Introduction

As the Japanese economy remains in a severe condition social and economic revitalization by raising the international competitiveness of Japan is required. To this end it is necessary to connect the results of creativity in diverse fields such as technology and culture with the development of industry and the improvement of peoples' lives, thereby becoming "a nation built on intellectual property." In order to implement various reforms toward this objective, this Intellectual Property Policy Outline sets out the fundamental thinking of the Government of Japan (GOJ) toward making Japan a "nation built on intellectual property."

1. The Age of Information Creation

After World War II, the driving forces behind Japan's high economic growth were the industriousness of the Japanese people, the strength of heavy and chemical related industry and high productivity and quality, especially in the fields of manufacturing and assembly. The Japanese production system introduced and improved upon technology from the United States and Europe, improved on-site production techniques and benefited from the strong Japanese inclination toward teamwork.

However, due to the increased competitiveness of nations such as those in other parts of Asia through low labor costs and improved production techniques and global advances in the field of information technology, Japan must move away from the economic model that brought it past success. It is necessary to seek a new model for growth in which an economy also suited to the creation of high-value added intangible assets replaces an economy oriented toward manufacturing and assembly. In the fields of manufacturing and assembly, harmonious teamwork is an important element, but in the fields of inventive and artistic creativity, the free thinking of individuals becomes the key. In order to open the way to a bright future for Japan, it is indispensable to carry out reform with a view to attaching importance to creativeness in all its aspects. This reform is a national undertaking with a view to the construction of a 21st century Japan.

While making efforts toward international cooperation, it is indispensable to implement the Intellectual Property Policy Outline and strengthen the international competitiveness of Japanese industry based on the above perspectives.

2. The Information Age and a "Nation Built on Intellectual Property"
Becoming a "nation built on intellectual property" means establishing in Japan an appreciation of the importance of invention and creation. In addition to manufacturing, by laying the industrial foundation on the creation of intangible assets, i.e., "the creation of information" of value such as technology, design, brands and the contents of music, movies, etc., this is a national policy underpinned by the vision of revitalizing Japanese economy and society. For realization of this policy, along with reconstructing the manufacturing base, it is necessary to stimulate intellectual creation on government, academic, corporate, and individual levels in response to the globalization of economic activity, the advance of information technology and the increasing mobility of employment. It is also necessary to properly protect as intellectual property the results of this creative activity and to construct an economic and social system for their effective utilization as the source of value-added products and services.

Meanwhile, the rapid progress of information and communications technology has also brought about the negative effect of accelerated counterfeiting activities. In this situation recovery of development funds by investors is becoming difficult. In order to establish intellectual property, the foundation for strengthening industrial competitiveness, a deep awareness of the characteristics of this age of information is essential.

Through abundant creation, protection and exploitation of intellectual property, Japan will become "a nation built on intellectual property" that aims at the sustained development of its economy and culture. In order to realize this goal and construct a new economic and social system, various institutions including laws and the public and private practice thereof, must be reviewed from top to bottom and their ideal form should be sought.

Along with nurturing creativity through elementary and middle school education, promoting strategic plans for the creation of intellectual property in businesses and universities and developing experts, administrative organs should make efforts to prepare intellectual property-related legislation and tax reductions to advance the protection and exploitation of the results of outstanding inventions. In addition, these administrative bodies should develop the information infrastructure for intellectual property and retain a constant awareness that they are providers of intellectual property-related administrative services. Moreover, action is required in a wide variety of fields including reforms in the judicial field and the promotion of aggressive trade and foreign policy in order to respond to overseas counterfeiting and piracy.

3. Intellectual Property Policy Outline Format

This outline presents specific reform processes aimed at revitalizing Japanese economy and society by further promoting the creation, protection and exploitation of
intellectual property, which will become a source of national wealth for Japan in the future. The outline lays out the road toward Japan becoming "a nation built on intellectual property," and along with expressing the resolve of the GOJ to open the way to a bright future for Japan, it requests the understanding and involvement of all levels of Japanese society toward this end. From now until fiscal 2005, based on this outline the GOJ will carry out intellectual property related institutional reform in a focused and planned manner.

Chapter 1 Present Situation and Issues

1. Growing Concern over Decline in Industrial Competitiveness

After World War II, Japan introduced technology from Europe and the United States. Based on improvement of this technology and the outstanding ability to carry out necessary adaptations to production sites, from a historical perspective Japan enjoyed a striking level of prosperity by providing cheap, high quality mass produced products to the world. In recent years, however, owing to factors such as high labor costs, the competitiveness of low-value-added products and services has rapidly diminished, and concerns are growing over the decline in international competitiveness of Japanese industries. In order to dispel such concerns, a new national strategy is now required.

Even in Japanese industries where the sense of stagnation is growing, as seen in the automobile and precision industry fields quite a number of companies still provide products and services that occupy a high share of the world market by the use of original technology as a weapon. Meanwhile, Japan is highly evaluated internationally in contents industries such as animation and game software.

At the end of the 19th century, the Director-General of the original Trademark Registration and the Patent Office, Korekiyo Takahashi, went on an inspection tour of the United States. Seeing with his own eyes the relevant institutions and the work methods of patent attorneys in the U.S. Patent Office and other related sites, Takahashi wrote in his autobiography that he was greatly impressed to hear that "in the United States, intellectual property is the most prized of all property. Japan also needs to protect intellectual property."

In the 21st century, Japan needs to discover new economic opportunity by attaching further importance to intellectual property. Creation of a vision toward this end is itself a pressing issue. This outline is a concrete presentation of the strategy to promote in a timely manner high-quality intellectual property, exploit this property and make it a source of national wealth. A mechanism to develop intellectual property, an environment for its precise evaluation, and distribution and wide application in society will lead to the ability, through reinvestment, to create the next generation of intellectual property. Reform toward development of this cycle of intellectual creation
is indispensable to pave the way to the future for Japan. With the national goal of becoming a nation built on intellectual property, Japan will be able to maintain its position as a world leader in many fields of industry and culture if comprehensive policies are carried out without delay.

2. Toward the Establishment of an Intellectual Creation Cycle

Unfortunately it is extremely easy to copy information. In addition, since information is not tangible it can be used by many people simultaneously. As regards one type of information, intellectual property loses value if not exploited. Construction of a system balancing protection and exploitation is therefore indispensable for the establishment of an intellectual creation cycle. Accordingly, in order to turn information into a significant source of national wealth in Japan in the 21st century, strong legal protection is necessary. However, it is not sufficient to protect information just under legal provisions, practical protection through administration of justice is necessary at the same time. Moreover, if a practical system is not established in which adequate value is realized through such means as contracts and technical development, the incentive to create intellectual property will dry up and created information will be concealed. As a result the wealth derived from intellectual property will be greatly reduced. In this sense, we should connect the cycle of intellectual creation to a larger cycle by constructing a system of protection and exploitation of intellectual property, taking into consideration the characteristics of information as opposed to those of tangible items.

As previously stated, if a mechanism to develop high-quality intellectual property is constructed, the intellectual property is highly protected and widely exploited in society and the power to create the next generation of intellectual property is realized through reinvestment. When this intellectual creation cycle rapidly expands and revolves, great benefits will be realized toward social and economic development.

However, it cannot be said that the present situation in Japan vis-a-vis the intellectual creation cycle is satisfactory. Taking patents as an example, Japanese companies are actually enthusiastic about the filing of patent applications. In fact the number of domestic applications is the highest in the world. On the other hand, despite the intensification of global competition, at present few applications are filed jointly to Europe or the United States. Besides patent applications, there are also concerns that strategic responses in research and development, which is the basis of patent applications, are not sufficient. Furthermore, although awareness in academia of patent acquisition and technology transfer has been rising in recent years due to the activities of Technology Licensing Organizations (TLO) etc., the level of awareness has yet to reach that of the United States.

The speed of patent examination also remains behind that of the United States. Moreover, there is room for reform concerning remedy in intellectual property right
infringement cases. In addition to improvement of lawsuit procedures relating to intellectual property, action centering on improvement of means of settling disputes outside the courts is also necessary. Furthermore, enhancement of human resources to promote the exploitation of intellectual property and support the cycle of intellectual creation is an extremely significant issue.

3. Significance of Competition Policy and Attaching Importance to Freedom of Expression etc.

Although strengthening intellectual property is inevitable in the information age, and as a nation we should make efforts toward this goal, the strengthening of rights also brings with it adverse effects such as obstacles to the principle of competition due to monopoly, the abuse of dominant bargaining position and the conflict between intellectual property and the basic values granted in modern society such as the freedom of expression. Such adverse effects resulting from efforts to strengthen intellectual property rights must be eliminated.

Laws such as the Anti-trust Law focus on elimination of obstacles to competition and must be strengthened. In the United States, the Antitrust Law is also strictly applied to intellectual property monopoly. Such application engenders competition and leads to the development of new industry. Japan too must find a balance and take the appropriate responses.

Intellectual property law permits the utilization of information in a monopolistic fashion. Such monopolization, however, may conflict with basic values of modern society such as academic freedom and freedom of expression. In carrying out necessary adjustments to the system of intellectual property, we must pay attention to these basic values and strike a balance between protection of intellectual property rights and basic freedoms on Japanese society. Furthermore, we must not forget that universities should respond to expectations for the creation and exploitation of intellectual property in addition to carrying out instruction and basic research.

