

(Tentative Translation)

Report from the Government of Japan

Concerning the Recommendations

from the EU-Japan Business Round Table (BRT)

January 2010

Note: The content of this report is based on the situation as of December 31, 2009.

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Working Party A: Multilateral and Bilateral Trade & Investment and Regulatory Cooperation

1. Formation of common economic institutional environment (A-EJ-1)

BRT Recommendation

In 2007 BRT in Berlin, the working party recommended a study on the feasibility of a wide-ranging bilateral agreement to promote trade and investment. Task forces were formed on both sides for that purpose and joint recommendations were presented at the BRT 2008 in Tokyo. This report outlined a number of areas of common interest where EU-Japan cooperation could be strengthened. The Working Party supports the joint statement adopted by the EU–Japan Summit in Prague on 8 May 2009 aiming for “*strengthening the integration of their economies with a view to better exploiting the full potential of their economic relationship*” and calls upon the authorities to work towards this goal by focussing on issues that are of Japanese and European interest and create a win-win situation for both sides.

Moreover, the Working Party believes that discussions should be initiated and pursued through respective administrations from the highest political level to ensure that the political will is translated into concrete and measurable improvements in the business and trade environment. Aiming for an ambitious removal of barriers to trade and investment, a broad range of issues should be addressed, especially harmonisation of regulatory processes, mutual acceptance of product standards and certifications, competition rules, services and procurement, in a balanced and mutually beneficial way.

Action taken so far

With regard to the formation of common economic institutional environment, the governments also have been making a serious study, based on the BRT recommendations, of what policies could establish a foundation for promoting further development in Japan-EU relations. In particular, we have been working, in accordance with the 2009 Japan-EU Joint Press Statement, on ways of strengthening the integration of the economies of Japan and the EU, not only in the area of tariffs but also in non-tariff-related areas such as the harmonisation of standards and regulations, that will be of benefit to both Japan and the EU.

Future outlook

To more strengthen the integration of the economies of Japan and the EU, Japan would like to work with the EU to solve problems in difficult areas, and to explore the possibility of establishing an economic partnership agreement covering broad areas of interest to both Japan and the EU, i.e. not only covering the area of tariffs but also non-tariff-related areas.

2. Support of WTO Doha Development Agenda for fight against protectionism (A-EJ-2)

BRT Recommendation

The financial crisis and subsequent economic crisis are hitting trade flows hard around the world. The BRT is very concerned that growing protectionism will deepen and prolong the economic crisis. Protectionist rhetoric and some very real protectionist measures for instance in the US, China, Russia and Brazil have had a chilling effect on the trade and investment strategies of companies. Moreover, trade defence measures are almost certain to increase around the world as prices for energy-intensive products decrease to a low level and state subsidies flourish.

Given this background, the WTO must play a crucial role and be proactive in both preventing the closing of world-wide markets and the introduction of new restrictions on investments, market access and mobility for workers. The WTO is to be commended for its initiative of monitoring protectionist measures or new trade-hampering regulations around the world. The WTO should continue to pursue this clear objective of advocating free trade and denouncing all protectionist measures taken by its members. Moreover, it should strengthen its stance by requesting WTO members to explain the reasoning and compatibility with WTO law of their measures to the whole WTO membership. This will mitigate the rising risk of protectionist measures and restore business confidence in the system by providing a concrete avenue to counter unhelpful protectionist tendencies. It is also critical that the WTO strongly counters any weakening of commitment to key WTO disciplines such as TRIPS. We call on the European Commission and Japanese government to jointly advocate this policy in the WTO.

The Working Party is a strong supporter of the WTO Doha Development Agenda (DDA) negotiations and continues to urge the European Commission and the Government of Japan to exert their utmost efforts in concluding ambitious negotiations, based on the current modalities, by the end of this year. The Working party is concerned, however, that the ambitious level of objectives sought at the start of the round will not be maintained in the final conclusion. We call on our leaders to press for the most ambitious deal possible.

The provisional NAMA results contained in the revised December 2008 draft will effectively lead to tariff rate cuts in OECD countries and, eventually China, but they also need to commit other emerging countries to stronger tariff reductions more explicitly. Moreover, China in particular has to show further ambition as it could still benefit from an implementation period of more than 10 years and maintain high average tariff rates despite the competitiveness of many sectors. Furthermore, it is unclear how emerging countries will make use of their flexibilities granted under the formula. There is a risk that the tariff lines which we have export interests could be excluded from tariff reductions. Finally, emerging countries have not yet shown sufficient willingness to participate in specific sector agreements and should show stronger commitment.

Action taken so far

The activities of the World Trade Organization (WTO) are driven by its members. Since 2001, the

WTO has been working on the Doha Development Agenda (the Doha Round negotiations) to formulate a new regulatory regime and further liberalize trade. In addition, in the midst of the global financial and economic crisis, it has been working with other international organisations to fight against protectionism.

Since the G-20 Washington Summit in 2008, strong messages denouncing protectionism have been issued at leader- and ministerial-level meetings such as the G-20 London Summit, the G8 L'Aquila Summit, and the G-20 Pittsburgh Summit, all of which took place in 2009. Meanwhile, the WTO Secretariat, in response to the requests from WTO members, has been putting informations together and issuing reports with analysis concerning trade-related measures taken by members and other countries. In this way, it has been ensuring transparency and working against the proliferation of trade restrictive measures.

With regard to the Doha Round negotiations, at the G-8+5 L'Aquila Summit and the G-20 Pittsburgh Summit, Leaders committed to seek a conclusion of the Round in 2010. Since then, some Ministerials and a series of senior officials' meetings have been held.

As for individual agreements such as TRIPs, efforts are being made to ensure that countries comply with their treaty obligations through mechanisms such as the TRM (a transitional review mechanism for China) and TPR (trade policy reviews).

With regard to the NAMA negotiations, discussions are ongoing with a view to achieving not only cross cutting tariff reductions on all products using the Swiss formula but also sectoral tariff elimination. For its part, the Government of Japan(GOJ) is encouraging other members including emerging countries to join sectoral tariff elimination initiatives in key sectors such as electrical and electronics products, paying attention to the non-mandatory nature of participation in sectoral initiatives based on the Hong Kong Ministerial Declaration adopted in 2005.

Future outlook

To fight against protectionism, the GOJ will continue to work to maintain and strengthen the monitoring systems, especially that of the WTO. With regard to the Doha Round negotiations, the U.S. demands further contribution from emerging countries which will benefit from a conclusion of the Round. Emerging countries, however, reject it. Despite this deadlock, the GOJ will work with the EU's new trade commissioner to steadily move the negotiations forward. One of the ways will be the stock-taking during the first quarter of 2010, which was stated in the chair's summary at the 7th WTO Ministerial Conference in December last year.

3. Applying international standards and enhanced co-operation in the promotion of new global standards (A-EJ-3)

(1) International product standards and mutual recognition

BRT Recommendation

The Working Party urges both governments to adopt international product standards where applicable and, in the meantime, mutually recognise products certified under similar and equivalent product standards in sectors such as Medical Devices, Construction Materials and Organic Products.

Action taken so far

In light of the WTO TBT agreement that came into effect, the GOJ has been working to harmonise domestic standards with international standards and turn Japanese technology and know-how into international standards.

For action taken so far in the areas of Medical Devices, Construction Materials, and Organic Products, please see the reports in 5. (6), 5. (2), and 5. (3) respectively.

Future outlook

For the future outlook concerning Medical Devices, Construction Materials, and Organic Products, please see the reports in 5. (6), 5. (2), and 5. (3) respectively.

(2) Global patent system

BRT Recommendation

The Working Party recognises the importance of global patent harmonization and streamlining of the patent system as a way to promote innovation, reduce costs and boost legal certainty. The authorities of the EU and Japan should take the lead in these efforts.

Action taken so far

At government meetings between Japan and the EU, the GOJ has been actively lobbying Europe for global patent harmonisation. The GOJ has also taken part in meetings of developed countries concerning harmonisation of the patent system. Furthermore, in November 2009 the Japan Patent Office held a symposium at which it discussed and reaffirmed the importance of patent system harmonisation with patent offices from the U.S. and Europe as well as users of the patent system. Moreover, with the aim of achieving not just patent system harmonisation but also mutual understanding in terms of examination practices followed by patent offices, the GOJ has been working to expand the patent prosecution highway in Europe and launched a patent prosecution highway on a trial basis with the European Patent Office in January 2010. In addition, a patent prosecution highway involving the patent offices of Japan, the U.S., and Europe and based on the international Patent Cooperation Treaty is also scheduled to be launched in January 2010.

Future outlook

In addition to continuing to engage in dialog with users of the patent system, the GOJ will step up discussions at a session of the WIPO Standing Committee on the Law of Patents to be held in the first half of 2010 and through working groups affiliated with the non-WIPO meetings of developed countries on patent system harmonisation. The GOJ will also use government meetings between Japan and the EU to urge the EU to work towards patent system harmonisation by gathering opinions on the issue from within Europe.

In addition, the GOJ will work to expand use of the patent prosecution highway by using it to perform comparative research on the procedures followed of our respective patent offices and promote mutual understanding in terms of examination practices.

(3) Control of counterfeiting and piracy

BRT Recommendation

We also believe that the two authorities should step up efforts against global counterfeiting and piracy and cooperate closely to establish a new common international legal framework for IPR enforcement. In this regard, we support the ongoing negotiation of an international anti-counterfeiting trade agreement (ACTA) and urge the two authorities to exercise active leadership in order to reach agreement as soon as possible.

Action taken so far

The GOJ has actively engaged in discussions with other countries that are highly concerned about the protection of intellectual property rights, towards the realization of Anti-Counterfeiting Trade Agreement (ACTA). Negotiations based on a draft agreement have been launched in June 2008 and meetings have been held in July and November 2009. Besides Japan and the EU, the countries that participated in these meetings were the United States, Switzerland, Canada, South Korea, Mexico, Singapore, Australia, New Zealand, and Morocco.

Future outlook

The GOJ will play an active role in moving the negotiations forward by continuing to swiftly and clearly state our policies and opinions and lead the discussions with the other countries involved. The GOJ will further work to accelerate measures towards early realisation of ACTA in 2010.

(4) Harmonisation of regulations for energy conservation and labelling

BRT Recommendation

Given the nature of the issue and the importance for business as well as for society in general, the two governments should make an effort to harmonise the regulations for energy conservation and relevant labelling rules.

Action taken so far

Under the Act on the Rational Use of Energy, the GOJ sets energy conservation standards for 23 product categories including household appliances and automobiles. These standards are based on the best performers in each product category, and the GOJ is in the process of increasing the number of product categories and reviewing the standards for each product category.

The GOJ has also introduced an energy conservation labelling scheme for 16 of the product categories, which requires manufacturers etc. to add labels to their products showing how energy efficient they are. In addition, the GOJ has asked retailers to add a unified label to televisions, air conditioners, refrigerators, and electronic toilet seats showing the extent to which they meet energy conservation standards, as calculated using a multi-stage assessment. At present, the GOJ is also exploring the possibility of reviewing the methods of assessment and increasing the number of product categories covered.

In the area of office automation equipment, the GOJ is making progress with international harmonisation through the implementation of the international “Energy Star” in seven countries/regions including Japan and the EU.

Future outlook

In addition to increasing the number of product categories subject to energy conservation standards and reviewing the energy conservation targets for each product category, the GOJ will continue to increase the number of products covered by the labelling scheme for manufacturers and the unified labels for retailers. The GOJ will also consider increasing the number of products subject to the international Energy Star program.

And in the international arena, the GOJ will be stepping up discussions on the harmonisation of measurement methods through organisations such as the IEA and ISO. The GOJ also plans to present and emphasise the effectiveness of our system of basing standards on the best performers in each product category at international conferences and other gatherings.

(5) AEO

BRT Recommendation

The governments of the EU and Japan should introduce regulatory cooperation through which, once an economic operator is approved as an AEO (Authorized Economic Operator) in Japan, its status should be recognized without additional formalities in the EU, and vice versa.

Action taken so far

The GOJ has been engaged in consultations with the EU aimed at achieving mutual recognition of respective AEO programmes, such that AEOs, being authorised as having established security controls and compliance programmes, either in Japan or in the EU, can enjoy beneficial treatment in completing formalities involved in trade between Japan and the EU. After confirming through efforts such as joint on-site verifications that both AEO programmes are equivalent, the GOJ confirmed at the Japan-EU Joint Customs Cooperation Committee in September last year that we would agree to mutually recognize AEO programmes by early 2010, and the GOJ is currently engaged in consultations to work on the details of this arrangement.

Future outlook

To ensure security in international trade and to facilitate trade, and to enable AEOs of Japan and the EU to enjoy beneficial treatment, the GOJ will continue to engage in consultations with the EU to work on the details of the arrangement on the mutual recognition of AEO programmes, with a view to finalising this arrangement by early 2010.

4. Supporting timely development of business (A-EJ-4)

(1) Social security contributions (avoiding double contributions)

BRT Recommendation

Japan and the Member States of the EU should make further efforts to expand the network of Social Security Agreements. In addition, they should introduce an interim measure, by which a host country should either exempt contribution to pension funds unilaterally or should refund in full when expatriates return to a home country.

Action taken so far

(a) The GOJ is doing its best to conclude social security agreements with EU countries, and has already concluded such agreements with Germany, Britain, Belgium, France, the Netherlands, and the Czech Republic and signed such agreements with Spain, Italy, and Ireland. Moves are also underway to conclude such agreements with Hungary, Sweden, and Luxembourg, with negotiations between our governments or information and opinion exchanges between the relevant authorities currently ongoing.

(b) With regard to interim measures, the GOJ already operates a system under which foreign nationals who return to their countries after a short stay in Japan receive a “lump-sum withdrawal payment” based on the contributions they made to the Japanese pension system during their stay.

Future outlook

With regard to social security agreements, the GOJ intends to proceed with information exchange with a view to commencing negotiations in accordance with priority, taking into account in a comprehensive manner the size of social insurance contributions, the number of people of Japanese nationality as well as the number of Japanese companies, requests from the business sector, the status of bilateral relations, and differences between the social security system of Japan and the social security system of each EU Member State.

(2) Smoother and swifter movement of intra-corporate transferees (ICTs)

BRT Recommendation

- 1) The Japanese and EU authorities should realize far-reaching liberalisation of the movement of intra-corporate transferees (ICTs). Such liberalisation could be achieved by the following systems:
 - A framework agreement between the mother company, which sends expatriates, and the host country, stipulates the maximum number of expatriates. Within the agreed limit, the mother company is free to send ICTs to that country without further obtaining individual work permits.
 - When the mother company concludes such an agreement with several Member States in which its subsidiaries or branches have operations, movement of ICTs between those countries should be free from obtaining a new work permit as long as the total number of the agreement is respected.
- 2) The Japanese government should abolish the system requiring foreigners with a visa additionally to obtain a re-entry permit, such that permission to leave and re-enter the country freely is automatically granted when the visa is issued. We welcome the revision of the Immigration control law under way in Japan and urges the GOJ to implement the revision swiftly, once it has passed the parliament.

Action taken so far

The Government of Japan has amended the Immigration Control and Refugee Recognition Act in July 2009 (to be enforced on a date of prescribed by a Cabinet order within a period not exceeding three years from the date of promulgation (July 15, 2009)), for the purpose of introducing a new residence management system which will contribute to equitable residence management of foreign nationals.

