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**JAPAN-THAILAND ECONOMIC
PARTNERSHIP AGREEMENT
TASK FORCE REPORT**

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BACKGROUND

1. During his official visit to Japan in November 2001, the Thai Prime Minister, H.E. Dr. Thaksin Shinawatra, proposed to Japanese Prime Minister, H.E. Mr. Junichiro Koizumi, that Thailand and Japan should explore together the possibility of establishing a bilateral Free Trade Agreement (FTA). During his visit to five ASEAN countries including Thailand in January 2002, Prime Minister Koizumi proposed the "Initiative for Japan-ASEAN Comprehensive Economic Partnership", to which Prime Minister Thaksin gave his full support.
2. As to how such partnership should be explored, vice-ministerial level senior officials of ASEAN countries and Japan decided in the Japan-ASEAN Forum meeting held on 12 April 2002 in Yangon, the Union of Myanmar, an approach that, while considering a framework for the realisation of a Comprehensive Economic Partnership between Japan and ASEAN, any ASEAN member country and Japan could initiate works to build up a bilateral economic partnership. This approach was later endorsed by the leaders of ASEAN countries and Japan on 5 November 2002 in Phnom Penh, the Kingdom of Cambodia.
3. During their bilateral meeting at the margin of Boao Forum for Asia in Hainan Island, China, on 12 April 2002, the two Prime Ministers decided to begin consultations for an agreement of Japan-Thailand Economic Partnership (JTEP) in a Working Group, which was subsequently set up under the Japan-Thailand Economic Partnership Consultations meeting held on 12 July 2002.
4. Following the aforementioned decision made by the two leaders in April, two preparatory meetings were held in May 2002 in Bangkok and in July in Tokyo between representatives of the two governments, who decided to use the Japan-Singapore Economic Partnership Agreement (JSEPA), the first such bilateral agreement ever concluded between Japan and a member of ASEAN, as a basis or reference to pursue the JTEP.
5. Building on the discussions of two preparatory meetings of both governments, the Working Group held five meetings alternately in Bangkok and Tokyo between September 2002 and May 2003. The Working Group explored the JTEP in line with the following working guidelines:

- (1) Preparing substantive ground works for the JTEP, including the possibility of incorporating elements of a free trade agreement;
 - (2) Exploring the JTEP, based upon the legal structure of the JSEPA or making it a reference, through seeking;
 - (a) which areas of the JSEPA could be included in the JTEP;
 - (b) what changes should be made in JTEP, in substance, from the JSEPA; and
 - (c) what new elements could be added to the JTEP from the JSEPA;
 - (3) Conducting informal exchanges of views, including those of interested areas and sensitivities, when examining the possibility of creating a mutually beneficial economic partnership between Japan and Thailand.
6. The Working Group was composed of government officials of the two countries, and yet invited the participation of business representatives and academics. The participants lists of both countries are attached (Attachment 1.)
7. The Working Group created informal texts for reference in the coming negotiations. In addition, the lists of interested areas in three of the four concession areas, i.e., (a) trade in services, (b) investment and (c) movement of natural persons, were submitted or exchanged.
8. The two prime Ministers met in Tokyo on 6th June 2003 during Prime Minister Thaksin's visit to Japan, took note of the progress with satisfaction, and decided to establish "Japan-Thailand Economic Partnership Agreement (JTEPA) Task Force (TF)", with the expanded participation from private and academic sectors (Attachment 2.), with a view to expediting the process for realising the JTEP.
9. Based on the outcomes of the Working Group, the TF addressed a wide range of issues of the JTEP including the following issues:
- (1) Issues on trade in goods, for examining ways for mutually beneficial economic partnership between Japan and Thailand, considering sensitivities of some sectors;
 - (2) Issues on interested areas;
 - (3) Issues on JTEP structure; and
 - (4) Analysis on economic effect of the JTEP
10. The TF held three meetings from July 2003 to November 2003. This report summarises the main points of its discussions so far.

SECTION I. OVERVIEW

1. Regional economic integration has become a dominant feature of the world economic environment, particularly in the last decade. The European Union (EU) enlarged its members from 15 to 25, steadily expanding its free trade networks with Mediterranean, African and Middle Eastern countries. Members of the North American Free Trade Agreement (NAFTA) have been attempting to achieve a Free Trade Area of the Americas, incorporating 34 Latin American countries. Similar trends are evident in almost all over the world.
 2. Also in East Asia, such trend has recently come to surface. The Japan-Singapore Economic Agreement for a New Age Partnership was concluded and took effect on 30 November, last year. The ASEAN Free Trade Area (AFTA) should also become effective this year. China and ASEAN concluded a framework agreement towards the establishment of their free trade agreement. In line with the joint declaration of the leaders of Japan and ASEAN on the Comprehensive Economic Partnership in 2002 ASEAN and Japan signed the Framework for Comprehensive Economic Partnership at the ASEAN-Japan Summit last October.
 3. Along with these regional frameworks, Japan and Thailand are now making serious efforts to conclude Economic Partnership Agreements (EPA) including Free Trade Agreements (FTA) with several countries: After signing its first EPA with Singapore, Japan is now under the negotiation with Mexico, decided to start the negotiation with Republic of Korea within this year, and is discussing possibilities of EPA with Philippines, Malaysia, and Indonesia. Thailand has reached substantial agreement on FTA with Australia and has concluded framework agreement with China and India. In addition, Thailand and the United States have announced their intention to enter into negotiations in the near future.
 4. Japan and Thailand have already cultivated positive and amicable partnership and cooperation as well as strong bilateral trade and investment linkage. (Attachment 3.)
- (1) The bilateral trade had expanded significantly during the past decades. According to Japan Trade Statistics, in 2002, trade between Thailand and Japan totalled JPY 2.85 trillion. For Thailand, Japan has been the largest trade partner, and for Japan, Thailand ranks the 8th largest trade partner. Japan Trade Statistics shows that in 2001,

74 percent of export from Thailand to Japan consists of industrial goods, while the remaining 26 percent being agricultural, forestry and fishery items. Almost all the exports from Japan to Thailand are industrial goods, with agricultural, forestry and fishery items currently occupying only 0.87 percent of the entire export amount from Japan.