Chapter 2 Basic Direction

Based on an awareness of the situation mentioned above, with the aim of becoming a nation built on intellectual property, the GOJ will promote strategic responses in the four fields of "creation," "protection," and "exploitation" of intellectual property in each aspect of the intellectual creation cycle, and the "enhancement of the human foundation" that supports these three aspects.

1. Creation Strategy

(1) Creation of intellectual property in universities, public research institutes, etc.
It is indispensable that universities, which were in the past known as "ivory towers," be reborn as systems that themselves create intellectual property. In universities, even if outstanding inventions are created, systems are not in place to return the results to society by obtaining intellectual property rights for those inventions. In addition, faculty seem to lack interest in returning the results of research to society even though they are enthusiastic about conducting research. In recent years, although many TLOs have been established and this situation seems to be slowly changing, Japan still lags behind the United States in this area.

Due to such issues as limited capital, it is difficult for companies to carry out basic, innovative research. Expectations are therefore rising for universities and public research institutions to make innovative breakthroughs connected to obtaining basic patents as well as to create new technology and industry. Toward this goal, it is necessary for these institutions to promote globally competitive research and development in order to ignite the cycle of intellectual creation. Furthermore, systems to obtain intellectual property rights for research and development results and return them to the society must be established. Establishment of these systems will be of great assistance in the development of university-launched venture companies and will also contribute to economic revitalization. To realize this goal, along with implementing top quality projects in which universities and public research institutes cooperate with companies from the initial research stage with a view to practical exploitation, in anticipation of actual utilization an environment must be prepared in which patent information can be utilized for the purpose of research and development as well as acquiring new patents. On the other hand, it is necessary to take into consideration that, depending on the contents of the research, greater contribution may be made by the whole of society enjoying the results rather than the results being exploited through exclusive rights. Researchers in universities and public research institutes do not conduct research solely with the objective of remuneration. However, if there is no recognition of their efforts they are not acknowledged by the general public. If young people cannot appreciate the efforts of such researchers then the future leaders of Japan will not aspire to such a position. Just as star athletes make a positive impression on large numbers of young people, it is necessary to promote the appreciation of researchers and inventors, who are a major source of hope and potential for Japanese society. When evaluating the achievements of researchers at these institutions, their efforts in promulgating and transferring the results of their creations must be taken into consideration.

Moreover, when national universities are incorporated, based on the principle of organizational ownership of intellectual property, we must at the same time provide sufficient return to inventors and recoup relevant research costs.

(2) Strategic creation, acquisition and management of intellectual property in companies
Most patent applications in Japan, which receives the highest number of applications for intellectual property rights in the world, are made by private companies. However, in comparison to Europe and the United States, a greater part of these applications are only filed domestically. The rate of overseas filing is low. Although applications in the field of cutting-edge technology such as life sciences, in particular, are a source of international competitiveness, it cannot be said that either their quality or volume are sufficient. Strategic responses that recognize global competition are urgent for Japanese companies for the future. Along with encouraging companies to urgently promote the creation of internationally competitive inventions and the establishment of worldwide patents for these inventions, the government should carry out sufficient preparation such as expansion of the "Japanese Bayh-Dole system."

Furthermore, regarding employee invention systems, along with further raising the incentive for inventions by in-company researchers, agreement should be reached in fiscal 2003 from the perspective of how to strengthen corporate competitiveness through prompt stabilization of issues concerning intellectual property rights.

(3) Enhancement of education and personnel development for the purpose of encouraging creativity

Continuous development of core, innovative inventions will be the source of wealth for Japanese economy and society. Toward this goal, however, it is first necessary to develop human resources that create outstanding intellectual property. To develop world-class researchers, it is urgently necessary to take a comprehensive approach aimed at implementing educational programs that foster creativeness from elementary and secondary education through to higher education. In addition, in the fields of animation and game software, in which Japan is recognized as a world leader, the foundation must be maintained to enable Japan to continue providing the world with these outstanding digital contents. Toward this end, education in Japan must cultivate appreciation of free thinking and ingenuity from as early as the elementary level. Subsequently, through intellectual property education adapted to age level, a cultural environment which attaches importance to originality and individuality must be constructed. In conclusion, from the standpoint of firmly establishing a human foundation for the creation of core inventions and intellectual property, it is necessary to enhance elementary and secondary education and promote appreciation of creativity.

Along with training of researchers for the purpose of enhancing creativity, universities and graduate schools should develop an environment in which young researchers can undertake research independently. Furthermore, these institutions should work toward mobility of research personnel by promulgating and enhancing the apply-and-review recruitment system as well as introduce a tenure system in order to revitalize research and development activity. Moreover, in order to firmly establish Japan as a global
competitor, it is necessary as a nation to develop human recourses adaptable to emerging key fields of research presently lacking in personnel as well as in fields in which industrial competitiveness needs to be strengthened. Measures enabling creative researchers to play an active role not only in universities but also in various sectors such as industry and public research institutes must also be considered.

2. Protection Strategy

In order to secure incentives for the creation of intellectual property, its careful protection is indispensable. To this end, the intellectual property system itself and the operation thereof in administrative organs and the courts must be made user-friendly, trusted by users, professional and stable. Administrative organs and courts must be aware of the fact that the services they provide support Japan as a nation built on the intellectual property. Japan also must respond to accelerating technological innovation and the intensification of international competition and properly protect intellectual property in cutting-edge fields on an international level.

(1) Prompt and precise examination and appeal/trial of patent applications

The rapid increase in the number of patent applications is a global trend. Although adjustment of examination systems is currently under way in patent Offices of countries worldwide, there are major concerns about the influence exerted by the lengthening of examination periods on the establishment and exercise of rights. In examination procedures, along with precise and stable establishment of rights it is absolutely necessary to establish an international standard for examination periods based on the needs of users. To this end, measures should at least be taken to promote the quick and precise implementation of examination and, by the end of 2002, formulate a plan for the period ending in 2005. While implementing these comprehensive efforts, there is also a pressing need to further improve efficiency. Furthermore, along with making efforts for examination cooperation between various countries in order to avoid multiple filing of applications, it is desirable to work toward mutual recognition of rights through international harmony of patent law and patent examination standards and thereby ultimately realize a global patent system. To this end, as the first step toward realization of this system, the patent Offices of Japan and the United States should begin to consider by the end of 2002 the mutual use of prior art search and patent examination results for applications filed in either Japan or the United States.

Moreover, it is necessary to drastically reform the trial/appeal system and its enforcement mechanism to reduce the burden of settling disputes by quickly and precisely rendering judgment. Necessary measures to encourage private companies to change their management strategy from increasing the quantity of intellectual propriety to increasing the quality thereof should also be considered.
(2) Proper protection of copyrights

In response to the spread of information technology, the ideal system of copyright protection must be considered. Digital information will be an extremely important asset in the future. Its most distinctive feature is that it is extremely easy and inexpensive to reproduce and alter. If digital information such as computer programs, music, movies, broadcast programs, animation, etc. is not strongly protected, the digital contents industry will not grow. From an international standpoint, the Japanese Copyright Law is of an extremely high standard as regards information technology. Legal protection is granted to digital contents. However, when information is distributed on the Internet, this digital information is distributed separately from the tangible entity, that is the book or record, etc. that is its medium. As a result anyone can reproduce, process and transmit the information. Consequently, actually exercising the copyright becomes extremely difficult, and ensuring the effectiveness of teh right is becoming a major issue. In light of this new situation, in order to realize effective protection balanced for both the right holder and the user, a mechanism of proper protection of digital contents should be established including such features as the development of effective security technology, improvement of the litigation system, and construction of a contract system for smooth rights handling.

(3) Reinforcement of protection of trade secrets

As the importance of trade secrets in Japanese corporate activity increases, corporate trade secrets are increasingly being distributed to competitors both at home and abroad, leading to loss of corporate competitiveness. As a result, in order to strengthen civil remedy for the illicit obtainment of trade secrets and introduce penal regulations, it is necessary to advance consideration on necessary measures while taking into consideration related issues that may emerge such as subsequent deterrent effect on the mobility of human resources. Based on this consideration, it is necessary to introduce a bill to amend the Unfair Competition Prevention Law in the 2003 ordinary session of the Diet. Moreover, since Japanese people strongly recognize that judicial procedures should in principle be open to the public, trade secrets are disclosed in courts and this creates even more disadvantage for the right holder. Consequently there are few lawsuits related to trade secrets in Japan. Although the principle of open courts is a constitutional requirement, it is impossible to properly protect trade secrets in the courts if we overlook this problem. With the importance of trade secrets mounting in industry, necessary measures must be taken for the standard of Japanese trade secret protection to be of a similar level as that of Europe and the United States.

(4) Strengthening the foundation for dispute settlement

If disputes related to intellectual property emerge, the last refuge is the courts. The reliance on the courts supports the foundation of the Japanese intellectual property system. If judicial remedy is suitable and certain it contributes to the prevention of
infringement and will lead to an increase in licensing negotiations and the exploitation of intellectual property. Toward this end, regarding the speeding-up of intellectual property related lawsuits and specialized and technical matters it is necessary to enhance procedures and systems to enable sufficient deliberation. In this regard strong measures must be taken to submit to the 2003 ordinary session of the Diet a necessary bill to create a substantial "Patent Court" function at designated courts. On this account, in addition to current consideration on judicial system reform, the GOJ will aim to further strengthen measures based on the distinctive features of disputes relating to intellectual property. Concretely speaking, in addition to the general expert committee system, regarding the involvement of experts it is necessary to further enhance the court research official system attached to the specialized intellectual property department of such courts as the Tokyo District Court.