The amended Act includes provisions that allow re-entry within one year, without the need to apply for re-entry permission, to those foreign nationals who have valid passports and residence cards issued under the new residence management system. The GOJ believes that this measure will enhance the convenience of foreign nationals who legally reside in Japan.

Future outlook

The GOJ will continue making preparations for the enforcement of the amended Immigration Control and Refugee Recognition Act, which includes provisions to revise the re-entry permit system and is aimed at introducing a new residence management system.

(3) Personal data protection regime

BRT Recommendation

The Working Party believes that the ultimate objective of personal data protection for individual business is to adopt and implement a reliable and cost-effective personal data protection system at a level of a corporate group, within which the flow of data should be free across national borders. In order to achieve this, the national legislation of each country should promote such a system rather than impede by creating different requirements.

To realize such business environment between the EU and Japan, the government of Japan should request the European Commission to launch the adequacy-finding procedure on the basis of Article 25(6) of Directive 95/46/EC.

In parallel with this procedure, the government of the EU and Japan should launch a dialogue in order to create an international framework which allows adoption and implementation of a reliable and cost-effective personal data protection system at the level of a corporate group, within which the flow of data should be free across national borders.

Action taken so far

In Japan, the Act on the Protection of Personal Information was passed in May 2003 and all its provisions came into effect in April 2005. Although it has been modified somewhat to reflect realities in Japan, the provisions concerning the obligations of entities handling personal information are based on the eight principles contained in the OECD guidelines issued in 1980. Enforcement authority of the act is entrusted to each minister in charge of the business sector concerned, and based on guidelines determined by each minister, the precise interpretation, application and appropriate enforcement is conducted. Until now, our efforts to safeguard personal information have been made in light of international initiatives by organisations such as the OECD, APEC, and EU, and in April 2008 the GOJ partially revised our basic policy on the protection of personal information in order to respond to these international initiatives and better safeguard the rights and interests of consumers. And with regard to the guidelines for each business sector, new guidelines have been established and existing ones revised whenever this has been necessary. Due such efforts, personal information is being effectively safeguarded.

Future outlook

The GOJ believes that personal information will continue to be safeguarded to an adequate level internationally by making efforts to secure the efficiency of the rules based on the Act on the Protection of Personal Information, our basic policy on the protection of personal information (partially revised on April 25, 2008), and the guidelines set by each ministry. And based on the OECD Recommendation on Cross-border Co-operation in the Enforcement of Laws Protecting Privacy, 2007, the GOJ will further international cooperation and continue to make efforts in the area of personal information protection in order to ensure that such information is safeguarded to an

adequate level internationally.

In addition, the GOJ intends to explore the possibility of introducing binding rules for companies based on Article 26 of Directive 95/46/EC (the EU's personal information protection directive) that would recognise exceptional cases in which personal information can be transferred to third countries that do not have adequate levels of personal information protection. The GOJ also plans to study the draft international standards presented at the Data Privacy Commissioners Conference held in Spain in 2009.

5. Recognising and applying international standards (A-J-1)

(1) Food additives

BRT Recommendation

The Ministry of Health, Labour and Welfare submitted a list in December 2002 of, in its own words, “unauthorized food additives whose safety is globally confirmed and are widely used outside Japan.” Out of this list of 46 “priority additives”, only around half have been approved in five and a half years. The government of Japan should seek to immediately approve the remaining food additives on this list and then prepare a new list, in close consultation with the EU Authority, on any remaining additives that are officially recognized as safe and in wide use, and seek to have these approved as soon as possible, and certainly by the end of 2009.

Action taken so far

In Japan, food additives are permitted for use only when they are designated by the Minister of Health, Labour and Welfare under the Food Sanitation Law as substances that are unlikely to pose a risk to people’s health. Moreover, the Food Safety Basic Law requires that the opinions of the Food Safety Commission be heard when the Minister of Health, Labour and Welfare approve the use of a new substance as a food additive. The GOJ understands that a similar system is employed in the EU when dealing with food additives.

With regard to the 45 food additives (excluding one deemed to be equivalent to one already approved in Japan), including ones raised by the EU, whose safety have been confirmed internationally and are widely used, the GOJ, on its own initiative, is proceeding with the considerations on the designation of these items. The Minister has already asked for the opinions of the Food Safety Commission on 36 food additives. Assessment of the Effect of Food on Health has already been completed for 29 of these, while for the remaining 7 requests for additional documentation have been made by the Food Safety Commission.

Among the food additives for which Assessment of the Effect of Food on Health have been completed, reviews by the Pharmaceutical Affairs and Food Sanitation Council have already been completed for 26 of them, and as a result they have been designated as food additives and are approved for use in Japan.

Future outlook

Looking towards the designation of the remaining food additives in the future, the Ministry of Health, Labour and Welfare will continue to prepare the necessary documents. The Ministry will also press ahead with asking the Food Safety Commission to conduct Assessment of the Effect of Food on Health and having deliberation by the Pharmaceutical Affairs and Food Sanitation Council.

In addition, with regard to three substances for which Assessment of the Effect of Food on Health has been completed by the Food Safety Commission, but which have not yet been designated as food additives, it is planned to take the procedures necessary to approve them, including revision of a ministerial ordinance.

The 46 substances of which the Government of Japan, on its own initiative, is proceeding with the considerations on designation constitute a list of substances compiled in 2002 after listening to the

views of the EU and other countries. At that time, (1) the JECFA had confirmed their safety internationally and (2) they were widely used as food additives in the U.S., EU countries, and so on. We believe that their designation as food additives will mean that almost all substances with a great need to be used internationally will have been approved. With regard to substances that do not meet criteria (1) and (2), i.e. substances evaluated by the JECFA since 2002, or substances newly approved for use in the EU, the U.S., etc. since 2002, Japanese policy is the same as those in the EU, the U.S. etc. In other words, the GOJ will begin procedures for designating them in response to requests to do so from the companies etc. that wish to use them.

(2) Construction Products

BRT Recommendation

The Government of Japan should work together with the EU Authorities towards mutual recognition of all JAS/JIS and EN standards for all building materials. Procedures for foreign testing institutes seeking accreditation under JAS/JIS should be streamlined. Mere reference to ISO standards within JAS/JIS, has proved to not be adequately helpful in facilitating the process.

Action taken so far

It is already possible for foreign institutes to be registered as Registered Overseas Certifying Bodies (JAS) or Foreign Registered and Certified Institutes (JIS) following a review of the required documentation and an on-site inspection.

Moreover, registration is based on ISO/IEC Guide 65, an internationally recognised accreditation standard. In other words, we do not believe that we are imposing particularly difficult requirements for registration.

Future outlook

We intend to continue working to ensure that the accreditation system is appropriate, while explaining it to foreign institutes whenever the need arises.

(3) Organic Products

BRT Recommendation

With the implementation of the new organic JAS law in April 2006, the mutual recognition agreement between EU and Japan on organic product certification and labelling ceased to be valid. The Government of Japan should work together with the EU Authorities to achieve mutual recognition of Organic Food Products labelling.

Action taken so far

Japan and the EU have never concluded a mutual recognition agreement.

In March 2001, however, after receiving a written request from the EU in November 2000, the GOJ recognised the European Council Regulation No. 2092/91 as equivalent to Japanese agricultural standards for organic plants and organic processed foods of plant origin (Organic JAS Standards). The EU, meanwhile, received a written request from Japan to do the same in January 2002, but at the time of writing has yet to recognise both sides' standards as equivalent.

In the past year, however, in September 2009 the European Commission sent the GOJ a draft report from its fact-finding mission to Japan in June. In October the GOJ returned our comments, and in November the GOJ and the European Commission agreed on a final report and the documentation required for the approval procedures. The GOJ is now waiting for the EU to complete these procedures.

Future outlook

The GOJ will ask the European Commission to swiftly complete its procedures for recognising the equivalence of our standards such that the Organic JAS Standards are approved as equivalent before the 12th general meeting of the BRT.

(4) Labelling rules

BRT Recommendation

The Household Product Quality Law and accompanying voluntary labelling guidelines “hyojikitei” prescribe in extreme detail how household products should be labelled when sold in Japan. The Government of Japan should issue clarifying orders to provide retailers with flexible alternatives for providing Japanese consumers with globally sourced products while taking full responsibility for the quality and safety of the products.

Action taken so far

The labelling rules prescribed in the Household Goods Quality Labeling Act currently cover a total of 90 goods in the following categories: Textile Goods, Electrical Appliances, Plastic Manufactured Goods, and Miscellaneous Manufactured Goods. The rules stipulate the minimum information that must be carried on labels to provide useful information to consumers, and also demand compliance with these minimum requirements. In 1997 labelling methods for all goods were revised to provide more flexibility in terms of the fonts used and the method of presentation of guidelines concerning use. And later, in 2009, an English-language handbook was produced and published on the Web in order to help business operators including overseas business operators better understand the Household Goods Quality Labeling Act.

Future outlook

With consumer protection becoming more and more important, the importance of labelling as prescribed in the Household Goods Quality Labeling Act is also increasing. The GOJ will therefore review the goods covered by the labeling rules and the contents of labelling required whenever it is necessary to do so. the GOJ will also continue to facilitate understanding of the Household Goods Quality Labeling Act among business operators including overseas business operators by publishing information on the web and other media.

(5) Cosmetics

BRT Recommendation

The Government of Japan should establish a mechanism enabling swift acceptance of ingredients widely used or recently recognised in Europe and the U.S.

Action taken so far

Among ingredients used in cosmetics, preservatives and sunscreens are regulated through the use of a positive list method. New ingredients can be added to the lists after review whenever a request is received. In the last year we have added one new ingredient. Cosmetic ingredients other than preservatives and sunscreens are regulated through a negative list method. Companies can use new ingredients by ensuring safety of new ingredients by their responsibility.

However, some products classified as cosmetics in the EU are regulated as quasi-drugs in Japan. Quasi-drugs are reviewed item-by-item, and an application to use a new ingredient can be made provided that scientific data is attached. In the last year we have approved two quasi-drugs which contain new active ingredients.

Reference: (1) Addition to the positive lists for cosmetics (preservative list): piroctone olamine (added March 31, 2009)

(2) New active ingredients in quasi-drugs:

(1) Cetyl Tranexamate Hydrochloride (medicated cosmetic)

(2) Dinotefuran (cockroach bait)

Future outlook

The GOJ will continue to add new ingredients to the positive lists and approve new ingredients as quasi-drugs after appropriate review when requests or applications with scientific data attached are received.

Reference: Addition to the negative lists for cosmetics: Jujube Extract (added February 26, 2010)

.(6) Medical Equipment

BRT Recommendation

The Government of Japan should intensify the work to simplify and harmonise the regulatory processes in the field of Medical Devices with that of the EU. In particular, mutual acceptance of regulatory practices and standards concerning principles of safety and performance, marketing authorisation, clinical trials and on-site audits of manufacturing facilities should be promoted.

Action taken so far

Discussions have been held since 1992 on harmonizing regulations within the medical device sector by the Global Harmonization Task Force (GHTF), which is composed of the regulatory authorities of Japan, the EU, the United States, Australia, and Canada as well as the industrial sector. In the revised Pharmaceutical Affairs Law that came into force in 2005, regulations were introduced that conform to internationally harmonised regulations in terms of Essential Principles and classification of devices among others. In addition, on the occasion of settling on standards pertaining to Approval Standards, Certification Standards and Quality Management Systems, they are basically formulated in accordance with the international standards of the ISO and the IEC.

Japan has accepted foreign clinical data as a part of application dossier when: i) standards for conducting medical device clinical trials are set by the regulations of the country or the region where the trial was performed, ii) the standards are equivalent or surpass the Japanese medical device GCP, and iii) the clinical trial was conducted in accordance with the standards or considered to have equivalent level of quality.

Future outlook

The GOJ will continue to seek to engage appropriately in forums, such as GHTF, to discuss the international harmonization of regulations for medical devices.

The GOJ encourages active use of consultation service on individual medical device applications provided by the Pharmaceuticals and Medical Devices Agency (PMDA).

6. Improving regulatory transparency and accountability (A-J-2)

BRT Recommendation

The Government of Japan should reinvigorate its efforts to improve transparency and consistency in all areas of regulation, including the development of new regulations, and the accountability of regulators, in order to facilitate business in Japan for both foreign and domestic firms. The Government of Japan should ensure that:

- (1) All Ministry-proposed laws, regulations, guidelines and agency recommendations are made available for public comment, by enforcing and monitoring compliance with existing public comment requirements.
- (2) Complete draft laws are made available for public comment, rather than mere summaries, before bills are submitted to the Diet for deliberation.
- (3) A 30-day waiting period is actually implemented between the expiration of the public comment period and the submission or release of the final law, regulation, guidelines or agency recommendation, in order to give officials time to consider the comments received.

Action taken so far

In December 2009, when it announced the results of an investigation on enforcement, the Ministry of Internal Affairs and Communications (MIC) notified all ministries and agencies of points to keep in mind concerning public comments in the future. The notice required all ministries and agencies to operate to ensure proper compliance with the purpose of the requirement to consider opinions submitted prescribed in Article 42 of the Administrative Procedure Act, on the grounds that instances have been seen that could cause the public to harbour doubts about whether opinions submitted are being adequately taken into account, with a prime example of such instances being the establishment of Administrative Orders immediately after the period for the submission of comments has finished. The Administrative Procedure Act does not require implementation of the Public Comment Procedure on bills because they should be carefully deliberated upon by the Diet members in the legislature.

Future outlook

MIC will conduct and publish the annual survey on the implementation of the Public Comment Procedure under the Administrative Procedure Act as well as the next fiscal year, and as necessary, request relevant administrative organ to improve implementation of the Public Comment Procedure.

7. Creating a more efficient product approval process in the human and animal health sectors (A-J-3)

(1) Medical Equipment certification process

BRT Recommendation

Japan needs to reduce the time and costs associated with introducing innovative new treatments in the human and animal healthcare markets in Japan and to bring Japanese rules in line with global standards. The Government of Japan is therefore urged to create more efficient product approval processes.

Shortening the medical equipment certification process: accepting clinical trial data generated overseas and harmonising Good Clinical Practice (GCP) and Quality Management System (QMS) requirements with international standards. The Working Party recommends that in the meantime, both governments should officially recognise that either ISO 14155:2003 (and as subsequently amended) or Japan GCP is, in principle, generally acceptable to either party for all medical device clinical investigations and that, in principle, a QMS audit conducted by responsible authorities in Japan (PMDA or third party testing organisation) or by Notified Bodies in the EU is generally sufficient as evidence of compliance with quality management system requirements when applying for market authorisation on either market.

Action taken so far

With regard to the acceptance of foreign clinical trial data, Japan has accepted foreign clinical data as a part of application dossier when: i) standards for conducting medical device clinical trials are set by the regulations of the country or region where the trial was performed, ii) the standards are equivalent or surpass the Japanese medical device GCP, and iii) the clinical trial was conducted in accordance with the standards or considered to have equivalent level of quality.

In the regulation of Quality Management Systems (QMS) Ministerial Order, which is based on Japanese Pharmaceutical Affairs Law, Japan has introduced an international standard, ISO13485.