- (2) For Thailand, Japan is the largest investor in terms of the number of investors as well as the amount of investment. In 2002, according to BOI Thailand, the number of investors from Japan to Thailand amounted to 215 which was 45 percent of total number and the total amount of investment from Japan reached 38 billion baht which consisted 39 percent of the total amount. The inflow of investment from Thailand to Japan is yet to be substantial compared to those from various major investors.
- (3) The Economic Partnership between Japan and Thailand also recognizes the significance of bilateral economic cooperation. Japan's Official Development Assistance (ODA) to Thailand amounts to USD 209.59 million in 2001 while the total amount of the assistance has reached USD 9,093.34 million since 1967 to 2000. Through this ODA, Japanese Government has been sending hundreds of experts to and accepting trainees from Thailand year by year in variety of fields such as agriculture, health, environment, education, IT and so on. Also in private sector, Nippon Keidanren, for instance, has been active in sending missions, conducting trainings and exchanging views on industry in Thailand, while JA-Zenchu has been providing training opportunities for hundreds of agricultural cooperative leaders of Thailand since 1963. Such Co-operation has been mutually beneficial. The JTEPA is aiming to further enhance and deepen the Thai-Japan strategic partnership in wide range of areas concerned, so as to develop not only a simple FTA but more comprehensive relations for the better future between the two countries.

SECTION II. ECONOMIC EFFECTS OF THE JTEPA

A participant from the Japanese academic sector reported the result of simulations on the effects of FTA between Japan and Thailand which the TF took note of. The summary of that report is attached. (Attachment 4.)

SECTION III. SCOPE OF THE JTEPA

1. Trade in Goods

- (1) The TF stressed that the tariff reduction and elimination is important for strengthening Japan and Thailand economic partnership and so it is needed for JTEPA, including an element of a possible free trade agreement, to be fully consistent with Article XXIV of the General Agreement on Tariffs and Trade (GATT). The TF reaffirmed that the two countries are important trade partners each other, and the exportation of agricultural products from Thailand to Japan had increased by 40 percent in the last 10 years, and it had reached to approximately 3 billion US dollars in 2002.
- (2) The TF mentioned that Japan bound close to 100 percent of its tariffs at a simple average applied tariff rate of 7.7 percent (industrial:4.1 percent, agricultural:23.0 percent). Thailand, on the other hand, bound 73 percent with an average applied tariff rate of 15.15 percent (industrial: 13.15 percent, agricultural: 28.04 percent). Although its tariff rates on industrial goods are comparatively low, Japan maintains relatively high tariff rates on several industrial goods such as leather, leather products and footwear, petrochemicals and textiles.
- (3) The Thai side explained in the TF about its unilateral tariff liberalisation programmes together with its tariff liberalisation schemes under CEPT-AFTA applicable to other ASEAN countries. The Japanese side highly appreciated such initiations of tariff reduction but referred to the large gap between the tariff rates for components and those for completed products. The Japanese side showed its concern about procedural transparency and improvement of VAT refund system.
- (4) The Japanese side explained the significant improvement of the Generalised System of Preferences (GSP) through addition of 118 agricultural products to then 221 agricultural products that are eligible for the GSP made applicable from April 2003 to developing countries including Thailand under the regime of the GSP in which acceleration of agricultural trade was intended for which Thai side expressed appreciation.
- (5) The TF noted that Japan is the world largest net importer of agricultural products while self-sufficiency ratio of

foods has been decreasing corresponding to the increase of importation, and the present level of only 40 percent self-sufficiency of foods is the lowest among major industrialised nations. Japanese side referred to the government decision for raising up the self-sufficiency ratio to 45 percent by 2010 Japanese fiscal year and needs for the appropriate operation of SPS measures to imported agricultural products corresponding to the consumers' concerns about food safety.

- (6) The Japanese side stressed that tariffs for agriculture, forestry and fisheries products are important and well transparent border measures to fill the differences of natural and economic conditions between various countries and fully consistent with WTO rules. Japanese side also stressed the importance of tariffs on agriculture, forestry and fisheries products for food security and maintaining multifunctionality of agriculture while explaining the needs of well balanced approach between liberalisation and co-operation in economic partnership in the field of agriculture, forestry and fisheries, the sensitivities, and difficulties of tariff elimination, particularly, of agriculture, forestry and fisheries products, and pointed out the necessity to take an incremental or building block.
- (7) The participants from agricultural and fishery private sector of the Japanese side explained sensitivity of agricultural and fishery products such as rice, chicken, starch and sugar referring to statistics and concrete data. The participants from agricultural private sector of the Japanese side stressed that not only FTA consistent with WTO regulations but also various components, such as co-operation, should be included in the partnership to deepen the mutual understandings, and discussion between two countries should be carried on the basis of a general package. The participants from agricultural and fishery private sector of the Japanese side emphasised that mutual development and prosperity of the two countries in the aspects of economy, society and culture should be the basic principle of JTEPA, hence the proper recognition of the multifunctionality of agriculture and sensitivities of individual products should be made. The participant also stressed the need for poverty eradication in the rural area, particularly in the developing countries.
- (8) Upon request by the Thai side, the participant explained the situations of some agricultural products in Japan:

Rice, consists of 25.5 percent of total agricultural products in value and is the most important crop as individual products, although it contains serious problem of continuous price decline while planned production through decreased planting area by 40 percent from the peak period due to continuous decline of domestic consumption of rice; As for chicken, the number of producers has declined from 4,500 in 1993 to 2,800 in 2003, and it consists of an important component in rural economy, for instance, it consists of 16.2 percent of total agricultural output in Iwate prefecture and that of 13.5 percent in Miyazaki prefecture, and therefore the negative impact by increased imports is highly worried. The participants from fishery private sector of the Japanese side explained that fishery products are highly sensitive because elimination of tariffs of the products of Japan as the world largest importer of fishery products would induce degradation of sustainable use of fishery resources, which is exhaustible natural resources, by surge of importation, and the fragile nature of rural society which relies highly on fisheries.

- (9) The participants from the Japanese private agricultural sector as well as the Japanese side explained the sensitivities of sugar and starch among those products to which Thai side had shown interest, mentioning that these are indispensable regionally specific products for sustainable agriculture in the marginal regions for agricultural production, and that further liberalisations of these two products might cause serious negative impact to the economy of the regions depending highly or solely upon these products. The Japanese side stressed that liberalisation of sugar and starch is also an economically significant issue in the sense that it might affect critically on the continuity of business activities of sugar and starch refiners and other relating business sectors. Furthermore, the Japanese side emphasized that there are a lot of sensitive items other than mentioned above and explained in the former sessions of TF because there are more than 350 items for tariff quota, items with specific duties and items with high tariff rate in Japan.
- (10) Both sides recognised the importance of co-operation in the field of agriculture in JTEPA which must be undertaken in a proper balance with liberalization, taking into consideration both sides' sensitivity. Both sides also agreed that the main objective of this

undertaking is to enhance the quality of life and income of farmers in their respective countries.

