

1. Measures related to the WTO Agreement on Government Procurement (Reference Material III-1)

(1) Current status of the number of countries and regions participating in the WTO Agreement on Government Procurement

Originally there were 23 countries and regions participating in the WTO Agreement on Government Procurement when it was first concluded in 1994. As of 1 May 2014, parties to the Agreement were 43 countries and regions. (see note)

Of the parties to the Agreement, 39 countries and regions have concluded the Protocol Amending the Agreement on Government Procurement, with the exception of Armenia, Korea, Netherlands with respect to Aruba and Switzerland.

(Note) Parties to the WTO Agreement on Government Procurement (as of 1 May 2014)

Japan, Armenia, Canada, European Union (EU), Austria, Belgium, Bulgaria Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, the Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden, the United Kingdom, Hong Kong China, Iceland, Israel, Korea, Liechtenstein, Netherlands with respect to Aruba, Norway, Singapore, Switzerland, Taiwan and the United States

(2) Discussions in WTO (Reference Material III-2)

In 1976, the negotiations on the Agreement on Government Procurement were launched, with a view to compiling an agreement that would stipulate principles of national treatment, procedures for tendering and other matters in government procurement for goods and suppliers of the Parties to the Agreement. This first Agreement (the former Agreement) entered into force in 1981. Subsequently, Parties to the Agreement engaged in further negotiations, seeking to expand the coverage of the Agreement, and the former Agreement was revised in 1988, with the new Agreement (the 1994 Agreement) entering into force in 1996.

The 1994 Agreement expands the coverage of entities that are subject to the Agreement from only central government entities to include local government entities and other governmental entities (i.e. incorporated administrative agencies, etc.), and also expands its scope by including specified services by the governmental bodies abovementioned. Furthermore, the 1994 Agreement stipulates that each Party shall enable suppliers to challenge alleged breaches of the 1994 Agreement arising in the context of procurements in which they have an interest, and have recourse to the provisions of the Understanding of Rules and Procedures Governing the Settlement of Disputes.

From 1997, the WTO Committee on Government Procurement initiated discussions on further expansion of the coverage of the 1994 Agreement. As a result of negotiations among Parties, it was agreed to: expand the scope of entities and services covered by the Agreement; give further special and differential treatment to developing countries seeking to accede to the Agreement; simplify procurement procedures using electronic procurement tools in the tendering process, and; introduce rules in the future to facilitate resolution of issues relating to notification of a proposed modification to the scope of the Agreement and the objections to it. Accordingly, in March 2012 the Protocol Amending the Agreement on Government Procurement was adopted.

On 7 March 2014, as instruments of acceptance of the Protocol were deposited by two-thirds of the GPA Parties, 30th day following this date, on 6 April 2014, the Protocol entered into force. The Protocol entered into force on 16 April 2014 in Japan and from this date the revised Agreement applies with respect to those Parties that have accepted the Protocol.

2. Related Provisions of Economic Partnership Agreement

In many of the economic partnership agreements (EPAs) that Japan has signed and concluded to date, an independent chapter is devoted to providing relevant rules for government procurement. While the WTO Agreement on Government Procurement has thus far been signed by 43 countries and regions, composed of mainly developed countries including Japan, it is meaningful to designate rules for government procurement in EPAs, especially when the other party has not signed the GPA. It is also meaningful to designate such rules even with a signatory of the GPA, with expected benefits including the lowering of the threshold applied under the GPA and the expansion of applicable entities covered. The following are those EPAs already in effect that contain a chapter on government procurement (among the signatories of such EPAs, only Singapore and Switzerland are parties to the GPA).

(1) Japan-Singapore Economic Agreement for a New Age Partnership

This is Japan's first bilateral economic partnership agreement, which entered into force in November 2002. While both Singapore and Japan are parties of the GPA, this economic partnership agreement includes more obligations than the GPA in the area of goods and services procurement. To be specific, both countries have agreed to provide suppliers of the other country with more opportunities for tendering by lowering the application threshold applied under the GPA from 130,000 SDR to 100,000 SDR.

(2) Japan-Mexico Economic Partnership Agreement

This Agreement entered into force in April 2005. Regarding government procurement covered by the Agreement, both countries has promised in the Agreement that the goods and services of the partner country as well as their providers are subject to such treatment no less favorable than that accorded to domestic goods, services and suppliers (known as "National Treatment"). They have also agreed on the procedures related to information disclosure after successful bids and filing complaints, etc. Although there were cases in the past where Japanese companies were excluded from Mexico's government procurement on grounds that the Free Trade Agreement (FTA) was not yet concluded (Mexico has not concluded the GPA), Japanese companies now enjoy national treatment in terms of government procurement in Mexico after the coming into force of the Agreement.

(3) Japan-Chile Economic Partnership Agreement

This Agreement entered into force in September 2007. Japan has agreed with Chile, which is not a signatory of the GPA, on specific procurement procedures including the national treatment and non-discrimination, as well as the procedures related to information disclosure after successful bids and filing complaints, etc. In addition, the Agreement also contains provisions concerning the establishment of a Committee on Government Procurement.