The GOJ has also been working to make QMS inspections more efficient by issuing an office memo to Japanese inspectors indicating them to endeavour to make better use of available information obtained from their inspections.

The GOJ is making efforts to clarify GCP operations through various notices and Q&A. And based on the Five-Year Strategy for the Creation of Innovative Pharmaceuticals and Medical Devices, it has been working on improvements of GCP operation and in April 2009 amended Ministerial Ordinances etc. concerning the Institutional Review Board, notification of clinical trials, the delivery of investigational devices, and so on.

Future outlook

Regarding acceleration of medical device review, the GOJ publicized the Action Programme for Acceleration of Medical Device Review in December 2008. The GOJ is making efforts to steadily implement the Action Programme in cooperation with interested parties.

The GOJ encourages active use of consultation service on individual medical device applications in advance provided by the Pharmaceuticals and Medical Devices Agency (PMDA) to address use of foreign clinical trial

data for application of the device.

The global harmonisation of Medical Devices regulations requires discussions involving not just Japan and the EU, but also the U.S. and other countries. For this reason, we should aim to achieve international harmonisation of Medical Device regulations relating to GCP, QMS etc. through the activities in the GHTF and others, which represents a multinational initiative.

(2) GCP and the Pharmaceutical and Medical Devices Agency (PMDA)

BRT Recommendation

Eliminating differences between Japanese GCP and the GCP established by the International Conference on Harmonisation; and increasing the number and quality of staff working on consultation and approval review in the Pharmaceutical and Medical Devices Agency (PMDA).

Action taken so far

With regard to GCP, following the Report of the Study Group on Clinical Trials in September 2007, a notification was issued in October concerning the rationalization of required documentation. Then in February 2008, the ministerial ordinances relating to clinical trials such as the ministerial ordinance on GCP were revised, in which the clinical review board, notification of clinical trials, the ADRs in clinical trials and others are regulated, to make them consistent with the ICH-GCP. The GOJ therefore thinks that Japanese GCP is harmonized with ICH-GCP.

With regard to the number of personnel working at the PMDA, there is a three-year plan in place, running from fiscal 2007, to increase the number of reviewers by 236. In April 2007, the number of such staff was 206. But two years later, in April 2009, the number of staff has been increased by 140 to 346.

With regard to the quality of reviewing staff, in addition to the implementation of systematic training accordingly to their work-based purposes, efforts are being made to promote active participation in academic societies, both in Japan and overseas.

Future outlook

The GOJ will continue to work on increasing the number of PMDA staff by, for example, publicly recruiting personnel in areas in need.

(3) Product approval process for animal health products

BRT Recommendation

Improving the product approval process for animal health products by adhering to the standard administrative review period of one year. This could be achieved by streamlining and accelerating administrative procedures and eliminating unnecessary and scientifically unjustified requirements.

Action taken so far

To accelerate the approval procedure of Veterinary Medicinal Products (VMPs) the GOJ has been reducing unnecessary repetition of testing used to generate data for application dossier by participating in the VICH (International Cooperation on Harmonization of Technical Requirements for Registration of Veterinary Medicinal Products) initiative.

Future outlook

Japan will continue to participate in the VICH. And to further shorten the time needed for the approval process, the GOJ is establishing guidelines for the preparation of Summary Technical Document (STED) in Japanese-language providing applicants with better advice. In addition to improving STED, we are currently exploring the possibility of waiving the need to submit Japanese translations of English-language technical documents.

8. Ensuring free and open competition in services (A-J-4)

(1) Integrating the operations of financial groups

BRT Recommendation

The Working Party urges the Government of Japan to tackle the lack of free and open competition in Japan's services markets.

Remove obstacles to integrating the operations of financial groups. In particular, the initiated reforms of firewall restrictions should be implemented fully to allow financial groups to structure their organisations in Japan in the same way as they do in the rest of the world.

Action taken so far

In June 2008 the Financial Instruments and Exchange Act was partially revised along with the relevant Cabinet Orders, Cabinet Office Ordinances, etc. As a result of these changes, which took effect on June 1, 2009, financial institutions and financial groups are required to establish systems for managing conflicts of interest while banks etc. that are part of financial groups and prohibited from abusing their dominant position in soliciting business. In addition, the rules which prohibit directors and employees to hold multiple posts within a financial group have also been abolished, while restrictions on sharing non-public information on customers within a group have been eased. Revisions to guidelines for supervision of financial institutions (i.e. financial instruments business operators; major banks; small, medium-sized and regional financial institutions; and insurance companies) also came into effect the same day. These revisions include points to keep in mind concerning supervision relating to firewall restrictions.

Future outlook

The Financial Services Agency will continue to monitor each financial institutions for enhancing convenience for customers and establishing systems for managing conflicts of interest.

(2) Japan Post privatisation and *kyosai* cooperative societies

BRT Recommendation

Implement the privatisation of Japan Post so as to ensure a level playing field. This means that the *Kampo* insurance business should be subject to the same capital, solvency margin, tax and policyholder protection funding requirements as private sector insurers. Limits are needed on its expansion until competitive safeguards have been established to prevent cross-subsidies from its existing dominant position. Similarly, the insurance business of cooperative societies (*kyosai*) should be subject to the same requirements as private sector insurers.

Action taken so far

The GOJ is currently reviewing the privatisation of Japan Post pursuant to the Basic Policy on Postal Reform, which was adopted by the Cabinet on October 20, 2009, with the aim of ensuring that the postal services that people require are properly provided.

The *kyosai* cooperative societies are mutual-aid organisations established by people in the same geographical area or field of work. The members invest their own capital and use the insurance services that the organisation provides. These services form part of a broad range of mutual-aid services available to the members (joint ventures, loans, welfare services, etc.). Because of their unique nature they need to be regulated separately, and each of them operates within the scope of the law and under the supervision of the relevant government authority. It would therefore be inappropriate to apply the Insurance Business Act, which governs private-sector insurance companies, to *kyosai* cooperative societies.

Future outlook

The GOJ will continue to consider its course of action based on the Basic Policy on Postal Reform, and when it has done so will submit a bill to the Diet and make every endeavor to secure its passage.

(3) Disclosure rules within the Financial Instruments and Exchange Act

BRT Recommendation

Exempt securities issued by governments and government agencies of major countries, including European governments, as well as securities listed in the exchanges of European markets that have appropriate disclosure requirements, when implementing the proposed revision of disclosure rules within the Financial Instrument Exchange Law (FIEL), the amendment of which is currently under discussion in the Japanese Parliament.

Action taken so far

The GOJ has made the marketing of outstanding securities subject to one of three disclosure frameworks: legal disclosure, provision of basic information, and exemption from disclosure requirements. Which framework is applied depends on the characteristics of the securities and investors concerned.

For a sale of foreign securities (foreign government bonds, foreign listed shares, etc.) to be exempt from legal disclosure, it must be possible to easily obtain their prices and information about the issuer from the Internet or other source. The securities must also be listed on a foreign financial instruments exchange designated by the Commissioner of the Financial Services Agency or be continuously traded in a foreign country. The GOJ has also prescribed rules concerning the information on the foreign securities that must be provided or published as well as the methods for providing this information. In addition, the GOJ has exempt from disclosure requirements foreign government bonds, foreign municipal bonds, foreign special public corporation bonds provided that there exists an adequate secondary market for them in Japan.

The above disclosure rules will come into effect on April 1, 2010.

Future outlook

The Commissioner of the Financial Services Agency will designate (announce) the foreign financial instruments exchanges on which foreign listed shares etc. must be listed by April 1, 2010.

9. Promoting foreign direct investment (A-J-5)

(1) Tax deferrals for capital gains stemming from direct cross-border mergers and re-organisations

BRT Recommendation

The Government of Japan should promote growth through further participation of Japanese firms in the global economy and of foreign firms in the domestic economy. To this end, and in line with the treatment applied to stock swaps involving purely domestic companies, it should consider allowing tax deferrals for capital gains stemming from direct cross-border mergers and re-organisations.

Action taken so far

For overall position on tax-system reform of Japan, refer to the attachment in the Appendix of this report.

Future outlook

For overall position on tax-system reform of Japan, refer to the attachment in the Appendix of this report.

(2) Revision of Article 821 of the Companies Act

BRT Recommendation

The Government should also ensure that rules of fundamental importance to foreign companies are not altered without prior notice and consultation. In this context, the Working Party calls on the Government to use all means available, including revision of Article 821 of the Corporation Law, to ensure legal certainty for foreign companies established as branches in Japan.

Action taken so far

Article 821 of the Companies Act makes regulations concerning pseudo-foreign companies, which have existed for many years in the old Commercial Code, advantageous to foreign companies (see Article 482 of the old Commercial Code). It is therefore unreasonable to suggest that Article 821 of the Companies Act has tightened restrictions on pseudo-foreign companies.

Although the GOJ has been monitoring the impact of Article 821 of the Companies Act in accordance with an additional resolution by the House of Councillors Committee on Judicial Affairs concerning the bill for the Companies Act, at the time of writing the GOJ has not received any complaints concerning specific instances in which a company has been put at a disadvantage due to Article 821 of the Companies Act, and therefore have no particular plans to revise it.

Future outlook

As stated above, at the time of writing the GOJ has not received any complaints concerning specific instances in which a company has been put at a disadvantage due to Article 821 of the Companies Act, and therefore have no particular plans to revise it.

10. Promoting EU-Japan cooperation in commercial aircraft development and production (A-J-6)

(1) Procurement of large commercial aircraft

BRT Recommendation

Historical circumstances have created practices that have distorted the market mechanism in the field of large (more than 100-seat) commercial aircraft procurement. As a result, Japanese airlines buy almost exclusively from one supplier.

Action taken so far

Decisions to purchase commercial aircraft are made by individual airlines and based on their own judgement. The GOJ is therefore not in a position to influence these decisions.

Future outlook

The GOJ's position is as stated as above. Therefore, just as in the past, the GOJ will not be pressuring airlines to purchase aircraft from particular manufacturers. Aircraft manufacturers themselves should be responsible for aggressively marketing their products to airlines.

(2) EU-Japan cooperation in commercial aircraft development

BRT Recommendation

The Japanese Government should promote fair competition by providing similar support to European- Japan Cooperation programs in the field of commercial aircraft development as is currently given to the cooperation between Japanese manufacturing and their U.S. counterparts. European companies can offer technology, know-how, and production and management techniques that can benefit Japanese manufacturing companies and capitalise on their strengths, for the benefit of both Japan and the EU.

Action taken so far

(1) In June 2005 the Society of Japanese Aerospace Companies (SJAC) and GIFAS, the French aerospace industries association, agreed to conduct joint research on the development of a supersonic passenger aircraft (supersonic transport: SST). Later, in July 2008, they agreed to extend the project for another three years. From the Japan side, the Japan Aircraft Development Corporation (JADC), the Engineering Research Association for Supersonic Transport Propulsion Systems (ESPR), and the Japan Aerospace Exploration Agency (JAXA) are participating in the project, while on the French side, EADS, Snecma, and ONERA, the French national aerospace research centre, are involved.

(2) In July 2006 the Research Center of Advanced Metals and Composites (RIMCOF), which plays a central role in developing basic materials-related technology for the Ministry of Economy, Trade and Industry, and Airbus agreed to conduct joint research on structural health monitoring (SHM) of aircraft. The project was scheduled to last until 2010, and testing aimed at putting the technology to practical use is currently underway.

(3) In December 2008, to promote the use of innovative Japanese technology in aircraft, we organised a workshop involving companies etc. with innovative technology and Airbus. Since then some of the Japanese companies have been negotiating with Airbus on a one-to-one basis with a view to working together on specific projects in the future.

(4) On November 17, 2009 the GOJ held a workshop aimed at promoting collaborative research and technical cooperation between Japan and Europe in the aerospace industry.

(5) Japan Aero Engines Corporation (JAEC), Rolls Royce, Germany's MTU, and other firms established a consortium called International Aero Engines to develop and manufacture the V2500 aircraft engine. Japanese companies have also been involved in Rolls Royce's Trent 1000 aircraft engine project, working on development jointly with Rolls Royce.

(6) 21 Japanese companies were involved in the development of the A380, Airbus's super jumbo jet.

Future outlook

The GOJ welcomes the fact that cooperation between Japanese and European companies has been expanding steadily in recent years, and hopes that such collaborations will develop further in the future. The GOJ also intends to continue to assist in forging ties between the Japanese aircraft industry and those of other countries, including Europe.

(3) Purchase of large aircraft for official government use

BRT Recommendation

The Japanese government should set a positive example to the private sector of the advantages of sourcing from more than one aircraft manufacturer by buying large aircraft for official government use from an alternative supplier.

Action taken so far

Assuming “large aircraft for official government use” refers to the government jet, Japan’s current government jet is a B-747-400 that was ordered in 1987 and delivered in 1991. The decision to purchase this aircraft was made after a multi-faceted study that considered flight range, carrying capacity, after-sales support, and so on.

However, the government’s passenger helicopter, which is used to transport persons such as foreign dignitaries, was purchased from a European company.

Future outlook

The GOJ does not operate on the principle of purchasing government aircraft from specific countries or regions. The GOJ also has no current plans to purchase any new “large aircraft for official government use”. In light of factors such as our challenging fiscal situation, we intend to use our current jet as effectively and for as long as we possibly can.

Working Party B: Life Sciences and Biotechnology

11. Biotechnology-related research and development (B-EJ-1)

BRT Recommendation

Continue to intensively promote biotechnology related R&D according to the revised BT strategies (EU in 2007 and Japan in 2008) by both governments.

Action taken so far

In December 2008 a public/private-sector council on biotechnology policy comprising the State Minister in Charge of Science and Technology Policy; the Minister of Education, Culture, Sports, Science and Technology; the Minister of Health, Labour and Welfare; the Minister of Agriculture, Forestry and Fisheries; the Minister of Economy, Trade and Industry; the Minister for the Environment; and experts in the field put together “Dream BT Japan”, a strategy for using biotechnology to improve the quality of citizens’ lives and make Japanese industry more competitive. The strategy lists 11 key tasks, such as promoting the development of innovative, biotechnology-related technologies, and the public and private sectors are currently working together to implement it.

Future outlook

The GOJ will continue to take action to strengthen biotechnology based on the “Dream BT Japan” strategy.

12. Promotion of public understanding of biotechnology and life sciences (B-EJ-2)

BRT Recommendation

Significantly increase the budget for promotion of public understanding of LS/BT. Establish “National LS/BT Understanding Promotion Plans” through a strong governmental initiative in cooperation with industry and academic sectors for the accelerated and efficient promotion of public understanding of biotechnology, particularly its contribution to broader issues of sustainability such as the food crisis, the breakdown of the environment and global warming.

Action taken so far

One of the keys tasks contained in the “Dream BT Japan” strategy formulated by a public/private-sector council on biotechnology policy in December 2008 was to promote public understanding of biotechnology. In view of this we organised a working group to promote such public understanding in June 2009. This working group has been reporting on the initiatives to promote public understanding of biotechnology being taken by the relevant government ministries and working to promote understanding among the public.

Future outlook

The GOJ will continue to promote public understanding of biotechnology based on the “Dream BT Japan” strategy.