- (11) The TF took note of the outcome of the agricultural, forestry and fisheries expert group meeting which appears as Attachment 5. and agreed that this should form a basis for further deliberations at the negotiation stage.
- (12) With regard to the industrial sector, the Japanese side stressed the sensitivities on some items including leather, leather products and footwear. The Thai side referred to the sensitivities of iron, steel items, automotive and automotive parts and petrochemical products. On the other hand, both sides expressed their strong interest in trade liberalisation in particular of those items which would have to be imported.
- (13) The TF considered the need to address sensitivities of certain traded items on both sides in the negotiations as well as options such as exceptions, longer liberalisation time frames or tariff reductions while maintaining consistency with Article XXIV of the General Agreement of Tariffs and Trade (GATT).
- (14) The TF expressed that above mentioned measures would be applied upon necessity and carefully designed not to hinder the benefit of the JTEPA in that eliminating tariff would strengthen the competitiveness of the sector in general and contribute to enhance the mutually beneficial economic partnership.

2. Rules of Origin

- (1) Rules of Origin (ROO) are criteria to be agreed between the two sides applied to determine what the country of origin of a certain product should be. The TF concurred that the ROO in the JTEPA should allow goods of Japanese and Thai origin to benefit from the tariff liberalization of the JTEPA. The TF also viewed that JTEPA ROO should pay due attention to cumulative rules of origin among ASEAN countries and Japan, to be discussed in the future.
- (2) The TF identified three major rules, i.e., wholly obtained rules, change in tariff classification (CTC) rules, and value-added rules. The TF also viewed that wholly obtained rules could be more appropriately used mainly on agricultural products while the CTC rules and/or value-added rules could be applied mainly for industrial products.

- (3) Under CTC rules, a certain product which falls under an HS classification different from the HS classification applicable to any of the materials used is considered to be an originating good because the change in tariff classification represents the used materials undergone sufficient manufacturing or processing. The Japanese side proposed in principle the use of HS-4 digits as such HS classification which ensures sufficient transformation. Thailand proposed the use of HS-6 digits which ensures to cover goods in general. However, appropriate digits should be considered and determined in the negotiation process.
- (4) The value-added rule allows the applicability of JTEPA trade liberalization benefits, by determining its country of origin through reference to the value-added to goods in its manufacturing or processing undergone in the country. The Japanese side proposed the use of 60 percent as it is mostly used in GSP and JSEPA. Thailand proposed the use of 40 percent as it is currently used in ASEAN. However, appropriate percentage of the value-added should be considered and determined in the negotiation process.
- (5) The TF confirmed important guidelines in deciding the ROO for the JTEPA as follows:
 - not creating unnecessary hindrances to trade;
 - developed and applied in impartiality, neutrality and consistency, and with due transparency, clarity and predictability; and
 - simple for customs to implement and easy for traders to understand.

3. Customs Procedures

- (1) The TF took note of remarkable progress towards more swift and simple customs procedures through the introduction of electronic systems in both countries. In Japan, the Nippon Automated Cargo Clearance System (NACCS), which currently handles over 90 percent of import/export declaration, has been in operation since 1978, and single window system, in which traders can complete import/export procedures and port-related procedures with a single data input and a single transmission, has been introduced since July 2003. In Thailand, an electronic data interchange (EDI) system was developed and introduced in 1996.

- (2) In order to promote trade facilitation while enhancing appropriate border controls, the customs administrations of both countries have implemented a risk management system which categorises cargoes into high-risk and low-risk and thereby allocates customs resources to controlling high-risk ones. The TF shared the view that co-operation between Japan and Thailand in the areas of exchange of information and harmonisation of customs procedures to international standards etc., would enhance trade facilitation between the two countries.
- (3) The TF found that continuous co-operation between the two customs authorities and information exchange of the latest development in customs procedures in both countries would help to address concerns of businesses such as transparent and consistent interpretation and application of customs rules and regulations.

4. Paperless Trading

- (1) Despite the advent of information and communication technology, cross-border trade is still paper-based, relying heavily on postal and courier services for the transfer of trade related documentation. The TF recognised that electronic transfer of trade documents reduces both the apprehension of losing paper documents and business transaction costs, thereby increasing safety and efficacy of trade. In this regard, the TF noted considerable advantages to be gained through a formula in the JTEPA.
- (2) The TF studied ways of bilateral co-operation towards paperless trading, and noted progress made. The Japanese side explained the development of paperless trading system such as Trade Electronic Data Interchange (TEDI) System and the process of putting it into practical use among private companies in Japan. The Thai side showed enthusiasm in working towards linking the Thai EDI system with the TEDI. The private sectors of both sides therefore endeavor to progress its connectivity test and continue strong support for the two governments to promote paperless trading infrastructure and putting in place a formula in the JTEPA framework.
- (3) Future Direction, connectivity test will be finished by the end of this year, the rest of paperless process is under planning by the private sectors of both sides. It is hoped that this framework can be linked to Supply Chain Management System between Japan and Thailand.

5. Mutual Recognition and Standards and Conformity Assessment

- (1) The TF recognised that mutual acceptance of test reports in the field of electrical and electronic products would promote trade between the two countries through reducing the burden of enterprises engaging in trade, such as the cost of sample shipments or time required for sample tests prior to customs clearance. Therefore, the TF confirmed that both countries should work together towards this objective.
- (2) The TF discussed mutual acceptance of test reports on the electrical and electronic products covered by the Japanese Electrical Appliances and Material Safety Law and the Thai Industrial Product Standards Act. The TF recognised that the on-site audit of testing facilities located in the supplier's factory (required by the Japanese regulation) and the verification of the process of product quality control (required by the Thai regulation) would not be covered by the scope of this mutual acceptance.
- (3) Based on the above-mentioned understanding, experts from both countries explored mechanisms of mutual acceptance of test reports, including procedures which the bodies accepting test reports (i.e. TISI of Thailand and Authorized CABs of Japan) should apply to the assessment and recognition of the testing laboratories.
- (4) Since TISI and Authorized CABs mentioned that they can apply Standard ISO/IEC 17025 as one of the criteria in assessing technical competence of the testing laboratories, the TF decided to further discuss ways to apply Standard ISO/IEC 17025 as a basis for recognition of technical competence for testing on electrical and electronic products by the body which intends to accept test reports. However, the TF recognised that Standard ISO/IEC 17025 was not the only requirement of technical competence and that there should be additional technical requirements.
- (5) The TF recognised that there existed a difference in regulatory systems between the two countries. The Thai side has a government certification system in which the regulatory authority (TISI) issues licenses, based on test reports issued by testing laboratories that are designated by the regulatory authority (TISI). Meanwhile,

the Japanese side has a third party certification system in which private certification bodies (Authorized CABs) that are designated by the regulatory authority (METI) issue certificates. Thus, in case of Japan, it is Authorized CABs that accept test reports issued by Thai testing laboratories. Since Authorized CABs are independent bodies and responsible for certification including acceptance of test reports, METI has no legal basis to force Authorized CABs to accept test reports issued by certain testing laboratories. Recognising that difference, the TF decided to continue discussion on what mechanism can be applied, without changing the regulatory systems of both countries.

