Submission No 22

Inquiry into Australia's trade and investment relationship with Japan and the Republic of Korea

Supplementary Submission

Organisation: Department of Foreign Affairs; and Austrade

Joint Standing Committee on Foreign Affairs, Defence and Trade

Australian Government
Department of Foreign Affairs and Trade

Australian Government
Austrade

Inquiry by the Trade Sub-Committee of the Joint Standing Committee on Foreign Affairs, Defence and Trade into Australia's trade and investment relationship with Japan and the Republic of Korea

Questions on Notice (QoN): joint response by the Department of Foreign Affairs and Austrade

May 2012

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QoN 1 Ms Saffin – Japanese investment leads

(transcript page no. 2):

'In your submission, at page 38, it said: "...Austrade also generated 112 new Japanese investment leads, predominantly in the clean energy sector". Mr Cooper, can you tell us more about this please?'

Response:

Almost all current investment leads are commercial-in-confidence. However two examples of investments that have been finalised and are now public include:

KFSU Ltd

- Austrade facilitated an investment project which led to the establishment of Japanese-Australian start-up company KFSU Ltd, the company behind the commercial production of the world's first natural dietary fibre from sugarcane.
- The original technology was developed in Okinawa, Japan. Subsequently, it was refined and commercialised in Ayr, Queensland to suit local sugarcane varieties.
- KFSU Ltd has secured customers in Japan and New Zealand and it is looking to take the product and technology global with initial exports estimated at A$1.5 million.

Sony Bank

- Austrade helped to facilitate the establishment of operations by Sony Bank in Australia, which will initially be an online-banking service in the Australian retail financial services industry.

Austrade was also closely involved in generating an investment lead for the potential establishment of a second generation biofuel commercial plant by JX Nippon Oil.

QoN 2 Ms Bishop – foreign direct investment rules

(transcript page no. 3)

'In the case of foreign direct investment into Japan and South Korea, what are their thresholds for triggering an inquiry into investment? Do they have a similar scenario to the one we have with the Foreign Investment Review Board under our Foreign Acquisitions and Takeovers Amendment Act? I would be interested to know whether there are different categories.'

....

'How restrictive are those countries on foreign direct investment and has that affected Australian investment in both countries? As for foreign direct investment from Japan and South Korea in Australia, can you tell me what levels there have been in different categories: residential, commercial... agricultural land, agricultural businesses.'

...

'There will of course probably be special areas like defence and telecommunications and the like. I will be interested in those as well as whether agribusiness or agricultural land is specified in either Japan or South Korea.'

Response:

Japan:

Japan's inward stock of FDI was only 3 per cent of GDP, the lowest in the OECD according to the OECD's 2011 *Economic Survey of Japan*[1]. Foreign-controlled affiliates accounted for only 3.1 per cent of Japan's total turnover in manufacturing, and 1.4 per cent in services, both the lowest in the OECD. According to the OECD's FDI restrictiveness index, Japan is the fourth-most restrictive country in the OECD (behind Iceland, Russia and New Zealand)[2]. Japan also has the strongest restrictions on foreign-equity investments, though other types of restrictions are less onerous, such as on the appointment of foreign managers.

The Japanese government acknowledges many of the restrictions facing foreign investors in Japan. The Expert Committee on FDI Promotion, established in 2008 under the Minister of Economic and Fiscal Policy in the Cabinet Office, identified in its final report issued in May 2008[3] a wide range of barriers and disincentives to FDI in Japan:

- regulatory and administrative procedures;
- strong resistance to FDI from the corporate sector;
- high corporate tax rates;
- lack of transparency on tax treatment for complex transactions;
- limited information on regional markets;
- insufficient capacity in the regions to deal with FDI; and
- language barriers.

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[1] http://www.oecd.org/dataoecd/16/57/48693414.pdf; http://www.oecd.org/document/62/0,3746,en_2649_34569_47651390_1_1_1_1,00.html

[2] Australia currently ranks seventh.

[3] See http://www.invest-japan.go.jp/pdf/jp/committee/recommendations_2_20080519.pdf

Regarding the regulatory and administrative barriers facing potential foreign investors in Japan, the Expert Committee concluded that:

- deregulation has not progressed as completely or as fast as necessary to promote significant growth in foreign investment;
- administrative guidance remains difficult to understand;
- the time required for administrative procedures is lengthy and unpredictable;
- the forms to be completed are numerous and complicated;
- implementation of regulation lacks transparency, consistency and predictability;
- verbal guidance during informal discussions with government officials is more prevalent than public comments and written responses such as no-action letters;
- complex regulatory and administrative procedures result in high regulatory compliance costs, which add to business costs;
- mergers and acquisition (M&A) takeover rules remain unclear, largely owing to the lack of accumulation of precedents and judicial reviews;
- despite new rules allowing triangular mergers, actual transactions are difficult to conclude owing to complex procedures.

Many of these restrictions apply equally to domestic companies, according to the Expert Committee. But corporate management in Japan displays an adversarial attitude to foreign investors. Japanese firms actively discourage foreign investment through cross-shareholdings and the use of defensive measures such as poison-pill takeover measures.

To address some of these issues, the Japanese government implemented the Inward Investment Promotion Program in 2010, cutting the corporate tax rate, deregulating investment procedures, and offering incentives such as preferential tax treatment and subsidies. But many of these measures are yet to come into effect.

There are very few cases of the Japanese government failing to approve foreign investment applications; only one foreign-investment request has been declined in the last thirty years[4].

<u>Japan's legal framework for foreign investment</u>

Japan does not have a screening process for inward FDI *per se*, requiring in most cases only notification after the fact. But in certain industries, advance notice is still required. The laws governing such cases, as well as the foreign ownership thresholds that apply in each case, are discussed below.

Foreign investment in Japan is regulated primarily by the *Foreign Exchange and Foreign Trade Act (FEFTA)*[5], supplemented by the Cabinet Order on Inward Direct

[4] In April 2008 the Children's Investment Fund, a UK-based hedge fund, was denied permission to raise its stake in J-Power, an electricity utility, from 9.9 to 20 per cent, on the grounds of national security.

[5] Act No. 228 of 1 December, 1949.

Investment (IDI)[6] and the Ministerial Ordinance on IDI[7]. In 1979, when the *FEFTA* replaced the previous law governing FDI (the *Act on Foreign Capital*), the system's operating principle switched from one requiring advance permission to one requiring advance notification.

In addition to the *FEFTA*, foreign investment is also subject to the *Prohibition of Private Monopolisation and Maintenance of Fair Trade Act* (hereafter, the *Anti-Monopoly Act*)[8]. Section 9 of the *Anti-Monopoly Act* prohibits the establishment or transformation of a company which constitutes an "excessive concentration of economic power" by the acquisition or possession of shares (including those of employees) of a Japanese company[9]. But this law applies equally to domestic and foreign companies.