13. Biotechnology for healthcare (B-J-3)

BRT Recommendation

The Japanese drug pricing system, where drug prices go down continuously even during patent protected period, increases the time required to recover R&D investments and lowers the priority of new drug development in Japan. BRT members strongly support the realization of a more attractive and internationally competitive new drug pricing system in Japan (industry proposal), which is now under discussion at the Central Social Insurance Medical Council.

Action taken so far

As part of Fiscal 2010 reforms to the drug pricing system, with the aims of addressing pressing issues such as the problem of drugs that are not covered by medical insurance and accelerating the development of innovative new medicines, the GOJ has introduced, for new medicines for which no generic version is on the market and for which the discount rate is small, an additional discount, up to fixed maximum rate, in order to encourage the development of new medicines and eliminate drugs that are not covered by medical insurance. This addition, which the GOJ has introduced on an experimental basis, is equivalent to the exemptions on drug price maintenance that were aggressively demanded by the pharmaceutical industry.

Future outlook

The GOJ introduced this addition on an experimental basis for Fiscal 2010 only, and will decide whether to continue with it when the GOJ conducts reforms to the drug pricing system after the next round of such reforms, once the GOJ has assessed its fiscal impact, the situation concerning the development and market penetration of drugs that are not covered by medical insurance, and the situation concerning the use of generic drugs.

14. Plant biotechnology (B-EJ-6)

BRT Recommendation

The BRT members urge EU and Japan to increase spending for research in plant biotechnology and enhance international cooperation to advance the development of plants with new beneficial traits to the advantage of developed and developing countries.

Action taken so far

Since April 2008 the Ministry of Agriculture, Forestry and Fisheries has been implementing a five-year project to develop the innovative crops that can help solve domestic as well as international problems relating to food, energy, and the environment by taking advantage of the results obtained in the previous Rice Genome Research Program, which involve, for example, the sequencing of the whole rice genome and the elucidation of the functions of agriculturally important rice genes. To be more specific, the project aims to develop rice varieties that are resistant to disease, insect and abiotic stresses such as low temperature, drought, and salt by employing molecular marker assisted selection or genetic engineering techniques. To deal with abiotic stresses, in particular, the joint research program in which Riken and several members of CGIAR (JIRCAS, IRRI, CYMMIT, and CIAT) participate has been conducted to develop drought-tolerance GM rice and wheat lines by introducing a DREB gene. Another R&D projects are being undertaken to develop higher yield or higher quality rice varieties by making the benefits of the gene-discovery researches, which identified genes and chromosomal loci regulating yield, maturity, and plant shape and height, available for the molecular breeding.

Future outlook

The GOJ continues to conduct the project toward a solution of both domestic and international problems relating to food, energy, and the environment in line with the plan formulated in April 2008. In particular, the GOJ is planning to perform assessments of the stress tolerance of the DREB gene-introduced GM crops at the isolated fields in cooperation with our partner research institutes overseas.

15. Industrial biotechnology and biofuels (B-EJ-8)

BRT Recommendation

To increase the cooperation between the EU and Japan to enhance global competitiveness of the biobased economy, we suggest a number of actions that would strengthen activities in the area of industrial biotechnology:

- Develop and implement common R&D programmes and strategies to encourage the use of agro-food by-products and wastes. These are representing huge amounts of biomass already available and at low costs. Using such matrices as feedstock for biobased products would bring a two-fold benefit: the sustainable disposal of impacting wastes, and the generation of added value bioproducts with remarkable improvements of the sustainability of the agro-food industry.
- Support collaborative development of technologies to produce biomass based products and sustainable biofuels efficiently, consistently and economically, for example through improved biorefining technologies to ‘make more out of the biomass’ and development of biorefinery infrastructure.
- Develop joint programmes to stimulate and enhance technological innovation and to accelerate the transformation of knowledge into commercial products at a scale that can prove economic feasibility via public-private partnerships.
- Advance the unification of product standards (such as determination of biobased content, environmental footprint, etc.) through EU-Japan cooperation
- Benchmark the EU and Japanese policy strategies and legislation/regulations in order to stimulate the market introduction of biobased products coming from innovative technologies and to use the positive aspects and advantages of both policies.
- Set up a common task force to analyse which global incentives could be worked out to stimulate or support the reconversion towards a biobased economy.

Action taken so far

- The Act on the Promotion of Utilization of Organic Resources Originated from Agriculture, Forestry and Fisheries as Material for Biomass Fuels took effect in 2008, while the Basic Act on the Promotion of Biomass Utilization came into effect in 2009. Under the those Act, the GOJ has been working to promote production and the use of biomass.
- The GOJ has also been working to expand the sustainable production of biofuels as the way with compatible with food security. For example, the GOJ has been administering projects aimed at boosting production of Japanese biofuels derived from sources such as rice straw and conducting R&D on using cellulose-based materials derived from grass, trees, etc. to produce biofuels efficiently.
- In the area of technology for manufacturing biomass-derived products, materials, etc., the GOJ has been conducting R&D aimed at producing products, materials, etc. by bio-processing cellulose materials.
- The Global Bioenergy Partnership (GBEP), which was established to promote the sustainable development of bioenergy, is intending to provide science-based criteria and indicators for biofuel sustainability, on which Japan and other countries, including some EU nations are discussing.

Future outlook

- The GOJ will formulate a basic plan concerning the promotion of the use of biomass, with the aim of comprehensively and strategically implementing policies to promote the use of biomass.
- The GOJ will continue to conduct R&D concerning the production of raw materials for cellulose-based biofuels and biomass-based products, and accumulate knowledge with a view to commercialising this technology.
- The GOJ will make use of multinational frameworks such as the GBEP to explore the establishment of science-based criteria and indicator concerning the sustainability of biofuels.
- As a member of the Task Force on Industrial Biotechnology, which operates under the jurisdiction of the OECD Committee for Science and Technological Policy, the GOJ will work with other countries to solve problems relating to the promotion of the use of industrial biotechnology.

Working Party C: Information & Communication Technologies (ICT)

16. Broadband investments and ICT as key drivers for economic recovery (C-EJ-1)

BRT Recommendation

The ICT sector's role for economic growth and the creation of jobs has been widely described and acknowledged. Last June, the OECD Ministerial Meeting in Korea published the Seoul Declaration for the Future of the Internet Economy, which advocated that "the Internet economy, which covers the full range of our economic, social, and cultural activities supported by the Internet and related information and communications technologies (ICT), will strengthen our capacity to improve the quality of life for all our citizens by providing new opportunities for employment, productivity, education, health, and public services" and "act as a key driver for the creation of enterprises and communities and stimulating closer global co-operation."

In these difficult times, governments in the EU and Japan can again rely on the tremendous potential of ICT and services to overcome the global economic crisis and to fight the challenges of climate change. A policy of continuous investment in ICT will be essential to get over the current crisis. As ICT serves as the infrastructure for most of the segments of our economy, the strategic applications of ICT must be studied in shaping economic policies for all kinds of industry.

In response to the current situation, we acknowledge that the Japanese government has published its new ICT policy this April, investing 3 trillion yen in 3 years to create about 500 thousand jobs to promote advanced usages of ICT, as well as the further deployment of the ICT infrastructure. The European Council, in its conclusions from March 19-20, underlined the fundamental role of telecommunications and broadband development in terms of investment, job creation, and overall economic recovery. From the EU budget an additional 1 billion euros were made available in order to speed up broadband-rollout in the 27 member states. These funds seem to be of symbolic value but will come on top of various national recovery programmes launched by the EU member states.

However, public funds should only be used in areas where viable economic solutions of private investors are not possible. Public funds can help as an incentive but cannot bridge the capital gap to finance the future communication networks of a modern information society. Independent studies have confirmed that investments with a volume of 300 billion euros are needed in Europe to develop a modern, fixed, and mobile high-speed fibre infrastructure in the EU.

Nevertheless, the acceleration of Next Generation Networks (NGN) deployment should not only be considered as a short-term remedy to overcome the current economic crisis. A modern fibre access infrastructure will improve the long-term competitiveness of industries in the EU and Japan. Broadband and innovative ICT solutions are essential to further develop a dynamic society and to address social issues such as the aging population, medical care, security, and disaster prevention. NGN will enable new services like remote medical care, telepresence, and life-long-learning through e-learning programmes and help to ease the administrative burden in the lives of citizens through new measures of e-governance. In these fields broadband will also facilitate cooperation between

industries and institutions of various sectors.

In that context, both governments should continue their cooperation to create regulatory and economic incentives for the utilization of NGN. Along with the development of such infrastructure, we must deliberate on the most effective fields for economic and employment measures, such as e-government, healthcare, education, green IT, local revitalization, digital content, and agriculture, in order to promote strategic investments in those fields. At times institutional reforms may be needed to enlarge the application fields of ICT. Under turbulent conditions, even existing information systems require innovative and continuous overhauls.

We expect governments to promote the deployment of high-performance networks and next-generation ICT infrastructures as well as developing technologies which will be the foundation for our future society. Recently, new ICT infrastructures called SaaS, or Software as a Service, and cloud computing are emerging in the market. They are providing an efficient business environment for small and medium-sized enterprises, as well as start-ups that have been at the heart of jobs creation, and potentially will lead to recovery of the economy.

The EU and Japan are strong partners that account for 40% of global GDP and advanced users of ICT, accounting for nearly 40% of global broadband subscribers, although the EU and Japan account for below 10% of the world population. The EU and Japan should therefore take a leading role by deploying pioneering ICT applications, in order to help economic recovery and create a dynamic society through innovation.

Action taken so far

In view of the fact that ICT is a major contributor to economic growth, the Ministry of Internal Affairs and Communications has been aiding with improvements in ICT infrastructure with the aim of eliminating the digital divide, while at the same time investing proactively in projects that employ ICT to revitalise regions and deliver innovations in government services as well as R&D involving next-generation networking and innovative technologies such as 3D imaging technology and network robot technology. The Ministry has also been using ICT to aggressively tackle social issues. For example, the Ministry has been promoting the development of ICT that can help reduce CO2 emissions and encouraging ICT utilization as regards medical sector and small and medium-sized companies.

Future outlook

The Ministry of Internal Affairs and Communications will use funding provided from the second Fiscal 2009 supplementary budget and the Fiscal 2010 budget to further promote the use of ICT in public services such as education, healthcare, and disaster prevention and invest proactively in developing and encouraging adoption of ICT-driven technology for reducing environmental damage.

.17. ICT solutions towards the achievement of a low-carbon society(C-EJ-2)

BRT Recommendation

Climate change continues to be one of the biggest challenges to both industrialized and developing modern societies. The use of ICT will be fundamental to achieve the objective of a low-carbon-society. Through ICT solutions and services, greenhouse gas (GHG) emissions can be reduced considerably and various other sectors will be able to reduce their own carbon emissions footprint.

On the other hand, it is recognized that the consumption of energy by ICT equipment such as network equipment, servers, and storage will be increased along with expanded use of ICT. In addition, the materials and design choices of equipment have an impact on their overall environmental impact and, therefore, both industry and government should continue to strive to promote innovative technology development toward next-generation environment-conscious ICT products, as well as continuing to promote a social system in which recycling of second-hand ICT equipment is practiced to reduce their environmental burden. In response to these concerns, the Ministry of Internal Affairs and Communication has been promoting discussions for the reduction of GHG emissions of ICT equipment and services, and the 3Rs (Reduce, Reuse, Recycle) of mobile phones since last year.

Nevertheless, very positive research results regarding the reduction of GHG emissions through the use of ICT have been reported worldwide.

According to the Report from the Survey and Evaluation Committee of the Green IT Promotion Council in Japan, the committee has developed its own measures that quantitatively visualize reduction in energy use and GHG emissions of IT equipment itself, as well as reduction by IT solutions. The committee performed a quantitative forecast of the spread of green IT and its effects in 2025 and 2050. According to the report, energy saving through the use of IT equipment itself including servers and storage in 2025 will contribute to the reduction of GHG emissions by 20 million to 40 million tons in Japan, and by 380 million to 760 million tons throughout the world. Furthermore, energy saving by IT solutions including videoconferences, SCM, and ITS in 2025 will contribute to the reduction of GHG emissions by 100 million to 200 million tons in Japan, and by 2.2 billion to 4.4 billion tons throughout the world. Industry-academia-government collaboration of the Green IT Promotion Council should be continued and promoted toward the further introduction of green IT.

Governments and industry should continue to support initiatives like the Global e-Sustainability Initiative (GeSI) which has published the study SMART 2020 on the low-carbon economy of the digital age. This report found that the ICT sector's current contribution to GHG emissions of two percent is set to double. At the same time ICT solutions could reduce global emissions by a significant amount by enabling reductions in other industry sectors. By 2020 emissions could be reduced by 15 percent.

The study identified four key applications through which these considerable emission savings could be achieved: smart motor systems, smart logistics, smart buildings, and smart grids. According to SMART 2020, using ICT in managing private and industrial energy consumption could lead to savings in the order of 600 billion euros by 2020. This demonstrates clearly that ICT applications can deliver energy savings and carbon emission reductions, and do so in a way that drives even greater economic growth and productivity.

In the short term, ICT will be a key enabler of global energy use measurement and accounting, whilst in the long term it will play a critical role in process management and optimization in increasingly complex systems. Technologies to facilitate human-to-human communication are the traditional domain of ICT applications, but machine-to-machine communication used to optimize and automate processes and human-to-machine communication to measure and monitor processes and improve decision making will be at the heart of ICT's role. Collaborative technologies such as videoconferencing and telecommunications applications can help offset emissions through avoided travel and saved building space.

Another strength of ICT has been streamlining and power saving by promoting the introduction of e-government/municipality, e-carte, ITS, telework and others, which enable us to enhance existing operating efficiencies and processes, and optimize the performance of energy use. The European digital industry has been active and communicated widely the opportunities the ICT can provide for reducing environmental impact (EICTA Report: High Tech/Low Carbon, 2008)

ICT has the potential to help us to change our way of thinking and behaviour and to reduce overall GHG emissions and energy consumption by making our environmental activities measureable, reportable, and verifiable and by enabling us to better control ourselves.

In order to expedite the introduction of solutions, we continue to request the governments of both the EU and Japan to support the development of common metrics and processes for the measurement of GHG reduction by ICT, such as the ongoing efforts in ITU which visualize reduction effects in terms of the environmental burden, thus improving persuasiveness in the market.

Furthermore, the next-generation supercomputer will bring innovation for climate change mitigation. It is said that the time required to design more efficient solar cells can be incomparably reduced by the simulation performed by the next-generation supercomputer. It is also expected that the mechanism of photosynthesis can be elucidated by the next-generation supercomputer, enabling us to develop new devices that create clean energy from sunlight. We must also pay attention to such roles of ICT as a catalyst for innovation.

Both the governments of the EU and Japan are recommended not only to promote R&D and field trials for innovation, but also to share the results to enable others in developed countries and developing countries, where we foresee that the use of ICT applications will be expanded in the

future, to contribute to the development of a low-carbon society.

Action taken so far

The Ministry of Economy, Trade and Industry, mainly through the Green IT Promotion Council, has been forging ties between business, government, and academia with the aim of further expanding the use of green IT.

And through its Green IT Project, which began in Fiscal 2008, the Ministry of Economy, Trade and Industry has been promoting the development of innovative technology and working with the Green IT Promotion Council to make the environmental benefits of such technology more visible.