- (6) The TF confirmed that bodies accepting test reports should hold the right to assess the testing laboratories and to decide whether to grant recognition. Some matters still remain to be discussed, such as the procedures for the assessment and recognition of testing laboratories, the requirements for the recognition of testing laboratories by bodies accepting test reports, and the mechanism of communication and co-ordination between the two countries on operation of the mutual acceptance of test reports. The TF decided to continue discussions on these matters.

6. Competition Policy

- (1) The Experts Group shared the understanding that the needs for regulations against anti-competitive activities that undermine trade and investment were increasing. The Expert Group expressed its appreciation of the current close co-operation and collaboration between the Department of Internal Trade (DIT) and the Japan Fair Trade Commission (JFTC). Both sides also confirmed the greater importance of the strengthened co-operation between both enforcement agencies through the exchanges of information and technical assistance.
- (2) The Thai side enacted a comprehensive competition law (the Trade Competition Act), in 1999, as one of leading nations in Southeast Asia in the field of competition policy. Since the introduction of the competition law, the Thai Competition Commission has taken charge of the enforcement of the law, with the DIT in the Ministry of Commerce being the designated secretariat office responsible under the committee. The Japanese side appreciated the successful establishment of the

competition law and such developments as a better institutional base.

- (3) Through the consultation of JTEPA Task Force, the Expert Group reaffirmed that the Competition Policy would deserve to be one of the important issues in the JTEPA. The Japanese side proposed the Thai side to discuss this issue on the concrete elements of the JTEPA framework based on Japanese previous experience. Both sides achieved constructive discussions and significant progress at this stage and shared the common views about the basic structure of co-operation on competition policy. Both sides shared concrete ideas on items such as objective, exchange information and consultation, technical assistance and communication and so on. Both sides also shared the view that further discussions in details would be required for the items of notification, enforcement co-operation, co-ordination, positive comity and negative comity in the next stage.

7. Intellectual Property Rights

- (1) The TF recognised the growing importance of intellectual property, as a factor of economic competitiveness in the knowledge-based economy, and of IP protection in this new environment. Therefore, Japan and Thailand will pursue to achieve the improvement of their IP systems.
- (2) The TF also noted that there are a number of matters pertaining to the access to and benefit from each others' IP system and would like to seek ways and means to ensure that these matters are improved under a co-operative and mutually understanding manner. Thailand also raised a matter relating to the small number of IP registration in Japan by Thai nationals and wished to seek a solution to resolve the matter. The matters may include the following:
 - 1) Compliance to the WTO Agreement on Trade Related Aspects of Intellectual Property Rights (TRIPS Agreement),
 - 2) Creation of an opportunity to study the possible changes in or amendments to existing laws, regulations, directives and policies, recognising each Party's existing limitations, so that the IP system can be equally beneficial to nationals of both Parties accessing the IP protection in each country,
 - 3) Ensuring that information pertaining to the measures available for the access to and the benefit from IP

- creations and protections are being exchanged in a timely and an efficient manner,
- 4) Assisting one another in enhancing the enforcement of IPR, particularly with regards to the importation and the exportation of infringed goods and services from each Party as well as from any third party,
 - 5) Encouraging co-operation on the creation of intellectual property with a view to enhance the IP of both parties,
 - 6) Collaborating and assisting one another in other regional and multilateral negotiation with an objective of enhancing IP system in the region and its protection.
- (3) The TF took note of the discussion paper (Attachment 6.) submitted by the Japanese side, with which the Japanese side explained and clarified the issues for the purpose of mutual understanding. Both sides are looking forward to working closely in a co-operative and understanding manner on mutual recognition of the existing limitations.
- (4) The Japanese side noted with appreciation Thailand's continuous serious efforts and progress made in its enforcement of IPR laws and regulations in accordance with its international obligations. The Japanese side expressed its hope for further progress in this field.

8. Government Procurement

- (1) The TF discussed several issues on government procurement systems of both Japan and Thailand to exchange information and enhance knowledge for the purpose of finding out an appropriate framework of government procurement between Japan and Thailand for JTEPA.
- (2) With regard to access to their respective procurement market, the Thai side explained to the Japanese side regarding the level of openness of the Thai government procurement system in which foreign bidders are not restricted to gain contracts as far as the regulations of the Prime Minister's Office on the procurement are concerned, the only existing restriction imposed on the foreign bidders being based upon the Foreign Business Act. This act restricts foreign bidders in the following cases. If monetary value of procurement contract in the public works is below 500,000,000 Thai Bahts, such contract will not be open to foreign bidders. Moreover, regarding

procurement of goods, if the difference in terms of bidding price of goods between a domestic supplier and a foreign supplier is within 5% and the domestic supplier makes efforts to narrow the difference within 3%, that domestic supplier will be able to win a contract.

- (3) In response, the Japanese side provided the Thai side with information on how Japan has given foreign suppliers access to its procurement market under the WTO Agreement on Government Procurement and its Economic Partnership Agreement with Singapore.
- (4) The Japanese side has provided the Thai side with a concept paper, which contains various elements of the WTO Agreement on Government Procurement, for an ideal framework between Japan and Thailand to create transparency, value for money and fair dealing. In exchange, the Thai side has presented a paper of Non-Binding Principles on Government Procurement of APEC, and informed the Japanese side of its intention to draft a master plan of government procurement for Thailand within this year and to make comments on the future framework between Japan and Thailand by incorporating the master plan while taking the concept paper from Japan into a serious consideration.
- (5) The Thai side explained the current state of its negotiations on FTA with Australia and the US. Given the relevancy of these negotiations to the JTEPA, the Thai side agreed that it would apply the same treatment on government procurement to Japan as that would be applied to Australia and the US.
- (6) Regarding capacity building, both sides would explore the possibility to cooperate on several ways, including the development of e-Tendering system. Thailand has established an e-Procurement Committee composing of representatives from the Ministry of Finance, Ministry of Information, Communication and Technology and other related agencies, and Japan welcomed the action taken by the Thai side and explored the possibility to provide technical assistance and technological transfer.

