

2003 Annual Review for Japan

A. General developments in industrial relations

1. Economic developments

Please give brief details of the economic situation in your country, including data on:

- economic growth;
- inflation;
- unemployment

In 2003, Japan's GDP grew by -0.1% over 2002 in nominal terms, but by +2.5% in real terms, which significantly exceeded the real growth rate in 2002 (-0.3%). Private demand, especially private capital investment, showed significant growth of 9.3% (-7.2% in 2002). Due to the recovery in overseas economic conditions, Japan's exports also rose by 10.1%, exceeding the 2002 level (8.0%). On the other hand, private final consumption expenditure remained virtually flat, with only +0.8% growth on the preceding year's level (0.9%). Conversely, public demand shrank by 2.1% (due to a reduction in public works). According to the 2004 "Annual Report on Japanese Economy and Public Finance / Economic Survey of Japan" (Cabinet Office), Japan's economic growth in 2003 can be attributed to three factors: i) increase in private demand, ii) improvements in corporate financial positions through reduction of excessive debt and employment, and iii) the brisk performance of Japan's stronger industrial sectors, such as digital consumer electronics.

Japan's economic recovery trend steadily pegged back the overall unemployment rate throughout 2003. It declined gradually from 5.5% in January 2003 to 4.9% in December 2003 (average for 2003 was 5.3%), going below 5% for the first time in 29 consecutive months. Since May 2003, the number of unemployed has also been falling month-on-month against the previous year, dropping by 90,000 to stand at 3.5 million for the full year. Long-term unemployed persons (i.e., out of work for one year or longer) still made up a significant proportion, at 34%. In terms of age bracket comparison, a decrease in the number and/or scope of corporate downsizing projects helped to prevent a further increase in the unemployment rate for middle-aged and older workers (i.e., unemployment rates have fallen by 0.3-0.5% from the 2002 level across all five age brackets spanning those aged 45 to 60 years). The youth unemployment rate remained high (11.9% for those aged 15-19 and 9.8% for the 20-24 age group), although there has also been a slowdown in growth of unemployment rates among these age groups. However, some analysts fear that the labour force participation rate for the younger generation is declining, because of the increase of young people who neither seek for jobs nor go to schools, and become non-labour force. These young people have been dubbed "NEET" (Not in Employment, Education or Training). People who were jobless due to employment mismatches accounted for 4.0% of the overall unemployment rate, while those unemployed because of insufficient demand represented a little over 1.0%.

For 2003, the number of employed persons stood at 52.96 million, an increase of 40,000 over the 2002 figure. However, closer examination shows that an increase in the number of temporary employees and day labourers compensated for a decrease in the number of full-time workers (down 60,000).

On the other hand, the price index has continued to fall. The GDP deflator dropped by 2.5% in 2003, and by 2.6% for the 1st and 2nd quarters in 2004, which represents the most serious deflation since the onset of the current recession.

2. Political developments

Please give brief details of:

- the government currently in office;
- any general (or particularly significant regional/local) elections which have been held recently;
- any significant political events to take place recently, notably where these had significance for industrial relations;
- any forthcoming general (or particularly significant regional/local) elections or significant political events.

Using the slogan, "No gain without reform", Prime Minister Junichiro Koizumi has survived in office for three-and-a-half years. As seen in the GDP growth rate and the stock price hike, Japan's economy has shown a gradual recovery. By implementing a new decision-making forum called the "Council on Economic and Fiscal Policy", comprising 11 members including cabinet ministers, scholars and businesspersons, Mr. Koizumi aims to introduce a prime minister-dominated, top-down policy-making process, which would be a move away from traditional LDP- and bureaucrat-dominated decision-making practices. Based on his philosophies of shifting "from public sector to private sector" and "from central government to local governments", the prime minister launched a series of new reform plans, including reforms for government, privatization of the Japan Highway Public Corporation and the postal service, together with the reform for the local public finance.

However, many criticise that, despite the introduction of these frameworks, Koizumi's reform plans are being watered down or shunted aside. Some also argue that the recent economic recovery has resulted from usual business cycle trends and self-reliant corporate downsizing efforts in the private sector. Though his approach of shifting away from the traditional LDP decision-making process and placing less emphasis on public works are credited, still, the result of the Upper House election held in July 2004, with participation in the multinational force in Iraq and pension reform being the major points at issue, seem to reveal the sink of public approval by the defeat of LDP and the big leap of Democratic Party in Japan, the largest opposition party.

3. Collective bargaining

Please outline any recent changes in the collective bargaining system in your country, in terms of the coverage of bargaining (ie the % of the workforce affected), the levels at which bargaining occurs (eg national, sectoral company), and the number of collective agreements negotiated.

- **The spring wage negotiation is losing its bargaining power**

Japan has no nationwide or regional labour-management negotiating processes to determine working conditions for employees. The nation's labour organizations operate under a triplicate structure: Enterprise unions, industrial trade union federations and the national centres. Usually, labour-management talks at the individual enterprise level would determine most working conditions including wage levels. On the other hand, industry trade unions do not enter into negotiation with employers, but do establish industry-wide targets and work out specific strategies, including negotiation duration and strike schedules, in order to improve the negotiation capabilities of their affiliated trade unions. Since about 1960, Japan's annual labour-management negotiations have usually taken place in March or April, giving rise to the name "shunto" (spring wage negotiation). In the spring wage negotiation, trade unions usually set their targets based on the wage hike obtained within the leading company in a particular industry. This means that wage hikes in the top companies have a significant impact on pay movements for workers in other major companies, the public sector, and small- and medium-sized enterprises (SMEs), leading to parity in Japan's overall remuneration levels.

Recent developments, such as the lower economic growth rate and more intensive international competition, have extended the degree of disparity in business performance between companies, thus making it more difficult for trade unions to set industry-wide wage hike targets and to achieve horizontally egalitarian pay rises than used to be the case before the late 1990s.

With the economy mired in a protracted slump and deflationary phase, the spring wage negotiations (shunto) have been difficult ordeals for trade unions over the past few years as they have been forced to choose between maintenance of employment levels and pay hikes. Since 1999 in particular, employers had been moving toward the concept of "total labour costs management", "company specific wage determination", and "performance-based pay systems". At the same time, employers have tried to avoid treating labour costs as fixed, emphasizing their view that achievements should not be reflected in "base-ups"*1 or regular pay increases*2, but rather in lump-sum bonuses and incentives.

*1: Wage hike due to pay revision that reflects a price index uptrend or corporation's business performance.

*2: Wage hike based on individual employee's ability or age (or service years).

- **Spring wage negotiations in 2003-2004**

With the majority of enterprise unions obliged to defer their demands for the “base-up”, the primary focus of wage talks in 2003 was on continuation of regular pay increase, and the amounts of lump-sum bonus payments.

Since the IT recession in 2001, Japan's major electronic products manufacturers have been reviewing their wage payment schemes. In the 2003 spring wage talks, these major manufacturers acceded to most of the trade unions' demands, including proposed regular pay increases. However, some companies entered into discussions with trade unions on amending their regular pay increase schemes, or seniority based wage systems from middle- to long-term viewpoint. Such consultations were done separate from the spring wage talks, suggests that the spring wage negotiation could be losing its bargaining power.

Since discontinuing submission of its unified demand for a basic wage hike in 2002, the Japanese Trade Union Confederation (RENGO) has placed more emphasis on improving common institutional frameworks for all workers, including shortening working hours, work-sharing schemes, and extension of retirement age limits. In the 2004 spring wage negotiation, RENGO worked on three main tasks: (1) Eradicating unpaid overtime work*, (2) Improving working conditions for part-timers, and (3) Providing proper support to employees of SMEs. In terms of (3), RENGO established its first-ever unified wage hike request level for SME trade unions. In the past, SME trade unions based their wage negotiations on wage hikes achieved within large corporations in the same year. However, the recent trend toward wage negotiations at large corporation level being held on an individual company basis, rather than industry-wide, has made it difficult for SME trade unions to determine their baseline wage hike levels. By setting a unified wage hike demand level for SME trade unions, RENGO has worked to eliminate, as far as is possible, disparities between company rates.

According to a RENGO analysis, the 2004 spring wage negotiations have led to larger wage hike than in 2003 at the SME level, and have also slightly raised the overall wage level, but RENGO also noted that there had been insufficient progress in raising part-timers' wage levels, and in eradicating unpaid overtime work. Japan Business Federation (Nippon Keidanren) has been pressing for the spring wage negotiation to become a forum for a wider variety of discussions, including corporate personnel systems, rather than focusing exclusively on wage hike talks as in the past. Nippon Keidanren has expressed confidence that the 2004 wage talks represented a positive move in that direction.