The GOJ has also been active in the international arena, using forums such as the OECD and ITU to argue that to achieve greater proliferation of green IT the world needs to focus on establishing indicators and calculation methods for measuring the amount of greenhouse-gas reductions, and we have already reached a common understanding on this with the relevant parties in Europe.

The Ministry of Education, Sports, Culture, Science and Technology, meanwhile, has been pressing ahead with researching and developing base technology that employs innovative technology to deliver high-level information processing that consumes very little electricity.

In addition, since Fiscal 2006 the Ministry of Education, Sports, Culture, Science and Technology has been administering a project to develop a next-generation supercomputer that can contribute to the development of highly efficient solar cells. And in April 2009 the EU and Japan agreed, under the Japan-EU Science and Technology Cooperation Agreement, to work together in the field of supercomputers.

Future outlook

Through collaborative initiatives involving business, government, and academia, the GOJ will continue to develop and empirically test technology that can contribute to reducing environmental damage and devise methods of evaluating this contribution. To give specific examples, the Green IT Promotion Council plans to play a key role in the activities of a forum to promote energy efficiency (the ICT4EE Forum) that is to be established in February this year with the aim of employing ICT to develop common yardsticks and processes for measuring reductions in greenhouse-gas emissions.

The GOJ also plans to connect a next-generation supercomputer with various supercomputers within Japan using a network, in order to integrate them to form an innovative, high-performance computing infrastructure. We will also step up cooperation between Japan and the EU in the field of supercomputers by, for example, organising symposiums in both Japan and Europe.

18. Striking a balance between security and facilitation of trade (C-EJ-3)

BRT Recommendation

Since the terrorist attacks in the United States on September 11, 2001, a global trend of stricter security measures has been imposing burdens on the management resources of companies, and is also becoming a hindrance to a smooth international supply chain. Based on the WCO SAFE Framework on Standards, institutions are being developed around the world such as Authorized Economic Operator (AEO) programs and the advance cargo manifest declaration rules. However, their content is not always the same and some of them sometimes invite excessively tight regulations. The multinational companies of the EU and Japan share concerns about further burdens on businesses and unwanted hindrances to smooth trade, as a result of such regulations. Particularly in this time of economic downturn worldwide, such negative effects can work as a non-tariff barrier that clogs global economic activities.

Amid such an environment, the EU and Japan must lead international harmonization of trade institutions to strike a balance between security and the facilitation of trade, while realizing efficient public-private operations. A secure and innovative international supply chain should be pursued, especially through the use of ICT that will support institutions and public-private operations, and also through the dissemination of usage models.

More specifically, governments are expected to:

- (1) Exchange electronic information such as customs entry information and manifest information between governments;
- (2) Implement the mutual recognition of AEO programs between the EU and Japan, and launch an initiative of the EU and Japan for the international single AEO standard as a next step;
- (3) Disseminate models for ICT use that contribute to the security and operational efficiency of the supply chain;
 - * For example, RFID tags, sensors, biometrics authentication technologies, and UCR (Unique Consignment Reference) numbers can build a secure and visible international supply chain.
- (4) Promote the deployment of ICT infrastructure by SMEs to minimize digital divides; and
- (5) Use a strong incentive policy to promote the deployment of ICT systems.

The economic slowdown is prompting the EU and Japan all the more to contribute to the facilitation of trade, and to bring innovation to the international supply chain, by launching their initiative for striking a balance between security and the facilitation of trade, and by proactively deploying ICT as an effective tool for policy goals.

Action taken so far

With the aim of achieving a balance between security and the facilitation of trade, the GOJ has used its membership of the WCO (World Customs Organization) to play an active role not only in the formulation of the AEO Guidelines (June 2006), but also in the formulation of the AEO Compendium, which compares AEO programs in different countries and was adopted in December

last year, and the formulation of the AEO implementation guidance concerning procedures for the introduction of AEO programs. These initiatives have sought to contribute to the establishment of high-quality AEO programs throughout the world. And with the goal of enhancing international supply chains visibility, this fiscal year the GOJ organised a study group comprising experts in the field and put together an proposal for international standards of Auto-identification technologies concerning the minimum information that should be shared by entities on the global supply chains, codes that should be used, interfaces for sharing information, and so on.

Future outlook

To contribute to the establishment of high-quality AEO programs throughout the world, the GOJ will continue to participate actively in discussions on AEO at the WCO, APEC, and ASEM. And to improve international supply chains visibility, the GOJ will design specifications of information service so that shippers, consignees and logistics companies can upload and search necessary cargo status information automatically. The GOJ also plans to present this approach to international-standards-making organisations and regional bodies such as APEC and to boost the number of countries and entities and the collaboration among them that support to work with use to achieve it.

19. Maintenance of the WTO's information technology agreement (ITA) (C-EJ-4)

BRT Recommendation

We express strong support for maintaining the Information Technology Agreement (ITA), one of the most successful trade agreements of our time. The increased access to IT products generated by the ITA has led to greater innovation, consumer welfare, productivity, trade, investment, and economic growth worldwide. The ITA signatories are obligated to bind and eliminate customs duties on ITA-covered IT products. However, it is noted that there are concerns around the world over ITA-covered products being reclassified as dutiable. In fact, some new convergence-technology ITA devices have already lost their zero-tariff status.

We strongly believe that the ITA signatories should be providing more, not less, market access opportunities for IT products. The letter and spirit of this market-opening agreement must be maintained and the ITA commitment to “bind and eliminate” duties on covered products must be respected. As a priority, both governments should do their best to ensure that the maintenance of the current ITA is achieved as soon as possible. In addition, we encourage governments to work towards the wider global adoption of the ITA.

Action taken so far

IT innovation not only gives birth to new industries and makes life more convenient, it also contributes to the development of industry and society in general. For example, digital devices that combine the functions of a printer, copier, scanner, and fax allow office space to be reduced and business processes to be performed more efficiently. By reducing barriers to trade, ITA has made a great contribution to the worldwide use of such IT products, but for it to continue to play a similar role in the future, it goes without saying that it will need to be responsive to innovative technology and not impede its dissemination.

The EU, however, seems to be going against these trends, having imposed tariffs on products with new functions developed through technological innovation and/or on products that combine multiple functions, since ITA was signed, on the grounds that they are not covered by ITA. Although the GOJ has raised this issue at WTO meetings including ITA committee and repeatedly expressed its concern to the European Commission at the Japan-EU Regulatory Reform Dialogue, the EU has offered no solutions. In light of this situation, Japan has joined the U.S. and Taiwan in asking the WTO to establish a panel of the dispute settlement regarding EU tariff treatment of multifunctional printer-copier-scanner-fax machines, LCD monitors for PCs, and set-top boxes, and two panel meetings were held in May and July 2009.

On the bright side, recent legal developments in the EU have highlighted sympathy for Japan's position. The European Court of Justice (ECJ) has ruled that the European Commission should withdraw its justification for the existing EC regulations concerning the tariff classifications of multifunctional machines (ruling made in December 2008) and LCD monitors (February 2009).

There have also been some administrative-level developments that could contribute to the maintenance of ITA:

(1) In December 2008, the EU adopted a proposal for a five year extension of the duty suspension on

LCD modules.

(2) In the summer of 2009, it was confirmed that mobile phones with a TV function (or a GPS function), on which EU agencies had proposed to impose duties, would remain to be classified into a mobile phone category as duty-free, provided they met certain conditions.

Future outlook

The WTO Panel report regarding the three products described above is expected to be delivered around the spring of 2010. Meanwhile the GOJ will use opportunities, including the ITA committee and various other forums, to urge the European Commission to respect the principles of ITA and to try to bring about a solution in line with the objectives of ITA.

Following the ECJ decisions described above, customs authorities of some EU members have issued Binding Tariff Informations reclassifying LCD monitors, which were previously classified as video monitors (dutiable), as PC monitors (duty free). Nevertheless, these are little more than piecemeal moves and a close eye will still need to be kept on the situation. In addition, with duties on multifunctional machines still in place, the GOJ will continue to work for this issue to be resolved.

With regard to expansions of market access for IT products, the WTO NAMA (Non-Agricultural Market Access) negotiations are currently providing a forum for discussing the tariff elimination in the electronics /electrical sector. With IT products evolving at breathtaking speed, the tariff elimination on all electrical and electronic products would be a highly effective step, and would also contribute to resolve the problem in tariff classifications for these products including ITA products. To work out the tariff eliminations in this sector, it is essential that EU participate in this initiative. So we hope their positive commitment in cooperation with the proponents.

20. Accelerating innovation by convergence / federation of communication and broadcasting (C-EJ-5)

BRT Recommendation

Along with the rapid innovation of ICT technologies, new services are arising beyond the existing framework of communication and broadcasting. We recognize that both governments are addressing a fundamental review of legal frameworks at this moment in response to the demands of this era of convergence / federation of communication and broadcasting. We hope for an institutional environment in which flexible business operations are allowed, in view of the reinforcement of international competitiveness of the ICT industry through emergence of new markets with the technological progress and innovation that we pursue.

Therefore, we recommend that the governments of both the EU and Japan create an institutional framework in each country and conduct dialogues and collaboration to ensure international consistency. Specifically, we suggest having discussions on the promotion of international distribution of digital content, and the principle of nondiscrimination concerning content regulation regardless of countries.

Action taken so far

In August 2009 the GOJ received a report from the Information and Communications Council concerning a comprehensive legal framework for communication and broadcasting. Based on this report, the GOJ is currently preparing a bill designed to simplify and consolidate the present legal framework for communication and broadcasting. This bill will also incorporate regulatory reforms suited to the new era under the new government.

With regard to facilitating the international distribution of digital content, our Intellectual Property Strategic Program 2009 (June 24, 2009) calls for efforts to be made to promote Japan's content industry overseas. As such, the GOJ has been stepping up our efforts to distribute Japanese broadcast content overseas. For example, the GOJ has organised an International Drama Festival (Broadcasting contents market) with the aim of developing an international market for Japanese broadcast content.

Future outlook

The GOJ plans to submit the bill concerning a comprehensive legal framework for communication and broadcasting at the regular session of the Diet this year.

And to promote the international distribution of digital content, the GOJ will secure time slots from foreign broadcasting stations and experiment with broadcasting regional content from Japan. The GOJ will also continue to use the international market for broadcast content to expand the distribution of such content overseas.

21. Adapt regulation to promote investment in next-generation networks (C-EJ-6)

BRT Recommendation

The current economic and financial crisis has had negative effects on investment in high-speed infrastructure and has led to declining growth rates of the sector. In order to ensure a sustainable recovery of the sector, which would allow the industry to play a key role as a driver for the global economy, the regulatory environment must be adapted accordingly.

We recommend that governments continue to take into consideration the telecommunications industry's rapidly changing economic and technological landscape. The shift to Internet Protocol-based services is going to be a major step of innovation, which will create new business models and user expectations for innovative services. Governments are strongly recommended to create a regulatory climate that supports businesses and investments.

By promoting various fixed and mobile broadband technologies, consumers will be able to enjoy additional benefits. Broadband fixed and mobile traffic over the networks is already growing exponentially. In order to prevent congestion and to preserve the quality of services, the future Internet will need a new architecture so that it can respond to future services and user demand.

Therefore it is necessary to ensure that there are appropriate conditions for investment and that further infrastructure-based competition is stimulated. The substantial investment needed in network deployment and updating carries high economic risks due to uncertain future demand, as well as high regulatory uncertainty. Therefore, we repeat that the regulatory environment should provide incentives for network investment, allowing proper return on investment. Policymakers play a key role in determining the future of ICT investments and innovations.

Action taken so far

With the aim of establishing a fair competitive environment, the Ministry of Internal Affairs and Communications has been promoting competition in the development of infrastructure. In 2008, for example, it established regulations for 2.5GHz Broadband Wireless Access (BWA) services, and the BWA services began the following year.

With regard to interconnection charges for Category I designated telecommunications facilities that require approval from the minister, conditions are stipulated that charges should be fair and valid in appropriate proportion to cost price, with fixed profits being permitted. Under such a system the telecommunications carriers that establish a Category I designated telecommunications facility are actually investing in the construction and upgrading of the network.

Future outlook

The Ministry of Internal Affairs and Communications will continue to engage actively in the construction of a competitive environment, including promotion of facility competition.

22. Fundamental review of the copyright levy system and the compensation system for audio and video private copying / improvement of the current levy system (C-EJ-7)

BRT Recommendation

In order to promote further lawful use of digital content, it is necessary to implement dialogue/cooperation between the EU and Japan concerning preparation for a thorough stakeholders' discussion on the compensation system for private copying. Currently compensation is paid by means of copyright levies, a system which dates back to the analog era (at least in Europe). Copyright levies are a way of compensating for revenue loss caused by private copying, but they are not intended to fight piracy.

This move is based on already common business models utilizing DRM, as well as other emerging business models, including the on-line distribution of content on the basis of contracts with individual users, which is also expanding. In these cases copyright levies may impose a double payment for consumers. In reviewing the systems, we should take into consideration in a comprehensive manner the methods available to secure compensation for right holders and creators while respecting the current system of exclusive rights. Furthermore, new distribution practices, where the collection of payments for economic benefit is more directly related to the use of copyrighted work, are feasible with the support of advanced technology and appropriate contracts. The goal should be to enable the establishment of a system which is transparent, fair, and equitable to such interested parties as consumers, right holders, and equipment providers.

The current system should be improved to attain the above-mentioned goal with due consideration to technological progress, actual use of content, and competition in the market. The method of calculating levies based solely on memory capacity without taking into account the actual usage of the product for private copying and thus the damage to right holders resulting from private copying, should not be maintained, as it is not in line with the EU copyright directive and would deter the introduction of advanced recording media technology that meets users' needs. The calculation method should be replaced with one that more closely reflects the actual damage to the copyright owner by private copying and will not disturb technological progress and progress towards an information society for all.

Action taken so far

Any fundamental review of the compensation system for audio and video private copying requires agreement among the interested parties, and until Fiscal 2008 a subcommittee on audio and video private copying operating under the jurisdiction of Subdivision on Copyright of the Council for Cultural Affairs was exploring ways of changing the compensation system on behalf of the GOJ. This subcommittee comprised copyright holders, manufacturers, consumers, and experts in the field, and was tasked with coming up with changes that would acknowledge the need for copyright protection technology and compensation and take into account the future development and proliferation of copyright protection technology. However, huge differences in opinion among the interested parties remained and in the end no agreement could be reached. A report from the

Subdivision on Copyright of the Council for Cultural Affairs issued in January 2009 suggested that the Agency for Cultural Affairs needed to establish a forum separate from the Council for Cultural Affairs for forging a consensus among the interested parties.

Future outlook

The GOJ is aware of the urgent need to resolve problems relating to the private copying of audio and video content, and after addressing the issues with discussions involving the Council for Cultural Affairs, intends to continue to work on forging a consensus among the interest parties concerning changes to the compensation system

23. Personal data protection regime – international data transfers (C-EJ-8)

BRT Recommendation

Today, companies spread their organization across the globe in order to respond to the necessity of globalized business demands. Accordingly, the headquarters of these global companies are required to have stricter compliance and governance systems for the whole group structure. Personal data protection is one of the priority issues to be strictly managed within companies.

