports, Science and Technology, Ministry of Economy, Trade and Industry, and other ministries and agencies concerned)

iii) In FY2005, the GOJ will continue to encourage efforts of Japanese and Chinese electronic and electric industries to conduct surveys of actual conditions and hold seminars for the development of experts, which have been launched based on opinions exchanged between these industries in November 2004.

(Ministry of Economy, Trade and Industry)

(4) Reinforcing the Frameworks against Counterfeits and Pirated Copies in

Private Companies

i) In FY 2005, the GOJ will continue to hold seminars for companies, etc. concerning measures against counterfeits and pirated copies in various cities throughout Japan, in close cooperation among the ministries and agencies concerned.

(National Police Agency, Ministry of Finance, Ministry of Education, Culture, Sports, Science and Technology, Ministry of Economy, Trade and Industry, and other ministries and agencies concerned)

ii) In FY 2005, the GOJ will continue to encourage major industrial associations to enhance and strengthen their organizations by establishing a committee on measures against counterfeits and pirated copies and taking other measures, and the GOJ will also encourage Japanese companies to strengthen the framework for measures against counterfeits and pirated copies at overseas business locations.

(Ministry of Education, Culture, Sports, Science and Technology and Ministry of Economy, Trade and Industry)

(5) Strengthening Awareness-Raising for the Public

In order to eradicate counterfeits and pirated copies, from a long-term perspective, it is most important that each and every national is aware that counterfeits and pirated copies are harmful to society. Therefore, in FY 2005, the GOJ will continue to promote awareness-raising activities for the public and promote education and the learning of appropriate consumer behavior through school education.

(National Police Agency, Ministry of Justice, Ministry of Foreign Affairs, Ministry of Finance, Ministry of Education, Culture, Sports, Science and Technology, Ministry of Agriculture, Forestry and Fisheries, and Ministry of Economy, Trade and Industry)

Chapter 3 Exploitation of Intellectual Property

I. Strategically Exploiting Intellectual Property

In order to achieve the goal of making Japan an intellectual property-based nation and improve the international competitiveness of Japanese industry, it is important for companies to correctly recognize, as sources for creation of values, their intellectual assets or intangible assets such as intellectual property, technology, organizational strength, network with customers, and brands. It is particularly important to regard exploitation of intellectual property as the core of business activities and promote creation and protection of intellectual property so as to make the best use of it. To achieve this, the GOJ should develop infrastructure to make the intellectual creation cycle, which consists of the phases of creation, protection, and exploitation of intellectual property, move speedily and dynamically, and should also develop systems and provide support to promote the effective use of intellectual property.

In such light, by taking the following measures, the GOJ will encourage companies to emphasize intellectual property in their management and support them for the strategic use of intellectual property, and will also comprehensively promote development of systems for such use of intellectual property. The GOJ will also support international standardization activities, which are not only helpful to maximize the value of technology and intellectual property owned by Japanese companies but also beneficial for consumers throughout the world, including Japanese consumers.

1. Encouraging Companies to Implement Strategic Management

(1) Promoting Management Strategy Emphasizing Intellectual Property

It is important for companies to correctly recognize “sources of competitiveness that will produce economic benefits in the future” and work toward management focused on intellectual assets or intangible sources of competitiveness, e.g. human resources, technology, organizational strength, network with customers, and brands (intellectual assets-focused management), thereby realizing management that will produce profits in a sustainable manner. In particular, companies that aim to become technology-based companies should regard intellectual property as the core of their intellectual assets based management, carrying out business strategy, R&D strategy, and intellectual property strategy all together. In FY2005 and beyond, the GOJ will consider promotion of such intellectual assets based management.

(Ministry of Economy, Trade and Industry)

(2) Promoting Disclosure of Information on Intellectual Property-based Management

In order for individual companies working toward intellectual assets based management to be appropriately evaluated by their stakeholders and investors in the securities markets, in FY2005, the GOJ will take the following measures to encourage such companies to voluntarily disclose information on intellectual assets based management.

i) By the end of FY2005, the GOJ will develop “Guidelines for Disclosure of Intellectual Assets Based Management” so as to ensure that individual companies working toward intellectual assets based management will be appropriately evaluated by their stakeholders including investors.

(Ministry of Economy, Trade and Industry)

ii) While further clarifying the position and purpose of intellectual property in intellectual assets based management, in FY 2005, the GOJ will continue to take measures to increase awareness so that more than 100 companies will prepare “intellectual property reports” according to the “Guidelines for Disclosure of Intellectual Property Information” prepared and published by the Ministry of Economy, Trade and Industry (published in January 2004). In this process, the GOJ will raise awareness among companies of effective methods of using intellectual property reports, such as continuously publishing intellectual property reports with annual reports, making intellectual property reports easily available to the public with the use of electronic media and various other media, and using intellectual property reports at investor relations meetings. Furthermore, the GOJ will aim to increase awareness among investors and the securities markets of effective ways of using intellectual property reports, so that the reports prepared by individual companies will be broadly and precisely evaluated by investors.

(Ministry of Economy, Trade and Industry)

iii) In FY 2005, the GOJ will continue to consider how to describe R&D/patent-related information on a voluntary basis in securities reports, including the possibility of using the aforementioned “intellectual property reports,” and clarify such format as appropriate.

(Financial Services Agency and Ministry of Economy, Trade and Industry)

(3) Formulating Intellectual Asset Indicators

Although individual companies own different types of intellectual assets and therefore apply different intellectual asset indicators to internally manage, use, and disclose such intellectual assets, some indicators may be common to all companies. Based on this recognition, the GOJ made arrangements toward formulating intellectual asset indicators in FY2004. In FY2005, the GOJ will formulate intellectual asset indicators and encourage companies to actually use the indicators.

The indicators to be formulated will not be significant for the numerical values; the significance of the indicators will differ among companies depending on their intellectual assets based management.

(Ministry of Economy, Trade and Industry and other ministries and agencies concerned)

(4) Diversifying Financing Methods Using Intellectual Property

i) In FY 2005, the GOJ will continue efforts to promote the use of various systems for financing with the use of intellectual property, including equity investments, project finance, and policy finance.

(Ministry of Economy, Trade and Industry and other ministries and agencies concerned)

ii) With the aim of encouraging holders of intellectual property rights to make new inventions or create new works, a new finance system has been established in which the Development Bank of Japan extends loans to special purpose companies, etc., engaging in transferring, assigning, or licensing intellectual property from the right holders to other businesses. In FY 2005, the GOJ will publicize expected financing schemes and past financing cases to promote the use of the finance system.

(Ministry of Internal Affairs and Communications, Ministry of Finance, Ministry of Education, Culture, Sports, Science and Technology, and Ministry of Economy, Trade and Industry)

iii) In order for businesses including SMEs and venture companies that regard intellectual property as an important element in their management strategies to raise funds smoothly with the use of their intellectual property, in FY 2005, the GOJ will continue to encourage the Development Bank of Japan to publicize past cases where it extended loans secured by intellectual property to promote the use of such loans, and will also actively encourage similar efforts in the private sector.

(Ministry of Finance and Ministry of Economy, Trade and Industry)

(5) Supporting the Development of Human Resources for Intellectual Property-related Business

For the purpose of assisting companies, universities, and public research

institutes in conducting intellectual property management and intellectual property strategies, in FY 2005, the GOJ will continue to develop infrastructures for the utilization of intellectual property by building networks for human resources and information for patent/technology licensing, hold international patent licensing seminars with the objective of developing experts in patent/technology licensing and networks thereof, and establish and disclose a database of intellectual property traders. Furthermore, in FY 2005, the GOJ will also continue to consider measures to promote intellectual property businesses such as patent information search, patent mapping, intellectual property strategy planning, matching negotiation and licensing negotiation. (Ministry of Economy, Trade and Industry)

2. Promoting the Exploitation of Intellectual Property

(1) Promoting the Use of Intellectual Property Trust

In FY2004, amendment was made to the Trust Business Law to expand the scope of eligible trustees. In FY2005, the GOJ will take the following measures so as to further facilitate the use of intellectual property trusts according to company needs.

i) In order to ensure that a trust will be smoothly used with respect to the right to obtain a patent before filing a patent application, by the end of FY2005, the GOJ will consider ideal methods of publicizing patent applications, and take measures as appropriate.

(Ministry of Economy, Trade and Industry)

ii) For the purpose of enabling the parent company that serves as the trustee in a trust for the intellectual property management in a business group to use the intellectual property in the trust itself, by the end of FY2005, the GOJ will consider improvement regarding the trustee's duty of loyalty, and revise laws and develop systems as appropriate.

(Ministry of Justice)

iii) A trustee of a patent right cannot claim damages arising from the infringement of the right under the provisions on presumption of the amount of damage, because the trustee per se does not work the patented invention. In light of this situation, from FY2005, the GOJ will consider ideal provisions on presumption of the amount of damage suffered by the trustee in cases where the trustor works the patented invention, and revise laws and develop systems as appropriate.

(Ministry of Economy, Trade and Industry)

iv) In order to increase usability of intellectual property trusts for the purpose of administration, by the end of FY2005, the GOJ will consider, from various perspectives

including cost effectiveness, a registration system for trusts established for a specified size of patent rights, and revise laws and develop systems as appropriate.

(Ministry of Economy, Trade and Industry)

(2) Stabilizing Intellectual Property License Contracts

1) Protection of the license of an intellectual property right in the case of the bankruptcy of a licensor

In January 2005, the new Bankruptcy Law was enacted. The new law is intended to protect a licensee by restricting the bankruptcy administrator's right of rescission in cases where a licensor in a license agreement regarding an intellectual property right has gone bankrupt, provided that the license is effective against third parties. In FY2005, the GOJ will consider measures to protect the licensee in cases other than the licensor's bankruptcy where the licensor transfers the licensed intellectual property to a third party or where the licensee is not registered with respect to non-exclusive license for a patent, and will develop systems as appropriate.

(Ministry of Economy, Trade and Industry)

2) Examining problems upon the use of software

For the purpose of promoting innovation in the software field, the GOJ will examine problems and take measures as appropriate, aiming to facilitate the use and trade of intellectual property rights relating to software. Also, in order to further promote smooth development of businesses that use open-source software, in FY2005, the GOJ will examine problems regarding the sharing of responsibility between vendors and users and the exercise of right in the case of system architecture with the use of open-source software, and publish guidelines as appropriate.

(Ministry of Economy, Trade and Industry)

(3) Promoting the Smooth and Fair Use of Intellectual Property

i) In FY 2005, the GOJ will continue to intensively regulate violations of the Anti-Monopoly Law in the intellectual property field, including the abuse of rights, while making use of the intellectual property task force (the team specializing in intellectual property).

(Japan Fair Trade Commission)

ii) It is necessary to develop a system that enables the smooth distribution of R&D results as well as to properly manage such results. In light of this, in FY 2005, the GOJ will continue its efforts to enhance the system for broadly collecting gene resources of

plants, animals and microorganisms and relevant R&D results, evaluating the characteristics of and storing and providing such resources (e.g. the national bio-resource project, the gene bank project, the rice genome resource center, and biological genetic resource preservation facilities). Furthermore, in FY 2005, the GOJ will also continue its efforts to enhance the system for storing research materials that are important for the isolation and functional analysis of useful genes and for providing such materials to private companies.

(Ministry of Education, Culture, Sports, Science and Technology, Ministry of Agriculture, Forestry and Fisheries, Ministry of Economy, Trade and Industry, and other ministries and agencies concerned)

(4) Promoting the Use of Insurance for Licensing Intellectual Property Rights

For the smooth operation of licensing activities on intellectual property outside Japan, it is necessary to promote the use of insurance to cover risks, such as the failure to collect license fees due to the licensee's bankruptcy or nonpayment. In light of this, in FY 2005, the GOJ will continue to promote the use of the "Intellectual Property Right License Insurance" provided by the Nippon Export and Investment Insurance (NEXI).

(Ministry of Economy, Trade and Industry)

(5) Promoting the Transnational Use of Intellectual Property through Tax Treaties

In March 2004, the new Japan-US Tax Treaty entered into force, and started to be applied. The new treaty is intended to grant immunity from taxation for royalties for intellectual property at a source country. In FY 2005, upon occasions to amend tax treaties with other countries, the GOJ will continue to carry out discussion basically following the purport of this new treaty while taking a comprehensive standpoint into account and aiming at concluding treaties as soon as possible.

(Ministry of Finance)

3. Supporting International Standardization Activities

(1) Reinforcing Strategic International Standardization Activities

1) Promoting intellectual property strategy in combination with standardization strategy in national R&D projects

i) With respect to R&D projects of which the results are expected to spread and which will have a broad influence on society in the future, in FY 2005, the GOJ will continue to work on a strategy or vision for the standardization at an early stage of such R&D

projects and promote standardization activities, with concerted efforts of the public and private sectors, for the projects which have achieved results.

(Council for Science and Technology Policy, Ministry of Internal Affairs and Communications, Ministry of Education, Culture, Sports, Science and Technology, Ministry of Economy, Trade and Industry, and other ministries and agencies concerned)

ii) In FY2005, the GOJ will continue to clearly include an intellectual property strategy and a standardization strategy in the implementation plans for national R&D projects and secure financial sources for such activities, and will also actively carry out activities to obtain intellectual property rights and activities for standardization. In FY2005, the GOJ will also continue to encourage universities and public research institutes to take independent measures for such activities.

(Council for Science and Technology Policy, Ministry of Internal Affairs and Communications, Ministry of Education, Culture, Sports, Science and Technology, Ministry of Economy, Trade and Industry, and other ministries and agencies concerned)

2) Reinforcing strategic international standardization activities through public-private cooperation

i) It is necessary to develop strategies to improve patent policies and prepare guidelines and FAQs for international standardization organizations, serve as an international secretariat country (country in charge of secretariat works for a standardization committee in an interventional standardization organization) and support such country, develop human resources capable of performing the operation of the international managing country, and strengthen activities for international standardization in Japan. From FY2005, the Japanese Industrial Standards Committee (JISC) will, in cooperation with the International Standardization Support Center in the Japan Standards Association (JSA), design and implement these strategies in regard to the International Organization for Standardization (ISO) and the International Electrotechnical Commission (IEC), and the Information and Communications Council will also design and implement these strategies in regard to the International Telecommunication Union (ITU), through sufficient collaboration between the Japanese Industrial Standards Committee and the Information and Communications Council.

When designing strategies, due consideration should be given to intensively allocating resources to and providing support for priority fields (environment/energy, information appliances/broadband/information technology, health/biotechnology, nanotechnology/materials).

(Ministry of Internal Affairs and Communications and Ministry of Economy, Trade and

Industry)

ii) In order for Japan to strategically take a leading role in activities for international standardization, in FY2005, the GOJ will continue to promote measures to reinforce cooperation with Asian countries, which have close economic relationships with Japan, in joint development of international standards through Japan-China-ROK meetings on standardization of information and communication technology, ASEAN Standards and Conformity Cooperation Program, and the Pacific Area Standards Congress, etc.

(Council for Science and Technology Policy, Ministry of Internal Affairs and Communications, Ministry of Economy, Trade and Industry, and other ministries and agencies concerned)

iii) In FY 2005, the GOJ will continue to take domestic measures aimed at international standardization to accelerate deliberations of domestic standards and propose Japanese standards as international standards ahead of those developed in any other countries, in order to use the domestic standardization process as a step toward international standardization.

(Council for Science and Technology Policy, Ministry of Internal Affairs and Communications, Ministry of Economy, Trade and Industry, and other ministries and agencies concerned)

iv) With the aim of promoting the international standardization of technologies created in Japan in a consistent and expeditious manner, in FY2005, the GOJ will continue to reinforce cooperation between the ministries and agencies concerned as well as cooperation between industries, universities and the government, and promote exchange of information and opinions continuously. The GOJ will also make efforts to promote appropriate cooperation in trend survey/analysis on standardization activities abroad and domestic deliberations on international standardization. Furthermore, in order to ensure that the human resources at universities, public research institutes and companies will enthusiastically and consistently participate in international standardization activities and be able to take charge of major secretariat works in such activities, the GOJ will continue reinforcing national strategic action in FY 2005.

(Council for Science and Technology Policy, Ministry of Internal Affairs and Communications, Ministry of Education, Culture, Sports, Science and Technology, Ministry of Economy, Trade and Industry, and other ministries and agencies concerned)

3) Promoting international standardization activities in the private sector

i) In FY2005, the GOJ will continue to conduct research on standardization including analysis of the economic effects of international standardization on industrial

competitiveness, and will spread the information obtained from the research across industries, aiming to promote standardization activities.

(Council for Science and Technology Policy, Ministry of Internal Affairs and Communications, Ministry of Education, Culture, Sports, Science and Technology, Ministry of Economy, Trade and Industry, and other ministries and agencies concerned)

ii) In order to raise awareness of the importance of standardization activities, especially among the top executives of universities and companies, the GOJ will continue to hold seminars regarding the standardization of activities for top executives at universities and companies in FY 2005.

(Council for Science and Technology Policy, Ministry of Internal Affairs and Communications, Ministry of Education, Culture, Sports, Science and Technology, Ministry of Economy, Trade and Industry, and other ministries and agencies concerned)

iii) In FY 2005, the GOJ will continue to encourage individual companies to establish general departments in charge of international standardization activities and develop cooperation between these departments and intellectual property departments, positively evaluate employees engaging in international standardization activities, and take strategic measures to submit proposals for international standardization.

(Ministry of Internal Affairs and Communications and Ministry of Economy, Trade and Industry)

4) Taking appropriate measures along with the trends toward developing domestic standards in foreign countries

Movements to formulate domestic standards will continue to be frequently seen in foreign countries. In particular, measures to require compliance with domestic standards that are different from international standards or apply preferential treatment to particular standards might be regarded as constituting violation of the WTO/TBT Agreement, threatening Japanese companies. Therefore, Japan must develop a mechanism to detect movements to formulate domestic standards in foreign countries as early as possible and take measures through public-private cooperation. To this end, by the end of FY2005, the GOJ will develop systems as appropriate to cope with this problem, in which the GOJ will conduct surveys upon the request of private companies and require the governments of the countries concerned, based on the survey results, to change domestic standards through bilateral discussions or WTO dispute settlement procedures.

(Ministry of Foreign Affairs, Ministry of Internal Affairs and Communications, Ministry of Health, Labor and Welfare, Ministry of Agriculture, Forestry and Fisheries, Ministry

of Economy, Trade and Industry, and other ministries and agencies concerned)

(2) Establishing Rules for the Treatment of Intellectual Property Rights Relating to Technical Standards

1) Taking measures to respond to the exercise of rights for essential patents, which impedes the development and diffusion of technical standards

i) If the right holders of patents that are essential for technical standards (essential patents) refuse to grant license to or require excessive license fees from users of the technical standards, such behavior of the right holders impedes development and diffusion of the technical standards. To avoid such situation, the GOJ will take the following measures.

a) Review the existing patent policies of international standardization organizations as well as guidelines and FAQs on implementation thereof by the end of FY2005, and recommend international standardization organizations to improve them.

(Ministry of Internal Affairs and Communications and Ministry of Economy, Trade and Industry)

b) Continue to consider the possibility of granting non-exclusive license for essential patents to users of technical standards in FY2005, while taking into account comparison of interests between right holders and users and international standardization strategies, and develop systems as appropriate.

(Ministry of Economy, Trade and Industry)

ii) The GOJ will consider the applicability of the Anti-Monopoly Law to cases where patentees who participate in joint standardization projects intentionally fail to reveal the existence of their own patent rights, but only after the technical standards involving their patents as essential elements are established, claim their patent rights and file lawsuits, thereby seriously impeding standardization, or where patentees intend to maintain their own monopoly through such act. The GOJ will develop guidelines under the Anti-Monopoly Law by the end of FY2005.

(Japan Fair Trade Commission)

2) Improving the environment for patent pools

i) In order for patent pools to function efficiently and smoothly, by the end of FY2005, the GOJ will consider measures for reduction of license fees and for expert testimony/evaluation of essential patents, and draw a conclusion. In particular, with respect to expert testimony/evaluation of essential patents, the GOJ will clearly suggest specific measures for the use of alternative dispute resolution (ADR) and the

consultation with third party experts such as lawyers and patent attorneys by companies participating in patent pools.

(Council for Science and Technology Policy, Ministry of Internal Affairs and Communications, and Ministry of Economy, Trade and Industry)

ii) The formation and operation of patent pools, in which multiple right holders participate, is likely to raise the issue of the violation of the Antitrust Law. For this reason, the GOJ will develop guidelines under the Anti-Monopoly Act by the end of FY2005.

(Japan Fair Trade Commission)

II. Supporting SMEs and Venture Companies

SMEs and venture companies develop infrastructure technology for Japanese industry and support the industrial foundation of Japan by processing materials and supplying parts. They also play a major role in promoting local economies through job creation.

As various measures are being taken toward making Japan an intellectual property-based nation, SMEs and venture companies become more strongly aware of intellectual property. It is important to accelerate such movement so that more SMEs and venture companies will make strategic efforts to create intellectual property and effectively use it for commercialization.

However, in reality, SMEs and venture companies face various problems and difficulties in creating and using intellectual property in terms of economic power and human resources.

Therefore, the GOJ should take drastic measures to enable SMEs and venture companies to create innovative technologies and carry out business projects strategically by using such technologies as intellectual property.

(1) Enhancing Information and Consultation Services for SMEs and Venture Companies

1) Providing information on patent attorneys and lawyers

From FY2005, the GOJ will establish liaison sections at the Comprehensive Support Center for SMEs and Venture Companies (hereinafter referred to as the "Support Center") and other organizations to increase accessibility to patent attorneys and lawyers for SMEs and venture companies, and will provide information on patent

attorneys in terms of the specialized fields, actual performance, fees, and business condition, and introduce or dispatch patent attorneys, while promoting the use of the Intellectual Property Lawyers Network. The GOJ will also encourage organizations concerned such as prefectural SME support centers to take such measures.

(Ministry of Economy, Trade and Industry)

2) Supporting intellectual property strategy based on management strategy

i) From FY2005, the GOJ will upgrade the liaison section at the Support Center so as to enable SMEs and venture companies to implement intellectual property strategy while taking into account business development, and will introduce consultants and patent attorneys who are capable of providing intellectual property strategies within the framework of management strategies, to SMEs and venture companies. The GOJ will also encourage organizations concerned such as prefectural SME support centers to take such measures.

(Ministry of Economy, Trade and Industry)

ii) In FY 2005, the GOJ will continue to dispatch intellectual property experts and consultants to SMEs and venture companies, in order to provide them with advice for their management problems as well as on how to obtain patents in a timely manner depending on the stage of development and, support them in formulating intellectual property strategies. The GOJ will also create models for the strategic utilization of intellectual property and provide SMEs and venture companies with information on and examples of such utilization, by reinforcing cooperation between intellectual property experts and organizations supporting SMEs and venture companies.

(Ministry of Economy, Trade and Industry)

(2) Supporting SMEs and Venture Companies in Carrying out R&D and Obtaining Intellectual Property Rights

1) Supporting efforts to carry out R&D

The GOJ will increase awareness of the fact that measures are being taken to make advanced large-scale research facilities and equipment, which are currently owned by R&D-type independent administrative agencies, widely available, without restrictions of researchers and research fields. In order to promote R&D by SMEs and venture companies and develop environments for the creation of intellectual property by them, by the end of FY 2005, the GOJ will consider and take necessary measures on how to enable SMEs and venture companies to easily use advanced research facilities and equipment, which have been used in national projects, after the completion of the

projects.

(Ministry of Education, Culture, Sports, Science and Technology, Ministry of Economy, Trade and Industry, and other ministries and agencies concerned)

2) Supporting efforts to obtain intellectual property rights

i) In order to reduce costs incurred by SMEs and venture companies, from FY2005, the GOJ will work toward drastically increasing the use of the existing programs for reduction of fees for filing a request for examination and patent fees, and will also consider, from various perspectives, further reduction of costs by enhancing such programs and take measures as appropriate. The GOJ will also simplify the procedures for applying for such programs.

(Ministry of Economy, Trade and Industry)

ii) From FY2005, the GOJ will encourage the Japan Patent Attorneys Association to pay adequate attention to the circumstances of individual SMEs in terms of fees and services.

(Ministry of Economy, Trade and Industry)

iii) For the purpose of encouraging SMEs and venture companies to obtain rights at home and abroad, in FY 2005, the GOJ will continue to provide SMEs and venture companies, through R&D and commercialization support programs, with more grants and consultation services for obtaining patents at home and abroad.

(Ministry of Internal Affairs and Communications and Ministry of Economy, Trade and Industry)

iv) In FY2005, the GOJ will continue to enhance support for SMEs and venture companies in prior art search before the filing of patent applications, so as to enable them to select necessary R&D projects and avoid filing unnecessary applications.