Along with reform of the litigation system we should also strive to strengthen alternative dispute resolution (ADR).

(5) Reinforcing overseas and border protection

The loss incurred by the Japanese economy by products infringing intellectual property rights such as counterfeits and pirated copies is extremely large. If no countermeasures are taken there are concerns that such losses will increase. Japan cannot allow these activities to continue. While giving consideration to the specific characteristics of different types of products, namely counterfeits for which a large-scale, organized process is necessary and pirated copies that can be made even by individuals with just a personal computer, effective countermeasures must be considered. Taking this point into consideration, the GOJ should strongly encourage central and local governments of infringing countries to prevent infringements by exercising to the greatest extent the rights recognized in the Agreement on Trade-Related Intellectual Property Rights (TRIPS Agreement) that became effective in conjunction with the establishment of the World Trade Organization (WTO). If counterfeits and pirated copies are manufactured and distributed in large quantities in WTO member countries in particular, we should carefully monitor the IP systems of infringing countries and the operation thereof by making maximum use of the WTO review system. We should also press non-WTO members to strengthen intellectual property protection through bilateral negotiations.

Moreover, in order to effectively block at our borders goods produced overseas that infringe intellectual property rights, by the end of FY 2004 at the latest it will be necessary to make efforts regarding improvement of border measures from the aspects of legislation and performance. Furthermore, the GOJ will actively participate in discussions relating to enforcement of intellectual property rights in the World Intellectual Property Organization (WIPO) and will take strong measures regarding the issue of overseas protection of the trade secrets of Japanese companies. In these activities we must preserve the interests of Japanese industry and citizens, making
strong use of such organizations as Japanese Embassies and Consulates and the Japan External Trade Organization (JETRO).

Also, since improvement of the international protection standard and harmonization among systems is required in line with the global intensification of competition and the development of communications technology, new international rules should be created through bilateral and multilateral frameworks, and action should be promoted to support preparation of systems in developing countries.

3. Exploitation Strategy

(1) Promotion of exploitation of intellectual property in universities and public research institutes

Although universities and public research institutes should develop creative inventions difficult for corporate R&D to develop and return such inventions to society, this function has not been sufficiently fulfilled. In order to become a nation built on intellectual property, it is indispensable to develop a mechanism to fulfill this function. From the viewpoint of developing high-level venture companies universities and public research institutes should fulfill the crucial role of launching pad.

Despite the fact that patent applications filed and patent rights acquired by Japanese universities has been increasing in recent years, as stated before the number of university technical licenses remains at one hundredth of that of the United States, with the number of patent rights acquired at approximately one twentieth the U.S. level[1]. Japanese universities must step up efforts to remedy this situation. Consequently, bold changes must take place at universities to enable the procedure in which universities create outstanding inventions, dynamic venture businesses are established based on that intellectual property, and new competitive industries are born through exploitation of the cutting-edge technology. This must be done in coordination with TLOs and be concurrent with preparations beginning in FY 2003 at latest for "Intellectual Property Headquarters" in public and private universities and colleges throughout Japan and the strengthening and review of intellectual property acquisition and exploitation systems.

(2) Valuation and exploitation of intellectual property

Companies have increasingly come to value intangible assets such as intellectual property. However, it is said that more than a few business executives are not interested in intellectual property including patents and copyrights unless disputes such as lawsuits etc. arise. It is extremely important to overcome this disregard for the value of intellectual property. In particular, in order to commercialize intellectual property as products and services and promote its effective exploitation in society, it is necessary to support this exploitation by small and medium enterprises, venture
companies and individuals. Consequently, actively releasing intellectual property rights not exploited by large companies and encouraging their use by small and medium enterprises is extremely advantageous for the economy and society. It is necessary to promote the preparation of such an environment.

Furthermore, the value of companies should be estimated by financial institutions not only counting visible assets recorded in balance sheets, such as land and equipment, but also by actively addressing funds secured by intellectual property. Toward this end, a suitable valuation method for intellectual property must be quickly established. For venture companies, which do not possess sufficient fixed assets such as real estate, technology and research and development staff are the only assets. If intellectual property-related business activity is not sufficiently publicized and the latent worth of these companies is not precisely valued by financial institutions etc., sufficient funds will not be provided to such companies with hidden growth potential. As a result valuable technology will be lost to society.

Moreover, due to the fact that the contract system in Japan does not function sufficiently at the time of creation and exploitation of intellectual property, obstacles often arise to the smooth distribution of such works of creativity. In this regard, reconstruction of the contract system and the system of indication of the will of the right holder should be planned in order to promote the smooth distribution and exploitation of creative works, including those created by individuals.

4. Expansion of the Human Foundation

People are foundation of all systems. To make Japan a country built on intellectual property, in addition to developing leaders in the creation of intellectual property, there is a pressing need to train experts to supply high-level, specialist services for obtaining intellectual property rights, settling disputes, and drawing up intellectual property contracts. There are many cases of judicial rulings in the United States becoming the international models in cases of advanced technology. In addition to the United States being the world's biggest market, this is also largely due to the existence of large numbers of legal professionals possessing high-level expertise. Japanese lawyers and patent attorneys notably lag behind their American counterparts both in terms of number and quality. This situation needs to be drastically changed.

Toward this goal plans are under preparation for law schools that will start accepting students in April 2004. Toward the strengthening of intellectual property law education at law schools, the creation of law schools placing emphasis on intellectual property is much anticipated. In order to train legal professionals specializing in intellectual property, it is necessary to strengthen education in all legal fields relating to business, commencing with intellectual property law. From the viewpoint of encouraging the establishment of law schools specializing in intellectual property law, it is necessary to design a system that enables individual law schools to exercise
individuality and diversity such as through the establishment of business-related law fields commencing with intellectual property law as optional subjects for the new national bar examination. Such an environment will produce capable intellectual property law specialists.

For businesses to obtain results from intellectual property created in universities and public research institutes, specialists both in relevant fields of technology and in the management of processes from research and development to exploitation of R&D results are needed. However, since such specialists are not plentiful in Japan, along with establishing professional courses on management of technology (MOT) such as in the United States and training human resources through enhancement of management and law related education for engineering students, an environment conducive to the establishment and increased activity of TLOs must be prepared.

5. Establishment of an Implementation System

The Strategic Council on Intellectual Property was established under the Prime Minister out of the necessity to promote central policies in a prompt and unified manner and in consideration of the fact that many administrative organs are involved in creation of policies to establish Japan as a nation built on intellectual property. After compiling the Intellectual Property Policy Outline, it is indispensable for this Council to develop necessary systems for the steady and smooth implementation of the Outline's recommendations.

Consequently, along with establishing the activation of an intellectual creation cycle as a national goal, after necessary consideration the GOJ should submit to the 2003 ordinary Diet session at the latest the "Intellectual Property Basic Law" (provisional name). This Law will stipulate the establishment of an "Intellectual Property Headquarters" (provisional name), which, in cooperation with related ministries, will have responsibility for the strong and steady implementation of the Intellectual Property Policy Outline.

Chapter 3 Specific Action Plan

With the aim of promoting the creation, protection and exploitation of intellectual property and expanding the supporting human foundation, the GOJ will begin work on the following tasks in a focused and planned manner by FY 2005. In carrying out reforms, the GOJ may adopt additional tasks in the future.

1. Promotion of Creation of Intellectual Property

In order to make Japan "a nation built on intellectual property," it is extremely important to encourage universities, public research institutes and private companies to create intellectual property through R&D. To achieve this, measures should be
taken to promote creative R&D that will generate patentable basic technology in accordance with the Science and Technology Basic Plan as well as to promote overall R&D by improving the mobility and diversity of research personnel and developing the environment for creative R&D such as research facilities.

(1) Promotion of creation of intellectual property at universities, etc.

1) Promotion of R&D focusing on creation of intellectual property

a) Promotion of R&D focusing on creation of intellectual property at universities, etc.

In order to encourage universities and public research institutes to create and exploit intellectual property in a strategic and concentrated manner with the participation of private companies, the GOJ will establish by FY 2003 an R&D system that covers the overall R&D process from basic R&D to application of research results and technology transfer.

For sustainable economic and social development, the GOJ will continue to promote, from the medium and long-term perspective, basic research that will achieve breakthrough, such as research results, which are the basis of intellectual property, and innovative technology, which supports the economy. The GOJ will start to make efforts in FY 2002 to increase R&D funds including scientific research grants. The GOJ will promote the distribution of R&D results and research papers by improving the mechanism to systematically collect research information and the function of universities and academic societies to disseminate information and by developing a system to promote international distribution of research information by FY 2003.