Following the 1991 revision of the *Foreign Exchange and Foreign Trade Act* (*FEFTA*), most foreign investment transactions became subject to post-transaction reporting only. But prior notification is still required for certain inward direct investment in sensitive industries, defence and utilities. The Cabinet Order on IDI[10] also requires prior notification of inward direct investment in companies that have technologies which could be converted to military use. Notification must be made to both the minister with jurisdiction over the business in question and the Minister of Finance. In practice, documents are delivered to the Bank of Japan for formal acceptance, as affairs concerning the *FEFTA* are delegated to the Bank of Japan.

Under Article 27 of the *FEFTA*, certain foreign investments are subject to pre-transaction notification and require government approval. Under this category, the government may exercise the power to recommend or order a change or discontinuation of the proposed investment.

Two factors determine the need for pre-transaction notification filing. The first is the nationality of the foreign investor. Pre-transaction notification filing is required for inward direct investment from countries with which Japan does not have a reciprocal investment agreement. The second is the sensitivity of the business/industry in which the investment is proposed. The investor must notify the government if the proposed investment has a risk of causing one of the following conditions:

(i) impairing of national security;

(ii) disturbing public order;

(iii) hindering public safety; or

[6] Cabinet Order No. 261 of 11 October, 1980.
[7] Ordinance of Cabinet Office, Ministry of Finance, Ministry of Education, Ministry of Welfare, Ministry of Agriculture and Fishery, Ministry of International Trade and Industry, Ministry of Transportation, Ministry of Postal Services, Ministry of Labour, Ministry of Construction No. 1 of November 20, 1980.
[8] Act No.54 of April 14 1947
[9] http://www.jftc.go.jp/en/legislation_guidelines/ama/amended_ama09/04.html

[10] Cabinet Order No. 261 of 11 October, 1980

(iv) significant harm to the smooth management of the Japanese economy.

Examples of businesses/industries that fall under each of these categories include:

(i) aircraft, weapons, nuclear power, space development, gunpowder;

(ii) electricity, gas, heat supply, communications, broadcasting, water services, railways, passenger transportation;

(iii) biological chemicals, guard services; or

(iv) primary industries relating to agriculture, forestry and fisheries, oil, leather and leather product manufacturing, air transport and maritime transport.

In principle, the foreign investor has to make a judgment on whether the target company is subject to pre-transaction filing or not, based on public information and direct inquiries to the target company. But in cases where it remains unclear whether the target company is engaged in a business that requires pre-transaction filing, the investor may make an inquiry to the ministry having jurisdiction. This requirement could act as a potential disincentive to foreign investment in these sectors.

Foreign investment in a number of industries is also regulated by various sectoral laws. These laws generally limit the voting rights held by foreign investors or deny business licences to foreign investors. As such, the purchase of shares does not necessarily guarantee voting rights because the transfer of shareholder registration may be refused. These sectoral laws are as follows:

***Nippon Telegraph and Telecommunications Company Law*[11]**

Under the *Nippon Telegraph and Telecommunications Company Law* (the *NTT Law*), the transfer of shareholder registration is prohibited if such a transfer results in holdings by "foreigners, etc" of one-third or more of voting rights. "Foreigners, etc" refers to:

(i) an individual who is not a Japanese national[12];

(ii) a foreign government or its representative;

(iii) a foreign firm or organisation; or

(iv) a firm or organisation in which 10 per cent or more of voting rights are held by (i), (ii) or (iii) above.

[11] Law No. 85 of 1984.

[12] Unlike FEFTA, which specifically uses the term "resident", these industry laws use the term "nationals". As such, Japanese nationals who are non-residents would not be considered foreigners.

Radio Law[13]

The *Radio Law* prohibits the issuance of the wireless radio licences to the following (Article 5-4):

(i) an individual who is not a Japanese national;

(ii) a foreign government or its representative;

(iii) a foreign firm or organisation;

(iv) a firm or organisation in which 20 per cent or more of voting rights are held directly or indirectly by (i), (ii) or (iii) above[14]; or

(v) a firm or organisation which has a director whose radio license was cancelled within the last two years.

But category (iv) does not prevent foreign investors purchasing shares to acquire 20 per cent or more of voting rights in a company which already owns a wireless radio license.

Japan Broadcasting Law[15]

Under the *Japan Broadcasting Law*, the transfer of shareholder registration may be denied if such a transfer results in holdings by "foreigners, etc" of 20 per cent or more of voting rights, provided that the shares are listed on an exchange (Article 52-8). "Foreigners, etc" refers to:

(i) an individual who is not a Japanese national;

(ii) a foreign government or its representative;

(iii) a foreign firm or organisation; or

(iv) a firm or organisation in which 20 per cent or more of voting rights are held directly or indirectly by (i), (ii) or (iii) above.[16]

Aviation Law[17]

The *Aviation Law* prohibits the following from entering the air transport business (Article 101-9):

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[13] Law No. 131 of 2 May 1950.
[14] Includes a firm or organisation in which (i), (ii) or (iii) holds a position of managing executive officer.
[15] Law No. 132 of 2 May 1950.
[16] Includes a firm or organisation in which (i), (ii) or (iii) holds a position of managing executive officer.
[17] Law No. 231 of 15 July 1952.

(i) an individual who is not a Japanese national;

(ii) a foreign country or a foreign public entity and similar institution;

(iii) a firm established under a foreign law; or

(iv) a firm or other organisation in which one-third or more of voting rights are held by (i), (ii) or (iii) above.

But clause (iv) does not prevent the purchase of shares by foreigners to acquire one-third or more of voting rights in a company that has already been approved to conduct air transport business. To respond to such cases, Article 120-2 of the *Aviation Law* states that an air transport company or its holding company may deny transfer of shareholder registration if such a transfer results in holdings by "foreigners, etc" of one-third or more of voting rights, provided that the shares are listed on an exchange.

Other

The *Freight Transport Law*[18] limits holding of voting rights by foreigners to less than one-third in freight transport companies.

The *Mining Law*[19] prohibits foreigners from acquiring mining rights. Although investments in certain sectors of the mining industry are permitted, these are not equivalent to mining rights. Article 17 of the *Mining Law* permits only Japanese nationals and Japanese firms to hold mining rights. Prior notification regarding investment is required only for the sub-sectors listed in Annex 5 and 7, as well as the sub-sectors that do not appear in Annex 8.

The *Financial Instruments and Exchange Act*[20] limits holding of voting rights by any person, whether foreign or Japanese, to less than 20 per cent in any securities exchange in Japan (for example, the Tokyo Securities Exchange or the Osaka Securities Exchange).