* See Working Hours section.

- **Collective bargaining and joint labour-management consultation process**

According to a government survey in 2002*, 64.6% of trade unions have experienced collective bargaining over the past three years, which represents a slight decrease from the 1997 survey level (65.1%). Of the trade unions that have umbrella organizations, 52% did not conduct collective bargaining because their "umbrella organization is in charge of collective bargaining". On the other hand, 79.1% of trade unions without umbrella organizations did not conduct collective bargaining because they "had discussions at their labour-management council". Trade unions intend to resolve labour-management difficulties through such forums as "labour-management council" (56.4%) and "collective bargaining" (39.2%). According to said survey, 80.6% of trade unions have their own labour-management councils. As for the trade unions with 300 or more members, 90% have labour-management councils. Japan has no applicable law that governs labour-management consultation processes, but this practice has already taken root in many Japanese companies. This means that many trade unions resolve labour disputes at an individual company level. As a rule, each trade union will have a different strategy for collective bargaining and labour-management consultation. They resort to collective bargaining to discuss "wages" (58.1%), "employment practices and personnel affairs" (41.5%), "working hours" (37.9%) and "company's management policy" (22.0%). On the other hand, they use the labour-management consultation process for discussing "employment practices and personnel affairs" (48.7%), "working hours" (45.0%), "working conditions" (41.8%) and "wages" (40.3%). When discussing "job security during a time of poor business performance", 20.3% replied that they use collective bargaining, while 28.5% replied that it's discussed at labour-management councils.

* Ministry of Health, Labour and Welfare, "Survey on Collective Bargaining and Labour Dispute", 2002. This survey covers 5,000 trade unions (Effective response rate: 80%)

See also "The 2002 Survey on Collective Agreements", which describes actual collective agreements in Japan.

Please give details of significant collective bargaining developments concerning the following specific themes:

- Pay (including the level of collectively-agreed pay increases, along with figures on increases in average wages, earnings, women's pay as a % of men's etc from official sources)

- **Wage hike achievements in the spring wage negotiations**

According to MHLW's annual survey on wage hike achievements in Japan's major companies during the spring wage negotiations, the 2004 wage talks pushed up the wage level by 1.67%, slightly exceeding the 2003 increase (1.63%). However, wage hikes have been in a state of long-term stagnation, falling from 5% at the time of the bubble economy collapse, and hovering around 1% since 2002. On the other hand, the coefficient of dispersion, which represents disparity between corporations, has been expanding since the collapse, and recorded a new high in 2004. There are no data available on pay raise achievements for SME workers in 2004, but the data indicate that SME workers experienced a 1.17% wage hike in 2003. As for bonuses, which account for a large proportion (probably a quarter, on average) of the annual income for Japanese workers, workers at major companies achieved a 3% hike (bonus amount: 781,930 yen) for the 2003 summer bonus, recovering from the 2002 level (down 4.3%), which was severely affected by the IT recession. (At this time there are no data available on the 2003 year-end bonus level or the 2004 summer bonus level.)

According to different data released by MHLW*1, 52.9% of companies "actually raised wage levels in line with their internal regular pay raise schemes", while 14.3% of respondent companies did not. On the other hand, 0.3% of respondent companies "postponed" their annual wage hikes, and 31.6% "do not have any regular pay raise scheme". (Note: This survey covers workers other than managerial staff.) 12.9% of the companies "cut wages or benefits for workers". In terms of part-timers' wage levels, 34.5% of the companies revised wage rates for part-timers, while 58.6% did not.

- **Trends in average wage level**

Workers whose wages are determined by the spring-time negotiations do not necessarily constitute the major proportion of the labour market in Japan, even when viewed in terms of unionization rate, and it should be noted that the wage increases that result from labour-management bargaining in these sectors, while having a major influence on general wage levels, are not always directly reflected in average wages. This matter was dealt with in the review for 2000, thus readers are referred to that document for further details.

According to the MHLW survey*2, the average monthly cash earnings for Japanese workers stood at 341,898 yen in 2003, down 0.4% from the 2002 level. Within the monthly salary, scheduled cash earnings (i.e., base salary) stood at 260,153 yen, down 0.3% from the 2002 level, while overtime payments and other non-scheduled cash earnings were 18,594 yen, (up 4%), with the special cash earnings (e.g., bonus) standing at 63,151 yen, down 2.0% from the preceding year. Comparing by type of employment, regular workers received 414,089 yen as their monthly salary (up 0.1%), while part-timers*3 received 94,026 yen (up 0.8%). Economic recovery pushed up overtime hours and non-scheduled cash earnings for the first time in these three years. However, average scheduled cash earnings have been decreasing, because more and more former full-time regular workers have become part-timers. For more information on the gender wage gap, see the Equal Treatment section, below.

*1: Ministry of Health, Labour and Welfare, "Survey on Wage Hike Achievements", which covers companies with 100 or more employees.

*2: Ministry of Health, Labour and Welfare, "Monthly Labour Survey", which covers business establishments with 5 or more employees.

*3: Those who have shorter scheduled working hours than regular workers.

- Working time, including working time reductions and flexibility agreements (including the average collectively-agreed normal week, along with figures on average normal and actual hours worked from official sources)

- **Working hours frameworks and actual practices**

Apart from the minimum standards for working hours laid down in the Labour Standards Law (in principle, a 40 hour work week comprising 8-hour days), no other national standards have been agreed between labour and management. Generally speaking, working hours are decided on the basis of negotiations between labour and management at the individual enterprise level.

According to the 2003 data on working hours, a typical Japanese firm sets its weekly working hours at 39 hours and 21 minutes. 35.9% of the companies have a five-day workweek, while 52.5% give two days off, every other week. On average, Japanese workers enjoy a total 104.7 days off per year (Source: *1).

Here is a comparison between a company's internal framework and actual practices in respect of working hours. According to said survey*2, the annual total hours actually worked in 2003 stood at 1,828 hours on average, down 0.1% from the 2002 level. Of these, average scheduled working hours stood at 142.3 hours a month (down 0.2% from the 2002 level), while non-scheduled working hours were 10.0 hours (up 4.8% from the 2002 level).

- **Unpaid overtime work**

Over the long term, annual total hours actually worked decreased from 2,400 hours in 1960 to stabilize at around 1,800 hours since the 40-hour workweek came into effect in 1988. Annual working hours are unlikely to increase sharply in the future, but it should be noted that the statistical data do not reflect "unpaid overtime", a work practice unique to Japan. In particular, young workers in their 20s and 30s recently have had to accept extremely long working hours because companies have been downsizing their workforces, and avoiding hiring new graduates. According to RENGO's survey of union members, 26% of respondents are experiencing unpaid overtime work "frequently" or "half of the work days in a month". The average unpaid overtime work is 30 hours a month. MHLW identifies companies that don't pay for overtime work. Because many workers are enduring significantly long working hours, MHLW initiated a comprehensive countermeasures package in May 2003. For your reference, Japanese workers are generally reluctant to enjoy paid vacations. The average Japanese worker took only 8.8 days of paid leave time in 2003 (i.e., 48.1% of the total 18.2 days paid leave that the average Japanese company offers its workers). This was a new record low*1.

As mentioned earlier, RENGO for the first time placed a priority on "eradicating unpaid overtime work" for the 2004 spring wage negotiation, but labour-management negotiations at individual company level did not yield any outcome in this regard. On the other hand, some member unions of the Japanese Electrical Electronic & Information Union focused on "proper work-family balance", and won better conditions on paternity leave in order to improve living standards for wage earners.

*1: Ministry of Health, Labour and Welfare, "Comprehensive Survey on Working Conditions"

*2: Ministry of Health, Labour and Welfare, "Monthly Labour Survey"

- Job security (ie agreed measures to maintain or increase employment, or to mitigate the effects of workforce reductions)

- **Work-sharing is not still popular**

In 1999, when Japan first experienced a situation of more than 3 million jobless workers, Nikkeiren (Japan Federation of Employers' Associations: former organisation of Nippon Keidanren) and RENGO jointly released a "Job Security Declaration", announcing that they would assume a social responsibility to secure and create jobs.

However, the unemployment rate rose by over 5% in 2001. Because analysts feared that the worldwide recession and Japan's accelerated bad-debt disposal would further increase unemployment, Nikkeiren and RENGO declared a "Social Agreement on Employment", to affirm that employers would make comprehensive efforts to maintain employment, and that in return, employees would accept lower wages resulting from shorter working hours. This approach is called an emergency-escape-type work sharing approach, but Japanese firms generally tend to cut working hours as an effective tool for employment adjustment. Even during an economic downturn, they first cut back on overtime work, rather than cutting employees. If this is not successful, they start relocating their workers or transferring them to their

subsidiaries. In this sense, work sharing is basically compatible with Japan's traditional employment practices, although it reduces the scheduled working hours, rather than cutting the non-scheduled working hours (i.e., overtime work).