(Ministry of Economy, Trade and Industry)

(3) Supporting the Expansion of Business Overseas

When operating business overseas, it is necessary to obtain rights and take measures against counterfeits/pirated copies overseas, which can be prohibitively expensive. In light of this, the GOJ will take the following measures to drastically reinforce systems to provide SMEs and venture companies that have excellent technologies with support and consulting services for filing patent applications and taking measures against counterfeits and pirated copies, while taking care to avoid moral hazard.

i) From FY2005, the GOJ will enhance grants for SMEs and venture companies as

funds for filing applications, preparing translations, and employing overseas patent attorneys, which are necessary when filing patent applications overseas.

(Ministry of Internal Affairs and Communications and Ministry of Economy, Trade and Industry)

ii) From FY2005, the GOJ will enhance grant programs so as to enable SMEs and venture companies to take prompt actions against damage due to counterfeits overseas.

(Ministry of Economy, Trade and Industry)

iii) From FY2005, the GOJ will upgrade the liaison section at the Support Center to introduce translation companies and overseas patent attorneys and give advice on how to file patent applications overseas. The GOJ will also encourage organizations concerned such as prefectural SME support centers to take such measures.

(Ministry of Economy, Trade and Industry)

iv) Taking into consideration that SMEs and venture companies have great difficulties in the personnel and cost aspects of taking measures against counterfeits and pirated copies, in FY 2005, the GOJ will continue to strengthen specific support for SMEs and venture companies, including consultations and grants for the procedures for acquiring rights, such as filing foreign applications and translation, a survey on actual damages in foreign countries, negotiations with and requests to public security/administrative authorities, and activities related to the enforcement of rights such as the filing lawsuits. The GOJ will also further strongly promote strategies such as providing SMEs with information about the legal system of foreign countries and their operations, actual damages from counterfeits and pirated copies, and measures against them.

(Ministry of Internal Affairs and Communications, Ministry of Education, Culture, Sports, Science and Technology, Ministry of Agriculture, Forestry and Fisheries, and Ministry of Economy, Trade and Industry)

(4) Strengthening Measures against Intellectual Property Infringements in Japan

i) From FY2005, the GOJ will encourage the Japan Federation of Economic Organizations and other industrial organizations to develop intellectual property charters, focusing, as the core of corporate behavior, on the respect for intellectual property rights owned by others including SMEs and venture companies, and to ensure compliance with such charters by member companies.

(Ministry of Economy, Trade and Industry and other ministries and agencies concerned)

ii) It is often pointed out that large companies imitate or misappropriate technologies developed by SMEs and venture companies, by abusing their bargaining position and applying sophisticated approaches, such as placing a large bulk order with an SME for a

large number of lots that exceed the SME's production capacity and effectively depriving the SME of the technology for the reason that the SME cannot accept such an order, or approaching an SME with joint research or creation of sample and concluding a contract in which the large company will hold an unilaterally superior position and be able to snatch the technology from the SME. To solve this situation, from FY2005, the GOJ will upgrade the liaison section at the Support Center so that it will serve as an intellectual property rescue organization, and provide consultation services concerning how to detect and respond to infringements of intellectual property rights committed by large companies and report such infringements to the Japan Fair Trade Commission. The GOJ will also encourage organizations concerned such as prefectural SME support centers to take such measures.

(Ministry of Economy, Trade and Industry)

(5) Promoting the Use of Intellectual Property Trust and Facilitating Financing with the Use of Intellectual Property

i) For the purpose of increasing the availability of intellectual property trusts to SMEs and venture companies, from FY2005, the GOJ will consider revitalization of the trust system by expanding the scope of eligible trustees of intellectual property to include business associations and foundations, and develop systems as appropriate.

(Financial Services Agency)

ii) From FY2005, the GOJ will consider and develop systems and improve the operation of systems so as to enable SMEs and venture companies to raise funds more smoothly with the use of intellectual property.

(Financial Services Agency and Ministry of Economy, Trade and Industry)

iii) From FY2005, in order to reduce legal costs and indemnify for damage, the GOJ will discuss concrete measures to revitalize the use of intellectual property insurance in the private sector and develop systems as appropriate.

(Financial Services Agency and Ministry of Economy, Trade and Industry)

(6) Enhancing Education and Training in Intellectual Property

Aiming to enable managers, engineers, and researchers at SMEs and venture companies to improve their knowledge of intellectual property, skills in writing patent specifications, and capabilities to respond to patent infringements, the GOJ will continue to provide lectures and training in FY2005.

(Ministry of Economy, Trade and Industry)

(7) Honoring Outstanding Technology Developed by SMEs and Venture Companies

With the objective of further promoting the creation, protection, and exploitation of intellectual property by SMEs and venture companies and strengthening industrial competitiveness of Japan, in FY2005, the GOJ will continue to honor a wide range of technologies that have contributed to the advancement of national economy, industrial development, and technology innovation.

(Ministry of Economy, Trade and Industry and other ministries and agencies concerned)

III. Developing Local Areas with the Use of Intellectual Property

Local governments have launched various measures on intellectual property so as to develop local areas through the revitalization of SMEs and venture companies, those engaging in agriculture, forestry, and fishery, and universities and other institutes operating in local areas. For the purpose of further promoting this trend, it is important to actively support regional development with the use of intellectual property.

1. Promoting Intellectual Property Strategy in Local Areas

(1) Encouraging Local Governments to Develop Intellectual Property Strategy

i) Along with the GOJ's efforts to make Japan an intellectual property-based nation, efforts to achieve regional development with the use of intellectual property including patents and trademarks are spreading among local governments steadily. In FY2004, 14 prefectural governments completely developed intellectual property strategies and 13 prefectural governments were developing or planning to develop strategies. Furthermore, municipal governments have also started to work on their own intellectual property strategies; the Osaka City Government completely developed an intellectual property strategy in FY2004, and the Yokohama City Government aims to develop one by the end of FY2005. For the purpose of enabling local governments to design independent measures for the creation, protection, and exploitation of intellectual property, namely, to create innovative technologies and attractive contents, obtain rights for such technologies and contents, and effectively use rights, while making use of regional characteristics, in FY 2005, the GOJ will continue to encourage them to develop intellectual property strategies, by providing them with necessary information.

In this process, the GOJ will encourage local universities and local governments to develop close cooperation and promote intellectual property strategies

for the regions effectively.

(Ministry of Internal Affairs and Communications, Ministry of Education, Culture, Sports, Science and Technology, Ministry of Agriculture, Forestry and Fisheries, and Ministry of Economy, Trade and Industry)

ii) In FY 2005, the GOJ will continue to encourage local governments to share information for formulating intellectual property strategies and conduct joint research projects through voluntary cooperation among them, by providing them with necessary information.

(Ministry of Internal Affairs and Communications, Ministry of Education, Culture, Sports, Science and Technology, Ministry of Agriculture, Forestry and Fisheries, Ministry of Economy, Trade and Industry, and other ministries and agencies concerned)

iii) From FY2005, the GOJ will encourage local governments to disseminate information on their intellectual property strategies for the regions via their websites, so as to make such information also available to companies and universities in Tokyo and other regions.

(Council for Science and Technology Policy, Ministry of Education, Culture, Sports, Science and Technology, and Ministry of Economy, Trade and Industry)

(2) Encouraging Local Governments to Reinforce Consultation Services

Local governments in Tokyo, Saitama, Aichi, and other regions have established centers for intellectual property and started to more vigorously carry out activities, e.g. providing advice on how to obtain intellectual property rights and search patent information and expert advice on a case-by-case basis, and distributing manuals concerning the handling of intellectual property. In light of the importance of these activities, in FY2005, the GOJ will continue to encourage efforts of local governments by providing them with necessary information on successful cases.

(Ministry of Economy, Trade and Industry and other ministries and agencies concerned)

(3) Encouraging Local Governments to Provide Intellectual Property Grants

The Tokyo Metropolitan Government and the Osaka Prefectural Government have started providing grants, under independent local programs, for filing patent applications overseas, taking measures against counterfeits and pirated copies, and employing patent attorneys. In light of the importance of such grants for local SMEs, from FY2005, the GOJ will encourage efforts of local governments by providing them with necessary information on successful cases.

(Ministry of Economy, Trade and Industry and other ministries and agencies concerned)

(4) Establishing Systems to Support Local SMEs in Developing Intellectual Property Strategy

For the purpose of supporting local SMEs for strategic exploitation of intellectual property, from FY 2005, the GOJ will establish regional intellectual property strategy headquarters in each Regional Bureaus of Economy, Trade and Industry as a regional public-private organization, and promote the development of regional intellectual property strategies specific to the regions, while making use of regional characteristics of local industries and universities. In the future, in accordance with such regional strategies, the GOJ will establish human resource databases and reinforce human resource networks including local intellectual property rescue organizations and other intellectual property-related organizations.

(Ministry of Economy, Trade and Industry)

(5) Creating and Exploiting Intellectual Property with the Use of Natural Resources in Local Areas

Many kinds of natural resources, such as marine organisms and intermountain plants, contain active ingredients or useful genes. From FY2005, the GOJ will encourage local universities and companies, through industry-academic-government cooperation, to make positive efforts to conduct R&D with the use of natural resources, obtain intellectual property rights for research results, and develop new products and new businesses based on such rights, and will also actively support their R&D activities. (Council for Science and Technology Policy, Ministry of Education, Culture, Sports, Science and Technology, Ministry of Economy, Trade and Industry, and other ministries and agencies concerned)

2. Exploiting Intellectual Property in Local Areas

(1) Encouraging Local Governments to Improve the Handling of Intellectual Property

In FY2005, the GOJ will encourage local governments to develop systems and improve the operation of systems concerning the handling of intellectual property rights by local governments, by concluding more flexible contracts for transfer of intellectual property rights from local governments and reviewing the operation of patent licensing.

(Ministries and agencies concerned)

(2) Making Effective Use of Intellectual Property in Public Procurement

i) In FY2005, the GOJ will encourage local governments to increase their awareness of intellectual property, respecting intellectual property owned by SMEs and venture companies and avoiding purchase of counterfeits in government procurement.

(Ministries and agencies concerned)

ii) In FY2005, the GOJ will improve the operation so that intellectual property right holders will not suffer discriminatory treatment in contracts concluded with governments and public corporations, in which evaluation is made based on technology, quality, and performance. The GOJ will also encourage local governments to take such measures.

(Cabinet Secretariat, Ministry of Internal Affairs and Communications, Ministry of Justice, Ministry of Foreign Affairs, Ministry of Finance, Ministry of Education, Culture, Sports, Science and Technology, Ministry of Health, Labor and Welfare, Ministry of Agriculture, Forestry and Fisheries, Ministry of Economy, Trade and Industry, Ministry of Land, Infrastructure and Transport, and Ministry of Environment)

iii) In FY2005, the GOJ will improve the operation, under contracts concluded with governments and public corporations, to promote preferential procurement of products that are manufactured with the use of intellectual property owned by SMEs and venture companies if it appears to be reasonable to use such products in order to achieve the objectives of the contracts. The GOJ will also encourage local governments to take such measures.

(Cabinet Secretariat, Ministry of Internal Affairs and Communications, Ministry of Justice, Ministry of Foreign Affairs, Ministry of Finance, Ministry of Education, Culture, Sports, Science and Technology, Ministry of Health, Labor and Welfare, Ministry of Agriculture, Forestry and Fisheries, Ministry of Economy, Trade and Industry, Ministry of Land, Infrastructure and Transport, and Ministry of Environment)

Chapter 4 Efforts to Create Culture with the Use of Content

In Japan, we have a wide range of content, including not only entertainment content such as movies, music, game software, and animation, but also intellectual and cultural assets relating to fashion, food culture, and local brands.

Such content including intellectual and cultural assets are important property for Japan, which aims to become an intellectual property-based nation, and by promoting the active use of content, we will be able to create new business opportunities and expand business to overseas markets.

Furthermore, the active use of content including intellectual and cultural assets will enhance Japan's diverse and rich culture, and the overseas dissemination of content will contribute to establishing a Japan Brand that is suitable for the new age. Thus, active approaches are desired to use content as a dynamic driving force for making Japan a culture-creating nation.

This chapter suggests measures for the expansion of the content business and the Japan Brand strategy based on Japanese lifestyle. In the future, we should strategically spread Japan's attractiveness, through the content business as well as Japanese lifestyle consisting of food culture, local brands, and fashion, and in collaboration with activities in tourism industry and cultural and diplomatic fields, aiming to establish and strengthen the Japan Brand.

I. Dramatically Expanding Content Business

Intellectual property content (works such as movies, music, animation, and game software) created in Japan are highly acclaimed throughout the world, but we cannot say that the parties concerned have made concerted efforts to develop the content business under a common philosophy.

However, since the content business is operated on a large scale and involves various industrial fields, it is not only expected to drive the Japanese economy but also to play a significant role in improving the image of Japan abroad ("soft power"). Therefore, it is an important industry for designing the national strategy.

In order to achieve the growth and development of the content business in the future, we should accomplish tasks such as "further modernizing and streamlining the industry," "improving evaluation and social recognition of the leading figures in the industry and the importance of the industry itself," and "promoting expansion to overseas markets and new fields." In order for the Japanese content business to prevail in international competition and to improve understanding of Japan in foreign countries through the transmission of Japanese culture, it is necessary for the parties concerned to make concerted efforts to promote the following measures promptly and aggressively, while clearly positioning the development of the content business as a pillar of the national strategy and giving due consideration to consumers' viewpoints. Based on this recognition, the GOJ has set a three-year intensive reform period.

In the first year, progress was made in reforms for diversifying financing means and human resource development, and a path was established toward drastic expansion of the content business.

In the second year, the GOJ will make active efforts to accomplish various goals promptly.

1. Supporting the Modernization and Streamlining of the Industry

(1) Encouraging and Supporting Efforts to Increase the Quality and Transparency of Contract Practices

i) With respect to contracts concluded between individual content creators, such as comic book artists and animators, and publishers and animation production companies, in FY2005, the GOJ will continue to encourage and support efforts to increase the quality and transparency of the contract practices based on mutual understanding among

the parties concerned.

(Ministry of Education, Culture, Sports, Science and Technology and Ministry of Economy, Trade and Industry)

ii) In FY 2005, the GOJ will continue to promote complete compliance of broadcasting businesses with their self-imposed regulations of subcontracts for production of broadcasting programs and follow up on the use of the “Model Contracts Concerning Subcontracts for Production of Broadcast Programs.” Thus, the GOJ will encourage the parties concerned to make independent efforts to improve fairness and transparency in the production framework and also promote their efforts to ensure contracting and management of expenses for production of broadcasting programs.

(Ministry of Internal Affairs and Communications)

iii) With the aim of clarifying the ownership of copyrights and ensuring that various types of contract practices applicable to the diverse secondary uses of copyrighted works will be established, the GOJ will take measures as appropriate by the end of FY2005 based on the actual use of Model Contracts for Animation and the research on examples of advanced types of contracts in foreign countries.

(Ministry of Economy, Trade and Industry)

iv) With respect to the movie business, by the end of FY2005, the GOJ will encourage the parties concerned to make efforts to build business relationships in which film producers can get a share of profits according to the business results, and also make efforts to clarify the number of viewers and the amount of box-office proceeds.

(Ministry of Economy, Trade and Industry)

v) By the end of FY2005, the GOJ will investigate and publicize the actual conditions of the industrial structure and contractual and distribution practices in content industries, e.g. movies, music, animation, and game software.

(Ministry of Economy, Trade and Industry)

vi) The GOJ will encourage the parties concerned to make the efforts mentioned in i) to v) above in cooperation with legal professionals in the Entertainment Lawyers Network.

(Ministry of Internal Affairs and Communications, Ministry of Education, Culture, Sports, Science and Technology, and Ministry of Economy, Trade and Industry)

(2) Strictly Applying the Anti-Monopoly Law, etc.

i) In FY2005, the GOJ will continue to increase awareness and improve consultation services concerning the Anti-Monopoly Law and the Law on the Prevention of Delay in Payment of Subcontracting Charges and Related Matters, and will carry out a documentary survey targeting entrepreneurs who subcontract content production. The

GOJ will strictly and promptly apply the laws against violations thereof.

(Japan Fair Trade Commission and Ministry of Economy, Trade and Industry)

ii) In order to promptly detect violation of the Antimonopoly act in the content industry, in FY2005, the GOJ will continue to improve the framework of an intellectual property task force (the team specializing in intellectual property) by securing necessary investigators, with the aim of enhancing the activities of the Japan Fair Trade Commission in conducting research and gathering information.

(Japan Fair Trade Commission)

(3) Encouraging Flexible Operation of Business through Flexible Pricing

In FY 2005, for the purpose of increasing consumer benefits, the GOJ will continue to promote efforts by entrepreneurs in expanding the publication and distribution of copyrighted works whose price is at the discretion of the retailers of content such as books, magazines, music CDs, etc. and in diversifying the pricing.

(Japan Fair Trade Commission, Ministry of Education, Culture, Sports, Science and Technology, and Ministry of Economy, Trade and Industry)

(4) Compiling Statistical Data

The GOJ will develop a system for collecting statistical data to more precisely compare the size of the content market in Japan with that of other countries, and will organize and publicize statistical data concerning content by the end of FY2005.

(Ministry of Internal Affairs and Communications and Ministry of Economy, Trade and Industry)

2. Promoting Production of and Investment in Content

(1) Enhancing the “Completion Guarantee System”

With the aim of promoting the use of financing schemes provided by financial institutions, by the end of FY 2005, the GOJ will encourage the financial institutions concerned to develop financing environments such as the “completion guarantee system,” and will examine problems that will become obvious in the course of enforcing the system.

(Ministry of Internal Affairs and Communications, Ministry of Finance, Ministry of Education, Culture, Sports, Science and Technology, and Ministry of Economy, Trade and Industry)

(2) Promoting Investment in Financing through the Use of Funds

For the purpose of ensuring smooth financing for the production of movies, etc., in FY2005, the GOJ will continue to enhance disclosure of information on fund establishment and consider measures to further promote financing through the use of commodity funds and provide investors with necessary protection. The GOJ will also review and improve systems as appropriate based on the outcome of the deliberation at the Financial Service Council on an investment service law.

(Financial Services Agency and Ministry of Economy, Trade and Industry)

(3) Promoting the Establishment of Evaluation Methods Applicable to Content

i) In order to promote the production of and investment in content such as movies, in FY 2005, the GOJ will increase awareness of the establishment of evaluation methods and the systematization of disclosure methods applicable to content, while making reference to equivalent systems in foreign countries.

(Ministry of Education, Culture, Sports, Science and Technology and Ministry of Economy, Trade and Industry)

ii) From FY2005, the GOJ will identify problems in establishing methods for evaluating assets such as music copyrights and neighboring rights and building a financing system, thereby supporting the creation of new business models that use existing music copyrights.

(Ministry of Education, Culture, Sports, Science and Technology)

(4) Providing Incentives to Promote Production of and Investment in Content

By the end of FY 2005 the GOJ will consider providing incentives to promote production of and investment in content and take necessary measures as appropriate.

(Ministry of Internal Affairs and Communications, Ministry of Education, Culture, Sports, Science and Technology, Ministry of Economy, Trade and Industry, and other ministries and agencies concerned)

(5) Supporting the Film Production Activities by Film Commissions

i) In order to ensure smooth procedures to conduct location shooting when producing films, in FY2005 the GOJ will continue to consider an ideal way of securing and using large-scale location facilities and shooting studios in local areas, while giving due consideration to the demands from film commissions and making use of the special zone system. The GOJ will also ask the administrative authorities concerned to improve their understanding of film production and the smooth use of roads and public facilities.

(Ministry of Education, Culture, Sports, Science and Technology, Ministry of Economy, Trade and Industry, Ministry of Land, Infrastructure and Transport, and other ministries and agencies concerned)

ii) In order to stimulate the creation of Japanese films and contribute to the development of local cultures, in FY 2005, the GOJ will continue to work toward building on the Internet a database of information necessary for location shooting, which is collected from local film commissions.

(Ministry of Education, Culture, Sports, Science and Technology)

3. Reinforcing the Development of Human Resources and Enhancing the Honoring Scheme

(1) Developing Content Producers and Creators

i) In FY 2005, with the aim of developing “content-related human resources,” the GOJ will continue to provide more support for professional schools (including law schools), etc. in making independent efforts (to establish necessary organizations) and will encourage these schools to cooperate with overseas institutes in human resource development. The GOJ will also implement environmental development for enhancing education at universities by promoting cooperation between universities and industries. Furthermore, in order to promote independent activities of professional schools closely related to content, the GOJ will encourage efforts to develop certified rating agencies that are capable of evaluating the quality of educational activities appropriately.

(Ministry of Education, Culture, Sports, Science and Technology and Ministry of Economy, Trade and Industry)

ii) In order to ensure that young producers and creators with excellent talent and skills will be able to experience advanced trends abroad and improve their abilities, in FY 2005, the GOJ will continue to support them in study and training overseas.

(Ministry of Education, Culture, Sports, Science and Technology and Ministry of Economy, Trade and Industry)

iii) For the purpose of increasing motivation and abilities in Japanese creators, etc., in FY 2005, the GOJ will continue to invite successful content producers and creators, who play an active role in the world, to seminars and symposium.

(Ministry of Internal Affairs and Communications, Ministry of Education, Culture, Sports, Science and Technology, Ministry of Economy, Trade and Industry, and other ministries and agencies concerned)

iv) Under the dramatic diffusion of broadband networks, in order to ensure that

excellent producers and creators who produce high-quality digital content will be able to improve their abilities and skills, in FY 2005, the GOJ will continue to provide support for the development of human resources.

(Ministry of Education, Culture, Sports, Science and Technology)

v) In FY 2005, in order to develop human resources equipped with “functions as producers,” the ability to coordinate the entire process of content production from financing to the obtaining of rights and the securing of purchasers, as well as with expertise in legal affairs, financial affairs, and sales, etc, the GOJ will continue to promote, in cooperation with educational institutions, the use of the “Producer Training Curriculum,” which was developed in 2003 by the Ministry of Economy, Trade and Industry and revised in 2004 based the usability evaluation, and will support efforts to create environments where people with such abilities and expertise will be able to achieve success.

(Ministry of Economy, Trade and Industry)

iv) In FY 2005, the GOJ will continue to carry out research and studies on the effective use of digital editing facilities to produce visual works such as movies and to carry out the measures to develop necessary human resources.

(Ministry of Education, Culture, Sports, Science and Technology)

(2) Encouraging the Use of Experts in Management, Legal Affairs, and Financial Affairs

i) In FY 2005, the GOJ will continue to support the use of persons who have expertise in legal affairs, financial affairs, and sales, etc. as well as management ability relating to content business.

(Ministry of Economy, Trade and Industry)

ii) In FY 2005, the GOJ will continue to encourage and support the exchange between legal professionals and businesses/content creators through use of the "Entertainment Lawyers Network," etc.

(Ministry of Internal Affairs and Communications, Ministry of Education, Culture, Sports, Science and Technology, and Ministry of Economy, Trade and Industry)

(3) Supporting Programs for Developing Human Resources

i) In FY 2005, in regard to training programs concerned with information and telecommunication, the GOJ will continue to support training programs for improving professional knowledge and skills to produce content such as broadcasted programs.

(Ministry of Internal Affairs and Communications)

ii) In FY 2005, the GOJ will continue to support practical training programs carried out at production sites by film associations and schools in cooperation with production sites, thereby developing professionals with a high level of expertise.

(Ministry of Education, Culture, Sports, Science and Technology)

(4) Supporting the Activities of the Visual Industry Promotion Organization

In FY2005, the GOJ will continue to encourage content industries, movies, broadcasting, game software, animation, and music, to make concerted efforts to cooperate in the activities of the Visual Industry Promotion Organization, and will support the following activities of the organization:

- Promote the development and use of human resources through industry-academic cooperation, including enhancement of internships
- Providing grants for production of works by making arrangements for investment and loans provided by financial institutions
- Support business start-ups by making arrangements for various policy grants
- Develop and cultivate domestic and overseas markets, and build cooperation among the parties concerned.

(Ministry of Internal Affairs and Communications, Ministry of Education, Culture, Sports, Science and Technology, and Ministry of Economy, Trade and Industry)

(5) Discovering and Honoring Talented Persons

In FY 2005, with the aim of providing novel and excellent content, the GOJ will continue to endeavor to discover “hidden treasures,” persons with exceptional talent and increase the population of “content-related human resources” in Japan, while supporting efforts to organize various competitions for movies, music, animation, and so on. Also, with the aim of improving social recognition of human resources engaging in the content business and attracting talented people to this field, the GOJ will broadly support efforts to honor persons with outstanding achievements.

(Ministry of Internal Affairs and Communications, Ministry of Education, Culture, Sports, Science and Technology, and Ministry of Economy, Trade and Industry)

(6) Enhancing Education and Raising Awareness

i) In FY 2005, in order to ensure that children will be able to enjoy attractive and wonderful content, the GOJ will continue to encourage schools, etc. to make independent efforts to provide children with opportunities to see movies and plays, and promote efforts to enable every individual to create and disseminate content.