Based on the concept that not only universities and research institutes but also the individual researchers engaged in research activities at these institutes have the basic responsibility to explain the contents and results of their research to the public, the GOJ will start in FY 2002 to make efforts to provide open exhibitions, open lectures and opportunities for information disclosure through the Internet and academic societies to enhance interactive communication between the public and researchers. (The Council for Science and Technology Policy, the Ministry of Education, Culture, Sports, Science and Technology, and other ministries and agencies concerned)

b) Exploitation of patent information in R&D

With the aim of promoting effective R&D at the stage of actually carrying out R&D activities, the GOJ will develop an environment in which researchers will be able to easily search patent information and relevant technical information by linking the paper search system with the patent search system in FY 2003, and will promote
further effective use of the Intellectual Property Digital Library (IPDL), search tools provided by private on-line patent information services and document database services. The Council for Science and Technology Policy and ministries and agencies related to science and technology policy will start to strategically use domestic and international patent information for policy planning and evaluation and give due consideration to the possibility of industrial application of research results based on patent information in selecting research targets on which to focus. To achieve this, the Council for Science and Technology and related authorities will strengthen the cooperative relationship with the Japan Patent Office in effectively investigating and analyzing intellectual property information. (The Council for Science and Technology Policy, the Ministry of Education, Culture, Sports, Science and Technology, the Ministry of Economy, Trade and Industry, and other ministries and agencies concerned)

2) Application of intellectual property in R&D evaluation

a) Preparation and application of the Guidelines on Evaluation

In accordance with the "National Guidelines on Evaluation Methods of Governmental Research and Development," in which the use of patents is included in the evaluation items, ministries concerned will prepare individual research evaluation guidelines by FY 2002 and try to make use of intellectual property-related items as evaluation indicators, e.g. the status of patent obtainment, in promoting research evaluation including evaluation of researchers' performance. Measures should be taken to apply or apply mutatis mutandis the guidelines to universities and public research institutes as early as possible. It should be noted that in some research fields, it may contribute to the progress of science and technology to a greater extent to share research results among society as a whole rather than to focus on obtaining rights for research results. (The Council for Science and Technology Policy, other ministries and agencies concerned)

b) Addition to the items subject to request for research funds by public subscription

With respect to research funds by public subscription including scientific research grants, the GOJ will require applicants to state the contents of patents that they have obtained on the application form for such funds. It will select research targets based on the evaluation of intellectual property created by applicants as well as of research papers published by them. Possible measures will start in FY 2002 in response to the purposes or functions of individual grant systems. (The Council for Science and Technology Policy, other ministries and agencies concerned)

3) Providing incentives to researchers
By the end of FY 2002, the GOJ will establish common regulations for national universities (including institutions for joint use among universities, for the purpose of this chapter) focusing on uncapping compensation for inventions. It will encourage individual incorporated national universities and R&D-type independent administrative agencies to provide for proper payment of compensation for inventions to individual inventors when establishing their own regulations. It will provide various incentives to researchers by allocating more research funds to researchers with better performance in activities to create intellectual property. (The Council for Science and Technology Policy, the Ministry of Education, Culture, Sports, Science and Technology, the Ministry of Economy, Trade and Industry, and other ministries and agencies concerned)

4) Securing necessary costs for obtaining intellectual property rights

a) Securing costs for filing patent applications and maintaining patent rights

In order to encourage universities, public research institutes and TLOs to obtain intellectual property rights, the GOJ will start to work toward assisting in the obtainment of sufficient funds in FY 2003 (or when national universities are incorporated). Costs include those concerning preparing patent specifications, patent attorney fees, filing foreign or international patent applications (including PCT applications), and maintaining patent rights.

Even before national universities are incorporated, the GOJ will promote, via TLOs, the exploitation of patent rights that belong to individual researchers and make efforts to assist in the obtainment of funds for filing foreign and international patent applications (including PCT applications). (The Council for Science and Technology Policy, the Ministry of Education, Culture, Sports, Science and Technology, the Ministry of Economy, Trade and Industry, and other ministries and agencies concerned)

b) Handling of patent-related expenses involving universities, etc.

The GOJ will consider how to properly handle patent-related expenses incurred by R&D-type special corporations that become independent administrative agencies and national universities that are incorporated as well as patent-related expenses incurred by existing independent administrative agencies. It will come to a conclusion by the end of FY 2002. (The Ministry of Economy, Trade and Industry and other ministries and agencies concerned)

5) Development of human resources and a system for obtaining and managing intellectual property rights

a) Strengthening of the intellectual property management function
In order for universities and public research institutes to develop and obtain rights for intellectual property while carrying out R&D activities, in FY 2002 the GOJ will start to promote the use of patent attorneys and private experts in such institutes to strengthen the functions of industrial-academic-governmental collaboration. By FY 2003, it will start to establish "Intellectual Property Headquarters" in dozens of selected national or private universities. "Intellectual Property Headquarters" will be designed to comprehensively support the creation and exploitation of intellectual property in cooperation with TLOs and using human resources from the private sector, including personnel with business experience. (The Council for Science and Technology Policy, the Ministry of Education, Culture, Sports, Science and Technology, the Ministry of Economy, Trade and Industry, and other ministries and agencies concerned)

b) Improvement of understanding of intellectual property among researchers and clerical workers

With the aim of increasing understanding and awareness of intellectual property among researchers working at universities and public research institutes and of improving the ability of clerical workers at such institutes to manage intellectual property, the GOJ will start to dispatch experts to universities and institutes and hold various seminars concerning intellectual property in FY 2002. (The Council for Science and Technology Policy, the Ministry of Education, Culture, Sports, Science and Technology, and the Ministry of Economy, Trade and Industry)

6) Clarification of the rules for dealing with R&D results

a) Clear identification of joint inventors at the research site

By the end of FY 2003, the GOJ will make efforts to encourage the invention committees of individual universities to clearly stipulate in their invention regulations that joint researchers including students shall be clearly identified. This will further encourage universities to clearly identify the contribution of individual inventors when filing a patent application. (The Council for Science and Technology Policy, the Ministry of Education, Culture, Sports, Science and Technology, and the Ministry of Economy, Trade and Industry)

b) Proper management of R&D results

With respect to the handling of R&D results achieved at universities, public research institutes and TLOs, including research tools and research materials, the GOJ will clarify and thoroughly promulgate rules for the ownership, promotion of broad use at the R&D site and industrial application of these research results by the end of FY 2002. (The Council for Science and Technology Policy, the Ministry of Education,
7) Providing procedural assistance concerning the obtainment of intellectual property rights

In order to assist universities and TLOs in filing patent applications and obtaining patent rights in a strategic manner, the GOJ will encourage the reinforcement of the intellectual property management functions of these institutes. It will also take measures to disseminate the electronic application software developed by the Patent Office among universities and TLOs in order to assist them in filing patent applications using research papers. (The Council for Science and Technology Policy, the Ministry of Education, Culture, Sports, Science and Technology, and the Ministry of Economy, Trade and Industry)

8) Establishment of the R&D environment including improvement of research facilities

For the purpose of establishing an R&D environment that will generate creative R&D results, in FY 2002 the GOJ will start to improve facilities and equipment, especially universities whose facilities have become obsolete and small. It will also make efforts to strengthen the cooperation between local governments, incorporated national universities and R&D-related independent administrative agencies in order to promote human resource development for enhancing community-based education and satisfying varying needs of each region, industry-academia-government collaboration, and R&D activities aimed at creating new businesses. To achieve this, the GOJ will consider the relationship with local governments, necessary deregulations, and tax measures for contributions from companies to universities. (The Council for Science and Technology Policy, the Ministry of Education, Culture, Sports, Science and Technology, the Ministry of Public Management, Home Affairs, Posts and Telecommunications, the Ministry of Finance, and other ministries and agencies concerned)

(2) Promotion of corporate creation of intellectual property

1) Reconsideration of the employee invention system

a) Review of employee invention regulations

By the end of FY 2002, the GOJ will investigate the status of companies, awareness among employees, and the current systems and situations of other countries regarding employee inventions. Based on the results of this investigation and for the purpose of securing R&D incentive for inventors, reducing patent management cost and risk in individual companies and strengthening the industrial competitiveness of Japanese
industries, the GOJ will consider whether the existing system should be amended. If so, it will also consider the direction of the amendment, taking changes in the social environment into account, and draw a conclusion by the end of FY 2003. (The Ministry of Economy, Trade and Industry)

b) Clarification of the definition of inventor

When a large number of researchers participate in R&D activities at universities, public research institutes and private companies or in joint research programs carried out by these institutes, it is difficult to identify the inventors. In order to eliminate this difficulty, the GOJ will investigate judicial precedents in Japan and other countries as well as possible relevant guidelines in other countries and will arrange the investigation results to clarify the judgment standards. (The Council for Science and Technology Policy, the Ministry of Education, Culture, Sports, Science and Technology, the Ministry of Finance, and other ministries and agencies concerned)

2) Enhancement of the Japanese Bayh-Dole system

a) Complete application of the Japanese Bayh-Dole system

Except under special circumstances, the GOJ will apply Article 30 of the Law on Special Measures for Industrial Revitalization to all contract R&D budgets by the end of FY 2002. Article 30 of the law provides that intellectual property rights obtained in R&D projects sponsored by the national government or special public corporations belong to those that actually carried out the R&D projects under contract. This is referred to as the "Japanese Bayh-Dole system." (The Council for Science and Technology Policy, the Ministry of Economy, Trade and Industry, and other ministries and agencies concerned)

b) Expansion of application of the Japanese Bayh-Dole system

Considering that the U.S. Bayh-Dole system has played a significant role in promoting industry-academia-government collaboration, the GOJ will take the following measures to ensure that the Japanese Bayh-Dole system plays a more effective role.