Because of said Social Agreement, Japanese people began to recognize work sharing as an effective approach to diversifying working patterns. For example, work sharing may enable full-time employees to work every second day, or to work shorter hours. In this context, representatives from the government, trade unions and employers agreed in March 2003 to address the concept of work sharing. They resolved to look at a working-pattern-choice-type work-sharing scheme in the medium term, in order to cope with the current difficult job security environments, while continuing to discuss emergency-escape-type work sharing. To achieve the emergency-escape-type work-sharing scheme, the principles of "equal pay for work of equal value" and "equal treatment" must be actualized, but trade unions and employers could not reach agreement in this regard. In the government-led discussions of December 2002, the government, trade unions and employers reaffirmed their commitments to diversification of working patterns and to developing an acceptable work sharing. The government drew up guidelines on work sharing schemes in June 2004, but to date the trade unions and employers have failed to reach agreement on equal treatment and to deliver specific outcomes.

- Equal opportunities and diversity issues, including efforts to close pay inequalities
- **Discussions on wage gaps and equal treatment for part-time workers**

In recent years, some analysts have called for a closing of the wage gap between part-timers and full-time workers. The term "part-time workers" has more than one meaning, including "workers who have shorter working hours than regular (full-time) workers", and "workers who are called 'part-time workers (or distinguished from full-time workers) in the workplace". In this sense, it should be noted that different statistical data employ different definitions for part-time workers. (For example, some part-time workers have the same working hours as full-time workers but are still distinguished from full-time workers.)

As a rule, full-time workers receive monthly salary payments, while part-timers are paid on an hourly wage basis, at close to the statutory regional minimum wage rate. Moreover, full-time workers usually have indefinite employment contracts with their employers, while part-timers normally renew their short-term labour contracts every three months. In this sense, part-time workers are subject to different working conditions and employment management practices from those of full-time workers. They also play a role as a "buffer" for employment adjustment, relative to economic conditions. Some companies are reducing their full-time staffs and substituting part-time workers in order to cut personnel costs, while some supermarkets and retail shops are appointing skilled part-timers as full-time or quasi-full-time workers.

According to the 2003 Labour Force Survey, short-time workers*1 account for 24.1% of total employees (except for agriculture and forestry workers), of which women make up 68.4%. 40.7% are female workers. The "Basic Survey on Wage Structure" indicates that the average scheduled cash earnings for female full-time workers stood at 66.8% of male full-time workers' earnings in 2003 (slightly up from 66.5% in 2002), showing a gradual upward trend. The overall average wage for part-timers was 50.3% of that for full-time workers, with female part-timers receiving 65.7% of what was paid to female full-time workers; this proportion has ranged between 65% and 75% over the past ten years. The average hourly wage for part-timers stood at 948 yen (1,003 yen for male part-timers, and 893 yen for female part-timers). (The scheduled cash earnings don't include bonuses and retirement payouts; inclusion of these two factors would result in a larger gap.) In July 2002, MHLW's Expert Study Group on Part-timers released its final report. According to this report, a part-timer should be paid around 80% of a full-time worker's scheduled cash earnings if the part-timer assumes the same responsibility as a full-time worker.

In the 2002 spring wage negotiation, RENGO began demanding a 10-yen hourly wage hike for part-timers. RENGO followed the same strategy for the 2004 spring wage talks. Having a large number of its members working in supermarkets and retail stores, UI Zensen, an industry trade union, is making the most determined efforts to improve working conditions for part-timers. One in five of UI Zensen's members is a part-timer, so the union has been endeavoring to improve part-timers' wage levels for the past ten years. In the 2004 spring wage talks, many trade unions achieved 10-15 yen hourly wage hikes for part-timers, a modest achievement.

*1: Those who work less than 35 hours a week in industries other than agriculture or forestry.

*2: Those who have shorter scheduled working hours than full-time workers.

- Any other issues which have featured significantly in bargaining in your country during 2003-4
In this section, please give statistics (from official or other sources) on the number of collective agreements, and of agreements on specific themes, and where possible cite examples of significant agreements concluded in 2003-4.
Note for the USA: Previous experience indicates that there appears to be no overall source of data on collective bargaining number of agreements, content etc in the USA, or perhaps even any significant surveys. If this is the case, please give what information you can on developments in these areas, citing examples of relevant agreements, and provide whatever data seems closest to what is requested. .

4. Legislative developments

Please provide information on any legislative developments (new laws, proposals for new laws etc) of relevance to industrial relations and employment, where these are not mentioned in any of the other specific sections of this questionnaire

The Council for Regulatory Reform (CRR), which was established within the Cabinet Office under the Koizumi administration, has been discussing various regulatory reform plans. In terms of employment/labour matters, the council has been calling for legal reform that would encourage labour mobility, industrial structural transformation, and diversified working patterns.

Following Labour Policy Council (comprising representatives from the academic, labour and business communities) discussions based on CRR's basic philosophy, Japanese lawmakers in 2003 amended the Labour Standards Law, the Worker Dispatch Law and the Employment Security Law, all of which took effect in 2004. Due to fiscal difficulties, the Employment Insurance Law was also amended and came into effect in 2003.

In 2004, the Diet amended the "Law Concerning Stabilization of Employment of Older Persons", and also enacted the "Industrial Tribunal Law". As for the Trade Union Law and the Family and Medical Leave Law, the Diet will begin review sessions after fall 2004.

The Diet is likely to amend the Equal Employment Law from 2005 onward, in order to prohibit indirect and reverse discrimination.

- **Revision of the Labour Standards Law**

With the number of labour disputes concerning dismissals increasing steadily, a revised Labour Standards Law was approved in June 2003, and was enacted in January 2004.

The Civil Code gives employers the right to dismiss workers. At the same time, the Labour Standards Law provides that employers must give at least 30 days' advance notice of dismissal, or pay the worker in question a sum equivalent to his or her average wage for at least 30 days. However, as there is no law setting forth the criteria for dismissal, judicial decisions have to be reached on the basis of case law, forging so-called "legal principles", which in practice place restrictions on abuse of employers' right to dismiss. This is the established principle justified by the highest court. The latest version of the LSL supports and makes use of these legal principles, clearly stipulating that in cases where a dismissal is not based on any objectively reasonable ground, and is not acceptable as a rightful decision in light of current social norms, the dismissal will be deemed invalid, as constituting an abuse of the right to dismiss. Part of the discussion focused on introducing a financial solution for dismissals, but labour and management failed to reach an agreement in this area.

At the same time, Rengo and other trade unions have been calling for the clear stipulation of four requirements relevant to judging the validity of dismissals as a corporate restructuring measure, which is usually accepted by lower level of courts but has not yet been the case of the highest court. These four requirements are: i) necessity for dismissals, ii) obligation to endeavour to avoid dismissals, iii) reasonable selection of people to be dismissed, and iv) obligation to hold labour-management discussions. These were not included in the revision, but despite this a supplementary resolution in favour of the four items was approved in the House of Councillors, requesting that employers be familiarized with the items. Rengo was satisfied with the resolution, saying that it would serve to some extent as a check on unfair dismissals.

Apart from the above, the law now defines the maximum limit of a fixed-term labour contract as three years, rather than the previously established one year. (For workers engaged in highly specialized duties, and those aged 60 years and older, the maximum limit has been extended from the previous three years to five years.)

For the improvement of flexible working time, a format for providing a “discretionary working style of planning duties” for workers engaged in planning, proposals, surveys, and analysis relating to management was adopted in the revision of the LSL in 1998. Under the latest revision, the system is now no longer confined to headquarters or equivalent business establishments.

- **Revision of the Worker Dispatching Law and Employment Security Law**

The bills of the revised Worker Dispatching Law and Employment Security Law were passed in June 2003, and were enacted in March 2004. The revised Worker Dispatching Law relaxes the restrictions on the length of time a worker may be dispatched and the types of jobs dispatched workers can engage in. Specifically, workers can now be dispatched to manufacturing sites, and the maximum period has been extended from one to three years. In addition, guidelines have been incorporated to encourage the transfer of dispatched workers to regular employee status.