(Ministry of Education, Culture, Sports, Science and Technology)

ii) In light of the indispensability of content in people's lives, in FY2005, the GOJ will, with the aim of improving the recognition of rules and morals concerning the production and use of content, continue efforts to enhance educational programs concerning copyrights and increase awareness of this issue, and work toward increasing awareness of morals and etiquette in using content with information technology.

(Ministry of Education, Culture, Sports, Science and Technology)

4. Carrying Out Reforms for Japan to Become a Content Business Superpower

(1) Carrying Out a Wide Range of Reforms for the Digital Age

Amidst the trend of new business schemes beyond the existing distribution structure, by the end of FY2005, the GOJ will draw a conclusion on a wide range of reforms to make Japan a content business superpower, with respect to the relationship between broadcast programs and the Internet, problems concerning copyrights, and modernization and streamlining of the industry.

(Ministry of Internal Affairs and Communications, Ministry of Education, Culture, Sports, Science and Technology, and Ministry of Economy, Trade and Industry)

(2) Developing New Business Models and Technology

1) Forming content distribution markets

In order for content creators to select from various distribution channels to provide their own content, from FY 2005, the GOJ will work toward forming distribution markets where parties with the “ability to discern” function as brokers and price makers for content, based on the research on advanced overseas examples.

(Ministry of Internal Affairs and Communications and Ministry of Economy, Trade and Industry)

2) Building consensus between parties concerned for the use of content

i) In order to ensure that content such as movies and broadcast programs will be used effectively by means of distribution via the Internet, in FY 2005, the GOJ will continue to encourage discussion among the parties concerned, including the right holders, based on discussion between copyright management organizations and users organizations, and will actively participate in international discussion on the development of legal and technical environments.

Also in order to ensure that content such as movies and broadcasting programs will be effectively used in broadcasting via telecommunication services with the use of broadband networks, in FY 2005, the GOJ will continue to encourage discussion among the parties concerned, including the right holders, and consider the position of such use of content under the Copyright Law in light of international trends, thereby promoting such way of use of content.

(Ministry of Internal Affairs and Communications, Ministry of Education, Culture, Sports, Science and Technology, and Ministry of Economy, Trade and Industry)

ii) For the purpose of facilitating secondary use of content via broadband networks, in FY2005, the GOJ will encourage the parties concerned to work on integrated management of rights through the wide use of copyright management organizations.

(Ministry of Education, Culture, Sports, Science and Technology)

3) Promoting the effective use of existing content

Based on the results of the study on secondary use of existing educational programs and on effective use of digital broadcasting in the education field, from FY2005, the GOJ will implement experimental model projects through cooperation of the organizations concerned, with the aim of developing effective methods of using digital broadcasting for school education and promoting such use.

(Ministry of Internal Affairs and Communications and Ministry of Education, Culture, Sports, Science and Technology)

4) Promoting the development and diffusion of systems for using content without anxiety

i) With the aim of promoting the diffusion of the system by which right holders “declare their intentions” in advance about the scope of content to be available to users, the GOJ will work toward diffusing a “free use mark” that indicates such intention, and will encourage the process to establish, by the end of FY2005, a portal site where content provided for free use is gathered through similar efforts by other organizations.

(Ministry of Education, Culture, Sports, Science and Technology)

ii) On the Internet, illegal and harmful information is increasing and incidents and offenses relating to such information occur more frequently. In order for users to easily choose safe content, the GOJ will consider establishing a mark system by which users can easily judge the safety of content in advance, and will draw a conclusion and take necessary measures as appropriate by the end of FY 2005.

(Ministry of Internal Affairs and Communications)

5) Promoting R&D and use of digital cinema technology

In FY2005, the GOJ will continue to carry out R&D on digital cinema technology ahead of other countries, while making reference to the actions taken in Europe and the United States, and reflect the R&D results in discussion toward establishing international standards. The GOJ will also make efforts to diffuse and enhance digital cinema by serving as an intermediary between film distributors and film venues and conducting experimental tests to show films at local public facilities.

(Ministry of Internal Affairs and Communications, Ministry of Education, Culture, Sports, Science and Technology, Ministry of Economy, Trade and Industry)

6) Developing systems for the distribution of content

i) The GOJ will put into practice the multi-purpose meta data system and the licensing system, and promote the compilation of information of rights related to content through efforts of the Conference on Copyright for Digital Millennium (CCD) and other organizations to grant right holder ID and content ID and to integrate such IDs. Thus, the GOJ will promote the efforts of a wide range of parties concerned to establish infrastructure for smooth distribution of content and simplify the licensing process. In FY2005, the GOJ will continue to provide necessary support for building a platform, promoting the establishment of a portal site to provide information of rights and details of content.

(Ministry of Internal Affairs and Communications, Ministry of Education, Culture, Sports, Science and Technology, Ministry of Economy, Trade and Industry)

ii) In FY 2005, the GOJ will continue to promote independent efforts by businesses to conduct R&D on innovative technology and will support efforts to develop technology for content distribution via broadband networks, including a copyright management system, distribution technology for large-volume content, and technology for appropriate content distribution between individuals. The GOJ will also support efforts to develop new business models that combine technology for content protection and for comprehensive content management by right holders, with systems for concluding contracts in network environments.

(Ministry of Internal Affairs and Communications and Ministry of Economy, Trade and Industry)

iii) By the end of FY2005, the GOJ will establish the Japan Film Information System on the Internet as a place to provide film information and encourage interaction with film producers and film venues.

(Ministry of Education, Culture, Sports, Science and Technology)

7) Promoting R&D on media art

Designating R&D resulting in the creation of advanced scientific technology, which will help to raise the level of media art, as one of the new research fields for FY 2004 at the Japan Science and Technology Agency, the GOJ will promote relevant efforts. Also, for the purpose of promoting the development of original technology that is practical and highly innovative, in FY2005, the GOJ will continue to designate technology for publicizing and exhibiting cultural property as one of the research targets at the Japan Science and Technology Agency and promote relevant efforts.

(Ministry of Education, Culture, Sports, Science and Technology)

8) Developing technology for facilitating home use of content

Aiming to build a content distribution system that will enable various ways of distributing and using content, from FY2005, the GOJ will develop and experiment with technology for using content while giving due consideration to consumers' viewpoints, so as to achieving both proper protection of rights relating to content and availability/usability of content at home.

(Ministry of Internal Affairs and Communications and Ministry of Economy, Trade and Industry)

9) Supporting R&D on hi-vision technology

In FY 2005, for the purpose of raising the level of audiovisual technology, the GOJ will continue to support R&D on technology relating to high-resolution images and will promote the diffusion of hi-vision technology abroad.

(Ministry of Internal Affairs and Communications)

10) Promoting content distribution via public networks

From FY2005, the GOJ will conduct experimental tests to develop a nationwide public broadband network, which will interconnect local public networks connecting schools, libraries, community centers, and municipal offices at a high speed or ultrahigh speed, with prefectural information highways, aiming to promote the sharing of educational content.

(Ministry of Internal Affairs and Communications)

11) Promoting the creation of new content

From FY2005, the GOJ will encourage universities and companies to vigorously work on the creation of content and content-based products by integrating content into products, especially craftworks specific to the regions, and giving such products a sense of fun or relaxing effect. In this respect, the GOJ will consider how to protect such content-based products as intellectual property, and take necessary measures as appropriate.

(Council for Science and Technology Policy, Ministry of Education, Culture, Sports, Science and Technology, Ministry of Economy, Trade and Industry, and other ministries and agencies concerned)

(3) Carrying Out Legal Reforms

1) Finding the direction on basic issues such as reproduction for private use

i) The GOJ will consider clarifying the scope of allowable reproduction for private use in light of the provisions under relevant treaties and the progress in reproduction measures and technological protection measures, and draw a conclusion by FY2007.

(Ministry of Education, Culture, Sports, Science and Technology)

ii) With respect to the exercise of a joint copyright for a joint work, the GOJ will consider developing a system for adjusting interests among co-owners of the copyright, and draw a conclusion by FY2007.

(Ministry of Education, Culture, Sports, Science and Technology)

iii) The GOJ will consider clearly providing for a right to use works under the Copyright Law, in the same manner that industrial property rights are provided by law, and establishing a system for registration of exclusive licenses as being effective against third parties, and draw a conclusion by FY2007.

(Ministry of Education, Culture, Sports, Science and Technology)

iv) By the end of FY2005, the GOJ will conduct expert study on ideal forms of moral rights of authors, in light of international trends, and organize relevant issues theoretically and systematically.

(Ministry of Education, Culture, Sports, Science and Technology)

v) With respect to the compensation system for private recording, the GOJ will consider defining the scope of eligible devices based on opinions of the parties concerned including right holders, consumers, related industries, as well as actual conditions of private recording. The GOJ will also consider reviewing this system in light of the progress in technological protection measures and the changing situation of content distribution, and draw a conclusion by the end of FY2005.

(Ministry of Education, Culture, Sports, Science and Technology and Ministry of

Economy, Trade and Industry)

vi) The term of protection for cinematographic works under copyright has been extended from 50 years to 70 years after the making public of the work. The GOJ will consider the ideal term of protection for works other than cinematographic works while giving due consideration to the balance in the term of protection for all copyrighted works, and draw a conclusion by FY2007.

(Ministry of Education, Culture, Sports, Science and Technology)

2) Finding the direction on limitation of rights for the digital age

i) The GOJ will consider expanding the scope of limitation of rights with respect to reproduction for the purpose of ensuring efficient communications (e.g. cashing services), temporary storage or reproduction that inevitably occurs within devices, and reproduction in the course of maintenance and repair of devices, and draw a conclusion by the end of FY2005.

(Ministry of Education, Culture, Sports, Science and Technology)

ii) In light of the progress in discussions on a new broadcasting treaty, the GOJ will consider the granting of rights relating to signals prior to broadcasting and the right of distribution, to broadcasting organizations, and draw a conclusion by FY2007.

(Ministry of Education, Culture, Sports, Science and Technology)

3) Finding the direction on protection of licensees from the perspective of licensing and using content

i) For the purpose of protecting licensees in cases where copyrights are transferred or copyright owners have gone bankrupt, the GOJ will consider a system in which licensees can claim their status under contracts against third parties, based on discussion of this issue under other intellectual property laws, and draw a conclusion by FY2007.

(Ministry of Education, Culture, Sports, Science and Technology)

ii) The GOJ will examine the relationship between the Copyright Law and the law of contract, e.g. the preference between the provisions on limitation of rights under the Copyright Law or the provisions under contract. Also, the GOJ will consider developing necessary provisions on contracts under the Copyright Law, while respecting private autonomy, and draw a conclusion by the end of FY2005.

(Ministry of Education, Culture, Sports, Science and Technology)

iii) The GOJ will consider promoting computerization of registration procedures for the purpose of increasing the use of the registration system. The GOJ will also consider reviewing the registration system in connection with other systems relating to joint

copyrights, right to use copyrighted works, and protection of licensees, and establishing a new registration system for original copyright owners, and draw a conclusion by FY2007.

(Ministry of Education, Culture, Sports, Science and Technology)

4) Finding the direction on indirect infringement from the perspective of judicial relief

i) Unlike the Patent Law, the Copyright Law does not provide for indirect infringement. For the purpose of achieving consistency with other intellectual property laws, the GOJ will consider including provisions on indirect infringement in the Copyright Law, and draw a conclusion by the end of FY2005.

(Ministry of Education, Culture, Sports, Science and Technology)

ii) The GOJ will comprehensively consider the role and function of the right to claim damages or restitution of unjust enrichment due to copyright infringement, including the possibility of creating a statutory compensation system, and draw a conclusion by FY2007.

(Ministry of Education, Culture, Sports, Science and Technology)

5) Finding the direction on the scope of regulation of circumvention of technological protection measures

For the purpose of assuring the effectiveness of technological protection measures, in FY 2005, the GOJ will continue to consider the necessity of taking legislative measures to introduce criminal punishments for the avoidance of access control and regulations services for avoiding access control (e.g. providing the public with specific information such as serial numbers that can be used to remove or avoid technological protection measures) and airwave receivers that do not recognize copy-control signals, while taking into account the impact of such regulations on the future development of access control technology, and will take necessary measures as appropriate.

(Ministry of Internal Affairs and Communications, Ministry of Justice, Ministry of Education, Culture, Sports, Science and Technology, and Ministry of Economy, Trade and Industry)

6) Giving consideration to the balance between benefits of right holders and benefits of the public

While strengthening the protection of content, it is also necessary to give

consideration to the balance between the benefits of right holders and the benefits of the public. For the purpose of promoting the fair use of content, which seems necessary for the whole of society, the GOJ will consider ideal forms of “provisions to restrict rights” under the Copyright Law, and draw a conclusion by the end of FY2005.

(Ministry of Education, Culture, Sports, Science and Technology)

7) Finding the direction on delegation to cabinet orders

With the objective of flexibly responding to the progress in information technology and the changing situation in society, the GOJ will consider the possibility of delegation to cabinet orders under the Copyright Law from the perspective of legal technique, and draw a conclusion by FY2007.

(Ministry of Education, Culture, Sports, Science and Technology)

8) Unifying expressions and terms used in the Copyright Law

In order to make the provisions of the Copyright Law easier to understand, irrespective of any changes in the contents of provisions, the GOJ will consider improving provisions, by using more simple and accurate expressions, and draw a conclusion by FY2007.

(Ministry of Education, Culture, Sports, Science and Technology)

9) Promoting international harmonization of copyright systems

i) In FY 2005, in order to protect copyrights appropriately in response to digitization and networking, the GOJ will continue to make active contributions to discussions for the early adoption of the new treaties on audiovisual performances and broadcasting organizations (“Treaty on the Protection of Broadcasting Organizations (tentative name)” and “Treaty on Audiovisual Performances (tentative name)”) that are currently being deliberated in WIPO.

(Ministry of Internal Affairs and Communications, Ministry of Foreign Affairs, and Ministry of Education, Culture, Sports, Science and Technology)

ii) In FY 2005, the GOJ will continue to approach other countries, mainly Asian nations, to join at an early date the “WIPO Copyright Treaty (WCT)” and the “WIPO Performances and Phonograms Treaty (WPPT)” that were adopted in 1996, through various opportunities such as negotiations on bilateral agreements, Free Trade Agreements (FTA), or Economic Partnership Agreements (EPA).

(Ministry of Foreign Affairs and Ministry of Education, Culture, Sports, Science and Technology)

iii) In FY 2005, the GOJ will continue to provide training and hold seminars for the government officials and staff of collective management societies in developing countries and dispatch experts in the copyright system and the collective management system to such countries, with the cooperation of WIPO, in order to provide support for the dissemination and improvement of the copyright system in developing countries.

(Ministry of Foreign Affairs and Ministry of Education, Culture, Sports, Science and Technology)

(4) Encouraging and Supporting Independent Efforts for Sound Development of Youth

i) In light of the opinion that some content has an adverse effect on the entire society, including young people, and for the purpose of promoting the diffusion of sound content, in FY 2005, the GOJ will continue to support independent efforts by the industry to protect young people from harmful content and to conduct quantitative research on the effects of some content on people's bodies.

(National Police Agency, Ministry of Internal Affairs and Communications, Ministry of Education, Culture, Sports, Science and Technology, and Ministry of Economy, Trade and Industry)

ii) In FY 2005, in order to contribute to the sound development of youth, the GOJ will continue to support independent efforts by the industries concerned to prevent the theft of comic books, CDs, game software, etc.

(National Police Agency and other ministries and agencies concerned)

5. Expanding Business Overseas

(1) Supporting the Expansion of Business Overseas through the Japan External Trade Organization (JETRO), the Nippon Export and Investment Insurance (NEXI), etc.

i) In FY 2005, the GOJ will continue to provide support for the Organization for the Promotion of Overseas Distribution of Content and also support the production of subtitles necessary for showing content, e.g. movies and broadcasting programs, at overseas exhibitions and overseas film festivals, thereby supporting the expansion of the Japanese content industry to overseas markets.

(Ministry of Internal Affairs and Communications, Ministry of Foreign Affairs, Ministry of Education, Culture, Sports, Science and Technology, and Ministry of Economy, Trade and Industry)

ii) In FY 2005, the GOJ will continue to reinforce the function of public agencies to collect information through the foreign market survey conducted by JETRO and to provide necessary information by preparing handbooks that contain the matters to be noted (judicial precedents and regulations) when companies dealing with content, such as movies, broadcast programs, animation, music, game software, and publications, conduct business overseas.

(Ministry of Internal Affairs and Communications, Ministry of Foreign Affairs, Ministry of Education, Culture, Sports, Science and Technology, and Ministry of Economy, Trade and Industry)

iii) In order to operate the content business overseas, it is absolutely necessary to enhance insurance covering intellectual property. In light of this, in FY 2005, the GOJ will continue to promote the use of “Intellectual Property Right License Insurance” provided by NEXI to cover risks arising from licensing activities overseas.

(Ministry of Economy, Trade and Industry)

(2) Drastically Reinforcing the Tokyo International Film Festival

In order to ensure that the Tokyo International Film Festival will be highly evaluated around the world, comparable to the three other famous international film festivals, the GOJ will, in FY 2005, continue to provide support to enable the marketing of films at the festival and also support projects to show local movies and to hold symposiums and other various events relating to movies intensively during the period of the festival as well as to hold events relating to other kinds of content such as games and music, thereby reinforcing the festival significantly.

(Ministry of Education, Culture, Sports, Science and Technology and Ministry of Economy, Trade and Industry)

(3) Reinforcing the Publication of Content to the World

i) For the purpose of bringing about an economic ripple effect from the production of foreign movies in Japan and encouraging business expansion into overseas markets, in FY 2005, the GOJ will continue to support, within the framework of international rules, the conclusion of agreements to produce movies jointly and to encourage international exchange between private organizations in Japan and those in foreign countries (mutual support for film festivals and support for educational programs for people in the film industry through personnel exchange), and also support international exchange of creators, thereby encouraging the production of movies through international collaboration.

(Ministry of Foreign Affairs, Ministry of Education, Culture, Sports, Science and Technology, and Ministry of Economy, Trade and Industry)

ii) In order to improve the image of Japan by utilizing the content made in Japan, in FY 2005, the GOJ will continue to support projects to publish Japanese content, including animation and educational programs, overseas through the Japan Foundation, ODA, and other effective schemes.

(Ministry of Internal Affairs and Communications, Ministry of Foreign Affairs, Ministry of Education, Culture, Sports, Science and Technology, Ministry of Economy, Trade and Industry, and other ministries and agencies concerned)

(4) Strengthening Cooperation with Asian Countries

i) With the aim of making Japan serve as a hub for production and distribution of content across Asia, in FY2005, the GOJ will hold an Asia Content Industry Seminar, inviting leading figures in the content industries of Asian countries.

(Ministry of Foreign Affairs and Ministry of Economy, Trade and Industry)

ii) With the aim of creating reliable licensees in Asia, in FY2005, the GOJ will implement training programs for licensees. Also, for the purpose of developing strategic cooperation and collaboration with Asian countries and further promoting international expansion, the GOJ will hold an Asia Content Business Workshop, so as to maintain and improve the high-level creativity of the Japanese content industry, which is ahead of other Asian countries, and promote the establishment of new business models for providing various works in various forms.

(Ministry of Economy, Trade and Industry)

6. Promoting Live Entertainment

(1) Supporting the Modernization and Streamlining of the Industry

Toward modernization and streamlining of the live entertainment industry, which constitutes an important part of the content industry, by the end of FY2005, the GOJ will encourage independent efforts within the industry to develop sample forms of performance contracts and ensure the conclusion of performance contracts.

(Ministry of Education, Culture, Sports, Science and Technology and Ministry of Economy, Trade and Industry)

(2) Encouraging Efforts for Concentration of Facilities

In order to enable the general public to enjoy, before their eyes, live

entertainment that gives high-quality and attractive performance, from FY2005, the GOJ will encourage and support independent efforts of the parties concerned to concentrate halls, playhouses, and movie theaters to specific regions.

(Ministry of Education, Culture, Sports, Science and Technology, Ministry of Economy, Trade and Industry, Ministry of Land, Infrastructure and Transport)

(3) Emphasizing Connection with the Tourism Industry

From FY2005, the GOJ will encourage and support independent efforts of the parties concerned to develop cooperation between live entertainment and tourism by making use of the advantage of live entertainment, i.e. contributing to development of the tourism industry and revitalization of local areas, and preparing theater calendars that will also contain information on local areas and tour information.

(Ministry of Education, Culture, Sports, Science and Technology, Ministry of Economy, Trade and Industry, Ministry of Land, Infrastructure and Transport)

(4) Developing a Favorable Environment for the Activities of Performers

In order to ensure that performers who do not belong to production firms will be able to engage in performing activities in a safe and secure manner, in FY2005, the GOJ will continue to consider ideal accident/disaster compensation for performers, as well as the promotion of performance contracts in writing to be concluded in the absence of employment contracts, and will take necessary measures.

(Ministry of Education, Culture, Sports, Science and Technology and Ministry of Health, Labor and Welfare)

7. Encouraging and Supporting Efforts to Establish Content Archives

(1) Promoting the Establishment of Content Archives

For the purpose of preventing valuable material of comic books/animation and photographs from being dispersed and securing a place to provide information for visitors from abroad in a centralized manner, in FY 2005, the GOJ will continue to actively support efforts of communities and private parties to collect and store materials relating to comic books/animation and photographs.

(Ministry of Education, Culture, Sports, Science and Technology)

(2) Enhancing the Film Center of the National Museum of Modern Art, Tokyo

For the purpose of further promoting environmental development for the

production of film content, the GOJ will work toward improving the functions of the Film Center of the National Museum of Modern Art, Tokyo, to store and show film content. The GOJ will also launch measures by the end of FY2006 to smoothly achieve the independence of the film center.

(Ministry of Education, Culture, Sports, Science and Technology)

(3) Enhancing the Broadcast Programming Center of Japan

The GOJ will consider improving the functions of the Broadcast Programming Center of Japan to collect, store, and show broadcasting programs, based on opinions of the parties concerned, and draw a conclusion by the end of FY2005.

(Ministry of Internal Affairs and Communications)

(4) Publicizing and Utilizing Cultural Heritage

In FY 2005, the GOJ will continue to promote the “Plan for Online Access to Cultural Heritage” and take necessary measures in order to ensure that tangible and intangible precious cultural heritage will be available to the public with the use of information and communication technology.

(Ministry of Internal Affairs and Communications and Ministry of Education, Culture, Sports, Science and Technology)

(5) Storing, Publicizing, and Utilizing Historical Official Documents

While promoting the transfer of historical official documents to official archives in order to develop digital archives of such documents, the GOJ will, from FY2005, start to consider measures for integrated management of existing official documents, so that historical official documents will not be dispersed, and ideal methods of management, transfer, and storage of documents produced in electronic media. Thus, the GOJ will take necessary measures to store and publicize a wide range of valuable historical official documents and make them available to the public.

(Cabinet Office)

(6) Promoting the Enhancement of Digital Archives and the Use of Networks in Local Areas

For the purpose of promoting the enhancement of digital archives of traditions and cultures and the use of digital networks in local areas, in FY 2005, the GOJ will continue to consider how to promote the production and distribution of digital content in local areas and draw a conclusion, and will also support efforts in local areas to honor

attractive digital content.

(Ministry of Internal Affairs and Communications, Ministry of Education, Culture, Sports, Science and Technology, and Ministry of Economy, Trade and Industry)

(7) Promoting the Establishment of Archives of Digital Information

In FY 2005, the GOJ will continue to establish archives of useful digital information, including web information that exists in a form in which it is easily scattered and lost, and build and conduct empirical experiments of technology and systems for promoting the use of such information.

(Ministry of Internal Affairs and Communications)

(8) Encouraging and Supporting Efforts to Preserve Skills Acquired by Content Creators

From FY2005, the GOJ will encourage and support independent efforts of universities and other parties concerned to systematically or non-systematically preserve skills acquired by creators of movies, animation, and other kinds of content, which are becoming difficult to pass on to the next generation.

(Ministry of Education, Culture, Sports, Science and Technology and Ministry of Economy, Trade and Industry)

(9) Carrying out R&D for Establishing Digital Archives

In FY 2005, the GOJ will continue to conduct R&D to establish the software technology infrastructure necessary for electronically storing and using intellectual property (so-called digital archiving) in the fields of education, culture, and art.

(Ministry of Education, Culture, Sports, Science and Technology)

8. Accomplishing the Roadmap for the Reform

With the objective of achieving effective reforms during the intensive reform period until the end of FY2006, the GOJ will promote efforts of the ministries and agencies concerned, and will also review the progress in accomplishing the goals every year and revise the Roadmap for Content Business Reforms.

(Ministries and agencies concerned)

9. Appropriately Applying the Law Concerning Promotion of Creation, Protection, and Exploitation of Content

(1) Promoting the Creation, Protection, and Exploitation of Content

The Law Concerning Promotion of Creation, Protection, and Exploitation of Content was put into force on June 2004. This law provides for the fundamental principle and basic ideas for the creation, protection, and exploitation of content, as well as necessary matters for the development of content business. The establishment of this law has accelerated efforts of the national and local governments and of those engaging in content production. In FY2005, the parties concerned will continue to apply the law appropriately and contribute to promoting the creation, protection, and exploitation of content.