9. Trade in Services

- (1) WTO Annual Report of 1999 showed that trade in services reached around 20 percent of total world trade, only counting cross-border trade. Trade in services accounted for 67 percent of GDP in Japan (in 2000) and 45 percent

in Thailand (in 2000). If taken into account the trade in services through commercial presence and movement of natural persons, it would indicate enormous potential for growth of trade in services and the need to increase competitiveness of the services sector of the two countries. The TF, therefore, believed that liberalisation of trade in services should be a key component of the JTEPA, and a chapter on trade in services should be included in the JTEPA through exploring bilateral liberalisation of services sectors in the negotiations.

- (2) First of all, the TF noted that the number of services sub-sectors Japan has committed itself under the GATS amounts to 102, whereas that of Thailand in the region of 70. The TF shared the view that overall commitments of each country under the JTEPA should be higher than its overall commitments in the WTO with larger number of liberalised sub-sectors, taking into account the commitments each country has made in relation to third countries. The TF also acknowledged that, in pursuing the possibility of bilateral liberalisation, due considerations should be given to the areas of sensitivities in both countries.
- (3) Both sides exchanged and discussed their respective lists of areas of interest on trade in services.
- (4) The Thai side expressed wide interests ranging from professional services to beauty and physical well-being services. Due to time constraint, the TF could only focus on major areas of interest of Thailand including:
 - Medical and hospital services
 - Thai traditional massage services (including for the purpose of physical treatment and relaxation)
 - Elderly care services
 - Child care services
 - Home helper services
 - Cooks of Thai cuisine
 - Spa servicesOther areas of interest to Thailand include professional services, business services, construction services, Thai cooking schools, tourism and travel-related services, sporting services, automotive repair services, hairdressing and barbers' services, beauty treatment services and tailoring services.
- (5) Regarding hospital services, the Thai side focused on Mode 2 supply and strongly requested that medical

treatment in Thailand be covered by the Japanese public medical insurance system and that the insured person can come to Thailand on purpose to receive such medical treatment. The Thai side stressed that this request should be seriously considered because it would offer the Japanese people an additional option to receive the quality medical service in Thailand and help reduce health care expenses for both the Japanese government and the medical service receivers themselves. The Japanese side made detailed explanation and made it clear that it was not possible to give favourable treatment only to the particular group of people who received medical treatment in Thailand, as all the Japanese people were covered under the compulsory programs which gave equitable benefit to each of insured person. The Japanese medical insurance laws clearly stipulates that the Overseas Medical Care Benefits are exceptional benefits to be provided to the insured person who can not be treated at designated medical care institutions in Japan. In this regard, the Japanese side strongly stressed that the Overseas Medical Care Benefits could be provided only to the insured persons who receive medical treatment in foreign countries for unavoidable reasons, therefore the persons who visit Thailand on purpose to receive medical treatment in medical institutions there would not receive the Overseas Medical Care Benefits. [As one of its major interests, the Japanese side stressed the necessity of national treatment for all service sectors in Thailand, in particular, the removal of the limitations on foreign equity participation. (See Note) Furthermore, the Japanese side also expressed its desire, as a matter of cross-sectoral issue, to include transparency in administrative procedures. Japan also showed strong interest in protection of IPR. The Japanese side stressed that considering the current level of Thailand's liberalisation in service sector, those general interests should be seriously considered by the Thai side, before going into detailed discussions of particular sectors. The Japanese side reiterated that the liberalisation of trade in services should not only benefit peculiar service sector but also enhance the efficiency of business activities of various industries including manufacturing industries. From this point of view, the Japanese side referred to some areas, such as manufacturing related services, consumer services and other business supporting services including the following, as examples which reflect its interests to remove cross-sectoral and sectoral barriers to liberalisation;

- After Service and Maintenance Services
- Legal and accounting Services
- Computer related services
- Engineering services
- Franchise services
- Telecommunication Services
- Advertisement services
- Construction Services
- Distribution Services
- Financial Services (Banking & Insurance)
- Transportation Services
- Rental / Leasing Services

(Note) In regard to the removal of the limitations on the foreign equity participation, areas of interest to Japan include:

- After Services and Maintenance Services (particularly those incidental to manufacturing and construction)
- Information and Communication Services / Telecommunication Services
- Consulting Services (particularly those for construction and power services)
- Construction Services
- Distribution Services (Wholesale / Retail / Trading House)
- Financial Services
- Transportation Services (Maritime transportation services / Road transportation services / Services auxiliary to all modes of transport)
- Rental, Leasing Services,
- Credit services
- Restaurant services (including franchises)
- Education services
- Placement and supply services of personnel
- Investigation and security services
- Advertising services

The Thai side stressed that the question of foreign equity participation is a very sensitive one for the business community and the public in Thailand, particularly in the services area. It also underlined that, under the present Thai legal system, foreign supply of service through commercial presence has been liberalised as a matter of principle, with a number of exceptions provided by law.

- (6) The TF examined negotiating parameters and highlighted the following:
- the legal framework should be consistent with the provisions of Article V of GATS which requires "substantial sectoral coverage" and "the absence or elimination of substantially all discrimination"; in this regard, the Thai side pointed out that, under this Article, flexibility is to be provided for, as Thailand is a developing country;
 - the negotiations should address all the services sectors and all modes of them, based upon the exchanges of requests and offers, with the exception of hard rights in air transport services and cabotage in maritime transport services(note);
(note)Hard rights in air transportation services are to be discussed in the framework of existent bilateral civil aviation agreements, in accordance with the international regulatory regimes based on the Chicago Conventions. It has become international convention that cabotage is considered to be a matter of sovereignty which is not a subject of liberalisation.
 - the natural person beneficiaries should be limited to the nationals of both countries and not expanded to the permanent residents.
- (7) On the other hand, some issues including the followings need further discussion in the next stage:
- the application of Most-Favoured-Nation Treatment principle;
 - the conditions for the companies owned or controlled by the third parties to be the beneficiary;
 - transparency of administrative procedures.
- (8) The TF sought ways to co-ordinate this process of creating a bilateral economic partnership agreement and the multilateral trade negotiation process underway in the framework of the WTO, for the purpose of avoiding the duplication of works. The TF recognised that, as long as the bilateral process effectively goes on, it would be appropriate to place emphasis on the JTEPA process, while maintaining in Geneva appropriate regular exchanges between the WTO services negotiation teams of both governments. Apparently, the two governments are, nonetheless, committed to the services negotiations in the WTO.

10. Investment

- (1) To increase investment flows between the two countries, the TF reached a conclusion that the two countries should establish a chapter on investment which stipulates legal commitments with each other in the JTEPA on the protection, promotion and liberalisation.
- (2) The TF examined the detailed elements of JTEPA Investment presented by the Japanese side based upon the JSEPA, and both sides shared the opinion that they should seek for high-level investment rules.
- (3) Referring to Japan's agreements with Republic of Korea, Singapore and Vietnam*, the Japanese side stressed that the development of high-level investment rules is one of the most important elements to attract foreign investment. The Japanese side also stressed that as global competition for foreign investment becomes intensified among nations regardless of their degrees of development, the competition for developing high-level investment rules also becomes intensified.