The Worker Dispatching Law came into being in 1985, and its purpose was to prevent the erosion of regular employment. Initially, only 13 jobs were listed in the law, namely those that required highly specialized skills, such as software development and particular types of employment management. The law has been revised twice, increasing the number of dispatchable types of work to 26. In 1999, however, it was fundamentally revised so that the general restriction on the types of work that dispatched workers could undertake was lifted and replaced by a “negative list” system whereby only the listed activities were prohibited. Essentially, the revision imposed no restrictions, and dispatched workers have been able to engage in all types of work except those associated with harbor transportation duties, construction, security guard activities, medical-related duties, and duties related to manufacturing. This substantial relaxation of the restrictions was responsible for a rapid increase in the number of dispatched workers, from 240,000 in 1994 to 690,000 in 2002 (numbers calculated in terms of regular employees)

The Employment Security Law grants local public bodies the right to conduct free job placement services.

- **Revision of the Employment Insurance Law**

The revised Employment Insurance Law came into effect in May 2003, for the purpose of stabilizing the insurance program’s finances, which had been steadily deteriorating under the weight of the growing number of unemployed people. The premium rate will remain at 1.4 percent for the first two years, but will be raised to 1.6 percent from April 2005. Both the rate and maximum amount of unemployment benefits have been lowered, and a single system determining the period of payments to both former regular employees and part-time workers has been established to cope with diversification in employment patterns.

Under the previous system, unemployed people received 60 to 80 percent (50-80% for those aged 60 and above) of their previous wages (calculated on a daily basis) for 90 to 330 days. Now, however, the minimum rate will be 50 percent (45% for those aged 60 and above) of the wages that jobless people were paid by their former employers. The maximum daily benefit payment has also been lowered.

- **Enacting Employment Tribunal Law**

Due to an increase in labour disputes in recent times, the Diet enacted the Employment Tribunal Law in April 2004. The specific date of enforcement has not yet been decided, but the law will probably come into effect around Spring 2006.

The current labour mediation schemes, which is managed by the administrative organisations, will continue to play a central role in prompt settlement of labour disputes, but the new legislation will enable a panel in a district court (comprising a judge and two labour experts) to promptly provide specific solutions for labour disputes. In this new scheme, the panel shall at first try to mediate the case and if it is difficult, proposes a solution after examining the rights and obligations concerned. The new law requests the panel to try to finish all these proceedings within three sessions.

However, the new law does not incorporate a "citizen-participation system for labour disputes", which was strongly urged by trade unions.

- **Revision of the "Law Concerning Stabilization of Employment of Older Persons"**

The former law prescribed that in the case where an employer sets the mandatory retirement, it shall not be below age 60. On the other hand, pensionable age has already started to climb up gradually to 65. In order to enable the elderly to work until their pensionable age, the Diet in June 2004 revised the "Law Concerning Stabilization of Employment of Older Persons", which now requires employers to "extend retirement age" or "re-employ" to secure the employment of their employees until 65 years old. The amended legislation will take effect in April 2006. Because employers will experience difficulty in immediately meeting all of these requirements, the revised legislation contains some interim measures. For example, if a labour-management agreement dictates specific criteria for older workers who continue to work beyond their retirement age, employers are not necessarily required to hire all the older workers who wish to work. In addition, employers are allowed to define said criteria within company work rules, rather than in a labour-management agreement, during a transitional period (three years for large corporations; five years for SMEs) after the revised law becomes effective.

- **Bill to amend the Trade Union Law**

The Labour Relations Commission* examines unfair labour practices, with the aim of achieving stable, long-term labour-management relations by acting promptly to protecting workers from an employer's unfair labour practices. However, there are some problems with the examination process, because i) it takes an excessively long time, and ii) a large percentage of employers file lawsuits to cancel the commission's decisions. In aim of solving these problems, revision of the Trade Union Law is being examined. The amended legislation will focus primarily on halving the examination process through i) examining cases in a more systematic manner, ii) identifying facts more quickly and accurately, iii) beefing up the examination capabilities of the Labour Relations Commission, iv) encouraging amicable settlements (which is not stipulated in the current legislation) and v) easing restrictions on regional labour relations commissions.

* The administrative organ in charge of collective labour-management disputes. It includes the Central Labour Relations Commission and prefecture-level, regional labour relations commissions.

- **Bill to amend the Family and Medical Leave Law**

The Japanese government submitted the amendment bill to the Diet in 2004, but the Diet did not discuss it during the session period and carried it over to the next session, from fall 2004 onward. The government originally intended to enforce the amended legislation in April 2005, but the specific date of enforcement remains undecided.

Main points in the amendment bill include i) allowing fixed-term contract workers (who are not covered within the current legal framework) to take childcare and nursing leaves if they meet certain requirements, ii) extending the childcare leave period until the child is 18 months old (currently, 12 months) if it is difficult to find a childcare centre, iii) allowing workers to take nursing leave for their children (five days a year), and iv) permitting an eligible worker to take more than one family care leave period, within a given total number of days (in principle, the current law allows a worker to take only one leave period).

5. The organisation and role of the social partners

Please provide the latest available figures on trade union membership (total and of the main organisations) and density and on the membership and density of employers' organisations (the latter may not be relevant to the USA).

The estimated union organization rate was down from 20.2% in the previous year to 19.6% in 2003, with membership declining by 269,000 persons to 10,531,000, continuing the downward trend that has been in evidence for 28 consecutive years. Major falls have taken place in the larger companies, with the decrease of approximately 1 million members in the past 6 years. For part-time workers, on the other hand,

organisation rate has seen slight increase from 2.7% previous year to 3% (up 0.3 % point), the ratio to total membership, however, being still low at 3.2%.

Of the three main National Centers in Japan, Rengo (Japan Trade Union Confederation) organizes 6,807,000 workers (down 138,000 from previous year), while Zenroren and Zenrokyo have about 993,000 (down 25,000) and 166,000 (down 5,000) members, respectively.

As for employers' organisations, Nippon Keidanren is the largest employers' organisation, incorporating 1623 member groups, including leading companies (1306) , industrial associations (129), and regional) associations (47) throughout Japan (May 2004).

Please describe any recent changes in the organisation and role of trade union or employers ' organisation in your country such as the formation of new organizations, mergers and internal restructuring, or involvement in bargaining or bipartite/tripartite consultations.

- **Restructuring and mergers among industrial federation of trade unions**

With fewer workers joining trade unions there has been a trend since 2001 to integrate and merge industry trade unions. In 2001, the service sector saw some industry trade union mergers in department store, tourism and some other industries. In 2002, three industry trade unions merged to form UI Zensen to become the largest in the private sector (membership: 790,000). UI Zensen has affiliated unions in the distribution, retail and textile industries, and works to attract part-timers as union members. UI Zensen established an affiliated occupation based trade union for care workers in 2000, and also launched a new union for dispatch workers (20,000 members) in the summer of 2004. In this way, more and more part-timers, dispatch workers and other non-regular workers who were excluded from Japan's traditional enterprise trade unions are joining community unions on an individual basis. The Japan Community Union Federation (membership: 5,000) joined RENGO in July 2003.

In the manufacturing sphere, the Japan Federation of Steel Workers' Unions, the Japan Confederation of Shipbuilding and Engineering Workers' Unions and the Japan Federation of Industrial Materials and Energy Workers' Unions merged to form the Japan Federation of Basic Industry Workers' Unions in September 2003. In 2005, the transportation sector will see mergers among trade unions in railways and some other industries.

At its regular convention in October 2003, RENGO re-elected Mr. Sasamori as president. Nippon Keidanren reappointed Mr. Hiroshi Okuda as its chairman at the general convention in May 2004.

6. Industrial action

Please give brief details of the recent incidence of strikes and other industrial action in your country (including any statistics available). Please highlight any particularly significant strikes or other action. Please describe any changes to take place in the regulation of industrial action (eg through legislation) or in dispute-settlement procedures.

Recently, there has been a decrease in collective labour disputes, while the incidence of individual labour disputes is increasing.

Traditional labour law only sets out the framework for settling collective disputes by entrusting the Labour Relations Commission to adjust labour disputes and protect workers from unfair labour practices, rather than establishing a specific framework for settling labour disputes raised by individual workers. Because policymakers felt it necessary to create a new framework to cope with the increase in individual labour dispute cases, the Diet in 2001 passed the "Law on Promoting the Resolution of Individual Labour Disputes", as an administrative dispute settlement framework*1. The Diet also revised the Trade Union Law in order to reform labour relations commissions in charge of collective labour disputes*2. Because some analysts point out that the judicial labour dispute settlement process is also time-consuming and expensive, an industrial tribunal scheme is scheduled to be introduced in the near future*3.