By applying the Japanese Bayh-Dole system, the GOJ will promote the ownership of intellectual property rights by incorporated national universities as well as the consolidated management and utilization of patents at these universities. (The Council for Science and Technology Policy, the Ministry of Education, Culture, Sports, Science and Technology, the Ministry of Economy, Trade and Industry)

Taking contract practices in the private sector into account, the GOJ will consider the ownership of intellectual property rights for products invented in software
development projects including contract development of software for government use, and draw a conclusion by the end of FY 2002. (The Council for Science and Technology Policy and the Ministry of Economy, Trade and Industry)

Considering that under the original (U.S.) Bayh-Dole system, the administrative agency examines whether an exclusive license should be given to a third party engaged in production overseas, the GOJ will introduce a similar mechanism in which an administrative agency will examine, if necessary, whether an exclusive license should be given to a third party engaged in production overseas so that application of the Japanese Bayh-Dole system will produce the same effects as the U.S. system. (The Council for Science and Technology Policy, the Ministry of Economy, Trade and Industry, and ministries and agencies concerned)

3) Infrastructure development for intellectual property information searches

With the aim of satisfying a variety of public needs concerning patent information searches and enabling the provision of high-value-added services to the public, the Patent Office will start in FY 2002 to provide relevant data for private patent information providers in more accessible forms. The Patent Office will improve accessibility to the Intellectual Property Digital Library (IPDL) for the purpose of standard use by the public when renewing IPDL equipment.

Furthermore, with respect to eight technical areas including the four important areas designated in the Science and Technology Basic Plan, the Japan Patent Office will start to publicize patent application information (the number of publications of unexamined patent applications and the number of registrations) in a more effective manner in FY 2002, including publication of the number of registrations in the U.S. and Europe. (The Ministry of Economy, Trade and Industry)

4) Support for creation of outstanding media contents

a) Advancement of media art

For further advancement of media art, i.e. composite art including motion pictures, animated cartoons and computer graphics, for which Japan is highly evaluated, the GOJ will start in FY 2002 to consider enhancement of support especially for motion picture production, promotion of human resource development in this industry, and early establishment and utilization of the digital archives of image films. It will draw a conclusion by the end of FY 2002. (The Ministry of Education, Culture, Sports, Science and Technology)

b) Development of media content creators

In FY 2002, the GOJ will promote comprehensive measures to develop fundamental tools for creating media contents, provide support for media content creation, and
develop creators with cooperation from industry and academia. (The Council for Science and Technology Policy, and the Ministry of Economy, Trade and Industry)

c) Promotion of content creation in the strategic areas

Under public-private cooperation, in FY 2002 the GOJ will start to support the creation of media contents suitable for the present network-based age by conducting demonstrative tests for promoting production and distribution of broadband contents including broadcast contents and educational contents and by establishing an environment in which contents will be distributed in a safe and sure manner. (The Ministry of Public Management, Home Affairs, Posts and Telecommunications, the Ministry of Education, Culture, Sports, Science and Technology, and the Ministry of Economy, Trade and Industry)

In FY 2002, the GOJ will provide support for the development of human resources in the field of media content creation in order to promote creation of outstanding contents including broadcast programs. (The Ministry of Public Management, Home Affairs, Posts and Telecommunications)

5) Support for creation of outstanding designs and brandnames

In order to promote the creation of attractive designs and establishment of appealing brandnames, the GOJ will consider promoting utilization of information related to designs and brands retained by the Patent Office, and will form a definite plan by the end of FY 2003. (The Ministry of Economy, Trade and Industry)

(3) Enhancement of education and research personnel development for the purpose of encouraging creativity

1) Development of researchers and improvement of their mobility and diversity

In order to improve the mobility and diversity of instructors along with the incorporation of national universities, the GOJ will encourage individual universities to clearly design specific actions within an intermediate-range plan based on independent judgment. The specific actions include aggressively introducing the fixed-term appointment system and the apply-and-review recruitment system with respect to instructors, setting numerical goals or giving due consideration in recruiting researchers of other universities or the private sector, foreign researchers and female researchers. (The Council for Science and Technology Policy and the Ministry of Education, Culture, Sports, Science and Technology)

Based on the "Basic Guidelines for Improvement of Mobility of Researchers" prepared by the Council for Science and Technology Policy, the GOJ will encourage individual universities and public research institutes to design a plan concerning the
policy for applying the fixed-term appointment system and the apply-and-review recruitment system emphasizing independent judgment. (The Council for Science and Technology Policy, the Ministry of Education, Culture, Sports, Science and Technology, and ministries and agencies concerned)

For the purpose of promoting mobility of researchers in Japan, the GOJ will continue to provide support for training programs to improve practical skills so that private companies will aggressively employ young researchers such as graduates of doctoral programs and post-doctoral fellows. (The Council for Science and Technology Policy and the Ministry of Economy, Trade and Industry)

The GOJ will consider training measures to develop researchers with a high degree of professionalism, a wide range of expertise and success not only in universities and public research institutes but also in private companies. It will prepare a plan early in FY 2003 and make efforts toward its realization. (The Council for Science and Technology Policy and the Ministry of Education, Culture, Sports, Science and Technology)

2) Promotion of intellectual property education

a) Promotion of education related to intellectual property for children and young students

In FY 2002, the GOJ will commence efforts to promote intellectual property-related education in elementary and secondary schools. Such education will include enlightening students about intellectual property and providing teaching materials and supplementary readers concerning the importance of creative activities. It will also make efforts to improve teachers' skills and knowledge about the intellectual property system by holding intellectual property seminars for teachers and conducting study on teaching methods concerning intellectual property. (The Ministry of Education, Culture, Sports, Science and Technology and the Ministry of Economy, Trade and Industry)

b) Promotion of intellectual property-related education for university students

In FY 2002, the GOJ will start to promote the establishment of new courses on intellectual property targeting general university students by providing university level teaching material, enabling students to acquire basic knowledge about the intellectual property system and dispatching instructors to universities. It will make efforts to improve the contents of intellectual property seminars held at universities so that students will be able to acquire further knowledge about the intellectual property system. (The Ministry of Education, Culture, Sports, Science and Technology and the Ministry of Economy, Trade and Industry)
2. Strengthening of the Protection of Intellectual Property

(1) Prompt examination and appeal/trial of patent applications

1) Prompt examination of patent applications

By the end of FY 2002, the GOJ will design a plan for prompt examination of patent applications for the period until FY 2005, during which the number of requests for examination of patent applications is expected to rapidly increase due to shortening of the period of request for examination. By carrying out the plan, the GOJ will start in FY 2002 to promote efforts to prevent prolongation of the examination process and ensure prompt examination while maintaining the quality of examination. Toward this end, while making efforts toward more efficient examination, it will take comprehensive measures to improve the examination system by securing a sufficient number of examiners, outsourcing prior art searches, actively making use of assistant examiners with expertise and reforming the Japanese patent application/examination request systems through enlightening companies.

The GOJ will make efforts improve the examination system with the aim of achieving the promptest and most efficient examination in the world from FY 2006.

While widely promulgating revisions to the accelerated examination system by the end of FY 2002, the GOJ will develop a system that will be able to cope with increasing requests for accelerated examination for applications by venture companies, small and medium enterprises, and universities as well as working-related applications and overseas-related applications.

As part of the measures for promoting electronic government, the GOJ will enable applicants to file applications for patents and inspect various procedural documents via the Internet by the end of FY 2004. (The Ministry of Economy, Trade and Industry)

2) Appeal/trial system reforms

In order to simplify and streamline the appeal/trial system and enhance its functions, the GOJ will consider the relationship between the opposition system and the system of trial for invalidation, the concept of the system of trial for correction, and the relationship between appeals/trials and lawsuits against appeal/trial decisions, and submit necessary bills to the ordinary session of the Diet in 2003. (The Ministry of Justice and the Ministry of Economy, Trade and Industry)

In order to ensure reasonable dispute settlement, the GOJ will consider ideal court procedures from a variety of viewpoints including measures to achieve dispute settlement in single proceedings, focusing on the relationship between judgments on
invalid patents in infringement lawsuits and decisions in trials for invalidation. It will draw a conclusion by the end of FY 2004. (The Judicial Reform Headquarters, the Ministry of Justice and the Ministry of Economy, Trade and Industry)

3) Faster examination for patent applications concerning new varieties of plants

With the aim of enhancing the convenience of applicants, the GOJ will establish an electronic filing system using the Internet by the end of FY 2003 by developing an electronic administrative system for registration of plant varieties.