(Ministries and agencies concerned)

(2) Promoting Active Use of the Bayh-Dole System for Content

Through periodical surveys on efforts of the ministries and agencies concerned in respect of the Bayh-Dole System for Content provided in Article 25 of the Law Concerning Promotion of Creation, Protection, and Exploitation of Content, the GOJ will continue to promote active use of the system in FY2005.

(Ministries and agencies concerned)

II. Implementing the Japan Brand Strategy Based on Japanese Lifestyle

In order to make Japan a nation that is loved and respected by people throughout the world, we must further improve our cultural power and establish and reinforce an attractive Japan Brand.

In this respect, we already have a wealth of remarkable resources relating to food culture, local brands, and fashion that can be sufficiently accepted overseas, and it is important within the framework of national strategy to create a Japan Brand based on Japanese lifestyle with the use of such remarkable cultural resources.

So far, the private sector has played a major role in promoting lifestyle-related business. The GOJ should eliminate obstacles to free competition in the private sector and develop the necessary environment and provide support for further development of lifestyle-related business.

It is also important for Japanese people to evaluate their own lifestyle and background culture, of which they can be proud, and endeavor to achieve cultural development and provide cultural education, as well as to actively expand business to overseas markets in which they have not been very interested, and strategically disseminate information to convey the attractiveness of Japan.

1. Fostering Rich Food Culture

(1) Evaluating and Developing Japan's Quality Food Culture

1) Encouraging the private sector to study food culture

From FY2005, the GOJ will actively support concerted efforts of the culinary industry, companies, universities, and professional schools, to conduct study on food culture and preserve and exploit food culture. The GOJ will also actively reflect in policy the results of concrete measures taken by private organizations such as the Food Culture Study Promotion Meeting.

(Ministry of Education, Culture, Sports, Science and Technology, Ministry of Health, Labor and Welfare, Ministry of Agriculture, Forestry and Fisheries, and other ministries and agencies concerned)

2) Actively honoring people who have contributed to the development of food culture

From FY2005, the GOJ will enhance schemes to honor young talented chefs

and those who have contributed to the development of Japanese food culture, including those operating abroad and foreign nationals.

(Ministry of Education, Culture, Sports, Science and Technology, Ministry of Health, Labor and Welfare, and Ministry of Agriculture, Forestry and Fisheries)

(2) Promoting Food Education on the National Level

i) A bill for the Basic Law on Food Education has been submitted to the ordinary session of the Diet in 2005. When this bill is passed by the Diet, the GOJ will appropriately apply it.

(Cabinet Office, Ministry of Education, Culture, Sports, Science and Technology, Ministry of Health, Labor and Welfare, Ministry of Agriculture, Forestry and Fisheries, and other ministries and agencies concerned)

ii) From FY2005, the GOJ will enhance support for producers, chefs, food culture experts, national/prefectural registered dietitians, and dietary advisers in carrying out activities for practical food education, such as operating farming experience schools, promoting local production for local consumption, providing cooking lessons, and popularizing the importance of a well-balanced diet.

(Ministry of Health, Labor and Welfare and Ministry of Agriculture, Forestry and Fisheries)

iii) For the purpose of enhancing food education for children, from FY2005, schools will promote food education under the initiative of nutrition teachers and through cooperation among schools, homes, and communities, with support from outstanding human resources available in communities such as specialized licensed cooks.

(Ministry of Education, Culture, Sports, Science and Technology)

(3) Encouraging Production of Safe, Secure and Reliable Foodstuff

In order to promote the establishment of brands for foodstuff that will be reliable to consumers, from FY2005, the GOJ will strengthen production systems of safe, secure, and quality foodstuff, and actively provide consumers, in the distribution process, with information on production areas and producers of foodstuff.

(Ministry of Agriculture, Forestry and Fisheries)

(4) Developing Diverse Human Resources in the Food Industry

i) With the aim of improving the qualities of chefs, in FY2005, the GOJ will continue to foster licensed cooks as well as specialized licensed cooks/licensed professional cooks. From FY2005, the GOJ will also vigorously work toward developing an environment

for providing basic education and enhancing practical education to meet various needs at institutions for training cooks, while promoting cooperation between professional schools and other institutions for training cooks and the culinary industry.

(Ministry of Education, Culture, Sports, Science and Technology and Ministry of Health, Labor and Welfare)

ii) For the purpose of fostering chefs who are also equipped with comprehensive management skills, in FY2005, the GOJ will continue to support independent efforts of universities to establish faculties and schools relating to food culture.

(Ministry of Education, Culture, Sports, Science and Technology)

(5) Widely Disseminating Precise Knowledge and Skills on Japanese Food and Actively Promoting Expansion of Food Business Overseas

i) From FY2005, the GOJ will support diffusion of Japanese food through overseas Japanese restaurants and strengthen public relations activities to spread Japanese food and background culture via Overseas Establishments and JETRO.

(Ministry of Foreign Affairs and Ministry of Agriculture, Forestry and Fisheries)

ii) For the purpose of diffusing Japanese cooking skills overseas, in FY2005, the GOJ will actively support independent efforts of chefs associations and professional schools to hold workshops abroad and provide cooking lessons for foreign chefs at Japanese restaurants.

(Ministry of Foreign Affairs, Ministry of Education, Culture, Sports, Science and Technology, Ministry of Health, Labor and Welfare, and Ministry of Agriculture, Forestry and Fisheries)

iii) In order to support Japanese chefs and restraints actively expanding business overseas, the GOJ will make use of the results of the overseas survey to be launched by JETRO in FY2005.

(Ministry of Health, Labor and Welfare and Ministry of Agriculture, Forestry and Fisheries)

(6) Promoting Global Use of Quality Foodstuff Produced in Japan

1) Doubling foodstuff export

Aiming to double the amount of export of agricultural, forestry, and fishery products and foodstuff by FY2009, the GOJ will, from FY2005, reinforce efforts to create and expand sales channels, or more specifically, activities to carry out year-round sales promotion, hold meetings for sales negotiations, and conduct trial export targeting overseas retailers. The GOJ will also request foreign countries to improve import

systems that hamper export from Japan.

(Ministry of Foreign Affairs and Ministry of Agriculture, Forestry and Fisheries)

2) Strengthening intellectual property control in importing countries

In order to ensure that the brand value of Japanese foodstuff will be appropriately protected in importing countries, from FY2005, the GOJ will support breeders and producers of new varieties in obtaining and exercising trademark rights and other intellectual property rights in importing countries, and will also request such countries that have defects in trading systems to develop and improve systems.

(Ministry of Foreign Affairs, Ministry of Agriculture, Forestry and Fisheries, and Ministry of Economy, Trade and Industry)

2. Establishing Diverse and Reliable Local Brands

(1) Creating Attractive Local Brands

1) Supporting the strategy for creating local brands

i) For the purpose of making producers aware and providing them with support for developing strategies, from FY2005, the GOJ will hold forums and dispatch advisors through cooperation between industries and interaction between local areas, and will investigate and publicize good practices in creating local brands.

(Ministry of Agriculture, Forestry and Fisheries and Ministry of Economy, Trade and Industry)

ii) From FY2005, the GOJ will investigate and evaluate, from the consumers' viewpoint, local specialty products made and manufactured by using characteristic raw materials and climate or applying traditional methods, and will encourage the movement to create attractive local brands that will be accepted by the public.

(Ministry of Agriculture, Forestry and Fisheries)

iii) With the aim of improving the attractiveness of products made with the use of characteristics of local areas and establishing high reputation (brand power) of such products not only in Japan but also in overseas markets, in FY2005, the GOJ will continue to support joint efforts of local SMEs in developing products and expanding sales channels.

(Ministry of Agriculture, Forestry and Fisheries and Ministry of Economy, Trade and Industry)

2) Supporting industry-academic-government cooperation and collaboration with

the tourism industry

From FY2005, the GOJ will support efforts in industry-academic-government cooperation involving producers, manufacturers, distributors, retailers, universities, public research institutes, and local governments, and also support collaboration between local brands and tourism, by holding Lessons by Charismatic Tourism Promoters, assisting commercialization of local brands in collaboration with tourism, and preparing and publicizing collected good practices.

(Ministry of Education, Culture, Sports, Science and Technology, Ministry of Agriculture, Forestry and Fisheries, Ministry of Economy, Trade and Industry, and Ministry of Land, Infrastructure and Transport)

(2) Using Local Brands on a Large Scale

i) From FY2005, the GOJ will strengthen support for producer associations and SMEs that produce and sell local brand products in holding and displaying products at exhibitions and trade fairs and conducting market research, so as to promote the expansion of local brands to large-scale consumption regions in Japan and overseas markets.

(Ministry of Agriculture, Forestry and Fisheries and Ministry of Economy, Trade and Industry)

ii) In order to discover attractive local brands, strengthen brand power, and promote export, from FY2005, the GOJ will use trade experts assigned in the Japanese Trade Center of JETRO.

(Ministry of Agriculture, Forestry and Fisheries and Ministry of Economy, Trade and Industry)

(3) Increasing the Value of Local Brands

With the aim of increasing the value of local brands, from FY2005, the GOJ will carry out educational activities by preparing manuals and holding seminars concerning the use of intellectual property, and encourage producers and other parties concerned to strategically obtain and use intellectual property rights, and will strengthen control of infringements to eliminate counterfeits.

(Ministry of Agriculture, Forestry and Fisheries and Ministry of Economy, Trade and Industry)

(4) Increasing Consumer Confidence in Local Brands

1) Developing and publicizing standards for local brands

i) From FY2005, the GOJ will prepare sample standards for geographical ranges, production methods, and quality of local brand products and distribute them to production areas, thereby strengthening support for clarifying standards on local brands.

(Ministry of Agriculture, Forestry and Fisheries)

ii) From FY2005, the GOJ will publicize standards and information on local brands throughout Japan on the Websites of the government and food-related associations, so as to make such standards and information easily available to consumers.

(Ministry of Agriculture, Forestry and Fisheries)

2) Strictly applying the Premiums and Representation Act

For the purpose of ensuring appropriate transactions of local brand products directly involving consumers, in FY2005, the GOJ will continue to take strict and prompt measures in cooperation with general consumers, as well as with prefectural governments regarding violation of the Premiums and Representation Act.

(Japan Fair Trade Commission)

3) Reinforcing efforts to ensure appropriate indication of food quality under the JAS Law

i) In FY2005, the GOJ will continue to strengthen regulations for deceptive labeling under the Law Concerning Standardization and Proper Labeling of Agricultural and Forestry Products (JAS Law), through activities of regional agricultural administration offices and food labeling watchers.

(Ministry of Agriculture, Forestry and Fisheries)

ii) With respect to livestock products with brand names containing such geographical names that differ from the names of the principal breeding areas, by the end of FY2005, the GOJ will require mandatory indication of the names of the prefectures to which the principal breeding areas belong. Also with respect to processed food, the GOJ will significantly expand the scope of food products subject to the indication of origins of raw materials and require mandatory indication by the end of FY2006. Thus, the GOJ will tighten the standards for indication of food quality under the JAS Law.

(Ministry of Agriculture, Forestry and Fisheries)

4) Promoting the indication of origin in the food-service industry

In order to encourage the food-service industry to indicate origins of raw materials, the GOJ will develop guidelines by the end of FY2005. The GOJ will also encourage and support independent efforts of the food-service industry to indicate

origins of raw materials from FY2005.

(Ministry of Agriculture, Forestry and Fisheries)

(5) Encouraging and Supporting Concerted Efforts of Local Governments and Production Areas for Effective Dissemination of Information

In FY2005, the GOJ will continue to support local governments in making independent efforts to develop tourism strategies with the use of the local brand certification system and local brands, and will also encourage them to build independent networks and work toward promoting overseas expansion of local brands and preventing illegal local brands of Japan and other countries from circulating in Japan.

(Ministry of Agriculture, Forestry and Fisheries, Ministry of Economy, Trade and Industry, and Ministry of Land, Infrastructure and Transport)

(6) Developing and Utilizing Systems for Protecting Local Brands

The Law for Partial Amendment of the Trademark Law was enacted in June 2005 to enable registration of trademarks consisting of the names of the local areas or the names of the products or services, as local collective trademarks. The GOJ will actively apply the amended law as a means to protect local brands. Also, a bill for amendment of the Seeds and Seedlings Law has been submitted to the ordinary session of the Diet in 2005 to also protect processed food under the breeder's right. When this bill is passed by the Diet, the GOJ will also actively apply the amended law. Furthermore, from FY2005, the GOJ will actively apply the Unfair Competition Prevention Law to protect local brands.

(Ministry of Agriculture, Forestry and Fisheries and Ministry of Economy, Trade and Industry)

3. Creating Attractive Fashion

(1) Increasing Attractiveness of Japanese Fashion and Reinforcing the Ability to Spread Japanese Fashion on a Global Scale

Aiming to increase Japan's garment export to GDP ratio to the level of other developed countries by 2030, the GOJ will take the following measures to make Tokyo a place from which information will be disseminated to invite famous buyers and journalists from overseas.

1) Encouraging the fashion industry to develop a medium and long-term progress

strategy

In order to establish Japanese fashion that will lead the world's fashion trend, the GOJ will encourage industry to lay down a medium and long-term development strategy by the end of FY2005. The development strategy will aim to increase international competitiveness through collaboration of creative ability of designers, skillful art of the material industry, and commercial power of apparel and retail businesses, revitalize creative activities by young designers, and develop human resources and overseas markets in the fashion industry.

(Ministry of Economy, Trade and Industry)

2) Intensively holding exhibitions in Tokyo to generate a synergetic effect in increasing the ability to spread Japanese fashion

In order to make Tokyo a place from which information will be disseminated to invite famous buyers and journalists from overseas, by the end of FY2005, the GOJ will encourage efforts of industry to intensively hold high-quality events relating to fashion during a specific period.

(Ministry of Economy, Trade and Industry)

3) Providing opportunities to spread and display fashion

In FY2005, the GOJ will continue to encourage national museums to display fashion as works of art, and also encourage them to provide their facilities for rent, on closing day or after closing hour, for companies to hold fashion shows and events for new product release. The GOJ will also encourage local governments to independently take such measures.

(Ministry of Education, Culture, Sports, Science and Technology and other ministries and agencies concerned)

4) Actively spreading Japanese fashion overseas

i) JETRO has recently been making efforts to expand comprehensive exhibitions of Japanese fashion products overseas, while holding exhibitions of textile and garment products in China and other foreign countries. In FY2005, the GOJ will continue to actively support public relations activities and business projects by encouraging industry and designers, through Overseas Establishments and JETRO, to spread Japanese brands across the world.

(Ministry of Foreign Affairs and Ministry of Economy, Trade and Industry)

ii) By the end of FY2005, the GOJ will encourage industry to develop a system to

comprehensively disseminate information on Japanese fashion business to the world.
(Ministry of Economy, Trade and Industry)

(2) Increasing International Competitiveness of the Japanese Fashion Industry

1) Improving creators' skills and strengthening business infrastructure

i) In order to ensure that the material industry will be able to voluntarily contribute to differentiation of fashion products by materials, thereby growing beyond its existing position as mere subcontractor for the fashion industry, in FY2005, the GOJ will continue to support independent efforts of the material industry in product development with the use of designers and based on potential market needs.

(Ministry of Economy, Trade and Industry)

ii) Aiming to create a new strong value through collaboration of creative ability of designers, skillful art of the material industry, and commercial power of apparel and retail businesses, the GOJ will hold a Creation Business Forum by the end of FY2005. The GOJ will also encourage industry to cooperate in this forum, and will actively conduct public relations activities.

(Ministry of Economy, Trade and Industry)

iii) From FY2005, the GOJ will encourage companies to develop brands, with the aim of expanding business to international markets, through collaboration with overseas human resources and human exchange with foreign countries by further enhancing internship schemes at home and abroad. Also from FY2005, the GOJ will encourage universities and professional schools to improve the abilities of Japanese students to create designs and international perspectives, by accepting trainees and students from overseas fashion schools.

(Ministry of Education, Culture, Sports, Science and Technology and Ministry of Economy, Trade and Industry)

2) Promoting fair and transparent transactions

In FY2005, the GOJ will continue to improve commercial transactions in industry and strictly apply the Anti-Monopoly Law and the Law on the Prevention of Delay in Payment of Subcontracting Charges and Related Matters. The GOJ will also encourage the private sector to develop and diffuse guidelines in order to ensure that various companies and individuals will be able to engage in business activities, in fair and transparent transactions, to create high added value.

(Japan Fair Trade Commission and Ministry of Economy, Trade and Industry)

(3) Discovering and Developing Human Resources as Potential Designers and Their Partners

1) Supporting activities of new designers

a) In FY2005, the GOJ will continue to promote efforts of industry to take measures to increase interest in Japanese fashion business among buyers and journalists at home and abroad, by holding exhibitions at home and abroad and providing young designers with opportunities to show their works there.

b) From FY2005, the GOJ will encourage industry including department stores to provide potential young Japanese designers with business opportunities, e.g. providing them with spaces to sell their works.

c) From FY2005, the GOJ will promote the use of business support schemes among SMEs and encourage industry to provide financial support to designers.

(Ministry of Economy, Trade and Industry)

2) Promoting the establishment of fashion-related undergraduate and graduate schools

In FY2005, the GOJ will continue to support independent efforts of universities to establish fashion-related undergraduate and graduate schools, with the aim of fostering designers as well as people engaged in conducting business management and supporting design creation.

(Ministry of Education, Culture, Sports, Science and Technology)

3) Promoting the development of human resources in the private sector

i) From FY2005, the GOJ will promote efforts of private organizations to enhance fostering of designers as well as people engaged in conducting business management and supporting design creation, or more specifically, fostering people engaged in textile development with the use of characteristics of production areas, and people engaged in product planning/development based on expertise in manufacturing.

(Ministry of Economy, Trade and Industry)

ii) By the end of FY2005, the GOJ will support industry in improving the Fashion Award for Rookie Designers so as to make it as a top-level gateway to success in Asia for young designers. Also in FY2005, the GOJ will continue to provide support for associations in textile production areas, in cooperation with local governments, in holding and enhancing contests for young designers and students.

(Ministry of Economy, Trade and Industry)

4) Providing children with opportunities to improve their aesthetic sensibility

In FY2005, the GOJ will continue to encourage not only national but also local museums to provide children with opportunities to improve their aesthetic sensibility, by giving year-round preferential treatment to elementary and junior high school students and conducting educational activities targeting children.

(Ministry of Education, Culture, Sports, Science and Technology and other ministries and agencies concerned)

5) Providing children with opportunities to create fashion and operate fashion business simultaneously

Through cooperation among schools, local governments, and industry, fashion schools for kids have been opened for elementary school students in the fifth and sixth grades, in order to provide them with opportunities to experience the whole process of fashion business, from product designing/planning to sales, thereby fostering their creativity and encouraging them to enjoy the pleasure of self-fulfillment. In FY2005, the GOJ will continue to encourage independent efforts of such schools and industry.

(Ministry of Education, Culture, Sports, Science and Technology and Ministry of Economy, Trade and Industry)

6) Giving awards in a timely manner to people who have contributed to the fashion industry

In FY2005, the GOJ will continue to give awards in a timely manner to successful people both in the public and private sectors, while also taking into consideration their economic performance, with the aim of putting the spotlight on such people who have contributed to the development of the Japanese fashion industry.

(Ministry of Economy, Trade and Industry)

(4) Improving the Environment for Using Intellectual Property

1) Raising awareness of intellectual property rights

In order to increase awareness of intellectual property rights among businesses, by the end of FY2005, the GOJ will encourage the fashion industry as a whole to declare a stance to fight counterfeiting, and at seminars and events held by industry, the GOJ will also encourage efforts to obtain intellectual property rights for designs.

(Ministry of Economy, Trade and Industry)

2) Developing a law for design protection

A bill for amendment of the Unfair Competition Prevention Law has been submitted to the ordinary session of the Diet in 2005 to clearly define configurations of products that may be regarded as imitations. When this bill is passed by the Diet, the GOJ will immediately make the contents of the amendment public by the end of FY2005.

(Ministry of Economy, Trade and Industry and other ministries and agencies concerned)

4. Strategically Conveying Attractiveness of Japan

(1) Reevaluating Attractiveness of Japan

i) For the purpose of improving public understanding of attractiveness of Japan, in FY2005, the GOJ will continue to enhance education aimed to improve understanding on Japanese tradition and culture.

(Ministry of Education, Culture, Sports, Science and Technology)

ii) In FY2005, the GOJ will continue to support efforts of universities to enhance education on Japanese culture and lifestyle, particularly food culture and fashion, at their discretion, while using competitive research grants.

(Ministry of Education, Culture, Sports, Science and Technology)

iii) From FY2005, the GOJ will promote and encourage research study for improving understanding of Japanese lifestyle and related arts, as sources of attractiveness of Japan, and work toward establishing archives and investigating and preserving cultural and technical heritage as appropriate.

(Ministry of Education, Culture, Sports, Science and Technology, Ministry of Economy, Trade and Industry, and other ministries and agencies concerned)

iv) From FY2005, the GOJ will endeavor to play a leading role in making Japan appear more attractive, by encouraging the use of Japanese-style formal attire and providing Japanese food at official events and dinner parties organized by the government. The GOJ will also actively promote efforts to develop methods for providing Japanese food at international events and increasing recognition of Japanese food culture.

(Ministry of Foreign Affairs and other ministries and agencies concerned)

(2) Honoring People Who Have Contributed to the Development and Overseas Spread of Japanese Culture

In FY2005, the GOJ will continue to actively honor people who have contributed to the development and overseas introduction of Japanese culture. In this process, the GOJ will endeavor to discover such people who have made contribution

overseas, including foreign nationals, and promptly honor them, irrespective of age, thereby actively supporting efforts to convey the attractiveness of Japanese culture.

(Ministry of Foreign Affairs, Ministry of Education, Culture, Sports, Science and Technology, Ministry of Agriculture, Forestry and Fisheries, Ministry of Economy, Trade and Industry, and other ministries and agencies concerned)

(3) Strategically Disseminating Information Overseas

i) Considering that individual companies' efforts to expand business overseas will contribute to spreading the Japan Brand across the world and serve the national interest, from FY2005, Overseas Establishments will play an active role in providing spaces for events and making arrangements with the governments of foreign countries, thereby supporting activities of the private sector. The GOJ will also actively promote the spread of the Japan Brand through Overseas Establishments.

Also from FY2005, the GOJ will promote the dissemination of various information on Japan and sale of Japan Brand products at places easily accessible for foreign nationals, e.g. international airports.

(Ministry of Foreign Affairs, Ministry of Education, Culture, Sports, Science and Technology, Ministry of Agriculture, Forestry and Fisheries, Ministry of Economy, Trade and Industry, Ministry of Land, Infrastructure and Transport, and other ministries and agencies concerned)

ii) As early as possible in FY2005, the GOJ will establish a high-level conference of the ministries and agencies concerned, and develop and implement a strategy to convey attractiveness of Japan to the world, while using Overseas Establishments, JETRO, the Japan National Tourist Organization (JNTO), and the Japan Foundation. Also, while actively conveying the attractiveness of Japan overseas, the GOJ will promote efforts to investigate and understand the image of Japan abroad, and reflect the investigation results in the strategy.

(Public Relations Office of the Cabinet Secretariat, Cabinet Office, Ministry of Foreign Affairs, Ministry of Education, Culture, Sports, Science and Technology, Ministry of Economy, Trade and Industry, Ministry of Land, Infrastructure and Transport, and other ministries and agencies concerned)

iii) For the purpose of taking comprehensive and constant measures to spread Japanese culture across the world, from FY2005, the GOJ will build a framework of cooperation for understanding overseas needs and domestic situation and providing information for art associations and art universities in Japan, aiming to effectively and efficiently promote the spread of Japanese culture overseas.

(Ministry of Foreign Affairs and Ministry of Education, Culture, Sports, Science and Technology)

Chapter 5 Developing Human Resources and Improving Public Awareness

It is people who support intellectual property systems. Various kinds of human resources are desired by various sectors, e.g. universities, companies, the legal profession including patent attorneys, and administrative bodies, as intellectual property experts who act in the phases of the intellectual creation cycle, i.e. creation, protection, and exploitation of intellectual property, and specialize in various fields, e.g. research, production, sales, planning, corporate management, content creation, business operation, and legal affairs. We must foster and secure more human resources with such diverse skills and internationally competitive capabilities.

To this end, it is important to foster experts and practitioners who have such skills and capabilities and actively use them at companies and universities.

It is also necessary to provide detailed education on intellectual property to students at elementary, junior and high schools, university students, and adults, in order to increase public understanding of intellectual property.

