Recent Developments in Investment Policy and Practice in Japan

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## Current Status of Japan’s IIAs (1)

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### Current Status of Japan’s IIAs (2)

#### Investment Chapters in EPAs

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#### Plural Investment Agreements

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General Features of Japan’s IIAs

• The number of Japan’s IIAs is still small, although Japan has accelerated the negotiations since the policy shifts in 2002.

• Japan’s IIAs seek to improve the high-level business environment for overseas Japanese investors.

• Many recent IIAs establish institutional arrangements for the improvement of the business environment.
ECT in Japan’s IIAs Policy

• Only Plurilateral IIA covers Eurasian and Euro-Mediterranean regions (47 States and EU)

• Japan concluded BITs with only Mongol, Turkey and Uzbekistan, and an EPA with Switzerland.

• Negotiations for Japan-EU EPA has just begun this April.
Recent Practice of Japan’s IIAs Policy

2012 Trilateral Investment Agreement between China, Japan and Korea

- The first binding legal framework between China, Japan and Korea in the field of trade and investment

- Political significance from the perspective of enhancing their relationships.

- Step forward to Trilateral FTA and further economic partnerships.
Bilateral IIAs among China, Japan and Korea

- 1988 Japan and China
- 1992 China and ROK (revised in 2007)
- 2002 Japan and ROK
Major Achievements in TRIT(1)

- Protection of Intellectual Property rights (Art. 9)
- Umbrella clause (Art. 5 (2))
- Prohibition of Performance Requirements (Art. 7)
- Transparency (Art. 10)
Article 9 : Intellectual Property Rights

1. (a) Each Contracting Party shall, in accordance with its laws and regulations, protect intellectual property rights.

(b) Each Contracting Party shall establish and maintain transparent intellectual property rights regimes, and will, under the existing consultation mechanism on intellectual property, promote cooperation and communications among the Contracting Parties in the intellectual property field.
Umbrella clause

Article 5 General Treatment of Investment

2. Each Contracting Party shall observe any written commitments in the form of an agreement or contract it may have entered into with regard to investments of investors of another Contracting Party.
Article 7  Prohibition of Performance Requirements

1. The provisions of the Agreement on Trade-Related Investment Measures in Annex 1A to the WTO Agreement are incorporated into and made part of this Agreement, mutatis mutandis and shall apply with respect to all investments under this Agreement.

2. No Contracting Party shall, in its territory, impose unreasonable or discriminatory measures on investment by investors of another Contracting Party concerning performance requirements on export or transfer of technology.
Article 10  Transparency

• Prompt publication of its laws, regulations, administrative procedures.

• To provide a reasonable grace period when THE State introduces or changes its law or regulations, or reasonable opportunity for comments for regulations related to investment before adoption of such regulations.

• To respond to specific questions from, and provide information with respect to any actual or proposed measure, which might materially affect the interests of another Contracting Party and its investors.
Major Achievements in TRIT (2)

• ISDS (Art. 15)

• Transfers (Art. 13)

• Fair and Equitable (Art. 5)

• National Treatment (Art. 3)

Background

• Despite a rapid increase of EPA/FTAs, Japan is falling behind.
• It is necessary to deepen economic relationships with Asian and emerging countries, and with Western and Resource-rich countries.
• Among those, the Asia-Pacific region is of particular importance for Japan, politically, economically and with respect to security.
• The Free Trade Area of the Asia-Pacific(FTAAP) is an important means to a seamless business environment.

Concrete Action Plan

• Japan will work towards the realization of bilateral and regional economic partnerships in the Asia-Pacific region such as:

  Japan-Korea FTA, Japan-China-Korea FTA, East Asian Free Trade Agreement (EAFTA) and Comprehensive Economic Partnership in East Asia (CEPA)

• Beyond the Asia-Pacific region, Japan will make efforts to arrange for future negotiations with the EU and facilitate ongoing negotiations with the GCC.
Institutionalizing Economic Cooperation in the Asia-Pacific region

ASEAN+3 (EAF TA)

ASEAN+6 (CEPE A)

Japan, China, Korea

FTAAP (APE C)

TPP

Vietnam

Brunei

USA

Peru

Australia

NZ

PNG

US

Canada

Mexico

Peru

Chile, Hong Kong, Taiwan

Russia

PNG
The Strategy for Rebirth of Japan (2012)

- To actualize the FTAAP, Japan will push ahead with negotiations with South Korea and Australia, and aims to promptly start negotiations on Japan-China-South Korea, ASEAN+3, and ASEAN+6 regional economic partnerships.

- Regarding the TPP, the government will proceed with consultations with nations interested in participating in the negotiations.

- It will also aim for an early launch of negotiations on Japan-EU EPA.
Japan’s Interests in TPP

- Protection of Intellectual Property Rights at the level of ACTA.
- Liberalization of Investment, especially in ASEAN countries.
- Market access to telecom and financial services, especially in ASEAN countries.
- No lowering of labour and environmental standards.
- Setting up a permanent consultative body to improve the business environment.
Challenges in implementing Japan’s IIAs Policy

• Japan aims to improve the business environment for overseas Japanese investors by increasing the number of IIAs and EPAs.

• Response to TPP in Japan shows an increasing tendency of polarization of positive and negative perspectives on further economic integration.

• In order to actualize FTAAP, outreach and political leadership is essential in diplomatic negotiations as well as domestic reforms.
Thank you for your attention!

ご清聴、ありがとうございます！