Moreover, these global companies are constantly exposed to international competition and are in urgent need of cost reduction and efficiency, even as they strengthen compliance regimes. Therefore, companies are beginning to outsource some internal operations and functions. Due to the evolution of Internet technology, there is a diminishing need to outsource to the same country. These practices introduce the possibility and necessity of managing and manipulating information and personal data beyond the national borders and laws of any single country or region.

Directive 95/46/EC, on the protection of individuals with regard to the processing of personal data and the free movement of such data, requires member states to permit transfer of personal data to countries outside the EU only where there is an adequate level of protection of such data as the Directive could provide, unless one of several specific exemptions apply.

In its 2009 Progress Report, the European Commission is considering carrying out an in-depth analysis in order to have a complete picture of Japanese data protection laws and possibly launch an adequacy-finding procedure upon the receipt of an official request from the government of Japan. In order to realize the free flow of personal data between the EU and Japan, the European Commission should carry out an in-depth analysis as soon as possible, and the Japanese government should officially request to the European Commission to start this analysis.

At the same time, industry sectors should establish reliable and cost-effective data protection schemes according to the risks of each company or industry sector. Such schemes should be implemented and introduced throughout the entirety of global companies, rather than be guided by location of company units. If a company should adopt such a scheme, international data transfer should be allowed between the EU and Japan, and on a worldwide basis.

Companies need to focus on building and implementing effective personal information protection regimes applied consistently across the whole corporate group. Such schemes should be effective while also allowing companies to keep at a reasonable level the cost of complying with requirements of different regions and countries.

Therefore, in parallel with the start of an in-depth analysis by the European Commission, the governments of the EU and Japan should quickly start the dialogue toward the building of international policy to encourage companies to establish and implement reliable and cost-effective schemes in order to allow the free flow of personal data between the EU and Japan.

Action taken so far

Response is the same as for A-EJ-4.

Future outlook

Response is the same as for A-EJ-4.

24. Shaping collaborative policies to assure dependability and information security of information systems (C-EJ-9)

BRT Recommendation

In today's information age, every social infrastructure can be supported by ICT. Information systems have become an essential part of the social infrastructures that sustain economic activities in EU and Japan. In light of this situation, the EU and Japan share awareness of the importance of information systems, and have been taking actions to assure the dependability and the security of systems. The EU and Japan also share concerns about the international impact when accidents in these information systems occur.

Meanwhile, as regards the evolution of the ICT infrastructure, the wide reach of the Internet has brought about the rise of new services and technologies such as SaaS (Software as a Service) and cloud computing. The new services enable users to access ICT "on demand", and this is particularly suitable for small and medium-sized companies, as well as start-ups, in that the service will not only eliminate lengthy set-up and installation, but also costly equipment and software.

As the ICT infrastructure undergoes such a new change, the governments of the EU and Japan should continue to closely communicate and exchange their views, and we think shaping collaborative policies by governments and the industry will be essential to encourage the adoption of new service opportunities such as SaaS and cloud computing.

We recommend both governments to start a study of quantitative management indicators and desirable levels of dependability and information security of the system as one of the collaborative policies.

Action taken so far

With regard to the improvement of dependability of information system software, the GOJ worked on the development of objective decision/evaluation criteria and profiles to measure dependability of information system software based on an interim report of a "study group on reliability and security of Information system software in an advanced information society" formulated in May 2009, and has formulated and published "guidelines for improving reliability"(second edition: March 2009) and "Dependability Indicators"(first edition) as well as "Dependability self evaluation tool"(September 2009) developed and published by the Information-Technology Promotion Agency. The GOJ is currently working on the dissemination of these measures.

As for utilization and promotion of SaaS and cloud computing, the Ministry of Economy, Trade and Industry has started a service to provide SaaS utilization platform for SMEs (J-SaaS) in March 2009, and is hosting a "study group on cloud computing and Japan's competitiveness" in which participants from the government, academic, and industry to consider measures to promote cloud computing. In addition, Ministry of Internal affairs and Communications is holding the "Smart Cloud Study Group" where participants from the government, academic, and industry engage in comprehensive

discussion of various issues by considering the advancement of cloud technology, and has formulated the “Guidelines on Security Management for ASP and SaaS Businesses in Handling Medical Information” in July 2009 and the “Policy for Information Disclosure concerning Safety and Reliability of Data Centers” in February 2009.

Regarding the information security, the GOJ published “the Second National Strategy on Information Security” in February 2009 which set forth items such as the future information security policy for government entities, vital infrastructures, businesses and individuals (http://www.nisc.go.jp/eng/pdf/national_strategy_002_eng_pdf), and means for international cooperation. The GOJ will continue its efforts based on these plans.

Future outlook

Promoting the use of cloud computing will involve a range of challenges such as ensuring its dependability and developing human resources for the cloud-computing age, and going forward we will be taking concrete action to address these challenges. The GOJ has already begun exchanging opinions with the European Commission on the form this action should take, and will be collaborating with the European Commission while also taking action to improve the dependability of information systems and software.

With regard to information security, the GOJ will be steadily implementing the Second National Strategy on Information Security and will continue to work proactively with the EU and other countries involved to develop international standards for information security.

25. Reinforce the role of Public Private Partnerships (C-EJ-10)

BRT Recommendation

A dialogue between the officials of the EU and Japan on Public Private Partnerships on ICT in the context of e-government was initiated as part of last year's recommendations. However, the responses from officials indicate some unilateral measures to promote e-government, but neither in the context of Public Private Partnerships on ICT, nor as a dialogue between the authorities of the EU and Japan.

We believe that the current economic crisis has magnified the importance of Public Private Partnerships. Since private-sector investment in information, communications and service technologies is three times higher than corresponding investments by the public sector, the benefits through Public Private Partnerships should be significant. The EU and Japan should conduct a dialogue on best practices and joint initiatives on how Public Private Partnerships on ICT can be promoted to advance e-government developments in the current economic crisis.

Action taken so far

The New IT Reform Strategy, which was adopted in January 2006 sets a target of over 50 percent of national government filings to be completed online by FY 2010, and the GOJ has been working to deliver the most convenient and efficient e-Government services in the world.

In September 2008, for example, we put together the Action Plan for Expanding On-Line Use, which prescribes concrete measures for promoting the use of the Internet for filings with national government organisations, particularly filings of which there are a large number each year. These measures, which we are currently implementing, include simplifying digital signatures and attached documentation, reducing processing fees, and offering tax breaks. We have also been rethinking, based on cost-benefit analyses, whether to allow filings of which there are only an extremely small number to be made online.

Future outlook

The GOJ has begun examining the IT strategy under new administration, and in the process of doing this will be considering the various things that need to be done to make progress with e-Government.

Working Party D: Financial Services; Accounting and Tax Issues

26. Concurring with the financial system reform (D-EJ-1)

BRT Recommendation

- The Summit on Financial Markets and the World Economy (G20 Summit) identified the root causes of the current crisis: market participants seeking higher yields without an adequate appreciation of the risks and without exercising proper due diligence; weak underwriting standards; unsound risk management practices; increasingly complex and opaque financial products; and consequent excessive leverage, the combination of which created vulnerabilities in the system. The G20 Summit also pointed out that in some advanced countries, policy-makers, regulators and supervisors did not adequately appreciate and address the risks building up in financial markets, nor did they keep pace with financial innovation or take into account the systemic ramifications of domestic regulatory action. We agree with the G20 summit's view on the causes of the financial crisis.
- The G20 Summit upheld the common principles for financial market reform, including (1) strengthening transparency and accountability, (2) enhancing sound regulation, (3) promoting integrity in financial markets, (4) reinforcing international cooperation, and (5) reforming international financial institutions. The G20 countries are now at the stage of establishing action plans and implementing them.
- We agree that these financial reforms will enhance the transparency and accountability of financial institutions, financial markets, and financial products, while ensuring their fairness and integrity. We note, however, that innovation is also important, and that a careful balance must be struck between innovativeness and regulation.
- The G20 Summit upheld that once the economy recovers, more stringent regulations would be introduced. We assert that governments should be prudent in determining whether the economy is truly on a recovery track, and make sure the regulations themselves, as well as the timing of their implementation, are considered with flexibility.
- The stability of financial markets and their proper regulation are important for market users, including companies that raise capital. While we currently see government intervention to markets in order to stabilize the financial system and support institutions, such intervention must not distort market and thus be removed as soon as practicable.

Action taken so far

It is crucial to engage in international cooperation in order to prevent another crisis occurring and to bring about an economic recovery, and Japan has played an active part in international debate. On the subject of financial regulation reform, the GOJ has argued that to ensure that new regulations do not have an adverse impact on the real economy or the financial intermediary function, they should be introduced when a sustainable recovery in the economy or the financial markets is assured, taking

into account the characteristics of the financial sectors of different countries.

We have implemented various extraordinary and exceptional measures since the autumn of 2008, and they were necessary during the crisis-like situation we were faced with. They were also crucial to prevent the real economy from going into freefall. We recognise, however, that leaving extraordinary and exceptional measures in place longer than necessary carries with it the risk of side effects such as a distortion in market discipline or moral hazard.

Future outlook

The GOJ will continue to play an active part in the international debate on financial regulation reform, and in doing so will continue to press for any potential impact on the real economy to be given due consideration. The GOJ will also be cautious in making decisions concerning the timing and precise methods of withdrawing the extraordinary and exceptional measures and returning to a normal footing. To be exact, the GOJ will carefully analyse the current situation and review the effectiveness of individual methods, and in certain cases endeavour to align our action with international developments.

27. Prudential regulation (D-EJ-2)

BRT Recommendation

- To mitigate the pro-cyclicality of bank's capital requirements, the G20 leaders agreed to raise the bank's capital buffer above the required minimum when the economy recovers and allow banks to decrease that buffer during economic downturns to sustain smooth lending. The G20 Summit also asked the Basel Committee of Banking Supervision (BCBS) to review minimum levels of capital and develop recommendations by 2010.
- We need to be fully aware that a policy of raising capital buffers or minimum capital levels in response to the business cycle involves the risk of exacerbating the pro-cyclicality of capital requirements should such policy be implemented at the wrong time. We assert that the determination of when the economy is recovering should be made prudently.
- The strengthening of the capital requirements for trading books is now being discussed at BCBS. A broader range of financial institutions, including financial institutions that do not take deposits, are also complying with Basel II. Financial institutions are subject to various regulations in their respective industries. Solvency II is being introduced to insurance companies. We assert that the governments should keep in mind that the differences between various financial institutions cannot be ignored in regards to the nature of their businesses, the associated risks, and how they are affected by regulatory changes.
- We believe that certain transitional measures should be provided if guidelines for harmonization of the definition of capital are created, because the soundness of financial institutions may be impaired if the new rules are applied in a single step.
- When risk-based capital requirements are supplemented with a simple, transparent, non-risk based measure, it is important that a level playing field be secured, to take into account differences in financial standards across countries.
- We also believe that the level playing field between financial institutions with public money infusion and those without such arrangement should be secured.

Action taken so far

The Basel Committee on Banking Supervision is currently considering to introduce new regulations that include pro-cyclicality, leverage ratio, and so on. When introducing these new regulations, the Committee will consider carefully in order to avoid negative impact on bank lending activity that could impair the economic recovery. To ensure comparability, the details of the leverage ratio will be harmonised internationally, after fully adjusting remaining differences in accounting rules. The Committee ensures that the new standards will be implemented gradually after the financial market has stabilised enough to ensure sustainable economic growth and will make grandfathering arrangements for sufficient period of time to ensure a smooth transition to the new standards.

During the recent financial crisis, there were cases in some countries that the public funds were injected into the bank without decreasing the value of its capital and clarifying the responsibility of its shareholders and management properly. It is necessary to review the enforcement procedures and systems of those countries.

Future outlook

Final proposals and their calibration will be considered after a through analysis of the Quantitative Impact Study and comments toward the consultative documents. The fully calibrated sets of standard will be ready by the end of 2010 and will be introduced gradually after the improvement of financial conditions and the economic recovery are assured, aiming to implement by end-2012.

28. Risk management (D-EJ-3)

BRT Recommendation

- One lesson learned from the recent market turmoil is that financial institutions need to strengthen their management of counterparty and liquidity risk as well as meet capital requirements. However, we have been in the situation that governments and the central banks have had to take exceptional measures to support certain financial institutions and supply them with liquidity. Although risk management concepts are moving in the right direction, we believe that such measures should not be taken hastily.
- To manage liquidity risk, the G20 has agreed to build a global framework for promoting stronger liquidity buffers at banks, including cross-border institutions. We note, however, that such a framework could jeopardize the level playing field or lead to freezing of assets if liquidity buffer regulations differ among countries. In building this global framework for promoting stronger liquidity buffers, we ask that governments consider liquidity in a cross-border context and harmonize regulations across countries.
- To enhance the management of counterparty risk, a realistic and feasible level of regulations should be required.
- We believe that the corporate management and compensation structure based on the long term view is important for sound risk management.◦

Action taken so far

The Basel Committee on Banking Supervision ensures to implement the new standards gradually after the financial market stabilised and sustainable economic growth is assured. The regulations will establish newly framed liquidity requirement if the global liquidity standard is agreed internationally. The Committee is also proposing to strengthen the capital requirements for counterparty credit exposures and is currently analyzing adequate calibration level in detail based on the Quantative Impact Study.

With the aim to achieve concerted international action on the establishment of sound compensation practices, the Financial Services Agency has issued a proposal for revised supervisory guidelines concerning compensation structures. While it also consider the current condition in Japan, this proposal is based on the FSB's Principles for Sound Compensation Practices and their Implementation Standards.

Future outlook

Final proposals and their calibration will be considered after a through analysis of the Quantitative Impact Study and comments toward the consultative documents. The fully calibrated sets of standard will be ready by the end of 2010 and will be introduced gradually after the improvement of financial conditions and the economic recovery are assured, aiming to implement by end-2012.

We plan to implement the revisions of supervisory guidelines concerning compensation structures, which are based on the FSB's Principles for Sound Compensation Practices and their Implementation Standards, by the end of this March.

29. Enhancing the risk management of securitisation (D-EJ-4)

BRT Recommendation

- It is obvious that securitized products were among the major causes of financial crisis contagion. The structure of securitized products became increasingly complex, and self discipline at the financial institutions in the securitization business, credit rating agencies and other entities, including their due diligence measures, failed to function properly. However, we do not believe that this diminishes in any way the importance of securitization per se, which is to enable the transfer of credit risk. In economies like Japan where credit risk has been concentrated in the banking sector, risk diversification through securitization is still an important means of mitigating systemic risk.
- The G20 leaders agreed that the BCBS and authorities should take forward work on improving incentives for risk management of securitization, including considering due diligence and quantitative retention requirements. The aim of quantitative retention requirements, which would require originators and other service providers to hold a certain portion of the securitized products, is to align their incentives with those of investors. We believe that such measures risk diminishing the incentives for the securitization itself, and that setting the right level of required retention will be difficult.

Action taken so far

Based on the lessons learnt from the recent financial crisis, the Financial Services Agency (FSA) has been encouraging financial institutions to improve their risk management for securitisation since the end of 2007, by revising supervisory guidelines and stepping up off-site monitoring. Also, the FSA has been encouraging financial institutions and ratings agencies to disclose more securitisation-related information in order to enhance market discipline on financial institutions. The FSA furthermore plans to ensure financial institutions to conduct better due diligence for securitisation products they hold by implementing the revised securitisation treatments under the Basel II framework published in July 2009.