*Japan-Vietnam Investment Treaty has reached basic agreement in April 2003, and soon to be finally concluded.

- (4) The Japanese side, including participants from the business sector, emphasised the importance of investment environment at least equal to what is accorded to the U.S. investors in Thailand, which is favourable not only to current but also to potential investors.
- (5) The Thai side reiterated the different levels of economic development between Japan and Thailand; therefore, the principle of special and differential treatment should be taken into account. The Thai side also stressed that the investment liberalisation should be based on gradually progressive manner. The Thai side also explained that the treatment given to the U.S. under the Thai-U.S. Treaty of Amity is a unique case resulting from a particular political environment during the cold war. Foreseeing that Thai investors may be in a position to actively enter the Japanese market, the Thai side showed its interest in the improvement of the investment rules in Japan. In this sense, accomplishing high-level investment rules in JTEPA is a challenge for both sides.
- (6) The principal provisions both sides concurred in including in the JTEPA were mainly on the following components:

- transparency of rules and regulations including the court proceeding;
- principle of national treatment and most favoured nation treatment;
- access to the Court of Justice;
- prohibitions on performance requirements;
- expropriation and compensation;
- protection from strife;
- transfers;
- subrogation; and
- dispute settlement between a state and an investor.

(7) Differences still remain, mainly on the following points, for which further consideration would be necessary:

- the scope of investment and investors to which the JTEPA should apply;
- the phase of application of national treatment and most favoured nation treatment;
- the extent of performance requirement prohibitions;
- the format of the reservation list;
- subrogation against commercial risks; and
- the approach to the international arbitration procedures for the settlement of investment disputes between a government and an investor.

(8) The TF recognised the need to create an exemplary chapter on the investment liberalisation and protection, to be modelled after by other economic partnership agreements to be concluded by other countries in this region.

11. Movement of Natural Persons

- (1) In the TF process, both countries expressed strong interests in the liberalisation and facilitation of the movement of natural persons. They recognised the value of the enhanced exchanges of qualified personnel as one of the useful avenues towards achieving economic partnership for which the JTEPA stands. At the same time, both sides shared the view that future negotiations should focus on such qualified personnel.
- (2) In the area of liberalisation, the Japanese side expressed its keen interest, *inter alia*, in the issues related to the work permit system for intra-corporate transferees in Thailand, which, in some cases, could become a serious constraint in Japanese companies' mode-3

activities in services in Thailand. The issues include the duration of stay in Thailand, the expansion of permissible activities, the requirement to hire a proportionate number of Thai employees to have a certain number of Japanese nationals and so on.

- (3) The Thai side expressed its interest in possible elements of liberalization by Japan including:
- visa exemption for short-term Thai business visitors;
 - access of intra-corporate transferees from Thailand including cases of transfer to a company in Japan which is an affiliate of the company employer in Thailand and cases in which training is the purpose of intra corporate transfer to Japan;
 - access of Thai service suppliers in the areas specified in the services discussion;
 - contract-based Thai service suppliers;
 - access of Thai investors;
- (4) In the area of facilitation, the Embassy of Japan in Thailand, in co-operation with the Japanese business community, held consultations with the Thai Government on the work permit system in Thailand. The Japanese side requested the Thai side to reduce undue burden on investors by deregulating and simplifying the rules and procedures of work permits, while recognising the legitimate need of the Thai government to control illegal workers. The Thai side responded that the Thai government is working to set up a ministerial regulation which will set simplified criteria and procedures for issuing work permits. In order to ensure appropriate management of the new regulation, the Japanese side suggested that both sides should examine the procedures and document requirements in detail.
- (5) In a similar vein, the Embassy of Thailand in Japan, in co-operation with the Thai businessmen, held consultations with the Japanese Government with regard to the status of residence issues for Thai trainees and skilled workers as well as entry and stay procedures. The Thai side requested improvement of facilitation on JITCO scheme on trainees and facilitation for Thai cooks. The Japanese side explained present efforts about Thai trainees on JITCO, and responded that the Japanese Government will examine cooking qualification of Thailand whether it is appropriate for the status of residence for Thai cooks. The Thai side also proposed for the use of its efforts to build a data-base for Thai workers wishing

to work abroad for the examination by Japanese immigration authorities.

- (6) Both sides held expert group meetings on medical and public health sector and discussed the possibility of liberalisation of the movement of nationally qualified specialists by accepting country including nurses, massage therapists, and care-givers for the elderly and the Japanese side expressed that the scope of these specialists discussed further would be limited to those who had national qualifications of accepting country. Also, both sides shared the view that the influence on domestic labour market should be duly considered regarding these specialists.

12. Financial Services Co-operation

- (1) The TF underscored the need to increase the reliability of financial transactions between financial institutions through technologically advanced network system, while recognising the increasing need of minimising risks.
- (2) The Asian financial crisis demonstrated the importance of strong financial systems and highlighted the need to step up institutional building and training in the financial services sector in this region. Training programmes should focus on strengthening economic and financial institutions and long-term capacity building.
- (3) The TF recognised the importance of co-operation for the development of regional financial markets, particularly bond markets, to avail us of rich financial resources in a reliable way for the development of this region, as part of the co-operation between Thailand and Japan in facilitating the development of the capital markets of the two countries. The development of a deep and liquid bond market in Asia will mobilise domestic savings for long-term financing needs of Asian countries, reducing reliance on short-term bank borrowing. It will also provide an alternative investment venue for international investors looking for greater risk diversification.
- (4) The TF also discussed the importance of improving the financial market infrastructure of the two countries, and necessity for both Thailand and Japan to explore means of co-operative measures, such as information exchange between the financial institutions, in the framework of the JTEPA.

13. Information and Communication Technology

- (1) The development of information and communication technology has transformed the structure of economic activities, and provided new modes of business operations and venues for co-operation between the two countries, which would contribute to further capitalisation of the emerging opportunities.
- (2) On this recognition, the TF further identified close collaboration either already made in the past or being currently made between the two countries. Participants also articulated the areas of co-operation that they deem essential for the development of communication network not only between the two countries but also at regional level. In this regard, the TF also recalled, as a remarkable example of such bilateral partnership, that the Minister for Public Management, Home Affairs, Posts and Telecommunications of Japan and the Minister for Information and Communication Technology of Thailand engaged in a comprehensive co-operation for further development of ICT and related services in January 2003.
- (3) Through the extensive consultations at the TF, the two sides discussed and explored, with a particular view to enhancing communications between Southeast and Northeast Asia, concrete future co-operation in such areas as promoting circulation of digital content over broadband platform; developing broadband network in Asia; and promoting electronic commerce, in particular the development of legislation and guidelines thereof.
- (4) As a result, the TF has reached a more profound understanding on the importance of continuing such co-operation and collaboration in the ICT field, and recognised the necessity of upgrading and expanding co-operation and collaboration in the framework of the JTEPA with a view to strengthening the competitiveness of the economies of the two countries.