[18] Law No. 82 of 9 December 1989
[19] Law No. 289 of 20 December 1950
[20] Act No. 25 of 1948

Republic of Korea (ROK):

ROK policy is to welcome foreign direct investment. In particular, the ROK implemented a number of FDI-friendly policies after the Asian Financial Crisis in 1998. There are now few formal restrictions on foreign investment, most investment notifications are automatically approved and the process is transparent with a negative list of proscribed areas.

But challenges remain for investors in the ROK which explain its low levels of inbound foreign investment. The cost of doing business can be high. Some sectors are highly-regulated, and some labour unions have a reputation for militancy. Some Korean business practices can also be difficult to internationalise. For example, Standard Chartered bank's attempts to introduce performance-related promotions resulted in a long-standing union-led strike to retain the Korean practice of promotion based on length of service.

To encourage foreign investment, the ROK has appointed an ombudsman for foreign-investment concerns and a formal regulation-review process to determine if new regulations are required or could be improved. It also provides some incentives to attract foreign investment, such as tax concessions and cash grants.

The ROK's legal framework for foreign investment

Regulation of foreign investment in the ROK falls under the Foreign Investment Promotion Act (FIPA). Foreign investors may establish a wholly-owned company or joint venture company. Both the minimum amount of the foreign investment and the stock ratio are prescribed in the FIPA:

- Minimum Foreign Investment Amount (the threshold): KRW100 million (A$85,000)
- Foreign Investment Ratio: 10 per cent or more of the voting stocks or total invested capital

Foreign Investment needs to be notified the Korean Trade-Investment Promotion Authority (KOTRA) or to a commercial bank. If it does not fall into a restricted category, it is automatically approved.

According to Invest Korea, out of a total of 1,145 categories of business under the Korean Standard Industrial Classification (KSIC), foreign investment is not permitted in 60 categories of business, as set out under the Regulations on Foreign Investment and Technology Introduction and the Consolidated Public Notice for Foreign Investment.

Business categories in which foreign investment is not permitted include:

- Public administration, diplomacy, and national defence
- Postal services, central banking, individual mutual-aid organizations, pension funding, administration of financial markets, activities auxiliary to financial service activities.
- Legislative, judiciary, administrative bodies, foreign embassies, extra-territorial organizations and bodies.
- Education (pre-primary, primary, secondary, higher education, universities, graduate schools, schools for the handicapped, etc.)

- Artists, religious, business, professional, environmental advocacy, political, and labour organizations.

In addition, foreign investment is restricted in a further 29 categories of business. In principle, foreign investment is not permitted in these restricted categories, except in certain circumstances, known as “standards for permission”. These categories are set out in the table below:

ROK: Business categories in which foreign investment is restricted

<table>
<tr><th>Category of Business (KSIC)</th><th>Standards for Permission</th></tr>
<tr><td>Growing of cereal crops and other crops for food (01110)</td><td>- Growing of rice and barley is prohibited</td></tr>
<tr><td>Farming of beef cattle (01212)</td><td rowspan="2">- Permitted where the foreign investment ratio is less than 50 per cent</td></tr>
<tr><td>Inshore and coastal fishing (03112)</td></tr>
<tr><td>Manufacture of other basic inorganic chemicals (20129)</td><td rowspan="2">- Permitted with the exception of manufacture and distribution of nuclear fuel</td></tr>
<tr><td>Manufacture of other smelting, refining and alloys of non-ferrous metals (24219)</td></tr>
<tr><td>Nuclear power generation (35111)</td><td>- Prohibited</td></tr>
<tr><td>Hydroelectric power generation (35112)
Fire power generation (35113)
Other power generation (35119)</td><td>- The sum of power-plant facilities purchased by foreigners from Korea Electric Power Corporation (KEPCO) must not surpass 30 per cent of the total domestic power plant facilities</td></tr>
</table>

Transmission and distribution of electric power (35120)	- The foreign investment ratio must be less than 50 per cent - Voting stocks owned by foreign investors must be less than dominant stocks held by Korean nationals
Disposal of radioactive waste (38240)	- Radioactive waste management business is prohibited under Article 82 of the Electric Utility Act
Wholesale of meat (46312)	- Permitted where the foreign investment ratio is less than 50 per cent
Coastal water passenger transport (50121) Coastal water freight transport (50122)	- Permitted: Transport of passengers or freight between South and North Korea; - Joint venture with a shipping company of the Republic of Korea; - The foreign investment ratio is less than 50 per cent
Scheduled air transport (51100) Non-scheduled air transport (51200)	- Permitted where the foreign investment ratio is less than 50 per cent
Publishing of newspapers (58121)	- Permitted where the foreign investment ratio is less than 30 per cent
Publishing of magazines and periodicals (58122)	- Permitted where the foreign investment ratio is less than 50 per cent
Radio broadcasting (60100)	Prohibited
Over-the-air broadcasting (60210)	Prohibited
Program distribution (60221)	- Permitted where the foreign investment ratio is 49 per cent or less (* General programming channel and specialized news channel businesses are prohibited.) * Program distribution refers to program providing business under the Broadcasting Act
Cable networks (60222)	- CATV broadcasting business is permitted where foreign investment ratio is 49 per cent or less (* CATV relay

	broadcasting business is prohibited)
Broadcasting via satellite and other broadcasting (60229)	- Permitted where foreign investment ratio is 33 per cent or less (* Internet multimedia broadcasting business is permitted where the foreign investment ratio is 49 per cent or less)
Wired telecommunications (61210) Mobile communications (61220) Satellite communications (61230) Other electronic communications (61299)	- Permitted where the sum of shares (limited to voting shares, including depositary receipt (DR) and other share equivalents and equity interests) held by a foreign government or a foreigner (including fictitious corporation of foreigners) is 49 per cent or less of the total issued shares of the company (Foreigners are not allowed to become a majority shareholder of KT. But, they may invest in KT where they own less than 5 per cent of the total shares.) * Fictitious corporation of foreigners: a corporation whose largest shareholder is a foreign government or a foreigner (including a specially-related person as referred to in Article 9 (1) 1 of the Financial Investment Services and Capital Markets Act), and not less than 15/100 of the gross number of whose issued stocks are owned by the said foreign government or foreigner. - Telecommunications resellers business (61282) is permitted - Supplementary communications business is not restricted
News agency activities (63910)	- Permitted where the foreign investment ratio is less than 25 per cent
Domestic commercial bank (64121)	- Permission is limited to commercial banks and local banks (*Foreign investment in specialised banks, and agricultural/fisheries/livestock cooperative banking activities are prohibited.)