1. Promoting a Comprehensive Strategy for the Development of Human Resources Related to Intellectual Property

People who have diverse skills and internationally competitive capabilities are desired by various sectors, e.g. universities, companies, administrative bodies, legal professions including patent attorneys, as intellectual property experts who act in the phases of the intellectual creation cycle, i.e. creation, protection, and exploitation of intellectual property, and specialize in various fields, e.g. research, production, sales, planning, corporate management, content creation, business operation, and legal affairs. It is necessary to foster more human resources with such skills and capabilities and improve their quality through competition.

To achieve this goal, the GOJ will promote the Comprehensive Strategy for Fostering Intellectual Property Experts, with the aim of doubling the number of intellectual property experts from about 60,000 to 120,000 during the ten-year period from FY2005, fostering people who specialize in multiple fields, have international perspectives, and have a good sense of business, and actively using such people.

A) Clarify the profile of intellectual property experts

Investigate the current quality and quantity as well as needs of intellectual property experts with respect to individual sectors, phases, and fields mentioned above,

and clarify the role and use desired for intellectual property experts and their profile corresponding thereto.

B) Clarify skills required for intellectual property experts

Investigate skills required for intellectual property experts (range and level of knowledge and technical capability), and set goals.

C) Clarify methods of fostering intellectual property experts

Build a mechanism to enable people to acquire the knowledge and technical capability required to be intellectual property experts, prepare a ten-year roadmap, and evaluate achievements annually.

D) Measures to be taken

a) Human resource development at universities and research institutes

- Scientific researchers: Acquire knowledge on intellectual property focusing on creation of intellectual property
- Teachers: Enhance intellectual property education in science and management-related fields
- Staff of Intellectual Property Headquarters and TLOs: Introduce external human resources and their know-how
- Clerical staff: Acquire general knowledge on intellectual property
- Content creators: Enhance education with the use of creators as teachers
- Law schools: Support postdoctoral fellows in proceeding to higher education

b) Human resource development at companies

- Researchers, developers, and producers: Acquire intellectual property focusing on creation and protection of intellectual property
- Employees engaging in sales and planning: Acquire intellectual property focusing on protection and exploitation of intellectual property
- Employees engaging in intellectual property/legal affairs: Enhance training on intellectual property and promote personnel exchange with other departments and external parties
- Executives: Enhance training and promote personnel exchange with other departments

c) Development of legal professionals at judicial organizations

- Judges and lawyers: Promote international exchange and external training, and enhance training on intellectual property and technical matters

d) Human resource development at intellectual property-related organizations

- Patent attorneys: Clarify and upgrade skills, and strengthen training
- Staff engaging in prior art search: Provide search know-how for JPO examiners

- Technical translators: Enhance education on technical matters, intellectual property, and language
 - Management consultants: Enhance training on intellectual property at SME colleges.
- e) Human resource development at administrative organizations
- Government offices in charge of intellectual property: Enhance specialized training, promote personnel exchange with external parties, and encourage international exchange
 - Other organizations: Enhance training for administrative officers in charge of procurement and consultation
- (Council for Science and Technology Policy, Ministry of Justice, Ministry of Education, Culture, Sports, Science and Technology, Ministry of Economy, Trade and Industry, and other ministries and agencies concerned)

2. Developing Intellectual Property Experts

(1) Increasing the Number and Improving the Quality of Intellectual Property Experts

1) Dramatically increasing the number and improving the quality of attorneys at law

i) In FY 2005, the GOJ will continue to aim at increasing the number of attorneys at law, who are well versed in intellectual property, in the process of dramatically increasing the overall number of legal professionals.

(Ministry of Justice)

ii) In FY2005, the GOJ will continue to consider a desirable way of selecting IP-related questions to place in the national bar examination so as to avoid significant inequality depending on the subject being tested, and will take appropriate measures.

(Ministry of Justice)

iii) A large number of attorneys at law voluntarily participate in training programs on intellectual property laws. In FY 2005, the GOJ will continue to expect more attorneys at law to improve their knowledge and skills in dealing with intellectual property affairs through independent efforts to improve themselves by participating in training programs and lectures on intellectual property. In FY 2005, the GOJ will continue to promote increasing the awareness of attorneys and improving the environment so that attorneys at law will be able to directly deal with intellectual property affairs as in-house lawyers of companies.

(Ministry of Justice and other ministries and agencies concerned)

iv) For the purpose of actively developing legal professionals skilled in handling intellectual property issues, from FY2005, the GOJ will consider and take necessary measures, from various perspectives, to provide incentives for people who are well versed in intellectual property and technical matters.

(Council for Science and Technology Policy, Ministry of Justice, Ministry of Education, Culture, Sports, Science and Technology, and other ministries and agencies concerned)

2) Counting on judges to improve their knowledge on intellectual property

Expecting the Intellectual Property High Court established in April 2005 and other courts that deal with intellectual property cases to carry out trial proceedings for intellectual property litigation more properly and promptly while taking into consideration the actual conditions of the economy and society, the GOJ will count on judges to improve their knowledge on intellectual property through international exchange and training on intellectual property.

3) Dramatically increasing the number and improving the quality of patent attorneys

i) In FY 2005, the GOJ will continue to aim at increasing the number of patent attorneys. In this process, the GOJ will encourage efforts of the training organizations concerned to increase the number of patent attorneys who are well versed in management, accounting, and other fields relating to corporate strategy on intellectual property.

(Ministry of Economy, Trade and Industry)

ii) With the aim of enhancing the quantity and quality of patent attorneys, from FY 2005, the GOJ will start to review the existing patent attorney examination, and submit a bill for amendment of the Patent Attorneys Law if necessary.

(Ministry of Economy, Trade and Industry)

iii) In FY 2005 and beyond, the GOJ will consider the active utilization of patent attorneys, including the possibility of allowing them to independently undertake the trials of specific intellectual property right infringement lawsuits, while also giving consideration to the actual operation status of the system and the actual activities of attorneys at law and patent attorneys.

(Ministry of Justice and Ministry of Economy, Trade and Industry)

iv) With the aim of improving the quality of patent attorneys, in FY2005, the GOJ will continue to encourage efforts of the Japan Patent Attorneys Association to enhance training programs for patent attorneys from various perspectives, including basic

training for newly licensed patent attorneys, training on international systems and cases on intellectual property, training to secure practical skills of those who have passed the patent attorney examination, and training for patent attorneys acting as counsels. In this process, the GOJ will use universities (law schools, intellectual property graduate schools) and the National Center for Industrial Property Information and Training (NCIPI).

(Ministry of Education, Culture, Sports, Science and Technology and Ministry of Economy, Trade and Industry)

4) Improving the quality of examiners and trial examiners

i) Due to the necessity of properly developing fixed-term examiners, who will be employed in bulk in the future, in a shorter period of time than usual, in FY 2005, the GOJ will continue to use external human resources, such as persons who have engaged in patent examination/trials, and enhance training programs.

(Ministry of Economy, Trade and Industry)

ii) Regarding fixed-term examiners as valuable human resources with experience in engaging in patent examination, by the end of FY2005, the GOJ will specify measures to utilize such examiners, whose term has expired as intellectual property experts, in supporting SMEs and other IP support activities, and clearly indicate the results of such consideration.

(Ministry of Economy, Trade and Industry)

iii) In FY 2005, the GOJ will continue to increase dispatches of examiners and trial examiners to academic conferences and implement more training for them in order to cope with examination and appeals/trials on cutting-edge technologies, such as state-of-the-art bio-medical technologies, and to promote international cooperation in examination.

(Ministry of Economy, Trade and Industry)

iv) In FY2005, the GOJ will continue to enhance training for examiners so that they will acquire high-level and advanced knowledge on plant varieties, aiming to promote international cooperation in examination.

(Ministry of Agriculture, Forestry and Fisheries)

5) Improving the quality of searchers

i) In FY2005, the NCIPI will continue to constantly provide training programs aimed at developing human resources in charge of conducting prior art searches at registered search agencies (searchers). The NCIPI will actively provide searchers with search

know-how acquired by JPO examiners.

(Ministry of Economy, Trade and Industry)

ii) For the propose of developing human resources capable of searching documents in foreign languages, from FY2005, the GOJ will encourage efforts of patent attorney offices and search agencies to enhance educational programs for searchers on Chinese, Korean, and other foreign languages.

(Ministry of Economy, Trade and Industry)

6) Improving the quality of technical translators

From FY2005, the GOJ will encourage efforts of patent attorney offices and technical translation agencies to enhance educational programs on intellectual property as well as foreign languages including Chinese, Korean, for the purpose of fostering skilled technical translators.

(Ministry of Economy, Trade and Industry)

7) Developing human resources for standardization

In FY 2005, the GOJ will continue to promote the development of human resources specializing in standardization at universities and other educational institutions. In this regard, the GOJ will encourage universities in particular to take voluntary measures to provide educational programs regarding standardization in courses for the development of human resources specializing in standardization that will directly lead to business, existing courses for the development of intellectual property experts, and Management of Technology (MOT) courses.

(Council for Science and Technology Policy, Ministry of Internal Affairs and Communications, Ministry of Education, Culture, Sports, Science and Technology, Ministry of Economy, Trade and Industry, and other ministries and agencies concerned)

8) Utilizing post-doctoral fellows as intellectual property experts

In order to prevent the occurrence of intellectual property disputes and deal with such disputes promptly if they occur, it is necessary to foster a considerable number of lawyers who are well versed in both legal and technical matters, within a relatively short period of time. For the purpose of fostering such advanced intellectual property experts, by the end of FY2005, the GOJ will consider and take necessary measures to provide incentives for postdoctoral fellows to proceed to law schools.

(Council for Science and Technology Policy, Ministry of Education, Culture, Sports, Science and Technology, and other ministries and agencies concerned)

9) Developing young people who will play a leading role in industry-academic cooperation

From FY2005, the GOJ will support efforts in providing young researchers with opportunities to improve their ability to achieve commercialization of intellectual property, through OJT programs at TLOs, Intellectual Property Headquarters, university start-ups, and venture capital companies.

(Council for Science and Technology Policy, Ministry of Education, Culture, Sports, Science and Technology, Ministry of Economy, Trade and Industry, and other ministries and agencies concerned)

10) Improving practical skills through exchange of human resources

i) In FY 2005, the GOJ will continue to encourage efforts of the NCIPI to organize debates and training programs for patent attorneys, attorneys at law, and company employees in intellectual property departments, addressing examination guidelines and ideal descriptions of patent claims.

(Ministry of Economy, Trade and Industry)

ii) Intellectual property-related work pertains to a wide range of fields; so intellectual property experts are required to be well versed in such a wide range of fields. Therefore, in order to establish a mechanism to deal with a wide range of intellectual property-related work promptly and precisely, in FY 2005, the GOJ will continue to organize opportunities for interaction among intellectual property experts and exchange of information through industry-academic-government summits, study groups on intellectual property, and intellectual property consultation sections.

(Council for Science and Technology Policy, Ministry of Education, Culture, Sports, Science and Technology, Ministry of Economy, Trade and Industry, and other ministries and agencies concerned)

(2) Establishing Institutes Specializing in Developing Intellectual Property Experts

1) Developing the environment for flexible and practical education on intellectual property

i) In FY 2005, the GOJ will continue to encourage schools' efforts to facilitate adult education and the participation of practitioners as instructors, including the establishment of evening/holiday law graduate school courses and other evening classes at law schools, management of technology (MOT) programs, professional schools specializing in intellectual property, and undergraduate departments and faculties on

intellectual property. The GOJ will also encourage proper evaluation of such efforts by schools depending on their characteristics.

(Council for Science and Technology Policy and Ministry of Education, Culture, Sports, Science and Technology)

ii) In FY 2005, the GOJ will continue to implement necessary measures for reducing the economic burden on students at law schools, professional schools specializing in intellectual property, and professional schools of MOT.

(Ministry of Education, Culture, Sports, Science and Technology and other ministries and agencies concerned)

iii) In FY 2005, the GOJ will continue to encourage schools to introduce the joint-degree program in order to increase the number of people with expertise in both humanities and sciences, such as technology, law and business management, who are required in the intellectual property field, and people who have comprehensive understanding of the respective courses of law schools, professional schools specializing in intellectual property, and professional schools of MOT.

(Ministry of Education, Culture, Sports, Science and Technology)

iv) In FY 2005, the GOJ will continue to encourage the active utilization of people in the private sector, who are well versed in the intellectual property field and who have rich knowledge and experience of R&D, business management, and business startups, as instructors at law schools, professional schools specializing in intellectual property, professional schools of MOT, and undergraduate departments and faculties on intellectual property.

(Council for Science and Technology Policy and Ministry of Education, Culture, Sports, Science and Technology)

v) In FY 2005, the GOJ will continue to support the intellectual property field when implementing various programs to provide financial aid to excellent efforts selected under the principle of competition. In this respect, the GOJ will promote excellent efforts by national, public, and private law schools that provide intellectual property education, professional schools specializing in intellectual property, and MOT programs, thereby enhancing intellectual property education at higher educational institutions.

(Ministry of Education, Culture, Sports, Science and Technology and other ministries and agencies concerned)

2) Promoting intellectual property education at law schools

i) In FY 2005, the GOJ will continue to choose full-time instructors at law schools with a focus on practical experience, not only educational experience in law faculty.

(Ministry of Education, Culture, Sports, Science and Technology)

ii) In FY2005, the GOJ will publicize the results of the investigation and analysis on the screening of students at law schools, which was conducted in FY2004, and also diffuse such results among law schools, thereby encouraging the autonomous efforts of the respective law schools, such as giving consideration to those with bachelor of science degrees in the entrance examination in their screening policy or allowing their students to take technology-related subjects at other graduate schools.

(Ministry of Education, Culture, Sports, Science and Technology)

iii) In FY 2005, the GOJ will continue to encourage cooperation between law schools and science schools in order to enable students with talent in law to acquire technical talent and play a role as intellectual property experts.

(Ministry of Education, Culture, Sports, Science and Technology)

iv) All of the 74 law schools provide educational programs in intellectual property laws. In FY 2005, the GOJ will continue to encourage law schools to make independent efforts to further enhance educational programs on intellectual property laws. Furthermore, the GOJ will also encourage law schools to make independent efforts to upgrade the education of intellectual property experts by also referring to the U.S. LLM.

(Ministry of Education, Culture, Sports, Science and Technology)

v) In FY 2005, the GOJ will continue to encourage law schools to make independent efforts to enable attorneys at law, patent attorneys, and other working people to take classes and conduct research on intellectual property laws with the objective of acquiring basic knowledge on intellectual property and conducting further technical research on intellectual property.

(Ministry of Education, Culture, Sports, Science and Technology)

3) Promoting intellectual property education at intellectual property graduate schools

In FY 2005, the GOJ will continue to encourage the autonomous efforts of professional schools specializing in intellectual property to develop intellectual property experts who can support intellectual property-related business from various perspectives, by providing education that covers practical affairs, business, intellectual property policies, and international aspects, not only directed at those becoming attorneys at law or patent agents, but also at those who want to become experts engaged in intellectual property affairs.

(Council for Science and Technology Policy and Ministry of Education, Culture, Sports, Science and Technology)

4) Promoting master of technology (MOT) programs

i) In FY 2005, the GOJ will continue to encourage the autonomous efforts of schools providing MOT programs to conduct practical education combining humanities and sciences by principally targeting graduates from universities of technology as well as engineers, in order to develop experts who can strategically manage the commercialization of science and technology and who have international skills.

(Council for Science and Technology Policy and Ministry of Education, Culture, Sports, Science and Technology)

ii) With the aim of increasing the number of students taking MOT programs from about 1,000 in FY 2003 to 10,000 per year by FY 2007, the GOJ will support the development of MOT educational programs in universities. In doing so, the GOJ will encourage the autonomous efforts of the universities to include the matters related to technological standardization and intellectual property management in the program.

(Council for Science and Technology Policy and Ministry of Economy, Trade and Industry)

5) Encouraging independent efforts in the private sector for training and ability rating of intellectual property experts

In FY 2005, with the aim of increasing motivation among human resources related to intellectual property and satisfying the demand for such human resources, the GOJ will continue to encourage independent efforts of the private sector in contributing to the development of human resources related to intellectual property, by using training programs on intellectual property and proficiency tests to evaluate skills of practitioners and translators, which are provided by relevant associations and companies.

(Ministry of Economy, Trade and Industry and other ministries and agencies concerned)

3. Promoting, Spreading, and Raising Awareness of Intellectual Property Education

(1) Promoting Intellectual Property Education

1) Promoting intellectual property education in phases from early childhood to university

With the objective of developing intellectual property awareness of the creation and respect of intellectual property from the early stages of elementary school to higher education at universities and graduate schools, in FY2005, the GOJ will continue to

promote necessary educational programs for children and students depending on the educational level. Also from FY2005, the GJO will encourage undergraduate and graduate schools to provide students majoring in science with opportunities to learn basic knowledge on intellectual property.

(Council for Science and Technology Policy and Ministry of Education, Culture, Sports, Science and Technology)

2) Studying methodology for intellectual property education

i) In FY 2005, the GOJ will formulate uniformed educational programs on intellectual property including patent rights and copyrights, and in order to support intellectual property education in schools, the GOJ will continue to implement educational projects related to intellectual property, such as creating and providing standardized educational materials for elementary and secondary schools, providing training programs and educational guidebooks for teachers, and conducting R&D on concrete methods of intellectual property education in schools.

(Ministry of Education, Culture, Sports, Science and Technology and Ministry of Economy, Trade and Industry)

ii) The E-learning system, as a means to improve one's knowledge and skills anywhere at any time, is helpful in providing opportunities to participate in various training programs on intellectual property. Therefore, in FY 2005, the GOJ will start to introduce this system in training programs for JPO employees and then introduce it in human resource development in industries, governments, and universities.

(Council for Science and Technology Policy and Ministry of Education, Culture, Sports, Science and Technology)

3) Fostering instructors specializing in intellectual property

With growing demand for human resources related to intellectual property in various fields, including elementary/secondary educational institutions and universities as well as private companies, in FY 2005, the GOJ will continue to actively provide information on the study of latest and practical educational programs and the results of such study, and foster instructors and teachers through intensive training programs.

(Council for Science and Technology Policy, Ministry of Education, Culture, Sports, Science and Technology, and Ministry of Economy, Trade and Industry)

4) Enhancing international cooperation

In light of the fact that globalization in issues concerning intellectual property

is intensifying, in FY 2005, for the purpose of developing intellectual property experts who are well versed in intellectual property systems in foreign countries and capable of dealing with intellectual property affairs on a global basis, the GOJ will continue to encourage universities to cooperate with foreign universities and utilize foreign experts in intellectual property, according to their own objectives and philosophies.

(Council for Science and Technology Policy and Ministry of Education, Culture, Sports, Science and Technology)

5) Establishing networks of human resources

i) In FY2005, the GOJ will continue to actively support the establishment of intellectual property networks, while encouraging organic cooperation between the Intellectual Property Lawyers Network, which was established in 2005, and local access points of the Japan Patent Attorneys Association.

(Council for Science and Technology Policy, Ministry of Education, Culture, Sports, Science and Technology, Ministry of Economy, Trade and Industry, and other ministries and agencies concerned)

ii) In FY2005, the GOJ will continue to promote study on intellectual property systems from various perspectives, such as law, economics, and science/engineering, and foster researchers and people who will play a leading role in operating intellectual property systems in the next generation, thereby building networks of such human resources.

(Ministry of Education, Culture, Sports, Science and Technology and Ministry of Economy, Trade and Industry)

(2) Increasing Public Awareness of Intellectual Property

1) Increasing awareness of intellectual property among administrative officers

From FY2005, the government offices and departments in charge of intellectual property will enhance specialized training, and provide users of intellectual property systems, such as universities and companies, with quality administrative services relating to intellectual property, by grasping their needs through personnel exchange and meetings with external parties. Other government offices will take measures to enhance training so as to increase awareness of intellectual property among administrative officers including executive officials as well as officials in charge of procurement and consultation.

(Ministry of Education, Culture, Sports, Science and Technology, Ministry of Agriculture, Forestry and Fisheries, Ministry of Economy, Trade and Industry, and other ministries and agencies concerned)

2) Reforming awareness among industries

In FY 2005, the GOJ will continue to encourage business executives to improve their ability to exploit intellectual property by strengthening their ability to appreciate the value of research results, or in other words, their discerning ability. Furthermore, in order for business executives and personnel in charge of intellectual property affairs to properly understand intellectual property and strategically protect and exploit the intellectual property of research results, the GOJ will take measures to increase awareness of intellectual property, such as holding seminars and symposiums regarding intellectual property strategy for business executives and personnel in charge of intellectual property affairs and exchanging opinions between companies and the ministries and agencies concerned.

(Council for Science and Technology Policy, Ministry of Education, Culture, Sports, Science and Technology, Ministry of Economy, Trade and Industry, and other ministries and agencies concerned)

3) Enhancing activities for raising public awareness

In FY2005, the GOJ will continue to enrich diffusion and awareness activities aimed at students at elementary, junior high, and high schools, university students, adults in general, and IP practitioners by holding intellectual property seminars suitable for the participants' respective attributes, by using intellectual property experts in the private sector, and by conducting campaigns on a slogan selected from ideas submitted by the public.

(Ministry of Education, Culture, Sports, Science and Technology and Ministry of Economy, Trade and Industry)

4) Promoting comprehensive and academic study on intellectual property

Given that the information technology (IT) industry and the environment-related industry have developed with the progress of IT and environmental studies, the GOJ will continue to promote comprehensive and interdisciplinary research on intellectual property based on various approaches including science and technology, content, law, and management in FY 2005.

(Council for Science and Technology Policy, Ministry of Education, Culture, Sports, Science and Technology, and Ministry of Economy, Trade and Industry)

5) Improving the function of conducting international research and training

In FY 2005, the GOJ will continue to make efforts to enhance the intellectual property research/training functions under appropriate role-sharing between the public and private sectors in order to promote the development of human resources related to intellectual property in Asia and to increase the international competitiveness of Japanese practitioners.

(Ministry of Education, Culture, Sports, Science and Technology and Ministry of Economy, Trade and Industry)

6) Enhancing and utilizing statistics on intellectual property

In FY 2005, the GOJ will continue to enhance and broadly utilize the intellectual property-related statistics, which serve as the basis for planning and proposing intellectual property policies, so as to develop policies that meet diverse user needs.

(Ministry of Internal Affairs and Communications and Ministry of Economy, Trade and Industry)

<Achievements>

Progress in Intellectual Property Policy

1. Creation

(1) University Intellectual Property Headquarters

For the purpose of establishing frameworks to strategically promote the management and utilization of intellectual property at universities, 43 University Intellectual Property Headquarters were inaugurated in July 2003 as organizations designated for the “Project for the Establishment of University Intellectual Property Headquarters.” University Intellectual Property Headquarters have been working toward using external human resources such as people who have worked at private companies and patent attorneys. As of June 2004, about 500 of 1,300 persons working for the headquarters were from external sectors.

According to the survey targeting 490 national, public, and private universities in Japan that are involved in industry-academic-government cooperation, about 60% or 293 universities have already developed or are currently planning to develop systems for management and exploitation of intellectual property.

(2) Technology Licensing Organizations (TLOs)

There are two types of technology licensing organizations (TLOs); those approved by METI and MEXT (approved TLOs) and those authorized by a competent ministry (authorized TLOs). In FY2003, five approved TLOs and two authorized TLOs were established, and in FY2004, three approved TLOs and one authorized TLO were established; therefore, at the end of FY2004, there were 39 approved TLOs and 6 authorized TLOs in total.

Furthermore, in order to enhance the development of human resources in technology transfer and strengthening technology-transfer systems, seven TLOs that are significantly successful in technology transfer were designated as Super TLOs in FY2004, with the aim of providing intensive support for them in supplementing other TLOs.

(3) Rules including the principle of attributing intellectual property rights to universities

Following the incorporation of national universities in April 2004, universities, particularly those designated for the “Project for the Establishment of University

Intellectual Property Headquarters,” are working on various rules, including the principle of attributing rights originally owned by university teachers to the universities to which they belong, so as to promote industry-academic cooperation and technology transfer efficiently.

According to the survey targeting 490 national, public, and private universities in Japan that are involved in industry-academic-government cooperation, slightly less than 40% or 187 universities have adopted the principle of attribution of rights.