14. Science, Technology, Energy and Environment

- (1) The role of science and technology will assume greater importance in the present economy. Scientific and technological innovation has become one of the prime determinants of competitive advantages in the knowledge-based economies. Japan has effectively been developing

such technologies and successfully making use of them for its welfare and prosperity.

- (2) The Thai government is also determined to make full use of benefits to be reaped from the development of science and technology for the prosperity and welfare of the country. Thailand has sought to expand its potential in its efforts to promote science and technological development in this region.
- (3) The Thai side proposed possible areas of co-operative activities such as life sciences, material technology including nanotechnology, advanced technology, energy and environment.
- (4) The Japanese side underlined the importance of promoting mutual benefits and sharing common recognition about potential co-operation between the two countries and noted the necessity of further discussion to identify and explore the potential areas and forms of co-operation. To this end, the Japanese side also dispatched science and technology missions to carry out examination and investigation of the current status of science and technology agencies and universities in Thailand from October 26 through 31, 2003.
- (5) The TF recommended the establishment of the joint committee or its equivalent in the field of Science, Technology, Energy and Environment.

15. Education and Human Resource Development

- (1) Education and human resources development is considered as a vital and key factor in providing a thrust for developing economies to achieve rapid and sustainable growth. Thailand has, therefore, been intensifying its efforts to upgrade the development of neighboring region, particularly through the strengthening of education and human resources development. Given the current prominent presence of the Japanese business and community in Southeast Asia, co-operation in this area would enable Japan in partnership with Thailand to broaden and deepen its role and contribution in the economic development of Thailand and the region.
- (2) It is the human capital that can mainly provide the key competitive advantage in the knowledge-based economies. The primary importance lies in educating children and youth as well as training and retraining adults to equip

them with knowledge and skills necessary to adapt themselves in such emerging economic necessities. Nurturing creativity in them should not only help the two economies to gain a competitive edge in the present world, but also enrich the societies of the two countries.

- (3) The Japanese side stressed the importance of the exchange of persons and co-operation between education and research institutions. Regarding the exchange of persons, the Japanese side elaborated its government's on-going "Plan to Accept 100,000 Foreign Students" in Japan under which more than 1,500 Thai students studied in Japan in 2002. Thailand also accepted 33 Japanese students under Japanese government financial support in 2002. The Japanese side introduced existing favourable situation of other exchange of persons at all levels of education and research. It further referred to the ever-growing tendency in co-operation between education and research institutions between the two countries.
- (4) In addition, the Thai side expressed its keen interest in the following areas and forms of co-operation:
 - exchange of students researchers and educational personnel at all levels of education;
 - joint research in education and research institutes;
 - training and internship;
 - Japanese language teaching in Thailand; and
 - Joint research of mutual recognition of a degree.
- (5) The TF noted the particular interest expressed by the Thai side to enhance technical co-operation, particularly to the neighbouring countries, namely Cambodia, Laos, Myanmar, and Viet Nam, for more balanced and sustainable growth of this region as a whole.
- (6) Concerning training and internship programmes, the Thai side raised its interest in such areas as: ICT, biotechnology, environmental technology, food processing, agro-industry, hotel and tourism management, engineering and production technology, and special education.
- (7) The TF recommended the establishment of the joint committee or its equivalent in the field of education and human resources development.

16. Tourism

- (1) The TF considered tourism to be another promising area of our mutually beneficial agreement. This is because

both sides are richly endowed with strong and complementary factors to deepen their partnership in tourism and expand it to the rest of Southeast Asia and South Asia. The TF recognised that Japan is an aviation hub for East Asia with the large economic market and business opportunities, linking with other part of the world, and that Thailand is an aviation hub for the region and is playing an essential role in connecting roads and highways. The TF noted such partnership in tourism would open up new business opportunities in various aspects of the tourism industry of the two countries.

- (2) Positive economic effects of the expansion of tourism cannot be overstated. In 1999, tourism generated, directly and indirectly, 10.6 percent of Southeast Asia's GDP, 15.3 million jobs, and 7.3 percent increase in employment. Hotels, air transportation, restaurants and other tourism related industries could become one of the leading industries in the 21st century. Given such positive outlook, the TF assessed that there are numerous opportunities for the two countries to work together to develop tourism.
- (3) The TF shared the view that tourism development would not only play a catalytic role in economic growth and job creation, but also enhance mutual understanding between the two countries and with the rest of the world. It should help the two peoples with long histories, the Japanese and the Thai, to take greater pride in their countries, and to rediscover charms of their countries through their joint efforts of tourism development.
- (4) The TF discussed various areas of potential co-operations such as exchange of information and data on tourism activities, marketing development, provision of appropriate assistance to tourism promotion campaign, training of persons engaged in tourism, including visits and exchanges of tourism experts and joint seminars, promotion of tourism packages and package tours, joint marketing for third countries, marine and eco-tourism, expansion of long-stay program and promotion of attractive spots in the two countries, particularly spas and hot springs.
- (5) The Japanese side stressed that the scope of the cooperative activities should be clearly identified. In addition, it is imperative that both sides

deliberately consider the viability and suitability of the cooperative activities.

- (6) The TF recognised that such co-operation in the field of tourism would not only increase the number of tourists between the two countries, but should attract tourists of the third countries, to both Thailand and Japan. The Japanese side proposed that some of these co-operation projects should involve the participation of, and contribution from, the ASEAN-Japan Centre and the private sector.
- (7) The TF recognised the imbalance existing between the number of Japanese tourists to Thailand amounting to approximately 1.2 million and the number of Thai tourists to Japan amounting to approximately 73 thousand in 2002, reaching only 4.42 per cent of the total Thai tourists abroad in that year. The Thai side pointed out such imbalance could be improved if the Japanese side could facilitate Thai travellers' obtaining tourist visas. As is mentioned in the related paragraphs in the section of Movement of Natural Persons, there is consultation between the two sides on the procedure of entry and stay, which is important in the context of tourism, too.
- (8) The TF recommended the establishment of the joint committee or its equivalent in the field of Tourism.