Individual labour disputes have been increasing in number over recent years, for the following reasons: i) more and more workers feel dissatisfied with personnel cuts and new wage frameworks; and ii) the

traditional, enterprise-based labour dispute settlement framework (i.e., trade union or grievance machinery) is no longer effective in relieving such dissatisfaction. With more choices of labour dispute settlement channels, workers will be able to choose the dispute settlement scheme that best suits the particular labour dispute they are involved in.

According to the data on labour disputes, workers initiated more than 10,000 labour disputes a year during the Oil Crises in the 1970s, but the number of collective labour disputes has fallen progressively since then, to 4,376 in 1980, 2,071 in 1990, 884 in 2001 and 1,002 in 2002*4. On the other hand, individual labour disputes, especially labour-related civil suits, have been increasing in number. New lawsuits filed with district courts have risen from some 1,000 cases in 1991 to more than 3,000 cases in 2002. The number of consultation cases brought to Comprehensive Labour Counseling Desks stood at over 730,000 in FY2003 (up 17% from FY2002), of which the number of consultation cases concerning individual labour disputes within the scope of civil procedure has increased sharply to 140,000 (up 36%) since the "Law on Promoting the Resolution of Individual Labour Disputes" took effect.

*1: See the 2001 Annual Report.

*2: See the Amendment to Trade Union Law section, above.

*2: See the Enacting Industrial Tribunal Law section, above.

*4: MHLW, "Survey on Labour Disputes"

7. Other relevant developments

Were there any other significant industrial relations developments in 2003-4? If so, please give details.

Many employee inventors have been filing lawsuits for their service inventions. There have also been many whistle-blowing cases.

8. Outlook

Please give an overview of the issues which are likely to be prominent in industrial relations in your country in the coming period.

Due to new management philosophies among employers, and changes in worker's attitudes to their jobs, the number of non-regular employees is highly likely to increase. Because of diversified working patterns, employers are expected to establish proper merit-based wage schemes and fair evaluation frameworks, shifting away from traditional, "one-size-fits-all" human resource management practices. It is unlikely that more and more regular workers will join trade unions in the future. The spring wage negotiation strategy based on horizontal egalitarianism no longer works effectively, because of the transition from collective industrial relations to individual ones.

B. Migration and industrial relations

This section of the questionnaire aims to gather information covering:

- basic information on international migration flows and stocks of foreigners;
- strategies, activities and positions of the relevant actors (employers' organisations, trade unions and public authorities).

A common, useable definition of an international foreign does not exist. This is because methods of measuring migration, along with variables, definitions and criteria, differ between countries, and between government departments within countries. For the purpose of this questionnaire, please use a broad concept of migration and foreigners, distinguishing between:

- nationals and non-nationals
- legal and illegal
- permanent and temporary
- It may be that not all the questions below are relevant to Japan and the USA. If so, please state this and briefly explain why.

1. Data on migration and foreigners

Please provide basic statistical information on the numbers of foreigners, including temporary foreign workers (eg seasonal labour, building projects), making relevant distinctions if there are significant differences within the foreign population (where data are available). If possible, please compare the situation of foreigners with the average situation of all workers on the national labour market in terms of: unemployment; types of employment contracts (permanent/temporary /flexible); types of job positions (low/middle/high) occupied; working conditions; and unionisation.

The number of foreign workers in Japan has increased steadily, especially since the mid-1980s. This is attributable primarily to two factors: The yen strengthened rapidly following the 1985 Plaza Accord; and Japan's labour market became tighter due to the economic boom after 1985. The number of registered foreign nationals rose from some 900,000 in 1987 to 1.3 million in 1992, while that of illegal overstayers also increased about four times, from 43,000 to some 280,000 over the same period. (No data are available on the estimated number of foreign workers in this period.) Despite the long-term economic stagnation since the bubble economy collapse in 1991, Japan is still witnessing a gradual rise in the number of foreign workers.

According to statistical data from the Immigration Bureau (Ministry of Justice), the number of foreign nationals in Japan stood at 1,915,000 as of 2003. The number of non-permanent residents was 1,172,000, of which foreigners from other Asian nations accounted for about two-thirds, while Latin Americans made up a little over 20%. Among them, 186,000 were permitted entrance for the purpose of working (in professional and technical fields), and adding up the workers among Japanese Nationals (approx. 230,000) and others such as students or those on working holiday schemes (approx. 130,000), and another 220,000 workers who stayed illegally, total number of the foreign workers stood 760,000 as of 2002 (accounting for 1.4% of all workers in Japan).

The number of illegal overstayers has gradually decreased from a peak of 298,000 in 1993. In 2003, 46,000 foreign nationals (of those, 34,000 were working illegally) were forced to leave Japan, the number declining gradually from over 55,000 in 1999. However, it should be noted that there are still many more foreign nationals who are engaging in activity outside the scope of their permits, or are entering Japan illegally.

Number of Foreign Nationals in Japan by Status of Residence, 2003

	Total	Asia	Europe	Africa	North America	South America	Oceania	Others
Total	1,915,030	1,422,979	57,163	10,060	63,271	343,635	16,076	1,846
(%)	100	74.3	3	0.5	3.3	17.9	0.8	0.1
Permanent Residents	742,963	661,019	6,861	1,489	10,160	61,936	1,031	467
(%)	100	89	0.9	0.2	1.4	8.3	0.1	0.1
Non-Permanent Residents	1,172,067	761,960	50,302	8,571	53,111	281,699	15,045	1,379
(%)	100	65	4.3	0.7	4.5	24	1.3	0.1
Entertainment	64,642	57,349	6,349	21	498	301	123	1
Specialist in Humanities	44,943	19,140	7,757	215	12,166	151	5,506	8
Engineer	20,807	18,138	1,423	113	809	82	242	0
Skilled Labour	12,583	11,531	592	21	147	82	206	4
Intra-corporate Transferee	10,605	6,120	2,441	49	1,628	71	295	1
Education	9,390	260	1,989	63	5,750	7	1,320	1
Professor	8,037	4,322	1,559	152	1,598	70	335	1
College student	125,597	117,707	3,505	979	1,991	809	581	25
Pre-college student	50,473	49,029	513	97	440	97	281	16
Trainee	44,464	43,778	138	127	74	297	47	3
Dependent	81,535	64,054	6,688	1,267	7,258	669	1,553	46
Spouse/Child of Japanese*1	262,778	140,735	8,515	1,897	11,556	97,742	2,221	112
Long-term resident	245,147	74,331	1,319	205	2,167	166,643	149	333
Spouse/Child of Perm resident	8,519	7,189	154	45	154	934	38	5
Others*2	182,547	148,277	7,360	3,320	6,875	13,744	2,148	823

(Source) Immigration Bureau (Ministry of Justice) "Concerning Statistics on the Registration of Foreign Nationals as of the End of 2003"

*1 Includes Japanese nationals

*2 Includes those on "Designated Activities" (such as working holiday schemes, technical intern training programme etc.), Cultural activities etc.

Numbers of foreign workers (estimate, in units of 10,000)

	1990	1992	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002
Foreign workers (A)	26	58	61	62	61	63	66	67	67	71	74	76
Illegal overstayers	11	29	30	29	29	28	28	27	25	23	22	22
Labour force (B)	6,384	6,578	6,615	6,645	6,666	6,711	6,787	6,793	6,779	6,766	6,752	6,689
Employees (C)	4,835	5,119	5,202	5,236	5,263	5,322	5,391	5,368	5,331	5,356	5,369	5,331
Ratio of foreign workers (A)/(B)	0.4%	0.9%	0.9%	0.9%	0.9%	0.9%	1.0%	1.0%	1.0%	1.1%	1.1%	1.1%
(A)/(C)	0.5%	1.1%	1.2%	1.2%	1.2%	1.2%	1.2%	1.2%	1.3%	1.3%	1.4%	1.4%

(Sources) Immigration Bureau (Ministry of Justice); Statistics Bureau, Ministry of Internal Affairs and Telecommunications; and Ministry of Health, Labour and Welfare.

(Notes) 1. Foreign workers exclude diplomats, government officials, trainees and permanent residents. Permanent residents include special permanent residents.

2. Ministry of Health, Labour and Welfare estimated a portion of foreign workers (such as those of Japanese descent).

3. Ministry of Health, Labour and Welfare did not estimate foreign workers for the period prior to 1989. Immigration Bureau, (Ministry of Justice) did not release statistical data for the year 1991.

