

Council for Promotion of Foreign Direct Investment in Japan
Working Group for Revising Regulations and Administrative Procedures
Immediate Report

December 22, 2016

I. History of discussion

Through the promotion of Abenomics, the government of Japan has proceeded with the establishment of environments that facilitate conduct of business for not only Japanese companies but also foreign companies. The Council for Promotion of Foreign Direct Investment in Japan especially made efforts to improve the business environment for foreign companies and the living environment for foreigners by determining the “Five Promises for Attracting Foreign Businesses to Japan” (March 17, 2015) and the “Policy Package for Promoting Foreign Direct Investment into Japan to Make Japan a Global Hub” (May 20, 2016) to expand foreign investments. Partly because of the effects of these solutions, foreign companies’ evaluation of Japan as a target of their investments has improved, resulting in an increase in direct investments in Japan.

On the other hand, foreign companies have continued to point out that the complexity of regulations and administrative procedures is one of the main factors for hindering their conduct of business in Japan. For this, in the “Policy Package for Promoting Foreign Direct Investment into Japan to Make Japan a Global Hub”, “Basic Policy on Economic and Fiscal Management and Reform 2016” (Cabinet decision on June 2, 2016), and the “Japan Revitalization Strategy 2016” (Cabinet decision on June 2, 2016), the government of Japan will draw conclusions within a year concerning fundamentally simplification of regulations and administrative procedures related to foreign companies’ investments in Japan (Matters on which conclusions can be reached early on will be addressed ahead of others by deciding on concrete solutions by the end of this year).

Responding to these policies, the Working Group for Revising Regulations and Administrative Procedures under the Council for Promotion of Foreign Direct Investment in Japan held discussions from this August concerning the issues about regulations and administrative procedures pointed out by foreign companies and experts supporting them and about solutions for reviewing the issues. Based on the discussion so far, the Working Group has compiled the following immediate report to show the concrete solutions to be carried out by the related government agencies. The solutions summarized in this immediate report shall be promptly implemented.

We will continue to discuss and draw the conclusion around next spring.

II. Issues and solutions in each field

1. Incorporation and registration of companies

(1) Payment certificate

Issue 1

When a foreign company incorporates a subsidiary stock company in Japan, the contribution in money for the capital must be paid to the bank account (in Japan) of the incorporator or the person appointed as representative director of the subsidiary. In addition, a document

evidencing the completion of payment of the contribution (payment certificate) must be attached at the time of the application for registration of incorporation. However, in reality, incorporating foreign companies or the prospective representative directors living in a foreign country have difficulties in opening a bank account in Japan because they do not have addresses in Japan. As a result, the payment of the contribution cannot be executed, and smooth implementation of the procedure for corporate foundation is hindered.

(Solutions)

- In order to allow a third party's bank account as the bank account for payment certificate, if the incorporator have substantial custody of paid contribution at the time of the incorporation as the asset of the subsidiary stock company, consider detailed requirements promptly and apply them by around the end of FY2016. [Ministry of Justice]
- Regarding the range of financial institutions to which contribution in money can be paid under the Companies Act, the Director-General of the Civil Affairs Bureau of the Ministry of Justice issued a notification on December 20, 2016 to clarify and inform the parties concerned that contribution can be paid to overseas branches of Japanese banks, in addition to domestic branches of Japanese and foreign banks. Moreover, since October the Financial Services Agency has requested the Japanese banks that have bases all over the world (the so-called three megabanks) to develop a framework, and each of them is planning to develop such a framework promptly. [Ministry of Justice; Financial Services Agency]

(2) Signature certificate

Issue 2

In the application for corporate registration by a foreigner who does not have a seal certificate, a signature certificate issued by the authorities of the home country may be needed as the substitute for a seal certificate. The applicant had to acquire a signature certificate in the foreigner's home country or in Japan (the country's consul in Japan¹). Because of this, if a foreigner lived in a third country, he or she needed to go to the home country or Japan to acquire a signature certificate, which was a great burden.