17. Small and Medium Enterprise

- (1) Small and medium enterprises (SMEs) have played a pivotal role in economies. As supporting industries, SMEs are the foundation of economies. As venture-seeking and cutting-edge industries, SMEs are the locomotive and the stimulant in the knowledge-based economies. In Japan, SMEs employ more than 70 percent of wage earners, contributing over 55 percent of value-added in the manufacturing sector. In Thailand SMEs also play an integral role in the economy. They account for 78 percent of total employment, while contributing to over 42 percent of the country's GDP.
- (2) As compared to big industries, on the other hand, SMEs have fragility in their access to markets, technology, human resources and financial resources, and revealed weakness in the Asian financial crisis.

- (3) In this light, the TF realised that the areas for co-operation on SMEs development appear vast, and that joint efforts of the two countries to nurture such co-operation for partnerships and linkages are of extreme relevance in the framework of the JTEPA.
- (4) Over the last decades, the industrial co-operation between the two countries has grown stronger and closer than ever. Among them, the SMEs co-operation has become one of the major positive developments underlying such industrial co-operation, as exemplified by the Automotive Technology Building Programme, the establishment of the Office of SMEs Promotion, the enactment of the SME Promotion Act, and the SME Management Consultant (SHINDAN) System in Thailand.
- (5) Based upon such co-operation projects hitherto undertaken between the two countries, the TF acknowledged the importance of consolidating and expanding the co-operation for partnerships and linkages of SMEs of the two countries in the framework of the JTEPA. The next stage of SMEs co-operation should also recognise the linkages between SMEs development and the grass-roots economy.
- (6) A participant from Japanese private sector recognised the contribution of Japanese experts who imparted SME expertise during and after their company assignment. The TF appreciated the long-standing technical co-operation, such as the sending of Japanese experts of SMEs to Thailand to conduct technical training to the experts of SMEs in Thailand. The private sector participants of the TF suggested that such technical assistance should be strengthened, as sending senior experts to Thailand.
- (7) The TF shared the view that the JETRO would be involved in the implementation of SME's co-operation in JTEPA framework.
- (8) The TF recommended the establishment of the joint committee or its equivalent in the field of Small and Medium Enterprises. In this connection, the TF discussed the desirable structure of the joint committee or its equivalent. The Thai side stressed that the independent joint committee should be established. The Japanese side pointed out the structure of the joint committee or its equivalent should be discussed further bearing in mind the balance and consistency with other sectors in the JTEPA.

18. Trade and Investment Promotion

- (1) Besides trade and investment liberalisation, conscious steps to promote trade and investment should be worth seeking in the framework of bilateral economic partnership building. Numerous measures have already been undertaken between the two countries, including organising trade fairs, trade and investment missions, seminars and dispatching experts, as well as giving notice of the newly enacted laws and regulations.
- (2) The TF confirmed Japan's proposal on promoting bilateral co-operation in the area of trade and investment insurance through the coordination of relevant trade and investment insurance agencies in both countries. In this line, they will exchange information, share experiences, continue development of human resources through established training programs, and explore the possibilities of reinsurance mechanism to enable the Japan's NEXI to cover a part of the risk underwritten by relevant authorities in Thailand, and vice versa.
- (3) The TF identified the common interest of the two sides in promoting the long-stay programmes. The TF noted the particular interest expressed by the Japanese side in the introduction of the one-stop service system for responding to complaints in Thailand.
- (4) The TF shared the view that the JETRO would be involved in the implementation of trade and investment promotion co-operation in JTEPA framework

19. Agriculture, Forestry and Fisheries Co-operation

- (1) The TF took note of numerous co-operative projects which had been provided by Japan and deeply appreciated by the Thai side.
- (2) The TF was informed that the Pilot Project on the East Asian Emergency Rice Reserve was under way. The TF hoped that the outcome of the Pilot Project would be positively evaluated.
- (3) With regard to the SPS measures, the Thai side expressed the view that these measures should not create trade barriers to agricultural products from Thailand. The Thai side also stressed that co-operation on SPS issues would be discussed under the technical co-operation, in the

framework of the JTEPA. The Japanese side expressed the view that SPS measures should be based upon the scientific evidence, and stressed that seeking to degrade the testing levels for the purpose of increasing agricultural export is inappropriate. The Thai side found understanding of the view on SPS measures expressed by the Japanese side.

- (4) The TF recognised the importance of mutually beneficial technical co-operation in agriculture, forestry and fisheries sectors, and continue efforts to identify the concrete areas of co-operation in the next stage.
- (5) The TF recalled the outcome of the agricultural, forestry and fisheries expert group meeting which appears in Attachment 5. and agreed that this should form the basis for further deliberations at the negotiating stage.

20. Improvement on Business Environment

- (1) To facilitate and expand business activities in both Japan and Thailand, various problems with which business sectors in two countries are faced should be resolved. Those problems are not necessarily covered by legal commitments stipulated by a bilateral economic partnership agreement. Taking account of benefit for business sectors in both sides, it should be worth addressing problems related to business environment under the framework of the JTEPA.
- (2) The Japanese side introduced items for consideration which Japanese business circles have been requesting for creating a better business environment in Thailand. Those include the following issues:
 - enhancing transparency and stability of the business environment including its business-related systems, procedures, laws and regulations, and the court proceeding.
 - simplification of procedures for business activities; and
 - creation of an appealing business infrastructure.
- (3) In order to tackle those issues, the Japanese side also proposed to set up a chapter of Improvement on Business Environment in the JTEPA. It would prescribe the establishment of a certain mechanism that would function as a kind of "first aid window" and discuss solutions of

various problems both sides' business sectors are confronted with.

- (4) The Thai side appreciated the Japanese proposal and stressed that it has always been the Thai government's policy to improve business environment in Thailand. The Thai side mentioned that, while existing efforts made through various channels should also be considered to resolve above-mentioned problems in a practical and effective manner, the proposed mechanism, particularly the one established in Japan, would, on the other hand, help Thai businessmen to solve difficulties they face in doing business in Japan.
- (5) The TF shared the view that both sides must jointly create better business environment in their respective countries. To that end, both sides should set up appropriate mechanisms in both countries.

21. Dispute Avoidance and Settlement

- (1) It is possible that divergence of views should arise concerning the interpretation and application of the JTEPA. The TF considered it appropriate that the two sides could and should initiate efforts to narrow the divergences before they become disputes.
- (2) As distinct from the WTO's dispute settlement mechanism, the TF realised that the JTEP should equip itself with both a consultation mechanism and, in case where consultations could not settle the differences of views, a dispute settlement system. The two-layered approach should help the two sides to make the utmost to nip in the bud any seeds of disputes, and would contribute to the amicable management of the JTEPA.
- (3) The TF studied the dispute avoidance and settlement system provided for in the JSEPA, and decided to create similar mechanism in the JTEPA.