Establishment of rules at 43 organizations designated for the Project for the Establishment of University Intellectual Property Headquarters (As of June 2004)

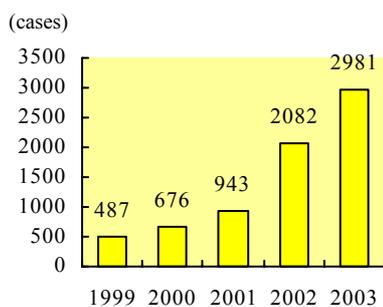
Established intellectual property policy	40 organizations
Established rules on employees’ inventions	41 organizations
Established conflict of interest policy	29 organizations

Source: Reference 4, the 21st meeting of the Task Force on Intellectual Property Policy in the Council for Science and Technology Policy (January 27, 2005)

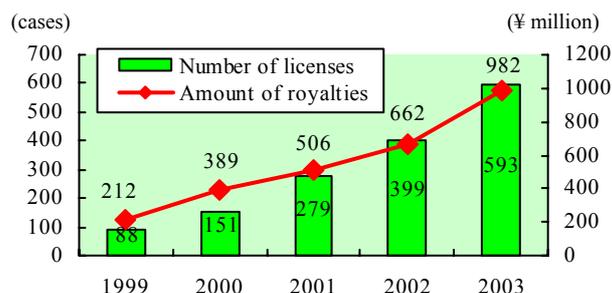
(4) Number of patent applications filed and amount of royalties received by universities

Due to the establishment of University Intellectual Property Headquarters and TLOs, the number of patent applications filed and the amount of royalties received by universities are increasing. However, in comparison between Japan and the United States, there is a larger gap in performance in technology transfer than in the number of patent applications.

Number of domestic patent applications filed by universities
(Increased 6.1 folds from FY1999 to FY2003)



Amount of royalties received by universities
(Number of licenses and amount of royalties increased 4.6 folds and 6.7 folds respectively from FY1999 to FY2003)



* The number of patent applications filed by universities and the number of licenses granted and the amount of royalties received by universities are calculated based on MEXI data (relating to patents owned by national universities and other national organizations) and METI data (relating to patents owned by approved TLOs).

Source: Ministry of Education, Culture, Sports, Science and Technology

Comparison between Japan and the United States in technology transfer activities

	Japan	United States
Number of organizations	119 organizations including University Intellectual Property Headquarters 39 approved TLOs	165 organizations
Number of university researchers	178,000	186,000
Number of patent applications	2,981	7,203
Number of licenses	593	3,855
Amount of royalties	¥980 million	¥107 billion

*

- The number of organizations in Japan is as of June 2004 (MEXI), and the number of approved TLOs is as of May 2005 (METI).
- The number of patent applications, the number of licenses, and the amount of royalties in Japan are calculated based on MEXI data (relating to patents owned by national universities and other national organizations) and METI data (relating to patents owned by approved TLOs) (FY2003).
- The data for the United States are as of FY2003 (AUTM License Survey 2003FY).
- The number of university researchers is as of 1999 for both Japan and the United States (OECD).

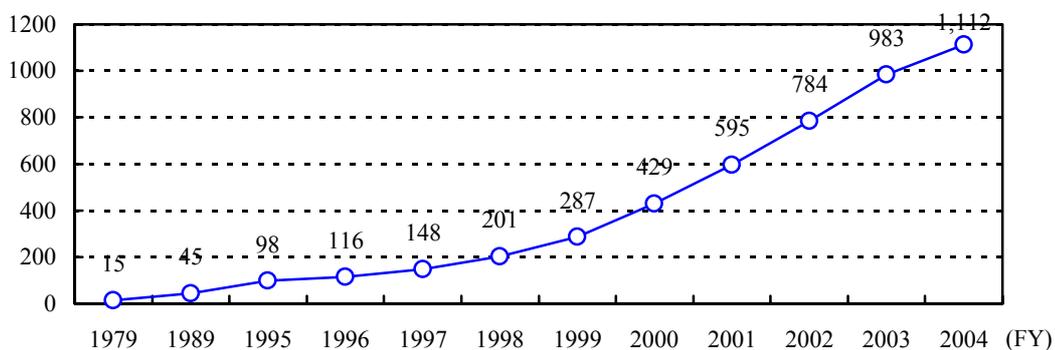
(5) University start-ups

In May 2001, it was aimed to establish 1,000 university start-ups within three years under the “1,000 University Start-ups Project.” Since then, the number of university start-ups has been increasing steadily; 199 start-ups were established in FY2003 and 129 start-ups were established in FY2004. By the end of FY2004, the total number of university start-ups reached 1,112.

By estimate, university start-ups brought about employment growth by about 11,000 persons and sales increase by about ¥160 billion as the direct economic effect, as well as employment growth by about 21,000 persons and sales increase by about ¥300 billion as the indirect economic ripple effect.

(Number of start-ups)

Number of university start-ups (METI)



(6) Appropriation of competitive research grants to patent-related expenses

In March 2005, the Common Guidelines for Indirect Expenses in Competitive Research Grants were revised to clarify that, as a measure to secure patent-related expenses, a portion of the indirect expenses in competitive research grants can be appropriated to patent-related expenses.

(7) Management of trade secrets at universities

For the purpose of smoothly promoting development of industry-academic cooperation and appropriate management of intellectual property at universities, model cases of management of confidential information were prepared in March 2004, and the Guidelines for Development of Trade Secret Management Rules at Universities were developed in April 2004.

(8) Japan Association for University Intellectual Property and Technology Management

With the objective of promoting collaboration and cooperation between University Intellectual Property Headquarters and TLOs, in August 2003, the Japan TLO Association was reorganized into the Japan Association for University Intellectual Property and Technology Management, using a U.S. organization, the Association of University Technology Managers, as a model, and enabling University Intellectual Property Headquarters to join the association. As of March 2005, 38 TLOs and 29 University Intellectual Property Headquarters held membership of the Japan Association for University Intellectual Property and Technology Management.

(9) Employees' inventions

Disputes over reasonable remuneration for employees' inventions have

occurred frequently in recent years, increasing the uncertainty of R&D investment at companies and showing that employees are not satisfied with the regulations on compensation provided by employers. In light of this situation, Section 35 of the Patent Law was revised, and the revision was put into force in April 2005. Under the revised employees' invention system, consideration shall be given to an autonomous agreement made between the employer and the employees on the amount of reasonable remuneration, and whether or not the amount of remuneration is reasonable shall be determined by taking into account procedural factors, such as the discussion between the employer and the employees.

In September 2004, sample procedures were developed and publicized as examples to be used for negotiations between employers and employees to decide the amount of remuneration.

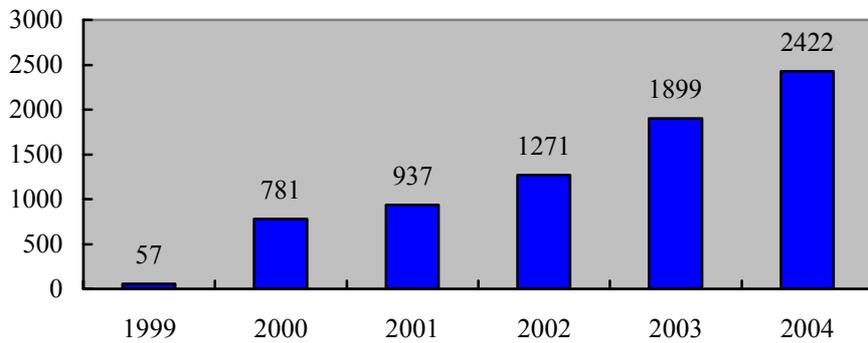
Under such circumstances, private companies and universities have been working toward reviewing their regulations on employees' inventions. According to the survey conducted by the Japan Intellectual Property Association in January 2005 targeting its member companies, about 95% were planning to develop a system for disclosing standards, and more than 70% (or more than 80% of large companies) put new regulations into force, prospectively or retrospectively, on April 1, 2005.

(10) Japanese Bayh-Dole System

Under the Japanese Bayh-Dole System, intellectual property rights obtained in R&D projects sponsored by the national government, shall be attributed to the contractors that have undertaken R&D. Applicable R&D projects amounted to 88% in FY2002 and 94% in FY2003. The number of patent applications filed by the contractors to which intellectual property were attributed has been increasing each year, from 57 in 1999 to 1,271 in 2002, and 2,422 in 2004.

The Law Concerning Promotion of Creation, Protection, and Exploitation of Content was enacted in June 2004, and completely put into force on September 2004. Under this new law, intellectual property rights relating to content produced under the sponsorship of or contract with the national government, which pertains to culture and entertainment, shall be attributed to the contractors that have created the content.

Number of patent applications filed under the Japanese Bayh-Dole System (JPO)



2. Protection

I. Strengthening Protection

(1) Inauguration of the Intellectual Property High Court

In April 2005, the Intellectual Property High Court was inaugurated for the purpose of speeding up dispute settlement, improving predictability of judgments (forming a uniform judicial view at an early stage), and increasing the ability to deal with cases in which specialized expertise on intellectual property and technical matters is required. The inauguration of the Intellectual Property High Court declares the Japanese government's policy of placing emphasis on intellectual property. In the future, the Intellectual Property High Court is expected to actively disseminate information at home and abroad, while contributing to preventing counterfeits from entering Japan from overseas.

As a court established under law, the Intellectual Property High Court has independent power in judicial administration to a certain extent; it has a president, a judicial assembly for judicial administrative services, and an independent secretariat.

The Intellectual Property High Court has four departments and also a special department, which is a five-judge panel aimed at forming a uniform judicial view at an early stage. Furthermore, for the purpose of appropriately dealing with cases in which specialized expertise is required, as of April 2005, 173 experts were appointed as expert officials at the Intellectual Property High Court and district courts (Tokyo and Osaka). Arrangements have also been made to disseminate information at home and abroad via the Website of the Intellectual Property High Court.

The Intellectual Property High Court handles cases that were conventionally

handled by the Intellectual Property Department of the Tokyo High Court, including:

(A) Lawsuits against final judgments rendered on actions relating to patent rights, utility model rights, rights of layout-designs of integrated circuits, or rights of authors of computer programs, which have come under the exclusive jurisdiction of the Tokyo High Court or the Osaka High Court upon the amendment of the Code of Civil Procedure and in which specialized expertise is required for examination.

(B) Lawsuits against final judgments rendered on actions relating to design rights, trademark rights, rights of authors excluding those of computer programs, rights of publication, neighboring rights, and plant breeders' rights, and actions relating to infringements of business interests by acts of unfair competition, which were filed before district courts within the jurisdiction of the Tokyo High Court and in which specialized expertise is required for examination;

(C) Lawsuits against decisions made by the JPO

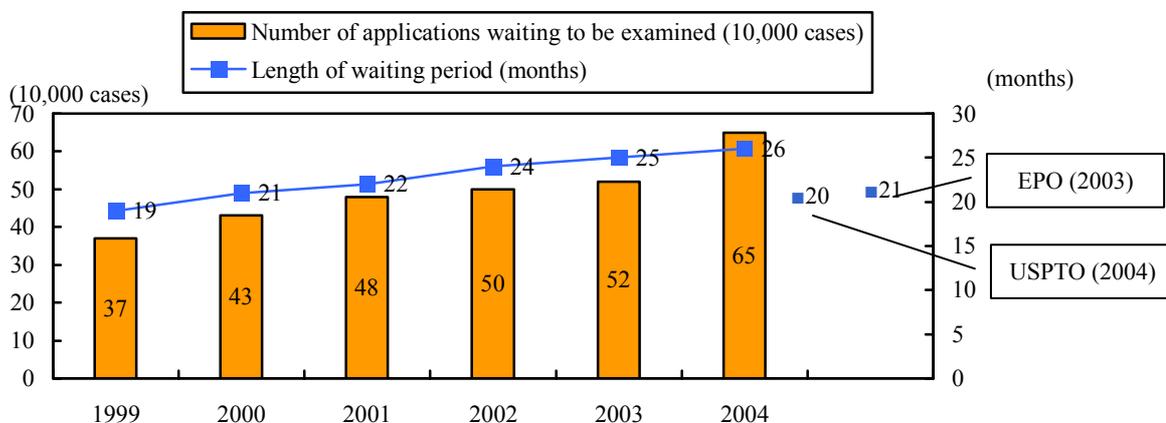
(D) Other lawsuits in which specialized expertise on intellectual property is required for examination on major points of issue (e.g. cases relating to trade names and cases for civil preservation law filed based on civil lawsuits mentioned in (A) and (B) above as principle suits).

(2) Expeditious examination of patent applications

i) Setting goals

The waiting period for patent examination at the JPO became longer than that at the EPO and the USPTO, reaching 26 months at the end of 2003. Therefore, aiming to achieve the end goal of completely eliminating the waiting period for patent examination, the GOJ adopted the medium-term goal of reducing the waiting period to 20 months within five years or by FY2008, when the waiting period is expected to reach its peak, and also the long-term goal of reducing it to 11 months within ten years or by FY2013.

Number of applications waiting to be examined and length of waiting period



Source: Japan Patent Office

USPTO: All patent applications shall be examined without request.

EPO: The EPO prepares a search report within 18 months from the filing date, and examination may be requested within six months from the issue of the report.

JPO: Examination may be requested within seven years from the filing date (the period was reduced to three years in October 2001; the average length of period between the filing and the request is 4.1 years.)

* The waiting period for patent examination is the period from when a request for examination is made until when the first office action (decision of grant or notification of reasons for refusal) is delivered from the examiner to the applicant. More specifically, the average length of the waiting period in 2004, 26 months, is calculated by adding up the waiting periods with respect to all applications for which the first office action was delivered to the applicant from January to December 2004 (234,000 applications) and dividing the total period (6,140,000 months) by the total number of applications.

Average length of period from the filing of application until commencement of examination (2003) (Calculated based on figure above)

JPO	74 months (including 49 months before the request for examination)
USPTO	18 months
EPO	45 months (including the period before the request for examination)

2) Speeding up examination of patent applications

In order to achieve the goals mentioned in 1) above, the Law for Partial Amendment of the Patent Law for the Promotion of Expeditious Patent Examination was enacted in June 2004. This law aims to allow organizations other than public-interest corporations to serve as prior art search agencies, introduce the system in which fee reduction is available when a request for examination is filed with a search

report issued by a specified registered search agency, and extend the term of utility model registration.

3) Appointing fixed-term examiners

In order to enrich the personnel system of the Japan Patent Office, 98 new fixed-term examiners were appointed in FY2004 and FY2005 respectively.

4) Encouraging private organizations to serve as prior art search agencies

The Law for Partial Amendment of the Patent Law for the Promotion of Expedient Patent Examination was put into force in October 2004, enabling organizations other than public-interest corporations to undertake prior art search that is outsourced by the JPO for patent examination. In March 2005, two organizations were newly registered as prior art search agencies.

5) Shifting to outsourcing methods with high examination efficiency

In FY2004 (as of January 2005), request for examination was filed for about 300,000 applications. The number of applications for which prior art search was outsourced to registered search agencies increased to 180,000; among them, the search method with high examination efficiency (face-to-face interview) was applied for 130,000 applications.

6) Promoting Structural reform of the patent application/examination request

The Law for Partial Amendment of the Patent Law for the Promotion of Expedient Patent Examination was put into force in April 2005, which introduces the system in which fee reduction is available when a request for examination is filed with a search report issued by a specified registered search agency.

In light of the low patent grant rate at the JPO compared with that at the EPO and the USPTO, in FY2004, the JPO requested a total of 207 companies to improve their policies for filing applications or request for examination.

Comparison of patent grant rate between JPO, USPTO (2003)

	Patent grant rate
JPO	50%
USPTO	64%
EPO	59%

Source: Trilateral Statistical Report

(3) Strengthening dispute settlement function

In April 2005, the Law for Partial Amendment of the Court Organization Law, etc. was put into force, which strengthens the function to settle intellectual property-related lawsuits. The major points of amendment are as follows.

(A) Expanding and clarifying the power of judicial research officers dealing with intellectual property cases

It is clearly provided that judicial research officers shall be authorized to request explanation from the parties concerted, question witnesses, and give opinions to judges.

As of April 2005, there were 21 research officers in charge of intellectual property cases (11 officers at the Intellectual Property High Court, 7 officers at the Tokyo District Court, and 3 officers at the Osaka District Court).

(B) Strengthening protection of trade secrets and facilitating the proof of infringement in the trial proceedings of intellectual property-related lawsuits

An order of confidentiality is created as a measure to restrict the use and disclosure of trade secrets in lawsuits over infringements of patent rights, etc. (violation thereof shall be subject to criminal penalty), and also the requirements and procedures are provided for suspending the disclosure of the examination of the parties concerned in lawsuits involving trade secrets.

(C) Coordinating the relationship between lawsuits over infringements of patent rights, etc. and JPO trials for invalidation of patents, etc.

The patentee shall be restricted from exercising the patent right if the court of the patent infringement lawsuit determines that the patent should be invalidated in the JPO trial for invalidation. Also, for the purpose of coordinating the proceedings at the court with the JPO proceedings, in cases where such attack or defense of invalidation is presented in the infringement lawsuit, the court shall notify the JPO Commissioner of the fact, and the JPO Commissioner may request the court to provide him/her with copies of the documents, among records of the infringement lawsuit, which the JPO trial examiner considers necessary for the JPO trial proceedings.

(4) Patent protection for medical-related acts

In November 2004, the Task Force on the Protection of Patents of Medical-Related Acts compiled a report on patent protection for medical-related acts, which indicated the following.

As a presupposition, technologies relating to acts conducted by doctors shall

not be included in medical-related acts.

(A) Methods of operating medical devices should be included in the scope of patentable inventions.

(B) Methods for bringing about new efficacy or effects of medicine for the purpose of manufacturing and selling medicine should be protected as inventions of products, by exploring the possibility to the greatest extent of protecting them as inventions of products and clarifying such protection in the Examination Guidelines. At the same time, it is also necessary to continue efforts to explore the possibility of protecting them as inventions of processes.

According to this report, the Examination Guidelines for Patent and Utility Model were revised in April 2005 with respect to industrially applicable inventions and medical inventions.

(5) Protection of utility models

In April 2005, the Law for Partial Amendment of the Patent Law for the Promotion of Expedient Patent Examination was put into force, which extends the term of utility model registration to ten years and allows the filing of patent applications based on utility model registrations.

(6) Protection of local brands

In June 2005, the Law for Partial Amendment of the Trademark Law was enacted, which enables registration of trademarks consisting of the names of the local areas or the names of the products or services, as local collective trademarks, with the aim of strengthening the competitiveness of local industry and revitalizing local economies by appropriately protecting local brands.

(7) Protection of trade secrets

In January 2004, the amended Unfair Competition Prevention Law was put into force, which provides for penalties against those who have acquired, used or disclosed trade secrets of others, such as manufacturing technology and customer lists, by improper means.

In February 2005, a bill for partial amendment of the Unfair Competition Prevention Law, etc. was submitted to the Diet, which intends to strengthen protection of trade secrets by enhancing criminal penalties against those who have used or disclosed trade secrets at home and abroad, retired employees who have leaked trade secrets after retirement upon request or entreaty accepted during employment, and

corporations to which persons who have committed unauthorized access to trade secrets belong.

(8) Protection of new varieties of plants

In July 2003, the amended Seeds and Seedlings Law was put into force, which provides for penalties for infringements of rights for harvested materials of registered varieties.

In March 2005, a bill for partial amendment of the Seeds and Seedling Law was submitted to the Diet, which intends to expand the scope of objects protected under the breeder's right to include processed products made directly from harvested material, and extend the term of breeder's right.

(9) Tightening criminal penalties for infringements of intellectual property rights

1) Copyright Law

In January 2005, the amended Copyright Law was put into force, which raises the upper limit of the criminal penalty for infringement of intellectual property rights, from imprisonment for a term not exceeding three years or a fine not exceeding three million yen, to imprisonment for a term not exceeding five years or a fine not exceeding five million yen, or both.

2) Unfair Competition Prevention Law

In February 2005, a bill for partial amendment of the Unfair Competition Prevention Law was submitted to the Diet, which intends to raise the upper limit of the criminal penalty for violation of the law, from imprisonment for a term not exceeding three years or a fine not exceeding three million yen, to imprisonment for a term not exceeding five years or a fine not exceeding five million yen, or both.

3) Seeds and Seedlings Law

In March 2005, a bill for partial amendment of the Seeds and Seedlings Law was submitted to the Diet, which intends to impose penalties against those who have infringed the breeder's right or exclusive license for processed products directly made from harvested materials as provided by Cabinet Order.

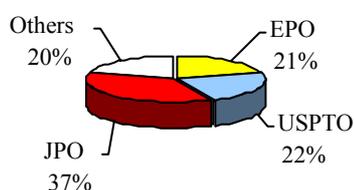
(10) Efforts to Establish a Global Patent System

Along with the progress in globalization, the number of patent applications is increasing. In particular, the trilateral patent offices, i.e. JPO, USPTO, and EPO, deal with about 80% of the total number of patent applications filed in the world, a large part

of which are examined at the trilateral patent offices in an overlapping manner. Under such circumstances, the trilateral patent offices continued discussion, aiming to enhance cooperation among them in promoting the mutual exploitation of prior art search results, building the dossier access system, harmonizing systems, and holding international conferences of examiners.

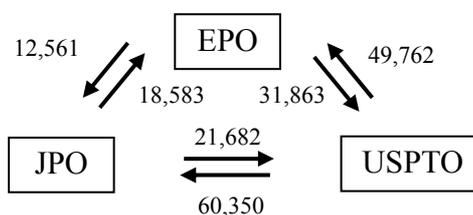
In October 2004, the JPO started operation of the system to provide the EPO and the USPTO with information relating to examination in English, with the use of the Japanese-English machine translation system.

Share of trilateral patent offices



Source: Data as of 2002 (Trilateral Statistical Report 2003)

Overlapping examination at the trilateral patent offices



Source: Data as of 2003 (Trilateral Statistical Report 2004)

II. Strengthening Measures Against Counterfeits and Pirated Copies

(1) Package for Acceleration of Measures against Counterfeits and Pirated Copies

In December 2004, the Intellectual Property Policy Headquarters adopted the “Package for Acceleration of Measures against Counterfeits and Pirated Copies,” as the GOJ’s action plan to accelerate measures against counterfeits and pirated copies overseas.

(2) Measures in overseas markets

1) Organizational arrangements for the diplomatic authorities

In July 2004, the Intellectual Property Affairs Division was established within the Economic Affairs Bureau of MOFA. In March 2005, the Manual to Cope with Intellectual Property Infringements was developed for Overseas Establishments, and officials in charge of intellectual property affairs were appointed for all Establishments.

2) Support for efforts of companies and associations to fight against counterfeits and pirated copies

In September 2004, the Content Overseas Distribution Associate (CODA) established the CJ Mark Committee as a committee in charge of filing trademark

applications for *Content Japan* (CJ) mark and fighting against counterfeits. Until the mark is registered, CODA has played the leading role, in cooperation with overseas regulatory authorities, in supporting joint efforts of Japanese companies in enforcement of copyrights, and successfully achieved the forfeiture of about 450,000 pirated copies of Japanese CDs and DVDs in overseas markets.

3) Infringement situation survey

In April 2005, the Survey on Intellectual Property Infringements Overseas was introduced, as a system in which the GOJ will conduct survey upon application of Japanese businesses and hold bilateral discussion based on the survey results. The details of the survey are as follows.

- i) A Japanese business may file an application to the GOJ for survey where its interests based on intellectual property rights are not or will not be appropriately protected due to defects in intellectual property systems in a foreign country or operation thereof.
- ii) The GOJ shall, within 45 days from the filing of the application in principle, make a decision on whether or not to conduct survey as requested by the applicant.
- iii) The GOJ shall, within six months in principle, inform the applicant of the survey results.
- iv) The GOJ shall, based on the survey results, strive to solve the problem through bilateral discussion or dispute settlement procedures available within the WTO or other international frameworks.

4) Cooperation with Europe and the United States

At the Japan-EU periodical summit held in June 2004, an agreement was reached to adopt the Japan-EU Joint Initiative for Enforcement of Intellectual Property Rights in Asia. In accordance with this initiative, Japan-EU meetings were held for the exchange of information and opinions, and joint seminars were also held in China.

At the Japan-France summit held in March 2005, an agreement was reached to adopt the Declaration for New Japan-France Partnership, and to recognize the importance of promoting measures against counterfeits and pirated copies in Asia.

At the Japan-EU periodical summit held in May 2005, an agreement was reached to further promote the Japan-EU Joint Initiative for Enforcement of Intellectual Property Rights in Asia, with the objective of dealing with counterfeits and pirated copies in Asia.

5) Multilateral negotiations

i) APEC Summit/Ministerial Meeting (October 2003)

The Leaders' Declaration and the Joint Statements of Ministers addressed protection of intellectual property rights, endorsing the establishment of IPR Service Centers as proposed by Japan and the Comprehensive Strategy on IPR in APEC.

ii) Global Congress on Combating Counterfeiting (May 2004)

The World Custom Organizations (WCO) and Interpol hosted the first Global Congress on Combating Counterfeiting, which reported that international trade in counterfeits amounted to about 500 billion Euros (6.5 trillion yen).

iii) Sea Island Summit (June 2004)

At the Sea Island Summit, the G8 members recognized the need to fight counterfeiting and piracy of intellectual property for the first time.

iv) Asia-Europe Meeting (ASEM) Summit (October 2004)

The chairman's statement and the economic declaration addressed the issue of intellectual property.

v) APEC Summit/Ministerial Meeting (November 2004)

The Leaders' Declaration and the Joint Statements of Ministers addressed protection of intellectual property rights.

vi) APEC Trade Ministers' Meeting (June 2005)

The APEC Anti-Counterfeiting and Piracy Initiative was endorsed, which was jointly proposed by Japan, the United States, and the Republic of Korea.