Data on foreign investment from Japan and the ROK by industry

The Foreign Investment Review Board (FIRB) publishes data on FIRB-approved foreign investment by industry sector. The most recent data for Japan and the ROK are attached on page 13. This data only captures those proposed investments that fall within the scope of the Foreign Acquisitions and Takeovers Act 1975 and Australia's Foreign Investment Policy, and therefore is not a measure of actual or total foreign investment. For example, FIRB statistics measure only direct investment, not portfolio or other investment. Nor do they measure when (or if) an approved investment is realised, or any subsequent withdrawal of direct investment from Australia.

The Australian Bureau of Statistics' (ABS) publishes data on foreign investment into Australia by country (see table below), but it does not routinely release data disaggregated by industry for individual countries. In part, this is because such disaggregated data may not accurately reflect the end use of the funds. For example, Australian banks and financial intermediaries may on-lend investment funds sourced from overseas to clients in a range of other industries. Another problem is that significant parts of the data cannot be published because of confidentiality requirements under the Census and Statistics Act of 1905. In response to a DFAT request, the ABS provided a customised product, attached on page 14, containing some limited data on foreign investment from Japan and the ROK in 2008 (the latest the ABS was able to provide).

Total foreign investment in Australia – top 10 sources*
(A$ billion, 2010 – most recent currently available)

	2009	2010	Rank in 2010	% share 2010	% change 2009 to 2010
Total	**1,907**	**1,968**		***100.0***	***3.2***
United States	515	550	1	*27.9*	*6.8*
United Kingdom	499	473	2	*24.0*	*-5.3*
Japan	103	118	3	*6.0*	*14.7*
Singapore	41	44	4	*2.2*	*6.5*
Netherlands	43	42	5	*2.2*	*-2.3*
Hong Kong (SAR of China)	43	41	6	*2.1*	*-5.6*
Germany	38	41	7	*2.1*	*6.6*
Switzerland	32	41	8	*2.1*	*26.4*
New Zealand	32	34	9	*1.7*	*6.6*
France	23	24	10	*1.2*	*3.9*
China	17	20	12	*1.0*	*17.4*

Based on ABS catalogue 5352.0.

*The ROK's total stock of investment in Australia as at the end of 2010 was $9.4 billion, making it Australia's then sixteenth-largest source of foreign investment.

Foreign Investment Review Board foreign investment approvals by country of investor in 2010-11 — industry sector

Country(a)	Number of approvals(e)	Agriculture forestry & fishing $m	Finance & insurance $m	Manufacturing $m	Mineral exploration & development $m	Real estate $m	Resource processing $m	Services $m	Tourism $m	Total $m
US	190	38	1,017	4,337	1,808	3,404	-	17,015	-	27,620
UK	1,005	106	1,679	644	5,551	4,610	25	2,734	-	15,349
China(b)	5,033	4	558	416	9,758	4,093	132	16	-	14,976
Canada	112	104	-	-	9,317	807	-	4,651	-	14,879
India	320	-	-	2,000	8,929	163	-	168	-	11,260
Singapore	535	-	3,606	1,639	688	1,727	1,750	59	76	9,545
Japan	123	-	1,335	1,251	4,893	598	-	590	-	8,666
Spain	19	-	-	-	2,344	407	600	4,398	-	7,750
Sw itzerland	53	300	-	-	711	455	-	6,089	-	7,555
Germany	126	-	376	1,865	232	1,128	-	1,048	-	4,649
France	82	-	-	1,270	911	45	-	1,149	-	3,376
Thailand	33	-	-	250	2,566	13	82	-	63	2,973
Russia	65	-	-	-	2,561	245	-	-	-	2,806
Malaysia	896	-	-	355	461	1,863	2	103	-	2,784
Sth Korea	90	-	420	-	1,445	497	-	-	-	2,362
Netherlands	62	-	27	-	-	1,691	-	571	-	2,289
New Zealand	32	-	-	757	1,110	64	-	163	6	2,100
Hong Kong	98	97	-	-	1,383	404	-	-	-	1,884
United Arab Emirates	9		-		-	1,088	-	392		1,480
South Africa	347	-	-	-	372	826	-	-	-	1,198
Other(c)	1,341	124	286	-	1,425	10,684	-	1,622	-	14,141
Sub-total	*10,571*	*773*	*9,304*	*14,783*	*56,465*	*34,815*	*2,591*	*40,769*	*145*	*159,644*
Australia(d)	177	758	4,435	230	1,439	5,750	-	6,732	-	19,345
Total	**10,748**	**1,531**	**13,739**	**15,013**	**57,904**	**40,564**	**2,591**	**47,501**	**145**	**178,989**

Note: Totals may not add due to rounding.
'-' indicates a figure of zero.

Source: Foreign Investment Review Board Annual Report 20010-11

Japanese and South Korean Investment by industry division (2008 - latest available)

All data in $AUD millions.

"n.p." denotes not published due to confidentiality rules under the Census and Statistics Act of 1905

		Industry division											
Country	Data Item	Agriculture, forestry and fishing	Mining	Manufacturing	Electricity, gas and water	Construction	Wholesale & Retail trade	Accommodation, cafes and restaurants	Transport & Communication	Finance and insurance	Property and business services	Other Services	Unallocated
South Korea	Direct Investment Abroad	-	-	n.p.	-	-	0.1	-	-	n.p.	n.p.	-	-
	Direct Investment Abroad: Equity Capital and Reinvested Earnings	-	-	n.p.	-	-	-	-	-	n.p.	-	-	-
	Direct Investment Abroad: Other Capital	-	-	n.p.	-	-	0.1	-	-	-	n.p.	-	-
	Direct Investment in Australia	-	n.p.	n.p.	-	-	n.p.	-	-	n.p.	-	-	n.p.
	Direct Investment in Australia: Equity Capital and Reinvested Earnings	-	n.p.	n.p.	-	-	n.p.	-	-	n.p.	-	-	-
	Direct Investment in Australia: Other Capital	-	n.p.	n.p.	-	-	n.p.	-	-	n.p.	-	-	n.p.
Japan	Direct Investment Abroad	-	223.8	362.3	-	-	234.6	n.p.	n.p.	1,047.2	n.p.	-	n.p.
	Direct Investment Abroad: Equity Capital and Reinvested Earnings	-	n.p.	n.p.	-	-	n.p.	n.p.	n.p.	n.p.	n.p.	-	-
	Direct Investment Abroad: Other Capital	-	n.p.	n.p.	-	-	n.p.	-	-	n.p.	n.p.	-	n.p.
	Direct Investment in Australia	-	19,318.0	8,910.6	n.p.	-	5,802.2	n.p.	n.p.	1,917.0	n.p.	-	210.7
	Direct Investment in Australia: Equity Capital and Reinvested Earnings	-	n.p.	n.p.	n.p.	-	4,379.8	-	n.p.	n.p.	n.p.	-	n.p.
	Direct Investment in Australia: Other Capital	-	n.p.	n.p.	n.p.	-	1,422.4	n.p.	n.p.	n.p.	n.p.	-	n.p.