No statistical data are available that probes into the situation of foreign workers as a whole. MHLW asks some employers who employ 50 or more workers to report their employment practices in respect of

foreign workers, and releases the survey data as the Report on Employment of Foreigners. According to the result on 2003, 23,142 employers (i.e., a little over 10% of all domestic companies of the same size) that reported in total employed 274,000 foreign workers, of whom 157,000 was under direct employment. The manufacturing industry hires the largest percentage (60.2%) of foreign workers, followed by the service industry (9.0%) and the restaurant/lodging industry (7.4%). Full-time workers account for 25.8% of foreign workers, down 3.7% points from 2002, with higher percentage in marketing/office personnel (70.0%) and professional/technical staff (57.7%), while recording relatively lower in sales, cooking, food service and hospitality personnel (6.8%). On the other hand, about 90% of foreign workers under indirect employment were engaged in manufacturing industry.

In terms of company-size comparison, employers with 50-99 and 100-299 workers employ 50% of foreign workers. By nationality, Asian nations account for a little under 50%, mainly work in the restaurant/lodging industry, while Latin Americans make up around 40%, who tend to work in manufacturing industries.

2. Government policy and legislation

Please outline any specific legislation on migration and foreign workers and their employment/labour market position (eg regarding access to the official labour market based on work permits, or non-discrimination against foreign workers in the labour market) and state how implementation is monitored. Also, please summarise government policy in terms of: immigration policy and the labour market: increasing the participation of foreign workers in the labour market, both on the supply side (eg education and training programmes) and the demand side (eg fiscal measures or other incentives for firms). Does the government, in developing and implementing its policy concerning foreign workers, cooperate with employers and trade unions? If so, please specify how.

Since the issue of foreign workers became tangible in the late 1980s, the government has been moving to attract highly qualified professional/technical foreign workers to Japan, while discouraging an influx of unskilled workers. For example, the "9th Basic Employment Measures Plan" in 1999 called for attention to significant impacts on the domestic labour market, Japan's socioeconomic structure and civil life, as well as to the impact on foreign workers themselves and on their home nations, and that it requires careful consideration based squarely on the national consensus.

However, in July 2002, "Study Group on Foreign Workers Employment Problems" established in MHWL has released a report which recommended that the government attract more foreign workers in order to address future labour shortages that would result from a lower birth rate and an ageing society. Furthermore, METI's "White Paper on International Economy and Trade 2003", while maintaining traditional policies, pointed out that "consideration should be put to accept foreign unskilled workers" where hiring older and female workers may not be successful to overcome the labour shortage. The white paper suggests the feasibility of emulating Europe's labour market tests and volume quotas, as well as bilateral treaties with foreign workers' home nations. Within such context, the Cabinet Office in June 2004 released "Basic Policies for Economic and Fiscal Management and Structural Reforms" stating the government's position to examine the feasibility of accepting nurses and care workers, as it is one of the key issues in FTA negotiations with the Philippines and other South East Asian nations.

However, the result of the "Opinion Survey on Accepting Foreign Workers" that Cabinet Office (presented) in May 2004 suggests that Japanese people tend to cast a critical eye on illegal foreign workers and fear that acceptance of unskilled foreign workers would further deteriorate public safety and job security in Japan. In order to expand the scope of foreign workers to accept into Japan, the government, along with the consideration of the technical aspects, needs to make efforts to alleviate Japanese people's anxiety in this regard. Given this, government ministries are holding discussions with representatives of both trade unions and employers in order to determine overall government policies and specific approaches for carrying out proper immigration control, maintaining public order, protecting the human rights of foreign workers, and the possible increase of social costs on training/education or on social security, as well as who will pay such increased costs.

Immigration control on foreign workers is currently governed by the Ministry of Justice's "Immigration Control and Refugee Recognition Act" (hereinafter, Immigration Control Act), which stipulates the immigration types and whether and how they are permitted to work etc. (Other related legislation includes the "Alien Registration Law" and the "Nationality Law.") In 1990, the Immigration Control Act was

amended in order to expand resident status and to ease restrictions on immigration and work permits for Japanese Nationals. The amended legislation now imposes criminal penalties on employers who hire or broker illegal workers. Lawmakers again revised the Immigration Control Act in June 2004, to tighten control over illegal overstaying by clearly stipulating processes for resident status annulment and deportation. In addition, the Labour Standards Law, Industrial Safety and Health Law, and other labour laws, as well as industrial injury insurance schemes, are applicable to all foreign workers, whether legal or illegal, while they are resident in Japan. There are no laws that apply exclusively to foreign workers.

Japan's current legal framework accepts two types of foreign workers: i) foreign nationals who are allowed to work in specified activities applied as their professional/technical fields (see the table above); and ii) those who have no restriction on activities, such as permanent residents, Japanese nationals' spouses or children, and permanent residents' spouses. In most of the activities, the permitted duration of the stay is one to three years (some short as 3-6 months). On the other hand, Japan currently grants limited work permits to the following non-working foreigners: technical intern trainees (for limited job categories), those who are on working holiday scheme, university students (with maximum 28 hours a week) and "dependent" on part-time work. Japan does not accept so-called unskilled workers. The 1990 amendment to the Immigration Control Act granted resident status to Japanese nationals without any restriction on activities, and this has led to an increased number of foreign workers since 1990.

3. Employers and employers' organisations

Please summarise the views and activities of employers and their organisations on migration and foreign workers. Notably: is "diversity management" an issue? Are they in favour of migration to meet labour shortages? Are negative images, discrimination and racism against foreigners an issue for them? What is their assessment of the government policy on foreign workers? And, apart from legislation and government policies, do employers and/or their organisations take initiatives themselves on the subject of migration and foreign workers? If so, describe the nature of such initiatives.

Employer's associations have basically expressed their support for the current legal framework on foreign workers, but they also anticipate labour shortages in the near future and recognize the need to attract more foreign workers in an acceptable manner, by easing immigration controls in the medium and long terms. In April 2004, Nippon Keidanren announced "Recommendations on Accepting Non-Japanese Workers", which clearly states such recognition by employers, calls for the creation of a new government body, the "Agency for Non-Japanese Residents" and the enactment of a new "Non-Japanese Employment Law", and urges the government to prepare necessary legislation over the next three to five years.

Japan has no nationwide official survey that covers employers' attitudes to foreign workers. According to the result of a questionnaire survey conducted by Tokyo Chamber of Commerce and Industry in 2003 (covering 304 respondent companies), 45% of the respondent companies showed positive attitudes toward foreign workers (i.e., 6.6% said they would "actively employ" foreign workers; 7.2% "would employ"; and 31.3% "might employ"), while about 44% of respondents said they had "no intention of hiring foreign workers". When asked how Japan should go about accepting foreign workers (multiple answer), almost 40% of respondents insisted on selectively accepting foreign workers for the job categories that suffer from labour shortages. Some 60% of respondents called for strict controls over foreign workers by issuing "Work Permits" based on their qualifications or job experience. This indicates that many Japanese employers are taking a cautious approach to opening up the labour market to foreign workers.

According to another questionnaire survey by Nippon Keidanren among its member companies ("Questionnaire Survey on Accepting Foreigners", October 2003), about 40% of the companies that have hired foreign workers have noted problems with "cultural/custom gaps" and "poor communication in the workplace". They recognize the need to "raise awareness among workers".

4. Trade unions

Please summarise the views and activities of trade unions on migration and foreign workers. Notably: do unions perceive any threat to the position of their current members from future migration, or are they in favour of migration to meet labour shortages? Are negative images, discrimination and racism against foreigners an issue for them? Is "diversity management" an issue? Do they pursue an active recruitment policy to organise foreign workers – if so, with what results? What is their assessment of the policy on foreign workers of the government and employers/employers'?

organisations? And do unions take other initiatives on the subject of migration and foreign workers? If so, describe the nature of such initiatives (eg do unions have specific sections, departments or campaigns for foreign workers)?

On the contrary, trade unions call for "only accepting skilful, professional, technical foreign workers" and attach high value to "national consensus and proper balance with job opportunities for Japanese workers". (RENGO, "Desirable Policies/Frameworks and Recommendations: FY2001-2003".) To protect Japanese workers and prevent deterioration in working conditions, trade unions have consistently opposed opening up the labour market to foreign workers, including unskilled labour. In addition, because most Japanese trade unions are enterprise unions comprising mainly full-time workers, they have almost no incentive to organize or give support to foreign workers. For this reason, community-based general trade unions ("community unions") have been playing important roles since the number of foreign workers began swelling in the late 1980s. In addition, some industrial trade union federations that have many members working for small-scale manufacturers, also where a large number of foreign workers are employed, recently initiated efforts to attract or provide support to foreign workers, and to encourage establishment of new trade unions. However, these efforts are facing difficulty for the following reasons: Many foreign workers are not permanent residents and will not be reliable members of trade unions; support efforts will impose financial burdens on trade unions; and communication is difficult due to language differences. Furthermore, it is said that although illegal workers tend to need this kind of support more than legal workers, neither trade unions nor illegal workers themselves are in favour of their joining the unions. From this perspective, NPOs rather than trade unions provide support to foreign workers in most cases.