Furthermore, it will reduce the average time for examination to three years by FY 2005 while achieving a more advanced examination process in response to the trends in development of new varieties through establishment of institutes for experimentally growing plants. (The Ministry of Agriculture, Forestry and Fisheries)

(2) Establishment of a "patent court" function

1) Concentration of jurisdictions

In order to make specialized departments at the Tokyo and Osaka District Courts substantially function as "patent courts", the GOJ will grant to both courts exclusive jurisdiction over lawsuits related to intellectual property rights including patent rights and utility model rights. To achieve this, it will submit the necessary bills to the ordinary session of the Diet by FY 2003. (The Judicial Reform Headquarters, the Ministry of Justice)

For the purpose of strengthening comprehensive responses to intellectual property-related lawsuits, the GOJ will consider and take necessary actions to strengthen specialized processing systems at high courts, including concentration of jurisdictions of high courts to the Tokyo High Court regarding lawsuits related to intellectual property rights such as patent rights and utility model rights. (The Judicial Reform Headquarters, the Ministry of Justice)

2) Expansion of human foundation of courts by promoting participation of experts

In order to enhance and strengthen the functions of courts in intellectual property-related lawsuits, the GOJ will consider specific measures to introduce a new judicial system in which experts other than judges participate in legal actions to support judges in judicial proceedings, such as expansion and clarification of the role of court research officials, taking the characteristics of intellectual property-related lawsuits into account. It will draw a conclusion by the end of 2004. (The Judicial Reform Headquarters, the Ministry of Justice, and the Ministry of Economy, Trade and Industry)
3) Expansion of procedures for collecting evidence

In order to facilitate proof of infringement in intellectual property-related lawsuits, the GOJ will consider from a comprehensive perspective and take necessary measures by FY 2005 for further enhancement of the procedures for collecting evidence in accordance with the characteristics of such lawsuits, including protection of trade secrets under the constitutional principles concerning evidence. (The Judicial Reform Headquarters, the Ministry of Justice, and the Ministry of Economy, Trade and Industry)

4) Reinforcement of alternative dispute resolution (ADR)

For the purpose of providing a variety of dispute resolution methods concerning intellectual property, the GOJ will request parties concerned including the Japan Federation of Bar Associations and the Japan Patent Attorneys’ Association to discuss reinforcement and revitalization of the functions of ADR organizations and to take necessary measures by FY 2005. (The Ministry of Justice and the Ministry of Economy, Trade and Industry)

(3) Strengthening of the compensation for damage system

With the objective of strengthening protection of intellectual property rights and promoting respect of these rights in society, the GOJ will consider the desirable type of system for determining the amount of damage and draw a conclusion by FY 2005. (The Ministry of Justice, the Ministry of Education, Culture, Sports, Science and Technology, and the Ministry of Economy, Trade and Industry)

(4) Reinforcement of measures against counterfeits and pirated copies

1) Bilateral and multilateral measures

With respect to counterfeits that infringe patent rights, design rights and trademark rights as well as pirated copies that infringe copyrights, the GOJ will take the following actions considering the characteristics of the infringed intellectual property rights:

In FY 2002, the GOJ will start to strengthen approaches through bilateral and multilateral negotiations to the central and local governments of infringing countries in order to protect the interests of Japanese industry and citizens.

The GOJ will make efforts to strengthen overseas protection of intellectual property rights in cooperation with the “International Intellectual Property Protection Forum.” Furthermore, by the end of FY 2002 the GOJ will establish a system for coordination
and cooperation with the "Organization for Promotion of Overseas Distribution of Contents (provisional name)," a private organization to be founded by copyright-related organizations and the media content industry to monitor the actual situation of infringement and respond to intellectual property-related lawsuits. The GOJ will strongly carry out measures against overseas pirated copies under this system.

The GOJ will make use of the legal review system under the Agreement on Trade-Related aspects of Intellectual Property Rights (TRIPS Agreement) and WTO review systems such as the Trade Policy Review Mechanism (TPRM) to monitor WTO member country systems and their operation.

The GOJ will actively participate in discussions at the joint meeting of the Advisory Committee on Enforcement of Industrial Property and the Advisory Committee on Enforcement of Copyrights and Related Rights held at the World Intellectual Property Organization (WIPO), and make efforts to strengthen measures against counterfeits and pirated copies on a global scale.

In taking the above measures against counterfeits and pirated copies, the GOJ will conduct bilateral and multilateral negotiations with a firm attitude, making positive use of Japanese Embassies and Consulates-General in other countries, the Japan External Trade Organization (JETRO) and other organizations. In order to increase the effectiveness of these measures, the GOJ will extend human resource development cooperation to support the self-help efforts of the governments of infringing countries. The GOJ will carry out follow-up actions for these measures by the end of FY 2002, considering the improvement of the systems and the operation thereof in infringing countries. (The National Police Agency, the Ministry of Public Management, Home Affairs, Posts and Telecommunications, the Ministry of Foreign Affairs, the Ministry of Education, Culture, Sports, Science and Technology, and the Ministry of Economy, Trade and Industry)

2) Measures against infringement of the right of seed or plant breeders

To facilitate judgment on infringement of the right of seed or plant breeders under the Seed and Seedlings Law, in FY 2002 the GOJ will start developing a support system through establishing quick and easy DNA variety identification technology. (The Ministry of Agriculture, Forestry and Fisheries)

3) Improvement of border measures against infringement of intellectual property rights

In order to effectively block at the border products that infringe intellectual property rights, the GOJ will make efforts to strengthen regulatory measures at Customs as soon as possible in cooperation with the ministries and agencies concerned including
the Patent Office. Using examples from the systems adopted by the U.S. International Trade Committee (ITC), the ministries and agencies concerned will consider border measures against products that infringe intellectual property rights, such as blocking at the border products that infringe the right of seed or plant breeders and strengthening measures against products that infringe intellectual property rights including patent rights and design rights. They will design specific plans for improvement of legal systems and the operation thereof and take necessary actions by FY 2004 at the latest. (The National Police Agency, the Ministry of Justice, the Ministry of Finance, the Ministry of Education, Culture, Sports, Science and Technology, the Ministry of Agriculture, Forestry and Fisheries, and the Ministry of Economy, Trade and Industry)

4) Strengthening of domestic regulation of counterfeits and pirated copies

In order to deal with cases related to infringement of intellectual property rights by counterfeits and pirated copies that are manufactured, distributed and sold in Japan, the GOJ will start in FY 2002 to strengthen the necessary countermeasures to respond to organized smuggling cases, which have occurred frequently in recent years, through positively working on establishing a cooperative relationship with foreign regulatory authorities, strengthening effective collaboration between right holders and the regulatory authorities, and reinforcing measures against organized illegal acts. (The National Police Agency)

5) Promotion of public awareness

With the aim of increasing awareness of counterfeits among the public, in FY 2002 the GOJ will start to promote awareness activities including distribution of booklets on counterfeits to consumers and publication of pictures of counterfeits on the homepages of relevant government agencies. (The National Police Agency and the Ministry of Economy, Trade and Industry)

(5) Promotion of cooperation and international harmonization of the intellectual property system

1) Reinforcement of measures for establishing a global patent system

In order to obtain a patent right internationally under the present situation in which individual countries have their own patent systems, it is necessary to file the same patent application separately in each country. This imposes a significant burden on the applicant in terms of time and money. Furthermore, since the workload of each patent Office increases by examining the same application separately, it takes longer for the applicant to obtain the right. In order to enable applicants to quickly obtain patent rights and reduce the workload of patent Offices, the GOJ will promote cooperation among patent Offices for mutual use of prior art search and examination results. More
specifically, by the end of 2002 the GOJ will launch a project to study mutual use of prior art search and examination results between the JPO and the USPTO, and will decide a post 2004 plan in this regard by the end of 2003 at the latest. (The Ministry of Economy, Trade and Industry)

With the objective of establishing a global patent system that is more convenient for users, in FY 2002 the GOJ will start to promote global harmonization of patent laws and their operation. More specifically, it will take the initiative in advancing WIPO discussion regarding Patent Cooperation Treaty (PCT) reform in order to increase the efficiency of the PCT system and user convenience, and will make vigorous efforts for discussion of the Substantive Patent Law Treaty at WIPO, aiming at international harmonization of patent systems. (The Ministry of Foreign Affairs and the Ministry of Economy, Trade and Industry)

2) Support for development of intellectual property systems and enforcement systems in Asia

In FY 2002, the GOJ will start to promote establishment of the "Asia Industrial Property Information Network," through which information on examinations of patent applications in Japan will be provided to patent Offices in Asian countries. Furthermore, in order to support developing countries in Asia in establishing frameworks for the operation of intellectual property systems, awareness of the importance of protection of intellectual property, and quick and smooth obtainment in ASEAN countries of design and trademark rights effective against counterfeits, in FY 2002 the GOJ will start to carry out measures such as dispatch of experts under bilateral and multilateral negotiations or various other frameworks including JICA schemes, WIPO Funds-In-Trust/Japan and UPOV (Union for the Protection of New Varieties of Plants) Funds-In-Trust/Japan, holding seminars, and cooperation for human resource development including training programs, development of teaching materials and computerization. (The Ministry of Foreign Affairs, the Ministry of Education, Culture, Sports, Science and Technology, the Ministry of Agriculture, Forestry and Fisheries, and the Ministry of Economy, Trade and Industry)

3) Strategic responses to Free Trade Agreements (FTA), the TRIPS Agreement and the Hague Convention

With the aim of maintaining a global standard of intellectual property right protection, the GOJ will start to strategically carry out related bilateral and regional action under the free trade regime centering on the WTO in FY 2002, and will press developing countries in Asia and other regions to perform their obligations under the TRIPS Agreement without fail. (The Ministry of Foreign Affairs, the Ministry of Education, Culture, Sports, Science and Technology, the Ministry of Agriculture, Forestry and Fisheries, and the Ministry of Economy, Trade and Industry)
Starting in FY 2002, the GOJ will respond to new developments in intellectual property rights related to the advancement of biotechnology while ensuring consistency with the Biodiversity Treaty. (The Ministry of Foreign Affairs, the Ministry of Education, Culture, Sports, Science and Technology, and the Ministry of Economy, Trade and Industry)

Starting in FY 2002, the GOJ will continue to strategically participate in discussions about treaties, e.g. the Hague Convention, that are likely to deal with issues including international jurisdiction over intellectual property-related cases. (The Ministry of Justice, the Ministry of Foreign Affairs, the Ministry of Education, Culture, Sports, Science and Technology, and the Ministry of Economy, Trade and Industry)

4) Designing of international copyright rules suitable for the digitized and networked society