Source: Australian Bureau of Statistics. Please see explanatory note on page 12.

QoN 3 Mr Adams – agricultural land

(transcript page no. 5):

[with reference to Ms Bishop's question and Mr Rowe's response concerning agricultural land] 'Can we have a bit of a breakdown on how they do that—on what their processes area? Do they have a state law? Is it a statute?'

Response:

Japan:

Currently, all foreigners and Japanese citizens and companies are on an equal footing in terms of eligibility to acquire Japanese real estate. The Japanese government has no formal oversight of property transactions and little ability to track foreign-property purchases. But a parliamentary study group has been established to review the current system and legislation. And Japanese law requires a pre-transaction notification requirement in Japan in cases where a foreign investment in agriculture, forestry and fisheries might have a "significant adverse effect on the smooth management of the Japanese economy".

ROK:

For foreigners acquiring land in the ROK, applicable laws and procedures differ by acquisition purpose, domestic residence, and whether the buyer is an individual or a corporation.

All foreign purchasers of land in the ROK must report the deal to mayors, county governors and the head of the Gu district office within 60 days of the date of signing. When foreigners acquire land in Korea by inheritance or auction, they should report the fact to mayors, county governors, and the district office within six months of land acquisition. If the intended land purchase is in a military facility protection area, the investor has to obtain permission before signing an acquisition deal.

In principle, the Farmland Act bans possession of farmland by anyone other than those using or planning to use farmland to manage their own agriculture. But owning farmland of less than 1,000 m^2 in size for use as an agricultural hobby or for leisure purposes is permissible even if the agricultural land is not used for the owner's own agricultural management. These restrictions apply to foreigners and Koreans alike. But foreigners also have restrictions placed on what they can farm. They cannot grow barley or rice for example, meaning that most of the prime farm land which is dedicated to rice for example, would be off-limits.

QoN 4 Mr Adams – blockages to university links with the ROK

(transcript page no. 5-6):

'I am interested in how we are being blocked, from our universities' point of view, from being able to link to Korea.' ... 'I would be interested to know what those blockages are and what we have to knock down in the sense of having access to them.'

Response:

- English-language proficiency is still a barrier. Although English is widely studied, proficiency levels are mixed in the ROK, despite ongoing emphasis and efforts. This can make it more difficult for some Korean students to come to Australian universities for formal student exchanges and short-term semester studies. Likewise, relatively few Australian students have the level of Korean language proficiency required to study in Korea (given the programs there are largely conducted in Korean) resulting in relatively few students going to Korea from Australia.

- Some Korean universities seek cooperative agreements with Australian universities to enable the two-way exchange of students between each country. But as relatively few Australian universities send students to Korea, concluding such reciprocal arrangements is often challenging.

- US and UK institutions may often be favoured by Korean universities for collaborative arrangements.

- Professional accreditation can also be an issue for Australian-trained graduates. Australian professionals may be required to apply for professional recognition from relevant professional bodies in Korea, which may often involve additional requirements before accreditation can be achieved.

Nevertheless, the ROK is still the third-largest source country of international students in Australia.

QoN 5 Mr Adams – competition in education exports in the ROK

(transcript page no. 6):

[with reference to Mr Cooper's comments on competition in education exports to the ROK] 'Could we get a little bit on that as well?'

Major English-speaking competitors in the Korean market are the US, UK, Canada, the Philippines, and to some extent New Zealand. Their recruitment strategies are similar to Australia's in leveraging education fairs, agents, websites and social media to recruit students.

The USA has been very active in the market with frequent visits by providers, and generous scholarship schemes. Canada has mitigated immigration regulations to enable more overseas students to study in Canada, whereas the Philippines has been attracting Korean students seeking a lower-cost education option than Australian education. Partially this is also a result of the high Australian dollar. The US is the only country that hasn't experienced a recent decrease in Korean student numbers.

QoN 6 Ms Saffin – financial services opportunities

(transcript page no. 6-7):

[with reference to opportunities in the financial services sector] 'Do any that are there come to mind?'

Response:

Japan has the world's second-largest pool of investable wealth. According to Bank of Japan statistics, financial assets held by Japanese households and pension schemes total over A$18.8 trillion. Japan is the largest asset management market in Asia, totalling more than A$4 trillion in assets under management, with the institutional segment representing about 75 per cent of the market.

Examples of Australian financial services firms active in Japan include:

ANZ Bank

ANZ opened its first representative office in Tokyo in 1969. Following acquisition of a full banking licence in 1984, the Tokyo office upgraded to a branch. In 1990, ANZ became the first Australian bank to open a branch in Osaka. ANZ's retail, corporate and institutional banking products and services include project and structured finance, corporate finance, commodity and trade finance, investor services, markets and foreign exchange.

National Australia Bank

National Australia Bank Limited (NAB) has had a presence in Japan through its Tokyo branch since 1969, and opened a sub-branch in Osaka in April 2009. NAB in Japan provides corporate, institutional and personal banking services.

Commonwealth Bank of Japan

The Tokyo branch of the Commonwealth Bank was established in 1986, and provides integrated financial services including retail, premium, business and institutional banking, funds management, superannuation, insurance, investment and broking services.

First State Investments

First State Investments (FSI) is the international operation of Colonial First State Global Asset Management (CFSGAM), the specialist asset-management business of the Commonwealth Bank of Australia. FSI opened a representative office in Tokyo in September 2010. It provides asset-management services to wholesale and institutional investors across a diverse range of domestic and global asset classes, including equities, cash, fixed interest and credit, property securities, listed infrastructure, listed and unlisted property, and direct infrastructure.

Macquarie Capital Securities (Japan) Limited, Tokyo branch provides services to Japanese and overseas institutional investors as part of Macquarie Group in Asia. In Japan, Macquarie Capital Securities provides a range of services for institutional investors, including sales and trading of Japanese equities, and research reports and analysis. Macquarie Group established a presence in Japan in 2000.

AMP Capital Investors KK

Funds under management by AMP Capital Investors sourced from Japan amounted to more than A$7 billion as of 31 Dec 2011. AMP Capital Investors works with institutional investors such as public pension funds, corporate pension funds and financial institutions. It also participated in the launch of the first global Real Estate Investment Trust fund in Japan.

QoN 7 Ms Saffin – joint infrastructure ventures

(transcript page no. 7):

'...are there any joint-infrastructure ventures between Australia and Japanese and Korean businesses in Australia to undertake work in Japan or Korea and third countries?'