6) Bilateral discussions

At the Japan-China-Korea summit held in November 2004, an agreement was reached to reinforce cooperation among the three countries for protection of intellectual property rights.

7) ODA Charter

In August 2003, the Official Development Assistance (ODA) Charter was revised in the aim of providing developing countries with support for sustainable growth through cooperation for appropriate protection of intellectual property.

8) Measures taken by the private sector in overseas markets

i) The International Intellectual Property Protection Forum dispatched missions to China in December 2002, May 2004, and April 2005, to exchange opinions with the Chinese government on the issue of counterfeits and pirated copies.

ii) In November 2004, the Japan-U.S. Business Conference recommended that

improvements should be made for the issue of counterfeits and pirated copies.

iii) In November 2004, a Japan-China meeting was held for an exchange of opinions among the electronics industry and the competent authorities.

(3) Measures at the border

1) Amendment of the Custom Tariff Law

i) Regulations at the border of infringing products

In April 2003, injunction became available to suspend import of products infringing patent rights, utility model rights, and design rights, and a new system of consultation to the JPO was also introduced. Import was also prohibited with respect to products infringing the breeder's right. With respect to patent rights, import was suspended for 111,000 products in 80 cases in 2004.

ii) Notice of the name and other data of the importer

In April 2004, a new system was introduced to notify the right holder and the importer, at the beginning of the procedures for determining infringement, of the name and other data of the other party and also notify the right holder of the name and other data of the exporter as well as such data of the producer to the knowledge available from documents submitted to the Customs.

iii) Overhaul inspection of samples

In April 2005, a new system was introduced in which the Customs may, in the course of the procedures for determining infringement, provide the right holder, upon application and under certain conditions, with samples of the allegedly infringing products for overhaul inspection.

iv) Linkage between the Unfair Competition Prevention Law and the measures at the border

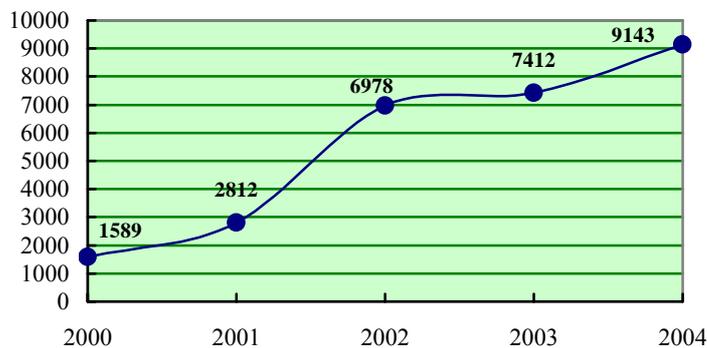
In March 2006, import will be prohibited with respect to products that imitate configuration, products that bring about confusion with a well-known indication, and products that abuse a famous indication. Also, a new system of consultation to METI will be introduced.

v) Consultation system for breeder's right

In April 2005, a new system was introduced for consultation to MAFF in the procedures for determining products that might infringe the breeder's right.

2) Strengthening regulations at the Customs

The number of products forfeited at the Customs for the reason of infringing intellectual property rights has been rapidly increasing in recent years.



By exporting country	
Korea	4598 cases
China	3358 cases
Hong Kong	423 cases
Philippines	387 cases

By type of right	
Trademark	8922 cases
Copyright	119 cases
Design	39 cases
Patent	80 cases

Source: Customs and Tariff Bureau, Ministry of Finance, Suspension of Import of Products Infringing Intellectual Property Rights in 2004

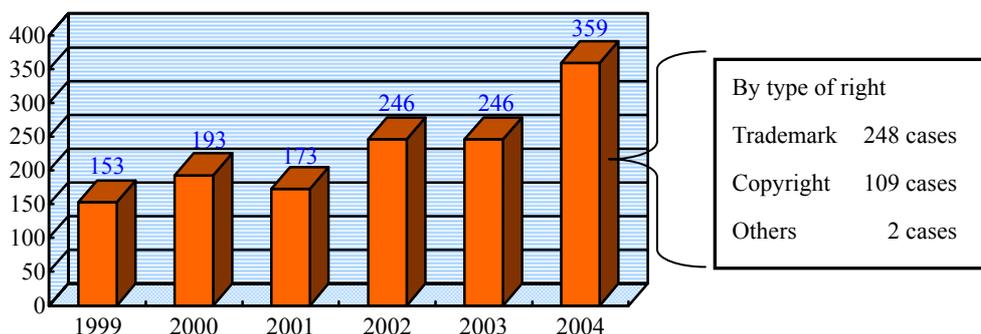
(4) Domestic regulations

1) Bill for amendment of the Unfair Competition Prevention Law

In February 2005, a bill for amendment of the Unfair Competition Prevention Law was submitted to the Diet, which intends to introduce criminal penalties for misappropriation of famous indications and imitations of configurations.

2) Regulations by police

The number of cases cleared by the police for offenses of infringing intellectual property rights has been increasing in recent years. In November 2004, 49 officials were assigned at the Tokyo Metropolitan Police Department for preliminary determination of trademark right infringement.



Source: National Police Agency, Number of Cases Cleared for Economic Offenses Targeting Consumers in 2004

3) Plant Variety Protection G-Men

In April 2005, four experts capable of distinguishing pirated copies from genuine plant varieties registered under the Seeds and Seedlings Law, were appointed as Plant Variety Protection G-Men.

(5) Increasing public awareness

The Basic Law on Consumers was put into force in June 2004, which provides that consumers should give due consideration to appropriate protection of intellectual property rights.

(6) Organizational arrangements

1) Ministerial Conference on Measures against Counterfeits and Pirated Copies

With the aim of promoting concerted efforts of the eight ministers and agencies concerned to fight against counterfeits and pirated copies, the Ministerial Conference on Measures against Counterfeits and Pirated Copies was established within the Cabinet Secretariat in July 2004.

2) Consolidated consultation section

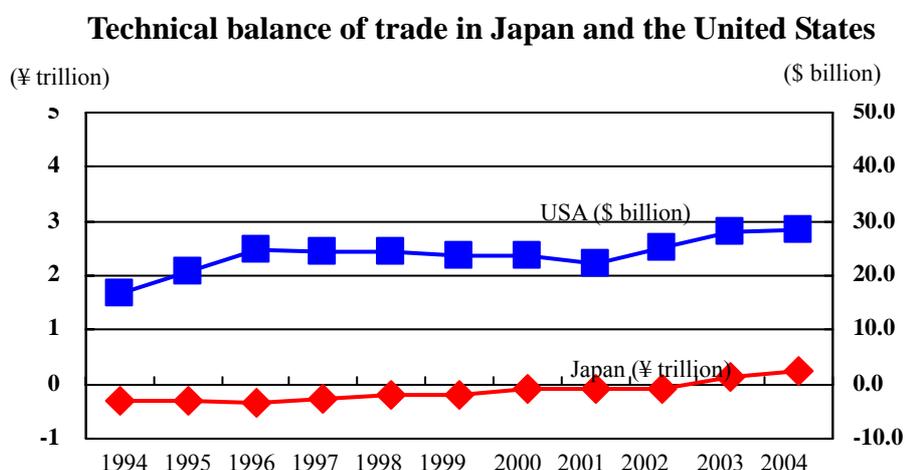
The Office for Intellectual Property Right Infringement was established within the Manufacturing Industries Bureau of METI in July 2004, and the Office of Intellectual Property Protection was established within that office in August, as a consolidated consultation section. By the end of April 2005, the Office of Intellectual Property Protection received 111 applications for consultation, and requested the counterpart government, through the Embassy in the country concerned, to correct the problematic situation. The office also referred many cases to JETRO.

3. Exploitation

(1) Exploitation of intellectual property

According to the survey on intellectual property-related activities in 2003, more than 60% of all patent rights in Japan were estimated to be not in use or obtained only for defensive purpose, indicating the fact that such patents not in use amounts to a large share.

With respect to technical balance of trade, Japan achieved a surplus for the first time in 2003 but there is still a large gap between Japan and the United States in the amount of surplus.



Source: Bank of Japan, Monthly Report of Statistics on Balance of Payment, for data of Japan; Department of Commerce, Survey of Current Business, for data of the United States

(2) Disclosure of intellectual property information

In January 2004, the Guidelines for Disclosure of Intellectual Property Information were prepared, which provides for independent efforts of companies for disclosure of intellectual property information, so that such efforts will be appropriately evaluated by investors and stakeholders. According to the guidelines, 11 companies prepared intellectual property reports in FY2004, and 21 companies are expected to prepare such reports in FY2005.

(3) Intellectual property trust

In December 2004, the new Trust Business Law was put into force, which regards property rights in general including intellectual property rights as eligible property in the trust business and expands the scope of eligible trustees of intellectual

property to include corporations in general in addition to financial institutions. The new law also provides for special measures for trusts established by approved TLOs or within business groups.

Accordingly, various projects are under consideration for the use of intellectual property trusts, such as a project in which a trust bank and a law office jointly utilize an intellectual property trust scheme, aiming to effectively use the intellectual property owned by an SME and take appropriate measures in the event of infringement, and a project in which a trust scheme is used for raising funds in advance for the creation of media content such as movies and animation.

(4) Loans secured by intellectual property

The Development Bank of Japan (DBJ) started to extend loans secured by intellectual property in 1995. By FY2004, the DBJ extended loans totaling about ¥16 billion in about 260 cases. Recently, the DBJ provides loans for SMEs and venture companies in local areas in cooperation with local banks, as a tool for regional development with the use of intellectual properties.

(5) Strengthening protection for licensees

In January 2005, the new Bankruptcy Law was put into force, which protects a licensee by restricting the bankruptcy administrator's right of rescission in cases where the license is effective against a third party.

(6) Revision of the Japan-US Tax Treaty

In March 2004, the revised Japan-US Tax Treaty was ratified by the Diet, which intends to grant immunity from taxation for royalties for intangible and intellectual property at a source country. The revised treaty started to be applicable for tax to be deducted from income at source in July 2004.

(7) Increasing access to intellectual property-related information

In FY2003, measures were taken to enhance information services via the Design Gazette Database (in English) and to increase access to patent information stored at the JPO's Intellectual Property Digital Library (IPDL).

(8) Support for SMEs and venture companies

1) Bill for amendment of the Law for Supporting SME Management Innovation

In April 2005, the Law for Partial Amendment of the Law for Supporting SME

Management Innovation was put into force, which provides that comprehensive efforts should be made to take necessary measures for appropriate protection of intellectual property owned by SMEs.

2) Reduction of patent fees

In April 2004, among “corporations with poor financial resources,” a kind of corporations eligible for reduction of fees for filing a request for examination and patent fees, the requirement for receiving fee reduction was relaxed in terms of the period of operation since the establishment, from “not more than five years” to “not more than ten years.” Also, the scope of R&D-type SMEs, another kind of corporations eligible for fee reduction, was expanded to include such SMEs that intend to file applications for inventions arising from projects approved under the Law for Promoting Creative Activities of SMES, SBIR projects and other sponsored projects, or R&D projects based on plans approved under the Law for Supporting SME Management Innovation. Fee reduction was used in 750 cases in 2003 and 2,335 cases in 2004.

Reference: Outline of patent fee reduction in Japan and the United States

In Japan, R&D-type SMEs, individuals and corporations with poor financial resources, and university researches may enjoy complete or half reduction of the fees for filing a request for examination, complete or half reduction of the annual patent fees (for the first to third years), or three-year grace period of payment, if they satisfy relevant requirements. Fee reduction was used in about 4,300 cases in 2004.

In the United States, domestic and foreign SMEs that employ not more than 500 persons for the whole company, which consists of the parent company, subsidiaries, and affiliated companies, as well as individuals and non-profit organizations may uniformly enjoy half reduction of fees. Fee reduction has been used in about 110,000 cases.

The EPO does not provide such fee reduction depending on the size of companies.

3) Support in prior art search

In June 2004, a new system was introduced to provide SMEs with results of prior art search conducted by private search agencies, so as to enable them to use such results for filing patent applications. This system was used in 1,200 cases in FY2004.

(9) Efforts of local governments

Along with the movements at a national level since 2003, progress has also been made through independent efforts of local governments to develop local intellectual property strategies while emphasizing the characteristics of the local areas. As of March 2005, 14 prefectural governments (Hokkaido, Akita, Fukushima, Ibaraki, Tochigi, Gunma, Saitama, Tokyo, Fukui, Aichi, Osaka, Shimane, Fukuoka, and Nagasaki) already completely developed intellectual property strategies, and 13 prefectural governments (Chiba, Kanagawa, Nigata, Ishikawa, Nagano, Mie, Shiga, Nara, Wakayama, Tottori, Saga, Oita, and Miyazaki) were developing or planning to develop strategies.

Local governments other than prefectural governments have also started to make efforts to develop intellectual property strategies and promote regional development through the activities of film commissions. To the knowledge of the GOJ, the Osaka City Government completely developed an intellectual property strategy and the Yokohama City Government aims to develop one.

4. Drastic Expansion of Content Business

(1) Size of the content market

The content market of Japan slightly expanded from about ¥12.8 trillion in 2003 to about ¥13.3 trillion in 2004.

However, in international comparison by the ratio to GDP, Japan stood at 2.3%, falling behind the global average ratio of 3.3%, not to mention the ratio of the United States of 4.6%.

International comparison of content business (2003)

	Content market	GDP	Content/GDP
Japan	\$0.1 trillion	\$4.3 trillion	2.3%
U.S.	\$0.5 trillion	\$10.9 trillion	4.6%
Global level	\$1.2 trillion	\$36.5 trillion	3.3%

Source: Pricewaterhouse Coopers, Global Entertainment and Media Outlook: 2004-2008, World Bank Website

(2) Law Concerning Promotion of Creation, Protection, and Exploitation of Content

In June 2004 (or September for some provisions), the Law Concerning Promotion of Creation, Protection, and Exploitation of Content was put into force,

which intends to ensure that the national and local governments and other parties concerned will share the basic ideas for the creation, protection, and exploitation of content and make concerted efforts to comprehensively and effectively promote relevant measures.

(3) Roadmap

In December 2004, the Roadmap for Content Business Reforms was compiled, which indicates more concrete efforts to be made by the end of FY2006 to take content-related measures as provided in Chapter 4 of the Intellectual Property Strategic Program 2004.

(4) Modernization and streamlining of the industry

1) Contracts concerning subcontracts for production of broadcast programs

In March 2004, Model Contracts Concerning Subcontracts for Production of Broadcast Programs were developed, which require fair negotiations for concluding contracts on the treatment of copyrights. In March 2005, broadcasting businesses publicized their self-imposed regulations of subcontracts for production of broadcasting programs in accordance with the model contracts.

2) Use of legal professions

In April 2004, the Entertainment Lawyers Network was established for the purpose of promoting exchange between legal professionals and entertainment businesses/content creators. At the end of May 2005, the network had about 440 members.

3) Enforcement of the Law on the Prevention of Delay in Payment of Subcontracting Charges and Related Matters

In April 2004, the Law on the Prevention of Delay in Payment of Subcontracting Charges and Related Matters was put into force. In July 2004, the Japan Fair Trade Commission and the Small and Medium Enterprise Agency carried out a documentary survey targeting 34,000 enterprises that subcontracted works and 46,000 subcontractors that undertook the work.

4) Revision of the Service Guidelines under the Anti-Monopoly Law

In March 2004, the Guidelines under the Anti-Monopoly Law Concerning the Abuse of Superior Position in Subcontracts for Services (“Service Guidelines”), which

had been developed by the Japan Fair Trade Commission, were revised for the purpose of ensuring appropriate transactions in the content industry. The revised guidelines clarify that charges would be brought under the Anti-Monopoly Law in cases where the party that has subcontracted the creation of content, by taking advantage of its bargaining position, effectively forces the subcontractor that has undertaken the work to assign rights for the content to the party, or unilaterally restricts the subcontractor from enjoying the secondary use of the content.

(5) Diversification of financing means

In FY2004, the Development Bank of Japan (DBJ) created a financing scheme involving securitization of content and other intellectual property (Intellectual Property Exploitation Support Project).

Also, the personnel requirements for establishing funds were relaxed in March 2004. Since then, efforts for fund establishment have been made: a fund totaling ¥3.5 billion was established for the production of several films with money raised from banks and businesses with permission under the Commodity Fund Law; a fund was established to raise the cost of film production totaling ¥1 billion by collecting money from individual investors, ¥100,000 per investor.

Furthermore, in May 2004, the Frame-Changers Council of Intellectual Property (FCC), a private organization, developed the disclosure guidelines, aiming to enable investors to obtain various risk information on accounting matters and business descriptions with respect to public funds for content and entertainment projects.

(6) Human resource development

Universities have been making independent efforts to develop human resources in the content field, while taking advantage of the drastic system reforms (FY2003) to abolish restrictions of the establishment of universities and introduce the notification system under which creating professional graduate schools and reorganizing faculties only require notification.

More specifically, such independent efforts include the following. In FY2004, Tokyo Denki University, Kanagawa Institute of Technology, Chukyo University, Ritsumeikan University, Baika Women's University, Kurashiki University of Science and the Arts, Hiroshima Kokusai Gakuin University, and other universities started efforts for human resource development in the content and other related fields. Also, in the Special Zones for Structural Reform, the Graduate School of Digital Content was established as a graduate school specializing in the content field. Furthermore, in

FY2004, under the Program for Human Resource Development in Emerging Fields funded from MEXI's science and technology promotion budget, the issue concerning human resource development in the content field at Tokyo University was adopted. Keio University also works toward development of human resources in digital content creation at the Research Institute for Digital Media and Content, which was established under the Program for Development of Strategic Research Bases.

In FY2005, Tokyo National University of Fine Arts and Music, Josai International University, Tokyo University of Technology, Shizuoka Sangyo University, Nagoya University of Arts, Nagoya Bunri University, Takarazuka University of Art and Design, and other universities started efforts for human resource development in the content and other related fields.

(7) Establishment of the Visual Industry Promotion Organization

In December 2004, for the purpose of increasing the international competitiveness of Japanese visual content industries such as the movie, broadcasting, animation, game, and music content industries, the Visual Industry Promotion Organization was established as a private organization aimed at developing human resources, supporting production of works, providing assistance for companies, and exploring domestic and overseas markets. This organization was approved as a non-profit organization in May 2005.

(8) R&D for new technologies

Since FY2004, R&D projects for digital content creation have been designated as R&D projects eligible for MEXI's science and technology promotion budget. In May 2004, as a result of the screening, the R&D Project for Standard Technology for Digital Cinema was selected, which is to be carried out under the initiative of Tokyo University.

(9) Tokyo International Film Festival

The Tokyo International Film Festival was drastically reinforced in FY2004, enabling the festival to also serve as a market for international trading of films. At the festival, game software and comic book fairs were held simultaneously. As a result, the total number of visitors increased from 131,000 in 2003 to 176,000 in 2004.

(10) Signing of the Memorandum of Film Cooperation between Japan and France

In April 2005, UniJapan was established as an organization to play a leading role in international expansion of Japanese film, through the merger between former

UniJapan Film that had supported the presentation of Japanese films at international film festivals and the former Tokyo International Foundation for Promotion of Screen Image Culture that had organized Tokyo International Film Festivals and presented Japanese film to viewers across the world. At the 58th Cannes International Film Festival in May, UniJapan and Centre National de la Cinématographie (CNC) signed the Memorandum of Film Cooperation between Japan and France, aiming to develop a film industry partnership between the two countries for film distribution and financing.

(11) Compulsory license for exploitation of works

In March 2005, the Agency for Cultural Affairs publicized the Manual for Applying for Compulsory License for Exploitation of Works, which explains the necessary procedures to be followed when applying for compulsory license and provides sample application formats. At the same time, the Agency for Cultural Affairs reviewed the procedures from the perspective of reducing economic burden on applicants, and allowed those who seek compulsory license to place ads on the Website of the Copyright Research and Information Center (CRIC) in order to request cooperation from the public in searching for copyright owners who are unknown.

(12) Measure to prevent inappropriate entry of sound recordings into Japan

The revised Copyright Law was put into force in January 2005, which introduces the measure to prevent inappropriate entry of sound recordings into Japan, or more specifically, to prevent entry into Japan of commercial sound recordings produced by authorized parties in Asian countries, where price level differs from Japan. Through this preventive measure, during the period from January to March 2005, sound recordings under 133 titles (229 titles in gross total) were licensed to Asian countries. In FY2004, sound recordings under about 9,000 titles were sold in Japan.

(13) Market for music distribution via the Internet

In 2003, the Japanese market for music distribution via the Internet amounted to ¥3.6 billion, increasing 1.4-fold over the previous year. This indicates steady growth of the market in Japan. However, compared with the overseas markets that show rapid growth, one of which achieved the downloading of 300 million titles in March 2004, the growth of the Japanese market appears to have yet to catch up with the global trend.

Music distribution to mobile phones started in November 2004 and recorded the downloading of 5 million titles in April, making steady growth as a new type of business.

5. Development of Human Resources and Improvement in Public Awareness

(1) Current status of intellectual property experts

Although it is difficult to obtain the accurate number due to various factors arising from the definition of intellectual property experts and the lack of strategic data, as of June 2005, by estimate, there were at least 60,000 intellectual property experts in Japan.

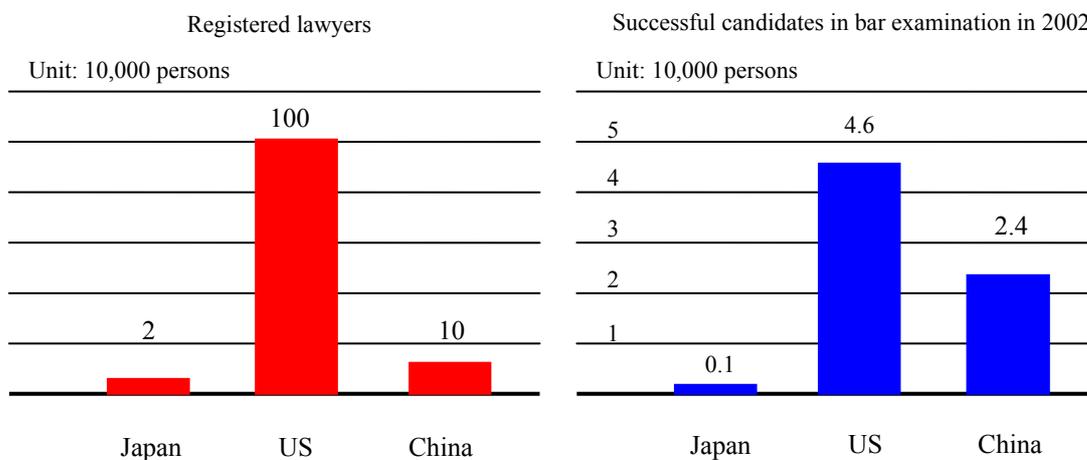
(2) Lawyers well versed in intellectual property

The number of successful candidates in the national bar examination has been increasing in recent years. In 2004, 1,483 persons passed the examination (499 persons in 1999 and 994 persons in 2000). By around 2010, about 3,000 persons will pass the examination; in consequence, the total number of legal professions is expected to double from about 25,000 to about 50,000 by around 2018.

Among existing lawyers in Japan, about 320 lawyers are also registered as patent attorneys and about 430 lawyers are members of the Entertainment Lawyers Network. Also, about 3,000 lawyers have participated in the training programs on intellectual property laws, which have been provided by the Japan Federation of Bar Associations since March 2004. Furthermore, in April 2005, the Intellectual Property Lawyers Network was established, as a nationwide network of lawyers who are capable of dealing with intellectual property cases. About 1,200 lawyers have joined the network.

On the other hand, in the United States, there are about 22,000 patent attorneys who are licensed as attorneys at law and also have passed the USPTO examination and been authorized to act as agents in patent procedures. Also, the numbers of successful candidates in bar examinations and of legal professionals in the United States and China are far larger than the numbers in Japan.

International comparison of legal professionals



Source: Exhibit 5, the 9th meeting of the Task Force on Strengthening of the Foundation for Right Protection (May 13, 2004)

(3) Patent attorneys

The number of successful candidates in the national examination for patent attorney has been increasing in recent years. In 2004, 633 persons passed the examination (174 persons in 1999 and 303 persons in 2000); in consequence, the total number of patent attorneys reached about 6,100.

On the other hand, in the United States, there are about 22,000 patent attorneys and about 7,000 patent agents who have passed the USPTO examination and been authorized to act as agents in patent procedures but not licensed as attorneys at law.

In Japan, there are also patent attorneys acting as counsels who are authorized to undertake, jointly with lawyers, proceedings in specific types of infringement lawsuits. Among 985 patent attorneys who completed the skill-up training programs provided by the Japan Patent Attorneys Association, 970 persons participated in the examination for patent attorneys acting as counsels in October 2004 and 613 of them passed the examination. As of April 2005, more than 1,000 lawyers were registered as patent attorneys acting as counsels.