Starting in FY 2002, the GOJ will continue to play a positive role in promoting discussion on new treaties under consideration at WIPO concerning audiovisual performance and broadcasting media, with the aim of establishing rights and obligations to prevent unauthorized copies and transmission of digitized works on the Internet. (The National Police Agency, the Ministry of Public Management, Home Affairs, Posts and Telecommunications, the Ministry of Foreign Affairs, and the Ministry of Education, Culture, Sports, Science and Technology)

In FY 2002, the GOJ will encourage other countries, mainly those in Asia, to accede to the new WIPO treaties already in force, such as the "WIPO Copyright Treaty" and the "WIPO Performances and Phonograms Treaty." (The Ministry of Foreign Affairs, and the Ministry of Education, Culture, Sports, Science and Technology)

(6) Reinforcement of protection of trade secrets

By the end of FY 2002, the GOJ will prepare reference guidelines for companies designing strategic programs to strengthen the management of their trade secrets. Furthermore, for the purpose of reinforcing protection of trade secrets in both civil and criminal cases by amending the Unfair Competition Prevention Law, the GOJ will submit an amendment bill to the ordinary session of the Diet in 2003, taking into account problems that would be caused by the amendment, such as the adverse effect on the mobility of human resources. In this regard, consideration concerning securing freedom of researchers at universities is required. (The Ministry of Economy, Trade and Industry)

(7) Protection of intellectual property in new areas

1) Positive protection of new useful products
In order to properly protect new useful products sure to be created as a result of the progress in R&D based on intellectual property rights such as patent rights, the GOJ will establish a close cooperative relationship between parties engaged in R&D such as universities, public research institutes and industry and the Patent Office in order for them to start sharing information in FY 2002. (The Council for Science and Technology Policy, the Ministry of Economy, Trade and Industry, and other ministries and agencies concerned)

2) Proper protection of results of post-genome research

In order to properly protect the results of post-genome research by patent rights, the GOJ will prepare and publish examples of examination results concerning inventions related to three-dimensional protein structures and clarify examination standards by the end of FY 2002. (The Council for Science and Technology Policy, and the Ministry of Economy, Trade and Industry)

3) Clarification of the handling of technology related to regenerative medicine and gene therapy under the Patent Law

In the field of regenerative medicine and gene therapy, which has made significant progress in recent years, new technology such as methods of cultivating skin and processing cells have been created. In order to clarify how to handle new technology under the Patent Law for the purpose of further promotion of inventions employing such technical developments, the GOJ will consider the necessity of revising the Patent Law and the Examination Guidelines and draw a conclusion by the end of FY 2002. When considering this issue, sufficient caution is required to prevent influence on medical activities carried out by doctors. (The Council for Science and Technology Policy, the Ministry of Health, Labor and Welfare, and the Ministry of Economy, Trade and Industry)

4) Strengthening of protection of copyrights on computer networks

The GOJ will consider measures to strengthen protection of copyrights on computer networks, such as enhancement of the right of broadcasting businesses (for secondary use of programs that have already been broadcast) and the right of performers (for actors' performances recorded in motion picture contents). There has been progress in international discussions regarding treaties containing these measures. The GOJ will take necessary measures, at latest when the treaties are adopted. (The Ministry of Education, Culture, Sports, Science and Technology)

3. Promotion of Exploitation of Intellectual Property

(1) Promotion of technology transfer from universities, etc.
1) Introduction of the consolidated management by universities and other institutes

In order to ensure that public research institutes such as incorporated national universities effectively utilize R&D results including patents, the GOJ will establish a system under the principle of consolidated management in close cooperation with TLOs, making use of TLO experience and know-how. (The Council for Science and Technology Policy, the Ministry of Education, Culture, Sports, Science and Technology, the Ministry of Economy, Trade and Industry, and other ministries and agencies concerned)

2) Strengthening of the technology transfer functions of universities, etc.

a) Enhancement of activities of TLOs

Starting in FY 2002, the GOJ will strengthen industry-academia collaboration by dispatching experts and personnel with business experience in the private sector to universities and TLOs and promoting technology transfer of research results from universities. (The Council for Science and Technology Policy, the Ministry of Education, Culture, Sports, Science and Technology, and the Ministry of Economy, Trade and Industry)

Starting in FY 2002, the GOJ will make efforts to enhance the activities of TLOs according to the actual condition of individual universities and TLOs, by expanding the TLO services into technology management, which covers technology licensing to incubation. (The Council for Science and Technology Policy, the Ministry of Education, Culture, Sports, Science and Technology, and the Ministry of Economy, Trade and Industry)

The GOJ will continue to support implementation of projects concerning approved TLO plans. (The Ministry of Education, Culture, Sports, Science and Technology and the Ministry of Economy, Trade and Industry)

The GOJ will make efforts to enhance various activities for liaison, incubation and licensing by developing the "Intellectual Property Headquarters" that will be initiated at universities in FY 2003 in cooperation with TLOs and by supporting the creation of venture capital. (The Council for Science and Technology Policy, the Ministry of Education, Culture, Sports, Science and Technology, and the Ministry of Economy, Trade and Industry)

For the purpose of promoting technology transfer from research and development related corporations and public research institutes, the GOJ will promote the strengthening of technology transfer functions such as the collection and provision of technological information. According to characteristics of individual institutes, the
GOJ will also promote the establishment of TLOs. (The Council for Science and Technology Policy, the Ministry of Education, Culture, Sports, Science and Technology, the Ministry of Economy, Trade and Industry, and other ministries and agencies concerned)

b) Strengthening of the function of matching industry needs with university research

The GOJ will promote R&D projects and information services aimed at enhancing the matching of technical research at universities and TLOs with industrial needs. In order to ensure that universities and public research institutes are able to set and evaluate research themes that quickly and precisely respond to business and social needs and promote joint research projects, starting in FY 2002 the GOJ will appoint coordinators from the private sector to strengthen the coordinating function for industry-academia-government collaboration. (The Council for Science and Technology Policy, the Ministry of Education, Culture, Sports, Science and Technology, and the Ministry of Economy, Trade and Industry)

3) Development of contract rules concerning technology transfer

a) Development of contract rules concerning contract research and joint research

By the end of FY 2002, the GOJ will encourage universities to review their rules concerning contract research and joint research, following the model contracts provided by the Ministry of Education, Culture, Sports, Science and Technology, so that these institutions will be able to conclude flexible contracts for industry-academia-government collaborative research with respect to the handling of results of contract research projects carried out by national universities and sponsored by private companies. The GOJ will take the same measures toward public research institutes. (The Council for Science and Technology Policy, the Ministry of Education, Culture, Sports, Science and Technology, and ministries and agencies concerned)

b) Clarification of rules concerning conflicts of interest

When researchers at universities and public research institutes participate in industry-academia collaborative projects while maintaining their main posts, they often face conflicts between their public duties as researchers and private interests. The GOJ will clarify how to develop rules concerning such "conflicts of interest" by the end of FY 2002 and encourage universities to develop their own rules concerning "conflicts of interest" in the future. (The Council for Science and Technology Policy, the Ministry of Education, Culture, Sports, Science and Technology, and ministries and agencies concerned)
4) Providing incentives for promotion of technology transfer

In order to establish a mechanism to provide incentives for public research institutes, including incorporated national universities, to diffuse and apply intellectual property, the GOJ will consider how to properly allocate license fees from patent rights to such institutes. The GOJ will consider the ideal method of evaluating patent rights and other intellectual property rights that are obtained and exploited by individual institutes according to the characteristics of each institute and the ideal method of properly allocating resources based on the evaluation results, focusing on highly evaluated institutes. (The Council for Science and Technology Policy, the Ministry of Education, Culture, Sports, Science and Technology, and ministries and agencies concerned)

(2) Strategic exploitation of intellectual property by companies

1) Raising awareness of intellectual property among business executives and strategic exploitation of the patent right obtainment system

a) Use of intellectual property as management strategy

With the aim of enabling companies to increase profit and maximize corporate value by considering intellectual property as a source of competitiveness in their management strategy and obtaining and managing intellectual property based on a global strategy, the GOJ will design reference guidelines by the end of FY 2002, taking the actual conditions of individual companies into account. (The Ministry of Economy, Trade and Industry)

b) Prevention of leakage of know-how

In order to prevent "unintended" overseas transfer of technology including corporate know-how, the GOJ will publicize reference guidelines by the end of FY 2002 for companies themselves to design technology management and exploitation strategy, including internal organizational development. (The Ministry of Economy, Trade and Industry)

2) Disclosure of information on intellectual property

The GOJ will design guidelines concerning disclosure of information on intellectual property by the end of FY 2003 for the purpose of due appreciation of corporate intellectual property-related activities and increase in profit and corporate value. It will also consider introducing intellectual property reports. (The Ministry of Economy, Trade and Industry)

3) Strategic use of designs and brandnames
The GOJ will consider specific measures to enable companies to provide products and services of greater value by using attractive designs and brandnames, including the establishment of ideal design and trademark systems. It will draw a conclusion by FY 2005.