(Solutions)

- In order to reduce the inconvenience in the acquisition of a signature certificate, the Director-General of the Civil Affairs Bureau of the Ministry of Justice issued a notification on June 28, 2016. Concretely, regarding a foreigner's signature certificate for corporate registration, those issued by the home country's authorities in a third country (such as the home country's consul in his/her country of residence) were permitted. In addition, the notification also specified that, a signature certificate issued by a Japanese notary or the authorities in the country of residence was permitted as a relief measure if a signature certificate could not be acquired from the home country's authorities due to inevitable reasons, such as legal reasons in the home country. [Ministry of Justice]
- To enable a foreigner who visits to Japan to acquire a signature certificate necessary for corporate foundation, consider permitting signature certificate issued by a Japanese notary in the case that the home country's consul in Japan does not issue a signature certificate, even if a signature certificate can be acquired in the home country or the country of residence.²

¹ Some countries' consuls in Japan do not issue a signature certificate for corporate foundation.

² Consider detailed procedures for replacing a seal certificate with a signature certificate prepared by a Japanese notary and a report to the effect that the home country's consul does not issue a signature certificate. And consider accepting the report if it states that the applicant asked the embassy and received a response that they had not issued a signature certificate.

Make a conclusion within this fiscal year and carry out the measure. At the same time, specify example cases where a signature certificate prepared by a Japanese notary or the authorities in the country of residence is permitted. [Ministry of Justice]

(3) Provision of information on notifications concerning incorporation

Issue 3

Because notifications concerning incorporation, except for some simple descriptions, are unavailable on the website of the Ministry of Justice, foreign companies planning to found subsidiaries in Japan and their supporters cannot easily check the procedures related to the Companies Act.

(Solution)

- On September 28, 2016, the Ministry of Justice created a web page showing “Main Notifications related to Commercial and Corporate Registration” on its website³ and began to show the whole texts of related notifications issued after the Companies Act came into force in 2006. [Ministry of Justice]

(4) Translation of application documents for registration

Issue 4

When a foreign company establishes a subsidiary or branch in Japan, the Legal Affairs Bureau and the notary usually request the company to translate the application documents into Japanese. In such cases, they sometimes request the company to translate portions not related to the application.⁴ This is a burden to the company.

(Solution)

- By around the end of FY2016, based on the practice of corporate registration, specify and inform the cases where foreign companies can omit Japanese translation of the documents to be submitted for the authorization of the articles of incorporation, the registration of a domestic stock company and the registration of a foreign company, etc. [Ministry of Justice]

(5) Tally signature procedure

Issue 5

When a company applies for the certification of articles of incorporation, etc., tally seals are necessary for guaranteeing the genuineness of the preparation in practice. If the applicant is a foreign company, the representative of the company is required to affix tally signatures as an alternative to tally seals. Because a tally signature is unfamiliar in foreign countries, it practically takes a lot of time and effort to explain it to the representative and exchange documents with a foreign country by mail.

(Solution)

- Consider taking a measure without using a tally signature for the procedure for certifying the articles of incorporation, etc. when a foreign company or resident is the incorporator. Draw a conclusion within FY2016. [Ministry of Justice]

³ http://www.moj.go.jp/MINJI/minji06_00098.html

⁴ For example, when the foreign company applies for registration of a business office (branch) in Japan, the company may have to translate portions not related to the information on the business office described in the minutes of the related meeting of the board of directors.

(6) Opening of a bank account after incorporation

Issue 6

Because it takes time to open a bank account for a Japanese company newly founded as a foreign company's subsidiary or because the opening of such a bank account may be denied, foreign companies that wish to begin business in Japan in earnest often suffer time or economic loss.

(Solution)

- The Financial Services Agency requested the three megabanks to promptly develop a framework for smooth opening of bank accounts for domestic subsidiary companies or branches of foreign companies, such as in the listing of bank branches where such procedures will be handled smoothly, sharing of information, handling of appropriate clerical affairs, etc. Responding to the request, the three megabanks are planning to develop such a framework by around the end of this year. [Financial Services Agency]

2. Status of residence

(1) Burden of carrying out procedures

Issue 1

It is burdensome to carry out the procedures for status of residence, including those to be carried out at the Immigration Bureau. In addition, it takes time to carry them out because the Immigration Bureau is congested.