Response:

Austrade is not aware of any three-way joint ventures (Australia, Japan and the ROK) in Australia. Two examples of two-way joint ventures in Australia include:

- Marubeni Group (Japanese), Plenary Group, IPP Australia, Aveng Australia and Keolis SA jointly won a project to build and manage the Light Rail project on the Gold Coast. The13-kilometre corridor from Griffith University to Broadbeach is due to open in 2014. According to the announcement of the deal:

  "Light rail vehicles (LRVs) will be manufactured and supplied by the world's leading supplier of rail transport systems, Bombardier. Design and construction of major structures and track will be performed by leading Australian engineering and civil construction firm McConnell Dowell.   Construction works will be executed over three years, with services expected to commence in 2014."

- Itochu is a partner with Suez Environment, Thiess, and Macquarie Capital Group in the Victorian Desalination Project, designed to provide a reliable water supply for Melbourne and surrounding regions. The Plant was to be completed at the end of 2011, and carries operating responsibility under a Public Private Partnership (PPP) structure for 27 years. The project will supply up to 150 billion litres of water a year to Melbourne, Geelong, and via other connections, South Gippsland and Westernport towns.

QoN 8 Ms Saffin – national market intelligence service

(transcript page no. 7):

'[the South Australian Department of Primary Industries and Resources] seem to have a very specific idea about what a national market intelligence service should look like. It might be worth your having at look at what they said, if you do not mind.'

Response:

The South Australian Department of Primary Industries and Resources' submission correctly points out the importance of accurate and timely market information in enabling Australian businesses to make informed business decisions. Providing such information, by drawing on our network of international offices including those in Japan and the ROK, is a core component of the services Austrade provides to Australian companies.

Austrade has a priority focus on identifying and delivering high-quality, well-qualified trade opportunities to internationally ready Australian suppliers. Trade opportunities are quality international sales leads identified by Austrade offshore offices to meet a specific need from a qualified buyer that Australian exporters should be able to contest and supply. Austrade provides all opportunities on a non-exclusive basis, and distributing opportunities widely to Australian firms is a fundamental operating principle for Austrade. Because of the diverse requirements of Australian companies, we offer market information through tailored trade services. These tailored services include:

- Providing information and advice on doing business in international markets;
- Help with international market selection;
- Identification of relevant international contacts;
- Assistance with market entry and expansion; and
- Identification and follow-up of specific international business opportunities.

QoN 9 Mr Scott – status of Japan's nuclear reactors

[with reference to nuclear power generation] 'Did you say that they have shut them all down or they shut some based on date? ... 'If you do have the information, were they the 20- or 30-year-old ones or the new gen?'

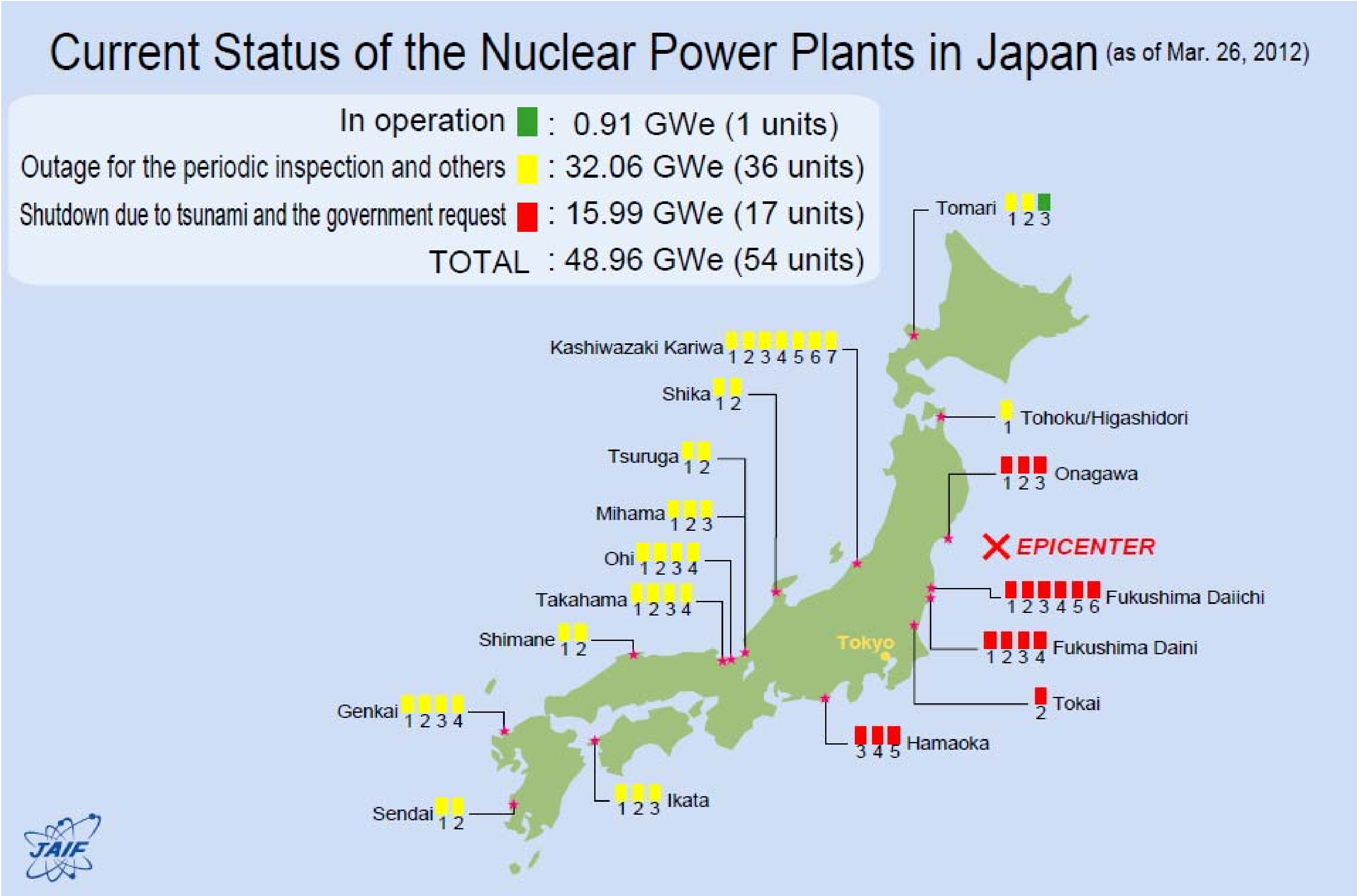
Response:

Of Japan's 54-nuclear power reactors, 11 entered automatic shutdown immediately after the 11 March 2011 earthquake and tsunami, including the three reactors then operating at the damaged Fukushima Dai-ichi plant. These 11 reactors were all located in Japan's northeast region, which was most affected by the disasters.