According to "Outline of Survey Results on Trade Unions, FY2003" (Ministry of Health, Labour and Welfare, 2004), about 20% of business establishments hire foreign workers, but only 23.8% of business establishment-based trade unions allow memberships for foreign workers, and 11.3% actually have foreign workers as members. In most cases, trade unions that exclude foreign workers from membership have no intention of making efforts to attracting foreign workers as members.

5. Collective bargaining

Please describe (with examples) the nature and extent of any collective bargaining relating to migration and foreign workers. For example, do collective agreements contain clauses of specific relevance to foreign workers? If so, what type of clauses?

C. Reform of pensions

At present, the issue of pensions is high on the agenda of both the EU and the Member States. To a growing extent it also features prominently on the industrial relations agenda. For example, proposed or actual reforms of pension systems have led to nationwide strikes in France, Italy and Austria, while pension issues feature significantly in collective bargaining in the Netherlands. In many countries governments are developing plans to raise the pension age and early retirement schemes are under heavy pressure. The purpose of the following questions is to explore the extent to which the situation is comparable in Japan and the USA. It is recognised that the questions may not all be applicable to Japan and the USA.

The pension system in almost all EU countries consists of three 'pillars':

1. state pensions;
2. occupational pensions (ie a pension scheme provided by the employer in connection with employment and into which the employer contributes); and
3. individual arrangements.

The relative importance of these pillars varies enormously between countries. In some countries, the second pillar (occupational pensions) is virtually non-existent, and in many countries private (individual) arrangements are only of minor importance.

The questions below focus on the second pillar of occupational pensions, because it is here that (in Europe at least) trade unions and employers play an important role. However, some questions examine the attitude of social partners towards the other elements of the pension system.

1. Overview of the pension system as a whole: involvement of trade unions and employers' organisations

Are trade unions and employers' organisations involved in the state pension system and if, how? Have there been major changes in the system in the past five years? Please describe these changes and the attitude of the unions and employers towards the present system and possible changes. Have proposals been made to alter the system in the (near) future? Please describe these proposals and the attitude of trade unions and employers. Is there any involvement of unions and employers in the third pillar (personal pensions)?

Japan's pension system has a three-tier structure: "Basic Pension" as the first level, "Employees' Pension" and "Occupational Pension" as the second and third levels, respectively. In this structure, the first and second tiers come under the state pension scheme. All Japanese citizens have to join the Basic Pension scheme, but a dependent of a person insured by Employees' Pension is not required to pay pension premiums. In addition to the Basic Pension, private company employees are entitled to receive Employees' Pension benefits according to their salary income, both of which are based on a pay-as-you-go financing approach. Government employees, on the other hand, are insured by Mutual Aid Pension System instead of Employees' Pension. The Basic Pension imposes a fixed-amount premium on class 1 insured, but the Employees' Pension scheme requires both employer and employee to pay equal shares of the premium rate (13.934% as of October 2004) of salary and bonus income, which also covers the Basic Pension premium for class 2 and class 3 insured. The most common pension benefit is the old age benefit. Pensioners start receiving their pension benefits when they reach their pensionable age (i.e., 65 for Basic Pension, and for Employees' Pension Insurance, in the process of being gradually raised from age 60 to age 65). In addition, if an insured person dies, his/her bereaved family members will receive a Survivors' Benefit. If an insured person suffers from disability due to injury or sickness, a Disability Pension Benefit may be granted under certain conditions.

The Basic Pension Benefit is calculated according to how long the pensioner has been paying his/her pension premiums, while the salary-linked proportional portion is calculated from the average monthly income and the enrollment period multiplied by a benefit rate.

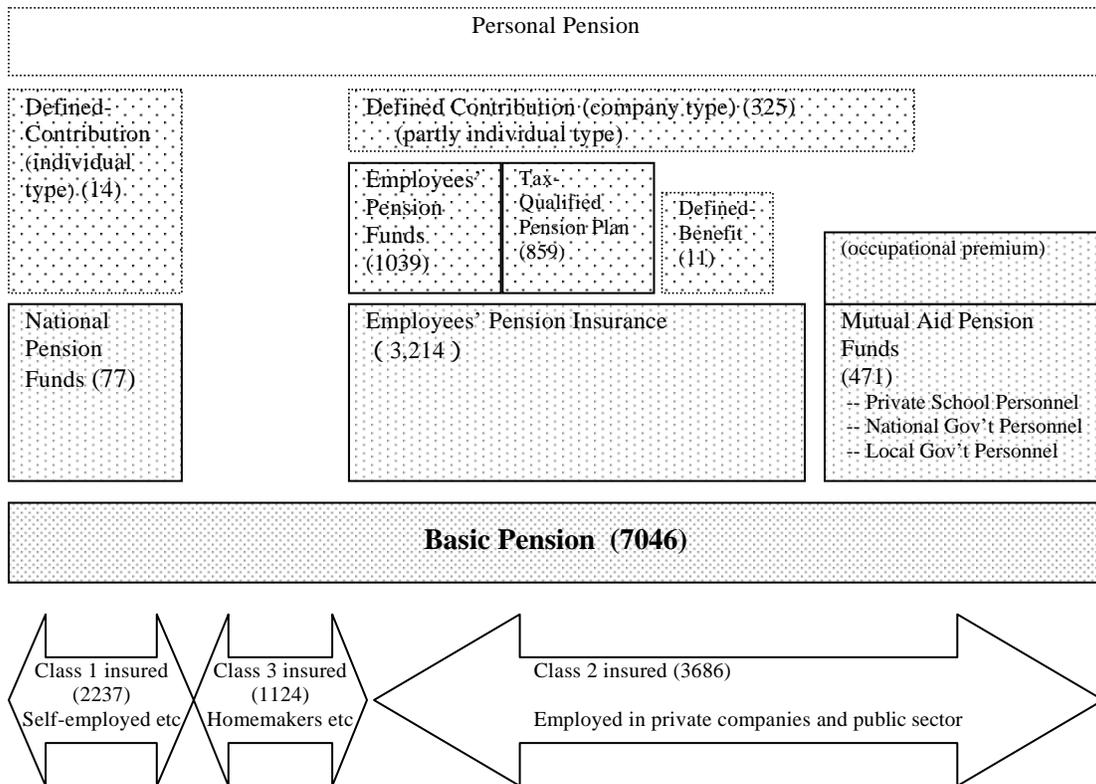
In the past, employees in private companies had an "Employees' Pension Fund"* and a "Tax-Qualified Pension" as occupational pension schemes to complement the public pension benefits. However, against the background of increasing mobility and diversification of employment, the Diet in 2001 passed new legislation, which officially created the Defined-benefit Pension Plan and the Defined-contribution Pension Plan (corporate-type and individual-type) in aim to protect pensioners and secure pension benefit portability. (The Tax-Qualified Retirement Pension scheme will be abolished in 2011.) Also under the new

legal framework, self-employed workers are able to join the individual-type of the Defined-Contribution Pension Plan.

Besides the above-mentioned pension plans, financial institutions and life insurance companies also provide individual annuity programs.

* Please note that “Employees’ Pension Fund” is the name of one of the types of occupational pension schemes and is not the fund for the state managed Employees’ Pension.

Pension system, number of pension subscribers (in 10,000s)



Due to Japan’s declining birth rate and growing proportion of elderly people, the working generations are suffering from heavier pension premium payment burdens. For this reason, policymakers are discussing possible pension and social security reform plans such as healthcare reform to eliminate the present intergenerational imbalance. State pension-related law requires a systematic review (fiscal recalculation) of State Pension schemes every five years. As a result of the last revision, in 1999, the pensionable age for old age pension benefits has been gradually moved out from age 60 to age 65, since 2001. (This reform of pensionable age will be completed in 2025 for male pensioners, and in 2030 for female pensioners.) In 2004, five years after the last systematic revision, policymakers again significantly revised the pension schemes. The pension reform plan includes the following main elements: Gradually raising pension premiums (from 13.58% to 18.30% for Employees’ Pensions, and from 13,300 yen to 16,900 yen a month for the Basic Pension by 2017), and setting pension premiums fixed in 2017; introducing pension benefit adjustment formulas (macroeconomic slide method) based on population dynamics and real wage trend; and gradually raising the contribution of the government to Basic Pension portion from present 1/3 to 1/2. The government plans to start implementing these new reform plans in October 2004, in order to secure revenue sources, while adjusting pension benefit levels.