(Solution)

- To start the on-line system for carrying out the procedure for status of residence in FY2018, proceed with the preparations after considering the whole vision and details of the on-line system, such as the range of target procedures, approximately within the first half of 2017. [Ministry of Justice]

Issue 2

Although the standard period for handling the procedure for status of residence has been publicly announced, it is difficult to estimate time necessary for the completion of the procedures because it may take a certain period of time from application to authorization.

(Solution)

- Begin to publish data on the results of procedure periods in early FY2017 so that applicants can refer to the data for estimating the time necessary for completing the procedure. In addition, when considering establishing an online system for the procedure for status of residence, also consider introducing a system for online check of the status of progress for online applications (application accepted, under examination, result notified, etc.). [Ministry of Justice]

(2) Highly skilled foreign professionals

Issue 3

Highly - skilled foreign professionals should be invited further. It is difficult to invite highly -skilled foreign professionals to Japan because of severe requirements for status of residence related to accompanying persons, such as restriction on spouse's employment and accepting domestic workers.

(Solution)

- Establish the world's fastest system for obtaining "Japanese Green Card for Highly Skilled Foreign Professionals" within FY2016 to shorten the residence period of five years necessary for an application for permanent residence permission . [Ministry of Justice]
- Regarding highly skilled foreign professionals, spouses' full-time employment and the acceptance of domestic workers are permitted. Revise points-based system for highly-skilled foreign professionals in terms of requirements such as evaluation items within FY2016 to facilitate the acceptance of highly skilled foreign professionals. [Ministry of Justice]
- To satisfy highly skilled foreign professionals' need to live with domestic workers, who have engaged in housework for the family members living in the country of origin, after coming to Japan, consider revising the requirements for the acceptance of domestic workers accompanying highly skilled foreign professionals and take necessary solutions. [Ministry of Justice]

3. One-stop administrative services (Tokyo One-Stop Business Establishment Center)

Issue 1

In April 2015, the Tokyo One-Stop Business Establishment Center was founded in a national strategic special zone. The Center has booths that integrate procedures related to corporate foundation, such as notaries' authorization of articles of incorporation, commercial registration, tax affairs (national and metropolitan taxes), pension and social insurance, and issue of certificates for status of residence. However, because limitations are imposed on its services, such as not accepting applications related to national taxes and commercial registration, its convenience should be improved.

(Solution)

- As of December 22, 2016, the Tokyo One-Stop Business Establishment Center is able to accept all eight types of applications, giving advice about the preparation of documents. [Cabinet Office (Secretariat for Promotion of Regional Revitalization), etc.]
- In addition, establish an environment for personal computers and IC card reading and writing devices so that electronic applications can be submitted in six fields, including commercial registration, taxes, pensions, etc., and create a support system for electronic applications. [Cabinet Office (Secretariat for Promotion of Regional Revitalization), etc.]

Issue 2

Because the Tokyo One-Stop Business Establishment Center limits the acceptance of applications for status of residence to "business manager" and "intra-company transferee" and because applications have to be submitted within six months after corporate foundation, the convenience of the application system should be improved.

(Solution)

- On December 22, 2016, "engineer, specialist in humanities, international services" was added to the types of status of residence for which the Tokyo One-Stop Business Establishment Center can accept applications. In addition, the range of companies that can submit applications to the Center will be expanded gradually from those within six months

after the foundation to those within five years after the foundation by around April 2018.
[Cabinet Office (Secretariat for Promotion of Regional Revitalization), etc.]

4. Provision of information in foreign languages

Issue 1

Government offices do not provide sufficient information in foreign languages. A lot of information in foreign languages has not been provided or updated.

(Solution)

- Strengthen each government office's provision of information in foreign languages concerning highly necessary information about business activities and living.

<Examples of solutions>

- Prepare manuals on main operations of e-Tax, which are expected to be used by foreign taxpayers and information for main tax return forms, main notifications, and other documents in English, and show them on the website. [National Tax Agency]
- Prepare guides to social insurance, etc., in English and show them on the website. [Ministry of Health, Labour and Welfare]

Issue 2

Even if each government office provides information in foreign languages, it is difficult to find due to poor listing.

(Solution)

- Use the website of JETRO as the portal site for each government office's information in foreign languages. Establish a system for smoothly expanding and updating information.