(4) Including intellectual property laws in optional subjects for the new national bar examination

In August 2004, the National Bar Examination Commission presented a proposal to include intellectual property laws in optional subjects for the new national bar examination to be started in 2006.

(5) Law schools

1) Lectures on intellectual property laws

All of 68 law schools established since April 2004 opened courses on intellectual property laws. Also, the six law schools newly established in April 2005 started courses on intellectual property laws.

2) Evening classes

As of May 2005, nine law schools provided evening classes.

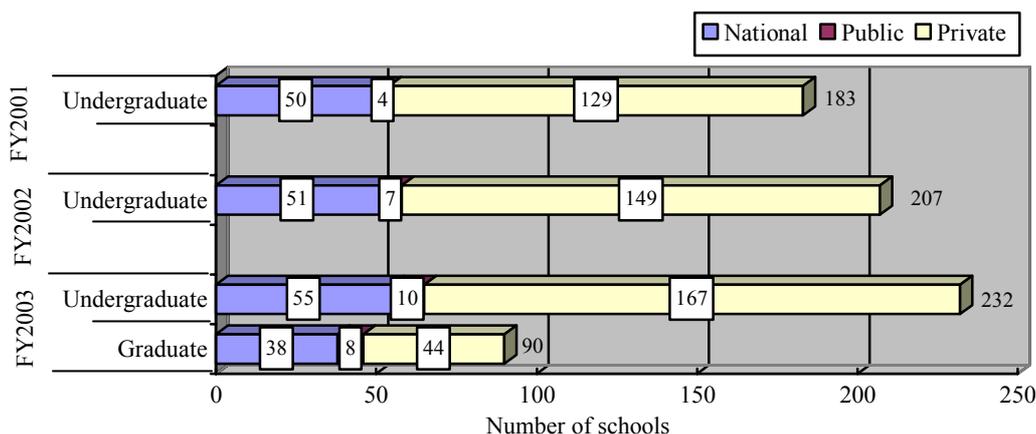
3) Students who majored in science, art or other fields

Among the 5,767 students admitted to laws schools in April 2004, 2,792 students or about 50% of the total were from the work force, 486 students (8.4%) majored in science, and 233 students (4.0%) majored in art and other fields.

(6) Education on intellectual property at undergraduate and graduate schools

In FY2003, 232 undergraduate schools opened intellectual property courses (183 schools in FY2001 and 207 schools in FY2002), and 90 graduate schools started such courses.

Schools providing intellectual property courses (FY2001-FY2003)



* Data on graduate schools were not available until FY2002.

Source: Data from MEXI Website

(7) Professional graduate schools specializing in intellectual property

In April 2005, two professional graduate school courses named with the term *intellectual property* were established: the Master of Intellectual Property, Graduate

School of Management of Science and Technology, Tokyo University of Science (80 students); Major in Intellectual Property, Graduate School of Intellectual Property, Osaka Institute of Technology (30 students).

(8) Management of Technology (MOT) courses

As of January 2005, MOT courses were established for about 2,300 students.

(9) Training and education on intellectual property

i) From FY2004, the National Center for Industrial Property Information and Training (NCIPI) started the debate training program for 16 persons, who were lawyers, patent attorneys, and employees working at intellectual property departments of private companies.

ii) From FY2004, the NCIPI started the searcher training program to develop searchers at registered search agencies. In FY2004, 160 persons participated in the program.

iii) About 500,000 copies of the Standard Textbook of Industrial Property Rights were provided for universities and other specialized and higher educational institutions, and about 500,000 copies of the side reader on industrial property rights were provided for elementary and secondary educational institutions.

iv) About 1.26 million copies of the side reader on copyrights were provided for junior high school students in the third grade.

(10) Proficiency tests and training programs in the private sector

i) In March 2004, the Intellectual Property Test started as a private proficiency test. So far, about 5,500 persons have taken the test.

ii) In December 2004, the Intellectual Property Translation Test started as a private proficiency test. So far, about 130 persons have taken the test.

iii) The Japan Intellectual Property Association provides training programs in the regular courses (basic, advanced, comprehensive, and overseas), the special course for the development of IP reform leaders, and the extra course. In FY2003, more than 13,600 persons participated in the programs.

(11) Raising awareness of the Strategic Program

Since April 2003, meetings have been held at 219 sites for briefing and opinion exchange regarding the Intellectual Property Strategic Program, and about 32,000 persons participated in the meetings.

* This chapter on achievements is compiled based on the survey on accomplishment circumstances of the Intellectual Property Strategic Program and the evaluation of the effect of the measures, as provided by Article 23(5) and (6) of the Basic Law on Intellectual Property.

<Reference>

1. List of Members of the Intellectual Property Policy Headquarters

(Prime Minister and State Ministers)

Director-General	Junichiro KOIZUMI	Prime Minister
Vice	Hiroyuki	Chief Cabinet Secretary
Director-Generals	HOSODA	Minister of State for Gender Equality
	Yasufumi	Minister of State for Science and Technology Policy
	TANAHASHI	Minister of State for Food Safety
		Minister of State for Information Technology
	Nariaki	Minister of Education, Culture, Sports, Science and Technology
	NAKAYAMA	
	Shoichi	Minister of Economy, Trade and Industry
	NAKAGAWA	
Members	Taro ASO	Minister of Internal Affairs and Communications
	Chieko NOHNO	Minister of Justice
		Minister of State for Youth Affairs and Measures for Declining Birthrate
	Nobutaka	Minister for Foreign Affairs
	MACHIMURA	
	Sadakazu	Minister of Finance
	TANIGAKI	
	Hidehisa OTSUJI	Minister of Health, Labour and Welfare
	Yoshinobu	Minister of Agriculture, Forestry and Fisheries
	SHIMAMURA	
	Kazuo	Minister of Land, Infrastructure and Transport
	KITAGAWA	
	Yuriko KOIKE	Minister of the Environment
		Minister of State for Okinawa and Northern Territories Affairs
	Yoshitaka	Chairman of the National Public Safety Commission
	MURATA	

		Minister of State for Disaster Management Minister of State for National Emergency Legislation
	Yoshinori OHNO	Minister of State for Defense
	Tatsuya ITO	Minister of State for Financial Services
	Heizo TAKENAKA	Minister of State for Economic and Fiscal Policy
		Minister of State for Privatization of the Postal Services
	Seiichiro MURAKAMI	Minister of State for Regulatory Reform Minister of State for Industrial Revitalization Corporation of Japan
		Minister of State for Administrative Reform Minister of State for Special Zones for Structural Reform
		Minister of State for Regional Revitalization
(Experts)	Hiroyuki ABE	Member of the Council for Science and Technology Policy
	Yuichiro ANZAI	President, Keio University
	Tsuguhiko KADOKAWA	President & CEO, Kadokawa Holdings, Inc.
	Maki KAWAI	Professor, Graduate School of Frontier Sciences, University of Tokyo Senior Researcher 主任, RIKEN
	Hideaki KUBORI	Attorney, Founding Partner, Hibiya Park Law Offices Professor, Omiya Law School
	Sumiko SHIMOSAKA	Patent Attorney, Representative, SHIMOSAKA and MATSUDA
	Nobihiro NAKAYAMA	Professor, University of Tokyo Graduate Schools for Law and Politics
	Tamotsu NOMAKUCHI	President & CEO, Mitsubishi Electric Corporation
	Fujio MITARAI	President & CEO, Canon Inc.
	Ryuichi	Director, AnGes MG, Inc.

MORISHITA

Professor in charge of the donation course,
Osaka University, Graduate School of
Medicine

(As of June 2005)

2. List of Members of Task Forces

(1) Task Force on Strengthening of the Foundation for Right Protection

- Hiroyuki ABE Member of Council for Science and Technology Policy
Member of Strategic Council on Intellectual Property
 - Makoto ITO Professor, University of Tokyo Graduate Schools for Law and
Politics
 - Hideaki KUBORI Attorney, Founding Partner, Hibiya Park Law Offices
Professor, Omiya Law School
Member of Strategic Council on Intellectual Property
 - Sumiko
SHIMOSAKA Patent Attorney, Representative, SHIMOSAKA and
MATSUDA
Member of Strategic Council on Intellectual Property
 - Ryu
TAKABAYASHI Professor, Waseda Law School
 - Minoru TAKEDA Attorney at Law and Patent Attorney, Takeda Law Office
 - Takehisa
NAKAGAWA Professor, Graduate School of Law, Kobe University
 - Tamotsu President & CEO, Mitsubishi Electric Corporation
 - NOMAKUCHI Member of Strategic Council on Intellectual Property
 - Shinjiro YAMADA President and CEO, INCS INC.
 - Hiroyuki Director and Advisor, Honda Motor Co., Ltd.
 - YOSHINO
- : Chairperson of Task Force

(As of June 2005)

(2) Task Force on Contents

Koichiro AKUZAWA	Executive Director, Association for the Promotion of Traditional Craft Industries
Satoshi AKUTSU	Associate Professor, Graduate School of International Corporate Strategy, Hitotsubashi University
Wataru ASO	Governor of Fukuoka Prefecture
○ Jiro USHIO	Chairman and CEO, Ushio Inc.
Nobuyuki Ota	Representative and CEO, ISSEY MIYAKE INC.
Tadashi OKAMURA	President and CEO, TOSHIBA CORPORATION
Tsuguhiko KADOKAWA	President & CEO, Kadokawa Holdings, Inc. Member of Strategic Council on Intellectual Property
Masakazu KUBO	Chief Creative Director, Character Business Center, Shogakukan Inc.
Hideaki KUBORI	Attorney, Founding Partner, Hibiya Park Law Offices Professor, Omiya Law School Member of Strategic Council on Intellectual Property
Mie KUMAGAI	Head, Amusement Software R&D, Dept. #3,
Hirohisa KOYAMA	Owner of <i>Aoyagi</i> (Japanese restaurant) Principal, École Culinaire Heisei
Machiko SATONAJAI	Cartoonist
Yutaka SHIGENOBU	CEO & Chairman of the Board, TV Man Union, Inc.
Yoshiki Tsuji	President and Principal, Tsuji Culinary School,
Kazufumi DOHI	Professor, Graduate School of International Corporate Strategy, Hitotsubashi University
Yasuki HAMANO	Professor, Graduate School of Frontier Sciences, The University of Tokyo
Yumiko HARA	Fashion director
Hisashi HIEDA	President, National Association of Commercial Broadcasters in Japan
Kiyomi MIKUNI	Owner and chef, HOTEL DE MIKUNI
Akira MINAGAWA	Designer, mina perhonen
Toshio YAMADA	Executive Director, Central Union of Agricultural

Tatsumi Yoda Co-operatives (JA ZENCHU)
Chairman of the Board & Representative Corporate Officer,
GAGA COMMUNICATIONS INC.

○ : Chairperson of Task Force

(As of June 2005)

(3) Task Force on the Protection of Patents of Medical-Related Acts

- | | |
|-------------------|---|
| Hiroshi AKIMOTO | Managing Director, Takeda Pharmaceutical Company Limited |
| ○ Hiroo IMURA | Chairman, Foundation for Biomedical Research and Innovation
Adviser, Japan Science and Technology Agency |
| Minoru UEDA | Professor, Graduate School of Medicine, Nagoya University |
| Eiji KATAYAMA | Attorney at Law and Patent Attorney, ABE, IKUBO & KATAYAMA |
| Soichiro KITAMURA | President, National Cardiovascular Center |
| Mieko KENJO | Professor, Faculty of Sociology, Aomori University
Essayist |
| Yoshiyuki TAMURA | Professor, Graduate School of Law, Hokkaido University |
| Hiroshi NONAKA | Permanent director, Japan Medical Association |
| Tadashi HIRATA | Chairman and CEO, KYOWA HAKKO KOGYO CO., LTD. |
| Yoshinori HIROI | Professor, Faculty of Law and Economics, Chiba University |
| Ryuichi MORISHITA | Director, AnGes MG, Inc.
Professor in charge of the donation course, Osaka University, Graduate School of Medicine
Member of Strategic Council on Intellectual Property |

○ : Chairperson of Task Force

(As of June 2005)

3. Grounds for Establishment

(1) Grounds for Establishment of Headquarters

Basic Law on Intellectual Property (Law No.122 of 2002)

Chapter IV Intellectual Property Policy Headquarters

(Establishment)

Article 24. In order to promote measures for the creation, protection and exploitation of intellectual property in a focused and planned manner, the Intellectual Property Policy Headquarters (hereinafter referred to as the "Headquarters") shall be established in the Cabinet.

(Operations within the jurisdiction of the Headquarters)

Article 25. The Headquarters shall have jurisdiction over the following operations:

- (i) Development of a promotion program (hereinafter referred to as the "promotion program"), and promotion of the implementation of such program; and
- (ii) Besides those mentioned in the preceding clause, investigation and deliberation on planning important measures on the creation, protection and exploitation of intellectual property, and promotion and comprehensive adjustment of implementation of such measures.

(Organization)

Article 26. The Headquarters shall be organized to consist of the Director-General of the Intellectual Property Policy Headquarters, the Vice Director-Generals of the Intellectual Property Policy Headquarters, and Members of the Intellectual Property Policy Headquarters.

(Director-General of the Intellectual Property Policy Headquarters)

Article 27.

1. The Headquarters shall be headed by the Director-General of the Intellectual Property Policy Headquarters (hereinafter referred to as the "Director-General"), the post which shall be served by the Prime Minister.
2. The Director-General shall be in charge of general coordination of the operations of the Headquarters, and shall direct and supervise the relevant officials.

(Vice Director-Generals of the Intellectual Property Policy Headquarters)

Article 28.

1. The Vice Director-Generals of the Intellectual Property Policy Headquarters (hereinafter referred to as the "Vice Director-Generals") shall be assigned in the Headquarters, the posts which shall be served by State Ministers.
2. The Vice Director-Generals shall assist the duties of the Director-General.

(Members of the Intellectual Property Policy Headquarters)

Article 29.

1. Members of the Intellectual Property Policy Headquarters (hereinafter referred to as the "Members") shall be assigned in the Headquarters.
2. The posts of the Members shall be served by the following persons:
 - (i) all State Ministers other than the Director-General and Vice Director-Generals; and
 - (ii) those having superior insights into the creation, protection and exploitation of intellectual property who have been appointed by the Prime Minister.

(Submission of materials and other forms of cooperation)

Article 30.

1. The Headquarters may, if it considers it necessary for implementing operations under its jurisdiction, demand submission of materials, statements of views, explanations and other required cooperation from the heads of the administrative organs concerned, local governments and independent administrative institutions and the representatives of public corporations.
2. The Headquarters may also demand required cooperation from parties other than those set forth in the preceding clause, if it considers it especially necessary for implementing operations under its jurisdiction.

(Operations)

Article 31. Operations concerning the Headquarters shall be processed within the Cabinet Secretariat and administered by the Assistant Deputy Chief Cabinet Secretary under commission.

(Competent Minister)

Article 32. The competent Minister as set forth in the Cabinet Law (Law No.5 of 1947) for matters related to the Headquarters shall be the Prime Minister.

(Authorization to Cabinet Orders)

Article 33. Necessary matters concerning the Headquarters other than those set forth in this Law shall be stipulated by Cabinet Orders.

Cabinet Order on Intellectual Property Policy Headquarters (Cabinet Order No. 45 of 2003) [Excerpt]

(Task force)

Article 2

1. The Intellectual Property Policy Headquarters (hereinafter referred to as the “Headquarters”) may, by its decision, establish a task force for investigation on technical issues if necessary.
2. Task force members shall be appointed by the Prime Minister from those who have knowledge and experience in relation to the technical issues.
3. Task force members shall work on a part-time basis.
4. The task force shall be abolished upon completion of the investigation for which it was established.

(2) Grounds for Establishment of Task Forces

Decision of Intellectual Property Policy Headquarters as of July 8, 2003

Decision on Establishment of Task Forces Concerning Important Policy Issues under the Strategic Program for the Creation, Protection and Exploitation of Intellectual Property

July 8, 2003

Decision of Intellectual Property Policy Headquarters

1. In accordance with Article 2 of the Cabinet Order on the Intellectual Property Policy Headquarters (Cabinet Order No. 45 of 2003), the following task forces shall be established for investigation of important policy issues under the Strategic Program for the Creation, Protection and Exploitation of Intellectual Property.

(1) Task Force on the Protection of Patents of Medical-Related Acts

Investigate and discuss an ideal from of patent protection for medical-related acts, while taking into account the operation of the revised Examination Guidelines in

2005 summer and thereafter.

(2) Task Force on Contents

Investigate and discuss issues on the development of content business.

(3) Task Force on Strengthening of the Foundation for Right Protection

Investigate and discuss issues relating to strengthening (enforcement) of the foundation for protection of intellectual property rights, e.g. measures against counterfeits and pirated copies, development of intellectual property experts, promotion of the movement of obtaining intellectual property rights, and judicial system reforms.

2. Task force members shall be appointed by the Prime Minister from those who have knowledge and experience in relation to the promotion of intellectual property strategy (or designated by the Director-General of the Intellectual Property Policy Headquarters from the members of the Intellectual Property Policy Headquarters).

3. The chairperson of a task force shall be elected from among the task force members by mutual vote.

4. A task force may invite unsworn witnesses to hear their opinions, if it considers such hearing necessary.

5. Operations concerning a task force shall be processed within the Cabinet Secretariat with cooperation from the ministers and agencies concerned.

6. Necessary matters concerning the administration of a task force other than those set forth in the preceding paragraphs shall be decided by the chairperson.

Decisions of Intellectual Property Policy Headquarters as of June 10, 2005

Decision on Establishment of Task Force on Intellectual Creation Cycle

June 10, 2005

Decision of Intellectual Property Policy Headquarters

1. In accordance with Article 2 of the Cabinet Order on the Intellectual Property Policy Headquarters (Cabinet Order No. 45 of 2003), the Task Force on Intellectual Creation Cycle (hereinafter referred to as the “Task Force”) shall be established for investigation and discussion of issues concerning strategic development of the intellectual creation cycle.

2. Members of the Task Force shall be appointed by the Prime Minister from those who

have knowledge and experience in relation to the promotion of intellectual property strategy (or designated by the Director-General of the Intellectual Property Policy Headquarters from the members of the Intellectual Property Policy Headquarters).

3. The Chairperson of the Task Force shall be elected from among the task force members by mutual vote.

4. The Task Force may invite unsworn witnesses to hear their opinions, if it considers such hearing necessary.

5. Operations concerning the Task Force shall be processed within the Cabinet Secretariat with cooperation from the ministers and agencies concerned.

6. Necessary matters concerning the administration of the Task Force other than those set forth in the preceding paragraphs shall be decided by the Chairperson.

Decision on Abolition of Task Force on the Protection of Patents of Medical-Related Acts and the Task Force on Strengthening of the Foundation for Right Protection

June 10, 2005

Decision of Intellectual Property Policy Headquarters

The Task Force on the Protection of Patents of Medical-Related Acts and the Task Force on Strengthening of the Foundation for Right Protection shall be abolished.

4. History of Development of Intellectual Property Strategic Program 2005

2002	Feb. 4	Policy speech by Prime Minister Koizumi
	Feb. 25	Strategic Council on Intellectual Property inaugurated
	Mar. 20	1st meeting of Strategic Council on Intellectual Property
	Apr. 10	2nd meeting of Strategic Council on Intellectual Property
	May 22	3rd meeting of Strategic Council on Intellectual Property
	Jun. 14	4th meeting of Strategic Council on Intellectual Property
	Jul. 3	5th meeting of Strategic Council on Intellectual Property Intellectual Property Policy Outline adopted
	Sep. 19	6th meeting of Strategic Council on Intellectual Property
	Oct. 16	7th meeting of Strategic Council on Intellectual Property

	Dec. 4	Basic Law on Intellectual Property promulgated
2003	Jan. 16	8th meeting of Strategic Council on Intellectual Property
	Mar. 1	Basic Law on Intellectual Property put into force Intellectual Property Policy Headquarters inaugurated Intellectual Property Policy Office established within Cabinet Secretariat
	Mar. 19	1st meeting of Intellectual Property Policy Headquarters
	Apr. 18	2nd meeting of Intellectual Property Policy Headquarters
	May 21	3rd meeting of Intellectual Property Policy Headquarters
	Jun. 20	4th meeting of Intellectual Property Policy Headquarters
	Jul. 8	5th meeting of Intellectual Property Policy Headquarters - Strategic Program for Creation, Protection and Exploitation of Intellectual Property adopted - Task forces established
	Oct. 8	1st meeting of Task Force on Strengthening of Foundation for Right Protection (Meetings held 13 times up to June 10, 2005)
	Oct. 15	1st meeting of Task Force on Contents (Meetings held 6 times up to June 10, 2005)
	Oct. 31	1st meeting of Task Force on Protection of Patents of Medical-Related Acts (Meetings held 11 times up to June 10, 2005)
	Dec. 11	Report of Task Force on Strengthening of Foundation for Right Protection compiled - Creation of Intellectual Property High Court - Comprehensive Measures for Expeditious Patent Examination
	Dec. 17	6th meeting of Intellectual Property Policy Headquarters
2004	Apr. 9	Report of the Task Force on Contents compiled - Content Business Development Policy
	Apr. 14	7th meeting of Intellectual Property Policy Headquarters
	May 13	Report of Task Force on Strengthening of Foundation for Right Protection compiled - Strengthening of Measures against Counterfeits and Pirated Copies
	May 27	8th meeting of Intellectual Property Policy Headquarters - Intellectual Property Strategic Program 2004 adopted

	Nov. 22	Report of Task Force on Protection of Patents of Medical-Related Acts compiled - Ideal Form of Protection of Patents of Medical-Related Acts
	Nov. 24	1st meeting of Japan Brand Working Group of Task Force on Contents (Meetings held 4 times up to June 10, 2005)
	Dec. 16	9th meeting of Intellectual Property Policy Headquarters - Package for Acceleration of Measures against Counterfeits and Pirated Copies adopted
2005	Feb. 25	Report of Japan Brand Working Group of Task Force on Contents compiled - Promotion of Japan Brand Strategy
	Apr. 25	Report of Task Force on Strengthening of Foundation for Right Protection compiled - Measure to Promote Intellectual Property Strategy of SMEs and Venture Companies
	Apr. 26	10th meeting of Intellectual Property Policy Headquarters
	Jun. 10	11th meeting of Intellectual Property Policy Headquarters - Intellectual Property Strategic Program 2005 adopted

5. Glossary

Web information	Information (content) that can be downloaded from the Internet
Equity	Shareholder's interest (owner's capital) for which a shareholder is entitled to a dividend according to the profits over a certain period of time; the financial value of a property
Open software	Open-source software, of which the source codes (program contents that are readable) are disclosed and made available for free reproduction and modification
Grace period	Period for applying exceptions to lack of novelty of inventions
Joint degree	A system that allows the obtainment of more than one academic degree during a certain period
Digital contents	Images, database, software, etc. produced with the use of a computer
Digital cinema	Carrying out the overall process from shooting to showing movies with the use of digital data instead of film
Bayh-Dole system	System for attributing intellectual property rights resulting from R&D funded by a national government to the entities that received the fund
Patent pool	System in which two or more owners of patent rights, etc. intensively vest a particular organization with the authority to grant license for rights, and then receive necessary licenses from the organization.
Film commission	Non-profit organization that is established under the leadership of a local government to promote location shooting
Project finance	Financing method for repaying the principal and interest of loans with profits from the operation of finished facilities
Postdoctoral fellows	Persons who have completed the doctoral course and continue to engage in research projects at research institutes belonging to universities, etc. Most of them are employed for a fixed term.
ADR	Alternative Dispute Resolution
APEC	Asia-Pacific Economic Cooperation
ASEM	Asia-Europe Meeting

CSDB	JPO's Computer Software Database to be used for the examination of computer-related applications
EPA	Economic Partnership Agreement
FTA	Free Trade Agreement
IPDL	JPO's Intellectual Property Digital Library
JETRO	Japan External Trade Organization
JICA	Japan International Cooperation Agency
LLM	Master of Law
MOT	Management of Technology
NEXI	Nippon Export and Investment Insurance
PCT	Patent Cooperation Treaty
Sui generis	Latin expression meaning <i>its own gender/genus</i> ; database protection under the <i>sui generis</i> system means to grant property right for the database and protect it under an independent system.
TBT Agreement	Agreement on Technical Barriers to Trade
TLO	Technology Licensing Organization
TPRM	Trade Policy Review Mechanism
TRIPS Agreement	Agreement on Trade-Related Aspects of Intellectual Property Rights
UPOV	Union For The Protection of New Varieties of Plants
WCO	World Customs Organization
WIPO	World Intellectual Property Organization
WPPT	The World Intellectual Property Organization Phonograms and Performances Treaty
WTO	World Trade Organization