A regulatory framework on CRAs was introduced (The Financial Instruments and Exchange Act was amended in June 2009, which will become effective in April 2010.).

The framework, in order to ensure the quality of the rating process, requires CRAs to implement measures to ensure the quality of the information used in the determination of credit ratings and measures to enable the third party to examine the validity of the credit ratings regarding securitised products from an independent standpoint, as well as to disclose detailed information on credit ratings regarding securitized products.

Aside from the above, the FSA has been playing an active role in discussions at various international fora (e.g., BCBS, FSB, SSG) on improving risk management relating to securitisation through, for example, its chairmanship of the BCBS workstream on ratings and securitisation.

Future outlook

By conducting off-site monitoring and on-site inspections, the FSA will continue to encourage

financial institutions to improve their risk management for securitisation. The FSA will also continue to contribute to the international discussions on this issue. As for the quantitative retention requirements, the FSA will consider the need for such measures in light of international trends and realities in Japan, while taking into account their impact on incentives relating to securitisation.

30. Accounting issues (D-EJ-5)

BRT Recommendation

- In 2008 the Working Party 2 (the previous title for the Working Party D) recommended enhancement of the governance of the accounting standard setting bodies and the convergence of accounting standards. The Financial Stability Board is going to undertake a strategic review of the policy development work of international standard setting bodies, and the IASB has established an external Monitoring Board, members of which include the IOSCO, the European Commission, the US Securities and Exchange Commission, and Japan's Financial Services Agency. In addition, IASB and FASB have established the Financial Crisis Advisory Group (FCAG), which is comprised of senior leaders with broad international experience in financial markets. FCAG will advise the IASB and FASB on the standard-setting implications of the global financial crisis and on potential changes to the global regulatory environment. We support these trends and look forward to further developments.
- To address pro-cyclicality, the Financial Stability Forum has recommended that the IASB and other international standard setting bodies look at loan loss provisions and fair value accounting as well as bank capital requirements. We note that such prudential regulations could result in certain conflicts with investor protections, and thus must be carefully considered.
- While the purpose of financial accounting is to provide financial information to a company's outside stakeholders such as shareholders and creditors, we wish to point out that the view of a company's management is also important when setting standards. Changes in accounting standards have impact on corporate activities and thus on the economy. We believe that net income is useful as accounting information for corporate performance.
- IASB is in the process of revising its financial instrument accounting standard, and we support the approach to recognize the net unrealized gain on available-for-sale securities as other comprehensive income. We wish to point out that when securities are sold, gains or losses realized by the sale should be recognized in net income.
- As part of the process to strengthen the immediate recognition in the accounting standards for employee benefits, the actuarial gains and losses may be recognized immediately upon accrual as income or expense. The immediate recognition of the actuarial gains or losses coming from short term financial market fluctuations could cause the pension plans, which are long term promises between employers and participants, to give excessive fluctuation to the profit and loss statement. We believe such standard should not be adopted.
- With regards to the IASB's financial statement presentation project, we are concerned about the requirement for the use of direct method in cash flow statement. The users of financial statements are able to acquire sufficient useful information from disclosures with indirect method. Based on the fact that companies will incur large amount of cost, we do not see any

overriding benefit coming from the requirement of direct method.

Action taken so far

In light of the globalization of financial/capital transactions and corporate activity, and to address the recent financial crisis, further efforts toward establishment and application of a single set of high-quality global accounting standards have been called for by the G20 Summit (Summit on Financial Markets and the World Economy), etc. The Accounting Standards Board of Japan (ASBJ), the accounting standard-setter in Japan, has been working with international accounting standard-setters to improve the quality of international accounting standards and moving forward with the convergence of accounting standards into the International Financial Reporting Standards (IFRS).

In addition to assisting the ASBJ's efforts toward the convergence, the Financial Services Agency (FSA) has been strengthening the cooperation with foreign authorities and actively involved, as a member of the Monitoring Board established in January 2009, in enhancing the governance of the International Accounting Standards Board (IASB), which sets the IFRS. The International Accounting Standards Committee Foundation (IASCF) is also reviewing its constitution including to enhance the governance. In September 2009, an exposure draft was issued and a round table was held in Tokyo in October 2009.

The setting of each accounting standard involves a variety of issues, so for high-quality standards to be established, it is essential that substantial dialogues are held between the accounting standard-setter and the stakeholders such as users and preparers of financial statements, auditors, and regulators in accordance with the appropriate due process, from the standpoint of ensuring the robust governance of the accounting standard-setter. As part of such dialogues, during the year 2009, IASB held round tables in Tokyo in June (Consolidation and Derecognition), September (Financial Instruments), and November (Fair Value Measurement).

Future outlook

The FSA will continue to assist the ASBJ's efforts toward the international convergence of accounting standards and continue to play an active role in strengthening the governance of the IASB. The FSA will also continue to work with foreign authorities to ensure the appropriateness of the IASB's standards setting processes including dialogues with stakeholders.

31. Tax issue proposal for EU and Japan (D-EJ-6)

(1) Tax agreements

BRT Recommendation

The Governments of Japan and Europe should ensure that dividend payments from subsidiaries to parent companies and royalty and interest payments between related parties are, to the greatest possible extent, exempted from withholding taxes. We hope that EU Member States and Japan will enter into common agreements on tax issues in order to fully enjoy the benefits of the single market. We ask the public authorities to ensure a continuation of wide-ranging dialogue aimed at achieving such agreements.

Action taken so far

With regard to the prevention of double taxation, in view of the close economic ties between Japan and the EU, the GOJ is in the process of reviewing its tax agreements with various European countries. These reviews are aimed at more actively promoting investment between Japan and the EU and making the exchange of tax-related information more effective, and reflect current economic ties and other factors.

The new tax agreement between Japan and Britain (which took effect in 2006) and the protocol amending the tax agreement between Japan and France (which took effect in 2007) have eased tax-break criteria by introducing tax exemption at source for certain types of dividends, interest, and royalties.

Future outlook

The GOJ is currently in negotiations with the British territory of Bermuda on the conclusion of a tax agreement and with Belgium, Luxembourg, Switzerland, and the Netherlands on the revision of existing tax agreements. The GOJ have reached a basic agreement to move forward in all these negotiations and is now just ironing out the details. And in the future the GOJ intends to work on the conclusion or revision of tax agreements with European countries whenever the need to do so arises.

(2) Corporate accounting and tax practice

BRT Recommendation

With the progress of convergence of Accounting Standards, new deviations arise between corporate accounting and tax practice. We ask that the Governments of Japan and Europe respond flexibly to the deviations.

Action taken so far

For our overall position on tax-system reform of Japan, refer to the attachment in the Appendix of this report.

Future outlook

For our overall position on tax-system reform of Japan, refer to the attachment in the Appendix of this report.

32. Tax issue proposal for Japan (D-J-7)

(1) Transparency in administering transfer pricing taxation

BRT Recommendation

We ask the tax administration of Japan to secure transparency in executing transfer-price taxation in order for companies to carry out international business expansion smoothly. From a viewpoint of international common understanding, we request that the tax administration of Japan revert to an international common model such as the OECD model.

Action taken so far

(1) The GOJ makes it its own practice to publicly release, on websites, not only the laws and regulations on the transfer pricing taxation, but the Administrative Guidelines on its interpretation and on its operations. In order to further clarify its operations, the National Tax Agency of Japan (NTA) also has updated these Administrative Guidelines after public consultations. For example, in October 2008, the NTA revised and published its Administrative Guideline to clarify the treatment of “provision of services” and of “lump-sum payments to adjust prices,” etc..

(2) The Administrative Guidelines prescribe that examinations and APA reviews shall be conducted with due reference to the OECD Transfer Pricing Guidelines (TPG), and the NTA has been making efforts to administer the transfer pricing taxation system based on such international rules.

Future outlook

From the viewpoint of ensuring transparency and facilitation in transfer pricing administration, the NTA will continue to bring further clarifications to its application standards and administrative policies by updating the Administrative Guidelines with reference to the TPG.

(2) Improving the consolidated tax system

BRT Recommendation

We repeatedly ask the Government of Japan to reform the consolidated tax system as quickly as possible to allow carrying forward tax losses in subsidiaries which incurred before the system came into effect, to exempt revaluation of subsidiaries at fair value at the initiation, and to allow including donation between consolidated corporations in expenses.

Action taken so far

For our overall position on tax-system reform of Japan, refer to the attachment in the Appendix of this report.

Future outlook

For our overall position on tax-system reform of Japan, refer to the attachment in the Appendix of this report.

(3) Reducing corporate tax rates

BRT Recommendation

We request the tax administration of Japan to consider reducing corporate tax rates.

Action taken so far

For our overall position on tax-system reform of Japan, refer to the attachment in the Appendix of this report.

Future outlook

For our overall position on tax-system reform of Japan, refer to the attachment in the Appendix of this report.

(4) Expanding tax breaks

BRT Recommendation

As Japanese society ages, Japanese individuals in the workforce will need to invest and accumulate more assets for retirement. The role of private sector insurance will be more important in such fields as medical (hospital), long term care and pension insurance. We ask the Japanese tax authority to expand the tax breaks to encourage the development of individual preparation for retirement.

Action taken so far

For our overall position on tax-system reform of Japan, refer to the attachment in the Appendix of this report.

Future outlook

For our overall position on tax-system reform of Japan, refer to the attachment in the Appendix of this report.

Working Party E: Innovation, Environment and Sustainable Development

33. Innovation and climate change (E-EJ-1.1, 1.2, 1.3)

BRT Recommendation

(E-EJ-1.1)

The European Commission and Government of Japan should devise strategies and mechanisms to support Leapfrogging in energy efficiency by providing incentives for the development of disruptive technologies such as for instance price-worthy LED lamps for households and public installations in developing and developed countries.

(E-EJ-1.2)

The European Commission and Government of Japan should strongly support the private sector in innovation related to climate change with adequate policy frameworks and incentives to invest into the development of new concepts and technologies, which may not be sufficiently profitable.

(E-EJ-1.3)

There is a clear need to enhance the cooperation between the industries and research institutions of the technologically most advanced economies. However, also triangular cooperation between Japan, the EU and developing or emerging economies should be actively promoted for burden sharing and cost reduction. The European Commission and Government of Japan should take steps in this direction jointly and accordingly.

Action taken so far

On December 30, 2009 the Cabinet adopted the “New Growth Strategy (Basic Policies)”, which states that Japan’s new growth strategy will be based on:

- Growth driven by Japan’s strengths (environment and energy, and health)
- Achieving growth by pioneering new frontiers (Asia, tourism and regional regeneration)
- A platform for growth (science and technology, jobs and human resources)

The strategy sets forth targets to be reached by 2020 and defines a course of action, based on key policy measures, for achieving them. It also relates closely to the crux of the “33. Innovation and climate change” recommendation in that it sets out a “strategy for becoming an environment and energy power through green innovation” in the “Growth driven by Japan’s strengths section”.

The strategy sets the following targets to be met by 2020:

- Create over 50 trillion yen in new environment-related markets
- Create 1.4 million new environment-sector jobs
- Reduce worldwide greenhouse gas emissions by at least 1.3 billion tons using Japanese private-sector technology

These targets will be achieved through the following key policy measures:

- Spread renewable energy by expanding electric power feed-in tariffs etc.

- Turn home, offices, etc. into zero emission structures through the spread of eco-housing, heat pumps, etc.
- Speed development of innovative technologies including storage batteries, next-generation automobiles, and improved thermal power plant efficiency.
- Implement intensive investment projects for realising a low-carbon society via a comprehensive policy package including regulatory reforms and the greening of the tax system.

Future outlook

The GOJ will therefore be taking action in accordance with this “New Growth Strategy (Basic Policies)”, and intends to complete specific details of this action as well as a time schedule by around June this year.

34. Addressing global warming

(1) Post-2012 framework

(a) Participation of all major greenhouse gas emitting countries (E-EJ-2.1a)

BRT Recommendation

- It is vital to have all major emitting countries participate in the Post-2012 Framework in a responsible manner. Without the participation of major emitters, any international agreement will not be effective in reducing climate change and its fairness will be compromised as well.
- Developing countries should be open towards flexible and diverse approaches taking into account the national circumstances of each country.

Action taken so far

Japan has been playing a leading role internationally towards the establishment of a fair and effective international framework in which all major economies participate and agreement on their ambitious targets. In negotiations under the UNFCCC, at bilateral meetings, at various international conferences, and so on, Japan has been encouraging other countries (major economies in particular) at various levels, to enhance their efforts to tackle global warming and to actively participate in a new international framework. At COP-15, Japan stressed the need for a political consensus in the summit level meeting and contributed to formulate the Copenhagen Accord.

Japan has also been working actively to support developing countries in their mitigation and adaptation measures. And with the aim of enhancing this assistance, Japan launched the “Hatoyama Initiative”, which contains specific details of assistance to be provided until 2012 and a proposed framework for assistance after 2013.

Future outlook

Based on the Copenhagen Accord which was taken note of at COP-15, Japan aims to adopt a new and comprehensive legal document and to establish a fair and effective international framework at the earliest possible stage. To this end, Japan will take every opportunity, such as negotiations under the UNFCCC, various international conferences, and bilateral talks to further promote cooperation among developed countries, encourage major emitting nations, and collaboration with developing countries that are vulnerable to adverse effects of climate change.

(b) Agreement on long-term targets (E-EJ-2.1b)

BRT Recommendation

The ultimate objective for prevention of global warming, as UNFCCC describes, is to stabilize GHG concentration in the atmosphere at a level that would not endanger the climate system in the long run. Therefore it is important to agree on the reduction volume for stabilizing GHG concentration, based on scientific evidence and share reasonable and feasible long-term targets of reducing and deterring GHG emissions.

Action taken so far

GHG emissions are currently more than double the level that can be absorbed by the Earth, and the stabilisation of GHG concentrations will require a 50-percent cut in global emissions. Japan has therefore been continuously encouraging other countries at UNFCCC negotiations, multilateral fora such as G8 summit meeting and bilateral meetings to share with all countries the long-term target of reducing global GHG emissions by at least 50 percent by 2050.

At the L'Aquila in July 2009 the G8 leaders reaffirmed the commitment they made at the Toyako summit to reduce global GHG emissions of at least 50 percent by 2050, and also supported, as part of this, a goal of developed countries reducing emissions in aggregate by 80 percent or more by 2050 compared with levels in 1990 or more recent years.

Moreover, in the Copenhagen Accord, which was composed at the COP15 in December, it was stated that deep cuts in global emissions are required according to science, and as documented by the IPCC's Fourth Assessment Report with a view to reduce global emissions so as to hold the increase in global temperature below 2 degrees Celsius, and take action to meet this objective consistent with science and on the basis of equity. It was decided that the Parties to the UNFCCC take note of this agreement.

The Japan-U.S. Joint Message on Climate Change Negotiations, which was issued in November 2009 stated that both countries would aspire to reduce their own emissions by 80 percent by 2050 and endorse a global goal of reducing emissions by 50 percent by that year.

Future outlook

We will continue to aim to share and adopt under the UNFCCC a long-term goal of reducing global emissions by at least 50 percent by 2050. We will also endeavour to induce all countries to take action to cut emissions by involving all the major countries to establish a fair and effective framework and set ambitious targets. And to realize the long-term goal, we will strive to peak global emissions as early as possible.