5. Import into Japan

(1) Statistical codes of commodities (such as HS codes⁵)

Issue 1

It sometimes takes a lot of time to classify and check the statistical codes of commodities used for customs clearance, and the procedure has become a burden to companies. In addition, although the Japan Customs provide information on statistical codes, commodity names, other laws and regulations,⁶ tariff rates, etc. on its website, information on the procedures necessary under other laws and regulations is insufficient.

(Solution)

- Regarding the statistical codes of commodities related to apparel and clothing, streamline national subdivisions that are unnecessary in light of tariff rate and are not much required for collecting trade statistics, starting with T-shirts in the next fiscal year and considering reviewing for other items in the fiscal year after next. Regarding the national subdivisions of the commodities other than apparel and clothing, the related ministries shall proceed with measures for reduction. The national subdivisions of toys are planned to be merged in the amendment of Customs Tariff Law in FY2017. [Ministry of Finance, etc.]
- When holding consultation about the classification of commodities, ensure not to impose an excessive burden on the business operators by requesting the provision of more than necessary Japanese information on English materials or by asking unnecessary questions.⁷ [Ministry of Finance]
- To aim for making improvements within FY2016 so that the legal procedures of other laws and regulations and the competent government offices can be confirmed by each concerning commodity in the customs tariff schedules (in Japanese and English) on the website of Japan Customs. Moreover, to improve the convenience by linking to the competent government offices' web pages that show concrete procedures under other laws and regulations or others. [Ministry of Finance]
- To improve users' convenience when referring to a database of answering advance rulings for the classification of commodities, consider adding photos of the goods at issue on the website, if consent is gained from business operators. [Ministry of Finance]

⁵ The purpose of the HS codes is to classify imported commodities. Each code consisting of the six digits identified internationally by WCO (World Customs Organization) is referred to commonly as the HS code. Each country can add and code at a level beyond that of the HS. Japan has added three digits after the six digits (national subdivisions) for the purpose of setting the tariff rates and collecting trade statistics, resulting in nine digits in total (statistical codes of commodities). As of December 2016, the members of the HS (Harmonized System) Convention are 153 countries, including Japan, and the EU. The HS codes are used by more than 200 countries and regions, including countries that have not acceded to the Convention. Over 98% of the merchandise in international trade is classified in terms of the HS. The classification of goods in the HS Nomenclature is governed by the "General Rules for the interpretation of the Harmonized System" to achieve uniform classification. If a foreign country has a different view on the classification of the commodity, Japanese government endeavors to secure uniform interpretation and application in cooperation with other member countries through WCO's HS Committee and other occasions.

⁶ When some types of commodities are imported, as a precondition for the permission of the import it is necessary to prove to the customs house the completion of the procedures specified in any law or regulation other than those related to tariff (such as the Food Sanitation Act and the Act on Domestic Animal Infectious Diseases Control).

⁷ Even before obtaining the customs house's permission of import, if it takes a lot of time to classify a new type of commodity, the importer can exceptionally receive the commodity by carrying out the required procedures.

(2) Japanese Industrial Standards (JIS)

Issue 2

Because it takes a few years between the agreement of international standards for a product and the reflection of the standards in JIS, even if a foreign company has completed inspection according to the new international standards, the company sometimes has to inspect the product again according to the old standards only to export it to Japan. In addition, Japan's standards for the indication of goods are not very consistent globally.

(Solution)

- Promote measures to revise JIS quickly after the enforcement of international standards, such as beginning the revision of JIS (the preparation of a draft) at the stage of preparing the international standards. If Japanese standards are highly likely to be referred to under the Electrical Appliances and Materials Safety Act, make them well-known among industrial associations at the beginning of discussions at an international conference about the revision of the standards, in order to encourage them to participate in the conference and, if necessary, facilitate the start of examination about JIS at an early stage. [Ministry of Economy, Trade and Industry]
- Make the processes for examination of JIS by the Ministry of Economy, Trade and Industry's Japanese Industrial Standards Committee more prompt by increasing the frequency of examination meetings. [Ministry of Economy, Trade and Industry]
- After global integration of JIS concerning the labeling of washing, the Textile Goods Quality Labeling Regulations was revised to specify the duty to use marks according to the integrated part of JIS and came into force on December 1, 2016. [Ministry of Economy, Trade and Industry; Consumers Affairs Agency]

(3) Regulations and procedures under the Food Sanitation Act

Issue 3

Whereas the negative list system⁸ is used for the standards for utensil, containers and packaging (such as tableware) under the Food Sanitation Act in Japan, the positive list system⁹ is used in the countries such as EU and U.S.A., lacking the international consistency.