(4) Japan-Philippines Economic Partnership Agreement

This Agreement entered into force in December 2008. Japan has agreed with the Philippines, which is not a signatory of the GPA, on establishing a Sub-committee on Government Procurement. The two countries also agreed that when one of the signatories gives a favorable treatment to a third party country regarding government procurement, it will provide opportunities for negotiations with the other party to obtain the same treatment. Furthermore, it is stipulated that the two countries will enter into negotiations with the view of liberalizing the respective markets of government procurement within a maximum of five years after the Agreement's entry into force.

(5) Japan- Peru Economic Partnership Agreement

This Agreement entered into force in March 2012. Japan has agreed with Peru, which is not a signatory of the GPA, that in order to promote the participation in the government procurement markets of both Parties to this economic partnership agreement, this Agreement shall include stipulations concerning national treatment and non-discrimination, procurement procedures such as tendering, the prohibition of measures that diminish the effect of procurement, challenge procedures, measures to ensure transparency, etc.

(6) Others

As for the Japan-Thailand EPA (entered into force in November 2007) and the Japan-Indonesia EPA (entered into force in July 2008), each contains an independent chapter on government procurement, stipulating information exchange on government procurement and establishment of a Sub-committee for government procurement although neither of the Agreements makes promises on the procedures of government procurement themselves.

The Japan-Switzerland EPA (entered into force in September 2009) confirms the rights and obligations of both countries under the GPA. This Agreement stipulates that both countries designate a contact point to facilitate communications between each other. The Agreement also includes provisions on additional negotiations.

The Japan-Brunei EPA (entered into force in July 2008) and the Japan-Vietnam EPA (entered into force in October 2009) regulate government procurement in an independent chapter on improvement of business environment.

The Japan-India EPA (entered into force August 2011) contains an independent chapter on government procurement, which makes stipulations concerning measures to ensure transparency and the exchange of information, as well as to ensure that treatment is provided to the Parties to the Agreement that does not put them at a disadvantage in comparison to third parties.

(Thailand, Indonesia, Brunei, Vietnam and India are not the signatories of the GPA.)

3. Voluntary Measures on Government Procurement

(1) Government Procurement Seminar

The Ministry of Foreign Affairs holds a seminar on government procurement each year, based on the Action Program on Government Procurement and the Procedures for Government Procurement on Products (Operational Guidelines), and the Operational Guideline on Procedures for Government Procurement etc., which takes on the functions of these previous documents. In 2013, the seminar was held on 19 April (with 45 domestic and 12 foreign suppliers participating).

The voluntary measures on government procurement also call for the other ministries and agencies to hold seminars on government procurement as necessary. In 2013, the following seminars were held.

Table III-1 Government Procurement Seminars in Japanese Ministries and Agencies in 2013

Procurement Organization	Date	Content
National Public Safety Commission (National Police Agency)	15 May 2013	Government Procurement Seminar, Government Procurement Annual Meeting (Telecommunications)
Ministry of Education, Culture, Sports, Science and Technology	17 May 2013	Government Procurement Seminar, Government Procurement Annual Meeting (Telecommunications, Medical Technology)
Ministry of Health, labor, and Welfare	17 May 2013	Government Procurement Seminar, Government Procurement Annual Meeting (Medical Technology)
Ministry of Land, Infrastructure, Transport and Tourism	23 May 2013	Government Procurement Seminar, Government Procurement Annual Meeting (Telecommunications)
Ministry of Defense	22 July 2013	Government Procurement Seminar, Government Procurement Annual Meeting (Medical Technology)

(2) Voluntary Review Meeting

It is stipulated in the Procedures for Government Procurement on Products (Operational Guidelines), Measures on Japanese Public Sector Procurement of Telecommunications Products and Services, and Measures related to Japanese Public Sector Procurement of Medical Technology Products and Services, and in the Operational Guideline on Procedures for Government Procurement etc., which takes on the functions of these previous documents, that review and follow-up of voluntary measures on government procurement are to be implemented. Furthermore, it is also stipulated that when conducting a review the opinions and requests of domestic and foreign suppliers (companies and organizations) should be sought through hearings. Based on these stipulations, each year the Voluntary Review Meeting (composed of directors of accounts divisions, or their equivalent, in each ministry and agency concerned) engages in review and follow-up of voluntary measures.

In 2013, a questionnaire survey was implemented to seek the opinions of suppliers concerning the status of implementation and utilization of voluntary measures. In addition, a voluntary review, a follow-up to the voluntary measures based on statistics, etc., was held on 6 December and gave consideration to the results of the survey (Reference Material III-3). The Voluntary Review Meeting drew up the Government Initiative on Future Management of Government Procurement (Reference Material III-4) based upon the reviews above.

From FY2001, among the opinions and requests gathered by the questionnaire survey, the government picked up those ① from many respondents, ② considered important to improve the current measures, and ③ considered necessary information to the public, and released responses from the government on the website of Prime Minister of Japan and His Cabinet (Reference Material III-5).

(3) Thresholds

Thresholds, which vary according to types of contract specified in the WTO Agreement on Government Procurement, are obtained by converting the applied standard values (in SDR) into the national currency, and the notifications are published in the official gazette (kanpo) (The Standard Values are revised every two fiscal years.).

The thresholds in the voluntary measures related to government procurement are revised according to the notifications. The current thresholds applicable are in Reference Material III-6.