However, there are still pros and cons over the government reform plan both within and outside the government. And some criticise the government for delaying reform plans without examining such

persuasive approaches as abolishing/privatizing pension funds, integrating all the pension funds that are currently fragmented by occupations, reducing the gaps resulting from family composition (i.e., pension issues relating to homemakers and short-time workers), and financing pension benefits from tax revenues. In particular, some experts insist that part-timers should also join the Employees' Pension Insurance, but this concept was not incorporated in the government's final proposal because of strong opposition from the restaurant and distribution industries, which employ many part-timers. Also, some raise concerns about long-term stability in the government reform plan.

In addition, the rate for the would-be participants not participating to the plan has risen to more than 30% for the Basic Pension, and according to some estimation, to 10-20% even for the Employees' Pension Plan. Many subscribers default on their Basic Pension premiums. (Every year, the government is unable to collect around 800 billion yen in pension premiums, due to statute of limitations expiry. About a quarter of Basic Pension subscribers fail to pay their premiums.) These problems impose serious adverse impacts on the pursuit of intergenerational equality and stable pension fund resources. The Ministry of Health, Labour and Welfare and the Social Insurance Agency are being ready for imposing compulsory participation or forcible collection on these defaulters.

2. Overview of the system of occupational pensions:

Does a system of occupational pensions exist in your country? If so, please describe the main features of the system and provide information on as many of the following points as are relevant for your country:

- What percentage of employees is covered by occupational pension schemes? Please give information on differences in sector, size of company, gender, type of contract or other.
- Are pension schemes capital-based/funded (ie employees save – individually or collectively – for their own pensions), or do employees pay for their retiring colleagues ('pay as you go')?
- Do schemes take the form of defined-contribution arrangements, or of defined-benefit arrangements? If both types exist, please give information on their relative importance and possible shifts.
- Do occupational pensions take the form of final salary schemes (ie the pension is a proportion of the employees' final pay), or average wage schemes (ie the pension is a proportion of the employees' average pay over a number of years of employment) and in what proportion? Is this changing?
- How are these schemes organised: nationwide, per sector, per company? What is the relative importance of these categories?
- Who governs (or regulates) these schemes? What is the position of trade unions and employers in the governance of these schemes? Do pensioned-off employees have a say in the management of pension funds? Please describe.
- Who pays for these schemes? Employers, employees or both?
- Are (company) pension funds independent from the company, or are they one way or another linked to the results and/or financial position of the company?

The current main components of the occupational pension scheme (i.e., the "Tax-Qualified Pension" and the "Employees' Pension Fund") were established in the 1960s. According to MHLW's "Comprehensive Survey on Wage Conditions, 2003", which covered companies with 1,000 or more workers, 90% of respondent firms operated both retirement lump-sum grants schemes and occupational pension schemes*. As mentioned earlier, the Diet in 2001 passed new legislations that created the Defined-Benefit Pension scheme and the Defined-Contribution Pension scheme. According to "Annual Report on Health and Welfare", the number covered by those two traditional schemes decreased by 3 million in 2003, continuing the decline from peak participation during the mid-1990s. On the other hand, 700,000 employees have joined a Defined-Contribution Pension Plan. This is because many companies are dissolving their occupational pension funds. From the viewpoint of employers, poor investment yields and new accounting standards (requiring employers to post their pension contributions as a liability on the balance sheet, rather than as a charge against revenues as practiced in the past) make it more difficult to maintain existing pension schemes. Furthermore, the traditional occupational pension schemes are not compatible with the current lower birth rate, frequent job switching, and diversified work patterns. So it is expected that more and more employers will introduce, as their occupational pension scheme, Defined-Contribution Pension Plans or another new scheme. In the 2004 pension reform, the government improved the environments for both state pension management and occupational pension schemes.

* Average retirement lump-sum grants stood at 26 million yen, which is equivalent to the 47-month salary amount. No data are available on average pension benefits. According to a survey that covers SMEs in

Tokyo area (with 300 or fewer employees), 64% of respondent companies employ only retirement lump sum grants.

These pension schemes are basically based on a reserve financing approach. Each of these pension programs has different criteria as to who pays the premiums. For example, employers alone pay the premiums for the Tax-Qualified Pension Plan, the Defined-Benefit Pension Plan and the Defined-Contribution Pension Plan; employers and employees basically bear equal payment burdens for the Employees' Pension Fund. However, these pension programs are usually instituted by a company or group of companies, and fund management duties are entrusted to the pension management institutions such as private insurance companies, banks, trust banks and stock companies. (In the case of a Defined-Contribution Pension Plan, those who contribute are required to decide on their fund management approach.)

Trade unions are not usually involved in pension fund management. However, in many cases collective agreements stipulate retirement benefits. This means that before a company can modify (e.g., premium, benefit amount, etc.) or even abolish its pension program, it must reach agreement with its employees. For example, an employer must obtain approval from a majority of insured persons and from the trade union where unionised, when drafting the fund statute, because the Employees' Pension Fund requires premium payments in equal shares by employer and employee. In addition, if a company decides to replace its existing corporate pension plan with a Defined-Contribution Pension scheme, it will need to obtain approval from the trade union, or from at least 50 percent of corporate pension plan members where not unionised.

3. Position of the government and social partners

What is the attitude of the government towards the (present) system of occupational pensions. Has the government taken measures to introduce such a system or widen the scope of this system? Has the government taken specific measures on pensions in the government sector of employment itself?

Please outline the position of trade unions and employers towards pension issues (both inside and outside the system of occupational pensions). Have these positions changed in the past five years? Do differences of opinion exist within the ranks of unions and/or employers' organisations?

Government employees do not have a pension schemes equivalent to the private sector's occupational pension schemes, but their Mutual Aid Pension program offers slightly more favourable benefits in its salary-linked portion, and to a certain extent provides better pension benefits than the Employees' Pension Insurance, based on proportionally higher premium rate than that of Employees' Pension.

Recent pension system reforms appear to have had two main purposes: i) Achieving a proper balance between pension premium payments and pension benefit amounts, in response to financial difficulties resulting from a lower birth rate and economic stagnation; and ii) Fostering a shift to individual-based pension plans that are more suited to recent socioeconomic changes, such as worker mobility, diversified work patterns, and women's greater participation in society. In terms of the corporate pension scheme, the newly established Defined-Contribution Pension Plan will enhance pension portability for job switchers and provide better conditions for employees. On the other hand, this pension scheme also contains some destabilizing factors, in that it will transfer pension management risks from employers (or pension funds) to employees. When the Diet passed the Defined-Contribution Pension Law, RENGO expressed its opposition, because "the surrounding conditions are not yet appropriately prepared for such a pension program to be introduced". On the other hand, Nikkeiren (former organisation of Nippon Keidanren) basically supported the legislation at that time.

In the case of the 1999 pension reform, RENGO strongly opposed the government plan to raise the pensionable age to 65 as such that the representatives of RENGO walked out in the middle of the government's council meetings. In terms of the 2004 pension reform, RENGO still doubts the credibility and stability of the pension reform plan. Nippon Keidanren also opposes the 2004 pension reform plan. For this reason, the two organizations released joint statements expressing their opposition to a higher pension premium rate and call for further public debate on various possible reform approaches, such as increasing the government's contribution to the Basic Pension, converting the basic pension to tax based, and comprehensively reforming the current taxation and social security systems. ("Viewpoints on Pension Reform Plan", 2003.) While RENGO and Nippon Keidanren share common interests on some important

topics, there still seems several issues awaiting consensus between them or including the government, such as the expansion of Employee's Pension coverage to part-timers, as mentioned earlier, with which RENGO urge to also include jobless workers.

4. Collective bargaining and occupational pension schemes

Please describe how and to what extent the issue of occupational pensions is linked to the normal collective bargaining process. Is there a relationship between the setting of contributions (and other pension issues) and other matters (eg wage increases) in collective bargaining?

In the normal collective bargaining process, management of the corporate pension will only be on agenda when employer suggests any changes in the system or introduction of the system itself that may correspond to the change of the working condition. Amount of the compensation is basically determined within the system and is not directly influenced by other agendas that are negotiated.

5. Pensions and industrial action

Have there been instances where pension issues have resulted in industrial action? Please describe. Examples might include changes in retirement age, but also proposed changes in the system as a whole.

In opposition to this year's reform, Zenroren affiliated trade unions went on one day strike in April, with participation of about 10,000 members. However, the last occasion of the large strike dates back to 1973, when several national centres jointly gathered 3.5 million members to demand the introduction of indexation.

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