Since 11 March 2011, Japan's other operating nuclear- power reactors have successively shutdown for periodic inspections, which by Japanese law are undertaken every 13 months. But strong public opposition, and additional government-required safety checks, have so far prevented any offline reactors from being restarted. As reactors have successively shut down for periodic inspections, and not restarted, Japan's pool of operating nuclear reactors has fallen. Thus, reactors have been shut down according to the timing of each scheduled periodic inspections, rather than age.

The last operating unit, in the northern island of Hokkaido, is due to shut down by the beginning of May 2012, at which time none of Japan's nuclear power reactors will be operating. The political debate in Japan surrounding nuclear reactors remains intense and it is unknown if and when reactors will be restarted.

More detail on the status and age of Japan's nuclear power plants is below.



<u>Source</u>: Japan Atomic Industrial Forum: http://www.jaif.or.jp/english/

Status of Japan's nuclear reactors before and after the 11 March 2012 earthquake

As of April 9, 2012, JAIF
*Updates are underlined

Owner	Plant Name	Unit	Type of Reactor (Number of Loops)	Output (MWe)	Date of Commercial Operation	Plant Status on March 11, 2011 (before and after the Earthquake)	Current Plant Status	Stress test and restart status
JAPC	TOKAI(*)	2	BWR-5	1100	1978.11.28	In operation→ Automatic shutdown	Outage for PI (May 21, 2011 ~)	
	TSURUGA	1	BWR-2	357	1970.03.14	Outage for P.I. (Jan.26, 2011～)	Outage for PI (Jan. 26, 2011 ~)	
		2	PWR(4)	1160	1987.02.17	In operation	Outage for PI (Aug. 29, 2011 ~)	A
Hokkaido EPCO	TOMARI	1	PWR(2)	579	1989.06.22	In operation	Outage for PI (Apr. 22, 2011 ~)	A
		2	PWR(2)	579	1991.04.12	In operation	Outage for PI (Aug. 26, 2011~)	A
		3	PWR(3)	912	2009.12.22	In operation (Test operation during P.I.)	In operation (shutdown for PI by the beginning of May.)	
Tohoku EPCO	ONAGAWA (*)	1	BWR-4	524	1984.06.01	In operation→ Automatic shutdown	Outage for PI (Sept. 10, 2011~)	
		2	BWR-5 I	825	1995.07.28	Starting up during P.I.→ Automatic shutdown	Outage for PI (Nov.6, 2010~)	
		3	BWR-5 I	825	2002.01.30	In operation→ Automatic shutdown	Outage for PI (Sep. 10, 2011~)	
	HIGASHIDORI (*)	1	BWR-5 I	1100	2005.12.08	Outage for P.I. (Feb.06, 2011～)	Outage for PI (Feb. 06, 2011 ~)	A
TEPCO	FUKUSHIMA Daiichi (*)	1	BWR-3	460	1971.03.26	In operation→ Automatic shutdown	Working towards decommission	
		2	BWR-4	784	1974.07.18	In operation→ Automatic shutdown	Working towards decommission	
		3	BWR-4	784	1976.03.27	In operation→ Automatic shutdown	Working towards decommission	
		4	BWR-4	784	1978.10.12	Outage for P.I. (Nov.30, 2010～)	Working towards decommission	
		5	BWR-4	784	1978.04.18	Outage for P.I. (Jan.03, 2011～)	Outage for PI (In CSD since Mar. 20, 2011)	
		6	BWR-5	1100	1979.10.24	Outage for P.I. (Aug.14, 2010～)	Outage for PI (In CSD since Mar. 20, 2011)	
	FUKUSHIMA Daini (*)	1	BWR-5	1100	1982.04.20	In operation→ Automatic shutdown	Outage (In CSD since March 14, 2011)	
		2	BWR-5 I	1100	1984.02.03	In operation→ Automatic shutdown	Outage (In CSD since March 14, 2011)	
		3	BWR-5 I	1100	1985.06.21	In operation→ Automatic shutdown	Outage (In CSD since March 12, 2011)	
		4	BWR-5 I	1100	1987.08.25	In operation→ Automatic shutdown	Outage (In CSD since March 15, 2011)	
	KASHIWAZAKI KARIWA	1	BWR-5	1100	1985.09.18	In operation	Outage for PI (Aug.6, 2011 ~)	A
		2	BWR-5 I	1100	1990.09.28	Outage for P.I. (**)	Outage for PI (**)	
		3	BWR-5 I	1100	1993.08.11	Outage for P.I. (**)	Outage for PI (**)	
		4	BWR-5 I	1100	1994.08.11	Outage for P.I. (**)	Outage for PI (**)	
		5	BWR-5 I	1100	1990.04.10	In operation	Outage for PI (Jan.25, 2012 ~)	
		<u>6</u>	ABWR	1356	1996.11.07	In operation	Outage for PI (Mar. 26, 2012~)	
		7	ABWR	1356	1997.07.02	In operation	Outage for PI (Aug.23, 2011 ~)	A
Chubu EPCO	HAMAOKA	3	BWR-5 I	1100	1987.08.28	Outage for P.I. (Nov.29, 2010～)	Outage for PI (Nov.29, 2010～) (***)	
		4	BWR-5 I	1137	1993.09.03	In operation	Shutdown on May 13, 2011 (***)	
		5	ABWR	1380	2005.01.18	In operation	Shutdown on May 14, 2011 (***)	
Hokuriku EPCO	SHIKA	1	BWR-5 I	540	1993.07.30	Outage for equipment replacement (Mar.01, 2011～)	Outage for PI (Oct.8, 2011 ~)	A
		2	ABWR	1206	2006.03.15	Outage for P.I. (Mar.11, 2011～)	Outage for PI (Mar.11, 2011 ~)	A
Kansai EPCO	MIHAMA	1	PWR(2)	340	1970.11.28	Outage for P.I. (Nov.24, 2010～)	Outage for PI (Nov.24, 2010 ~)	
		2	PWR(2)	500	1972.07.25	In operation	Outage for PI (Dec.18,2011～)	
		3	PWR(3)	826	1976.12.01	In operation	Outage for PI (May.14,2011～)	A
	TAKAHAMA	1	PWR(3)	826	1974.11.14	Outage for P.I. (Jan.10, 2011～)	Outage for PI (Jan.10,2011～)	A
		2	PWR(3)	826	1975.11.14	In operation	Outage for PI (Nov.25,2011～)	
		3	PWR(3)	870	1985.01.17	In operation	Outage for PI (Feb.20,2012～)	
		4	PWR(3)	870	1985.06.05	In operation	Outage for PI (July 21,2011～)	<u>A</u>
	OHI	1	PWR(4)	1175	1979.03.27	Starting up during P.I.	Outage for PI (Dec. 10, 2010~)	A
		2	PWR(4)	1175	1979.12.05	In operation	Outage for PI (Dec.16,2011～)	
		3	PWR(4)	1180	1991.12.18	In operation	Outage for PI (Mar. 18, 2011～)	ABC
		4	PWR(4)	1180	1993.02.02	In operation	Outage for PI (July 22,2011～)	ABC
Chugoku EPCO	SHIMANE	1	BWR-3	460	1974.03.29	Outage for P.I. (Nov.08, 2010～)	Outage for PI (Nov.08,2010～)	
		2	BWR-5 I	820	1989.02.10	In operation	Outage for PI (Jan.27,2010～)	
Shikoku EPCO	IKATA	1	PWR(2)	566	1977.09.30	In operation	Outage for PI (Sept. 4, 2011~)	
		2	PWR(2)	566	1982.03.19	In operation	Outage for PI (Jan. 13, 2012~)	
		3	PWR(3)	890	1994.12.15	In operation	Outage for PI (Apr.29,2011～)	AB
Kyushu EPCO	GENKAI	1	PWR(2)	559	1975.10.15	In operation	Outage for PI (Dec.1,2011～)	
		2	PWR(2)	559	1981.03.30	Outage for P.I. (Jan.29, 2011～)	Outage for PI (Jan.29,2011～)	A
		3	PWR(4)	1180	1994.03.18	Outage for P.I. (Dec.11, 2010～)	Outage for PI (Dec.11,2010～)	
		4	PWR(4)	1180	1997.07.25	In operation	Outage for PI (Dec.25,2011～)	
	SENDAI	1	PWR(3)	890	1984.07.04	In operation	Outage for PI (May 10,2011～)	A
		2	PWR(3)	890	1985.11.28	In operation	Outage for PI (Sept. 1, 2011~)	A
total	54 units			48,960		In operation : 37 → 26 units	In operation : 1 units	