Along with the progress of information technology in society, the GOJ will consider proper protection of designs used on computer networks as early as possible and draw a conclusion by FY 2003. (The Ministry of Economy, Trade and Industry)

(3) Promotion of distribution of intellectual property

1) Establishment of a method of intellectual property evaluation

In order to ensure that distribution of intellectual property is be promoted through establishment of an evaluation method in the market, by the end of 2002 the GOJ will start to consider measures for improving the patent market, establishing a financing system secured by intellectual property, and promoting liquidation of patents through improvement of the relevant systems and their operation. It will draw a conclusion by FY 2005 at the latest. (The Financial Services Agency and the Ministry of Economy, Trade and Industry)

2) Reinforcement of the stability of intellectual property license contracts

With the objective of protecting licensees when a licensor has gone bankrupt, the GOJ will submit an amendment bill for related laws including the Bankruptcy Law by the end of FY 2003. (The Ministry of Justice)

For the purpose of protecting license contracts, starting in FY 2002 the GOJ will consider more desirable protection of license contracts. (The Ministry of Economy, Trade and Industry)

3) Protection of creative activities and promotion of distribution of media contents

The GOJ will take the following actions in this regard.

For promotion of smooth distribution of media contents, in FY 2002 the GOJ will start to support efforts to establish a new distribution system that combines new technology and the copyright contract system and to develop and disseminate various systems such as the contact system for copyright licenses on computer networks (to be implemented by FY 2004) and the system for right holders' declaration of intention concerning the scope of contents to be available (e.g. "free use mark"). (The Ministry of Education, Culture, Sports, Science and Technology)
For promotion of smooth distribution of media contents, in FY 2002 the GOJ will start to develop a mechanism to enable content providers to electronically exchange information on transactions of contents (by the end of FY 2002) and improve the environment for strengthening of the contents creation sections. It will also encourage private companies to make efforts to develop a mechanism by which right processing, including copyright processing, will be quickly and easily conducted. (The Ministry of Economy, Trade and Industry)

With the aim of establishing a market in which broadcast contents will be dealt between right holders and users in a safe and sure manner by FY 2004, the GOJ will develop and test a right processing system for exchanging data on media contents including information on rights (meta data) while preventing illegal use during media contents distribution. Using this system, the GOJ will experimentally implement various business models related to distribution of media contents so as to support establishment of right processing rules in the private sector. (The Ministry of Public Management, Home Affairs, Posts and Telecommunications)

Along with dissemination of broadband networks to schools, the GOJ will promote distribution of contents for education by FY 2003 by developing and testing a security system, certification and charging systems, and a system providing the opportunity to use media contents stored in digital archives. (The Ministry of Public Management, Home Affairs, Posts and Telecommunications and the Ministry of Education, Culture, Sports, Science and Technology)

4) Promotion of distribution of R&D results including research samples

It is necessary to develop a system that enables smooth distribution of R&D results as well as to properly manage such results. For this reason, starting in FY 2002 the GOJ will improve the system for collecting, storing and providing a wide range of R&D results including genetic resources. (The Council for Science and Technology Policy, the Ministry of Education, Culture, Sports, Science and Technology, the Ministry of Health, Labor and Welfare, the Ministry of Agriculture, Forestry and Fisheries, and the Ministry of Economy, Trade and Industry)

4. Development of Human Resources Related to Intellectual Property and Improvement of Public Awareness

(1) Development of experts

1) Strengthening of business law instruction at law schools, starting with intellectual property law

The GOJ will design a system that allows law schools expected to start accepting
students in April 2004 to set standards for establishment of courses in order to provide unique and diverse classes. The system will also be designed to enable law schools to enhance intellectual property-related instruction. Under the system, individual law schools will be able to develop legal professionals specializing in intellectual property by establishing various courses on business-related law such as intellectual property law. (The Judicial Reform Headquarters and the Ministry of Education, Culture, Sports, Science and Technology)

When considering the new national bar examination, the GOJ will make arrangements to achieve a significant increase in legal professionals in order to meet the needs of society with regard to intellectual property. It will also consider including various business-related laws such as intellectual property law as optional subjects for examination, paying due attention to the contents of training programs provided at law schools. (The Judicial Reform Headquarters and the Ministry of Justice)

2) Providing technical experts with business acumen

For the purpose of developing human resources specializing in intellectual property, the GOJ will take measures to promote the establishment of business courses dealing with intellectual property systems and courses specializing in intellectual property at departments and schools of science at universities, and will dispatch instructors and provide support for such dispatch, if necessary. For the purpose of enhancing the development of human resources specializing in the management of technology, the GOJ will start in FY 2002 to take actions aimed at collaboration between institutions of education, such as universities, and industry,[3] and in the future, it will make efforts to markedly enhance training programs related to management and law provided to technical students. Furthermore, the GOJ will consider designing a flexible system for establishing "professional undergraduate schools (provisional name)" focusing on intellectual property and aimed at developing, in an organized way, highly-specialized professionals engaged in legal and technical procedures including the obtainment of intellectual property rights. (The Council for Science and Technology Policy, the Ministry of Education, Culture, Sports, Science and Technology, and the Ministry of Economy, Trade and Industry)

For smooth transfer of intellectual property rights to industries, starting in FY 2002 the GOJ will provide universities with teaching materials to develop skills for preparing patent specifications, filing patent applications, and exploiting and licensing patent rights. The GOJ will provide more opportunities for university professors and instructors to obtain knowledge on the intellectual property system by holding a wider variety of seminars for universities. (The Council for Science and Technology Policy, the Ministry of Education, Culture, Sports, Science and Technology, and the Ministry of Economy, Trade and Industry)

3) Enhancement of specialized human resources including patent attorneys and
strengthening of their functions

Under the 2002 amendment of the Patent Attorney Law, the right of representation in infringement proceedings concerning patent rights, etc., (limited to cases where a lawyer acts as a representative for the litigation) shall be extended to patent attorneys after taking highly reliable measures to assure their ability. Following this, the GOJ will immediately start to provide training programs to assure the ability of patent attorneys.

In response to international developments, the increase in importance of intellectual property and the diversifying needs for services specific to intellectual property including services concerning advanced technology, the GOJ will continue to make efforts to effectively implement the 2000 amendment of the Patent Attorney Law. It will also work on dissemination and awareness building regarding the patent attorney system and increase the opportunities to use patent attorneys and the number of such attorneys while promoting competition though deregulation. (The Ministry of Economy, Trade and Industry)

(2) Improvement of intellectual property public awareness

1) Uniform use of "intellectual property rights" and "industrial property rights"

Compared to laws that provide for ownership of tangible articles, intellectual property laws deal with specifically with information and are therefore different. For the public to be widely aware of this fact, the GOJ will make all efforts to replace "知的所有権" with the terms "知的財産" and "知的財産権" to signify the Japanese equivalent of "intellectual property" and "intellectual property rights" respectively in laws and treaties. To achieve this, it will amend translations of as many relevant laws, treaties and agreements as possible by the end of FY 2002. Furthermore, in the future the GOJ will make use of all possible opportunities to amend treaties and agreements originally written in Japanese.

The term "工業所有権," which corresponds to "industrial property rights," has been used since the Meiji Period to refer to patent rights, utility model rights, design rights and trademark rights. However, this term includes intellectual property rights related to industries other than the manufacturing industry, such as the agricultural industry, mining industry and commerce. In order to describe the characteristics of these rights more precisely, the GOJ will use the terms "産業財産" and "産業財産権" instead of "工業所有権" to signify the Japanese equivalent of "industrial property" and "industrial property rights" respectively. (The Ministry of Foreign Affairs, the Ministry of Education, Culture, Sports, Science and Technology, the Ministry of Economy, Trade and Industry, and other ministries and agencies concerned)

2) Reinforcement of awareness activities
Starting in FY 2002, the GOJ will promote, in response to public need, already implemented activities for dissemination and public awareness of the intellectual property system. These activities include seminars for university researchers, introductory seminars for general working people, and seminars for people who are engaged in dealing with intellectual property. (The Ministry of Economy, Trade and Industry)

In order to increase emphasis and interest in creativity and ingenuity among elementary and secondary school students, from FY 2002 the GOJ will continue to make efforts to improve awareness of intellectual property by providing these students with opportunities to learn about outstanding inventions, enjoy creative activities, and gain understanding of the intellectual property system. (The Ministry of Education, Culture, Sports, Science and Technology, and the Ministry of Economy, Trade and Industry)

3) Development of intellectual property-related statistics

With the aim of taking measures that respond promptly and precisely to various intellectual property-related activities by users, by the end of FY 2002 the GOJ will develop intellectual property-related statistics to be used in the planning of intellectual property strategy. (The National Police Agency, the Ministry of Public Management, Home Affairs, Posts and Telecommunications and the Ministry of Economy, Trade and Industry)


In order to promote quick and focused measures to make Japan a nation built on intellectual property, after considering necessary matters the GOJ will submit to the 2003 ordinary session of the Diet in 2003 the "Intellectual Property Basic Law" (provisional name). The law will be designed to establish the "Intellectual Property Policy Headquarters" (provisional name) and prepare the "Intellectual Property Policy Plan" with the national goal of aggressive creation, protection and application of intellectual property. (Cabinet Secretariat and other ministries and agencies concerned)

[1] Consideration must be given to the fact that, since patents resulting from faculty inventions at Japanese universities currently belong to the individual faculty member, they are not included in the number of university patent acquisitions. On the other hand, in the United States these inventions mostly belong to the university.

[2] Article 17 of the Medical Practitioners Act provides that "nobody may practice medicine unless he is a medical doctor." Practicing medicine is generally construed as "conducing medical acts as business." "Medical activities" are defined as "activities
that harm or would harm the human body unless carried out with the medical judgment and skills of a doctor" (General Affairs Division, Health Policy Bureau, Ministry of Health, Labor and Welfare, "Interpretations of the Medical Service Act and the Medical Practitioners Act").

[3] E.g. enhancement of professional courses on management of technology (MOT)

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