(Solution)

- Proceed with measures to introduce the positive list system for the standards for tableware, such as considering a concrete system for improving the safety of tableware at the Study Panel on Regulations for Utensil, Containers and Packaging and compiling the results within this fiscal year. [Ministry of Health, Labour and Welfare]

Issue 4

When tableware is imported, it is sometimes difficult to know whether the tableware should be inspected under the Food Sanitation Act and how many samples are needed for the inspection unless the importer asks the quarantine station. In addition, even if the importer submits the testing results report, issued by the Foreign Official Laboratories listed by the Ministry of Health, Labour and Welfare, to the quarantine station, the importer may be required to make an additional confirmation or a correction peculiar to Japan. Moreover, these matters may be sometimes handled differently among quarantine stations and impose a burden on companies.

⁸ System for listing the substances which are allowed to be used in principle, but are limited in usage

⁹ System for listing the substances which are prohibited to be used in principle, but are allowed to be used

(Solution)

- Arrange necessary information for inspection of tableware under the Food Sanitation Act, such as an estimated number of required samples, the items to be included in the testing results report and other notices, and provide the information through the website of the Ministry of Health, Labour and Welfare within this fiscal year.¹⁰ [Ministry of Health, Labour and Welfare]

6. Others

(1) Requirement for construction business license

Issue 1

To obtain construction business license, it is necessary to appoint a person with a certain amount of experience of being responsible for managing construction business (officer or equivalent person) as full-time officer. However, it is difficult for foreign companies in their personnel affairs to hire such a person and place the person in its affiliated company in Japan, which makes it more difficult to obtain license for construction business.

(Solution)

- According to the Regulatory Reform Implementation Plan established by the Cabinet in June 2015, the following solutions should be carried out to review the standards for construction business license:
 - Regarding five years' experience and the number of years of experience as a requirement for persons of equivalent capacity, examine the possibility of reducing the number of years of experience to some extent, for example, by creating a training system as a substitute for experience. [The examination began in FY2015; the conclusion is made and the solutions are taken in FY2016.]
 - Examine what the standards for construction business license should be to guarantee appropriate management of construction business, including a review for making the requirements more appropriate and rational so as to fulfill the purpose of the regulation. [The examination began in FY2015.]

The Construction Industry Policy Conference considers carrying out the above solutions (the first meeting held on October 11, 2016), based on the interim report by the Central Council on Construction Contracting Business's Basic Problem Subcommittee (discussions began on January 27, 2016). [Ministry of Land, Infrastructure, Transport and Tourism]

(2) Translation of application documents concerning employment placement business between Japan and a foreign country

Issue 2

To conduct employment placement business between Japan and a foreign country, it is necessary to submit an application or a report to Prefectural Labour Bureau. In this case, the Labour Bureau demands the submission of an entire translation of the related labor laws and regulations in the foreign country, thereby imposing a heavy burden on companies.

(Solution)

- To reduce companies' burden as much as possible, by the end of January 2017, specify the

¹⁰ Some toys are subjected to the Food Sanitation Act. Although the Ministry of Health, Labour and Welfare has published "Toys Q&A" on its website, because there are various types of toys, the quarantine stations sometimes make individual and concrete judgments.

range of information necessary for the Labour Bureaus to properly carry out the procedures for permission and others, and instruct the Bureaus not to demand the submission of any original or translated texts of labor laws or regulations in other countries beyond the specified range. [Ministry of Health, Labour and Welfare]

(3) Display of unapproved medical equipment

Issue 3

Regarding the display of unapproved medical equipment, it is difficult to understand in which cases such equipment can be displayed without conflicting with the Pharmaceuticals and Medical Devices Act and in which cases the display is not approved.

(Solution)

- After checking what points are unfamiliar to medical equipment organizations concerning the enforcement of the regulation consider how to clarify and disseminate rules about whether to display unapproved medical equipment at exhibitions. [Ministry of Health, Labour and Welfare]