PI : Periodic Inspection **CSD** : Cold Shutdown
(*) Plants affected by the Great East Japan Earthquake (M9.0) and Tsunami on March 11, 2011. (**) Chuetsu-oki Earthquake in 2007
(***) By the government request on May 6, 2011 for shutdown till earthquake and tsunami countermeasures are completed.
Stress test and restart status: Primary Assessment is **(A)**: Submitted by Utilities **(B)**: Reviewed by NISA **(C)**: Confirmed by NSC. Restart **(D)**: Approved by Ministers **(E)**: Approved by local governments **(F)**: Restarted
<NOTE>
BWR containment vessels: MARK-I (BWR-2,BWR-3), MARK-I/II (BWR-4), MARK-II (BWR-5), Improved MARK-I/II (BWR-5), MARK-III (BWR-6), BWR-5 I=Improved BWR-5

<u>Source</u>: Japan Atomic Industrial Forum: http://www.jaif.or.jp/english/

QoN 10 Senator Macdonald – per-unit energy costs in Japan

(transcript page no. 8):

'Could you take on notice, if you have this information, give us a comparison of the unit cost of LPG versus coal versus nuclear versus hydro in the Japanese market?'

Question 4: What are the respective per unit costs in Japan of electricity generated from LNG, coal-fired and nuclear power plants?

Response:

According to a December 2011 report by the Cost Review Committee, Energy and Environment Council, Cabinet Office[21]:

- For electricity generated from LNG-fired power plants, the per unit costs are JPY 10.7 – 11.1/kWh (2010 figures);
- For electricity generated from coal-fired power plants, the per unit costs are JPY 9.5 – 9.7/kWh (2010 figures).
- For electricity generated from nuclear power plants, the per unit cost is JPY 8.9/kWh (2010 figure).

For both LNG and coal-fired power plants, the assumptions for the above costs are a capacity utilisation rate of 80 per cent and an operating life of 40 years. The range of the costs reflects differences in fuel costs between power plants.

For nuclear power plants, the assumptions for the above cost are a capacity utilisation rate of 70 per cent and an operating life of 40 years. The figure of JPY 8.9/kWh is a lower limit assuming accident risk costs are set at JPY 0.5/kWh per JPY 1 trillion in compensation costs and a minimum of JPY 6 trillion in compensation costs. Compensation costs resulting from the Fukushima nuclear accident are likely to exceed JPY 6 trillion.

[21] Japanese original: http://www.npu.go.jp/policy/policy09/pdf/20111221/siryo3.pdf; an English translation of the Energy and Environment Council's subsequent findings (which are based on this report) is available here: http://www.npu.go.jp/en/policy/policy06/pdf/20120403/20120402_basicprinciples%20_en.pdf

QoN 11 Ms Saffin – the Export Market Development Grants (EMDG) scheme

(transcript page no. 8-9):

'[The Australian Industry Group] noted in their submission that it was their view that there has been uncertainty for users of the EMDG scheme administered by Austrade due to the annual adjustments. We all know what they mean. Have you noticed any fluctuations or any lack of take-up in that area?

...

'Has there been a reduction in Australian SMEs seeking to invest and, if so, what steps are being taken?'

Response:

Over the past six financial years Export Market Development Grants (EMDG) applications received have totalled:

2006-07 - 3,813

2007-08 - 4,247

2008-09 - 4,472

2009-10 - 5,149

2010-11 - 4,585

2011-12 - 3,277

More generous provisions were introduced in 2008 which boosted application numbers for the first time in 2009-10, and an additional $50 million was allocated to the scheme for each of 2008-09 and 2009-10 only.

The reduction in numbers this financial year reflects the impact of global trading conditions and the 2010 legislative amendments to the scheme which were more closely aligned the scheme's provisions to the funding available.

QoN 12 Mr O'Dowd – the introduction of wagyu beef to Australia

(transcript page no. 9):

[with reference to introduction of wagyu beef to Australia]

'Then he had to ship them to America and then from America to Australia. He could not bring them straight to Australia. Was that for some quarantine regulation? Can you explain how that happened? Why did it have to happen like that?'

Response:

The Department of Agriculture, Fisheries and Forestry has provided DFAT with the following advice in relation to Mr O'Dowd's question:

When live wagyu cattle were first introduced into Australia in 1997, there was no agreed import health protocol for the transfer of live cattle from Japan—an essential criterion for the trade to occur. At that time, there was a protocol for the United States, which explains why the wagyu cattle were imported from the United States. Since 2003 Australia has no longer imported live cattle from any country owing to animal health concerns.

Further details on the history of the introduction wagyu into Australia is available at the Australia Wagyu Association website: http://wagyu.org.au/