(c) Sectoral approach (E-EJ-2.1c)

BRT Recommendation

Japanese position:

It is effective to set the targets by assessing the emission reduction potential of each sector (industries, transport/automotive, business/commercial, households) based on best available technology and aggregating them with cooperation among the major developed countries to ensure comparability for each country. A sectoral approach has the advantage of ensuring equity among countries, enhancing technology transfer and also helping to encourage participation of developing countries.

EU position:

The monitoring and reporting of emissions for industry sectors in developing and advanced developing economies should be extended and harmonised to enable compliance checks and the development of future international sector approaches. Potentially, plants within a sector approach that reduce below a certain emission benchmark per production unit could receive incentive in the form of tradable credits. However, while sectoral approaches could be suitable tools for improving carbon efficiency, it is doubtful whether they can prevent market distortions.

Action taken so far

Sectoral approaches involve devising appropriate action for each sector (industries, power generation, households, business/commercial, transport, etc.) based on conditions in each sector, and is very useful for ensuring fairness in the distribution of costs among developed countries and achieving substantial emissions reductions in developing countries. Japan has been working to promote other countries' understandings of the effectiveness of sectoral approaches through, for example, submissions in UN negotiation process and an international workshop in March 2009.

The Asia-Pacific Partnership on Clean Development and Climate (APP), the vehicle for the implementation of sectoral approaches, conducts joint public/private-sector projects aimed at transferring and deploying technology. In sectors such as steel, cement, and power generation, the APP has been engaged in various activities aimed at reducing GHG emissions such as making handbooks describing technologies and techniques with high reduction effects, collection of data on energy consumption and CO₂ emissions, and conducted performance diagnosis.

Future outlook

The concept of sectoral approaches has been prevailing among countries, and concrete proposals based on the approach have already been made. Japan, for its part, has proposed establishing a mechanism for facilitating smooth transfer and deployment of technology through the Advisory Group on Technical Cooperation (AGTC) to harvest the knowledge of government and private-sector experts on each sector. At COP-15, meanwhile, the establishment of a Technology Mechanism to assist the development and transfer of technology formed part of the Copenhagen Accord. Based on the Copenhagen Accord, Japan will encourage other countries through fora such as UN negotiations, G8 summits, and bilateral meetings from now on. And with regard to the transfer and deployment of technology, Japan will propose the establishment of a mechanism for ensuring that the contribution of private companies that have supplied clean technology, products, infrastructure, production

equipment, etc. is properly evaluated. Participating in joint public/private-sector projects of APP, Japan will continue to work to promote the transfer of technologies to developing countries and emissions reductions through it in developing countries.

(d) Establishment of medium-term targets and policies to achieve them (E-EJ-2.1d)

BRT Recommendation

- It is essential that the establishment of medium-term targets ensure fairness and feasibility agreed by each country and each sector attempting to make these targets as fair as possible.
- While developed countries should set national total emissions targets, it is appropriate that major emitting developing countries set targets pertaining to the ratio of GHG emissions to GDP or intensity targets by each sector, because high economic growth is expected in the years ahead in those countries.
- The specific situations of individual countries can vary significantly. It is thus essential that different policy approaches are acceptable to achieve the medium-targets.
- A cap-and-trade emission trading scheme

Japanese position:

It is difficult to set fair and equitable caps using a cap-and-trade emission trading scheme. EU and Japan should carefully assess whether the scheme contributes to effective reductions in global emissions, enabling companies to compete and develop on equitable terms in global markets whilst promoting the development of innovative technologies to prevent global warming in the long term.

EU position: A cap-and-trade emission trading scheme can be a cost efficient way of reducing greenhouse gas emissions, if carefully designed. In particular the effects of direct and indirect costs of such a scheme on the competitiveness of companies must be mitigated in order to prevent carbon leakage.

Action taken so far

Japan has announced a medium-term target of cutting GHG emissions by 25 percent, if compared to the 1990 levels by 2020. This target is consistent with what the science calls for in order to halt global warming, and is premised on the establishment of a fair and effective international framework in which all major economies participate and agreement of their ambitious targets.

We have also called for major emitting developing countries to be obligated to implement quantified target such as emissions intensity targets.

The Copenhagen Accord, which was composed at the COP15, requires developed countries to submit emissions reduction targets and developing countries to submit mitigation actions by the end of January 2010. Actions by developing countries will be subject to their domestic measurement, reporting, and verification (MRV), with the results to be reported through their national communications every two years. Their actions will therefore be subject to international consultations and analysis. The supported action of developing countries will be subject to international MRV in accordance with guidelines adopted at the UN.

The specific measures that Japan will take to achieve its medium-term target and the schedule for their implementation are currently studied by the Ministerial Committee on the Global Warming Issue etc., taking into account the discussion in international negotiations.

The same Ministerial Committee etc. is also considering the introduction of domestic cap-and-trade emission trading scheme, and we will take appropriate action based on its outcomes.

Future outlook

Japan will aim to cut GHG emissions by 25 percent, if compared to the 1990 levels by 2020. This target is consistent with what the science calls for in order to halt global warming, and is premised on the establishment of a fair and effective international framework in which all major economies participate and agreement on their ambitious targets. Meanwhile, the Ministerial Committee on the Global Warming Issue etc. will continue considering concrete measures that Japan will take to achieve its medium-term target and the schedule for their implementation.

The same Ministerial Committee etc. is also considering the introduction of domestic cap-and-trade emission trading scheme, and we will be take appropriate action based on its outcomes.

(e) Position on the base year (E-EJ-2.1e)

BRT Recommendation

Japanese position: medium-term targets should be negotiated on the basis of targeted emissions volume and rate of reduction or improvement compared not only to the current base year 1990 but also to multiple base years including 2005 not to favor particular countries since there are differences among countries in respect to changes in energy supply conditions, reduction efforts in the past, and so forth.

European position: The European side favors to maintain the setting of 1990 as the base year for calculations.

Action taken so far

Japan's medium-term target for tackling global warming from 2013 onwards is a 25-percent emissions reduction, if compared to the 1990 levels by 2020. However, to encourage more countries to participate in international framework, we have argued in international negotiations that base years other than 1990 should also be accepted. We have also argued that when each country expresses its commitment, it should not only use multiple base years but also state its economy-wide emissions.

Future outlook

We will continue to discuss in international negotiations issues such as the base years to be used in international framework.

(f) Promotion for development of technology and technical assistance (E-EJ-2.1f)

BRT Recommendation

- Dissemination of existing low-carbon technologies and development of breakthrough technology is essential for significant GHG reduction in the long term.
- To reduce GHG emissions on a global scale, initiating measures equally in developing countries is essential. Addressing global warming in major developing countries such as China and India where rapid and continued increase in GHG emissions is occurring will be a particularly big challenge. With consideration for protection of intellectual property rights, an innovative framework to promote technology transfer is necessary and specialized function should be set up in which the public and private sectors participate and materialize the way to provide public financial assistance and promote technical support based on the knowledge and experience of private experts. Existing barriers to technology transfer should be reduced and eliminated through this scheme by encouraging provision of public fund, transferring and disseminating technology to developing countries practically.
- Underlining the statements made on the necessity of intensifying innovation, we strongly ask the European Commission and the Japanese government to introduce policies which maximize cooperation between EU and Japanese companies as well as research institutions and universities active in technology development and business investment. EU and Japan should actively promote the joint development of innovative technologies toward practical use by sharing technological roadmaps, strengthening partnerships, and increasing investment in research and development.

Action taken so far

The GOJ has been implementing a comprehensive initiatives to deploy existing low-carbon technologies, such as assisting with the introduction of a new scheme for purchasing solar-generated electricity, a system of subsidies for purchases of environmentally-friendly vehicles, and a project that awards “eco-points” to buyers of green appliances to encourage more households to purchase them. And to ensure the steady development of innovative energy technology, the GOJ has been making ongoing efforts, with employing the opinions of experts to follow-up them, to promote technological development (2009 budget: 78.9 billion yen; 2010 budget (government proposal: 82.6 billion yen).

In negotiations on action to address climate change, the GOJ has contributed to the progress of discussion on the technology mechanism by proposing the establishment of the Advisory Group for Technology Cooperation as a means of reducing global GHG emissions. The group will facilitate match of technology needs with resources while protecting intellectual property right (IPR) and promoting collaboration between the public and private sector. In December, meanwhile, the GOJ launched the “Hatoyama Initiative” to support developing countries.

Moreover, the GOJ selected photovoltaics, power storage, and CCS as topics for cooperation, a deal that followed a ministerial-level agreement in June 2008 to enhance cooperation on innovative energy technology R&D between the Ministry of Economy, Trade and Industry and the European Commission’s Directorate-General for Research. At present, they are studying the precise form this cooperation will take, including collaboration among research institutes and universities.

Future outlook

The GOJ intends to further promote the steady spread of existing low-carbon technology and the steady development of innovative energy technology, securing essential R&D budgets.

In negotiations on action to address climate change, meanwhile, the GOJ will work on to concretize the technology mechanism that can contribute to effective emissions reduction in developing countries, and implement assistance to these countries under the Hatoyama Initiative.

And to move forward with cooperation on energy technology R&D, the GOJ will conclude an administrative agreement with the European Commission's Directorate-General for Research and continue to hold regular officials' meetings with their representatives.

(2) Other recommendations on addressing global warming

(a) Promoting clean energy (E-EJ-2.2 a)

BRT Recommendation

- To reduce GHG emissions, it is essential to promote reducing reliance on fossil fuels across the economy. The increased use of electric vehicles and heat pumps may increase the dependency on electricity. It is therefore of particular importance to reduce the dependency on fossil fuels in power generation.
- Nuclear power generation should be promoted among clean energies. It is vital to strengthen efforts to ensure safety and restore citizens' trust for the use of nuclear energy.
- Increased utilization of renewable energy, such as solar, wind, hydro and biomass energy is essential. These energy sources offer new business and employment opportunities. Challenges resulting from current high cost and instability in electric grids should be overcome.
- Increased research and development is required in order to develop appropriate energy storage solutions to make even better use of the often fluctuating renewable energies. EU and Japan should encourage their private sectors to intensify cooperation and define appropriate instruments to enhance cooperation between universities and research & development institutions.

Action taken so far

Japan has been endeavouring to establish an optimal mix for power generation based on the view that it is important to achieve a good balance of three factors: stable supplies of energy, environmental protection, and economy.

To reduce carbon emissions from power generation, the GOJ has steadily expanded the use of nuclear power, introduced a new scheme for purchasing solar-generate electricity, worked on the development of technology for making thermal power generation more efficient, and so on.

To make the transition to a low-carbon society, it is not only essential to expand the use of new forms of energy and thorough energy saving, but also to steadily increase the use of nuclear power. Therefore, while making safety our top priority and gaining the understanding and trust of the public, the GOJ will steadily move toward our goals of building more plants and boosting the use of existing facilities.

Expanding the use of renewable energy is important not only to ensure energy security and fight global warming, but also to revitalise the economy and create jobs. Unfortunately, however, there are problems, such as high costs and unstable output.

The GOJ has therefore been pressing ahead with the development of technology for reducing the costs involved and expanding the use of this technology by providing financial assistance for the construction of facilities and introducing an RPS (renewable portfolio standard) scheme and a FIT (feed-in-tariff) scheme for purchasing the power generated at fixed prices.

The GOJ has also been taking action to make grids more stable. For example, the GOJ has been developing technology to improve the performance and reduce the cost of storage cells, which are installed alongside solar and wind power facilities to stabilize output.

As mentioned above, moreover, the GOJ selected power storage and others as topics for cooperation, a deal that followed a ministerial-level agreement in June 2008 to enhance cooperation on innovative

energy technology R&D between the Ministry of Economy, Trade and Industry and the European Commission's Directorate-General for Research. At present, they have examined the detail of this cooperation, including collaboration among research institutes and universities.

Future outlook

- The GOJ intends to promote the development of technology for making thermal power generation even more efficient.
- The GOJ will steadily expand nuclear power generation while making safety our top priority and gaining the understanding and trust of the public, particularly people living in areas where nuclear power plants are or will be situated.
- To expand the use of renewable energy, the GOJ will press ahead with developing technology and provide financial assistance for the construction of facilities. The GOJ will focus in particular on expanding the FIT scheme. The GOJ will also promote R&D aimed at stabilising grids. A workshop on EU-Japan cooperation in the field of power storage cells is also scheduled to take place during 2010, at which we plan to discuss technology development trends and ways of assessing safety.

(b) Continuation of “green policy” (E-EJ-2.2b)

BRT Recommendation

- In the midst of global recession, many countries have expanded fiscal expenditure on “green policy” programs as economic stimulus measures. The Japanese government has set “the low-carbon revolution” as one of the measures in the FY2009 supplementary budgets which states the development and introduction of solar power, fuel-efficient vehicles and highly efficient energy equipments. Also, new preferential tax scheme for environment-friendly vehicles has been introduced this April to increase consumer demand and corporate investments.
- Governments’ efforts towards a low-carbon society/economy are highly appreciated. However, since GHG emissions from the residential sector have been increasing continuously we request to the Commission and Government of Japan these measures not be temporary economic stimulus but continuous steps to raise public awareness to reduce carbon dioxide emissions.
- Reduction of GHG emissions must be promoted through the total life-cycle basis in current and future “green policy”.

Action taken so far

The GOJ has introduced various initiatives for making the transition to a low-carbon society, such as subsidies to purchasers of solar cells, “eco-point” scheme for household appliances and subsidies to purchasers of environmentally-friendly vehicles. In addition, to promote the use of solar power generation, in November 2009 we launched a new purchasing scheme for solar power.

Future outlook

“Emergency Economic Countermeasures for Future Growth and Security,” which adopted by the cabinet in December 2009 calls for extension of the eco-point scheme for household appliances and subsidies for purchasers of environmentally-friendly vehicles and for a consideration of introducing a scheme to guarantee that all power generated from renewable energy sources will be purchased. In addition, the “New Growth Strategy (Basic Policies)” adopted by the Cabinet in the same month states that diffusion of environmentally-friendly homes and expanding the use of renewable energy are great opportunity for getting people to voluntarily make the switch to low-carbon lifestyles.

.(Attachment)

Tax-system-related proposals

Changes to the tax system are made every year, and the decisions on what changes to make are made following deliberations by bodies such as the government's Tax Commission. These deliberations focus on requests and opinions submitted by government ministries and agencies to the tax authorities, and take into account the economic climate, fiscal situation. In addition, opinions from various levels, including proposals from the BRT, are referred to by ministries and agencies when they prepare their requests for changes to the tax system, and ultimately reflected in the changes that are actually made each year.

Working Party A:

9. Promoting foreign direct investment

(1) Tax deferrals for capital gains stemming from direct cross-border mergers and re-organisations

Working Party D:

31. Tax issue proposal for EU and Japan

(2) Corporate accounting and tax practice

32. Tax issue proposal for Japan

(2) Improving the consolidated tax system

(3) Reducing corporate tax rates

(4) Expanding tax breaks

Proposals have been issued concerning each of the above issues, and we intend to refer to those that seem reasonable from the standpoint of whether they can contribute to an improvement in the business environment.